

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2018-000201

RECEIVED
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SC Court of Appeals

The State of South Carolina,

Respondent,

v.

CRAIG CARL BUSSE

Appellant,

RECORD ON APPEAL

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2017-GS-36-00414

February 5th through 7th, 2018
Newberry, South Carolina

Honorable Donald B. Hocker, Judge

Dale Scott, Deputy Solicitor
Taylor Daniel, Assistant Solicitor
Attorney for the State

Joy E. Holston
Official Court Reporter

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1 THE COURT: Okay, ladies and gentlemen, we are back
2 on the record and the first case that has been called for
3 trial is the State of South Carolina versus Craig Carl
4 Busse. And, Mr. Busse, if you would please stand and just
5 face the jury panel for just a second so they can see you.
6 Thank you very much and you can have a seat. Ladies and
7 gentlemen, Mr. Busse has been indicted with one criminal
8 offense and I am going to explain that to you in just a
9 moment. But first, let me explain to you, the fact that
10 Mr. Busse has been indicted with a criminal charge is not
11 proof of any guilt on his part. The fact that he has been
12 indicted only means this, is that it is the mechanism,
13 process to get the case in the trial where we are today.
14 But it is not proof of any of the allegations that are
15 being made against Mr. Busse or proof of any of the
16 elements of the offense. But I am going to read the
17 indictment to you so you will know what Mr. Busse has been
18 charged with. The indictment reads as follows: The
19 Defendant, Craig Carl Busse did on or about June 28, 2016
20 to March 1, 2017 in Newberry County, South Carolina commit
21 the crime of criminal sexual conduct with a minor in the
22 second degree by engaging in a sexual battery with a
23 minor, ~~Malley Lee Woodward~~, date-of-birth, ~~June 28, 2001~~,
24 who was at least 14 years of age but less than 16 years of
25 age. And the Defendant was in a position of familial,

1 custodial or official authority to coerce the victim to
2 submit or is older than the victim all in violation of
3 section 16-3-655, subsection (b) (2) of the Code of Laws
4 for South Carolina. And the same rules that apply when I
5 went through the initial ~~qualification~~ questions, if there
6 is any question that you do not want to respond to in the
7 presence of everyone ~~then I will~~ speak with you privately.
8 It will be at least one question if not more that I will
9 instruct that if you need to respond to a particular
10 question that I don't want you to respond in front of
11 everybody but speak with me in private. Any member of the
12 jury panel related by blood or marriage either now or
13 formerly to either Craig Carl Busse or Hailey Ann
14 Woodward. If so please stand.

15 (No response.)

16 THE COURT: Any member of the jury panel have or had
17 in the past a close personal or social relationship with
18 either Craig Carl Busse or ~~Hailey Ann Woodward~~. If so
19 please stand.

20 (No response.)

21 THE COURT: I am going to publish for you a list of
22 potential witnesses in this case, it doesn't mean that
23 they will testify but they may testify. And the potential
24 witnesses in the case and hopefully I will pronounce them
25 correctly, all of the names. ~~Jeany M. [redacted], [redacted]~~

1 Barbara Hockett, April Crary, Deanna Wilbanks with the
2 Newberry County Sheriffs office. Megan Busse, Connie
3 Johnson with the Newberry County Sheriffs Office. Garrett
4 Lominack with the Newberry County Sheriffs Office. Ariel
5 Gagne, G-A-G-N-E; ~~Harley Woodward~~, Betsy Price, Walter
6 Bentley with the Eighth Circuit Solicitor's Office. Gina
7 Counts, Ron Counts, ~~Harley Counts~~, Gary Wilbanks. Any
8 member of the jury panel related by blood or marriage
9 either now or formerly to any of those individuals I have
10 just listed. And any member of the jury panel have or had
11 in the past a close personal or social relationship with
12 any of those individuals I have just named. If so please
13 stand. Yes sir, your name and your number if you know it.

14 JUROR: Carmelo Medina, number 95.

15 THE COURT: Yes, sir.

16 JUROR: I had a relationship with Officer Wilbanks.

17 THE COURT: Are you close friends with Deanna
18 Wilbanks? ~~Yes, sir.~~

19 JUROR: No.

20 THE COURT: You just know her.

21 JUROR: Know her.

22 THE COURT: Okay, just know her?

23 JUROR: Yes.

24 THE COURT: The fact that you know Deanna Wilbanks
25 ~~can you still be fair and impartial in this case if you~~

1 are selected on the jury?

2 JUROR: Yes.

3 THE COURT: Okay. Have a seat, thank you. I am
4 going to give the attorneys now an opportunity to
5 introduce themselves. I will tell you, we have excellent
6 attorneys in this case on both sides. And we will start
7 with the State.

8 MR. SCOTT: I am Dale Scott, Deputy Solicitor of the
9 Eighth Circuit. Assisting me is Taylor Daniel, Assistant
10 Solicitor here in Newberry County. Garrett Lominack, you
11 will hear him on the witness list, he will give you
12 testimony in this case. And my Investigator here is
13 Walter Bentley.

14 THE COURT: Okay. Thank you. The Defense.

15 MS. BROWDER: Thank you, Your Honor. My name is Anna
16 Browder, I am from the Law Office of Anna Browder out of
17 Columbia, South Carolina.

18 THE COURT: Thank you very much. Any member of the
19 jury panel ever been represented by any of the attorneys
20 involved in this case or anyone in their respective
21 offices. If so please stand.

22 (No response.)

23 THE COURT: Any member of the jury panel related by
24 blood or marriage either now or formerly or any member of
25 the jury panel have or had in the past a close personal or

1 social relationship with any of the attorneys involved in
2 this case or anyone in their respective offices. If so
3 please stand.

4 (No response.)

5 THE COURT: Any member of the jury panel formed or
6 expressed any opinion about any issue or matter involved
7 in this case. If so please stand.

8 (No response.)

9 THE COURT: Any member of the jury panel aware of any
10 biased or prejudice towards either the State or the
11 Defendant in this case.

12 (No response.)

13 THE COURT: Any member of the jury panel who is a
14 member of or a contributor to any group which has as its
15 primary concern the promotion of law enforcement or
16 victims rights. And these groups would include, certainly
17 not limited to and I will give you the acronyms for these
18 groups, MADD, SADD or CAVE. If that applies to you please
19 stand.

20 (No response.)

21 THE COURT: Any member of the jury panel related by
22 blood or marriage to or a close personal friend of a
23 member, any member of any law enforcement agency. If so
24 please stand. All right.

25 JUROR: I work for Newberry County Sheriffs Office.

1 THE COURT: And I remember during roll call that you
2 indicated that you were with the 911 dispatch?

3 JUROR: Yes, sir.

4 THE COURT: And is 911 actually a part of the
5 Sheriffs Office, I don't know if it is a separate County
6 agency. But is 911 actually a part of the Sheriffs
7 Department?

8 JUROR: Yes.

9 THE COURT: I am going to excuse you from the trial
10 of this case. I would ask however, Ma'am, that you remain
11 with us. Okay. But I am going to excuse you from the
12 trial of this case. Any member of the jury panel employed
13 by, related by blood or marriage, close personal friends,
14 anyone employed with the South Carolina Attorney General's
15 Office, Eighth Circuit Solicitor's Office, or any other
16 prosecuting attorney's office. If that applies to you
17 please stand.

18 (No response..)

19 THE COURT: Any member of the jury panel ever been
20 employed by any civilian or military law enforcement
21 agency. If that applies to you please stand.

22 (No response.)

23 THE COURT: Is there any member of the jury panel,
24 prior to today, read or heard anything about this case.
25 If so please stand.

1 (No response.)

2 THE COURT: Is there anything in the nature of the
3 allegations in this case, allegations of what I read to
4 you in the indictment that would cause any member of the
5 jury panel any problem in sitting on a jury in this case.
6 If so please stand.

7 (No response.)

8 THE COURT: Is there any member of the jury panel
9 inclined to think that a person is guilty of some crime
10 simply because he or she has been arrested. If so please
11 stand.

12 (No response.)

13 THE COURT: Any member of the jury panel not
14 understand that the Defendant is presumed innocent and
15 that the burden is upon the State to prove him guilty of
16 the crime charged beyond a reasonable doubt. If you do
17 not understand that please stand.

18 (No response.)

19 THE COURT: And I will tell you, these terms,
20 reasonable doubt and burden of proof, those will all be
21 explained to you at the appropriate time. Any member of
22 the jury panel not understand that you must give the
23 Defendant the benefit of this presumption of innocence
24 during the trial and in your deliberations after you are
25 instructed to begin your deliberations. If you do not

1 understand that please stand.

2 (No response.)

3 THE COURT: Any member of the jury panel not
4 understand that if there is uncertainty as to whether
5 reasonable doubt exist, that the benefit of the doubt
6 should be given to the Defendant and he must be acquitted.
7 If you do not understand that please stand.

8 (No response.)

9 THE COURT: Now this next question, ladies and
10 gentlemen, if you need to respond to it I am going to ask
11 you to do so privately and not respond in front of
12 everybody. Any member of the jury panel or any of your
13 immediate family members ever been charged with or been a
14 victim of a sex crime.

15 (No response.)

16 THE COURT: Does anyone need to speak with me
17 privately. We have got one.

18 JUROR: Albert Bates, juror number 8. My daughter
19 had a situation where a guy exposed himself to her about
20 10 or 15 years ago.

21 THE COURT: Do you believe that you can still be fair
22 and impartial?

23 JUROR: I don't think so.

24 THE COURT: Stay with us and I will excuse you from
25 the trial of this case. Okay. Yes, ma'am.

1 JUROR: Number 72, Malinda Iacopinelli.

2 (Whereupon, the Court and this Juror had a private
3 conversation.)

4 THE COURT: And do you believe that you can be fair
5 and impartial in this case to both the State and the
6 Defendant if you were selected on a jury?

7 JUROR: I do.

8 THE COURT: Have a seat and thank you. Is there any
9 member of the jury panel know of any reason whatsoever why
10 you should not serve as a juror in this case with emphasis
11 being placed on your ability to be fair and to be
12 impartial to both the State and the Defendant. That is
13 the key, ladies and gentlemen, we want twelve jurors and
14 the alternates too, to be completely fair and completely
15 impartial to both sides in this case. But if you believe
16 for some reason that you cannot be then I need to speak
17 with you privately. So is there anybody that feels that
18 way please stand.

19 (No response.)

20 THE COURT: Does anybody on the jury panel need to
21 speak with me about any other matter or issue privately
22 before we go onto jury selection.

23 (No response.)

24 THE COURT: Does the State have any objections or
25 additional voir dire questions.

1 MR. SCOTT: No, Your Honor.

2 THE COURT: And the Defense?

3 MS. BROWDER: No, sir.

4 THE COURT: Thank you. In just a moment what will
5 happen is if your name is called out, if you will come
6 this way and you will stand facing the doors. And the
7 lawyers will either accept you as a member of the jury or
8 not. If you are not selected don't take it personally.
9 Okay. Don't take offense to it if for some reason one of
10 the lawyers does not want you to serve on the jury. And
11 they have their reasons and just don't take it personally.
12 But if you are accepted then you will be instructed to go
13 and sit in the jury box. When you come down, if you have
14 any personal belongings bring those because if you are
15 selected then you will go straight to the jury box. So
16 everybody be at ease for just a few moments. Let's go
17 with two alternates. Okay, Madam Clerk, if you will
18 handle jury selection.

19 CLERK OF COURT: Juror number 120, Sharon Shafer.
20 What says the State?

21 MR. SCOTT: Please present the juror.

22 CLERK OF COURT: What says the Defense?

23 MS. BROWDER: Please excuse this juror.

24 CLERK OF COURT: Number 37, Cindy Disarro. What says
25 the State?

1 MR. SCOTT: Please present the juror.

2 CLERK OF COURT: The Defense?

3 MS. BROWDER: Please present this juror.

4 CLERK OF COURT: Number 42, Walter Estes. What says
5 the State?

6 MR. SCOTT: Please present the juror.

7 CLERK OF COURT: The Defense?

8 MS. BROWDER: Present the juror.

9 CLERK OF COURT: Number 118, Anne Scott. What says
10 the State?

11 MR. SCOTT: Please present the juror.

12 CLERK OF COURT: The Defense?

13 MS. BROWDER: Please present this juror.

14 CLERK OF COURT: Number 108, Robert Reynolds, Jr.
15 What says the State?

16 MR. SCOTT: Please present the juror.

17 CLERK OF COURT: The Defense?

18 MS. BROWDER: Please seat this juror.

19 CLERK OF COURT: Number 48, Michael Gagliardi. What
20 says the State?

21 MR. SCOTT: Please present the juror.

22 CLERK OF COURT: The Defense?

23 MS. BROWDER: Please seat this juror.

24 CLERK OF COURT: Number 39, Scurry Elrod. What says
25 the State?

1 MR. SCOTT: Please excuse the juror.

2 CLERK OF COURT: Number 22, Charlene Caldwell. What
3 says the State?

4 MR. SCOTT: Please excuse the juror.

5 CLERK OF COURT: Number 156, Cynthia Williams. What
6 says the State?

7 MR. SCOTT: Please present the juror.

8 CLERK OF COURT: The Defense?

9 MS. BROWDER: Please excuse this juror.

10 CLERK OF COURT: Number 109, David Riber. What says
11 the State?

12 MR. SCOTT: Please present the juror.

13 CLERK OF COURT: The Defense?

14 MS. BROWDER: Please seat this juror.

15 CLERK OF COURT: Number 43, Lachina Feaster. What
16 says the State?

17 MR. SCOTT: Please present the juror.

18 CLERK OF COURT: The Defense?

19 MS. BROWDER: Please seat this juror.

20 CLERK OF COURT: Number 13, James Boyd. What says
21 the State?

22 MR. SCOTT: Please excuse this juror.

23 CLERK OF COURT: Number 133, Karen Speight. What
24 says the State?

25 MR. SCOTT: Please present the juror.

1 CLERK OF COURT: The Defense?

2 MS. BROWDER: Please excuse this juror.

3 CLERK OF COURT: Number 36, Jamarrian Dewalt. What
4 says the State?

5 MR. SCOTT: Please present the juror.

6 CLERK OF COURT: The Defense?

7 MS. BROWDER: Please seat this juror.

8 CLERK OF COURT: Number 80, James Kesler. What says
9 the State?

10 MR. SCOTT: Please present the juror.

11 CLERK OF COURT: The Defense?

12 MS. BROWDER: Please seat this juror.

13 CLERK OF COURT: Number 122, Frankie Shealy. What
14 says the State?

15 MR. SCOTT: Please present the juror.

16 CLERK OF COURT: The Defense?

17 MS. BROWDER: Please excuse this juror.

18 CLERK OF COURT: Number 88, Emily Livingston. What
19 says the State?

20 MR. SCOTT: Please present the juror.

21 CLERK OF COURT: The Defense?

22 MS. BROWDER: Please excuse this juror.

23 CLERK OF COURT: Number 110, Dean Richardson. What
24 says the State?

25 MR. SCOTT: Please present the juror.

1 CLERK OF COURT: The Defense?

2 MS. BROWDER: Please seat this juror.

3 CLERK OF COURT: Number 115, Ella Russell. What says
4 the State?

5 MR. SCOTT: Please present the juror.

6 CLERK OF COURT: The Defense?

7 MS. BROWDER: Please excuse this juror.

8 CLERK OF COURT: Number 102, Sandra Myers. What says
9 the State?

10 MR. SCOTT: Please present the juror.

11 CLERK OF COURT: The Defense?

12 MS. BROWDER: Please seat this juror.

13 CLERK OF COURT: Number 75, Charlie Johnson, III.

14 What says the State?

15 MR. SCOTT: Please present the juror.

16 CLERK OF COURT: The Defense?

17 MS. BROWDER: Please seat this juror.

18 THE COURT: Two alternates.

19 CLERK OF COURT: Juror number 85, Kathy Lavezza.

20 What says the State?

21 MR. SCOTT: Please present the juror.

22 CLERK OF COURT: The Defense?

23 MS. BROWDER: Please seat this juror.

24 CLERK OF COURT: Juror number 50, Hayley Gillespie.

25 What says the State?

1 MR. SCOTT: Please present the juror.

2 CLERK OF COURT: The Defense?

3 MS. BROWDER: Please excuse this juror.

4 CLERK OF COURT: Number 72, Malinda Iacopinelli.

5 What says the State?

6 MR. SCOTT: Please present the juror.

7 CLERK OF COURT: The Defense?

8 MS. BROWDER: Please excuse this juror.

9 CLERK OF COURT: Number 197, Lucia Renwick. What
10 says the State?

11 MR. SCOTT: Please present the juror.

12 CLERK OF COURT: Any challenge for cause by the
13 Defense?

14 MS. BROWDER: Please present this juror.

15 THE COURT: Thank you, Madam Clerk. We have the jury
16 picked, congratulations, ladies and gentlemen. What I am,
17 I am going to go over a couple of things with you and then
18 I am going to ask that you go to the jury room. One thing
19 you are going to hear from me repeatedly throughout this
20 whole trial is don't begin any discussions whatsoever
21 about anything related to the case. I realize at this
22 point you know very little. But you cannot talk about
23 this case, any aspect about this case among yourselves.
24 And I will instruct you at the end of the case, once all
25 the evidence is in and I have instructed you on the law

1 that is involved in the case, the lawyers have made their
2 closing arguments. Then at that time I will tell you to
3 begin your discussions which we call deliberations. But
4 until I do that, talk about something else but just don't
5 talk about anything related to the case. What I am going
6 to do is, when I send you back to the jury room in just a
7 minute, I am going to need for you to select among
8 yourselves a Foreperson of the jury. Now, if it is a man
9 it is a Foreman, if it is a female it is a Forelady, are
10 the terms that we use. Now, let me kind of give you a
11 little bit of guidance as far as what a Foreperson does
12 before you make that decision. A Foreperson wears several
13 hats. One is I need a person to serve as a go between the
14 jury and the Court throughout this trial. If there is an
15 issue that arises or concern, whatever, then I need to
16 have that one person be the designated person to bring
17 whatever issue needs to be brought to my attention.
18 Certainly when you start your deliberations, if there is a
19 question involved that you need to try to get an answer to
20 then of course I need the Foreperson to present that
21 question to the Court. Any time there is any
22 communication between the jury and the Court I need to
23 have it in writing and there is a pad back there that you
24 can use, whoever the Foreperson is. Secondly I need
25 someone to make sure that all of my instructions are being

1 followed by the jury, and even though that is everybody's
2 responsibility. For example, I have instructed you don't
3 begin any discussions about this case so I need someone to
4 make sure those instructions and other instructions that I
5 give you are followed. And lastly, when I do tell you to
6 begin your deliberations in the case then I need someone
7 to serve as the person who will get the deliberations
8 started in order to reach a verdict in the case. Now, I
9 am competent all 14 of you would make excellent
10 Forepersons. And I am going to get you as a group to make
11 that decision on who is the Foreperson. And now the two
12 alternates, you can participate in this decision of who
13 the Foreperson is because in your role as Alternates it is
14 not unusual for one of the 12, because of an emergency,
15 illness, that sort of thing has to be excused. I need
16 someone who has sat and listened to the testimony and
17 evidence to fill those shoes of that excused juror. So,
18 if I don't have to excuse anyone then of course you would
19 not participate in the actual deliberations in order to
20 reach a verdict. But for purposes of picking a
21 Foreperson, then certainly you have got a vote for that.
22 Okay. And when I do bring you out in just a few minutes,
23 whoever the Foreperson is will always sit in this first
24 seat here. Okay. Two alternates, you are in the correct
25 seats and you will always maintain those seats. The rest

1 of you can sit where ever you like. And it has been my
2 experience in more times than not, juries like to sit in
3 the same seat. And you can do that if you like, you don't
4 have to. But the Foreperson and the two alternates will
5 maintain the same seat at all times. Okay. So, again no
6 discussion about this case, go back to the jury room and
7 get to know each other for a few minutes and then pick a
8 Foreperson. Okay.

9 (Whereupon, the jury was excused from open court.)

10 THE COURT: Does the State have any objections to the
11 jury selection?

12 MR. SCOTT: No, Your Honor.

13 THE COURT: The defense?

14 MS. BROWDER: No, sir.

15 THE COURT: Thank you very much. All right, ladies
16 and gentlemen of the remaining jury panel, I hope some of
17 you are disappointed that you were not selected. As I
18 mentioned to you, it is an important responsibility,
19 important role and it has been my experience in talking
20 with jurors after a case, whether it is a civil case or
21 criminal case, the vast majority has told me it was a good
22 experience for them, difficult, yes; hard, yes; but a good
23 experience. I don't know what else we have this week.
24 What I am going to do is tell you to call, you have a card
25 that provided you with the information, the questions,

1 giving us the information during roll call. There is a
2 number on that card, do not lose that card because after
3 6:00 o'clock this evening call and there will be a
4 recording which will tell you what to do. Chances are it
5 is going to tell you to call back after 6:00 tomorrow.
6 But, again, I don't know for sure, don't know exactly what
7 this week holds for us. So do not forget to call that
8 number and follow the instructions on that recording. You
9 are excused. Thank you.

10 (Whereupon, the remaining jury panel was excused from
11 open court at approximately 11:30 a.m.)

12 THE COURT: Bring the jury please.

13 (Whereupon, the jury came into open court at
14 approximately 11:35 a.m.)

15 THE COURT: The jury is back in. I am going to go
16 ahead and excuse you for lunch at this time. I am going
17 to give you a little bit longer lunch break than we
18 normally take. I have got some other things that I have
19 got to tend to and I have got some issues that I need to
20 discuss with the lawyers. I want you back at 2:00 o'clock
21 in the jury room. And my instructions as far as no
22 discussion among yourselves about this case also applies
23 to anybody that you come into contact with over lunch
24 break, whether it is a family member, friend or whatever.
25 And also, I am going to go into this in a little more

1 detail when you come back this afternoon. But you are
2 prohibited from doing any independent research and
3 anything related to this case. In other words, we have
4 ready access to a wealth of information, we have the
5 internet, social media and the like and may be tempting
6 for you to engage in some sort of research on your own
7 about the nature of the charge, the lawyers involved,
8 anything like that, don't do that. We will see you at
9 2:00, have a good lunch. If you were to go a local
10 restaurant I would ask you to have your juror button
11 visible. And the reason for that is, that there may be
12 some lawyers, maybe even me or my staff that might be at
13 that same restaurant and if the case is being discussed we
14 don't want you to overhear those discussions. We may not
15 recognize you as being on the jury but if you have that
16 little sticker badge visible then we will know that and we
17 will certainly, will be cautious as far as any discussions
18 about this case. Have a good lunch.

19 (Whereupon, the jury was excused from open court for
20 a lunch break.)

21 THE COURT: All right. Ms. Browder, I have a listing
22 of your pre-trial motions, so I'm going to turn everything
23 over to you. And anything we need to discuss we can
24 certainly do that.

25 MS. BROWDER: All right. Thank you, Your Honor. The

1 first one is a motion just to renew all Brady and Rule 5
2 materials. I believe I have everything. But we had been
3 discussing whether a medical exam had been done or not. I
4 don't believe there was one done but they were looking
5 into that. So, I mean, I don't know what the result of
6 that was.

7 THE COURT: Okay. Solicitor, you want to respond to
8 that?

9 MR. DANIEL: Your Honor, we don't have any records of
10 the medical exam.

11 THE COURT: Okay. And would you state on the record
12 that all Brady and Rule 5 materials have been provided to
13 the Defense?

14 MR. DANIEL: Your Honor, that we know of.

15 THE COURT: Okay. Certainly, that you know of.

16 MR. DANIEL: Yes, sir.

17 THE COURT: Okay. All right. Next one.

18 MS. BROWDER: Thank you, Your Honor. The next one is
19 a motion in limine to prevent the Solicitor's Office, I
20 have not tried one against Mr. Daniel or Mr. Scott, so I
21 don't know if they make this reference or not, but in
22 other counties they do. To South Carolina Code Section
23 17-23-175, which essentially is the statute that says a
24 victim of sexual assault need not be, testimony need not
25 be corroborated. This is a case, Your Honor, where

1 essentially is victim's testimony. There's no other
2 medical evidence or anything of that nature. I would just
3 ask that they not be able to cite that statute
4 specifically. Obviously, they can argue, it's in your
5 discretion under the case law, Your Honor. Obviously,
6 they can argue that, you know, what the law is. But I
7 think by pointing out that it's an actual statute, would
8 call into question, make the jurors actually look at that
9 and think that there doesn't need to be any type of
10 evidence that goes along with it and that just because she
11 says this is beyond a reasonable doubt. So I would ask
12 that they not be able to mention that, Your Honor. And I
13 would also ask that it not be charged at the end.

14 THE COURT: Right. Well, under State vs. Stukes, and
15 that's S-T-U-K-E-S, 416 SC 493, prohibits the Court from
16 charging that to the, to the jury. The Court will
17 certainly not charge that. What is the State's position
18 on that request?

19 MR. SCOTT: If you look at that case, 2016 case, they
20 did indicate that it was an improper jury charge.

21 THE COURT: Right.

22 MR. SCOTT: However, it's still on the books as a, I
23 mean, it's still in the statute. So, I think that in
24 closing, certainly, and possibly opening, we'd be allowed
25 to cite the law. That's the current law. So, I mean,

1 until they strike that down, I think that's fair game for
2 us to acknowledge that that is in our statute. And it's
3 meant for cases like this. I mean, we don't have any
4 physical evidence that we intend to introduce. That's,
5 that statute, 17-23-175 deals with the admissibility of a
6 forensic interview for children under 12. That's not
7 applicable to this case.

8 THE COURT: Right.

9 MR. SCOTT: But we would reserve the right to at
10 least acknowledge that the code --

11 THE COURT: Right.

12 MR. SCOTT: -- does provide for it.

13 THE COURT: I think your reference to 17-23-175 might
14 be a typo?

15 MS. BROWDER: It probably is, Your Honor. I'm sorry.

16 THE COURT: I took it as that. So, Ms. Browder,
17 what, if I understand you correctly, you don't have a
18 problem with the State arguing that the law does not
19 require corroboration, you just don't want them to
20 reference it as a statute?

21 MS. BROWDER: Correct, Your Honor. And just for the
22 record, it is 16-3-652 through 16-3-658. Or 16-3-657
23 states in full, the testimony of the victim need not be
24 corroborated in prosecution under those previous statutes.

25 THE COURT: Right.

1 MS. BROWDER: Just for the record, as the statute.

2 THE COURT: Well, if you don't have a problem with
3 them saying the law says such and such, I'm just trying to
4 understand why you would have some concern about them
5 saying statute such and such.

6 MS. BROWDER: Because I think if it, if it comes out
7 as it's a statute, an actual something that the
8 Legislature says, that it needs not be corroborated, and
9 that's the only evidence and that's okay. I think it
10 point, it puts undue emphasis on it at that point..

11 THE COURT: All right. What I'll do, and you can
12 certainly argue that. You can say the law is such and
13 such, just don't reference the statute.

14 MS. BROWDER: Thank you, Your Honor. The next one is
15 a motion in limine to prevent any State witness,
16 especially expert witnesses, from giving any opinion as to
17 the truthfulness of the victim in, or the alleged victim
18 in this case. I do believe on their witness list, they do
19 have two expert witnesses. One's a forensic interviewer.
20 I don't know if they'll be calling her or not. And then
21 the other one is a therapist. I would ask that they not
22 be able to go into whether they believe the alleged victim
23 or not.

24 THE COURT: I'm confident that the State would not
25 attempt to solicit, solicit any or ask the opinion from

1 any witness. Correct?

2 MR. SCOTT: That's correct, Your Honor.

3 THE COURT: Okay. All right.

4 MS. BROWDER: The next, Your Honor, this is a case
5 that had a DSS case that went along with it. This is a
6 motion in limine to prevent the State from indicating what
7 the DSS finding, during that trial, was to the jury. As
8 it's up to the jury to determine whether this occurred or
9 not. And in the DSS cases, Your Honor, it's a different
10 burden of proof and the Judge makes a finding. And I
11 think that would prejudice the jury into thinking that
12 because another Judge found something occurred and under a
13 different burden of proof that it's improper.

14 THE COURT: Okay. Solicitor, do you have any --

15 MR. SCOTT: No, sir.

16 THE COURT: -- plan to, to get into the DSS findings
17 or whatever the Family Court Judge may have ruled on?

18 MR. SCOTT: No sir, Your Honor.

19 THE COURT: Okay. Very good. I think we have one
20 more.

21 MS. BROWDER: Yes, sir. The last one, Your Honor, is
22 just to prevent the State from using any terms such as
23 predator, monster, pervert or anything that's inflammatory
24 of that nature when discussing to the jury in openings or
25 closing, as I believe it's trying to prejudice the jury

1 and their emotions, not facts of the case.

2 THE COURT: What, what is the State's position?

3 MR. SCOTT: I'm not going to call him any of these
4 three things.

5 THE COURT: Okay.

6 MS. BOWDER: That's it, Your Honor.

7 THE COURT: Okay, all right. Very good. Other than
8 the Jackson v. Denno, Solicitor, any other issues that you
9 need to raise at this time?

10 MR. SCOTT: We would just, we got a transcript from
11 the DSS hearing. There is some, at the time during
12 cross-examination or re-cross rather, with the victim,
13 what would probably be counter to our Rape Shield Law in
14 General Sessions. Some of that evidence was gotten into
15 regarding her prior sexual history. Just as far as a
16 motion in limine, for us to remain within compliance of
17 our Rape Shield Statute, we just want to bring that to the
18 Court's attention, that we would want, we would ask the
19 Defense to stay away from that prior sexual history by the
20 victim in this case.

21 THE COURT: Ms. Browder.

22 MS. BROWDER: Thank you, Your Honor. Kind of two
23 parts to this one. The first one, in the
24 cross-examination from the DSS case, there were some
25 questions regarding a pregnancy. I don't plan on going

1 into that at this point, unless she is to testify that she
2 was worried about being pregnant. And at that point --

3 THE COURT: Right.

4 MS. BROWDER: -- I believe they've opened the door to
5 it to show the source of the pregnancy. But as to the
6 other part of it, Your Honor, under State v. Broenstein,
7 phonetic, which cites State v. Finley, which is 300 SC
8 196. The Defense is allowed to enter relevant evidence
9 which tends to establish motive, bias and prejudice on the
10 part of the witness. This case, essentially, the
11 Defendant, Mr. Busse, denies that any of this happened.
12 And the allegations came about after a fight over the
13 victim's cell phone, where she was sending pictures of
14 sexual things she had done to a boy and he had been
15 sneaking in. And they got in a fight over this argument
16 over the cell phone as to him sneaking in. We would just
17 ask that we be able to go into that as to motive for why
18 these allegations could've come about.

19 THE COURT: Okay. As it all relates to the cell
20 phone and any pictures, is that, is that a area that you
21 want to get in to?

22 MS. BROWDER: Correct, Your Honor.

23 THE COURT: And, Solicitor Scott, you believe that
24 that may be violative of the Rape Shield?

25 MR. SCOTT: I think so, Your Honor. And furthermore,

1 there's no, I don't think they can, any extrinsic evidence
2 of this. I think that, that is a story that he has told
3 but there's never been any evidence of this communication.
4 It does seem to violate the evidence against rape victim,
5 16-3-659 Your Honor.

6 THE COURT: What's that Rape Shield Statute again?

7 MR. SCOTT: It's 16-3-659.

8 THE COURT: Okay. And that State vs. Finley, Ms.
9 Browder, the --

10 MS. BROWDER: It's 300 SC 196. And it also quotes,
11 Your Honor, it does not bar evidence of victim's sexual
12 conduct if offered for the purpose other than to attack
13 morality.

14 THE COURT: Okay. All right. All right. What I
15 will do, is I will take a look at that and make some
16 ruling prior to, I guess it'd be when Hailey Woodward
17 testifies. I'll have ~~a ruling before~~ that. Okay.
18 Anything other before we engage in a Jackson v. Denno?

19 MR. SCOTT: Nothing from the State, Your Honor.

20 THE COURT: ~~Okay. All right.~~ And I think you have
21 one witness, Officer Lominack?

22 MR. SCOTT: ~~Yes, sir.~~

23 THE COURT: Okay. All right. Come around please
24 sir.

25 GARRETT LOMINACK, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Mr. Daniel:

4 Q All right. Lieutenant Lominack, correct?

5 A That is correct.

6 Q All right. You're an investigator with the Sheriff's
7 Office, and you've been there how long?

8 A Since 1995.

9 Q Okay. All right. March of 2017, did you have an
10 occasion to become involved in a criminal sexual conduct
11 investigation involving the Defendant, Craig Busse?

12 A That is correct.

13 Q Okay. Tell us how that came about.

14 A Approximately on March the 9th of 2017, one of our
15 school resource officers and our victim's advocate took a
16 report out at Newberry High School involving one of the
17 students, Ms. ~~Bailey Ann Woodward~~.

18 Q Okay.

19 A The report was of possible sexual misconduct or
20 sexual activity against ~~Ms. Woodward~~.

21 Q Okay. And did, did you develop a suspect?

22 A The suspect name that ~~Ms. Woodward~~ gave us, was of
23 her step-father, Mr. Craig Busse.

24 Q And when exactly was this report made?

25 A The report was made on March the 9th, 2017.

1 Q And, ~~Hailey Woodward~~, the victim in this case,
2 identified Craig Busse as a perpetrator?

3 A That is correct.

4 Q Okay. all right. And did you, when did, when did you
5 become involved personally in this investigation?

6 A Probably the next day when the report was assigned
7 out for follow-up, or even the same day as well. I was
8 made aware through the victim's advocate and then
9 determined that DSS was to be called in to possibly take
10 ~~Ms. Woodward~~ into protective custody, be it that she lived
11 in the same house with Mr. Busse.

12 Q All right. What was the next step in the
13 investigation for you?

14 A DSS did take the child into custody that day. And
15 the next step after that, I, I reached out to Mr. Busse,
16 and also ~~Hailey's~~ mother, to, to meet, come to the
17 Sheriff's Office to speak about the alleged incident.

18 Q And so, you reached out to Craig Busse to speak with
19 him about the allegations the victim made?

20 A Yeah. I think my actual, I think I reached out to
21 the mother as the person who I actually contacted.

22 Q And were you able to have a meeting with Mr. Craig
23 Busse?

24 A That is correct. That was on March the 13th of 2017,
25 when I spoke with Mr. Busse and also the mother of ~~Hailey~~

1

~~Woodward~~

2

Q And where'd you meet with Ms., Ms. Busse and Mr.

3

Busse?

4

A They came to the Sheriff's Office and I spoke with them both individually in what we call an interviewer, which is located in the front lobby of the Sheriff's Office.

8

Q Okay. Now, at this time, was Mr. Busse, had arrest warrants been issued?

9

10

A No arrest warrants were issued. No, ~~sir~~

11

Q Did Mr. Busse voluntarily come to the Sheriff's Office?

12

13

A That is correct.

14

Q Okay. Was he in custody at any point?

15

A Not in custody.

16

Q Okay. All right. And the interview you did with Mr. Busse, was it recorded?

17

18

A No, sir. We did not have the body cam at the time, and no audio recording.

19

20

Q Did he provide a oral or a written statement or both?

21

A Just a oral statement after I read him his Miranda rights and he understood and signed the form indicating that he understood his Miranda rights and did not ask for an attorney.

24

25

Q All right. Lieutenant Lominack, I'm going to hand

1 you what's been marked for ID purposes, it's Court's
2 exhibit number one. Do you recognize that?

3 (Whereupon, Court's Exhibit number 1 was marked for
4 identification only.)

5 A That is correct.

6 Q All right. What is it?

7 A That, that's a rights form where I, you know, wrote
8 down the information, the date, Mr. Busse's personal
9 information such as name, date of birth, and address. And
10 I made him aware of his Miranda warnings.

11 Q Okay. And go through them briefly.

12 A What's on the form as I read to him, is before you
13 ask any questions you must understand your rights. You
14 have the right to remain silent. Anything that you say
15 can be used against you in a court of law. You have the
16 right to a lawyer, excuse me, I'm sorry. Before we ask
17 any questions you must understand your rights. You have
18 the right to remain silent. Anything that you say can and
19 will be used against you in a court of law. You have the
20 right to a lawyer for advice before we ask any questions
21 and to have him or her present with you during any
22 questioning. If you have no money for lawyer's fees the
23 Court will appoint one to represent you without cost if
24 you wish. If you decide to answer questions now without a
25 lawyer present you will still have the right to stop the

1 questions at any time. You also have the right to stop
2 answering questions at any time until you talk with a
3 lawyer. And the bottom line reads, I have read the
4 statement of my rights and I understand what my rights
5 are. Mr. Busse signed the form and dated it. And
6 subsequently under that, is the, the waiver. The waiver
7 states, I am willing to make a statement and answer
8 questions. I do not want a lawyer at this time. I
9 understand and know what I am doing. No promises or
10 threats have been made to me and no pressure or coercion
11 has been used against me. Mr. Busse also signed that form
12 and dated it as well. And then I witnessed the form
13 underneath.

14 Q Okay. All right. And did Mr. Busse waive his rights
15 under Miranda and speak with you?

16 A That is correct, he did.

17 Q Did he appear to be under the influence of any drugs
18 or alcohol?

19 A He did not.

20 Q All right. And you said he just provided a oral
21 statement to you?

22 A That is correct.

23 Q Was it a question and answer kind of session?

24 A Yes.

25 Q Okay. All right. What statement, if any, did Mr.

1 Q And in your office or where?

2 A It's a, we have what we call an interview room in the
3 front lobby of the Sheriff's Office. And so, it was out
4 front in the lobby area.

5 Q And was ~~he in~~ handcuffs or in detention?

6 A He was not in either one.

7 Q Okay. All right. And he gave a statement freely and
8 voluntarily to you, correct?

9 A That is correct.

10 Q No promises or anything exchanged for this statement?

11 A That's correct.

12 Q Please answer any questions Ms. Browder has for you.

13 THE COURT: Ms. Browder, any cross-examination?

14 MS. BROWDER: No, sir.

15 THE COURT: Okay. You can step down sir. ~~The Court~~
16 finds that the statement made by the Defendant, Solicitor
17 Daniel, the ~~date of~~ that statement again?

18 MR. DANIEL: March 13th --

19 THE COURT: 13th? ~~March 13th~~

20 MR. DANIEL: -- of 2017, Your Honor.

21 THE COURT: -- okay, was voluntarily made by the
22 Defendant and in compliance with Miranda. Anything
23 further?

24 MR. DANIEL: No, Your Honor.

25 THE COURT: I will take a look at the issue related

1 Busse make about the allegation?

2 A I made Mr. Busse aware of the report and information
3 we received from ~~Hailey~~. And he indicated that he did not
4 do any of those things and he just advised that, what his
5 reasoning was, why he thought that ~~Hailey~~ had brought this
6 allegation against him.

7 Q All right. His words, what did he say?

8 A He explained to me that his daughter, or a daughter
9 that he has from a previous marriage and not with Ms.
10 Megan Busse, that that daughter of his had came to visit
11 some time prior to that. And that that daughter of his
12 had indicated that she was, or had been sexually assaulted
13 by a individual not pertaining to this case, to a other,
14 related individual. And he just thought that, that
15 ~~Hailey's~~ claim on this was just to garner attention, is
16 kind of the way he's explaining it to me.

17 Q So he denied sexually abusing ~~Hailey~~?

18 A That is correct.

19 Q Did he say ~~Hailey~~ was lying or fabricating?

20 A He didn't come out and say those words, he just
21 thought that, or, you know, according to him she was
22 reaching out for attention.

23 Q Okay. And, again, this statement was given to you at
24 the Sheriff's Office on March 13th, 2017?

25 A That is correct. That is correct.

1 to the Rape Shield Statute and the cell phone issue and
2 make a ruling at the appropriate time. All right. We'll
3 be in recess until 2:00 o'clock.

4 (Whereupon, a lunch break was taken.)

5 THE COURT: Okay. We're back on the record. On that
6 issue related to the Rape Shield Act, I guess we will just
7 deal with that. Solicitor, you planning to call ~~Hailey~~
8 ~~Browder~~ first or sometime later on?

9 MR. DANIEL: Later on, Your Honor.

10 THE COURT: Okay. Because I'll probably, before I
11 make a final ruling, I'll need to take some in-camera
12 testimony so we can, so I can hear exactly what, Ms.
13 Browder, what you are wanting to get out and then I'll,
14 I'll make a ruling.

15 MS. BROWDER: And, Your Honor, just for the record
16 too, we would need to address it before Megan Busse also
17 takes the stand..

18 THE COURT: Okay. Well, just kind of give me the
19 heads up and then we can address it. Okay. All right.
20 Anything else we need to put on the record before we bring
21 the jury out and get started? The State?

22 MR. DANIEL: Nothing, Your Honor.

23 THE COURT: Defense?

24 MS. BROWDER: No, sir.

25 THE COURT: Okay. Madam Bailiff, if you'll bring the

1 jury out.

2 (Whereupon, the jury came into open court at
3 approximately 2:05 p.m.)

4 THE COURT: Let the record reflect the jury is back
5 in. Ladies and gentlemen, I hope you had a good lunch.
6 Ready to get to work? All right. The first or the next
7 item of business, we need to swear you in as our trial
8 jury. So, Madam Clerk, if you would take care of that
9 please.

10 (WHEREUPON, the jury was sworn at 2:06 p.m.)

11 THE COURT: Excuse me one minute. Let me see the
12 lawyers for just a second.

13 (WHEREUPON, a bench conference was held in the
14 presence of the jury but out of the hearing of the
15 jury.)

16 THE COURT: Ladies and gentlemen, I want to go over a
17 few things with you, for you to keep in mind as we get
18 started with this case. It's very important that you pay
19 very close attention to everything that goes on in this
20 case because I don't permit you to take notes.
21 Consequently, that means that if you pay close attention,
22 are very alert, then you'll have a pretty good memory of
23 the, the evidence and facts presented to you when you
24 begin your deliberations. So keep that in mind. And I
25 want to explain to you also that, what your role is. You

1 are the sole judge of the facts in this case. I can't
2 tell you what the facts are. It's up to you and you alone
3 to determine what the facts are in this case. Now the
4 same law that makes you the sole judge of the facts, makes
5 me the sole Judge of the law. And I will explain the law
6 to you at the conclusion of the case, the law that you are
7 to apply to the, apply to the facts. And I want to
8 emphasize once again as I did before you were selected
9 this morning, the fact that Mr. Busse has been indicted in
10 this case is not evidence of guilt at all. The indictment
11 contains, it contains allegations of the offense that he
12 has been charged with, is the document to get us where we
13 are today and it serves no other purpose. In connection
14 with some of the questions that I had asked you this
15 morning, you heard terms like presumption of innocence,
16 burden of proof. And again, let me explain to you that
17 Mr. Busse, the Defendant, has plead not guilty to this
18 charge and therefore that plea puts the burden on the
19 State to prove the charge to you beyond a reasonable
20 doubt. It is the State's burden of proof. The Defendant
21 has no burden of proof whatsoever. It's up to the State
22 to prove to you beyond a reasonable doubt the crime that
23 he's been charged with. Now there may be times, ladies
24 and gentlemen, where it is necessary that I, for me to
25 send you out to your jury room. One of the lawyers may

1 say Judge, I have an objection or I have a legal matter.
2 And I may need to discuss the facts with the lawyers in
3 order to make a ruling on the issue that they are
4 presenting to me, and I don't want to discuss the facts in
5 your presence. Because again, you're the sole judge of
6 the facts. So it may require me from time to time to send
7 you to the jury room. We'll try to resolve the particular
8 legal issue by having a conference like I just had a
9 moment ago. And if we can handle it in that fashion we'll
10 certainly try to do that but sometimes I may have to send
11 you to, to the jury room. As I told you before you broke
12 for lunch, don't do any independent research into anything
13 related to this case. And the, because we have ready
14 access to a wealth of information via the internet, social
15 media and the like. The reason why that is, is because
16 your verdict, your decision in this case has to be based
17 one-hundred percent on what is brought out in this
18 courtroom, on the evidence presented that all fourteen of
19 you have an opportunity to, to hear and to see. And if
20 you do your own independent research when you go home
21 tonight, while the information that you receive may very
22 well be wrong information, it is information that the
23 others have not had an opportunity to receive. So, that's
24 why I'm instructing you not to do any independent research
25 on your own. And after this case is over with, if you

1 want to do it, that's fine. Not a problem. Not while
2 this case is going on. And lastly, ladies and gentlemen,
3 it is very, very important for all fourteen of you to keep
4 an open mind. And don't come to any decisions until all
5 of the evidence has been presented to you, the lawyers
6 have made their closing arguments and I have instructed
7 you on the law. Now, the process that we will follow, is
8 in just a second the lawyers will make their opening
9 arguments, and these arguments are not evidence in this
10 case. It's just what they state, what they believe the
11 case is about and what the evidence will show. And then
12 the State will put up their case by way of evidence and
13 witnesses. And then after that is done, the Defendant has
14 the right if he so chooses, and he doesn't have to at all,
15 but he can put up a case if he, if he decides to. And
16 then the State would have the right to put up anything in
17 reply if he were to put up a case. Then the lawyers make
18 their closing arguments, and I'll instruct you on the law.
19 I don't know how long this case will take. It could very
20 well take a couple days. We'll just have to wait and see
21 on that. But again, keep an open mind. Okay. All right.
22 The State have any objections to the Court's preliminary
23 instruction?

24 MR. DANIEL: No, Your Honor.

25 THE COURT: And Defense?

1 MS. BROWDER: No, sir.

2 THE COURT: Thank you very much. All right. The
3 State ready to make opening argument?

4 MR. DANIEL: We are, Your Honor.

5 THE COURT: Okay. You may proceed Solicitor.

6 MR. DANIEL: Thank you, Your Honor. May it please
7 the Court?

8 THE COURT: Yes, sir.

9 MR. DANIEL: Mr. Foreman, members of the jury, good
10 afternoon. Thank you for your patience being here the day
11 after the super bowl. I know this is probably not what
12 you want, to come into court, and serve on a jury but
13 you're here and we appreciate your service. This case
14 before you today, the subject matter is difficult to hear.
15 It's a touchy subject. It relates to a child being taken
16 advantage of, exploited. And so, the very nature of these
17 allegations, it's going to be difficult. It's going to be
18 difficult to process, difficult to understand at first for
19 a lot of reasons. You know, this is a case, these type of
20 cases when a child is abused, sexually abused, it happens
21 behind closed doors and no one else knows what's going on
22 besides the victim and the perpetrator. It's not on
23 surveillance tape and a lot of times there's no physical
24 evidence. It could be delayed, the child doesn't come out
25 right away and say this is going on, right after it

1 that, and it's kind of hierarchy, important function of
2 the Government is to protect the most vulnerable among us.
3 And, you know, that would include elderly disabled people,
4 but really, it's children. Adolescence, people who are
5 not yet adults. That's why the Government's there, that's
6 why the law is there to protect, people who are
7 vulnerable, protect kids. To protect them from being
8 abused, being taken advantage of, exploited. And, you
9 know, you're taught at a young age to trust authority
10 figures. You trust adults. They're going to do what's in
11 the best interest for you. But what happens when an adult
12 you trust, an adult that's in your family, that married
13 into your family in this case does take advantage of you.
14 It turns your whole world upside down. And it did, it
15 turned ~~Hailey Woodward's~~ world upside down. The evidence
16 in this case is going to take you back to when this was
17 first reported to law enforcement, March of last year.
18 That's how this case first comes to the attention of law
19 enforcement. And it's really not ~~Hailey~~ who reports it.
20 In fact, how it comes out is Hailey confides in a friend
21 at school, ~~Joany Meelze~~. That's going to be our first
22 witness, ~~Joany Meelze~~, who's a friend of ~~Hailey's~~. ~~Hailey~~
23 confides in her about what's going on in her home. Craig
24 Busse is ~~Hailey's~~ step-dad. Okay. That's their
25 relationship. And so this is on-going sexual abuse, and

1 happens. It can be weeks, months, years. So you're not
2 going to have physical evidence. You're not going to have
3 DNA, the CSI stuff, you're not going to have any of that.
4 All you're really going to have is the victim saying it
5 happened, a lot of times. And that's what we have to go
6 on. That's these type of cases. And the case before you
7 today is no different. So, let's understand that from the
8 get go. Let me impress upon you that fact. Because the
9 Defense might bring that up. Like this is all we have,
10 the victim's word. And yes, that's right, that's all we
11 need. And you'll hear from the victim. She has to
12 testify. Everybody in this country who's accused of a
13 crime has a right to confront their witnesses. And Hailey
14 Woodward, excuse me, our victim in this case, seated right
15 here, she's going to testify ~~at some point in this trial.~~
16 So, she'll be subject to examination by me, by the State,
17 and then also by the Defense, Ms. Anna Browder and her
18 client. They'll have an opportunity to question her about
19 these allegations. You know, the most important thing the
20 Government can do, first and foremost, and any level of
21 Government, Federal, State, ~~local Government,~~ is to
22 ~~protect and reserve human life.~~ ~~That's the first thing.~~
23 That's why murder is the most serious crime we have. The
24 most serious crime a person can commit ~~is murder.~~ The
25 unjustifiable taking of a human life. But just below

1 she eventually does confide in her friend, [REDACTED], at
2 school one day, March of last year. [REDACTED] tells her mom,
3 her mom calls the school. Guidance counselor becomes
4 aware of this. April Crary, she's here. And then the
5 school, the school resource officer, Deanna Wilbanks, then
6 interviews [REDACTED]. And that's how this case gets on law
7 enforcement's radar. All right. The allegations are
8 really this, [REDACTED] moved down here with Craig, her
9 step-dad and her mother and her step-brother the summer of
10 2015. They're from Wisconsin, they are not from Newberry
11 originally. They moved down here because Craig Busse has
12 family here. And they come down here, I believe, June of
13 2015. It's right before [REDACTED] starting her
14 eighth-grade year. She had just turned, I believe, 14
15 years old. And, you know, up until then it was a somewhat
16 healthy relationship. She would, Craig was the only
17 father figure she's ever known. And he's been in her life
18 since she was a toddler really, as long as she can
19 remember. Her mom married Craig. Her biological father
20 was never in the picture. So, Craig's her step-dad. They
21 move down here in 2015 and, so, once they're in Newberry,
22 things begin to change. Craig starts, little by little,
23 becoming more aggressive towards her. Eventually, and
24 this is why, while [REDACTED]'s mother is at work. Okay. And
25 when Hailey gets home from school, Craig's not working.

1 He's working the third shift. So, he'll be home in the
2 afternoon when ~~alley~~ gets home from school. So, little
3 by little, he starts touching her, groping her, touches
4 her breast, vagina. And this would happen in Craig's
5 bedroom that he shared with his wife, Megan, who's
6 ~~alley's~~ mom. And he begins to be very manipulative
7 towards her. You see, Craig was the disciplinarian, and
8 he would control whether she went, ~~you know~~, go out to see
9 her friends, whether she could have access to her phone.
10 You know, just various things like that. Have money,
11 allowance. He was the disciplinarian. And so, in order
12 for ~~alley~~ to have a social life, she would have to trade
13 sexual favors. It'd be kind of quid pro quo. And, so, it
14 would progressively get worse. These sexual encounters
15 became more intense. And eventually it lead to, she
16 performed oral sex on Craig, and this would extend into
17 her ninth grade year at this point. This is ongoing
18 sexual abuse. He attempted to have sexual intercourse
19 with her one day in the bedroom. And he also, Craig also
20 performed oral sex on ~~alley~~ several times. And again,
21 groping. He's touching her vagina with his hands,
22 touching her breasts. These are very tense sexual
23 encounters. And again, ~~alley~~ submits to this because
24 Craig's a disciplinarian. ~~Craig's~~ the authority figure.
25 And she wants to have a social life. So, this is her

1 between Craig and ~~Hailey~~. So, you're going to hear from
2 several people. You're going to hear from the school
3 resource officer, the guidance counselor, ~~Hailey's~~ friend,
4 ~~Ben~~. You're going to hear from Garrett Lominack, the
5 investigator in this case who actually interviews Craig
6 Busse. And I hope you guys don't think that Craig Busse
7 just gives a full out confession. He doesn't. He denies
8 it. And he offers a very self-serving and absurd
9 explanation for why ~~Hailey~~ would say the things she said.
10 And I, I'll let, I'll let that speak for itself when it
11 comes out. But keep in mind, these cases are very unique.
12 And keep in mind, I don't, I'm not coming to you with
13 surveillance, ~~text messages~~, I don't have them. I'm not
14 shying away from that. But you're going to have to answer
15 one question. Why would ~~Hailey~~ put herself through that
16 if she's ~~making it up~~? Things like that. Logical
17 questions when you're judging the credibility of the
18 witnesses. It's ~~our position~~ that, that wouldn't make
19 sense. It's not reasonable. So, that's what I want to
20 kind of ~~press~~ upon you at the outset of this trial. And,
21 the standard is, be firmly convinced, be firmly convinced
22 of his guilt. You have to render a unanimous verdict
23 based solely on the evidence that's presented from this
24 witness box. And I ask you to return a verdict of guilty
25 at the conclusion of this case, and it won't be because,

1 father figure doing this to her, so very confused.
2 Doesn't know how to process it. So, this is what's going
3 on. You can't, it might be difficult, because if, if you
4 see an adult who's been sexually abused or been sexually
5 assaulted, you would think an adult would report that
6 right away, soon after it happened, but these are unique
7 cases. The perpetrator is her step-dad. She is a child.
8 She's not reporting it right away. And it only accidentally
9 comes out in a sense when she tells [redacted], almost, you
10 know, going on two years later after they had moved to
11 Newberry. So, that's the case. Eventually DSS does get
12 involved in this case. For a period of time, [redacted] is
13 removed from the home. And now [redacted] is back with her
14 mother, Megan. But for a period of time for several
15 months, [redacted] was no longer living in the home with her
16 mother and no longer living with Craig. [redacted] and her
17 mother, Megan, have their own place now in Prosperity.
18 They were living off of [redacted] with Craig. Now they
19 don't. So, their whole world has changed dramatically.
20 Not only, they live somewhere else now. [redacted] and her
21 mother now live in Prosperity. But also, their financial
22 picture has changed, clearly. They no longer have Craig
23 supporting them. They are no longer living in the same
24 roof as Craig. So, things have changed. And Craig's a
25 man in his fifties. There's about a forty-year age gap

1 have a first impression of this case. But, ladies and
2 gentlemen, this case is not what it seems. The subject
3 matter is hard, yes. It's not something we want to think
4 happens in our society today or things that anybody even
5 wants to think about or deal with. But you are jurors in
6 this case and its facts that are going to be presented in
7 front of you. And one thing I ask, and I'm not going to
8 stand up here and be long winded, because I want you to
9 get to the testimony, is stay open minded about this case.
10 You heard Mr. Daniel talk about how the only evidence
11 they're going to present, in this case, is ~~that~~
12 Woodward. So, it's your job to figure out if you think
13 she is credible or not. And you're going to hear
14 inconsistencies. You're going to hear how her story has
15 changed significantly over time. And you're going to hear
16 how things don't add up. It's the Government's job to
17 prove to you beyond a reasonable doubt, and I'll explain
18 more about that in my closing later, about what exactly
19 beyond a reasonable doubt is. But it's the highest burden
20 possible when it comes to a case like this, because life
21 and liberty is on the line just as Mr. Daniel talked
22 about. You have to protect the lives of the vulnerable.
23 But ladies and gentlemen, pay attention to the facts
24 surrounding the case. Pay attention to how it kind of
25 came out, who it came out through and the details of it.

1 you know, that's the verdict, it speaks the truth. It's
2 the verdict, it makes sense, it's consistent with the
3 evidence and it speaks the truth because that is your job
4 as a jury! No one else can do that. It's, it's going to
5 be your call. All I can do is present the evidence. It's
6 going to be your call. But think about these things and
7 we're going to present our case. It shouldn't't be a very
8 long trial. We have about seven witnesses or so. You'll
9 also hear from some people who work with ~~the law~~.
10 Therapist type people. Social worker type people. And
11 we'll ~~talk~~ talk about that as well. So, please just give us
12 your attention, and thank you so much for you guys
13 answering the call and serving on this jury, appreciate
14 it.

15 THE COURT: Thank you, Solicitor. Ms. Browder, you
16 ready?

17 MS. BROWDER: If it please the Court. Good
18 afternoon. Plato, famously known for his philosophical
19 views and perspectives, once said things are always what
20 they, are not always what they seem. The first appearance
21 deceives many. The intelligent few who sees what has been
22 carefully hidden. After hearing the State speak just now,
23 talking about perpetrators and sexual abuse and it's
24 ongoing, and all these allegations, I want you to pay
25 attention to the word he used, allegations. I'm sure you

1 Q ~~Jeany Meetze~~. You're going to have to speak up too,
2 in that microphone. All right Jeany. ~~Jeany~~, how old are
3 you?

4 A Sixteen.

5 Q Sixteen, okay. And you're in high school?

6 A Yes, sir.

7 Q Okay. Where do you go to high school?

8 A Newberry High School.

9 Q Okay. And you would, what grade are you in?

10 A Tenth.

11 Q Okay, tenth grade, Newberry High School. Do you know

12 ~~Sailey Woodward?~~

13 A Yes, sir.

14 Q Okay. How do you know ~~Sailey Woodward?~~

15 A She came to my high school in ninth grade, and I met
16 her the first day of school.

17 Q Okay. You met ~~Sailey~~ the first day of school in
18 ninth grade?

19 A Yes, sir.

20 Q At Newberry High School?

21 A Yes, sir.

22 Q When would that of been? Just last year?

23 A Uh-huh, in 2016.

24 Q Okay. 2016 school year?

25 A Yes.

1 Pay attention to the investigation to see what the
2 investigators did to try to corroborate [REDACTED]'s story.
3 And at the end of this case, you're going to figure out
4 that, that first impression that you may have had, was
5 meant to deceive you. That, that first impression is not
6 what the final impression in this case should be. I want
7 you to pay attention to what happens in the days leading
8 up to the allegations coming out. Pay attention to what
9 was said. The timing of it and how it changed. Because
10 as the testimony is revealed, you're going to see that
11 it's constantly changing. Nothing remained the same from
12 the time this came out until today, ladies and gentlemen.
13 So, at the end, I'm going to come back and going to ask,
14 like I said, that you stay open minded, and ask that you
15 find Mr. Busse not guilty.

16 THE COURT: Thank you, Ms. Browder. The State ready
17 to call its first witness? [REDACTED]

18 MR. DANIEL: We are, Your Honor. The State calls

19 [REDACTED]

20 THE COURT: Come around please ma'am.

21 [REDACTED] being
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 By Mr. Daniel:

25 A [REDACTED]

1 Q And then, I guess ninth grade, you would've been in
2 the ninth grade 2016/2017?

3 A Yes, sir.

4 Q Okay. So, that's where you first meet ~~Hailey~~
5 ~~Woodward~~?

6 A Yes.

7 Q Okay. And did y'all have, y'all are in the same
8 grade?

9 A ~~Yes~~, sir.

10 Q Okay. And did y'all have classes together?

11 A Ninth-grade year we had two classes together.

12 Q Okay. You had two classes with ~~Hailey~~?

13 A Uh-huh. Yes. ~~Yes~~

14 THE COURT: Give a verbal answer instead of just a
15 nod of the head. Something like that, be sure it's a
16 verbal answer.

17 Q So you did have two classes with ~~Hailey~~ your
18 ninth-grade year?

19 A Yes.

20 Q Okay. And do you remember what those two classes
21 were?

22 A World Geography and Art.

23 Q Okay. And do you consider ~~Hailey~~ a friend of yours?

24 A Yes.

25 Q Would y'all sit together in class?

1 A Yes.

2 Q Did y'all talk a lot?

3 A Yes.

4 Q ~~Ready~~ Did y'all hang out after school?

5 A No. ~~Ready~~

6 Q Just a friend at school that you talk to and sit by
7 in class?

8 A Yes.

9 Q Okay. All right. At some point, did ~~Ready~~ comment
10 or indicate to you anything going on at her house that was
11 of concern to you?

12 A No. ~~Ready~~ Not until the day of when she told me.

13 Q Speak up a little bit, ~~Ready~~.

14 A Not until the day that she told me what was going on.
15 She never said anything before that.

16 Q All right. But at some point, she told, you said she
17 told you ~~Ready~~ what was going on?

18 A Yes.

19 Q Now you just heard me make my opening statement?

20 A Yes.

21 Q Was the stuff she talked to you about, what I
22 reference in my opening statement?

23 A Yes. ~~Ready~~

24 MS. BROWDER: Objection, Your Honor. She needs to
25 testify. He can't have leading questions.

1 THE COURT: Right. Right. Sustain the objection.

2 You can't ask her what ~~Tracy~~ may or may not of said.

3 Q All right. ~~Tracy~~, did ~~Tracy~~ indicate to you
4 anything going on at her house that concerned you?

5 A Yes.

6 Q Okay. Yes?

7 A Yes.

8 Q All right. And did ~~Tracy~~, was she upset?

9 A Yes.

10 Q Okay. And do you remember approximately when this
11 was, that she was upset?

12 A It was in the afternoon on March 8th.

13 Q Of what year?

14 A 2016, 7, 2017.

15 Q Okay. And that would've been your ninth-grade year?

16 A Yes.

17 Q Spring semester, I guess?

18 A Yes.

19 Q Okay. So, you're thinking it would've been March of
20 last year?

21 A Yes.

22 Q All right. And she, ~~Tracy~~ seemed upset to you?

23 A Yes.

24 Q Okay. Was she crying?

25 A Yes.

1 Q Okay. And did she indicate specifically what was
2 going on at home, what was going on at home?

3 A Not at first. ~~any~~ ~~see~~

4 Q That was upsetting her?

5 A Not at first.

6 Q Okay. Did she eventually tell you exactly was going
7 on though?

8 A Yes. ~~any~~ ~~see~~

9 Q Did she indicate where certain things were going on?

10 A Yes.

11 Q Where did she indicate certain things were taking
12 place?

13 A She said it was in her bedroom.

14 Q In the bedroom?

15 A Uh-huh, (affirmative).

16 Q Did she say when this would go on?

17 A No.

18 Q She didn't give you a timeline, a timeframe?

19 A She, she just said it's been going on for a while.

20 Q She said it's been going on for a while?

21 A Yes.

22 Q Okay. And at that point, what do you, what do you
23 say to her? What's your response?

24 A I asked her if she can come stay with me because I
25 wanted to get her out of the situation.

1 Q You asked ~~Riley~~ if she could or if she would live
2 with you?

3 A Yes.

4 Q Okay. Did you take action on that?

5 A Yes.

6 Q What'd you do?

7 A I told my mom and she called the school.

8 MS. BROWDER: Objection, Your Honor, as to what the
9 mom says.

10 THE COURT: Okay. You can't repeat what, what your
11 mom says or said.

12 Q You said your mom called the school though?

13 A Yes.

14 Q Did you tell your mom the very same day that you
15 initially heard it from ~~Riley~~?

16 A Yes.

17 Q And then when did your mom call the school, to your
18 knowledge?

19 A The next morning.

20 Q The very next morning?

21 A Yes.

22 Q Okay. All right. ~~Okay~~, please answer any questions
23 that Ms. Browder might have for you.

24 A Okay.

25 THE COURT: Cross-examination?

1 MS. BROWDER: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 By Ms. Browder:

4 Q Hey ~~Ready~~. You stated you're fairly close with
5 ~~Ready?~~

6 A Yes.

7 Q How would you describe your relationship with ~~Ready~~?

8 A I mean, we were, we hung out at school, but nothing
9 out of school.

10 Q Okay. And so, when you were at school, and you hung
11 out at school, about how much time do you have to hang out
12 at school every day?

13 A Three hours every day.

14 Q And was the majority of that time in class?

15 A Yes.

16 Q Okay. So, in class you're not necessarily talking?

17 A Yeah. Yes.

18 Q You, sorry. You are talking, or you --

19 A Yes.

20 Q You are talking while the teacher's talking in class?

21 A Yes.

22 Q Okay. You said you met her the first day of school,
23 and that was in 2016?

24 A Yes.

25 Q Okay. So, approximately August 2016?

1 A Yes.

2 Q Okay. And you stated y'all are fairly close?

3 A Yes.

4 Q Okay. You stated that on March 8th in the afternoon
5 ~~is~~ when she told you something. Where were you when she
6 told you?

7 A Art class.

8 Q Art class. So, she's crying and upset in art class?

9 A Yes.

10 Q And nobody else seemed to notice that she was crying
11 or upset, such as the teacher?

12 A No.

13 Q Okay. So, nobody, how big is this class? About how
14 many people are in it you think? It don't have to be an
15 exact number.

16 A 20.

17 Q About 20 people in class?

18 A Yes.

19 Q Okay. And where did you sit in class?

20 A The back of the class. ~~Jeany~~

21 Q Back. Okay. And does the teacher, what were y'all
22 doing in class that day? Do you remember?

23 A We were drawing something.

24 Q All right. And do you have a Facebook page, ~~Jeany~~?

25 A Yes.

1 Q Okay. How long have you had the Facebook page?

2 A Since December of last year.

3 Q Of, of 2017?

4 A 2017. Yes.

5 Q Okay. And you didn't become friends with ~~Valley~~ on
6 Facebook until approximately the end of January 2018,
7 correct?

8 A Yes.

9 Q Okay. But y'all are fairly close friends?

10 A Yes.

11 Q Okay. And you said you wanted her to come live with
12 you?

13 A Yes.

14 Q Okay. Did you want her to come live with you before
15 any allegations came out?

16 A No.

17 Q Okay. And you never hung out after school or
18 anything like that?

19 A No.

20 Q And you know ~~Valley's~~ last name, correct?

21 A Yes.

22 Q Are you aware if she knows your last name?

23 A Yes.

24 Q She does know your last name?

25 A Yes.

1 go back to the jury room please.

2 (Whereupon, the jury is excused from open court.)

3 THE COURT: Okay. The, this witness was asked if,
4 I'm not going to quote verbatim, the question, but, she's
5 had prior involvement with sex abuse allegations and she
6 indicated in the affirmative. And then, Ms. Browder, you
7 asked her about having made prior false allegations or
8 something akin to that. Solicitor Daniel objected. I,
9 I'm not, I think maybe this witness gave some sort of
10 answer before I could kind of cut things off. If she did
11 give an answer, Madam Court Reporter, that needs to be
12 stricken from the record. So, we're at the question stage
13 concerning false allegations. Solicitor Daniel, you
14 offered an objection, I think, based on relevance. So
15 I'll hear from you first concerning this particular issue.

16 MR. DANIEL: Your Honor, I think it's just going to
17 be outside the scope of my question on direct. It's
18 going, its information of how this case came to light, how
19 law enforcement got involved. And she's asking questions
20 about the victim, excuse me, the witness here falsely
21 accusing someone of sexual abuse. I'm not so sure it's,
22 it's definitely going outside the scope of my questioning.
23 It was limited to just Hailey was upset that day in class,
24 you know, ~~Hailey~~ confided in you, you told your mom, mom
25 called the school.

1 Q At what point did you tell her your last name?

2 A Not too long after I met her.

3 Q So, she would've known since August of last year your
4 last name?

5 A Yes.

6 Q Okay. And this isn't your first time dealing with
7 sexual abuse, is it?

8 A No.

9 Q You've made allegations falsely in the past against
10 someone in your family?

11 MR. DANIEL: Objection, Your Honor. I don't know the
12 bases--

13 A No.

14 THE COURT: Wait a minute. Don't, don't answer. See
15 if we can have a side bar.

16 (WHEREUPON, a bench conference was held in the
17 presence of the jury but out of the hearing of the
18 jury.)

19 THE COURT: Mr. Foreman, ladies and gentlemen of the
20 jury, this is one of those times where I, I indicated
21 sometimes we may have to send you out. And I'll need for
22 you to go to the jury room. And hopefully it won't be too
23 long. And again, I remind you and caution you not to
24 begin any discussions about this case and we'll get you
25 back out just as soon as we possibly can. So, if you'll

1 THE COURT: Well, you know, cross-examination,
2 there's wide latitude in cross-examination. And you're
3 really not limited to what is brought out in direct as you
4 are when you're dealing with redirect examination of a
5 witness or re-cross. Ms. Browder, I'll be glad to hear
6 from you.

7 MS. BROWDER: That's exactly where I was going to go
8 with that. First, Your Honor, is that on
9 cross-examination, nothing is, well, not nothing is
10 outside the scope, but there is wide latitude. It's not
11 like redirect where you're limited to just what was asked
12 on cross-examination. In addition, Your Honor, I believe
13 it goes to credibility of the witness in that this is the
14 witness the allegations came out through essentially. And
15 she told to her mother, then her mother said to the school
16 official. This is the person she disclosed to, and I
17 think it goes to credibility regarding whether she has
18 made previous allegations in the past and whether ~~Valley~~
19 potentially knew about those.

20 THE COURT: Okay. All right. Solicitor, anything?

21 MR. SCOTT: I just, I think, Your Honor, it's just,
22 if you're arguing against her credibility, her sole
23 testimony, and I understand that she's not restricted to
24 our direct question. But the sole testimony was that she
25 received this information from the victim, passed it on to

1 her mother. So, if we're challenging her credibility,
2 what are we saying, that she did not actually tell her
3 mother what the victim told her. I think it's more, and
4 I, Your Honor, can decide whether or not this testimony
5 will be relevant. That's, that's my objection, just
6 relevancy. It seems to me to be an attempt to put out
7 there to this jury that Newberry and specifically the
8 victim's friend are just a bunch of people who kind of
9 throw around allegations left and right. So, to challenge
10 her credibility based on her testimony, what are we
11 challenging. That she, did she or did she not tell her
12 mother what the victim passed on to her. I don't know
13 what she's going to say. Perhaps you would entertain some
14 proffered testimony. I've never heard anything about this
15 girl falsely accusing somebody of something else. I mean,
16 perhaps some proffered testimony would help shed some
17 light on the potential relevancy. But just to say that
18 it's exploring her biased and her credibility. Not
19 disingenuous, but a bit of a stretch to me based on what
20 her testimony was.

21 THE COURT: Well, of course, I think, as with any
22 witness, the issue of the witness credibility, bias,
23 motive or et cetera is always something that can be looked
24 at. Just give me another minute and then, and I think to,
25 just to have a good record on this, probably need to get

1 this in-camera. Everybody be at ease for just a moment.
2 Take a look, lawyers, at Rule 608. Rules of evidence, 608
3 and see if that would, specifically, (b), even 608(c) too,
4 t-o-o, not the number two.

5 ~~CONFIDENTIAL~~ MR. DANIEL: Your Honor, I guess our position was it
6 was a collateral matter, kind of relevance. It's not,
7 again, there must be a good faith basis to ask these
8 questions too, about specific instances of misconduct as
9 it comes to lying or deceit. So, I don't know, that's,
10 that's why we're just, our objection was that it was kind
11 of out there.

12 THE COURT: Right. Well, let's do this, let's pick
13 up in-camera, Ms. Browder, where you were and let's see
14 what, see what this witness has to say.

15 IN-CAMERA CROSS-EXAMINATION TESTIMONY

16 Q All right. ~~CONFIDENTIAL~~, you just testified this isn't your
17 first experience with sexual abuse, correct?

18 A Yes, ma'am.

19 Q You previously made allegations, was it against your
20 step-father or your uncle?

21 A My uncle.

22 Q Uncle, okay. And you later indicated that you lied
23 about it, correct?

24 A No.

25 Q You never told Hailey that, about these allegations

1 and that you ultimately lied about it or told your mom you
2 lied about it?

3 A No.

4 MS. BROWDER: Okay. Those would be the questions
5 that I would go into, that she had spoken to ~~valley~~.

6 THE COURT: I am going to go ahead and allow it, I
7 mean it's, she's denied it. And then if there's something
8 to bring out we can deal with that at a later point in
9 time.

10 MR. SCOTT: I don't want to belabor it, but we're
11 just kind of throwing these bombs out here. She's,
12 there's nothing to back that up. I mean she can ask these
13 questions. She's planting the seed here that this girl
14 did this, whatever, there's no evidence whatsoever of
15 this. I mean it is a collateral matter. It has nothing
16 to do with this case that we're here to try today.

17 THE COURT: Well --

18 MS. BROWDER: And, Your Honor, as to the collateral
19 matter issue, at, that comes into play where if she denies
20 it, and I had, I could put up a witness to say that she
21 was lying about it. That would be the collateral evidence
22 that wouldn't be allowed.

23 THE COURT: All right. I have to assume, Solicitor,
24 that Ms. Browder's just not, that she has a good faith
25 basis to ask the question, which she did. And so, I'm

1 going to allow it under 608 and then you can move on to
2 something else after you hit on this. All right. Let's
3 take a real short break, but before we do that, let's go
4 ahead and get on the record. Prior to the jury being
5 sworn, I informed the lawyers, learning this bit of
6 information from the Clerk, that juror, juror Dean
7 Richardson, number 110, his brother is a probation officer
8 here in Newberry County. And that was not disclosed in
9 response to a voir dire question related, ~~to being~~ related
10 to anybody connected with a law enforcement agency. And,
11 and I realize probation is technically not a law
12 enforcement agency but they do have certain powers to
13 arrest. So, I think the spirit of the question, probably
14 should've been disclosed. However, after informing the
15 lawyers of that, Ms. Browder, I believe you discussed this
16 with your client, and, that there's no objection to this
17 juror remaining on the jury. ~~juror~~

18 MS. BROWDER: That's correct, Your Honor.

19 THE COURT: Okay. All right. ~~Very~~ good. Thank you.
20 Let's take a real short break, and we'll start back here
21 in a minute.

22 (Whereupon, a short break was taken.)

23 THE COURT: All right. Anything further before we
24 bring the jury out?

25 MR. DANIEL: No, sir.

1 THE COURT: All right. Madam Bailiff.

2 (Whereupon, the jury enters the courtroom at
3 approximately 3:00 p.m.)

4 THE COURT: Let the record reflect the jury is back
5 in the courtroom. Ms. Browder, you may proceed.

6 MS. BROWDER: Thank you, Your Honor.

7 CONTINUE CROSS-EXAMINATION

8 By Ms. Browder:

9 Q ~~Jeany~~, right before we took a break, you testified
10 that this is not your first, I'm sorry, you okay? All
11 right. That this is not your first experience with sexual
12 abuse, correct?

13 A Yes.

14 Q And you previously alleged that your uncle sexually
15 abused you, correct?

16 A Yes.

17 Q And did you tell ~~Valley~~ about this?

18 A Yes.

19 Q Okay. So, ~~Valley~~ was aware that you had sexual abuse
20 allegations?

21 A Yes.

22 Q In the past. And when did you tell her about it?
23 How far around from when she told you about her
24 allegation?

25 A Same time.

1 Q Okay. Before or after she told you?

2 A After.

3 Q Okay. And did you tell ~~alley~~ that you had told your
4 mom you lied about the allegations?

5 A No.

6 Q Okay. No further questions, Your Honor.

7 THE COURT: Okay. Anything Solicitor Daniel, in
8 redirect?

9 MR. DANIEL: No, Your Honor.

10 THE COURT: Okay. You can step down ma'am. Thank
11 you. Okay. Solicitor, next witness.

12 MR. DANIEL: Your Honor, the State calls April Cary.

13 APRIL CARY, being
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Daniel:

17 A It's April Cary.

18 Q Cary? Okay.

19 A C-A-R-Y.

20 Q We added an extra r in your name. Okay. All right.
21 April, you work at the Newberry High School, correct?

22 A I do.

23 Q Okay.

24 THE COURT: Solicitor, let me just stop you just a
25 minute. When I published, during voir dire, looking at

1 the list, it was C-R-A-R-Y, and that's incorrect. It
2 should be T-A-R-Y.

3 A C-A-R-Y.

4 THE COURT: Oh, C-A-R-Y. Okay. All right. Well,
5 it's still a little different than what was on the, on the
6 list. Let me just ask the jury. If you will remember,
7 ladies and gentlemen, during qualification I published a
8 list of potential witnesses. And I pronounced this lady's
9 last name as Crary, C-R-A-R-Y, and it should be C-A-R-Y.
10 Does that, and I had asked, you know, is anyone related by
11 blood or marriage, who is now formally or have a close
12 personal social relationship with any of the witnesses.
13 And so, with that correct spelling of this witness' last
14 name, would anybody on the jury need to respond in the
15 affirmative?

16 (No response.)

17 THE COURT: You may proceed Solicitor.

18 MR. DANIEL: Thank you, Your Honor.

19 Q All right. Ms. Cary, you're employed at Newberry
20 High School, correct?

21 A Correct.

22 Q All right. And what's your job there?

23 A I am the school counselor, one of the three.

24 Q Okay. And what are some of your duties as guidance
25 counselor?

1 A We take care of students needs as far as academic,
2 personal, social and career.

3 Q Okay. And how long have you been working at Newberry
4 High School?

5 A I'm in my fifth year at Newberry High.

6 Q Okay. All right. I want to take you back to March
7 9th of 2017. You were working that day at Newberry High
8 School?

9 A Yes, I was.

10 Q Okay. And on that particular day did you become
11 involved in a, hearing some allegations as it relates to
12 this case?

13 A I did.

14 Q Okay. Tell us how you initially became aware of
15 those allegations in this case?

16 A On that morning I received a phone call from Ms.
17 Hockett, stating that her --

18 MS. BROWDER: Objection, Your Honor, as to what Ms.
19 Hockett said.

20 THE COURT: Excuse me. State your objection again.

21 MS. BROWDER: Hearsay as to what Ms. Hockett said.

22 THE COURT: Okay. Do not repeat what, I assume
23 that's Barbara Hockett. Do not repeat what she told you.
24 You can testify as a result of a conversation with Ms.
25 Hockett, you did XYZ. But just don't repeat what she

1 said. Okay.

2 A As a result of that conversation, it prompted me to
3 go meet with our school resource officer in reference to
4 harm that had been done to one of my students.

5 Q Okay. So, you, on March 9th of last year, was it in
6 the morning you received a phone call from Barbara
7 Hockett?

8 A Yes, it was.

9 Q And she reported something that concerned you about
10 one of the students at Newberry High School?

11 A Yes.

12 Q And that prompted you to notify the school resource
13 officer?

14 A Yes.

15 Q And what student did you receive information on?

16 A ~~Nalley Woodward~~.

17 Q Okay. All right. And at that point, and why was the
18 school resource officer involved?

19 A Any time we have a, a situation that is, results in
20 harm, sexual abuse, suicide, harm to others, we come
21 together as a team to investigate that further to be able
22 to question the child or children involved.

23 Q Okay. So, if you receive any type of information
24 about a, a student of yours being sexually abused,
25 protocol is to go to the school resource officer?

1 Q Okay. And then after, after Deanna Wilbanks, the
2 SRO, meets with [REDACTED] [REDACTED], then what do y'all do next?

3 A She then proceeds to talk to [REDACTED].

4 Q Are you involved in these conversations with [REDACTED]?

5 A I am not. I am in and out of the room with both of
6 them.

7 Q Okay. So, at that point, it becomes a law
8 enforcement matter with Deanna Wilbanks, the SRO?

9 A Yes.

10 Q Okay. Please answer any questions Ms. Browder has
11 for you.

12 THE COURT: Cross-examination.

13 MS. BROWDER: Very briefly.

14 CROSS-EXAMINATION

15 By Ms. Browder:

16 Q Ms. Cary, you said you investigated as a team.
17 You're a mandatory reporter, correct?

18 A Yes.

19 Q So any time anybody comes to you with an allegation
20 of sexual abuse you have to forward it on, correct?

21 A Yes.

22 Q Okay. And you had no dealings with [REDACTED] or [REDACTED]
23 regarding the allegations of this case?

24 A Except for just being in and out of the room, but
25 not--

1 A Absolutely. Yes.

2 Q Okay. And this information you received from Barbara
3 Hockett had to do with [REDACTED] [REDACTED] [REDACTED]?

4 A Yes.

5 Q And, and who is Barbara Hockett?

6 A She is a student's mother. [REDACTED] [REDACTED]'s mother at
7 Newberry High School.

8 Q And she called you early that morning, March 9th?

9 A Yes.

10 Q Would it of been, okay, was it right when school
11 first started?

12 A I would say within the first two hours.

13 Q Okay. All right. And at that point, once you have
14 this conversation with Ms. Hockett, you go to the school
15 resource officer, and who's the school resource officer?

16 A Officer Wilbanks. Deanna Wilbanks.

17 Q Deanna Wilbanks. And then what happens next?

18 A Deanna pulls the, [REDACTED] [REDACTED] into the office to
19 come have a conversation with her, prior to meeting with
20 [REDACTED].

21 Q So, first y'all meet, are you involved in this
22 meeting with [REDACTED] [REDACTED]?

23 A I am not.

24 Q Okay. But just, just Deanna and [REDACTED] at first?

25 A To my knowledge that I remember.

1 Q Right. So, you didn't --

2 A Full force.

3 Q -- ask questions or talk to her?

4 A Correct.

5 Q No further questions.

6 THE COURT: Anything in redirect?

7 MR. DANIEL: No, Your Honor.

8 THE COURT: You can step ma'am. Thank you. All
9 right Solicitor.

10 MS. DANIEL: Your Honor, the State calls Deanna
11 Wilbanks.

12 DEANNA WILBANKS, being
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 By Mr. Daniel:

16 A My name's Deanna Wilbanks.

17 Q All right, Deanna. So, you work for the Newberry
18 Sheriff's Office?

19 A Yes, sir.

20 Q All right. And what's your position there at the
21 Sheriff's Office?

22 A I'm assigned to the school resource officer's unit.

23 Q Okay. And what school are you assigned to?

24 A Newberry High School as primary.

25 Q Okay. How long have you been the school resource

1 officer at Newberry High School?

2 A Five years now.

3 Q Okay. All right. I want to go back to March 9th of
4 last year. Were you working that day at Newberry High
5 School?

6 A Yes, sir.

7 Q Okay. And did you receive a report involving a
8 student of yours, ~~alley woodward~~?

9 A Yes, sir.

10 Q Okay. And tell us how that came about.

11 A April Cary, the guidance counselor, came to me and
12 stated she had some conversation with a parent that she
13 needed to include me in on. Further stated that there was
14 reported allegations of sexual abuse involving Ms.
15 ~~woodward~~ that had been reported by a friend.

16 Q Okay. All right. So, a concerned parent called the
17 school?

18 A Yes, sir.

19 Q And who was that concerned parent?

20 A Ms. Hockett.

21 Q Barbara Hockett?

22 A Yes.

23 Q And, Barbara Hockett's the mother of who?

24 A ~~any meetze~~.

25 Q All right. And she reports allegations of sexual

1 abuse. And ~~Hailey Woodward~~ would've been the victim?

2 A Yes, sir.

3 Q Okay. And at that point, what do y'all do?

4 A I talk with, well, I called ~~Deanna's~~ class room, had
5 her come up to my office. Spoke with her in reference to
6 what she had told her mom. Had conversation with ~~Deanna~~ as
7 to how she found out about the allegations that ~~Hailey~~
8 reported to her. Said that ~~Hailey~~ was scared.

9 MS. BROWDER: Objection, Your Honor.

10 THE COURT: You can't repeat what someone told you.

11 A Sorry. From the conversation, derived that ~~Hailey~~
12 was scared to --

13 MS. BROWDER: Objection, Your Honor, as to what ~~Deanna~~
14 told her and how ~~Hailey~~ felt.

15 THE COURT: Sustained.

16 MR. DANIEL: Your Honor, this is, it's not being
17 offered truth of the matter asserted. I would site State
18 v. Compton. It's kind of being offered for, to outline
19 Officer Wilbanks' investigation. Why she took certain
20 actions.

21 ~~THE COURT:~~ Okay. All right. This is a conversation
22 that Deputy Wilbanks had with ~~Deanna Weetzel~~, correct? Is
23 that right?

24 A Yes.

25 MR. DANIEL: Yes, Your Honor.

1 THE COURT: And, and ~~based upon this~~ conversation you
2 took whatever course of action you felt like was
3 appropriate?

4 A Yes, sir ~~yes, sir~~

5 MS. BROWDER: Your Honor, regarding my objection, I
6 ~~think~~ she can testify to that. I have no problem with
7 ~~that~~

8 THE COURT: Right. ~~And~~ I think it really goes more
9 towards the state of mind of this witness, and why she did
10 whatever, whatever it was that she did. So, I'm going to
11 ~~overrule~~ the objection and allow you to ask her about
12 that.

13 Q All right. Officer Wilbanks, so, --

14 THE COURT: Kind of go ~~back to~~ where you were.

15 MR. DANIEL: Yes, sir.

16 Q All right. Officer Wilbanks, receive a phone call,
17 April Cary does from a concerned parent, Barbara Hockett.

18 A Yes.

19 Q Correct?

20 A Correct.

21 Q Barbara Hockett's the mother of ~~only~~ ~~Meetze~~?

22 A Correct ~~yes, sir~~

23 Q Okay. So, once, so you're notified by April Cary
24 after she has this conversation with Barbara Hockett?

25 A Correct.

1 Q All right. And then after you speak with ~~Jeany~~, what
2 do you do next?

3 A I called ~~Hailey~~ to my office. Spoke with her. Also
4 let my school administration and keep guidance counselor,
5 April Cary, abreast of the situation. All resource
6 officers have to do that. So, from that point, after
7 having ~~Hailey~~ in my office, ~~Hailey~~ and I sit down and
8 talk. At first, she did not want to --

9 MS. BROWDER: Objection, Your Honor, as to what
10 ~~Hailey~~ said.

11 THE COURT: I believe that would constitute hearsay.
12 Solicitor, would you not agree?

13 MR. DANIEL: Yes, Your Honor.

14 Q All right. So, at that point, you're meeting with
15 ~~Hailey Woodward~~ now, correct?

16 A Yes, sir.

17 Q Okay. And what grade is she in?

18 A Currently?

19 Q Then.

20 A Ninth.

21 Q Okay. That's March of 2017?

22 A Yes, sir.

23 Q Okay. And did ~~Hailey~~ relate to when these incidents
24 of sexual abuse took place, the timing?

25 A Time wise, it started back in the eighth grade as far

1 Q Okay. And at that point, what do y'all do?

2 A April has to deal with another situation. I pull
3 Jeany into my office to get further information as to
4 regards on how my investigation is going to proceed
5 forward. Spoke with [REDACTED] who stated she had a friend
6 that had been sexually assaulted by her step-father. That
7 was scared to be in the home, and wanted, or she was
8 scared for her friend and wanted her friend to come live
9 with her so that her friend would be in a safe
10 environment.

11 Q So at that point you're investigating criminal sexual
12 conduct case involving a minor?

13 A Yes, sir.

14 Q Okay. And you had developed a suspect in this case
15 at that point, correct?

16 A Yes, sir.

17 Q And who would that have been?

18 A That'd be [REDACTED] step-father.

19 Q Okay. Who is that?

20 A Mr. Busse.

21 Q Okay.

22 A Craig Busse.

23 Q All right. And so, you get all this information from
24 Jeany at first, correct?

25 A Yes, sir.

1 I guess.

2 A Yes, sir.

3 Q Near where Highway 121 intersects kind of with
4 Highway 76?

5 A Yes, sir. Close to it.

6 Q Okay. All right. Now at that point, what's your --
7 so you're talking, talking to ~~Valley~~, and what do you do
8 next? What's next up?

9 A I'm sorry. I contacted ~~our~~ victims advocate so that
10 she could be included in the investigation. And we also
11 contacted the Department of Social Services.

12 Q Okay. And why was DSS or Department of Social
13 Services contacted?

14 A Because of the allegations and the fact they were
15 occurring at home, we ~~were~~ concerned with ~~Valley's~~ safety.

16 Q And that would be probably standard protocol?

17 A Yes, sir.

18 Q In these cases?

19 A Yes, sir.

20 Q All right. Did you notify ~~Valley's~~ parents?

21 A After, yes, sir. After we had notified DSS, yes sir.

22 Q All right. Who did you notify?

23 A ~~Valley's~~ mom.

24 Q Who's, who's that?

25 A Meagan, I believe.

1 as she could remember.

2 Q And when did they last occur?

3 A Two weeks prior to her coming, or it being brought to
4 our attention.

5 Q So the last incident would've been a couple weeks
6 prior to this report being received from you?

7 A The dates that I have in my report are February 28th
8 or March 1st of 2017.

9 Q And that's when ~~Hailey~~ indicated the last incident
10 occurred?

11 A Yes, sir.

12 Q Okay. So, just before y'all became aware of these
13 allegations is when ~~Hailey~~'s saying it last took place?

14 A Yes, sir.

15 Q ~~Hailey~~ right. And did ~~Hailey~~ indicate to you the place
16 where these incidents occurred?

17 A It was at her home.

18 Q All the, all the incidents took place at her home?

19 A Yes, sir.

20 Q Okay. Did you have an address for where Hailey
21 lived?

22 A ~~2442 Wilson Road.~~

23 Q Where is that?

24 A In Newberry County.

25 Q Okay. Just a few miles from the courthouse, right?

1 Q Meagan Busse?

2 A Yes, sir.

3 Q Okay. All right. So, you just called her on the
4 phone, Meagan Busse?

5 A I don't know. I don't remember if I called her or
6 one of the school counselors did.

7 Q Does she, does Meagan Busse come to the school that
8 day?

9 A Yes. Yes, sir.

10 Q Okay. And what's your next step once Hailey's mom,
11 Meagan, arrives?

12 A Before Hailey's mom arrives, we had DSS remove Hailey
13 from the school.

14 Q Okay.

15 A And then Meagan came to the school.

16 Q All right. So, at that point, DSS had, I guess,
17 custody of Hailey?

18 A Yes.

19 Q Okay. And why, again, was that?

20 A Because of the safety and the conditions of the home.

21 Q Okay. So it's kind of an emergency protective
22 custody?

23 A Yes, sir.

24 Q And, so, no longer could Hailey return to her home
25 that day?

1 A That is correct.

2 Q Okay. And did you explain to the mother the process
3 to take place?

4 A Yes, sir. My self, the victim's advocate and the DSS
5 agent did. Yes, sir.

6 Q And why couldn't you give, why couldn't Hailey go
7 back home with her mother?

8 A We had knowledge that she had reported --

9 MS. BROWDER: Objection, Your Honor. The knowledge is
10 coming from hearsay from ~~Hailey~~

11 THE COURT: All right. Okay. If your, "knowledge",
12 ~~is~~ is based upon what someone told you then I would sustain
13 the objection. Now, if it was based on something else
14 then you can proceed in that direction.

15 Q All right. Officer Wilbanks, what were your grounds
16 for placing ~~Hailey~~ into emergency protective custody?

17 A The allegations of sexual abuse and that it was
18 occurring at the home.

19 Q And was it y'all's determination that the mother
20 couldn't have custody of ~~Hailey~~?

21 MS. BROWDER: Objection, Your Honor. Leading.

22 THE COURT: Can you rephrase, Solicitor?

23 Q All right. So, why, why couldn't Hailey go back home
24 with her mother that day?

25 A We knew that the, Craig Busse was in the residence.

1 We knew that he was a suspect in the allegations of sexual
2 abuse to ~~Hailey~~, and we did not want to return her to the
3 home where the suspect was living.

4 Q Okay. All right. Officer Wilbanks, please answer
5 any questions Ms. Browder has for you.

6 A Yes, sir.

7 THE COURT: Cross-examination?

8 CROSS-EXAMINATION

9 By Ms. Browder:

10 Q So you had Hailey come to your office, correct?

11 A Yes, ma'am.

12 Q At about what time during the day was that?

13 A It was during the morning hours.

14 Q Okay.

15 A It was prior to lunch.

16 Q Okay. And when she came to your office was she
17 surprised? Did she seem surprised based on your
18 observations of her?

19 A No. She felt, it appeared she looked relieved.

20 Q She knew what was going on?

21 A I believe so.

22 Q And how long have you been with the, I guess you're
23 with the Newberry County Sheriff's Department?

24 A Yes, ma'am. I am.

25 Q How long have you been with them?

1 A About seven years.

2 Q Okay. And how long have you been a school resource
3 officer?

4 A Five years.

5 Q Okay. And as a school resource officer, do you have
6 any training regarding sexual abuse allegations?

7 A Only what we go through at the police academy, ma'am.

8 Q Okay. So, have you ever been trained in interviewing
9 sexual abuse child victims?

10 A No, ma'am. That's why I called the victims advocate.

11 Q Okay. But you talked to her prior to anybody else,
12 without that training?

13 A Just to see where my investigation needed to lead.

14 Q Okay. And then basically, you just sent it to
15 investigations after that to check into the details and
16 further investigation?

17 A Correct.

18 Q Okay. So, at that point, you just go back to the
19 school to do your own thing?

20 A Correct.

21 Q And when ~~Miley~~ came into the office, you said she
22 didn't seem surprised. Was she crying in any way?

23 A Yes.

24 Q And did she ask, well, I can't, and did she explain
25 to you, without what she said, did she give you details

1 about the case?

2 A Yes.

3 Q Okay. No further questions, Your Honor.

4 THE COURT: Any redirect Solicitor?

5 MR. DANIEL: No, Your Honor.

6 THE COURT: You can step down ma'am. Thank you.

7 A Thank you.

8 THE COURT: Solicitor, next witness.

9 MR. DANIEL: The State calls Meagan Busse.

10 MEAGAN BUSSE, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Daniel:

14 Q State your name, please.

15 A Meagan Busse.

16 Q Ms. Busse, are you married? [REDACTED]

17 A I am.

18 Q Who you married to?

19 A Craig Busse. [REDACTED]

20 THE COURT: You need to speak up ma'am.

21 Q Married to Craig Busse?

22 A Yes, sir. [REDACTED]

23 Q And that's the Defendant in this case, correct?

24 A Yes, sir.

25 Q Could you point him out?

1 A He's sitting next to Anna Browder.

2 Q Okay.

3 THE COURT: All right. Let the record reflect she's
4 identified the Defendant.

5 Q And how long you been married to Craig Busse?

6 A It'll be 12 years this year.

7 Q 12 years. Okay. And do you have any kids?

8 A No. Not with him. I have children and he has
9 children.

10 Q Okay. You do have children though, just not with Mr.
11 Busse?

12 A Correct.

13 Q Okay. All right. How many children do you have?

14 A I have one.

15 Q Okay. Who, who is your one child?

16 A ~~Mailey Woodwa d.~~

17 Q Okay. And she's the victim in this case?

18 A Yes, sir.

19 Q How old, how old's ~~Mailey~~?

20 A 16.

21 Q She's 16. When's her birthday?

22 A ~~Aug 28, 2001.~~

23 Q Okay. All right. And are y'all from Newberry?

24 A We are not.

25 Q All right. Where are y'all from?

1 A Yes.

2 Q So he, he moved down there with y'all as well?

3 A Correct.

4 Q And where did y'all move to in Newberry when y'all

5 first came out here?

6 A ~~2442 Wilson Road.~~

7 Q ~~2442 Wilson Road?~~

8 A Yes, sir.

9 Q So, June of 2015, all four of you moved down here to

10 ~~2442 Wilson Road?~~

11 A ~~Correct.~~ Correct.

12 Q And why did y'all move down here?

13 A Because my husband has family here. His mother and

14 his aunt live in Prosperity.

15 Q Okay.

16 A And I had a job as well before I got down here.

17 Q Okay. So, you, you got a job down here in Newberry?

18 A Correct.

19 Q And he has family here, Craig does?

20 A Correct.

21 Q And, what, what job did you get?

22 A I work at Merchants Food Service.

23 Q So, you moved down here for work and to be closer to

24 Craig's family?

25 A Correct.

- 1 A Wisconsin.
- 2 Q What part of Wisconsin?
- 3 A South East Wisconsin.
- 4 Q When did y'all first move to Newberry, I guess?
- 5 A June 13th of 2015.
- 6 Q So June of 2015?
- 7 A Yes, sir.
- 8 Q Okay. So y'all have been here a little over two and
- 9 a half years?
- 10 A Yes, sir.
- 11 Q And why, and I guess, were you, Craig and [REDACTED] at
- 12 one point living together?
- 13 A Yes.
- 14 Q So y'all moved down, all three of you moved down here
- 15 to Newberry?
- 16 A With my step-son as well.
- 17 Q Okay. Your step-son?
- 18 A Yes.
- 19 Q That's Craig's biological son?
- 20 A Yes.
- 21 Q Who's that?
- 22 A Craig Busse, Jr.
- 23 Q Craig, Jr.?
- 24 A Correct.
- 25 Q Did y'all call him CJ?

1 Q Okay. And how old was ~~Mailey~~ when y'all moved down
2 here?

3 A That would've been, she would've been almost 14. So,
4 she was 13 for another 13 days.

5 Q Okay. So, y'all moved down here just shy of ~~Mailey's~~
6 14th birthday?

7 A Correct.

8 Q And that would've been the summer before she started
9 Eighth grade?

10 A Correct.

11 Q Okay. All right. Now, do you have a relationship
12 with ~~Mailey's~~ biological father?

13 A No.

14 Q Does ~~Mailey~~ know her biological father?

15 A No.

16 Q Okay. So, who's been the father figure to ~~Mailey~~?

17 A Craig.

18 Q And Craig's been with ~~Mailey~~ for how long?

19 A Since she was three and a half.

20 Q So since she was three and a half years old, Craig is
21 the only father figure she's ever known?

22 A Correct.

23 Q And did they ever have a good relationship?

24 A They always had a good relationship. Always.

25 Q So, in Wisconsin, they seemed to get along?

1 A In Wisconsin, down here, they had a great
2 relationship.

3 Q Would he do things, father/daughter type things?
4 Take her out shopping?

5 A All the time. She wanted to go to Hot Topic, we went
6 to Hot Topic.

7 Q Okay. I guess, at some point, did their relationship
8 change, the dynamics of their relationship change?

9 A Nothing ever changed that I saw, literally nothing.

10 Q All right. So, you work, do you still work at
11 Merchants Food Service?

12 A I do.

13 Q Okay. That's off Highway 34, right?

14 A It is.

15 Q What were your hours?

16 A I work Sunday through Thursday. Sunday's
17 approximately 11:00 o'clock to anywhere between 5:00 and
18 6:00. And then Monday's, and through Thursday, I work
19 from 9:00 till any where between 6:00 and 8:00. It all
20 depended when I got my job done.

21 Q So I guess weekdays, you're pretty much gone from
22 9:00 to 6:00 p.m.?

23 A Correct.

24 Q Okay. And what were Craig's, did Craig get a job
25 when he moved down here in Newberry?

1 A Correct. He did.

2 Q Where did he get a job?

3 A He first worked for an outfit out of Greenville, that
4 was a tanker company. He ran a tanker. I don't remember
5 exactly what they hauled, but I know he ran during the
6 day.

7 Q What'd he do there?

8 A Haul tankers.

9 Q Oh okay.

10 A ~~Truck~~ Truck driver.

11 Q Truck driving?

12 A Correct.

13 ~~Q~~ Truck driver. Okay. What were his hours, Craig's
14 hours?

15 A He was usually gone before I left in the morning. So
16 somewhere between 3:00 and 5:00 in the morning. And he
17 ~~would~~ be home anywhere between 14 and 16 hours later
18 depending on if he had a 16 that day.

19 Q But would he be home in the afternoons?

20 A Not, not initially, no.

21 Q But at some point, he would be home in the afternoon?

22 A Correct. When he ~~started~~ working at JB Hunt.

23 Q Okay. So Hailey was in the Eighth grade when she
24 first started school in Newberry?

25 A Uh-huh, yes sir.

- 1 Q How would ~~Mailey~~ get home from school?
- 2 A She would take the bus.
- 3 Q What time would ~~Mailey~~ get home usually?
- 4 A Usually she was home between 4:15 and 4:30.
- 5 Q Okay.
- 6 A She would call me or text me.
- 7 Q You wouldn't be there, typically, when she would get
- 8 home though?
- 9 A No.
- 10 Q Would Craig be there a lot of times when ~~Mailey~~ would
- 11 get home?
- 12 A Not until he was working third shift at JB Hunt.
- 13 Q But there were opportunities when Craig and ~~Mailey~~
- 14 would be alone at the house?
- 15 A I would say possibly. I mean, I can't give you
- 16 definitive dates.
- 17 Q But in terms of Craig's work schedule and ~~Mailey's~~
- 18 school schedule, there would be opportunities where they
- 19 would be alone in the house?
- 20 A I cannot say for certain.
- 21 Q Okay. All right. Did you ever uncover anything that
- 22 caused you concern about ~~Mailey~~ and Craig's relationship
- 23 once y'all moved down to Newberry?
- 24 A I did.
- 25 Q Okay. And what was that?

1 A In October of 2015 she was texting. I found texts, I
2 should say, on her phone to her boyfriend at the time,
3 ~~any~~. And she had told him that Craig had tried to rape
4 her. And I, I flipped out because I, I was like, what's
5 going on. And I questioned her and she just looked at me
6 and sat there and she went to her bedroom and wouldn't
7 answer me. I asked her, said, what happened. And she
8 came back out and I said to her, I said, what happened, I
9 need to know. These are, you know, this is really
10 serious. I would kill for you. There's no question. I
11 would kill for you no matter what. And I said, you have
12 to tell me. And she looked at me and she said it didn't
13 happen.

14 Q So at first she's not providing any details?

15 A Correct.

16 Q And you say again, this was October 2015?

17 A Correct.

18 Q And you're saying eventually ~~Hailey's~~ telling you it
19 didn't happen?

20 A Correct.

21 Q And how did you uncover these messages between ~~Hailey~~
22 and this boy?

23 A She was 13 or she was 14 at the time. So I looked at
24 her phone all the time just to make sure that she wasn't
25 doing anything she shouldn't't be doing.

1 Q She have a smart phone, ~~Hailey~~ did?

2 A Not at that time she did not.

3 Q So you physically would pick up the phone and look
4 through the messages?

5 A Correct. As long as she didn't delete them, I could
6 read them.

7 Q Did you ever confront Craig?

8 A I did. I spoke with him about it. And of course, he
9 said it did not happen. His son and his daughter were
10 there at the same time.

11 Q And CJ, Craig, Jr., was he, he was living in the
12 house, correct?

13 A He was living in the house at that time.

14 Q How old was he?

15 A He's 25 now.

16 Q Did he work?

17 A On and off. Not consistently.

18 Q Did you, was that the end of it, that October 2015
19 when you discovered these messages or were there others?

20 A There was another incident in the early part of 2016.

21 I don't remember exactly when it was. She had, I looked
22 at our Verizon app or Verizon account, I should say. And
23 I looked at her text messages with her boyfriend at the
24 time and she had said that Craig was doing something to
25 her. I don't remember specifics on that one. And I was

1 really upset when I found it and she knew I found it
2 because I looked at her and I said, whoa, what is this.
3 You have to tell me what's going on and she was really
4 upset. And I'm, I'm not quite sure if she was more upset
5 that I found them or if she was upset at the fact that, I
6 don't even know. I mean I remember that I, I found her
7 messages. I think that's what upset her. But she stormed
8 back to her room. Same thing again, she wouldn't tell me
9 anything. And I told her, I said, ~~wait~~, you have to
10 tell me. You have to tell me what in the hell is going
11 on. And she looked at me again, and she said it didn't
12 happen. And I repeated the same thing that I had said the
13 previous time. I would kill for you. I would do anything
14 to protect you. You are my daughter.

15 Q So despite seeing these messages that she was sending
16 to other people, saying she had some kind of inappropriate
17 relationship with Craig, she would never --

18 A Nothing.

19 Q Give you information?

20 A Not zip, zero, zilch. And at the same time, I was
21 comfortable with that because at the exact same time she
22 was seeing a therapist.

23 Q Okay.

24 A So I figured if anything was going on, then there
25 would be no reason that, that therapist wouldn't figure it

1 out too.

2 Q And so she was in therapy?

3 A Correct.

4 Q Once she was moved out of Newberry?

5 A She started therapy in November of 2015.

6 Q All right. So, at that point, you just assumed if
7 something was going on she would just disclose it to her
8 therapist?

9 A Correct. ~~she~~ Or she would actually tell me and come to
10 me because I, I assumed I'd given her enough comfort.

11 Q Okay. All right. I want to take you to, fast
12 forward a bit to March 9th of last year. Do you remember
13 on that date, going to Newberry High School?

14 A Yes, I do. I will never forget that day.

15 Q Okay. And tell us why you went over to the school
16 that day.

17 A I received a phone call from someone at the school
18 saying that they needed to speak with me.

19 Q And what was it in reference to?

20 A ~~valley~~.

21 Q Who called you?

22 A I don't know who it was. I just, I saw the school's
23 name. I didn't ask questions and I showed up.

24 Q Okay. When you showed up to school, who'd you meet
25 with?

1 A There was three people. There's a gal from DSS,
2 Connie Arthur; the school resource officer, Ms. Wilbanks,
3 that was just here. And I don't remember the other, I
4 know her first name was Connie. She was a, she had a
5 sheriff on the back of her--

6 Q -- but you do remember Deanna Wilbanks who just
7 testified?

8 A Correct.

9 Q Okay. And why did they summon you to school that
10 day?

11 A They said that ~~Hailey~~ had reported to them that there
12 was allegations of abuse against my husband.

13 Q And were you surprised to hear this?

14 A I was very ~~surprised~~.

15 Q But you were, but again, you testified to reading
16 messages on your daughter's phone.

17 A It had been over a year since I'd heard anything more
18 from that, so yes, I was extremely surprised.

19 Q All right. Did they let Hailey go home with you that
20 day?

21 A Absolutely not.

22 Q Okay. And what, what happened?

23 A They told me there was allegations against me so they
24 wouldn't let her come home with me. ~~Hailey~~

25 Q Allegations against you or Craig?

1 A Against me as well.

2 Q What were the allegations against you though?

3 A That I knew about it.

4 Q That you knew about it?

5 A I knew that the abuse was taking place.

6 Q And again, in your own testimony, you said you were
7 aware through these messages.

8 A I was aware that I saw the messages on her phone and
9 on my phone via our Verizon app. But she had not
10 confirmed either time. Neither had Craig or anyone else
11 confirmed that anything was happening. She did not change
12 one iota during this whole time. There was not
13 indicators, period.

14 Q All right. But they take ~~Kitley~~ into custody that
15 day, March 9th of last year, correct?

16 A Correct.

17 Q All right. Where did she go?

18 A I have no idea.

19 Q Did she go into foster care or, or what?

20 A I would assume so.

21 Q But you lost custody of her, correct?

22 A Correct.

23 Q All right. So she was no longer living with you and
24 Craig at the ~~142 Wilson Road~~ address?

25 A Correct.

1 Q All right. Well then, when was the next time after
2 March 9th of last year that you got to see ~~Valley~~ again?

3 A I want to say it was March 24th. It was the day of
4 her forensic interview.

5 Q She had her interview related to the allegations in
6 this case?

7 A Correct.

8 Q Okay. How long did you, is ~~Valley~~ living with you
9 now?

10 A She is.

11 Q Okay. When did you regain custody of ~~Valley~~?

12 A November 29th of 2017.

13 Q Okay. So, you didn't have custody of ~~Valley~~ from,
14 essentially March 9th of 2017 to the end of November 2017?

15 A Correct.

16 Q So that's eight months or so?

17 A Correct.

18 Q So for eight ~~months~~ months you didn't have custody of
19 ~~Valley~~. Where, to your knowledge, where was ~~Valley~~ living
20 though, in the meantime.

21 A I know that she was in Columbia in a foster home.
22 She actually was in two different foster homes down there.
23 And then June 13th, she was, friends of ours were given
24 ~~custody~~ custody of her for kinship care. And they, DSS moved her,
25 it was either the 21st or the 22nd of June.

1 Q Okay. Was Craig eventually arrested?

2 A ~~It was~~ either April 21st or April 24th. And he
3 turned himself in.

4 Q Okay. And at the time he was arrested, were you
5 living with Craig still at the Wilson Road address?

6 A I was.

7 Q Okay. Do you still live with Craig at the Wilson
8 Road address?

9 A I do not.

10 Q Okay. When did that change?

11 A ~~It was~~ actually the same date that we had child
12 support court. So, that was June 13th. I got our lease
13 and ~~it took~~ us a couple of weeks to move, but we got
14 everything moved.

15 Q So June of last year you moved out?

16 A Correct.

17 Q Who's, who moved out?

18 A My mother and I. And then ~~her~~ didn't have much
19 there, but we moved her stuff.

20 Q And why did you decide to leave the Wilson Road
21 address?

22 A That was the only way I was going to get my daughter
23 back.

24 Q Was that part of the Family Court Order? That ~~her~~
25 not be around Craig?

1 MS. BROWDER: Objection, Your Honor, as to anything
2 that has to do with Family Court findings.

3 THE COURT: Sustained.

4 Q Was Craig, all right, even, was it a condition of his
5 bond, he's out on bond, he couldn't be around ~~Valley~~, is
6 that correct?

7 A Correct.

8 Q Related to the criminal case?

9 A Correct.

10 Q So he couldn't be around your ~~daughter~~. That was a
11 provision.

12 A Correct.

13 ~~person~~ Q Of the bond. So that's one reason you got your own
14 place.

15 A Correct.

16 Q And where did y'all move? You and your mother, and
17 you said ~~Valley~~ too?

18 A Well, we, we moved her stuff, but she didn't come
19 until November.

20 Q Until November?

21 A Correct.

22 Q ~~Valley~~ came. Well, where did you and your mother
23 first move when you left Wilson Road address?

24 A To the same residence that we're at. It's on Ira
25 Kinard in Prosperity.

1 Q Okay. Y'all moved, house, apartment?

2 A It's a trailer.

3 Q Y'all moved into a trailer off of Ira Kinard Road in
4 Prosperity?

5 ~~Answer~~ Correct.

6 Q And that's, that's pretty far out in the County,
7 isn't it?

8 A That's what we could afford.

9 Q Is Craig currently making any type of support
10 payments to you, ~~Hailey~~, anybody?

11 A There's no need to.

12 MS. BROWDER: Objection, Your Honor, as to any type
13 of support payments. He's not even the father of ~~Hailey~~.

14 THE COURT: Right. Relevance of the question,
15 Solicitor?

16 MR. DANIEL: I'm just trying to establish the
17 connection she still has with the Defendants. Nature of
18 their relationships at this point.

19 THE COURT: Well, the, I think you eluded to the bond
20 condition that there be no contact. So, he's not the
21 biological father, so I don't know if there is any sort of
22 relationship there at this time. I'm going to ~~sustain~~ the
23 objection.

24 Q All right. But you are no longer under the same roof
25 with Craig, so is that hurting you financially not being,

1 not having a two-income household?

2 A Yes and no. But my mom works now, so.

3 Q And your mother, when did she move down to Newberry?

4 A She moved, I moved her down September 3rd of 2016.

5 Q And she moved down from Wisconsin?

6 A Correct.

7 Q Why did she move down?

8 A Because she couldn't financially support herself up
9 in Wisconsin.

10 Q Okay.

11 MR. DANIEL: I beg the Court's indulgence.

12 THE COURT: Sure. Take your time.

13 Q All right. Ms. Busse, I'm going to ask you a couple
14 questions. Did you and Craig have an active sex life?

15 A Very few and far in between.

16 Q Did Craig suffer from any type of erectile
17 dysfunction or impotent?

18 A Yes.

19 Q And was he still able to have sex with you though?

20 A Very few and far in between.

21 Q But y'all would still have some type of an active sex
22 life, correct?

23 A Very few and far in between.

24 Q Did he have any type of surgery though, at any point,
25 that would've hindered his ability to have an active sex

1 life?

2 A No. Actually, wait a minute, he had a vasectomy. I
3 apologize. I don't know if that has anything to do with
4 it.

5 Q Okay. But at a prior hearing, that question did come
6 up in a hearing that you were a party to, correct?

7 A Yes, it did.

8 Q Okay. And that's the reason I'm asking. In this new
9 house, going back to the house you're living in now, you
10 said it's a trailer?

11 A Yes.

12 Q Is it kind of a small trailer?

13 A Yes.

14 Q Does the house you were living in with Craig on
15 Wilson Road, was that a bigger residence, square footage
16 wise?

17 A Yes, yes.

18 Q Has it been a, is it fair to say it's just been
19 financially difficult since the, the split with Craig?

20 A Ask me that a different way, because that doesn't
21 make any sense to me.

22 Q Has it been financially difficult now that you've
23 split or no longer living with Craig?

24 A Everything's been difficult for the past year, so I
25 can't say financially specifically. My mom working now

1 helps. So I can't say specifically.

2 Q But collectively, do you have less income without
3 being in a residence with Craig?

4 A I still make the same amount, so that's not an
5 applicable question.

6 Q But you're living in a smaller house?

7 A Correct.

8 Q On the outskirts of the county, correct?

9 A Correct.

10 Q And it is a more difficult location for your work
11 too, isn't it, commuting?

12 A It takes me more time but it's still less than when I
13 lived in Wisconsin.

14 Q All right. But it was closer to your work, the
15 Wilson Road house, correct?

16 A Correct.

17 MR. DANIEL: I beg the Court's indulgence.

18 THE COURT: Sure.

19 Q Did you, did you ever discuss your sex life with your
20 daughter?

21 A No.

22 Q All right. Would ~~Galley~~ to your knowledge, have any
23 reason to know about Craig's impotency problems, an
24 erectile dysfunction?

25 A Unless she overheard it.

1 Q Other than overhearing it, to your knowledge --

2 A -- nothing was specifically told to her. Absolutely
3 not. You don't share with your kids, but you also don't
4 think about what your kids actually hear either.

5 Q But to your knowledge, you never had conversations
6 with Craig about his erectile dysfunction in front of
7 ~~Halley~~?

8 A Correct.

9 Q All right. Ms. Busse, please answer any questions
10 Ms. Browder has.

11 THE COURT: Let me see the lawyers for just a second
12 before we get into cross.

13 (WHEREUPON, a bench conference was held in the
14 presence of the jury but out of the hearing of the
15 jury.)

16 THE COURT: Mr. Foreman, ladies and gentlemen of the
17 jury, we're going to take a short afternoon, well, I say
18 short, sometimes these breaks go a little longer than we
19 anticipate. We're going to take an afternoon break, so if
20 you'll go back to the jury room and we'll get you back
21 out. Again, no discussion about anything related to this
22 case and we'll see you ~~in just~~ a little bit.

23 (Whereupon, the jury was excused from open court for
24 a break.)

25 THE COURT: All right. Let's take, we'll take a

1 short break and then we'll deal with the, the cell phone
2 issue. You can step down, ma'am. You just can't talk to
3 anybody about your testimony. Okay.

4 (Whereupon, a short break was taken.)

5 THE COURT: All right. We're back on the record
6 outside the presence of the jury. And Ms. Browder, you
7 had mentioned in pretrial that you wanted to get into, by
8 way of cross-examination, an issue related to ~~Ms. Browder's~~
9 cell phone, that there might be some inappropriate, of
10 some sort, pictures of herself or something akin to that,
11 that you say were sent to a boyfriend. And as a result,
12 there was some argument that took place between her and,
13 and the Defendant. Is that a fair statement of what you
14 got?

15 MS. BROWDER: Yes sir, Your Honor.

16 THE COURT: Okay. All right. And the State has
17 objected to that, as it being in violation of the Rape
18 Shield Statute. Correct, Solicitor?

19 MR. DANIEL: Yes, sir.

20 MR. SCOTT: Yes, sir.

21 THE COURT: Okay. Now, over lunch I read a few
22 cases. And I'll get each sides opinion as to what the
23 cases seem to say. If it is related to the victim's
24 "morality", then it does constitute a violation of the
25 Rape Shield Act. If it's just motive and not morality,

1 then under the Finley case it would seem to be not
2 violative of the Rape Shield Act and could come in, in
3 some fashion. Ms. Browder, I'll hear from you first and
4 then from the State.

5 MS. BROWDER: Thank you, Your Honor. Essentially,
6 the evidence that I'm looking to cross-examine Ms. Busse
7 on, as well as ~~Valley~~, Your Honor, are about three or four
8 days before these allegations came about at the school,
9 there was an argument between both Ms. Busse and Craig
10 Busse with ~~Valley~~ over some pictures they found on her
11 cell phone where she was doing inappropriate things with a
12 boy. Pictures as well as text. And that's what a fight
13 was over. And then these allegations came about three or
14 four days later.

15 THE COURT: Okay.

16 MS. BROWDER: That is as far as I would go with it.

17 THE COURT: Okay. All right. Solicitor, you want to
18 respond?

19 MR. SCOTT: Yes, sir. Just, the statute does lay out
20 what's required when you propose to offer that kind of
21 evidence. Prior to presenting the defense, they should
22 have to file a written motion and offer proof. And then
23 there has to be an in-camera hearing. And it kind of goes
24 over that basically it's not admissible and it gives a
25 couple, I guess, provision where it would be allowed.

1 None of which envisions what, what they're proposing here.
2 What I would, I think what we could do, I don't see why
3 it's relevant what the underlying, I guess, contents of
4 the cell phone were. If she wanted to stick to the fact
5 that there was a disagreement over a cell phone, the phone
6 was taken away. Otherwise, I don't, I don't see why the
7 pictures contained in the phone, or else the communication
8 with the boy are relevant. If they are only trying to get
9 out motive for making up these allegations, the fact that
10 there was an argument or disagreement over the cell phone,
11 that it was taken, that should be sufficient to cover
12 that.

13 THE COURT: Well, my initial thought as far as a
14 ruling was very similar to what Solicitor Scott has just
15 indicated. That if you are wanting to get into some sort
16 of motive to fabricate, which is your defense, without
17 actually specifically describing what is on the cell
18 phone, or actually showing what is on the cell phone, then
19 you wouldn't have to worry at all about the Rape Shield
20 Act. And you could still then get in something in support
21 of your defense as to motive to fabricate. The Statute
22 does require some sort of advance motion. And of course,
23 I, whatever, however I rule, I think we're going to have
24 to have some in-camera testimony to protect the record.
25 And so I would have a very clear understanding of, even

1 though I believe I've got a good understanding of where
2 you're coming from. But could you live with that, Ms.
3 Browder, without specifically describing what is on the
4 phone or showing what is on the phone, but getting right
5 up to that. Can you live with that in support of where
6 your defense is?

7 MS. BROWDER: Your Honor, for the record, I would say
8 we would agree with not showing anything that was on the
9 phone, as I believe the pictures would be inappropriate
10 and would be prejudice at that point. However, I do
11 believe the scope of how big this argument was and what it
12 was over goes to why any other previous argument they had
13 about the phone, why she didn't make something up then,
14 versus why was it this particular time that this occurred.

15 THE COURT: Okay. All right. Well, I guess what we
16 need to do then, and let's, of course, the mom's going to
17 have to come back up anyway. So let's take some in-camera
18 examination of her on this one issue related to the cell
19 phone and contents. And then I'll issue a final ruling on
20 this.

21 IN-CAMERA TESTIMONY

22 By Ms. Browder:

23 Q Ms. Busse, these allegations came about on March 9 of
24 2017 correct?

25 A Yes, ma'am.

1 Q Several days, approximately how many days prior to
2 March 9th did you have an argument with Hailey over her
3 cell phone?

4 A That was the Monday prior. March 9th was a Thursday,
5 so it was the Monday prior.

6 Q So approximately three days prior?

7 A Correct.

8 Q To the school calling you two days prior to--

9 A Correct.

10 Q -- her telling.

11 A The Monday before. So that would be what, three and
12 a half days?

13 Q So approximately two days before what ~~testified~~
14 testified --

15 A Correct.

16 Q -- that she told. Okay. And you have, had you
17 previously had fights with ~~Hailey~~ over her phone?

18 A Yes, ma'am.

19 Q Okay. And previously what was her punishment for
20 that?

21 A Take the phone away and you know, she didn't go
22 anywhere, she didn't get to do anything, things like that.

23 Q Was this fight over the phone different in any way
24 than those previous fights?

25 A Yes, ma'am. Very different.

1 Q And why was it different?

2 A Because we, I figured I would take away the one thing
3 that her life depended on which was her phone. We had
4 discovered, I shouldn't say we had discovered, it had been
5 happening for we didn't know how long. But she was
6 staying up all night and then she would sleep all day.
7 So, we, Craig and I, decided that the only way that we
8 could get through to her was to take the phone away.
9 Because we thought she was staying up all night.

10 Q And previously you said you would take the phone
11 away, what was different about taking away this time
12 versus taking away previously?

13 A ~~Because~~ Because of her response.

14 Q Okay. And what was her response?

15 A She blew up. She, I mean, she made it a big, it was
16 just like back in December when she did that.

17 Q And just for the ~~Court's~~ Court's clarification because we
18 haven't talked about December at this point. December is
19 when she cut herself and tried to commit suicide and was
20 placed into a hospital?

21 A Correct, correct.

22 Q What was this argument about?

23 A It was the fact that she was staying up all night and
24 she was sleeping all day and we didn't know what was going
25 on with her. There had been some questionable things come

1 through her phone that -- ~~xxxxxx~~

2 Q Okay. And when you say questionable things, what did
3 you observe?

4 A Conversations and pictures that, you know, we didn't,
5 we didn't understand, we didn't know who they were with.

6 Q What kind of pictures?

7 A Very suggestive pictures.

8 Q On Hailey's part or the other person's part?

9 A I don't honestly know who they came from because
10 there was --

11 Q Well, the pictures, were they of ~~Hailey~~ or were they
12 of someone else?

13 A Two people.

14 Q Okay.

15 A Her and someone else.

16 Q Okay. So, her and someone else?

17 A Correct.

18 Q And this was the first time you had seen these
19 pictures?

20 A Correct.

21 Q And you confronted her about this once you found them
22 on the phone?

23 A Correct.

24 Q And that's when this big argument ensued?

25 A Well actually, I was at work. And I had called, it

1 was either Craig or ~~Harley~~, and I was on the phone with
2 them and I was on speaker phone. And I said this is it,
3 you don't have your phone. You don't have nothing. You,
4 if, if, if I come home from work and you are asleep, I'm
5 taking that phone. That's it. There's no questions
6 asked.

7 Q And what was her reaction to that?

8 A She was extremely upset. She blew up, and I, and I
9 don't know all the details because I wasn't there.

10 Q What did you hear for purposes of, when you say she
11 blew up, ~~what do you mean~~ by she blew up?

12 A She was screaming and hollering and making a big
13 fuss.. Just like she did when, in December.

14 Q And did she do that previously when you took the
15 phone away?

16 A No. Other times it never was like that. I just take
17 it and she'd get upset, but she would walk away. She
18 would concede that, okay, it is what it is.

19 MS. BROWDER: That would be all the questions that I
20 would ask regarding the phone, Your Honor.

21 THE COURT: Any examination as it relates to this
22 limited issue in-camera, Solicitor?

23 IN-CAMERA TESTIMONY

24 By Mr. Scott:

25 Q I just, well, you said taking the phone away, that's

1 the one thing that meant the world to her?

2 A Correct.

3 Q Okay. Well, so, how come the last few times she was
4 so nonchalant when you took the phone away from her?

5 A Because I didn't take it always in like a, I guess it
6 wasn't built up, in my opinion. Maybe it was like her
7 behavior was ill, you know, she didn't behave well. And
8 she knew what the consequences were. She knew what the
9 consequences if she misbehaved, that was the one thing I
10 was going to take away from her, because I could. It'd be
11 the TV, it'd be, you know, her phone, whatever I could to
12 get through to her so that she would understand that that
13 behavior is not acceptable.

14 Q Okay. But help me understand because a minute ago,
15 under cross-examination with your husband's lawyer, you
16 made the statement that prior times.

17 A Yes.

18 Q She would just walk away and say whatever.

19 A Yes.

20 Q Okay.

21 A That is what, I mean, she might put up a little bit
22 of a stink but it was nothing compared to those two times.

23 Q Okay.

24 A Nothing.

25 Q All right. So, what is your explanation on why this

1 last time she blew up to such a degree?

2 A I have no idea.

3 Q Okay.

4 A I mean until this day I still don't know why.

5 Q Okay. But your testimony is, prior times, it really
6 wasn't a big deal.

7 A Correct.

8 Q Okay. But this time it was?

9 A I, and I don't know why.

10 Q Okay. And do you still communicate with your
11 husband?

12 A I do.

13 Q Okay. And have you talked with him about this case?

14 A We really don't talk a whole lot about it.

15 Q Okay.

16 A I mean to be honest with you.

17 Q Did you just talk with him prior to testifying right
18 now in the parking lot while you're smoking a cigarette?

19 A I said to him, I said I don't know who David Gillis
20 or somebody had called my phone. I said, I don't know who
21 it is. And then I was on the phone with my mom and he
22 asked me, he says who is that. And I said, my mom.

23 Q Did you hear when the Judge instructed you not to
24 have any conversation with anybody while you're on the
25 stand?

1 A About the case.

2 Q Okay.

3 A That's what --

4 Q What else did you talk with him about?

5 A I asked him if I did good and that was obviously --

6 Q It's important to you that you do good when you
7 testify --

8 A No.

9 Q -- in front of him?

10 A No.

11 Q Okay. Why did you ask him if you did good?

12 A Because I don't want to screw up any dates and give
13 any inconsistencies to anybody.

14 Q Okay.

15 A Because that's not going to help my daughter. It's
16 not going to help him. It's not going to help anybody.

17 Q Okay. Well, you're not here to help anybody. You
18 understand that?

19 A Correct.

20 Q You're here to tell the truth.

21 A Correct.

22 Q Okay. You understand that now?

23 A I do.

24 Q Okay. These pictures on the phone. How do you know
25 that was your daughter on the phone, the pictures?

1 A I saw the bedspread. I almost deleted them.

2 Q Okay. When would she have opportunity to be, was it
3 your house?

4 A Correct.

5 Q And when would she have opportunity to be alone with,
6 was it a male or female she was with?

7 A It was a male.

8 Q Could you tell who it was?

9 A I later found out who it was.

10 Q Okay. How would this person be in the house without
11 any of you knowing?

12 A I never thought it was possible, but she was sneaking
13 them through the window.

14 Q Okay. So, it is possible that things are going on in
15 your house without you knowing it?

16 A Correct.

17 Q Okay. And a lot of times when you are at work,
18 things could have been going on you weren't aware of?

19 A Oh, I'm sure.

20 MR. SCOTT: That's all we have. I think, if you're
21 ready for argument. I think it's abundantly clear,
22 there's an argument over the phone, that's one thing she
23 can talk about. I, I see no need for her to talk about
24 the contents of the phone.

25 THE COURT: Right. Well, I think, if I understood

1 Ms. Browder's statement, certainly she doesn't want to
2 offer into evidence anything, or the actual pictures
3 themselves. So, we can take that off the table. So, what
4 we got to decide is what can she testify to and what she
5 cannot testify to. Notwithstanding the Finley case, I
6 think you can still get your argument in on motive, by
7 allowing her to testify, we had this big fight over the
8 cell phone. We saw some things inappropriate and leave it
9 at that. And not anything, I think she used the word,
10 suggestive, of ~~Finley~~ and some boy in the bed or something
11 like that. I think that would cross the line. So I'll
12 allow you to get ~~right~~ up to that, Ms. Browder, in your
13 cross. But not for her to describe the actual pictures.
14 And I, I think the State would, would be okay with that.

15 MS. BROWDER: And I just want to clarify to make sure
16 I know exactly where I can go. I can go up to the point
17 that she saw pictures of ~~Finley~~ and a boy and then leave
18 it at that?

19 THE COURT: No, no.

20 MS. BROWDER: Okay.

21 THE COURT: No. I think to use the generic term that
22 there's some inappropriate things on the phone and leave
23 it at that. But nothing to say that she and a boy were
24 there together on the bed or whatever.

25 MS. BROWDER: So, the term --

1 THE COURT: You can get right up to that.

2 MS. BROWDER: So, I can say she saw inappropriate
3 things on the phone?

4 THE COURT: Inappropriate contents on the, on the
5 phone and I think that would provide you with what you're
6 wanting to get in as far as motive. Okay. All right.
7 Anything further on this point?

8 MR. SCOTT: No, sir. We're going to complete her
9 testimony before we break for the day.

10 THE COURT: Yeah, we, we need to complete her
11 testimony. I know we still have several more State's
12 witnesses, including, including ~~alley~~. Let's just, let's
13 kind of see where we end up time wise when we finish with
14 her and then we can go from there.

15 MR. SCOTT: Yes, sir.

16 THE COURT: Okay. All right. Madam Bailiff, if
17 you'll bring the jury back in please.

18 (Whereupon, the jury came into open court at
19 approximately 4:15 p.m.)

20 THE COURT: Let the record reflect the jury is back
21 in. I think, Ms. Browder, we're starting your
22 cross-examination.

23 MS. BROWDER: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 By Ms. Browder:

1 Q All right Ms. Busse, you said you'd been married to
2 Craig for 12 years, correct?

3 A Yes, ma'am.

4 Q And you're not currently living with him?

5 A Correct.

6 Q Have you filed for a divorce from him?

7 A No, ma'am.

8 Q Okay. And you previously testified regarding some
9 surgeries that Craig had?

10 A Yes, ma'am.

11 Q Said he had a vasectomy back in 1994.

12 A 1994, yes ma'am.

13 Q That was approximately 24 years ago?

14 A Yes, ma'am.

15 Q I can't do math. And then he had back surgery in
16 2010, correct?

17 A December of 2010.

18 Q Okay. So, that's approximately eight years ago?

19 A Correct.

20 Q Has he had any surgeries since then?

21 A Nothing.

22 Q Nothing recent or in the years of 2014, '15, or '16?

23 A Absolutely not.

24 Q Okay. And you mentioned earlier, I guess I'm going
25 to kind of jump around, try to go in order. In October

1 2015 you found text of her boyfriend, [REDACTED], saying Craig
2 tried to rape her?

3 A Correct.

4 Q And you testified you questioned her about it?

5 A Correct.

6 Q Did she get upset at all when you questioned her?

7 A She got upset and walked into her bedroom.

8 Q And you, you testified that you said you told her you
9 would kill for her?

10 A Absolutely.

11 Q And do anything to protect her?

12 A Absolutely.

13 Q And her response to you was, it didn't happen?

14 A Correct.

15 Q Okay. And the same thing occurred again early 2016
16 with her boyfriend, [REDACTED].

17 A Correct.

18 Q Okay. And you confronted her again?

19 A Correct.

20 Q Okay. And she again said absolutely not, nothing
21 happened?

22 A She said it didn't happen.

23 Q Okay. After the first time, when she told you it
24 didn't happen, did you have any concerns at that point?

25 A I had none.

1 Q Okay.

2 A There was --

3 Q And if you --

4 A -- no indicators.

5 Q And if you had, would you have kicked him out?

6 A I would have left, I would have taken her and left.

7 Q Okay. So, you would've gotten away to protect her
8 like you told her?

9 A Correct.

10 Q And the same thing in early 2016 after you confronted
11 her again, and this was the second time. Did you have any
12 concerns at that point?

13 A None.

14 Q Okay.

15 A She wasn't acting different or.

16 Q Okay. And during this entire time you testified she
17 had been acting completely the same, correct?

18 A Correct.

19 Q What was her relationship like with Craig?

20 A They were typical father, daughter. Just like him
21 and his other daughters are.

22 Q Okay. And when you say typical father, daughter,
23 what do you mean by that?

24 A They would go do things. I mean, she didn't go to a
25 lot of places with him, with just them. But, you know,

1 like they would run to the gas station or she would, you
2 know, kind of stand behind him or stand on his side and
3 say, you know, dad, hey, can we go do this or dad, can we
4 go do that.

5 Q And this was during the time that she has made these
6 allegations?

7 A Correct.

8 Q So, she was hugging and asking to go places with him?

9 A Correct. Or have him take her places.

10 Q Okay. And you stated that she's now back in your
11 custody and care, correct?

12 A Yes, ma'am.

13 Q And she still has not told you anything about what
14 happened?

15 A No ma'am.

16 Q And you stated too that she was seeing a therapist
17 and you thought she might tell the therapist?

18 A Yes, ma'am.

19 Q When she would go to the therapist, who would take
20 her to the therapist?

21 A She would actually see her at the school.

22 Q Okay. So, you nor Mr. Busse were around at any time
23 when she was alone with the therapist?

24 A Except in the summer time when she would have to go.)
25 And even then Ms. Rivers would come and pick her up

1 because we were at work.

2 Q Okay. And why did you start taking her to a
3 therapist?

4 A Because I was notified in November of 2015 that she
5 had confided in one of--

6 MR. SCOTT: Objection to hearsay.

7 Q You can't talk about what she said.

8 A I'm sorry.

9 Q Was she doing anything physically that was causing
10 concern, such as cutting?

11 A Yes.

12 MR. SCOTT: That would be leading too.

13 MS. BROWDER: I'm allowed to lead on
14 cross-examination.

15 THE COURT: You can lead a little bit on cross. You
16 may proceed.

17 MS. BROWDER: Okay.

18 Q So she was cutting? ~~yes~~

19 A Correct.

20 Q Okay. Approximately how many times, or, when did she
21 begin cutting?

22 A From what I can gather, she started cutting in
23 November of 2015.

24 Q Okay. And at some point, in December of, I guess
25 2016, did an incident occur where she cut and had to go to

1 the hospital?

2 A Yes, ma'am.

3 Q Okay. And at that point when she was at the hospital
4 and this issue was going on, was she ever alone with
5 doctors at any point at that time?

6 A The whole five days. We had no unsupervised access
7 to her.

8 Q Okay. And you were only allowed to see her for a
9 little bit?

10 A Correct.

11 Q Okay. Now regarding before these allegations came
12 about, they came about, you said you recall March 9th,
13 2017 to the office?

14 A Yes, ma'am.

15 Q Okay. That was, what day of the week was that?

16 A A Thursday.

17 Q Prior to that, did anything significant happen in the
18 household regarding [REDACTED]?

19 A I told her I was going to take her phone that Monday
20 prior.

21 Q Okay. And that, you said that Monday prior?

22 A Correct.

23 Q Okay. So, two days prior to March 8th?

24 A Correct.

25 Q Okay. And why did you tell her you were going to

1 take the phone away?

2 A Because she, I had found some pictures and some --

3 Q Inappropriate content on the phone?

4 A Correct.

5 Q Okay. And after finding the inappropriate content on
6 the phone, did you confront her about it?

7 A I, I kind of mulled it over, I guess I would say.
8 And I called her and Craig while I was at work.

9 Q Okay. And did a fight ensue?

10 A Yes.

11 Q Okay. And this argument was over the phone?

12 A Yes.

13 Q Now what did you tell ~~Halley~~ you were going to do
14 with the phone?

15 A I said if she slept, if she was asleep when I got
16 home from work that I was going to take her phone away
17 from her.

18 Q Okay. And what was ~~Halley's~~ reaction? Don't say
19 what she said, but physically, behaviorally, what did you
20 observe?

21 A She was screaming and hollering and she was extremely
22 upset.

23 Q Okay. Over taking the phone away?

24 A Correct.

25 Q All right. And you had previously taken the phone

1 away from her, correct?

2 A Correct.

3 Q Did she ever act like this when you took the phone
4 away before?

5 A In December of 2016 she did.

6 Q The time where she had to go to the hospital?

7 A Correct.

8 Q Okay.

9 A And then other than that, it was just, you know, she
10 would put up a bit of a fuss but nothing like those two
11 times.

12 Q Okay. And so, she was very mad about the phone being
13 taken away? ~~REDACTED~~

14 A Very mad.

15 Q Okay. And you stated earlier on direct that you were
16 very surprised when you were call up, called up to the
17 school, correct?

18 A Yes, ma'am. ~~REDACTED~~

19 Q And why is that?

20 A I didn't figure I had any reason to worry about her
21 safety.

22 Q Because she was still acting the same?

23 A Correct.

24 Q Still hugging on Craig?

25 A Still hugging every single day.

- 1 Q Still asking to go places with him?
- 2 A Yep.
- 3 Q Okay. And then you stated that your, your mother
- 4 moved down here in September of 2016?
- 5 A September 3rd.
- 6 Q Okay. And where did she live?
- 7 A She lived in the house with us.
- 8 Q Okay. So, who all was living in the home?
- 9 A It would be ~~Hailey~~, myself, my mother, Craig and CJ.
- 10 Craig, Jr.
- 11 Q Okay. And how big is the home?
- 12 A It's a three bedroom, two bath.
- 13 Q Okay. So, you and Craig had a bedroom?
- 14 A Yes, ma'am.
- 15 Q Where did ~~Hailey~~ sleep?
- 16 A She had her bedroom.
- 17 Q Okay. Where did, you said CJ? Where did CJ sleep?
- 18 A He had his bedroom.
- 19 Q Okay. And where did Hailey sleep?
- 20 A She had her bedroom.
- 21 Q Oh, I'm sorry. Where did your mother sleep?
- 22 A We, initially she slept on the couch and then
- 23 eventually we got her moved into, ~~Hailey's~~ kitchen was really
- 24 big, so we put her on one side of the kitchen.
- 25 Q Okay. And you stated your mom was not working at

1 that time, correct?

2 A No.

3 Q Okay. So she was essentially pretty much always at
4 the house?

5 A Correct.

6 Q Okay. Did she go out to do errands or anything?

7 A Occasionally.

8 Q Okay. But for the most part she was at the home?

9 A Right. Because she didn't ~~know~~ the area. She didn't
10 know where she was going.

11 Q And how old's your mother, ish?

12 A I'd love to tell you. I want to say she's 59.

13 Q Okay.

14 A Something.

15 Q So, she's in her 50's or 60's?

16 A Right.

17 Q Okay. And explain to me kind of where the bedrooms
18 are in the home.

19 A All right. We use the backdoor. We never use the
20 front door. So you walk in and there's the foyer. And
21 then you have your kitchen on the right and the living
22 room was straight ahead. You take a right down the
23 hallway and ~~my~~'s room was the first room. And our,
24 Craig's bedroom and my bedroom was the next room. And
25 then there was a bathroom and then CJ's room. And then

1 going back around there was another bathroom.

2 Q All right. So, your, your room stays right, you're
3 coming down the hall, your room is right here and CJ's is
4 next to it?

5 A The bathroom, the bathroom is in between.

6 Q Okay. Is it a bathroom adjoined?

7 A No.

8 Q Okay.

9 A It's just a bathroom.

10 Q All right. About how far away from your room, is
11 CJ's room, approximately.

12 A I would say probably from here to within a foot of
13 that, of the wall in front of the jurors.

14 Q All right. So, if you're in your bedroom right here,
15 CJ's room is approximately here?

16 A A little bit closer.

17 Q Oh, so here?

18 A Approximately there.

19 Q And did CJ work?

20 A Occasionally. He didn't hold a job very well.

21 Q Okay. So was he home a good bit in the afternoons?

22 A He was.

23 Q You stated regarding Craig's job, that he started out
24 as a truck driver for a company out of Greenwood?

25 A Yes, ma'am.

1 Q Okay. And what was, when, when would he go to work,
2 when did he start back?

3 A He started the, I think it was the Tuesday after I
4 started. I trained in Clinton, Alabama and he took off to
5 California for his training and to pick up his truck.
6 That, it was the Tuesday, I left Sunday and he left
7 Tuesday.

8 Q Okay. And is that, what year, what month?

9 A 2015. So, that would have been, let's see, it would
10 have been like the 29th or 30th of June.

11 Q Okay.

12 A Somewhere around there.

13 Q So, in June of 2015 he started working for this
14 Greenville trucking company?

15 A Correct.

16 Q Okay. And you stated he would leave before you left
17 for work?

18 A Correct.

19 Q Okay. And he would get home approximately 14 to 16
20 hours later?

21 A Correct. Depends on if he had a 16 that day or not.

22 Q Okay. And would you be home when he got home?

23 A Usually, yes.

24 Q And how did he get to Greenville to get to work?

25 A His truck was at the house.

1 Q Okay. And then you said he started working for JB
2 Hunt as a truck driver, correct?

3 A Correct.

4 Q Okay. And when did he start that?

5 A He was in orientation on February 14th, Valentine's
6 Day of 2016.

7 Q Okay. And what was his hours on that?

8 A He would go to work anywhere between 5:00 and 9:00
9 p.m.

10 Q Okay.

11 A That's when he started and it's, he would work
12 somewhere, if it was a local farm he would only be gone
13 eight hours, six hours. And if it was a far farm, he
14 would be gone at least fourteen.

15 Q Okay. So, he would get home--

16 A Early hours in the morning.

17 Q -- 9:00 o'clock, 8:00 o'clock in the morning?

18 A It varied from anywhere between say 4:00 a.m. until
19 maybe 9:00 on a few occasions.

20 Q Okay. And then so he would have to sleep before
21 getting up and go back to work?

22 A Correct.

23 Q Now you stated that ~~halley~~ takes the bus home from
24 school. How does she get to school?

25 A She, at the time, halfway through, or not even

1 halfway through her ninth-grade year, I started taking her
2 to school and either Craig or my mother would pick her up
3 when he worked for JB Hunt. But before that she was
4 always a bus rider.

5 Q Okay. And so your mother would pick her up
6 sometimes?

7 A Correct.

8 Q Would ~~Kailey~~ always go home after school?

9 A No.

10 Q Okay. Where would ~~Kailey~~ go sometimes after school?

11 A Sometimes it depended, like when she was dating her
12 boyfriend most recently, Hunter, she would go to his
13 house.

14 Q Okay.

15 A The weeks preceding all of this.

16 Q Okay. And would she ever go to, well, who's her best
17 friend at the time?

18 A ~~Kailey~~.

19 Q ~~Kailey?~~

20 A ~~Kailey Counts.~~

21 Q ~~Kailey Counts.~~ Okay. And so would she go to
22 ~~Kailey's~~ house after school?

23 A Not usually after school because they went to
24 different schools.

25 Q Okay.

1 A But they spent every weekend together just about. I
2 mean, I can't imagine one that they didn't.

3 Q All right. So, they were always together on the
4 weekends?

5 A Correct.

6 Q Okay. And you previously heard Mr. Daniel ask you
7 that you were present for a court hearing and hearing
8 testimony recently, correct?

9 A Correct.

10 Q And at that court hearing ~~alley~~ testified this was
11 every single day, correct? That this happened every
12 single day? Do you remember that?

13 A I, I can't say for certain. I, I want to say yes.
14 But I, I can't say for certain.

15 Q Okay. And you also remember her testifying --

16 MR. DANIEL: Your Honor, objection to what another
17 witness would be testifying to.

18 MS. BROWDER: It's --

19 THE COURT: Well --

20 MS. BROWDER: -- testimony is that she heard as to
21 when. I'm only going into time and place.

22 THE COURT: Okay. I think, I think that would be
23 proper, time and place. Overruled.

24 MS. ~~BROWDER~~ ~~anyway~~.

25 Q So, previously, a time that she would have given was

1 October 2016?

2 A Correct.

3 Q Okay. Was she ever absent from school in October of
4 2016 that you can recall?

5 A No.

6 Q Okay. In February of 2017, that was kind of right
7 before, you just testified to this, kind of before these
8 allegations came about, you stated she would go after
9 school a lot of times to someone else's house, to her
10 boyfriends. So ~~she~~ would not go home.

11 A Correct. Or they would come to our house.

12 Q Okay. So, okay. All right. And so she would not be
13 home every day after school?

14 A Right, she wouldn't, not consistently every day.

15 Q Okay. And a lot of days when you would get home,
16 would you go pick her up first before coming home?

17 A Yes.

18 Q Okay. So, you would pick her up from wherever she
19 was and bring her home?

20 A Yes.

21 Q So she would not of been alone with Mr. Busse at that
22 point?

23 A Correct.

24 Q Okay. You just mentioned ~~they~~ they ~~counts~~, that they
25 would spend a lot of weekends together. Are y'all close

1 with the Counts family?

2 A Yes.

3 Q Okay. And you testified early, that that's actually
4 where ~~alley~~ lived for a while during?

5 A Correct.

6 Q -- okay. Prior to these allegations would y'all go
7 out with the Counts?

8 A Yes.

9 Q Okay. Everybody including ~~alley~~?

10 A Yes.

11 Q Would she act any differently around the Counts?

12 A Absolutely not. She was just a goofy kid just like
13 ~~alley~~.

14 Q Okay. And she would act the same towards Craig
15 around them?

16 A Oh yes.

17 Q Okay.

18 MS. BROWDER: Beg the Court's indulgence.

19 THE COURT: Sure. Take your time.

20 Q Last question. At what point did ~~alley~~ start going
21 to other people's houses after school or hanging out with
22 the Counts all the time?

23 A The Counts specifically or does it matter who?

24 Q Oh, let's do just the Counts and then we can say
25 other people after that.

1 A I would say she, it would, it was after school let
2 out. The 2016-2017 school year. It was right after
3 school let out that she started going to ~~Salley's~~ or
4 ~~Salley~~ coming to our house every weekend. They spent
5 every weekend together.

6 Q Okay. And during the week she would go either
7 somewhere else --

8 A She would go, she would either go to someone else's
9 house or she would ~~be~~ at the house with someone.

10 Q All right. And when you say with someone, you mean
11 with a friend?

12 A Right.

13 Q Of some sort. Okay.

14 A Whether it be a boyfriend or she was there, you know.

15 Q Okay. Or any other friend?

16 A Right.

17 Q Okay. And so that began the 2016 school, school
18 year. So approximately August, September 2016?

19 A Correct.

20 Q Okay.

21 MS. BROWDER: No further questions, Your Honor.

22 THE COURT: Redirect?

23 MR. DANIEL: Briefly, Your Honor.

24 REDIRECT EXAMINATION

25 By Mr. Daniel:

1 Q Meagan, you're still married to Craig?

2 A Yes.

3 Q Do you have any plans to file for divorce?

4 A I want to get through this and know what direction
5 that my daughter and I are going to go before I make any
6 decisions like that.

7 Q Explain what you mean by I want to get through this?

8 A This is life changing. This is life shattering, this
9 whole year that we've been through. So forgive me if my
10 daughter and I am getting us through this is more
11 important than anything else.

12 Q Okay. But when you say I want to get through this
13 though, you need to elaborate. Well, what are your future
14 plans?

15 A I don't know what my future plans are.

16 Q Well, are you going to reconcile with Craig, get back
17 together with him?

18 A I can't. She can't be around him.

19 Q So when you say get through that, get through this,
20 what exactly do you mean though?

21 A We have to get past court. We have to get past the,
22 the charges and start deciding where our lives are going
23 to go.

24 Q Is it your desire that Craig and ~~Bailey~~ and yourself
25 be a happy family again?

1 A It would be nice but I know that's not possible.

2 Q Is it difficult for you to hear these allegations
3 against your husband?

4 A Of course it is. It's difficult to hear my daughter
5 hurt. She's my flesh and blood. I love her with all my
6 heart and soul.

7 Q But you lost custody of your daughter for about a
8 nine-month period, is that correct?

9 A Correct.

10 Q And what were the grounds for you losing custody of
11 your daughter?

12 MS. BROWDER: Objection, Your Honor. That would go
13 as to any, can we approach?

14 THE COURT: Sure.

15 (WHEREUPON, a bench conference was held in the
16 presence of the jury but out of the hearing of the
17 jury.)

18 Q All right. Ms. Busse, are you still on friendly
19 terms with Craig?

20 A Yes, sir.

21 Q Okay. You still talk to him regularly?

22 A Yes, sir.

23 Q In fact you were just speaking with him outside the
24 courthouse ~~when~~ we had a break. Is that correct?

25 A Yes, sir.

1 Q And did you have a conversation with him?

2 A Yes, sir.

3 Q And what were some of the things you said to him?

4 A I asked him if I did good.

5 Q You asked Craig if you did good?

6 A Correct.

7 Q And you're referring to, did you do good testifying?

8 A I was more, I guess referring to not forgetting
9 things. I forget things. And I'm afraid that I'm going
10 to screw up and say the wrong thing for the wrong thing
11 and twist it around and I was afraid.

12 Q It's fair to say you're, you're conflicted in this
13 case?

14 A Of course I am.

15 Q Your daughter on one hand and your husband.

16 A Of course I am. And I have nothing on either side to
17 tell me anything different.

18 Q If it were up to you today would you get back with
19 Craig?

20 A If it were up to me today, honest to gosh, I would be
21 conflicted because I don't want to hurt one versus the
22 other. I love both of them.

23 Q Do you feel it would be an unsafe environment to put
24 ~~Valley~~ back into if you were to get back together with
25 Craig?

1 MS. BROWDER: Objection, Your Honor.

2 A With her feeling --

3 THE COURT: It's calling for speculation I think. So
4 I'm going to sustain the objection.

5 MR. DANIEL: No further questions.

6 MS. BROWDER: I have one brief re-cross based just on
7 that.

8 THE COURT: Sure.

9 RECROSS-EXAMINATION

10 By Ms. Browder:

11 Q Has Craig ever told you what to say?

12 A No, absolutely not.

13 Q Has he asked you to lie?

14 A Absolutely not.

15 Q Okay. So your testimony today is your thoughts, what
16 you observed and your beliefs?

17 A Yes, ma'am.

18 MS. BROWDER: No further questions, Your Honor.

19 THE COURT: You can step down ma'am. All right. Mr.
20 Foreman and ladies and gentlemen of the jury, it's about
21 twenty to 5:00. I think before we try to get into another
22 witness, it's probably going to be a good time to break
23 for the, for the evening. And I want you back here at
24 10:00 o'clock in the morning. I think I've got ~~one~~ ^{one} little
25 unrelated matter that I've got to deal with before we

1 start back with this case. So, if you'll be, be back
2 promptly by 10:00 o'clock. Again, I caution you and
3 remind you, no discussion among yourselves about this. No
4 one that you come into contact with this evening. And
5 again, no, no research into anything related to this case.
6 And we'll see you back at 10:00 o'clock in the morning.
7 Have a good evening.

8 (Whereupon, the jury is excused from open court for
9 the day.)

10 THE COURT: Okay. We'll be in recess until 10:00
11 o'clock in the morning. Let me just have one little quick
12 thing with the lawyers. Y'all just come up here.

13 (Whereupon, the trial will resume the next morning at
14 10:00 a.m.)

15 February 6, 2018

16 THE COURT: All right. We're on the record.
17 Anything we need to discuss before we bring the jury out,
18 Solicitor?

19 MR. DANIEL: No, Your Honor.

20 THE COURT: From defense?

21 MS. BROWDER: No, sir.

22 THE COURT: Okay. all right. Madam Bailiff, if
23 you'll bring the jury out please.

24 (Whereupon, the jury came into open court at
25 approximately 10:17 p.m.)

1 THE COURT: Let the record reflect the jury is in the
2 courtroom. Good morning, ladies and gentlemen.
3 Everyone's doing well and ready to get back to work? All
4 right. Solicitor, you ready to call the next witness?

5 MR. DANIEL: If it please the Court, Your Honor, we
6 call Garrett Lominack.

7 THE COURT: Okay.

8 GARRETT LOMINACK, being
9 first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 By Mr. Daniel:

12 Q And, Lieutenant Lominack, correct?

13 A That is correct.

14 Q Of the Newberry Sheriff's Office?

15 A Yes, sir.

16 Q Okay. And you are a detective?

17 A I'm an investigator with the Sheriff's Office, yes.

18 Q All right. How long you been with the Sheriff's
19 Office?

20 A Just a little over 22 years.

21 Q Okay. All right. Take you back to March of last
22 year. Did you have an occasion, March of last year, to
23 become involved in a criminal sexual conduct with a minor
24 case involving a individual by the name of Craig Busse?

25 A That is correct. We had a report filed with the

1 Sheriff's Office on March the 9th of 2017.

2 Q Okay. And how did you personally become involved?

3 A I, as an investigator, I was assigned to follow-up on
4 the case.

5 Q Okay. So, you reviewed initial reports from other
6 officers?

7 A The original report was completed by Deputy Deanna
8 Wilbanks who is a school resource officer at Newberry High
9 School. Plus, our victim's advocate, Connie Johnson, also
10 responded to assist with the report with Officer Wilbanks.

11 Q Okay. And what actions did you take when you first
12 became involved investigating this case?

13 A The report was taken, I believe it was on Thursday of
14 March the 9th. A report was completed at the end of the
15 day. The next morning after being reviewed and being
16 signed out is when I looked into it. And DSS had been
17 called in on that Thursday to come to the school. And
18 since DSS and Deputy Wilbanks, along with the victim's
19 advocate determined that an EPC, an emergency protective
20 custody where ~~Willey~~, the victim in the case, was taken
21 into custody. DSS had the child placed into a foster home
22 until a, until a hearing was going to come about following
23 that. So pretty much the next day on that, on the Friday,
24 there's minimal follow-up that needed to be done at that
25 time.

1 Q Okay. DSS, that's the Department of Social Services?

2 A That is correct.

3 Q Okay. And at that point you said the child was
4 placed into emergency protective custody?

5 A DSS did take the child into emergency protective
6 custody, which placed it into a foster home until a
7 hearing would ensue to determine where the victim would go
8 from there.

9 Q And what were the grounds for placing the child into
10 emergency protective custody?

11 A According to --

12 MS. BROWDER: Objection, Your Honor. That gets into
13 any type of Family Court finding.

14 THE COURT: Okay.

15 MR. DANIEL: Well, Your Honor, EPC is made from a law
16 enforcement officer.

17 THE COURT: Right. I'll allow, I'm going to overrule
18 the objection because this would be made, I guess,
19 pre-Family Court involvement as I understand the process.
20 So I'll overrule the objection. ~~You may~~ proceed.

21 A We felt that it, it probably wouldn't be safe for the
22 child to stay in the home with the, the alleged
23 perpetrator, of the facts that she had given us.

24 Q Why couldn't the child return home to her mother?

25 A At the time, the report, which is indicated in the

1 report, that possibly the mother knew about the alleged
2 assault. So we didn't want the child to go back to the
3 home if the perpetrator was living there. Plus if the,
4 the mother had known about ~~the~~ or possibly known about the
5 assault.

6 Q Okay. And who is the, the child victim you received
7 information on in this case?

8 A Her name according to the report is ~~_____~~
9 ~~_____~~

10 Q Okay. And how old was Hailey at the time this report
11 was, was received?

12 A At the time of the report she was 15 years of age.

13 Q Okay. All right. Tell us what, what you did next in
14 the investigation.

15 A After the weekend a hearing for the EPC was in
16 another court on that following Monday. I was advised by
17 the victim's advocate, who attended the hearing, that the
18 EPC --

19 MS. BROWDER: Objection, Your Honor. Hearsay.

20 A The, the --

21 THE COURT: Wait, wait a minute.

22 A Yes, sir.

23 THE COURT: All right. I'll sustain. As a result of
24 your conversation with the victim's advocate you did what?

25 A Yes, sir.

1 THE COURT: Let's handle it in that way.

2 A The, the child was, was kept into custody. So on
3 that Monday I contacted Ms. Busse, Ms. Meagan Busse, the
4 parent, the mother of ~~Valley~~ by telephone and spoke with
5 her and asked if, if her and Mr. Craig Busse would, would
6 come to the Sheriff's Office and talk.

7 Q Okay. What date did you make contact with Craig and
8 Meagan Busse?

9 A That was on that following Monday, which was ~~March~~,
10 March the 13th, 2017.

11 Q Okay. And how did you make contact? You called?
12 Who did you call on the phone?

13 A Ms. Meagan.

14 Q Okay. All right. And, and what were you asking Ms.
15 Busse to do?

16 A If, if she and Mr. Craig Busse would come to the
17 Sheriff's Office, you know, for an interview.

18 Q Okay. And did they both show up that day at the
19 Sheriff's Office for an interview?

20 A That is correct.

21 Q Okay. About what time did they come to the Sheriff's
22 Office?

23 A It was roughly around 4:00 o'clock p.m.

24 Q Okay. All right. And did you interview both of
25 them?

1 A I talked to them both individually, starting with Ms.
2 Meagan.

3 Q Okay. All right. And then did you actually
4 interview Craig Busse about this case?

5 A And, I talked to him after I talked with Ms. Meagan.

6 Q Did he, so he voluntarily came in to the Sheriff's
7 Office for an interview?

8 A That is correct. Both of them did.

9 Q Did you have any arrest warrants issued at this time?

10 A No arrest warrants were issued.

11 Q Okay. So he's not in custody?

12 A He's not in custody.

13 Q Okay. All right. And tell us where exactly the
14 interview took place in the Sheriff's Office?

15 A When you come into the main lobby in the Newberry
16 Sheriff's Office, we have what we call the interview room
17 out in the lobby area. It's just a room, another room you
18 can go into. It's got a desk, a computer. And you can
19 just go in and talk to people, for people that need to
20 come in and file a report or just talking with people in
21 general doing an interview.

22 Q All right. Who was present for this interview?

23 A It, just myself.

24 Q Yourself and Mr. Busse?

25 A That is correct.

1 Q Meagan Busse wasn't in the room?

2 A When I talked with Ms. Meagan first, it was just me
3 and her. Mr. Busse stayed out in the lobby area. And
4 once we completed that Mr. Busse came in and just me and
5 him talked while Ms. Busse remained out in the lobby.

6 Q All right. Tell us about the interview with Mr.
7 Busse.

8 A First thing I did with Mr. Busse, I explained to him
9 the reason, you know, to make sure he was aware why he was
10 here. And the, and the report that, that had been filed,
11 which he, he was aware of everything. I took out a form.
12 It's called your rights form, your Miranda warnings. And
13 I explained his Miranda warnings to him. Basically, I
14 read him his rights. I read out the entire form. Asked
15 him if he understood. He indicated that he understood.
16 Did a waiver, you know, if you wish to continue the talk,
17 he signed that as well. And then I witnessed the report
18 or the, the, the paper that he filed, that he signed,
19 excuse me, indicating that he knew his rights, he did not
20 want a lawyer and he's waived his rights and we continued
21 with the interview.

22 Q Okay. Did Mr. Busse provide a written statement?

23 A He did not. We, he gave an oral, oral statement.

24 Q Okay. So, it's just kind of, you were asking
25 questions, question and answer format?

1 A That is correct.

2 Q Okay. All right. So tell us some of the questions
3 you were asking and some of the answers he, he gave you.

4 A The basic question was, you know, was he involved in
5 this and he indicated that he had not, you know, sexually
6 assaulted or done anything with [REDACTED]. And just, just
7 talking with him in general. Asked him, you know, why
8 perhaps this allegation was brought against him. He
9 indicated to me that, you know, his reason he thinks that
10 she fabricated this was the, because he has a daughter
11 from a previous marriage, not with Ms. Meagan. And
12 indicated to me that his daughter from a previous
13 marriage, had indicated herself, that she had been
14 sexually [REDACTED] assaulted by an unrelated individual and then
15 when she was talking about it, when the daughter was down
16 visiting prior to this report being taken. And just kind
17 of felt like that perhaps [REDACTED] was trying to garner some
18 attention on the fact that his other daughter had claimed
19 sexual assault. [REDACTED]

20 Q So you basically confront Mr. Busse with the
21 allegations that, you report to him that [REDACTED] accused
22 you of sexually assaulting her?

23 A Correct.

24 Q And then he flat out denies it?

25 A He says he did not do it, and just indicated that the

1 reason why he felt like that she was fabricating the story
2 was to get attention from what she heard his own daughter
3 talk about.

4 Q So he essentially is saying that ~~Valley's~~ lying?

5 A Yes.

6 Q Okay. And that he tells you about another daughter
7 that he has from a previous marriage in Wisconsin?

8 A Yeah, I believe that's where she's from.

9 Q Okay. And apparently, he's talking about, Craig
10 Busse's talking about this daughter accusing someone else
11 of sexual assault, up in Wisconsin?

12 A I'm not sure exactly where the, that assault could
13 have taken place. But just, you know in general, just
14 felt like that was the reason that, that ~~Valley~~ was, was
15 trying to reach out for attention because his other
16 daughter had reached out about being sexually assaulted by
17 an unrelated individual.

18 Q Okay. But he was indicating, Mr. Busse was, that,
19 that ~~Valley~~ knew about his other daughter accusing this
20 unrelated individual of sexual assault?

21 A That is correct.

22 Q That somehow she had gotten the idea from this other
23 daughter to accuse him of sexual assault?

24 A Possibly.

25 Q And is that how you interpreted this conversation?

1 A That is, that's correct, yes.

2 Q All right. Any other information Mr. Busse provided?

3 A That was about it. It didn't, it didn't, it was
4 pretty quick conversation. And he did not indicate, you
5 know, I didn't see a need for him to give me a written
6 statement of, of what he told me. He just pretty much
7 said that, that he didn't do it.

8 Q All right. And how old, what's the, how old is Mr.
9 Busse?

10 A According to the report, that he was born in 1961.
11 He was 55 years of age at the time of the, of the report
12 that was taken.

13 Q Okay. So that would make him 56 years old now.

14 A Yes.

15 Q Okay. All right. So after this interview, what did
16 you do next in the case?

17 A With that, I just, you know, I do what's called a
18 supplemental report. I write down the notes of what we
19 had done with that. And got with DSS, the agent, the DSS
20 agent that responded. And they determined that the child,
21 the victim in the case would be sent for what's called a
22 forensic interview.

23 Q Okay. And did you ever actually interview ~~Ralley~~
24 ~~Woodward~~ in this case?

25 A I did not. She had been, she'd been interviewed by

1 the school resource officer and the victims advocate.
2 She'd been interviewed, talked with by DSS, and plus we
3 were sending her to a forensic interview. So I didn't
4 feel like that I had to, you know, go and ask the same
5 questions over and over.

6 Q Okay.

7 A Plus I wanted [REDACTED] to be interviewed by somebody
8 who's, somebody that's got a little more expertise,
9 talking with somebody in the field of these type of
10 allegations.

11 Q So the forensic interview would be a specialized
12 interview?

13 A That is correct.

14 Q Okay. All right. At what point did you make the
15 decision to, to arrest Mr. Craig Busse?

16 A After the reports that had came in from the, from the
17 other people they had talked to, the DSS, forensic
18 interviewer. After reading and getting what had been
19 disclosed by [REDACTED] to those, which was probably close to
20 about a month later is when I decided to, to obtain an
21 arrest warrant.

22 Q All right. When did you obtain an arrest warrant?

23 A [REDACTED] I think the warrant was signed, the warrant was
24 signed by myself and the Magistrate, on April the 17th.
25 And what I did after that, I contacted Mr. Busse because I

1 had contacted him once before by phone for him and Ms.
2 Busse to come up. I contacted him to let him know that,
3 that we obtained an arrest warrant. And that he could
4 turn himself in, which he did I think, ~~a few days~~ later.

5 Q Would it had been April 21st when --

6 A I, I believe that is correct. Yes. When the warrant
7 was technically served.

8 Q Okay. All right. And what was the, what was the
9 ~~offense~~ Mr. Busse was charged with?

10 A Criminal sexual conduct with a minor, ~~second degree~~.

11 Q Okay. And why that charge?

12 A Because it --

13 MS. BROWDER: Objection, Your Honor. It goes to the
14 credibility, it is up to them to determine whether the
15 elements of the charge is met. And that's up to you. You
16 give them the law on that.

17 THE COURT: Well, I mean, it was, he was a part of
18 pursuing the charge via the arrest warrant with the
19 Magistrate. Certainly the ultimate issue is to be
20 determined by the jury. But I think he can express his
21 opinion why he believed that was the appropriate charge.
22 I'll overrule the objection.

23 A The, the charge is because of the statute of being
24 between the ages of 14 and 16 years of age.

25 Q Okay. So that charge is based on the age of the

1 victim?

2 A That is correct.

3 Q Okay. All right. Was the victim, to your knowledge,
4 ~~Willey Woodward~~ was she referred for any type of
5 medical--

6 MS. BROWDER: Objection, Your Honor. Oh, sorry, go
7 ahead. I thought he was going somewhere else with that.

8 THE COURT: Okay. All right.

9 Q Was the, to your knowledge was the victim, ~~Willey~~
10 ~~Woodward~~, referred for a medical exam?

11 A No, I did not refer her for a medical exam.

12 Q Okay. Tell us about, what about a sexual assault, a
13 rape kit, as it's known.

14 A Did not do that either. The, the assault had already
15 been 72 hours. If a sexual assault victim, you'd want to
16 get what's known as a sexual assault kit performed. If
17 the, the assault occurred within 72 hours and this had
18 been, you know, well before.

19 Q Okay. Were there allegations of sexual intercourse?

20 A Attempted sexual intercourse, if you're referring to
21 penile penetration..

22 Q All right. Attempted?

23 A Yes.

24 Q Okay. Would a rape kit yield anything on attempted
25 sexual intercourse?

1 A I can't see where it --

2 MS. BROWDER: Objection. Yeah. He's not qualified
3 to answer that questions, Your Honor.

4 THE COURT: Right. I'll sustain the objection.

5 Q All right. So your testimony that delayed reporting
6 impacts whether or not a sexual assault kit can be
7 performed?

8 A Yes, that is correct. Because you go beyond a 72
9 hour of possible bathing, that any possible DNA or
10 anything else left behind is going to be, it's going to be
11 destroyed or washed away.

12 Q Okay. And was your interview with Mr. Craig Busse
13 recorded?

14 A No. This was prior to body worn cameras and we
15 didn't have any, anything set up to record the interview.

16 Q Okay. All right. And the incident location based on
17 everything that you reviewed, where did this incident or
18 incidents take place?

19 A It's at the home of where they lived located at ~~2442~~
20 ~~Wilson Road~~ which is here in Newberry County. And which
21 is on the end of Wilson Road near Ace Hardware and the
22 Moose Lodge is located.

23 Q Please answer any questions Ms. Browder has for you.

24 THE COURT: Cross-examination?

25 MS. BROWDER: Yes, Your Honor.

CROSS-EXAMINATION

1
2 By Ms. Browder:

3 Q Investigator Lominack?

4 A My rank is Lieutenant.

5 Q Lieutenant?

6 A Lieutenant of Investigations with the Newberry
7 Sheriff's Office. Yes.

8 Q Lieutenant Lominack, you previously testified it's
9 your job at this point, once you get the case, to
10 follow-up on the case, correct?

11 A That is correct.

12 Q Okay. And so the first thing you did was you
13 contacted Mr. and Ms. Busse and have them come in.

14 A I contacted them on that following Monday after the
15 report had been made.

16 Q Okay. And so Mr. Busse voluntarily came in, correct?

17 A That is correct.

18 Q He never asked you for an attorney when he came in
19 and talked to you.

20 A He did not.

21 Q Okay. So, he was more than willing to cooperate with
22 you?

23 A That is correct.

24 Q And you stated his statement, you did not get a
25 written statement from him?

1 A I did not.

2 Q And why not?

3 A He, he didn't indicate of, of the, any wrong doing.
4 He just, he just gave the fact that he felt like that the
5 only reason that she was fabricating, was the only reason
6 he thought of, is because of his ~~previous~~ daughter. And
7 honestly, I don't remember if I even asked him if he
8 wanted to put it on paper either. I just felt like that
9 it just wasn't a need.

10 Q So you didn't feel it was important to make sure to
11 get the suspects in the cases statement put down on paper?

12 A He had, he gave an oral statement. And I indicated
13 that on my supplemental of what he talked about. So it
14 doesn't always have to be put down on paper.

15 Q Well wouldn't that memorialize it the best way, to
16 have it in his writing with him signing it?

17 A He didn't indicate that he did anything wrong. He
18 just indicated that he did not sexually abuse the victim
19 in the case. So he did not give any admission of guilt.

20 Q Okay. And other than that, you forwarded ~~bailey~~ on
21 for the forensic interview, correct?

22 A That is correct.

23 Q And once you got the forensic interview back, you
24 said that was about a month later?

25 A I don't know exactly, but it was within a month prior

1 to the, the warrant being obtained on him.

2 Q I mean, but it was approximately a month?

3 A Approximately, yes.

4 Q All right. And at that point when you received the
5 forensic interview, did you do any follow-up to check on
6 dates that ~~Harley~~ would've given during the forensic
7 interview to make sure that those dates corresponded with
8 anything?

9 A Can you elaborate a little bit more on that?

10 Q One of the times that she gave was October 2016 where
11 she indicated she was home sick from school.

12 A No, I did not do that.

13 Q So, you did not follow-up with the school to see if
14 she was actually home sick?

15 A To see if she was in school. No, I did not.

16 Q And you did not refer her for medical just to be on
17 the safe side?

18 A I did not.

19 Q You do a lot of these types of cases?

20 A You know, it's not that that's something that I'm,
21 ~~that's~~ that's not one of my main things. We, we don't have a
22 specific investigation that we do, whether it's sexual
23 assault, burglary or any other kind of property crime. So
24 I've investigated multiple cases before. But as far as
25 how many, I couldn't tell you if it's over 10, less than

1 20.

2 Q But you didn't think it was important to send her for
3 medical, just in case, to make sure there was any type of
4 evidence whatsoever?

5 A You know, it was, once again, it was, you know,
6 prolonged or, or delayed reporting. Nothing had occurred
7 within the last 72 hours. So, no, I didn't think that we
8 would, in order to put her through obtaining that sexual
9 assault kit, that we were going to be able to obtain
10 anything.

11 Q Okay. And then after the reports came in, you just
12 automatically arrested Mr. Busse, correct?

13 A It just, I viewed it and let the Solicitor's Office,
14 you know, view it to see where we could go with that. So,
15 it just wasn't automatic that I was waiting on that. But
16 pretty much everything, you know, she had been talked to
17 by other individuals and just took all that in
18 consideration of everything. She, she gave a very
19 consistent statement all the way through.

20 MS. BROWDER: Your Honor, I object to anything
21 regarding consistency, per our pre-trial motions.

22 THE COURT: Let me see the lawyers for just a minute.

23 (WHEREUPON, a bench conference was held in the
24 presence of the jury but out of the hearing of the
25 jury.)

1 Q Investigator Lominack, or sorry, Lieutenant.

2 A That's fine. That is perfectly fine.

3 Q All right. So the reports came in and then you
4 didn't do anything yourself following up on the reports,
5 correct?

6 A Nothing further was done. That is correct.

7 Q And so you just got an arrest warrant without doing
8 any other follow-up and called Mr. Busse to come in?

9 A Right. Felt like that the follow-up had pretty much
10 been, been take care of.

11 Q Okay. And he voluntarily came in?

12 A He did. And I called him and I told him that he can
13 turn himself in. That, being that ~~Elley~~ was no longer in
14 the home, that we just didn't have to go and knock on his
15 door, take him into custody, and do all that because I had
16 previously reached out to him where he voluntarily came
17 in. I felt like that Mr. Busse would, would do the same
18 in reference to this. So I called him in and he indicated
19 that, you know, such and such dates would be good for him,
20 which I was fine with. He's got a job, I understand. If
21 he needs to, you know, didn't want to interrupt
22 employment, if that was the case or anything else. And
23 so, indicated that he would turn himself in, which he did.

24 Q And he did it according to what he said he was going
25 to do?

1 A That is correct.

2 Q He didn't try to run, you didn't have to go find him?

3 A No. He, he, and you know, I even reached out ahead
4 of time and I found out from the Judge what type of bond
5 he would, was going to set on him. So that way he would
6 know ahead of time what type of bond he was going to have
7 to make, so. No, I didn't, I didn't have any, any doubt
8 that he wouldn't do it, and didn't think that he would run
9 or cause any problem. So he turned himself in, and, and
10 did such.

11 MS. BROWDER: No further questions, Your Honor.

12 THE COURT: Any redirect, Solicitor?

13 MR. DANIEL: Briefly, Your Honor.

14 REDIRECT EXAMINATION

15 By Mr. Daniel:

16 Q Did Mr. Busse, did he elaborate on any other reason
17 ~~alley~~ would have made these allegations against him?

18 A He did not.

19 Q Did he mention taking a phone from ~~alley~~?

20 A I don't remember if he did.

21 Q As far as you remember, in your report, your
22 interview with Mr. Busse, he's indicating that she may
23 have gotten the idea to accuse him because his other
24 daughter had accused somebody of sexual assault?

25 A That is correct.

1 MR. DANIEL: Thank you, Your Honor.

2 THE COURT: Any re-cross?

3 MS. BROWDER: No, sir.

4 THE COURT: Okay. You can step down, sir.

5 Solicitor, next witness.

6 MR. DANIEL: Your Honor, the State calls Ariel Gagne.

7 Your Honor, may we approach?

8 THE COURT: Sure.

9 (WHEREUPON, a bench conference was held in the
10 presence of the jury but out of the hearing of the
11 jury.)

12 THE COURT: All right. Mr. Foreman, and ladies and
13 gentlemen of the jury, I have a legal matter that I need
14 to explore further with the lawyers. So, I'm going to ask
15 that you go back into the jury room and take you a little
16 morning break and we'll get you back out shortly. Okay.

17 (Whereupon, the jury was excused from open court.)

18 THE COURT: All right. Solicitor, it's my
19 understanding that you're, the State is offering this
20 witness as a, as an expert in the area, and I'll just
21 state this in very general terms, the general
22 characteristics of someone who has been sexually abused.
23 It's been requested that we take some of her testimony
24 in-camera. Is what is at issue qualifications or the
25 substance of her testimony? Ms. Browder?

1 MS. BROWDER: I believe, not so much qualifications
2 but as to what exactly she's going to be qualified as an
3 expert in. And then subsequently what she will testify
4 to.

5 THE COURT: Okay. So, then you can make a
6 determination whether or not you are going to raise an
7 issue or not concerning what she testifies to?

8 MS. BROWDER: Correct.

9 THE COURT: Okay. All right. Solicitor Daniel, if
10 you'll proceed.

11 MR. DANIEL: All right.

12 ARIEL GAGNE, being
13 first duly sworn, testified as follows:

14 IN-CAMERA DIRECT EXAMINATION

15 By Mr. Daniel:

16 Q State your name for the record, ma'am.

17 A Ariel Gagne.

18 Q Okay. All right. Where are you currently employed,
19 Ms. Gagne?

20 A I'm currently employed at Safe Passage Incorporated
21 in Rock Hill.

22 Q Okay. What kind of a organization is Safe Passage?

23 A They provide, they are actually a three-tier
24 organization. They are a child advocacy center, a
25 domestic violence center and a sexual assault center.

1 Q All right. And what kind of, what is your, your job
2 at Safe Passage?

3 A I am a children's therapist and a forensic
4 interviewer.

5 Q Okay. And what do you do as a therapist and forensic
6 interviewer?

7 A As a therapist I provide therapeutic services to
8 victims of child abuse and neglect or have witnessed
9 violence. And as a forensic interviewer I conduct
10 forensic interviews.

11 Q Okay. And what is a forensic interview?

12 A It is a neutral fact finding assessment of
13 allegations of child abuse or neglect.

14 Q Okay. And approximately how many of these interviews
15 have you done with, with children?

16 A About over 100, about 160.

17 Q And that's mostly dealing with children that are
18 alleging sexual abuse?

19 A Yes. About sixty-five percent have been cases of
20 sexual abuse.

21 Q Okay. And you performed a forensic interview in this
22 case with the victim, ~~Harley Woodward~~, correct?

23 A That's correct.

24 Q Were you employed with a different agency at the time
25 you interviewed ~~Harley Woodward~~?

1 A Yes.

2 Q All right. Where were you employed when you did the
3 interview with ~~Harley~~?

4 A Dickerson Children's Advocacy Center in Lexington.

5 Q You were employed there, Dickerson Center, in the
6 same capacity you are now at Safe Passage?

7 A That is correct.

8 Q Same job?

9 A Yes.

10 Q Okay. And what are your, what's your background?

11 A I have a BA in psychology, with a minor in Child
12 Advocacy, which is an interdisciplinary minor. Which
13 includes 21 concentrated hours in the specific field of
14 child protection. That included internships and
15 additional trainings as well. And I have a Master's in
16 Social work.

17 Q Okay. And so, you're a licensed social worker in
18 this State?

19 A Yes.

20 Q Okay. And do you have any other special type of
21 degrees or certifications?

22 A I am certified and trained in two evidenced based
23 therapeutic models, trauma focus cognitive behavioral
24 therapy and child and family traumatic stress
25 intervention. I have attended multiple conferences and

1 trainings in the field of child abuse. And numerous field
2 instructor trainings to assist supervising graduate level
3 interns.

4 Q And how long have you been working in a professional
5 capacity?

6 A About three years.

7 Q Okay. And you said you've done well over one-hundred
8 interviews of children alleging sexual abuse?

9 A That is correct.

10 Q Okay. Do you receive any type of continual or
11 continuing education related to your line of work?

12 A Yes. My licensure requires me to provide, to have 40
13 hours of continuing ed., every two years.

14 Q And did you have to do any research or clinical
15 studies related to child sexual abuse?

16 A Yes. The, the child first protocol for a forensic
17 interviewing required 40 hours of training.

18 Q So, you're familiar with research and scholar peer
19 review type articles related to child sexual abuse?

20 A That is correct.

21 Q Do you focus on how, how children report sexual
22 abuse, the manner?

23 A Yes.

24 Q Okay. Do you have any specific research or
25 guidelines that you follow when interviewing children?

1 A Absolutely.

2 Q What are, what's that?

3 A We often refer to Sorenson and Snow. Which is an
4 article well known in our field. And we often refer to
5 that when describing the process of disclosure and delayed
6 disclosures, recantation, things like that.

7 Q So delayed disclosure, that is a, a well-known kind
8 of phenomenon in your field?

9 A Absolutely. About, I have actually statistics from
10 Dickerson. In 2016, it was, there were sixty-six percent
11 cases of delayed disclosures.

12 Q Okay. And what's, define delayed disclosures.

13 A It's when a child does not immediately disclose.

14 Q Any type of sexual abuse?

15 A Yes.

16 MR. DANIEL: Your Honor, I guess at this time I would
17 offer Ms. Gagne as an expert in the field of child sexual
18 abuse dynamics and delayed disclosures.

19 THE COURT: Ms. Browder, do you have at this time,
20 any examination of this witness concerning qualifications.
21 Certainly, I'll give you the opportunity to examine her
22 once the Solicitor gets to the substance of testimony.

23 MS. BROWDER: Not regarding qualifications.

24 THE COURT: Okay. All right. Okay. You want to
25 continue with the examination?

1 MR. DANIEL: Yes, sir. And I guess I'll just cite
2 State v. Barrett, 416 SC 124. It's a Court of Appeals
3 case. And the issue is here, she did perform the forensic
4 interview of the victim. I'm going to ask her just a, you
5 know, couple simple questions about the forensic
6 interview. And my, my questioning on her expertise will
7 have nothing to do with the victim. So that way there's
8 no impermissible bolstering or anything like that.

9 THE COURT: Ms. Browder, you going to have any
10 objection? And I believe I will find that she is
11 qualified as, once the jury comes out, I'll find on the
12 record that she is an expert in the area of child abuse
13 dynamics and delayed disclosure. Are you going to have
14 any objection to the Solicitor asking a couple of
15 questions on the fact that she, in this case, did conduct
16 a forensic interview with Hailey. But, what I take as the
17 bulk of her testimony is just based upon her knowledge and
18 training with respect to delayed disclosure.

19 MS. BROWDER: Here's my issue, Your Honor. Regarding
20 the forensic interview, I believe she, our position would
21 be she can testify to the circumstances around it,
22 surrounding it. Like how they take place.

23 THE COURT: Right.

24 MS. BROWDER: Time and place. Other than that, I
25 don't think she can get any, into any recommendation she

1 made or anything of that nature.

2 THE COURT: Right. Certainly.

3 MS. BROWDER: And then my issue becomes at that
4 point, Your Honor, because she did have contact with this
5 alleged victim. In State v. Brown, which is 411 SC 332,
6 Your Honor, in that case the State's expert testified
7 about some of the ways abused children behave and the
8 process that abused children go through which includes
9 delayed disclosure.

10 THE COURT: Right.

11 MS. BROWDER: But in that case, Your Honor, it was
12 found it was okay for her to because she had never seen
13 the victim.

14 THE COURT: Right.

15 MS. BROWDER: She had never spoken to the victim and
16 she had a separation from the victim. And the case
17 indicated that if she had had contact with the victim it
18 would've been considered some type of bolstering. That's
19 where my issue's going to come.

20 THE COURT: Right. Well, and that's what was kind of
21 running through my mind, even though she's being offered
22 as an expert, a blind expert. You know, any mention of
23 her having any contact with the child may create some sort
24 of unnecessary inference towards bolstering or something
25 of that nature. I'm, I'm just, I'm almost inclined just

1 to not allow any testimony that she, she had any contact
2 with [REDACTED] Just get into her qualifications and the
3 characteristics of children who are alleged to have been
4 abused and delayed disclosure, and that sort of thing. So
5 we just kind of stay away from that fine line that we may
6 have. The fact that she's offered as a blind expert, but
7 she also had contact with, with [REDACTED].

8 MR. DANIEL: Well, Your Honor, that's, I would offer
9 State v. Barrett. They did have an expert who was also
10 the forensic interviewer testify. And this came after the
11 Brown case that Ms. Browder cited.

12 THE COURT: Right.

13 MR. DANIEL: And they found that that was
14 appropriate.

15 THE COURT: Okay. Well, let me look at State vs.
16 Barrett then. What's that cite?

17 MR. DANIEL: Your Honor, it is 416 SC 124.

18 THE COURT: Okay.

19 MR. DANIEL: And that's Court of Appeals case, 2016.

20 THE COURT: Okay. It appears that based upon State
21 vs. Barrett, even though the Court recognized that the
22 better practice is to have a completely blind expert,
23 Barrett did allow the person who conducted the forensic
24 interview to also testify as to the general
25 characteristics and on the issue of delayed reporting.

1 And Barrett does even mention State, State vs. Brown. So
2 I think, we will go ahead, Ms. Browder, you want to add
3 anything on the record?

4 MS. BROWDER: I would just like to add if that's the
5 way you're going to rule, that it's very clear during her
6 testimony, that she's talking in generalities as to child
7 abuse victims, and not --

8 THE COURT: Exactly.

9 MS. BROWDER: -- specifically as to this particular
10 person.

11 THE COURT: Exactly. No question about that. I
12 think, Solicitor Daniel, if you'll be very limiting on
13 questions related to the fact that she happened to be the
14 forensic interviewer. And that your questions ensure, and
15 Madam Witness, that you testified in, in generalities and
16 nothing related to Hailey herself or anything that you
17 observed during a time you were with her. I think you can
18 pretty much understand what we need to do. Okay.

19 MR. DANIEL: Yes, sir. I'll be very clear in making
20 that distinction.

21 THE COURT: All right. So, we still need to,
22 in-camera, go through some of the substance of her
23 testimony, Ms. Browder?

24 MS. BROWDER: I believe if that's what she's going to
25 stick to, then I don't believe we do. She specifically

1 does not mention that these characteristics were seen in
2 ~~Halley~~.

3 THE COURT: Exactly. And I think we're all clear on
4 that. And, okay, well, let's do this. Let's take a short
5 break for ourselves and then we'll bring the jury out and
6 take care of her testimony. Okay. All right. About a
7 ten minute break.

8 (Whereupon, a break was taken.)

9 THE COURT: Okay. Let's bring the jury out please.

10 (Whereupon, the jury came into the courtroom at
11 approximately 11:15 a.m.)

12 THE COURT: Let the record reflect the jury's back
13 in. Solicitor, you may proceed sir.

14 MR. DANIEL: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 By Mr. Daniel:

17 Q Please state your name for the record.

18 A Ariel Gagne.

19 Q Ms. Gagne, where are you currently employed?

20 A Safe Passage Incorporated in Rock Hill, South
21 Carolina.

22 Q Okay. What is Safe Passage? What kind of
23 organization is that?

24 A It's a three tier organization. We provide services
25 for victims of domestic violence, sexual assault and they

1 are also a child advocacy center.

2 Q Okay. And what is your job at Safe Passage?

3 A I'm a children's therapist and I also conduct
4 forensic interviews.

5 Q Okay. So, forensic interview, what is that?

6 A It is a neutral fact finding assessment of
7 allegations of child abuse or neglect.

8 Q So you're the therapist that interviews children?

9 A Yes.

10 Q Where it's alleged that sexual abuse has occurred?

11 A Yes.

12 Q All right. ~~And how long have you been employed at~~
13 Safe Passage?

14 A Safe Passage, I actually recently relocated, so I've
15 been there since December of last year.

16 Q Okay. So, you've only been there two months?

17 A Yes.

18 Q Roughly. Prior to being employed at Safe Passage,
19 where ~~were you previously~~ employed?

20 A At Dickerson Children's Advocacy Center in Lexington.

21 Q Were you doing the same job there as you are now?

22 A Yes, I was.

23 ~~Q~~ Okay. And what kind of, what kind of background or
24 training do you have to do your job?

25 A I have a BA in psychology with a minor in child

1 advocacy and a Master's in social work. I have been
2 trained and certified in two different evidenced based
3 therapeutic models. And I've been through a 40-hour
4 training of child first protocol, which is the protocol
5 used for forensic interviewing in South Carolina.

6 Q Typically how do you come in contact with, with these
7 victims you interview or alleged victims you interview?

8 A We normally get referrals from law enforcement or
9 DSS.

10 Q I want to go back to when you were employed at the
11 Dickerson Center. Did you have an occasion to interview a
12 child by the name of ~~Valley Woodward~~?

13 A Yes, that's correct.

14 Q When did you have an occasion to meet with her?

15 A It was in March, March 27th, 2017.

16 Q Okay. And the Dickerson Center is located where?

17 A In Lexington, South Carolina.

18 Q Okay. And why did you have an interview or how did
19 that come about, meeting with ~~Valley Woodward~~?

20 A It was a referral from DSS I believe.

21 Q Okay. And were there allegations of sexual abuse?

22 A Yes.

23 Q Okay. So you conducted the interview with ~~Valley~~ to
24 discuss these allegations, correct?

25 A Yes.

1 Q And how old was [REDACTED] at the time of the interview
2 with you?

3 A She was 15.

4 Q Okay. And did [REDACTED] disclose any type of incident
5 to you?

6 A Yes.

7 Q Okay. Did [REDACTED] disclose when these incidents took
8 place?

9 A Yes. She said it happened in a year, of about two
10 years, in the span of about two years.

11 Q Okay. So, we're talking multiple incidents?

12 A Yes.

13 Q Over a course of two years?

14 A Yes.

15 Q Did [REDACTED] disclose the location of where these
16 incidents took place?

17 A Yes. At her home, in her parent's bedroom.

18 Q And all the incidents took place there or anywhere
19 else?

20 A I don't recall any other locations of the incidents.

21 Q So she just disclosed that they would occur in her
22 parent's bedroom?

23 A Yes. That's correct.

24 Q Okay. All right. And so, how long did this
25 interview last with [REDACTED]?

1 A I believe about an hour.

2 Q Okay. All right. I want to move on to unrelated
3 questions, nothing to do with your interview with [REDACTED]
4 Your, your profession. Again, you are a licensed social
5 worker in the State of South Carolina?

6 A That's correct.

7 Q Okay. So go through, and you know you mentioned
8 some of your credentials as far as your education, but you
9 have a Bachelor's in what again?

10 A In Psychology with a concentrated minor of Child
11 Advocacy.

12 Q Okay. And then your Master's is in social work?

13 A Yes.

14 Q Okay. And any other special certifications or
15 licenses that you possess? [REDACTED]

16 A I'm certified and trained in the two evidence-based
17 models that I mentioned before.

18 Q And approximately how many interviews have you done
19 with children where sexual abuse is alleged?

20 A Well over one-hundred.

21 Q Okay. And how long have you been working in a
22 professional setting?

23 A About three years.

24 Q And so you have specialized training in dealing with
25 how children report sexual abuse?

1 A That's correct.

2 Q Okay. Do you, are you familiar with research in this
3 particular field?

4 A Yes.

5 Q Peer review articles, things like that?

6 A Yes.

7 Q Okay. Any type of models or research models that you
8 rely on in your job to help you interview these children?

9 A Yes. We often refer to Sorenson and Snow when
10 exploring the process of disclosure which includes delayed
11 disclosure, recantation.

12 Q Okay.

13 MR. DANIEL: Your Honor, at this time I would offer
14 Ms. Gagne as an expert in the field of child sexual abuse
15 dynamics and delayed disclosures.

16 THE COURT: Okay. Ms. Browder, any examination of
17 this witness concerning qualifications or if you have any
18 objections to the Solicitor's request for her to be deemed
19 an expert?

20 MS. BROWDER: No, sir.

21 THE COURT: Okay. All right. The Court finds that
22 this witness is an expert in the area of child abuse
23 dynamics and delayed reporting. Mr. Foreman, and ladies
24 and gentlemen of the jury, let me explain to you very
25 briefly concerning when a witness is declared to be an

1 expert. Typically, witnesses who testify, are only
2 allowed to testify as to what they've seen or heard and
3 not render any opinions in the case. However, the law
4 does allow when a witness is deemed to be an expert in a
5 particular field because of education, training,
6 experiences and the like, they are permitted to give
7 opinions on, in the area that they are an expert in.
8 Again, just because this witness has been declared to be
9 an expert, does not mean you are to, you consider her
10 testimony as you consider any other witness' testimony and
11 give it the weight that you feel like is, is appropriate
12 in this matter. Solicitor, you may proceed.

13 MR. DANIEL: Thank you, Your Honor.

14 Q All right. Ms. Gagne, so is it fair to say you have
15 an expertise in kind of the general behavior
16 characteristics that child abuse victims display?

17 A Yes, that's correct.

18 Q And, I guess, based on your experience or research in
19 the field, do children report sexual abuse in a particular
20 manner that would be different than an adult?

21 A Yes, that's correct.

22 Q Okay. Tell us about that.

23 A As I mentioned before, Sorenson and Snow, they have
24 done research with the process of disclosure, which is
25 five different stages. It starts with denial. And then a

1 tentative disclosure, active disclosure, recantation and
2 reaffirmation.

3 Q Okay. I guess, kind of, in layman's terms, we are
4 just kind of, simply kind of say that in a way we can kind
5 of probably a little better way to understand it, I guess.

6 A Children often go through a process of disclosure.
7 So often times when the initial disclosure is made, it's,
8 it's a partial disclosure. And for example, they would
9 just say, I'm, like genital fondling. And then maybe as
10 they disclose more, it takes time.

11 Q Okay. So it's a gradual process disclosing sexual
12 abuse?

13 A Yes.

14 Q So I guess in other words, they are, they are not
15 telling you everything that happened all at once?

16 A Yes.

17 Q You're getting it kind of piecemeal?

18 A Very often.

19 Q Okay. And did you mention, did you say recantation?

20 A Yes.

21 Q And what is that?

22 A Recantation is when the child recants their
23 disclosure. So they say actually, that didn't happen.

24 Q Okay. So often times they may say it didn't happen,
25 when in fact it did, things like that?

1 A Yes.

2 Q Okay. What are some other factors that go into why a
3 child wouldn't immediately report being sexual abused?

4 A They are multiple factors. A lack of understanding.
5 Maybe a lack of opportunity. A relationship with the
6 offender adds another complexity to it. Guilt, lack of
7 caregiver support. Normalization of the sexual behavior
8 as well.

9 Q All right. Kind of break that down, normalization of
10 sexual behavior.

11 A For example, often times the offender will talk about
12 sex or, and that's a process of grooming as well and we
13 can talk more about that. They will talk about it and
14 then maybe show pornography. And then they kind of
15 normalize it. It's a gradual process. And then the child
16 isn't quite sure what, what is normal sexual behavior.

17 Q Is there a difference in how children report when, I
18 guess, the perpetrator is a close personal friend or
19 family member as opposed to say a stranger?

20 A Yes, sir. There are actually studies that suggest
21 that there's a positive correlation between a delayed
22 disclosure and the abuse within the family..

23 Q So is delayed disclosure more likely to occur when
24 it's abuse within the family?

25 A Yes.

1 Q Okay. And did you mention something about caregiver?

2 You mentioned that earlier. Was it a fact about

3 caregiver, caregiver denial? Is that the term you used?

4 A Lack of caregiver support can definitely be a factor
5 of delayed disclosure.

6 Q Okay. And explain what that means.

7 A So say the, the adult acknowledges the, the abuse
8 that's occurring and doesn't necessarily do anything about
9 it. Almost reinforces the child to just deal or cope with
10 the trauma that's happening.

11 Q Okay. And when we say children, are we talking, give
12 me the age range.

13 A From the age of three all the way up until eighteen,
14 including vulnerable adults.

15 Q Okay. So, we're using children in a broad sense to
16 include youngest of children, all the way up to teenagers?

17 A Yes.

18 Q Up to adult years?

19 A Yes.

20 Q Any other, any other disclosure factors or delayed
21 disclosure elements that are relevant in your line of
22 work?

23 A Sometimes, like I mentioned, you know, it could be as
24 young as three-year olds that, that they've conducted
25 studies with. They may not have the ability to convey the

1 disclosure. They may not have the verbal skills to, to
2 disclose the abuse based on their developmental level.

3 Q Is it difficult for children to sort out the timing
4 of when various incidents of abuse occur?

5 A Yes. Younger children often have trouble being able
6 to put a timeframe on things.

7 Q Okay. Any other relevant factors that we haven't
8 already addressed?

9 A Well, based on my experience, specifically doing
10 therapy with children, often times their answer to why
11 they waited to disclose is fear, fear of punishment, fear
12 of being harmed or fear of not even being believed.

13 Q So fear weighs heavily on whether a child feels
14 comfortable enough that they can disclose?

15 A Yes.

16 Q And in your experience, or even in studies that you
17 are familiar with, how often do children delay reporting
18 sexual abuse?

19 A In a 2000 study, in a retrospective study of adults,
20 twenty-eight percent never told until they had the
21 interview, the phone interview. Forty-seven percent
22 didn't tell within the first five years.

23 Q So this has been studied. There is empirical data
24 behind this?

25 A Yes.

1 Q And it's something you've seen in your experience
2 too, interviewing children?

3 A Yes. I've actually collected data at Dickerson
4 Children's Advocacy Center. The year 2016, the percentage
5 of delayed disclosures from the cases that we saw for
6 forensic interviews were sixty-six percent. So, sixty-six
7 percent waited to disclosure their abuse.

8 Q I believe that's all the questions I have. Please
9 answer any Ms. Browder has for you. Thank you.

10 THE COURT: Cross-examination.

11 MS. BROWDER: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 By Ms. Browder:

14 Q Is it Gagne?

15 A Gagne.

16 Q Gagne?

17 A Yes.

18 Q Ms. Gagne, go to the forensic interview part just
19 real quick. You stated the time period that ~~Wiley~~ gave
20 was over the past two years, correct?

21 A That's correct.

22 Q Okay. But she also gave a specific time period as
23 well, correct?

24 A Yes. I believe the first incident was shortly after
25 her 15th birthday. That was two weeks before entering

1 eighth grade. And the last incident was a week prior to
2 entering foster care.

3 Q And was there another incident in between that she
4 gave a specific date as to?

5 A She mentioned an incident occurring in October of
6 2016. It was on a school day.

7 Q All right. Regarding the generalized behavior of
8 children and the dynamics of that. You state you're using
9 the ages for children, three to eighteen, correct?

10 A Yes.

11 Q You said, stated that they initially partially
12 disclosed and continue after that, correct?

13 A That's correct.

14 Q Okay. And that's more seen in younger victims where
15 they start really, really small and get bigger, correct?

16 A I haven't seen evidence that supports that.

17 Q But you've seen personally with younger children that
18 you've interviewed?

19 ~~Answering~~ based on their ages, I don't think it makes the
20 difference whether they have delayed their disclosure or
21 not.

22 Q And you stated regarding some of the facts
23 surrounding why disclosures are delayed, one of them is
24 lack of opportunity?

25 A Yes.

1 Q So basically, they don't have a safe place to
2 disclose?

3 A Yes, that could be a factor.

4 Q Such as a therapist to go to?

5 A Guidance counselor, any trusted adult.

6 Q Okay. And another one would be lack of understanding
7 of what's occurring. That's more in younger children as
8 well, right? As older children would understand what
9 sexual abuse is?

10 A That's correct. I would say younger children would
11 have a lack of understanding of sexual behavior.

12 Q Okay. And when you were talking too, about, I guess
13 this goes with it, how the sexual behavior is normalized.
14 And that some children don't understand what is normal
15 sexual behavior. That would also apply to younger
16 children, correct, as to older knowing what normalized
17 sexual behavior is and what's appropriate?

18 A I would say so, yes. But also, another factor is
19 that trusting relationship. And if it's a trusting
20 relationship, and it adds a whole other complexity to the
21 situation.

22 Q Okay. And then you went into lack of caregiver
23 support, and you indicated that's in instances where the
24 adult actually acknowledges that something has happened,
25 correct?

1 A Yes. That's if actually the, the adult witnessed it
2 or had been told of the allegations.

3 Q Okay. And you stated some of the reasons also is
4 that the children don't have the verbal skills to disclose
5 what's happening. That's also seen more in younger
6 victims?

7 A Yes.

8 Q Than older teenager victims?

9 A Yes. Either younger victims or children with
10 developmental delays.

11 Q Okay. And then you stated about the timing. It's
12 hard for younger children to put a timeframe on things,
13 correct?

14 A Yes.

15 Q If a child were to report that something happens
16 every single day, a timeframe is not needed for that,
17 correct, because they are essentially saying every single
18 day?

19 A Possibly.

20 Q Okay. And the fear of being harmed, harmed in what
21 way?

22 A Getting in trouble. Especially if the offender is a
23 caretaker, they, they can be put on restriction or get
24 grounded or get their phone taken away.

25 Q Okay.

1 A Or sometimes there's physical harm there as well.
2 Whether it's indirect or direct threats.

3 Q So it would be harm of getting in trouble such as a
4 phone taken away or something of that nature?

5 A Sometimes.

6 MS. BROWDER: No further questions, Your Honor.

7 THE COURT: Redirect Solicitor?

8 MR. DANIEL: No, sir.

9 THE COURT: You can step down ma'am. Thank you.

10 A Thank you.

11 THE COURT: If there's no objection, this witness can
12 be excused?

13 MS. BROWDER: No objection.

14 THE COURT: But you're welcome to remain with us if
15 you like.

16 A Thank you.

17 MR. DANIEL: Your Honor, may we have a five-minute
18 break between witnesses?

19 THE COURT: Sure. Sure. Okay. Mr. Foreman, ladies
20 and gentlemen of the jury, the Solicitor has requested a
21 short break before we take our next witness. So, you'll
22 go back to the jury room, and we'll get you back out
23 shortly. I remind you once again, no discussion among
24 yourselves about this case.

25 (Whereupon, the jury was excused from open court.)

1 THE COURT: We will take about ten minutes.

2 (Whereupon, a short break was taken.)

3 THE COURT: Let's bring the jury in, please.

4 (Whereupon, the jury came into open court at
5 approximately 11:45 a.m.)

6 THE COURT: Let the record reflect the jury is back
7 in. Solicitor, you ready to call your next witness?

8 MR. DANIEL: Yes sir, Your Honor. The State calls
9 ~~Hailey Woodward~~.

10 THE COURT: Come around please ma'am.

11 ~~HAILEY WOODWARD~~, being
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 By Mr. Daniel:

15 A ~~Hailey Woodward~~

16 Q Okay. ~~Hailey~~, yeah, speak up. All right. This
17 courtroom kind of echoes and the air is going on. So
18 speak up loudly and pull the mic up if you need to.

19 ~~Hailey Woodward~~. How old are you, ~~Hailey~~?

20 A Sixteen.

21 Q Okay. When is your date of birth?

22 A ~~June 28, 2001~~.

23 THE COURT: Okay. You're going to need to do better
24 of speaking up, ~~Hailey~~. Okay.

25 A Yes, sir.

1 THE COURT: The jury's got to hear you, I've got to
2 hear you, the court reporter has got to hear you. So if
3 you need to even sit up closer to the microphone that will
4 be okay. Give the date of birth again, please.

5 A June 28, 2001.

6 Q Okay. June 28, 2001 is your birthday and you're 16
7 right now. What grade are you in, Hailey?

8 A Tenth grade.

9 Q Where do you go to school?

10 A Mid Carolina High School.

11 Q Okay. And where are you from originally?

12 A Wisconsin.

13 Q Okay. So you were born in Wisconsin?

14 A Yes.

15 Q What town in Wisconsin?

16 A I was born in Kenosha.

17 Q Kenosha, Wisconsin. Okay. Cold up there?

18 A Yes.

19 Q And you've obviously moved down to South Carolina.

20 A Yes.

21 Q When did you do that?

22 A It was around June 14th of 2015.

23 Q Okay. So over two years ago now?

24 A Yes. [REDACTED]

25 Q [REDACTED] who'd you move down here with?

1 A My mom, my step-dad and my step-brother.

2 Q Okay. So, your mom, Meagan?

3 A Yes.

4 Q And who's your step-dad?

5 A Craig Busse.

6 Q Okay. Is, is Craig Busse present in the courtroom
7 today?

8 A Yes.

9 Q Could you please point him out and identify him for
10 the jury?

11 A He's right over there in the red shirt.

12 Q Okay.

13 THE COURT: Let the record reflect that she has
14 identified the Defendant.

15 Q Okay. All right, Wiley. And you said also it was
16 your mom, Meagan; your step-dad, Craig, who you just
17 pointed out; and your brother, step-brother, CJ?

18 A Yes.

19 Q Is that Craig, Jr?

20 A Yes.

21 Q Okay. So, y'all moved down here June of 2015?

22 A Yes.

23 Q And where did y'all move to?

24 A We moved to Newberry, 2442 Wilson Road.

25 Q Okay. So, y'all moved to 2442 Wilson Road address?

1 A Yes.

2 Q Moved into a house?

3 A Yes.

4 Q Okay. I'm going to hand you what's been marked for

5 ID purposes, ~~Valley~~, is State's Exhibit number 1. All

6 right. Do you recognize that photo?

7 A Yes.

8 Q All right. What is it?

9 A That's where we moved. That's the place we moved

10 into.

11 Q Okay.

12 A Off of ~~Wilson Road~~

13 Q That's the ~~442 Wilson Road~~ address y'all moved to in

14 2015?

15 A Yes, sir.

16 Q Okay.

17 MR. DANIEL: Your Honor, I'd offer State's number one

18 for admission into evidence.

19 MS. BROWDER: No objection.

20 THE COURT: Without objection, number one for the

21 State into evidence.

22 (Whereupon, State's Exhibit 1 was admitted into

23 evidence.)

24 Q Okay. So, this is a, kind of a white house. It's a

25 brick and wooden house. How many bedrooms?

1 A It had three bedrooms.

2 Q Three bedrooms. How many baths?

3 A Two.

4 Q Three bedroom, two bath house. Nice house? Did you
5 like living there, when you first moved here?

6 A It was a nice house.

7 Q Okay. All right. So initially it was just three of
8 you living there, or no, excuse me, four of you?

9 A Yes.

10 Q All right. Your brother, mom and your step-dad?

11 A Yes.

12 Q All right. So, June, June of 2015, you would have
13 been how old then?

14 A Fourteen.

15 Q Okay. And so that would have been the summer. What
16 grade were you going into?

17 A Eighth grade.

18 Q And what school would that of been at the time?

19 A Newberry Middle School.

20 Q Okay. So, you're going into the eighth grade at
21 Newberry Middle School when y'all first moved here?

22 A Yes.

23 Q All right. And how long, so, Craig's your step-dad,
24 correct?

25 A Correct.

- 1 Q Do you, do you know your biological father?
- 2 A No.
- 3 Q You ever met him?
- 4 A Not that I can recall.
- 5 Q Okay. So, so you haven't had a relationship, or ever
- 6 had a relationship with your biological father?
- 7 A No.
- 8 Q Okay. Well how long has, has Craig been in your
- 9 life?
- 10 A Since as long as I can remember.
- 11 Q All right. Just since you were a little kid?
- 12 A I think I was about two or three.
- 13 Q Okay. Do you remember, when did your parents get
- 14 married or when did Craig and your mom get married?
- 15 A I think I was about five years old maybe.
- 16 Q Okay.
- 17 A I don't remember exactly what age I was.
- 18 Q All right. Did you consider Craig a father figure?
- 19 A Yes.
- 20 Q Is that the only father figure you ever really had?
- 21 A Yes. He's the only one I ever knew.
- 22 Q Okay. And I guess growing up in Wisconsin with him,
- 23 did you have a good relationship when y'all were in
- 24 Wisconsin together?
- 25 A Yes.

1 Q What are some of the stuff, father/daughter type
2 stuff that you would do with Craig?

3 A We'd sometimes go to the store. We would, as a
4 family, we'd go out to the races, dirt track. We would
5 have a good time.

6 Q Okay. So, y'all would do activities, go to races,
7 the dirt track?

8 A Yes.

9 Q Would y'all go to the mall, movies, stuff like that
10 too?

11 A We didn't really go to the movies. We watched movies
12 at home, but we didn't really go out much.

13 Q So, about the first 14 years of your life, Craig's
14 been the only father figure in it?

15 A Yes.

16 Q And that was in Wisconsin?

17 A Yes.

18 Q So, y'all had a good relationship in Wisconsin?

19 A Yes.

20 Q All right. And did anything happen in Wisconsin that
21 changed y'all's relationship at all?

22 A No.

23 Q Okay. Was that a no?

24 A No.

25 Q Okay. All right. And so, y'all moved down to

1 Newberry. And why did y'all move down to Newberry?

2 A My, my step-dad was, his mother was having open heart
3 surgery and so we decided to move down here. He had
4 family here, so decided to come down here for a change.

5 Q Okay. So Craig's mother lives in the Newberry area?

6 A She lives in Prosperity.

7 Q Okay. Prosperity. That's in Newberry County. Okay.
8 So she had just had open heart surgery?

9 A Yes.

10 Q In 2015?

11 A I think, I think it was 2015 when it, a little bit
12 after we moved or a little bit when we moved. I don't
13 remember exactly but she did have it while we were there.

14 Q Okay. So Craig had family ties in this area. What
15 about work? Did they, did Craig and your mom have jobs
16 lined up down here?

17 A Yes, we did, they did.

18 Q Okay. What, what job did your mom have lined up?

19 A She started applying for a job while we were still in
20 Wisconsin, for Merchants Food Service, and started a
21 little bit after we moved.

22 Q So, your mom started working at Merchants Food
23 Service right away pretty much?

24 A Pretty much, yes.

25 Q When y'all got to Newberry. What about Craig getting

1 a job when y'all moved down here?

2 A He had a job. I don't remember where it was though.

3 Q Okay. All right. What, if anything, happened once
4 y'all started living at that Wilson Road address, that
5 changed your relationship with Craig?

6 A I have no idea. We had a good relationship when we
7 got there. I would go swimming and just kind of hang out
8 basically, because I didn't know really anybody.

9 Q You were swimming?

10 A I'd go swimming and hang out. I wouldn't really, I
11 didn't go places much because I didn't have friends yet.
12 I started going to church at my Grandma's.

13 Q Okay. And when I do that, just speak up a little
14 bit. All right. So everything's fine in Wisconsin. But
15 did anything, what if anything, happened though when you
16 moved to Newberry that would change your relationship with
17 Craig?

18 A I didn't know, notice any change.

19 THE COURT: ~~Wiley~~ you going to have to speak up,
20 please.

21 Q All right. At some point after y'all moved down
22 here, and you're starting the eighth grade, you started
23 eighth grade at Newberry Middle School, what, August?

24 A Yes.

25 Q Okay. What, if anything, happened with, between you

1 and Craig once you started school that changed the nature
2 of, of your relationship?

3 A Nothing really happened. I mean, we were having a
4 good relationship but I don't know what happened.

5 Q Did Craig do anything to you that would change how
6 you felt about him, or change the nature of your
7 relationship?

8 A Yes.

9 Q All right. And what was that, what changed, what did
10 he do?

11 A He started to touch me sexually.

12 Q All right. And I know this is not something you want
13 to have to, to elaborate and talk about. When you say he
14 started touching you sexually, what do you mean? You have
15 got to be specific.

16 A He would start grabbing my boobs and my vagina.

17 THE COURT: ~~Willie~~, please speak up. We've got to
18 hear you.

19 A Yes, sir.

20 THE COURT: Can you just repeat the question,
21 Solicitor?

22 MR. DANIEL: Yes sir, Your Honor.

23 Q All right. So you just indicated he, he started
24 touching you, beginning of your eighth-grade year. Is
25 that correct?

1 A Correct.

2 Q Okay. And he started touching you, did you testify
3 that he started grabbing your breast and vagina?

4 A Yes.

5 Q Okay. And this would be the beginning of your
6 eighth-grade year?

7 A Yes.

8 Q And where would this take place?

9 A In the bedroom. My parent's bedroom.

10 Q So that's the first incident you can remember
11 happening?

12 A Yes.

13 Q Beginning of your eighth-grade year?

14 A Yes.

15 Q And that involved Craig touching, grabbing as you
16 say, your breast and vagina?

17 A Yes.

18 Q On top of your clothes or underneath your clothes?

19 A On top.

20 Q Okay. And that's how it started?

21 A Yes.

22 Q And grabbing, you mean he used his hands?

23 A Yes.

24 Q All right. And, and where in the house did this take
25 place?

- 1 A In my parent's bedroom.
- 2 Q Okay. And what time of day did this happen?
- 3 A It would depend on his work schedule. It would
- 4 always be in the afternoon.
- 5 Q Would it be the weekday?
- 6 A Yes.
- 7 Q All right. And who would be in the house?
- 8 A At that time, it would just be me, my step-dad and my
- 9 step-brother.
- 10 Q Your mom, she would be at work?
- 11 A Yes.
- 12 Q And this would be, you said in the afternoon, would
- 13 this be when you get home from school?
- 14 A Yes.
- 15 Q Did you ride, car rider or bus rider? How would you
- 16 get home?
- 17 A I would ride the bus.
- 18 Q Okay. About what time would you get home?
- 19 A It depended. It would be, I'd say in a time span of
- 20 3:30 to 4:30.
- 21 Q Okay. And Craig and your step-brother, CJ, would be
- 22 at the house?
- 23 A Yes.
- 24 Q And how old is CJ?
- 25 A He's, I think 26 now.

1 Q Okay. Where would he be in the house when Craig
2 first grabbed you by your breast and vagina?

3 A He'd always be in his room.

4 Q Okay. So CJ had his own bedroom?

5 A Yes.

6 Q Would the door, did he keep his door open or closed?

7 A Closed.

8 Q Okay. And this would've been the fall of 2015 when
9 this first happened?

10 A Yes.

11 Q And Craig's work schedule, it would allow him to be
12 at home when you got home from school?

13 A Not always.

14 Q But some of the time?

15 A Yes.

16 Q What did he work, a particular shift, Craig?

17 A I think he worked first and second shift for a while.

18 Q All right. So there would be times that he'd be
19 home, and you'd be home after school and your mom would be
20 away?

21 A At work.

22 Q At work?

23 A Yes.

24 Q Okay. All right. And so CJ, do you know, did he
25 just stay in his room a lot with the door closed?

1 A Yes. He would always stay in his room and listen to
2 music or play video games.

3 Q And so when Craig first started touching you, what if
4 anything, did he say or, or do? How did he, how did he go
5 about doing it?

6 A He would guide me to the bed and we would, it would
7 start off with us just watching TV, talking about how
8 school went.

9 Q All right. So y'all start off, he, would he invite
10 you into the bedroom and watch TV or where would y'all be
11 watching TV?

12 A In the bedroom.

13 Q Okay. Would the door be open or closed in the
14 bedroom?

15 A Most of the time it was open.

16 Q All right. And then so, how did that progress, how
17 did watching TV, how did that progress into him grabbing
18 you on your breast and vagina?

19 A He would eventually, after a while he would start
20 touching me.

21 Q Okay. Did he just start touching you, or did he say
22 anything beforehand?

23 A He didn't really say anything, he just started
24 touching me.

25 Q All right. And did you, did you let him touch you or

1 did you tell him to stop?

2 A I kind of looked at him like what are you doing? And

3 I, I was confused. I didn't know what was happening.

4 Q Okay. All right. And so the first he's touching
5 above your clothes?

6 A Yes.

7 Q All right. Did, did it progress from there? Did it
8 go further?

9 A Yes.

10 Q All right. Tell us about the next time you can
11 remember?

12 A He would eventually start going under my clothes and
13 grabbing my breast and my vagina.

14 Q All right. So he would, would he remove your
15 clothes?

16 A No.

17 Q Okay. So he would go underneath your clothes?

18 A Yes.

19 Q And you, would you have a bra on?

20 A Yes.

21 Q Okay. And he would touch your vagina? Did you have
22 underwear on?

23 A Yes.

24 Q Okay. All right. And again, this would be your
25 eighth-grade year?

- 1 A Yes.
- 2 Q And would CJ be in the house?
- 3 A Yeah. He, well, yes. He didn't really have a job at
- 4 first.
- 5 Q Would there ever be occasion to where it would just
- 6 be you and Craig in the house when these touchings
- 7 occurred?
- 8 A Not at first.
- 9 Q But eventually?
- 10 A Yes.
- 11 Q All right. Tell us a time Craig touched you in the
- 12 house where it was more than just grabbing you, groping
- 13 your breast and vagina.
- 14 A He would eventually start inserting his fingers into
- 15 my vagina.
- 16 Q Okay. Take his fingers and stick them inside your
- 17 vagina?
- 18 A Yes.
- 19 Q Okay. Did it ever go beyond that?
- 20 A Yes.
- 21 Q Okay. And, and when did it go beyond him, when did
- 22 he do more than just touch your vagina with his hands?
- 23 A He would eventually try to get me to perform oral sex
- 24 on him.
- 25 Q Okay. He asked you to perform oral sex on him?

1 A Yes.

2 Q Okay. And did you, did you do that?

3 A Yes.

4 Q Okay. Did he physically or forcibly make you do
5 that?

6 A He, can you rephrase that?

7 Q Did he, did he ask you to do it, perform oral sex,
8 and you did it or did he have to guide you or forcibly?

9 A He had to guide me.

10 Q And when you say guide, explain what you mean by he
11 had to guide me.

12 A Like he'd be like come here and stuff like that.

13 Q But did he touch you, grab your hand, head, anything
14 like that?

15 A He would just grab my arm and bring me to him.

16 Q And when do you think, when was this approximately he
17 asked you to perform oral sex on him?

18 A This was around the end of my eighth-grade year,
19 beginning of ninth grade. It was around that time.

20 Q Okay. So you would have ended eighth-grade sometime
21 in the spring/summer of 2016?

22 A Yes.

23 Q And then, okay, so, it'd been the summer of 2016,
24 you're going into the ninth grade?

25 A Yes.

1 Q So is it your testimony, is that's when the oral sex
2 started?

3 A Yes.

4 Q Summer of 2016, would that be accurate?

5 A Yes.

6 Q Okay. Would, and again, you said CJ would be home
7 initially but then got a job?

8 A Yes.

9 Q Do you know if CJ was in the house when this
10 occurred, the oral sex.

11 A Not that I can recall. I mean, he was in and out of
12 jobs. He didn't really keep a job well.

13 Q And did you ever tell Craig no or physically try to
14 stop him or leave the room?

15 A I would try to make an excuse like I have this to do
16 or like I have like a whole bunch of homework to do, just
17 to try to get away from it so I didn't have to deal with
18 it. It wouldn't always work.

19 Q And did you ever tell anyone that he, Craig was, that
20 you and Craig were engaged in these sexual acts together?

21 A Not at first. I tried to tell my mom, but I was just
22 so scared and so nervous I didn't, I just eventually came
23 up to her and said I was lying.

24 Q Well, how did you try to tell your mom? Be specific
25 on how you tried to tell her.

1 A I would, she'd start asking me questions because she
2 would find something or be suspicious. And I would, I
3 would try to tell her but I couldn't exactly get the words
4 out. I would start stuttering a lot and I was extremely
5 nervous. I eventually gave up and said that I was lying.

6 Q But you said, how did your mom, why was she
7 suspicious in the first place, something was going on
8 between you and Craig?

9 A Because I was talking to a boyfriend at the time. I
10 was trying to, I was talking to him about it trying to
11 figure out what to do.

12 Q So you did tell a boyfriend about what was going on
13 between you and Craig?

14 A Yes.

15 Q And your mother found out about this conversation you
16 had with this boyfriend?

17 A Yes.

18 Q Do you remember when exactly that was? Were you in
19 eighth-grade or ninth grade?

20 A That was my eighth-grade year.

21 Q Okay. Eighth-grade year.

22 A When I first start, tried to tell somebody.

23 Q So your mom did press you, she questioned you about
24 what was going on after she discovered this conversation?

25 A Yes.

1 Q And you said you couldn't get the words out?

2 A Yes.

3 Q And you eventually told her it didn't happen?

4 A Yes.

5 Q Okay. And, and why was that?

6 A I was scared. I didn't know what was going to
7 happen. I didn't know what the consequences were going to
8 be.

9 Q Okay. All right. Going back to, you said, you
10 testified earlier about you believed oral sex happened
11 probably summer of 2016?

12 A Yes.

13 Q Before you started ninth grade?

14 A Yes.

15 Q All right. Did Craig, when you performed oral sex on
16 him did Craig ejaculate?

17 A Yes.

18 Q Okay. He did? And where did he ejaculate?

19 A Inside my mouth.

20 Q And how many, was it just that one time you performed
21 oral sex on Craig, or were there other incidents?

22 A It was just that one time. There would be a couple
23 times where he would try to get me to do it. But I, I
24 told him I didn't want to, that I didn't like that.

25 Q Okay. All right. Did Craig ever perform oral sex on

1 you?

2 A Yes.

3 Q Okay. When do you think that started?

4 A It'd be around the end of my eighth-grade year when
5 he would start performing oral sex on me.

6 Q Okay. He would, Craig, and describe how Craig would
7 perform oral sex on you.

8 A He would put his mouth to my vagina.

9 Q Okay. And how long would he be, how long would he
10 have his mouth on your vagina?

11 A Not long.

12 Q Thirty seconds, a minute, two minutes?

13 A About a minute.

14 Q Okay. And did that happen one time or more than one
15 time?

16 A It happened more than one time.

17 Q Approximately how many times did Craig put his mouth
18 on it, on your vagina?

19 A I'd say three or four times.

20 Q And this is eighth grade year?

21 A Yes.

22 Q Is it summer, going in your ninth grade too?

23 A Yes.

24 Q Okay. All right. Did it go, did these, all right.

25 And so again, everything you've described so far, this all

- 1 occurred at your house, ~~442 Wilson Road?~~
- 2 A Yes.
- 3 Q In Craig's bedroom?
- 4 A Yes.
- 5 Q And would the door be closed a lot of times?
- 6 A Not always.
- 7 Q All right. Did Craig, did you and Craig ever have
- 8 sexual, sexual intercourse?
- 9 A He would try to. Yes.
- 10 Q All right. He would try?
- 11 A Yes.
- 12 Q What do you mean by that?
- 13 A He would try to have sex with me but his stomach got
- 14 in the way.
- 15 Q Okay. He tried to have sexual intercourse with you
- 16 but you're saying his stomach got in the way?
- 17 A Yes.
- 18 Q Any other reasons that y'all couldn't have, didn't
- 19 have sex?
- 20 A It was always with, because his stomach got into, in
- 21 the way and he couldn't.
- 22 Q Did Craig ever, so that's the reason he said y'all
- 23 didn't, y'all couldn't have sex? He said his stomach got
- 24 in the way?
- 25 A Yes.

1 Q When did this happen?

2 A This happened around, I would say October of 2016.

3 Q Okay. So you would have been by that point, you
4 would have been in ninth grade?

5 A Yes.

6 Q At Newberry High School?

7 A Yes.

8 Q All right. And why does that, and do you, now, your
9 grandmother, your mom's mom.

10 A Yes.

11 Q Did she start living with y'all at some point?

12 A She started living with us around, I think it was
13 September of 2016, I think. I don't remember. I know it
14 was September, but I'm pretty, as far as I know it was
15 2016..

16 Q All right. But you remember October 2016 as the date
17 where Craig attempted to have sexual intercourse with you?

18 A Yes.

19 Q So your grandmother, your mama's mom would have
20 already been living with y'all?

21 A Yes.

22 Q She moved down from Wisconsin?

23 A Yes.

24 Q Where would she be?

25 A She'd be in the living room.

1 Q Okay. And again, did you want to have sex with
2 Craig?

3 A No.

4 Q Did you think to run out of the room, tell your
5 grandmother, anything like that?

6 A I didn't think of anything because I didn't know what
7 was going on. I was scared.

8 Q Was that the only time Craig attempted to have sex
9 with you?

10 A No.

11 Q All right. So it was more than one time?

12 A Yes.

13 Q Approximately how many times did he attempt to have
14 sex with you?

15 A Four, four, five or six times.

16 Q And this all started your ninth-grade year?

17 A Yes.

18 Q And his stomach got in the way each time?

19 A Yes.

20 Q Did he ever actually, did his penis ever actually
21 touch your vagina?

22 A Yes.

23 Q But and you're saying he attempted to but he didn't
24 actually complete it?

25 A Yes.

1 Q So are you saying his penis never actually was
2 inserted into your vagina?

3 A No, it wasn't.

4 Q Did Craig have any issues achieving an erection?

5 A Yes.

6 Q Okay. Did he talk about that with you?

7 A Yes.

8 Q Okay. So it wasn't just his stomach getting in the
9 way?

10 A He would, he, I don't know what you could call it but
11 he had trouble getting an erection.

12 Q And you saw this first hand?

13 A Yes.

14 Q And did he also verbalize it?

15 A Yes.

16 Q Did he say why he couldn't get an erection?

17 A No.

18 Q Did he say he had any particular health problems?

19 A He said that it had to do with health but I didn't
20 know a whole lot about it.

21 Q Have you ever overheard your mom and Craig talk about
22 his erectile dysfunction? Anything like that?

23 A No.

24 Q So this was the only way you could have known about
25 Craig's issues with achieving an erection?

1 A Yes.

2 Q So multiple times Craig attempted to have sex with
3 you, is what you're testifying to?

4 A Yes.

5 Q And that would have all been when you were in ninth
6 grade?

7 A Yes.

8 Q Okay. So, that would've been the fall of 2016,
9 correct?

10 A Correct.

11 Q Would that, and also going into 2017, beginning of
12 2017?

13 A Yes.

14 Q Was there other times that you tried to talk to your
15 mom about what was going on between you and Craig?

16 A There was another time at the end of my eighth-grade
17 year when I would try to, and again, I would get so
18 nervous and scared. I eventually, she'd start questioning
19 me. And I'd eventually tell her that I was lying because
20 I was scared and I just didn't know what to do.

21 Q Well, how did you, how did the topic come up a second
22 time with your mother?

23 A Again with, I was talking to my boyfriend at the time
24 about it, trying to figure out what to do.

25 Q And this was a different boyfriend?

1 A Yes.

2 Q Okay. So at that point you had already told two, two
3 people about what was going on?

4 A Yes.

5 Q And your mother discovered these through looking at
6 your phone?

7 A Yes.

8 Q And so you just couldn't provide any details to your
9 mom?

10 A No.

11 Q And eventually you told your mom it didn't happen?

12 A Yes.

13 Q But on these messages to your boyfriend, what were
14 you saying?

15 A I was asking him, like, I don't know what to do
16 because he, he would notice that it would be something
17 wrong.

18 MS. BROWDER: Objection, Your Honor.

19 THE COURT: Just don't repeat anything that this
20 boyfriend said. Okay.

21 Q Is it, ~~okay~~ is it fair to say you were describing
22 what you just talked with me about?

23 A Yes.

24 Q Okay. So you were describing to other people, to
25 these boyfriends what you and Craig were doing sexually?

1 A Yes.

2 Q And that's what your mother discovered on the phone?

3 A Yes.

4 Q Okay. All right. And as far as, and so everything
5 we're talking about here today, all this occurred when you
6 were in eighth and ninth grade?

7 A Yes.

8 Q Okay. So it would have started the fall of 2015 and
9 I guess, and when did, when was this, when did law
10 enforcement get involved with you? Do you remember that?

11 A It was March 9th of 2017.

12 Q Okay. March 9th of 2017 is when you spoke to law
13 enforcement about what was going on, right?

14 A Yes.

15 Q When was the last incident, when was the last sexual
16 encounter that you remember with Craig? When did that
17 happen?

18 A It was about, I'd say a few days before it happened.
19 I'd say a week before it happened.

20 Q Okay. So a few days, you're saying about a week
21 before law enforcement found out, that was your last
22 sexual encounter with Craig?

23 A Yes.

24 Q So about a week before March of 2017?

25 A Yes.

1 Q And do you remember what that last incident involved?
2 In terms of the sexual encounter?

3 A That was the last time he would try to have sex with
4 me.

5 Q Okay. He again attempted to have sex with you?

6 A Yes.

7 Q And did he, was it due to his lack of an erection?
8 Is that why it didn't actually, you didn't actually have
9 sex?

10 A Yes.

11 Q Okay. Do you remember the last time you performed
12 oral sex on him, when that was?

13 A It was that, it was my eight, eight grade year, was
14 the last. Well, it was end of eight grade, beginning of
15 ninth grade when, is the only time I did it.

16 Q Okay. That's just that one time you performed oral
17 sex?

18 A Yes.

19 Q And then do you remember the last time Craig put his
20 mouth on your vagina?

21 A Yes.

22 Q When do you think that was?

23 A That was around the beginning of my ninth-grade year.

24 Q Okay. All right. So, from June 2015 until end of
25 February, early March 2017 is when you had these multiple

1 incidents of sexual encounters?

2 A Yes.

3 Q Okay. All right. Let's skip to the, who was the
4 disciplinarian in the house? Who, who was in charge of
5 that? Your mom or Craig?

6 A It would, usually it would start with, I'd ask my mom
7 if I could go somewhere or hang out with my friends and
8 then I'd have to ask Craig as well.

9 Q Okay. So really, your mom wasn't making a decision
10 on whether you could go out with your friends or not?

11 A Not always.

12 Q She would just say ask Craig?

13 A She would give her answer, and then she'd say ask
14 Craig to make sure.

15 Q What would your mom's answer typically be?

16 A It would depend on what, what I was asking. It'd
17 usually be yes. If I was going to go hang out with one of
18 my friends, it would be yes most of the time.

19 Q But was it clear that Craig had the final say so?

20 A Yes.

21 Q And then what about other privileges like your phone,
22 allowance money, things like that, who made, did you, who
23 made decisions on that?

24 A Sometimes it would be both of them, but most of the
25 time it would be Craig.

1 Q And who would, who paid most of the bills in the
2 house?

3 A My mom would. She, he would help out with most of
4 them. They kind of did it, they both did it, but my mom
5 would be the one to pay them.

6 Q Okay. Would a lot of times Craig tell you, you
7 couldn't go out with your friends or was he strict in that
8 regard?

9 A The only way I could go hang out with my friends is
10 if I would pay him back.

11 Q What do you mean by that, pay him back?

12 A Like pay him back, let him touch me. Let him do
13 whatever he wanted basically.

14 Q So you, so in exchange for going to see your friends,
15 having a social life, you would have to engage in these
16 sexual acts with Craig?

17 A Yes.

18 Q So, it's kind of, I'm going to use the term quid pro
19 quo.

20 A Yes.

21 Q I don't know if you know what that means. But, so
22 that was, was that the only way you could have a social
23 life?

24 A Yes.

25 Q Because again, your mom would let Craig have the

1 final say so?

2 A Most of the time, yes.

3 Q And seeing your friends, like, having sleepovers,
4 going out to shopping, parties, stuff like that?

5 A Yes.

6 Q And what about access to your phone? Who controlled
7 that? Whether you had a phone plan?

8 A It would usually be both of them. My mom would be
9 the one to pay it.

10 Q Would Craig ever threaten to take away your phone?

11 A Yes.

12 Q But what if you would engage in these sexual acts
13 with him, would he let you have the phone?

14 A Yes.

15 Q Would he take the phone from you and not give it back
16 until you had some kind of sexual interaction with him?

17 A He would sometimes take it and I'd have to agree to
18 it in order to get it back. And there would be a few
19 incidents where I would have let him touch, sexually touch
20 me in order to get my phone back.

21 Q Okay. Why didn't you, why didn't you tell your
22 guidance counselor? Why, why didn't you call the police?

23 A I was scared. I, I was confused. I didn't know what
24 to do. I didn't fully understand why or what was going
25 on.

1 Q And you did try to tell your mom what was going on
2 when she discovered these messages?

3 A Yes.

4 Q But you got too nervous to really explain it? Is
5 that fair to say?

6 A Yes.

7 Q And then why did you tell your mom it didn't happen?
8 Why would you, why would you lie to your mom? Is that
9 what you're saying, you lied to your mom?

10 A Yes.

11 Q Why did you lie to her?

12 A Because I was scared of what would happen, and like
13 what the consequences would be if he found out.

14 Q So you were worried if you told your mom the truth
15 about what was going on Craig would find out?

16 A Yes.

17 Q And what, what did you think the possible
18 repercussions of Craig finding out? What would that be?

19 A It could, the sexual abuse could get worse.

20 Q Were you worried about privileges being taken?

21 A Yes.

22 Q And did you like to go out a lot with your friends?

23 A Yes.

24 Q Would you do things to avoid being at home around
25 Craig?

1 A Yes.

2 Q What did you do to avoid Craig?

3 A I would try to hang out with my friends, or just kind
4 of try to get away.

5 Q Okay. So, all right, when did you tell, do you know

6 ~~any~~ Meetze?

7 A Yes.

8 Q Who is ~~any~~ Meetze to you?

9 A She's a really good friend of mine.

10 Q All right. Do you remember having a class with

11 ~~any~~?

12 A Yes.

13 Q All right. And do you remember being upset in class
14 with ~~any~~?

15 A Yes.

16 Q All right. Tell us about that.

17 A I would a lot of times get, I'd be upset, and not
18 always, but --

19 Q What class did y'all have together?

20 ~~A~~ We had world geography and art.

21 Q All right. Did you ever disclose or tell ~~any~~ what
22 was going on ~~between~~ you and Craig?

23 A Yes.

24 Q Okay. And you said, were you upset the day you told

25 ~~any~~ what was going on?

1 A Yes.

2 Q Were you crying?

3 A Yes.

4 Q And why were you so upset?

5 A Because I was getting extremely tired of having to
6 pay him back in order to have a social life and hang out
7 with my friends and go do things.

8 Q So the frequency of you and Craig having these sexual
9 encounters, it was, how, how would you describe the
10 frequency? Was it daily?

11 A Not always. It was often, but it wasn't daily.

12 Q Okay. But multiple times a week usually?

13 A It always depended on his work schedule.

14 Q Okay. But whenever the opportunity was there, would
15 it happen?

16 A Yes.

17 Q Okay. So you were tired of having to pay him back,
18 as you call it?

19 A Yes.

20 Q And that's why you were upset that day with Craig?

21 A Yes.

22 Q And what else, did you tell Tracy anything about
23 leaving the house, anything like that?

24 A She offered for me to go move in with her until the
25 problem was resolved and my mom was out of the house or he

1 was out of the house.

2 Q Did you want to take ~~easy~~ up on that offer to live
3 with her?

4 A Yes.

5 Q But did you have a good relationship with your mom?

6 A Yes, we did. Communication wasn't our, wasn't a huge
7 factor with us but we had a good relationship. I just
8 didn't communicate a lot with her throughout the years.

9 Q Well, did you want to leave your mom?

10 A No, I didn't want to leave her.

11 Q But you were at one point willing to move in with
12 ~~easy~~, correct?

13 A Correct.

14 Q All right. And to your knowledge, did you directly
15 report to the guidance counselor this was going on?

16 A I didn't. I didn't directly report.

17 Q Okay.

18 A The school got a call from ~~easy's~~ mom, I think it
19 was, saying that?

20 MS. BROWDER: Objection, Your Honor, as to what
21 ~~easy's~~ mom said.

22 THE COURT: Right.

23 Q Can't go into what ~~easy's~~ mom said. Did ~~easy's~~ mom
24 notify the school?

25 A Yes.

1 Q On your behalf?

2 A Yes.

3 Q Okay. All right. And do you remember, all right,
4 the day it was reported to school were you called into the
5 counselor's office at school?

6 A Yes.

7 Q All right. And were you allowed to go home that day?

8 A No, I was not.

9 Q What happened that day?

10 A DSS took me into custody.

11 Q Okay. And from there, where did you go?

12 A I went to a foster home.

13 Q All right. Where's, where was the foster home?

14 A It was in Columbia. Near Northeast High School.

15 Q Okay. And how long were you in this Columbia foster
16 home?

17 A Until the end of the school year.

18 Q Okay. The school year ended in what, June?

19 A I think it was, it wasn't in June. It was around, I
20 think, May.

21 Q Late May?

22 A Around the middle of May.

23 Q Okay.

24 A Because I wasn't there long after school ended.

25 Q So you finished your ninth-grade year at Newberry

- 1 High School?
- 2 A At Northeast Richland.
- 3 Q Oh, Northeast Richland. Okay. Sorry. And so you
- 4 finished your school year at another school?
- 5 A Yes.
- 6 Q Started out ninth grade at Newberry High School,
- 7 finished at Columbia High School?
- 8 A Yes.
- 9 Q All right. Did you stay in foster care that summer?
- 10 A Yes, I did. I didn't, not the whole time though.
- 11 Q Where'd you go next?
- 12 A I went to another foster home after school ended,
- 13 until my best friend and her family eventually got kinship
- 14 for me.
- 15 Q When did, when did you go live with that family?
- 16 A It was around June. I, it was right before my
- 17 birthday that I remember.
- 18 Q Okay. Right before your 16th birthday?
- 19 A Yes.
- 20 Q Okay. So at this point, when you're living, who were
- 21 these people you were living with? What were their names?
- 22 A Gina Counts, Ron Counts, ~~Laylie Counts~~, Dalton Counts,
- 23 and Dalton's girlfriend, Casey.
- 24 Q So you were friends with the Counts' daughter?
- 25 A Yes.

1 Q Where did she go to school?

2 A She had just finished high school, so she was in the
3 12th grade. When we first met, it was, she was in 11th
4 grade then.

5 Q What high school?

6 A Mid Carolina.

7 Q Okay. So the Counts lived in the Mid Carolina --

8 A Yes.

9 Q -- Prosperity area?

10 A Yes.

11 Q Okay. All right. So, you started living with them
12 right before your 10th grade year started?

13 A Yes.

14 Q All right. So you started high school at Mid
15 Carolina High School your 10th grade year, correct?

16 A Correct.

17 Q All right. So how long, how long did you stay with
18 the Counts? When did that, is that still going on?

19 A No, I now live with my mom. The last time I was
20 living with the Counts was November 29th of 2017.

21 Q Okay. So November 29th of last year, just a few
22 months ago you were living with the Counts?

23 A Yes. And then my mom got custody of me and I'm now
24 living with her.

25 Q So your mom regained custody of you?

1 A Yes.

2 Q A few months ago? Where are y'all living now, you
3 and your mom?

4 A We live off of ~~La Kinard~~ and ~~Houston~~, I think it is,
5 that corner.

6 Q Where is that?

7 A That is in Prosperity.

8 Q How far from this courthouse is that?

9 A A good twenty minutes I would say.

10 Q Are y'all living in a house, apartment, trailer?

11 A We live in a trailer.

12 Q Okay. Is it a, is it bigger or small than your old
13 house on ~~Wilson Road~~ with Craig?

14 A Much smaller.

15 Q Much smaller?

16 A Yes.

17 Q Is it a nice trailer, or is it older, or what?

18 A I wouldn't say it's older, but it's not newer.

19 Q Now the part of town you live in now, is that kind of
20 far away ~~from downtown~~ Prosperity?

21 MS. BROWDER: Your Honor, I'm going to object at this
22 point as what this has to do with relevancy, as to what
23 this has to do with any of the allegations.

24 THE COURT: Solicitor?

25 MR. DANIEL: Your Honor, it goes to their change in

1 lifestyle now.

2 THE COURT: Okay. And relevance of, of that?

3 MR. DANIEL: Well, I think it would be implied that,
4 that she's fabricating these things, just based on
5 Defendant's own statement to law enforcement. And I'm
6 trying to establish this change in lifestyle.

7 MS. BROWDER: Your Honor, change in lifestyle
8 afterwards as to where she's living is not relevant as to
9 whether these allegations occurred or not.

10 THE COURT: Well, if you feel like you can land the
11 plane pretty quickly on this, Solicitor, I'll allow you to
12 continue.

13 MR. DANIEL: Yes, I'll wrap up ~~the case~~.

14 THE COURT: I'll overrule at this time but try to
15 finish this lineup please.

16 MR. DANIEL: Yes, sir.

17 Q So you're living kind of out there in Prosperity now,
18 is that correct?

19 A Correct.

20 Q Okay. Where you lived in ~~Wilson Road~~, was that
21 closer to stores, restaurants?

22 A Yes.

23 Q Okay. And you and your mom are on good terms now?

24 A Yes.

25 Q Okay.

1 A We've always been on good terms. Our communication
2 is getting better though.

3 Q Did you want to be in foster care away from your mom?

4 A No.

5 Q Were you glad to be away from Craig while you were in
6 foster care?

7 A Yes.

8 Q Everything you told, told us today truthful?

9 A Yes.

10 Q All these sexual encounters with Craig happened?

11 A Yes.

12 Q Any other reason that you would say these things
13 about Craig?

14 A No.

15 MR. DANIEL: Beg the Court's indulgence.

16 THE COURT: Sure.

17 Q All right. Your phone's pretty important to you?

18 A Yes.

19 Q Okay. Are you, do you have some kind of ax to grind
20 with Craig because your phone was taken away?

21 A No.

22 Q Would that be a reason you would falsely report Craig
23 sexually abuse you because you're mad at him over your
24 phone?

25 A No.

1 Q All right. Please answer any questions that Ms.
2 Browder has for you.

3 THE COURT: Okay. Cross-examination?

4 MS. BROWDER: Beg the Court's indulgence.

5 THE COURT: Sure, take your time.

6 CROSS-EXAMINATION

7 By Ms. Browder:

8 Q All right. ~~Halley~~ you stated that you moved down
9 here in June 2015, correct?

10 A Correct.

11 Q Okay. And living in the home, was CJ, Craig and your
12 mom?

13 A Correct.

14 Q Okay. And the home, you said was three bedrooms and
15 two baths. Can you explain the home a little bit, where
16 each bedroom is and who's in what bedroom?

17 A We didn't use the front door at all because the,
18 where our driveway was it was a lot easier to go through
19 the back door. So, we would go, when you go into the back
20 door you have the foyer and then to your left you have the
21 kitchen and right up ahead of you is the living room.

22 Q Okay. Is that on the, kind of in the front, I mean,
23 that's both on the left?

24 A Right in front of you is where the foyer is. And
25 then you would go to the, the living room is right in

1 front of the foyer.

2 Q Okay.

3 A And to the left is the kitchen.

4 Q Okay. All right. And then where are the bedrooms in
5 relation to that?

6 A To the right is where the hallway is. The first room
7 is my bedroom.

8 Q Okay.

9 A Then you would go down to my parent's bedroom and in
10 between my bedroom and my parent's bedroom on the left
11 side of the hallway would be the bathroom. The first
12 bathroom.

13 Q Okay.

14 A And then if you take a left would be my
15 step-brother's bath, I mean, step-brother's room and then
16 a bathroom right next door.

17 Q And, CJ is the step-brother, right?

18 A Yes.

19 Q And his bedroom is approximately six feet away from
20 your parent's bedroom?

21 A Yes.

22 Q Okay. So, probably about this far away? Is that
23 about six feet?

24 A I would say so, yes.

25 Q Okay. And how far away was your room from CJ's room?

1 A I'd say it would be about from here to right, right
2 where the wall was.

3 Q So a little bit further away from your parent's
4 bedroom?

5 A Yes.

6 Q Okay. All right. And you said your grandmother
7 moved in around September of 2016, correct?

8 A Correct.

9 Q Okay. And did she work? She didn't work, did she?

10 A Not at first.

11 Q Okay. So she was home a good bit of the time?

12 A Yes.

13 Q Okay. When you first started testifying, you
14 testified about places you would go, your relationship
15 with Craig and how y'all would go places and do things,
16 correct?

17 A Correct.

18 Q Okay. Once this abuse allegedly started, you
19 continued to go places with him, correct?

20 A Correct.

21 Q And you asked to go places with him, correct?

22 A Correct.

23 Q And you continued to hug on him in public around
24 other people?

25 A Correct.

1 Q And I'll get to the Counts later, but you stated you
2 would go to church. Is that where you met the Counts?

3 A Yes, that's where I met their daughter.

4 Q Okay. ~~Hailey~~?

5 A Yes.

6 Q And, ~~Hailey's~~ your best friend?

7 A Yes.

8 Q And how long has she been your best friend?

9 A Since, I'd say the summer of 2015. We, that's when I
10 started going to church and that's when we met.

11 Q So, about when you moved here?

12 A Yes.

13 Q Okay. So approximately two and a half years at this
14 point?

15 A Yes.

16 Q All right. Then you stated that, I guess, towards
17 the end you, of your testimony, you stated that it would
18 happen often, correct?

19 A Correct.

20 Q Okay. Do you recall previously testifying regarding
21 these allegations?

22 A Correct.

23 Q Okay. And you recall testifying, at that time, it
24 happened every single day?

25 A Rephrase that.

1 Q You recall when you testified previously about these
2 allegations, that they occurred every single day?

3 A I don't remember saying that.

4 Q Would you like me --

5 A I don't remember saying that.

6 Q If I showed you the transcript of it, would it help
7 you to refresh your memory as to what you testified to?

8 A I guess. Yeah.

9 MR. DANIEL: Your Honor, can Ms. Browder show us what
10 page to turn to?

11 MS. BROWDER: It's page 61.

12 Q Show you page 61 of the transcript. Page 61 of the
13 transcript, do you recall testifying that this occurred
14 every single day?

15 A Yeah, after a while it would start but not at first.

16 Q Okay. But you never told anybody before that day
17 that it happened every single day, correct?

18 A Correct.

19 Q The only person you had told that to, was the DSS
20 attorney?

21 A Correct.

22 Q And, but today you're testifying differently, saying
23 that it did not happen every single day?

24 A Correct.

25 Q Okay.

1 THE COURT: What was the answer? I did not hear her.
2 A Correct.
3 Q And when this would happen, you stated that CJ would
4 be home sometimes, correct?
5 A Correct.
6 Q Okay. And his room was approximately this far away
7 from you?
8 A Correct.
9 Q And you said the door would be open some of the time,
10 to your parent's bedroom?
11 A Correct.
12 Q Okay. And CJ never heard anything?
13 A No.
14 Q As far as you're aware he never came into the room?
15 A He never did.
16 Q And your grandmother was home a majority of those
17 days, correct?
18 A Correct.
19 Q Okay. And she never came into the room or called for
20 you or asked for you or anything to see what was going on?
21 A She would call for me but not always.
22 Q Okay. So she could hear you from Craig's bedroom?
23 You could hear, you could hear her from Craig's bedroom?
24 A Correct. But she couldn't hear us.
25 Q And the door would be open at those times?

1 A Correct.

2 Q Okay. And you previously testified that Craig would
3 perform oral sex on you, correct?

4 A Correct.

5 Q You have never mentioned that to anybody before your
6 testimony today, have you?

7 A I have.

8 Q To who?

9 A To the DSS attorney.

10 Q You didn't testify about it in the previous hearing,
11 though, did you?

12 A That was my first, what do you mean?

13 Q Have you ever testified previously, when asked what
14 has happened to you, that Craig performed oral sex on you?

15 A I could have sworn I did.

16 Q But if you were to look at a transcript, would it
17 surprise you that you did not testify to that previously?

18 A Yes.

19 Q And you started, you said you first told, tried to
20 tell your mom when you were talking to Tony, correct?

21 A Correct.

22 Q Okay. And that was your boyfriend your eighth-grade
23 year?

24 A Correct.

25 Q Okay. And then again with Connor, your eighth-grade

1 year?

2 A That --

3 Q Or is that ninth grade?

4 A That was my eighth grade. Well, end of eighth grade.

5 Q Okay. And were you very close with Tony and Connor?

6 A I wasn't that close with Tony, but we were pretty
7 close.

8 Q Were you closer with Tony or Kailey, your best
9 friend?

10 A My best friend.

11 Q Did you ever tell Kailey anything?

12 A No.

13 Q Okay. But you would share secrets with Kailey?

14 A Correct.

15 Q But you would never tell her this despite her being
16 your best friend?

17 A Correct.

18 Q All right. And then you would tell your mom it
19 didn't happen, correct?

20 A Correct.

21 Q And she would push it and say please tell me, I'd
22 kill for you?

23 A Correct.

24 Q And you still wouldn't tell her?

25 A Correct.

1 Q You stated in October of 2016, was when a specific
2 time you remember, correct?

3 A Correct.

4 Q And you were home from school sick that day?

5 ~~A~~ I was not home from school sick that day.

6 Q So you don't recall reporting previously that you
7 were home from school sick that day?

8 A If I'm sick, I still go to school unless I'm severely
9 sick.

10 Q Okay. So, you don't recall previously reporting --

11 A No.

12 Q -- to the forensic interviewer that you were home
13 sick that day from school?

14 A I don't. Honestly, I, so much happened in the last
15 two, in those last two months of me being taken, I don't
16 remember anything I said.

17 Q Okay. Would it surprise you, you were never home
18 sick from school in October of 2016? Or that you missed
19 any day from school in October of 2016?

20 A Not that I can recall.

21 Q And you just testified regarding performing oral sex
22 on Mr. Busse. You stated he has issues getting an
23 erection, correct?

24 A Correct.

25 Q If he has issues getting an erection, how's it

1 possible to perform oral sex on him?

2 A I don't know. It was possible though.

3 Q But you're aware he had surgery, correct?

4 A Correct.

5 Q And you just testified previously that he didn't tell
6 you about the surgery, he just said he had a health issue,
7 correct?

8 A He said he had a health issue. He never said
9 anything about surgery.

10 Q All right. So how would you know about the surgery?
11 You overheard your mom and dad talking?

12 A No. They, if the door was closed, I'd leave it. I
13 would just wait till the door was open.

14 Q So then how are you aware that he had surgery?

15 A He told me himself.

16 Q But you just testified, just a second ago, that he
17 did not tell you he had surgery. So which one is it?

18 A He did tell me.

19 Q When did he tell you?

20 A The time he had me perform oral sex on him, he told
21 me that he has problems.

22 Q Okay. And you stated the last encounter was
23 approximately a week before law enforcement got involved?

24 A Correct.

25 Q Okay. And you stated it happened often. But

1 previously you testified every single day, correct?

2 A Correct.

3 Q On Valentine's Day, after school, were you at home
4 after school? You went to ~~Monte's~~ after school, correct?

5 A Correct.

6 Q Okay. And that was a Thursday maybe?

7 A I'm not sure what day it was, but I know it was on
8 Valentine's Day.

9 Q And on Monday the 20th of February, you also went to
10 ~~Monte's~~ house after school, correct?

11 A Correct.

12 Q Okay. And on the 23rd you went to ~~Monte's~~ house
13 after school, correct?

14 A Correct.

15 Q The 24th, your mom picked you up from school and
16 y'all took ~~Monte's~~ home, correct?

17 A Correct.

18 Q So you weren't alone with Craig on those days after
19 school, correct?

20 A Correct.

21 Q So it couldn't of happened every single day at that
22 point, correct?

23 A Correct.

24 Q All right. And on February 17th, 2017, your mom
25 picked you up from school and y'all went to Casalinda with

1 everybody and the Counts, correct?

2 A Correct.

3 Q Okay. So, you weren't alone with Craig that day
4 either, correct?

5 A Correct.

6 Q And you testified that Craig was the disciplinarian,
7 right?

8 A Correct.

9 Q But your mom would be the one that would take the
10 phone away from you when you got in trouble, right?

11 A Not always.

12 Q Several days before these allegations, or, that you
13 told ~~you~~, you had a fight with your mom and Craig about
14 the phone, correct?

15 A Correct.

16 Q And Craig took the phone away from you?

17 A Correct.

18 Q And it was a big to do about him taking that phone
19 away from you and punishing you, correct?

20 A Correct.

21 Q Okay. And after these allegations were you allowed
22 to have your phone in foster care?

23 A No. Not at first.

24 Q Okay. When did you get your phone back?

25 A It was, I think, about a month after I was taken into

1 foster care they allowed me to have my phone.

2 Q Okay. And your mom had previously taken your phone
3 away, but she would give it back, right?

4 A Correct.

5 Q Okay. And since you've been in foster care, you had
6 your phone the entire time at that point, right?

7 A Correct.

8 Q Okay. The Solicitor asked you why you did not tell
9 your guidance counselor. And you stated you were scared
10 and confused, right?

11 A Correct.

12 Q You've been in therapy since November of 2015,
13 correct?

14 A Correct.

15 Q Who would take you to therapy?

16 A Nobody would take me into therapy, because it was an
17 at school thing.

18 Q Okay. So, you would see a therapist at school?

19 A Correct.

20 Q And how often would you see her? Approximately once
21 a week?

22 A It would, correct.

23 Q And once a week when you're talking to your
24 therapist, you would never once bring up the fact that
25 your step-father was abusing you?

1 A Correct.

2 Q Okay. And then in December of 2015, you were
3 hospitalized, correct?

4 A Correct.

5 Q Okay. And when you were hospitalized, you were there
6 for five days, correct?

7 A Correct.

8 Q Okay. And the doctors had to do an assessment and
9 talk to you because it was over a cutting incident,
10 correct?

11 A Correct.

12 Q Did you ever once tell your doctors about Craig
13 sexually abusing you?

14 A No.

15 Q Okay. And you weren't allowed to see Craig and
16 Meagan, too often, at the hospital, correct?

17 A Correct.

18 Q You were alone a lot of the time with the doctors and
19 nurses?

20 A Correct.

21 Q So they weren't around or anything of that nature,
22 correct?

23 A Correct.

24 Q All right. Now ~~Tracy~~, the way this came out. Let me
25 first talk about your relationship with ~~Tracy~~. You just

1 testified she's a really good friend, right?

2 A Correct.

3 Q Okay. And what's ~~Leah's~~ last name?

4 A ~~Meelze~~

5 Q Okay. You haven't always known that's her last name,
6 have you?

7 A I'm horrible with names.

8 Q One of your best friend's name that you disclose
9 sexual abuse to, you did not know her last name?

10 A She was not my best friend. We were good friends,
11 but she was not my best friend.

12 Q But you felt safe enough with a friend you didn't
13 even know the last name of to give sexual abuse
14 allegations to?

15 A I knew her last name, but I have trouble remembering
16 people's names. I don't pay attention to last names.

17 Q Okay. Have you turn to page 64 of the transcript
18 where you previously testified. Go down to line 20 where
19 you were asked what's ~~Leah's~~ last name. You said ~~Meelze~~
20 I think. And I said, so, you're not really close but you
21 don't know, so you're really close but you don't know last
22 names, you said you're horrible with names. But you
23 weren't sure that that was her name, correct?

24 A Correct. ~~Meelze~~

25 Q Okay. When did you first become Facebook friends

1 with [REDACTED] It was in January of this year, correct?

2 A Correct.

3 Q Okay. But you're really close friends?

4 A Correct.

5 Q And you previously admitted in testimony to lying to
6 the DSS caseworkers, correct?

7 A I didn't lie.

8 Q Have you turn to page 66 of the transcript. Hold on.
9 It might not be that page. Hold on just a second. Page
10 66, the question was, and it's fair to say that you've
11 lied to the caseworkers and been inconsistent with some
12 things you've told them, correct? And your answer was,
13 correct.

14 A I didn't lie, but I was inconsistent about some of
15 them.

16 Q Okay. And finally you went into foster care and you
17 eventually went to live with the Counts, correct?

18 A Correct.

19 Q And, obviously you're very close with [REDACTED] Bailey

20 A Correct. [REDACTED]

21 Q Are you close with her parents?

22 A We were close. Yes.

23 Q Okay. Would you consider her mom like a second mom
24 to you? [REDACTED]

25 A Correct.

1 Q Okay. And you never said anything to her about this,
2 correct?

3 A Correct.

4 Q Do you recall after testifying at the DSS hearing,
5 you were still living with the Counts, correct?

6 A Correct.

7 Q Do you recall making the statement after your
8 testimony, I'm a good actress, to Ms. Counts? While
9 sitting in the Arby's discussing your testimony. Do you
10 recall making a statement to her, I'm a good actress,
11 aren't I?

12 A No.

13 Q So you're denying you ever made that statement?

14 A I'm denying it.

15 MS. BROWDER: No further questions, Your Honor.

16 THE COURT: Okay. Redirect, Solicitor?

17 MR. DANIEL: Yes, sir.

18 REDIRECT EXAMINATION

19 By Mr. Daniel:

20 Q All right. ~~Wiley~~ you got a copy of this transcript
21 Ms. Browder asked you about. If you could, flip it to
22 page 61. Are you on page 61?

23 A Correct.

24 Q Okay. Read to me, ~~Wiley~~ line eight.

25 A Okay. And you're claiming this happened almost every

1 single day, correct?

2 Q All right. Read to me the answer in line 10.

3 A After a while, it was almost every day.

4 Q Okay. So you didn't, and this is the hearing Ms.

5 Browder's referring too where you testified, DSS hearing.

6 And you never said it happened every day. You said almost

7 every day, correct?

8 A Correct.

9 Q Okay. Aren't you just meaning it happened a lot?

10 A Correct.

11 Q All right. And turn it to page 48 for me, this

12 transcript, please. All right. Read to me the question

13 in line eight.

14 A Did he ever put his mouth anywhere else?

15 Q Read the answer in line nine.

16 A Yes.

17 Q Okay. Line 10.

18 A Where?

19 Q And then your answer in line 11.

20 A On my vagina.

21 Q Okay. Go to line 14. Read me the question.

22 A Okay. How many times did this happen?

23 Q And your answer in line 15 was?

24 A Only about five to six times.

25 Q Okay. I believe Ms. Browder asked you on

1 cross-examination, that you never told anyone about Craig
2 performing oral sex on you.

3 A Correct.

4 Q But according to that transcript you just read out,
5 you did.

6 A I didn't tell anybody about it, but it happened.

7 Q Well, you testified to it.

8 A Correct.

9 Q Okay. All right. Let's go to page 66. All right.
10 You admitted in page 66, to being inconsistent with some
11 of the DSS caseworkers, correct?

12 A Correct.

13 Q Okay. But here you're admitting to being
14 inconsistent?

15 A Correct.

16 Q Okay. And what is, what's being referred to? What
17 were you inconsistent about?

18 A The dates.

19 Q Okay.

20 A The, how many times it happened.

21 MR. DANIE: That's all the questions I have, Your
22 Honor. Thank you.

23 THE COURT: Okay. Anything in re-cross?

24 MS. BROWDER: No, sir.

25 THE COURT: You can step down ma'am. Okay. Mr.

1 Foreman and ladies and gentlemen of the jury, it looks
2 like it's about eight until 1:00. So this would be a good
3 time to take a lunch break. So I'm going to ask that you
4 be back at 2:30. And as I told you yesterday and I know
5 you maybe don't like to walk around with these juror
6 stickers but if you are in a restaurant, something public,
7 if you could have that visible, I would appreciate that.
8 Again no discussion among yourselves or anybody that you
9 come into contact with. Have a good lunch and we'll see
10 you back at 2:30.

11 (Whereupon, the jury was excused from open court for
12 a lunch break.)

13 THE COURT: Okay. We'll be in recess until 2:30.

14 (Whereupon, a lunch break was taken.)

15 THE COURT: Anything for the record before we bring
16 the jury out?

17 MR. DANIEL: No, Your Honor.

18 THE COURT: From the defense?

19 MS. BROWDER: No, sir.

20 THE COURT: Okay. All right. Madam Bailiff, will
21 you bring the jury out please?

22 (Whereupon, the jury came into open court at
23 approximately 2:40 p.m.)

24 THE COURT: Let the record reflect the jury is back
25 in the courtroom. Solicitor, ready to call your next

1 witness?

2 MR. DANIEL: Yes, Your Honor. The State calls Betsy
3 Price.

4 THE COURT: Okay. Come around please ma'am.

5 BETSY PRICE, being
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 By Mr. Daniel:

9 Q State your name, please.

10 A Betsy Price.

11 Q Ms. Price, where are you currently employed?

12 A I am currently in between employment jobs at the
13 moment.

14 Q Where were you last employed?

15 A I was last employed at the South Carolina Youth
16 Advocate Program in Columbia, South Carolina.

17 Q Okay. And when were you last working there?

18 A I last worked there about two weeks ago.

19 Q Okay. And now you're in between jobs. What was
20 your, what was your position at the Youth Advocate
21 Program?

22 A I was a mental health clinician.

23 Q Okay. And what were your duties as a mental health
24 clinician?

25 A My job was to conduct comprehensive bio-psychosocial

1 assessments on children in foster care.

2 Q So I guess in layman's terms, I guess, what did you
3 do?

4 A I basically talked with children in foster care and
5 came up with mental health diagnosis for them.

6 Q Okay. So, you do mental health assessments on
7 children that have been placed in the foster care?

8 A Not just the foster care, but primarily foster care.
9 Yes.

10 Q Okay. And what's your background? Educational
11 background?

12 A I have a Master's Degree in social work and I have my
13 license. I am a licensed independent social worker in
14 clinical practice in the State of South Carolina.

15 Q Okay. And what, what about your undergrad?

16 A Undergraduate degree was in social work and
17 psychology.

18 Q Okay. And does your degree and you're a licensed
19 social worker, does your degree allow you to make
20 diagnosis of mental health disorders?

21 A Yes it does.

22 Q Okay. And you're always typically working with
23 children in a therapy type session?

24 A That is my preference, yes.

25 Q Okay. Did you have an occasion to work with a

1 teenage girl by the name of ~~Alley Woodward~~?

2 A Yes, I did.

3 Q And that was when you were employed with the Youth
4 Advocate Program?

5 A That is correct.

6 Q Okay. And where, where is, where's that located?

7 A In Columbia, South Carolina.

8 Q Okay. And so, you did therapy sessions, you
9 conducted therapy sessions with ~~Alley~~?

10 A I did.

11 Q When did that start?

12 A That began in April of 2017.

13 Q Okay. And have you ever testified in court before
14 for your job?

15 A I have testified in Family Court before.

16 Q Okay. And again, you're qualified as part of your
17 license, LISW?

18 A Correct.

19 Q That's Licensure of Independent Social Work.

20 A Correct.

21 Q So you're equipped or allowed to make the diagnosis
22 of mental health disorders?

23 A Yes.

24 Q Give us some examples of mental health disorders you
25 diagnose.

1 A Examples of mental health diagnosis could include
2 post traumatic stress disorder, major depressive disorder,
3 oppositional defiant disorder and anxiety disorder.

4 Q And do you attend seminars, continuing education
5 courses for your license?

6 A Yes, I do.

7 Q Okay. Do you do any research or study, study
8 anything, studies related to your field?

9 A I am continuously looking for opportunities to expand
10 my knowledge in my field, because it's an ever-changing
11 field.

12 Q Okay.

13 MR. DANIEL: Your Honor, at this time, I would offer
14 Ms. Price as an expert in the field of, of
15 child/adolescent mental health assessments.

16 THE COURT: Okay.

17 MS. BROWDER: I just have a couple questions, Your
18 Honor.

19 THE COURT: Okay. Concerning qualifications?

20 MS. BROWDER: Yes, sir.

21 THE COURT: Okay. You may proceed.

22 CROSS-EXAMINATION ON QUALIFICATIONS

23 By Ms. Browder:

24 Q Ms. Price, what year did you graduate from undergrad?
25 Where did you go, I missed that part.

1 A My undergraduate degree was from Columbia College in
2 Columbia, South Carolina. I graduated from there in 2005.

3 Q Okay. And where was your Master's?

4 A University of South Carolina, Columbia.

5 Q And when was that?

6 A 2006.

7 Q And just, I don't know how it works, it only takes a
8 year to get a Master's Degree after graduating?

9 A I was in a specialized program because my
10 undergraduate degree was from an accredited social work
11 program. I was able to complete my Master's degree in one
12 year.

13 Q Okay. And how many hours is it for a Master's degree
14 in that, approximately.

15 A It's probably about, probably about 40 hours.

16 Q And after you graduated from there, where did you go
17 to work?

18 A After I left, after I graduated, I went to work for
19 Carolina Children's Home which was a group home in
20 Columbia, South Carolina at that time.

21 Q Okay. And how long were you there?

22 A I worked there for a year and a half.

23 Q All right. And where did you go after that?

24 A After that I left and went to the South Carolina
25 Department of Mental Health inpatient hospitals.

1 Q Okay.

2 A And I worked there for three years.

3 Q Okay. And then after that, is that when you went to
4 SCYAP.

5 A Yes ma'am. That is correct.

6 Q All right. And that's the South Carolina Youth
7 Advocacy?

8 A Advocate program.

9 Q Advocate program.

10 A Yes ma'am.

11 Q And why did you leave there two weeks ago?

12 A I left there because of difference of opinion with my
13 supervisor.

14 Q Did you leave or were you terminated?

15 A I left.

16 Q And you stated, have you ever been qualified as a, as
17 an expert witness in a court proceeding?

18 A No.

19 Q How many times have you testified in court previous
20 to today?

21 A Again, only in Family Court, and prior to today,
22 probably five or six times.

23 MS. BROWDER: No further questions, Your Honor.

24 THE COURT: Okay. Is there any objection to Ms.

25 Price being qualified as an expert in child mental health

1 assessment?

2 MS. BROWDER: No, sir.

3 THE COURT: Okay. Without objection, Ms. Price is
4 found to be an expert in that area. You may proceed
5 Solicitor.

6 MR. DANIEL: Thank you, Your Honor.

7 CONTINUE DIRECT EXAMINATION

8 By Mr. Daniel:

9 Q All right. Ms. Price, again, going back to ~~Hailey~~
10 ~~Woodward~~, you did conduct therapy sessions with ~~Hailey~~
11 ~~Woodward~~, you said April of 2017 is when it started?

12 A That is correct.

13 Q Okay. And how did that come about?

14 A At that time ~~Hailey~~ was in foster care. And she was
15 in a therapeutic foster home through our agency at that
16 time. And I did ~~Hailey's~~ assessment which was required
17 for her to be in our foster home through Medicaid
18 standards. And after completing her assessment I chose to
19 take her on as a therapy client.

20 Q Okay. And approximately how long were you and Hailey
21 doing these therapy sessions?

22 A ~~Hailey~~ and I did therapy sessions starting in April
23 and we ended in August of 2017.

24 Q Okay. So I guess five months or so?

25 A Correct.

1 Q Okay. And how often would y'all meet for these
2 sessions?

3 A We would meet every week. We would meet for an hour
4 individually, ~~Valley~~ and I would. And then ~~Valley~~ and her
5 mother and I would meet for an hour for family therapy.

6 Q Okay. And in these therapy sessions, did y'all
7 discuss the allegations in this case?

8 MS. BROWDER: Your Honor, I have a matter of law at
9 this point.

10 THE COURT: Okay. All right. Mr. Foreman and ladies
11 and gentlemen of the jury, we have a legal issue that I
12 need to discuss with the lawyers. So if you'll go back to
13 the jury room and hopefully won't be long and we'll get
14 you back out.

15 (Whereupon, the jury was excused from open court.)

16 THE COURT: Okay. I think the question that the
17 Solicitor asked was, did Ms. Price discuss the allegations
18 with, with ~~Valley~~ And you've objected so I'll be glad to
19 hear from you.

20 MS. BROWDER: Thank you, Your Honor. At this point,
21 I think we're getting dangerous, dangerously close to the
22 same thing as a forensic interviewer expressing what was
23 told to her in an interview which is essentially a therapy
24 session for Ms. Price regarding the allegations in the
25 case. In State v. Berry, which I think she would be able

1 to testify to regarding that she can explain common
2 behaviors and characteristics associated with child sexual
3 trauma and said that she observed some of the same things
4 in the victims which she attributed to PTSD, which I'm
5 assuming where this is going. I'm not sure at this point.
6 We may need to take some in-camera testimony as to that.
7 The assessment that she did, Your Honor, she diagnosis her
8 on that day which is March 2017. So I'm not sure if
9 anything after that would go to her diagnosis, as she has
10 already diagnosed her prior to that. And I think she can
11 just get into what PTSD symptoms are and that she observed
12 some of those in the victim, not exactly what was said or
13 that sort of thing. Like I think she can kind of say how
14 she came to that conclusion, but not going into specifics
15 of what the victim told her.

16 THE COURT: Well, without knowing specifically what,
17 what she's going to testify to. Let's, let's just hear
18 from her in-camera and see what you're asking, see what
19 she says and then we'll go from there.

20 IN-CAMERA TESTIMONY

21 By Mr. Daniel:

22 Q All right. Ms. Price, did y'all, did you and Bailey,
23 as part of your therapy sessions, discuss the allegations
24 in this case we're here to try today?

25 A Yes.

1 Q Okay. And concerning these allegations did Hailey
2 ever indicate where these incidents took place?

3 A Yes, she did.

4 Q Okay. And where did Hailey indicate these incidents
5 took place?

6 A Hailey indicated that the incidents took place at
7 home in her parent's bedroom with the door shut.

8 Q Okay. And did Hailey give you a timeframe of when
9 these incidents took place?

10 A I cannot recall certain exact dates. But I do recall
11 that Hailey indicated that this occurred after she and her
12 mother moved to South Carolina.

13 Q And did Hailey indicate to you when it ended?

14 A Hailey indicated that it went on continuously up
15 until the time that she entered foster care. Or prior,
16 right prior to entering foster care.

17 MR. DANIEL: And, Your Honor, I was just going to ask
18 those questions as it relates to the hearsay exception in
19 801(d)(1)(d).

20 THE COURT: Right.

21 MR. DANIEL: And then after that I was going to go
22 into PTSD. Some of the behavioral symptoms that Hailey
23 exhibited.

24 THE COURT: Right. And any observations that she may
25 have made.

1 Q Ms. Price--,

2 THE COURT: That's a question to you.

3 MR. DANIEL: Oh, yes. Okay. I was going to ask her,
4 what did therapy sessions entail? And then we would talk
5 about, you know, the criteria for diagnosing someone with
6 a mental health disorder.

7 THE COURT: Okay. All right.

8 MS. BROWDER: Your Honor, my objection would be as to
9 what did the therapy entail because she did not start
10 therapy with this particular client of her's until after
11 she made the assessment and diagnosed her PTSD in March of
12 2017.

13 THE COURT: So as far as what the therapy entailed,
14 how would that be, I think, let me make sure, you're good
15 with certainly, time and place?

16 MS. BROWDER: Of course. Yes.

17 THE COURT: Right. And you're good with her
18 testifying as to the characteristics of PTSD and what she
19 observed about [REDACTED] that caused her to make that
20 diagnosis?

21 MS. BROWDER: Yes, sir.

22 THE COURT: Okay. You're good all the way up until
23 that point.

24 MS. BROWDER: Right. And that would be what she
25 observed prior to March 15, 2017 when she made the

1 diagnosis.

2 THE COURT: Right. Okay. So how would it be
3 relevant as far as her testifying to what the therapy
4 entails? She, she's testified or will testify as to
5 ~~being~~ being diagnosed with PTSD. Those who have the same
6 characteristics as others who have that same diagnosis.
7 How does the therapy--

8 MR. DANIEL: Well, Your Honor, I was, I guess, we're
9 getting mixed up here. I was just going to ask her what
10 the symptoms she exhibited that were consistent with PTSD.

11 THE COURT: Right.

12 MR. DANIEL: And I, I wasn't aware about this March
13 15th date. But I'm not going into the actual, you know,
14 subsequent therapy sessions. I just, I'm just covering
15 PTSD really.

16 THE COURT: Okay.

17 MS. BROWDER: And I'm okay if he covers that up to
18 why she made that diagnosis on that day. And I just would
19 object to anything past that as to why she did therapy
20 sessions with her after, because I think that's getting
21 into her recommendations as a result of her diagnosis
22 which I don't believe she should be able to go into.

23 THE COURT: Now, this March date, I thought she said
24 that, all right, the therapy session started in April of
25 2017 but she actually saw ~~before~~ prior to that in order to

1 make the diagnosis.

2 MS. BROWDER: Correct, Your Honor. In the discovery
3 that the Solicitor's Office sent to me her assessment is
4 in there and the date of the assessment was March 15th,
5 2017 and it's signed by Ms. Price. ~~What is~~

6 THE COURT: Okay. So after the assessment is made,
7 then Solicitor Daniel, you not planning to go into that?

8 MR. DANIEL: No, sir.

9 THE COURT: Okay. So, I, I think we're okay with
10 just maybe saying it a little bit different.

11 MS. BROWDER: Yes.

12 THE COURT: Okay.

13 MS. BROWDER: I'm okay with that.

14 THE COURT: I don't see a need then, because I think
15 we all have an understanding to where we are, I don't see
16 a need to continue any in-camera testimony. Okay?

17 MS. BROWDER: I'm fine with that.

18 THE COURT: Certainly, you can object to, if the line
19 gets crossed a little bit. Let's bring the jury out
20 please.

21 (Whereupon, the jury came into open court at
22 approximately 2:55 p.m.)

23 THE COURT: The jury is back in. Solicitor, you may
24 proceed.

25 MR. DANIEL: ~~Thank you~~, Your Honor.

DIRECT EXAMINATION

Q Ms. Price, I know you testified earlier April of 2017 is when you said you began therapy sessions with [REDACTED] Woodward?

A That is correct.

Q But prior to starting therapy sessions do you conduct an initial assessment of the child you're doing sessions with?

A Yes, I do.

Q Okay. And tell us, in this particular case, you did conduct an assessment on [REDACTED] Woodward?

A That is correct.

Q Okay. Tell us what a mental health, an initial mental health assessment entails.

A An initial mental health assessment entails a face to face interview with the individual as well as a review of any additional records such as doctor's notes, mental health notes, legal documents, et cetera that are relevant to the child.

Q Okay. And did y'all, did you and [REDACTED] discuss the allegations in this case?

A During the assessment we briefly touched on it.

Q Okay. All right. And did [REDACTED] indicate to you where this incident took place?

A Yes, she did.

1 Q Okay. Where did ~~Hailey~~ indicate this incident took
2 place?

3 A ~~Hailey~~ indicated that this incident would occur at
4 home in her parent's bedroom with the door shut ~~and~~

5 Q All right. And as far as the timing of this
6 incident, did ~~Hailey~~ give you a timeframe of when this
7 occurred?

8 A Yes, she did.

9 Q Okay. And when was that?

10 A ~~Hailey~~ would, indicated that this would occur usually
11 in the afternoons ~~after school~~. Always while her mother
12 was at work.

13 Q Did Hailey indicate when this started?

14 A She indicated that this started after she and her
15 mother moved to South Carolina.

16 Q Did ~~Hailey~~ indicate, was it ongoing or when it ended?

17 A ~~Hailey~~ indicated that it was ongoing. And it ended
18 prior, it ended just before she entered foster care.

19 Q Okay. All right. Now going back to this initial
20 mental health ~~assessment~~, what's the purpose of it?

21 A The purpose of the mental health assessment is to
22 help identify a diagnosis for the child so that treatment
23 services can begin ~~and~~

24 Q Are you trying to determine if ~~Hailey~~ has some type
25 of mental health disorder?

1 A That is the purpose of the assessment.

2 Q Okay. Tell us how you went about that with Hailey.

3 A So [REDACTED] and I discussed her family background, the
4 reason that she had entered foster care. And we talked
5 about her education. We talked about any previous mental
6 health that she had received, mental health treatment that
7 she had received. And it was a face to face interview.

8 Q Okay. So you initially start out with a face to face
9 interview? [REDACTED]

10 A Correct.

11 [REDACTED] Q All right. And so at that point are you looking to
12 see if, or detect any mental health disorders?

13 A Detecting a mental health disorder is a very delicate
14 process. It requires observation of the individual. It
15 also requires discussion of signs and symptoms with that
16 individual.

17 Q Okay. Do you begin to go through a checklist to see
18 what symptoms she's displaying?

19 A I did.

20 Q Okay. Tell us about that.

21 A So I, in addition to the diagnostic statistic manual
22 which I utilize to make mental health diagnosis, I also
23 utilized a screen called the child PTSD symptom scale.
24 This particular scale is considered to be valid and
25 reliable because it has been utilized, has been utilized

1 at least twice and more, and published peer review
2 articles. This particular screen basically is a symptom
3 checklist. It goes straight down the ~~criteria~~ and the,
4 DSM 5 and helps to confirm symptoms associated with post
5 traumatic stress disorder.

6 Q PTSD, post traumatic stress disorder.

7 A Correct.

8 Q All right. So, you went through this checklist with
9 ~~Mailey~~, to see what symptoms she was exhibiting?

10 A I did.

11 Q All right. Did you observe any symptoms that ~~Mailey~~
12 exhibited, that were consistent with any type of mental
13 health disorder?

14 A I did. ~~Mailey~~ was very hesitant to talk about her,
15 her traumas. She was very avoidant and tried not to talk
16 about any of the different topics, she appeared depressed,
17 she was very irritable. There were concerns that she had
18 been cutting on herself. And she was also having
19 difficulty demonstrating positive emotions.

20 Q So of all the factors you look for to see if
21 someone's displaying symptoms of PTSD, what factors was
22 ~~Mailey~~ displaying that were consistent with PTSD
23 diagnosis?

24 A Consistent with a PT, PTSD diagnosis, she had to have
25 directly witnessed or experienced some type of traumatic

1 event.

2 Q Okay.

3 A She had to be exhibiting at least one, one symptom,
4 which we refer to as an intrusion symptom. And in
5 ~~Hailey's~~ case her intrusion symptom was recurrent
6 intrusive memories about the event as well as distressing
7 dreams.

8 Q Okay.

9 A She had to demonstrate avoidance of events associated
10 with the traumatic event, which she was demonstrating, as
11 she was very hesitant to talk about the event. She had to
12 demonstrate negative alterations in her thoughts and her
13 mood. ~~Hailey~~ was demonstrating persistent negative
14 thoughts that everything was her fault. She was also
15 having difficulty experiencing any type of positive
16 emotions at that time. The last criteria is that Hailey
17 had to have mark alterations in arousal and reactivity
18 associated with the event. ~~Hailey~~ was very irritable.
19 She was engaging in self harming behaviors.

20 Q Is that the cutting you referred to?

21 A That is the cutting. She was hypervigilant. Had
22 trouble concentrating and was experiencing difficulties
23 falling and staying asleep at night.

24 Q What does hypervigilant mean?

25 A Hypervigilant means that she was aroused to even the

1 smallest sound or touch.

2 Q And is it fair to say she suffered nightmares? Is
3 that, would be an accurate way to describe some of these?

4 A Bad dreams, nightmares. Yes.

5 Q Okay. And you said, well, did you say recurring
6 nightmares?

7 A They do, they are recurring nightmares. Yes.

8 Q And what intrusive thoughts? Kind of elaborate on
9 that or describe that.

10 A Intrusive thoughts are any kind --

11 MS. BROWDER: Your Honor, I --

12 THE COURT: Okay. Hold on just a minute.

13 MS. BROWDER: -- object to anything as to [redacted] said
14 regarding intrusive thoughts.

15 THE COURT: Right. Don't, don't repeat anything that
16 [redacted] may have said. Okay. Thank you.

17 A Intrusive thoughts are thoughts that you have come
18 into your mind at anytime when you would not want them to
19 come into your mind. So if you were at work and you
20 started thinking about something that happened at home
21 earlier in the day, that you did not want to remember, and
22 it just comes into your mind without it, you wanting to be
23 thinking about it.

24 Q Okay. And then the cutting, the self-mutilation.

25 A Yes.

1 Q How does that factor into any type of depressive or
2 PTSD disorder?

3 A Self-harming behavior is not specifically, it's not a
4 specific symptom of PTSD. There are many other diagnosis
5 that one could carry, that one could also cut or
6 self-harm. However, self-harming behavior with a
7 diagnosis of, of PTSD, self-harming behaviors can increase
8 and become more frequent and more prevalent.

9 Q And again, define PTSD. It's a, give us a clinical
10 definition of PTSD.

11 A PTSD, again, is post traumatic stress disorder. And
12 post traumatic stress disorder can occur to anyone, any
13 age. And the, the main characteristic of developing post
14 traumatic stress disorder is exposure to an actual or even
15 a perceived threat of harm to oneself or others.

16 Q And do you have to display a minimum number of
17 symptoms before you can diagnose somebody with PTSD?

18 A Yes. You'd have to display a minimum of six
19 symptoms.

20 Q And did Hailey display a minimum of six symptoms?

21 A Yes.

22 Q And in your expert opinion, did ~~Hailey~~ display enough
23 symptoms to categorize suffering PTSD?

24 A Yes.

25 Q Okay. So she did have PTSD in your expert opinion?

1 A Yes.

2 Q Okay. And does it have to be just one event that
3 triggers PTSD?

4 A It has to be a minimum of one, but it can be multiple
5 events.

6 Q All right. Please answer any questions Ms. Browder
7 has for you. Thank you.

8 THE COURT: Cross-examination?

9 CROSS-EXAMINATION

10 By Ms. Browder:

11 Q Good afternoon, Ms. Price. All right. So, you
12 diagnosed ~~alley~~ with PTSD, correct?

13 A Yes. That is correct.

14 Q And you diagnosed her with other things as well,
15 correct?

16 A I did.

17 Q Okay. And what else did you diagnose her with that
18 day?

19 A I do not have my notes in front of me.

20 Q Would you like a copy of the assessment to refresh
21 your memory?

22 A Yes please. On that day, I also diagnosed her with
23 major depressive disorder, generalized anxiety disorder
24 and oppositional defiant disorder.

25 Q Okay. And in order to do that, you did this

1 assessment, correct?

2 A Correct.

3 Q Okay. And you stated that in order to do your
4 assessment, you review additional records, doctor's notes,
5 mental health notes, that are relevant to this particular
6 child.

7 A Correct.

8 Q Okay. And I'll get to that in a second, but you said
9 ~~believe~~ when she said where events occurred, she said in
10 the home with the door shut?

11 A Correct.

12 Q Okay. Did she ever indicate door open?

13 A No, she never did.

14 Q All right. So, regarding your assessment, you
15 looked, it's important that you put down everything,
16 correct?

17 A Correct.

18 Q Okay. On page one of your assessment, regarding her
19 mood, you previously testified that one of her symptoms
20 was she was irritable, depressed, hesitant, avoidant. In
21 the mood section what did you check for her mood?

22 A Appropriate.

23 ~~Q~~ And is there a section for guardage you would have
24 checked?

25 A There is.

1 Q Did you check that?

2 A I did not.

3 Q Is there a section for withdrawn that you could have
4 checked?

5 A Yes, there is.

6 Q Did you check that?

7 A I did not.

8 Q Is there a section for irritable and agitated that
9 you could have checked?

10 A There is.

11 Q Did you check that?

12 A I did not.

13 Q You found that one of her symptoms for PTSD, was that
14 she was irritable, correct?

15 A Correct.

16 Q There's also a section that you could press or check
17 depressed, and you did not check that as well, did you?

18 A No, I did not.

19 Q And you testified that she was hesitant when talking
20 to you, however, you did not check the box where it says
21 she was timid.

22 A Correct.

23 Q And a lot of this information you got from
24 correct, and from these records?

25 A And from additional records, correct.

1 Q And on page five, regarding hospitalizations, ~~Valley~~
2 never reported to you a hospitalization in December of
3 2016, did she?

4 A No, she did not.

5 Q And did you ultimately, when reviewing records, find
6 out she had been hospitalized in December of 2016 for
7 cutting?

8 A I don't recall that.

9 Q So how were you aware of the cutting incidents?

10 A ~~Valley~~ indicated that she had a history of cutting on
11 herself.

12 Q Okay. And this cutting is one of the reasons this
13 self-harming that you gave to PTSD, correct?

14 A That was not the only factor.

15 Q Not the only factor, but that's one of the factors,
16 correct?

17 A Actually cutting is not necessarily a symptom of PTSD
18 at all.

19 Q But you just testified the self-harming, the cutting,
20 fit that?

21 A It fit into --

22 Q And that's part of your --

23 A -- part of the criteria.

24 Q Right. All right. You previously testified in a
25 court hearing regarding this case, correct?

1 Yes, I did.

2 Q And you testified then that her cutting began before
3 any of these allegations began, correct?

4 A Correct.

5 Q Okay. So the cutting is not necessarily related to
6 anything regarding these allegations?

7 A Correct.

8 Q Okay. And then page seven, when you continued your
9 assessment, regarding the depression, that began at age
10 nine, correct?

11 A Yes.

12 Q Okay. So, that's way prior to age 14?

13 A Correct.

14 Q Okay. And regarding conduct problems, I guess you
15 look at that when it comes to the oppositional defiant?

16 A Conduct disorder and oppositional defiant are two
17 different.

18 Q Okay. But, or the conduct problems on page seven is
19 something you look at when you're trying to make a
20 diagnosis as to oppositional defiant?

21 A Conduct problems would lead to a diagnosis of conduct
22 disorder. The oppositional defiant behaviors would lead
23 to the oppositional defiant disorder.

24 Q Okay. And you have that that began at age 14,
25 correct?

1 A Correct.

2 Q And one of the marks that you checked on that, was
3 ~~Kalley~~ displayed lying and conning behaviors?

4 A Correct.

5 Q Okay. And in oppositional defiant section on page
6 seven, didn't you also check that she's angry, resentful
7 and spiteful and vindictive?

8 A Yes.

9 Q Okay. And the location of those behaviors is at
10 home, school and with peers?

11 A Correct.

12 Q Okay. Regarding the symptoms of the PTSD, regarding
13 the memories and the dreams, those are from ~~Kalley's~~
14 reports, correct?

15 A Correct.

16 Q And the negative altering thoughts, what was that one
17 again?

18 A Negative alterations and thoughts and moods.

19 Q Okay. She was having those from before age 14
20 regarding her depression and everything of that nature,
21 correct?

22 A She could have been, yes.

23 Q And the same thing regarding the positive emotions,
24 not, and I know they're separate, but those kind of go
25 together, correct? About, like your thoughts and moods

1 being negative?

2 A They can go together, yes.

3 Q Okay. And that was also noted as happening from
4 before when she said these allegations occurred?

5 A Correct.

6 Q Okay. So all of these symptoms of the PTSD that
7 you're explaining, occurred before she said these
8 allegations began?

9 A She could have been experiencing PTSD before.

10 Q Okay.

11 MS. BROWDER: No further questions, Your Honor.

12 THE COURT: Okay. Any redirect, Solicitor?

13 REDIRECT EXAMINATION

14 By Mr. Daniel:

15 Q Allegations of sexual abuse, would they exacerbate
16 these symptoms of PTSD?

17 A Yes, they would.

18 Q In your expert opinion, did these allegations of
19 sexual abuse contribute to the PTSD diagnosis?

20 A Yes.

21 Q Thank you.

22 THE COURT: You can step down ma'am. Without
23 objection, you are free to leave the courthouse, but
24 you're welcome to remain with us. Solicitor?

25 MR. DANIEL: Your Honor, the State rests at this

1 time.

2 THE COURT: All right. Very good. All right. Mr.
3 Foreman and ladies and gentlemen of the jury, we're going
4 to take a afternoon break. And we will continue forward
5 in just a little bit. So if you'll go back to the jury
6 room and remind you once again, don't get in any
7 discussions about this and we'll get you back out shortly.

8 (Whereupon, the jury was excused from open court.)

9 THE COURT: Okay. Does the Defense have any motions
10 they would like to place on the record?

11 MS. BROWDER: Yes, sir. At this time we'd like to
12 make a motion for directed verdict under the case law and
13 the like most favorable to the State. It's our position
14 that there is not enough to go forward to the jury, Your
15 Honor. It is purely based on the testimony essentially of
16 the alleged victim in this case, ~~Tracy Woodward~~, which
17 has been testified to, with regarding her, of course,
18 credibility is up to the jury. But there has been
19 numerous inconsistencies. So we would ask that it not go
20 to the jury and be a directed verdict.

21 THE COURT: All right. Very good. Thank you. I
22 think one of the primary reasons for having the statute
23 that says that there needs not be, does not need to be any
24 corroboration is for the sole purpose of allowing a case
25 to survive your motion for directed verdict. So the Court

1 respectfully denies your motion. Let me, give me just a
2 moment and then we'll take a break. But pulling it up, if
3 you'll just advise your client that I have to advise him
4 as to his rights to testify or not testify. So give me
5 just a moment to pull up the script on that. Okay. Madam
6 Clerk, would you swear Mr. Busse in please? And if you
7 can stand. Thank you.

8 CRAIG BUSSE, being
9 first duly sworn, testified as follows:

10 THE COURT: Mr. Busse, at this time I'm going to
11 explain to you, certain of your rights. If you do not
12 understand anything that I say please let me know that.
13 If you want me to explain anything further and more detail
14 please let me know that as well. Do you understand, sir?

15 MR. BUSSE: Yes, sir.

16 THE COURT: We've now reached the stage of the trial
17 where you may present your defense. You have the right to
18 claim the protections giving to you by the Fifth Amendment
19 to the Constitution of the United States. And this
20 amendment states in part, no person shall be compelled in
21 any criminal case to be a witness against himself. This
22 means that you cannot be required to testify in this case.
23 You have the right to testify on your own behalf, however,
24 no one can make you testify. This is a personal right and
25 no one can waive this right expect you, sir. If you

1 decide to testify you'll be subject to the same rules that
2 govern other witnesses. And you may be examined,
3 cross-examined on any relevant issues in this case. In
4 addition, if you have any convictions involving dishonesty
5 or false statement or for crimes punishable by
6 imprisonment for more than one year and this Court
7 determines that the probative value of admitting this
8 evidence outweighs its prejudicial effect, the Solicitor
9 would have the right to introduce your record to attack
10 your credibility. If you decide to testify this decision
11 on your part must be freely, voluntarily and intelligently
12 made with knowledge of the protections given to you by the
13 Fifth Amendment and the consequences of your decision to
14 testify. If you decide not to testify that decision also
15 must be freely, voluntarily and intelligently made with
16 knowledge of the protections given to you by the Fifth
17 Amendment. If you decide not to testify, sir, I will
18 instruct the jurors that they cannot give the fact that
19 you did not testify any consideration whatsoever and that
20 there's, and that there is to be absolutely no prejudice
21 to you because you did not testify. It is left entirely
22 up to you whether or not you testify, as you certainly
23 have the right, which I'm sure you've already done in
24 discussing this issue with your attorney. You have a
25 right to discuss it with friends, family members, anyone

1 else you wish to. But of course the final decision is
2 left entirely up to you. Have you understood everything
3 I've explained to you, sir?

4 MR. BUSSE: Yes, sir.

5 THE COURT: Okay. Do you have any questions about
6 what I've explained to you?

7 MR. BUSSE: No, sir.

8 THE COURT: Okay. Have you had ample time to discuss
9 this issue with your attorney and anyone else?

10 MR. BUSSE: Yes, sir.

11 THE COURT: Okay. Are you prepared to tell me now
12 whether or not you plan to testify?

13 MR. BUSSE: Yes.

14 THE COURT: Okay. And what is your decision?

15 MR. BUSSE: I will not testify.

16 THE COURT: You will not testify. Very good. And is
17 this decision not to testify been freely, voluntarily and
18 intelligently made by you?

19 MR. BUSSE: Yes, sir.

20 THE COURT: Okay. Thank you very much. You can have
21 a seat. All right. Ms. Browder, I understand you have
22 maybe two, three witnesses?

23 MS. BROWDER: Two, Your Honor.

24 THE COURT: Okay. Let's take a little short break
25 and then we'll go into the defense.

1 (Whereupon, a short break was taken.)

2 THE COURT: All right. We're back on the record.

3 The defense ready to call witness or witnesses?

4 MS. BROWDER: Yes, sir.

5 THE COURT: Okay. All right. Let's bring the jury
6 out Madam Bailiff.

7 (Whereupon, the jury came into open court at
8 approximately 3:40 p.m.)

9 THE COURT: Let the record reflect the jury is back
10 in the courtroom. Defense ready?

11 MS. BROWDER: Yes, sir.

12 THE COURT: Okay.

13 MS. BROWDER: Call ~~Valley Counts~~, Your Honor.

14 ~~Valley Counts~~, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 By Ms. Browder: ~~Valley~~

18 Q State your name.

19 A ~~Valley Counts~~.

20 Q Okay. ~~Valley~~, how do you know ~~Valley Woodward~~?

21 A She came down from Wisconsin and then she went to or
22 she started coming to the church that I go to.

23 Q Okay. Is that when you met her?

24 A Yes.

25 Q Okay. And what would you describe your relationship

1 as with ~~Kalley~~?

2 A Now?

3 Q At the time.

4 A Oh, at the time. We started out with being best
5 friends or being friends. And then it went into being
6 best friends.

7 Q Okay. And how close were you, when you say best
8 friends.

9 A We were together like every weekend, back and forth.
10 You know, each other's houses. We were like sisters.

11 Q And based on your relationship with her would y'all
12 share secrets with each other?

13 A Yes.

14 Q All right. At any point, or, I guess, did you also
15 know her parents, Meagan and Craig?

16 A Somewhat.

17 Q Okay. Would you ever see ~~Kalley~~ around her parents?

18 A Yes.

19 Q Okay. And specifically, around Craig, would you ever
20 observe her around him?

21 A Yes.

22 Q How would she react around Craig when you were
23 around?

24 A It was just a regular, what I thought father-daughter
25 relationship.

- 1 Q Okay. So she wasn't avoiding him in any way?
- 2 A No.
- 3 Q Okay. Would she hug him or touch him in any way?
- 4 A No.
- 5 Q Okay. And how often would you hang out with her
- 6 parents with her?
- 7 A It would be almost every weekend.
- 8 Q And at any point did ~~Valley~~ ever tell you about these
- 9 allegations?
- 10 A No.
- 11 Q Okay. And ultimately after the allegations came out,
- 12 did she come live with you?
- 13 A Yes.
- 14 Q And do you remember when that was? Okay. Was it
- 15 sometime last year?
- 16 A Yes.
- 17 Q Okay. All right. And when she came to live with you
- 18 who all was in the home?
- 19 A It was me, my mom, my dad, my brother and my
- 20 brother's girlfriend. ~~Valley~~
- 21 Q Okay. And where would ~~Valley~~ sleep?
- 22 A In my room.
- 23 Q And about how long did she stay there? Do you
- 24 remember?
- 25 A I don't.

1 Q Okay. When she would spend the night with you prior
2 to coming, like when y'all would just spend the weekends
3 together like you just testified, where would she sleep?

4 A Before, she would have to sleep in my bed.

5 Q Okay. And afterwards, where was she sleeping?

6 A Her own bed.

7 Q Okay. And prior to her coming to live with you,
8 after foster care, when she was in bed with you, do you
9 ever recall her waking up from having nightmares?

10 A No.

11 Q Okay. Did she ever seem to have disturbed sleep
12 while you were there?

13 A No.

14 Q Okay.

15 MS. BROWDER: No further questions, Your Honor.

16 THE COURT: Okay. Any cross-examination, Solicitor
17 Scott?

18 CROSS-EXAMINATION

19 By Mr. Scott:

20 Q Okay. When ~~Kailey~~ came to live with you, did she
21 talk a lot about these allegations with you?

22 A No.

23 Q Okay. Let me ask you, if these things theoretically
24 happened to you, would that be something that would be
25 easy for you to talk about with people?

1 A No.

2 Q Okay. So even before, when these allegations may
3 have been going on, she wasn't discussing it openly with
4 you. But when DSS took her out of her home and she had to
5 move in with you, she still wasn't talking about it with
6 you, was she?

7 A No.

8 Q Okay. And would you agree these are fairly
9 uncomfortable things to talk about?

10 A Yes.

11 Q Did you hear the testimony about some of the things
12 that she said her step-father did to her?

13 A No.

14 Q Are you aware, to this day, some of the things that
15 her ~~step-dad~~ was alleged to of done to her?

16 A Yes.

17 Q Okay. Uneasy to talk about, would you agree?

18 A Yes.

19 Q Okay. Not fun to talk about?

20 A No.

21 Q And you went to church together?

22 A Yes.

23 Q What is your relationship now? You said you were
24 best friends. Are y'all still friendly with one another?

25 A Not really.

1 Q Okay. Okay. And then you were contacted by the
2 step-father's lawyer to come testify today, and y'all
3 talked about things you were going to discuss today?

4 A Yes.

5 Q Okay. All right. Where is your father?

6 A My father?

7 Q Yeah.

8 A He is at home because he is sick.

9 Q Okay. Do you hug and touch him affectionately from
10 time to time?

11 A Sometimes.

12 Q Okay. Would you agree that's normal for a teenage
13 girl to hug her father?

14 A Yes.

15 Q Okay. Was it noteworthy to you that ~~Nailey~~ would not
16 hug or touch her step-father in your presence?

17 A No.

18 Q Do you know why she wouldn't hug or touch her
19 step-father?

20 A No.

21 Q Okay. Thank you. Nothing further.

22 THE COURT: Redirect?

23 MS. BROWDER: None, Your Honor.

24 THE COURT: You can step down ma'am. Thank you.

25 MS. BROWDER: Call Gina Counts.

1 GINA COUNTS, being
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 By Ms. Browder:

5 A Gina Counts.

6 Q Can you speak up just a little bit for me, okay? Ms.
7 Counts, how do you know [REDACTED]?

8 A Through my daughter.

9 Q Okay. And how often would [REDACTED] be at your house
10 prior to these allegations?

11 A Well the girls would be at each other's homes every
12 weekend.

13 Q Okay. Do you know Meagan and Craig Busse?

14 A Yes.

15 Q Okay. And how close are you with them?

16 A We're pretty good friends.

17 Q Okay. Would both of the families hang out together?

18 A On the weekends, yes.

19 Q Okay. So you had an opportunity to observe [REDACTED]
20 around Craig Busse?

21 A Yes.

22 Q Okay. And based on your observations what did you
23 observe regarding their relationship, while around y'all?

24 A To me, it was a father, daughter relationship.

25 Q And why, why do you say that?

1 A From, from when my daughter and her dad are around
2 each other and it was just a father, daughter
3 relationship.

4 Q So she acted similar to the same way your daughter
5 did with your husband?

6 A Yes.

7 Q Okay. And ~~Hailey~~ came to live with you after she
8 made these allegations, correct?

9 A Yes. ~~Hailey~~

10 Q And when did she come to live with you?

11 A In June.

12 Q Of 2017?

13 A Yes.

14 Q Okay. And when she came to live with you did you
15 notice her having any nightmares in any way?

16 A No.

17 Q Okay. You were essentially in charge of her custody,
18 care and control while she was living with you?

19 A ~~Correct~~ Correct.

20 Q Okay. And do you recall previously her testifying in
21 a hearing?

22 A Yes.

23 Q And she was still in your care at that time?

24 A Correct.

25 Q Okay. And after she testified, did, what happened

1 after, after she testified? What were your observations
2 of her?

3 A She was fine.

4 Q Okay. Did y'all go to eat at some point?

5 A Yes.

6 Q Okay. And where did you go to eat?

7 A Arby's.

8 Q Arby's. Okay. And did the discussion of her
9 testimony come up at that point?

10 A Yes.

11 Q Okay. And what was her reaction to that? Did she
12 say any, say anything particular?

13 A That she's a good actor.

14 Q Okay. And she said that to you?

15 A Yes.

16 Q Did you prompt her in any way to ask her about
17 acting?

18 A No.

19 Q So she just came out and said she's a good actress?

20 A Yes.

21 Q And that was in relation to her testimony?

22 A Yes.

23 Q Okay. Is there any doubt in your mind that she said
24 that?

25 A No.

1 Q And why is that?

2 A That's what she said. That's what she told me.

3 Q Okay.

4 MS. BROWDER: No further questions, Your Honor.

5 THE COURT: Cross-examination.

6 CROSS-EXAMINATION

7 By Mr. Scott:

8 Q Have you ever testified in open court like this
9 before?

10 A No.

11 Q Is it particularly easy to do?

12 A No.

13 Q It's fairly nerve racking, would you agree?

14 A Yes.

15 Q I've never had to sit in that chair, but I understand
16 it's very nerve racking.

17 A Yes.

18 Q Because you got people like me asking you questions.
19 And you got to remember things, right?

20 A Correct.

21 Q Public speaking. Have you ever done any public
22 speaking?

23 A Yes.

24 Q Okay. Tell me about that. When did you do public
25 speaking?

1 A I did that in college.

2 Q Tell me, what, what class was it? Or was it just a
3 public speaking class?

4 A It was a public speaking class for my college degree.

5 Q What was it? What, what did you do public speaking
6 in college? Tell me about it. Was it theater?

7 A No. It was just a public speaking class where we'd
8 have to write essays and present them.

9 Q Tell me about how it felt the first time you had to
10 get up in front of, I don't know, where'd you go? Where'd
11 you go to --

12 A Piedmont Tech.

13 Q Okay. At Carolina when I was there, we had these big
14 auditoriums. There was hundreds of people. It was nerve
15 racking when you first started getting used to it, wasn't
16 it?

17 A Yes.

18 Q Okay. Were you also aware that Hailey took theater
19 in school?

20 A No.

21 Q Okay. Were you aware that she took certain things to
22 prepare herself. Y'all were talking about that DSS
23 testimony, the lawyer was asking you about it, that y'all
24 went to Arby's afterwards. Is that right?

25 THE COURT: You need to verbally respond.

1 Q Yes or no.

2 A Oh, yes sir.

3 Q Okay. And were you there when she had to do the DSS
4 testimony?

5 A Yes. We had to be in the courtroom.

6 Q Okay. You remember how many people were there?

7 A A good many.

8 Q How many lawyers were there

9 A Three, four.

10 Q Okay. And they were asking her a bunch of questions
11 under oath, were they not?

12 A Correct.

13 Q Okay. Similar to what's going on with you right now.
14 And isn't it true that at Arby's, she said made it a
15 little bit easier testifying because I've been taking
16 theater?

17 A No, that's not what she said.

18 Q Tell me exactly what she said.

19 A She said that she was a good actor.

20 Q And how did you take that? What did that mean to
21 you?

22 A I didn't know how to take it because we, we had left
23 court.

24 Q And did she tell you she had made anything up during
25 her testimony?

1 A No. Nothing was ever asked.

2 Q Okay. But she, were you aware that she was taking
3 theater at the time?

4 A Not at the time. No.

5 Q Okay. Were you aware of the classes she was taking
6 when she was under your care?

7 A In my care?

8 Q When she was living with you?

9 A She had just, she, she had just started school.

10 Q Okay. So you don't know what classes she was taking?

11 A I was--

12 Q -- are you aware she was taking theater, is my
13 question?

14 A Yes, but she was just getting started in it.

15 Q Okay. All right. That was my question. All right.
16 Thank you. That's all I have for you.

17 THE COURT: Redirect?

18 MS. BROWDER: Yes.

19 REDIRECT EXAMINATION

20 By Ms. Browder:

21 Q Regarding the theater, when you were discussing
22 things at Arby's, did the topic of theater class ever come
23 up?

24 A No.

25 Q Okay. And you were discussing the testimony when she

1 made this comment?

2 A Yes.

3 Q Okay. And she never mentioned theater to you at all
4 when she made the comment about being an actress?

5 A No.

6 Q Okay. She said it in relation to her testimony?

7 A Correct.

8 MS. BROWDER: No further questions.

9 RECROSS-EXAMINATION

10 By Mr. Scott:

11 Q What exactly did she say? What, how, how did it come
12 up at Arby's after she testified at a DSS hearing, tell me
13 exactly what she said. What did you, what prompted this
14 statement by her?

15 A She was talking about how she was not nervous.

16 Q Okay.

17 A You know, I told you she, she did good.

18 Q She said I'm not nervous?

19 A Yes.

20 Q And you said what?

21 A That she did very good.

22 Q Okay. And then she said I'm a good actor?

23 A Yes.

24 Q Did you ask her what she meant by that?

25 A No.

1 Q Did you take that to mean that she lied under oath?

2 A No.

3 Q Okay. Thank you.

4 THE COURT: You can step down ma'am. Okay. Any
5 further witnesses from the defense?

6 MS. BROWDER: No sir, Your Honor. The defense rests.

7 THE COURT: All right. Does the State have any reply
8 case?

9 MR. SCOTT: No, sir.

10 THE COURT: All right. The evidentiary record in
11 this case is now closed. Let me, let me see the lawyers
12 for just a minute.

13 (Whereupon, a bench conference was held in the
14 presence of the jury but out of the hearing of the
15 jury.)

16 THE COURT: All right. Mr. Foreman and ladies and
17 gentlemen of the jury, here is what we have left in this
18 case. The lawyers will make their closing arguments to
19 you and then I will charge you the law applicable to this
20 case for you to use in your deliberations. But we are
21 now, since it's 4:00 o'clock now, the, really, not really
22 a good time to do that and then give you the case for
23 deliberations. So we are going to go ahead and, we've got
24 some work to do on the case. But I'm going to go ahead
25 dismiss you for the day and have you come back at 10:00.

1 I've got a few fill-in matters that, before that, that
2 I've got to take care of. So that's the plan for tomorrow
3 morning. Be here promptly at 10:00 and we'll finish up
4 the case and give you the case to reach a verdict. Again,
5 I remind you, no discussion about this case among
6 yourselves, anybody that you come into contact with. No
7 research as we've talked about and get a good night's rest
8 and we'll see you in the morning at 10:00 o'clock.

9 (Whereupon, the jury is excused for the day.)

10 THE COURT: Okay. Take some time and look at the
11 draft charge. If you need a hard copy just let us know.
12 And then when you've had a chance to look at it, then
13 we'll just have a informal charge conference back in the
14 office and then we can put on the record, whatever we need
15 to, either this afternoon or in the morning. Okay.

16 (Whereupon, the trial will resume the next morning at
17 10:00 a.m.)

18 FEBRUARY 7, 2018

19 THE COURT: Thank you very much. Have a seat. All
20 right. Is there anything we need to place on the record
21 before we bring the jury out for closing?

22 MR. SCOTT: Taylor found something in the jury
23 charges or the verdict form.

24 MR. DANIEL: Your Honor, I think it's just the
25 verdict form. That was it, Your Honor.

1 THE COURT: We have the correct one. Anything before
2 we bring the jury out?

3 MS. BROWDER: No, sir.

4 THE COURT: Okay. All right. Madam Bailiff, will
5 you bring the jury out please?

6 (Whereupon, the jury came into open court at
7 approximately 10:10 a.m.)

8 THE COURT: Let the record reflect the jury is back
9 in the courtroom. Good morning, ladies and gentlemen.
10 It's been brought to my attention that maybe one or more
11 of you are not happy with the sugar free candy. I
12 typically buy sugar free candy just so everybody can eat
13 it. And for those of you who prefer the sugar kind, I, I
14 apologize. All right. In all seriousness, what we have
15 left to do, as I told you yesterday afternoon before we
16 broke for the evening, the lawyers will make their closing
17 arguments. The State will go first, make their closing.
18 The defense will make their closing and then the State can
19 come back and have a reply argument, if it so chooses,
20 concerning any new matters that the defense may raise.
21 This is the last time these, these very good lawyers have
22 an opportunity to advocate for their respective side. So
23 please give them your undivided attention. After closing,
24 and depending upon how long the lawyers go, we may take a
25 break, or we may go into, straight into the Court's charge

1 on the law. We'll just kind of play that by ear and see.
2 Okay. The State ready?

3 MR. SCOTT: Yes, sir.

4 THE COURT: Okay. You may proceed.

5 MR. SCOTT: May it please the Court. Ladies and
6 gentlemen, I am Dale Scott. I talked to y'all Monday when
7 y'all were out in the jury venire. And said I was going
8 to be involved in this case to some extent, I really
9 didn't know to what extent. You see, I split my time in
10 Laurens and then half the time I'm here in Newberry. But
11 the last couple weeks with the flu going around I
12 contracted it from my kids. And we passed it back and
13 forth and I've kind of been out of the office more than
14 I'm accustomed to. So Taylor got this case ready and he
15 got it off the ground. And I knew general facts of it.
16 But I wasn't as familiar as he was. And so as I've sat
17 here this week, I felt like I've kind of been like you
18 guys, learning about this case, hearing from these
19 witnesses. And really just kind of taking it all in. And
20 so a little bit surprising to me this morning, Taylor said
21 hey, why don't you do the closing. And I said all right.
22 I could talk about this to this jury and see how I can
23 instill what we have heard for them. The Defense, Monday,
24 there was a quote right off the bat from Plato. And I
25 started thinking about it. And I found another quote.

1 Plato was a Greek philosopher. His teacher was another
2 Greek philosopher, lived in same time in Athens. It was
3 Socrates. And I found this quote by Socrates. An honest
4 man is always a child. And I looked it up after hearing
5 the quote from Plato and I started thinking about it. And
6 I started kind of asking myself, well, what does that
7 mean. For some reason it fits this case. And I want you
8 to ask, what did Socrates mean by that. An honest man is
9 always a child. These are, as you can probably imagine,
10 the most difficult kinds of cases we have. You know, we
11 have drug cases, we have armed robberies, we have rape
12 cases, we have murders. But in these types of cases you
13 are dealing with the most vulnerable kind of people. It's
14 a CSC with a minor. You're dealing with children. Let me
15 see if I can advance this. It's a crime that takes place
16 in the secret. Obviously, these things are not going to
17 happen in front of people. It's a secret crime and it
18 involves people who, if they are told to keep a secret and
19 they are told there are going to be ramifications, they
20 will keep a secret. Often times what happens in these
21 unique type crimes are children, they feel like they've
22 done something wrong, end up being very confused. And
23 they worry ~~that~~ they are going to be somehow blamed for
24 this and they hold this in. And it leads to these delayed
25 disclosures. You heard the girl yesterday talking about

1 delayed disclosure and how, I think she said sixty percent
2 of these type crimes involve delayed disclosure at some
3 point. And that's because these children, these
4 vulnerable victims, they are confused. And what did I do?
5 Is my mom going to love me anymore? Am I going to get
6 blamed for this? Somehow, I'm at fault for this. And I
7 know there's going to be trouble if I disclose. And they
8 hold it back and they hold it back. And that's kind of
9 the tragedy of this thing. It's a child crying out and if
10 you're watching close enough you can pick it up. The
11 tragedy is, sometimes they will disclose and they will
12 tell people and their worst fears come to life. They are
13 not believed. You know, this case, and these cases in
14 general are unique. We have a law that says a child's
15 word is enough to sustain a conviction on one of these
16 cases because that's typically all you have. You don't
17 have it on video. And very, very rarely, do you have any
18 DNA. And there's not going to be any witnesses because
19 it's behind closed doors. It's done in secret. And
20 you've got cases like with this young woman, Hailey. She
21 made multiple attempts to let somebody know. You know, it
22 was a juvenile boyfriend at times. And her mother came
23 across these texts. I'd die for you ~~Hailey~~. Just tell me
24 the truth. I would die for you. That's what the mother
25 told her. But when she couldn't articulate all the

1 details the mother was demanding, she backed away. And we
2 heard that. That's one of the other factors involved in
3 delayed disclosure, denial at some point. The tragedy in
4 these cases, is the mother said I would die for you, tell
5 me the truth. And then when she finally tells the truth,
6 the mother hasn't even supported her. The mother, and
7 this is the tragedy in these cases, is in the parking lot
8 with the Defendant asking, how did I do during my
9 testimony? That's what makes these cases so tragic. It's
10 a child asking for somebody to speak out for them and
11 often times nobody will.

12 CSC with a minor second degree. Okay. Here are the
13 elements. A person is guilty of criminal sexual conduct
14 with a minor second degree, if the actor, that's the
15 Defendant, Mr. Busse, engages in a sexual battery with a
16 victim who is 14 years of age or less but who is at least
17 11 years of age or, the actor, Mr. Busse, engages in
18 sexual battery with a victim who's at least 14 years of
19 age, but less than 16. Okay, we know this occurred when
20 [REDACTED] was in eighth grade, up until last year, and she
21 just turned 16. So she's well within that age bracket.
22 And the actor, Mr. Busse, is in a possession of familial,
23 custodial or official authority to coerce the victim to
24 submit or is older than the victim. We obviously know
25 he's older than the victim. We also know he has authority

1 over her as step-father. So the State must prove ~~alley~~
2 ~~woodward~~ was between 14 and 16. So we have that. And
3 Craig Busse was in the position of authority over ~~alley~~
4 ~~woodward~~ or was older than she when a sexual battery
5 occurred. What is a sexual battery under the law. It
6 means sexual intercourse. And we didn't have that here
7 and you heard about the attempt. Cunnilingus, that's oral
8 sex on a female. Fellatio, that's oral sex on a male.
9 Both of those were alleged to have occurred. Okay. So
10 there's your sexual battery. Anal intercourse did not
11 occur here, or any intrusion however slightly. That
12 involves the digital penetration. That involves him
13 putting his hands down her pants and penetrating her. Of
14 any part of a person's body or any object in the genital
15 or anal openings of another person. That's what the State
16 has to prove in order for him to be guilty of CSC with a
17 minor second degree. That's what the allegations are.
18 Have to prove it beyond a reasonable doubt. What is
19 beyond a reasonable doubt. The Judge is going to instruct
20 you. This is a confusing idea, I think, for a lot of
21 jurors. It is the highest standard in the law. They talk
22 about in a civil case, there's a car wreck out here and
23 one person sues the other person for damages. You have to
24 find preponderance of the evidence. In other words, is
25 one side just a little more believable than the other.

1 All right. The scales of justice are like this. One side
2 is just a little more believable than the other, you find
3 for that side. It's a greater standard in a criminal
4 case. Every case we do we have to prove beyond a
5 reasonable doubt. Does that mean that we have to prove
6 this case where you don't have any doubt whatsoever in
7 your head. It's okay to have doubts about this or that.
8 All right. But the big question, did he do this? Okay.
9 Do you have a reasonable doubt that he didn't do it. What
10 does that mean? Does it mean beyond all doubt? No. It
11 means that if you have a doubt that is reasonable, and
12 based on logic you find him not guilty. However, if you
13 get back there and you say, well, we have doubts, it's not
14 a real reasonable doubt. It's not real logical that I'm
15 having this doubt. That's not a reasonable doubt and then
16 you find him guilty. Do you have to be one-hundred
17 percent certain. I think that kind of goes with the first
18 one. No. And the Judge is going to tell you there are
19 very few things in life that we know one-hundred percent
20 certainty, right. Criminal cases does not require proof
21 that become, overcomes all possible doubt. But based on
22 your consideration of the evidence you are firmly
23 convinced. That, I guess that's the word I kind of, or
24 the term, I guess, I use most to some up reasonable doubt.
25 Are you firmly convinced he did it.

1 I want to go over some things that I think are
2 compelling and I think lead you, as a jury, to be firmly
3 convinced of his guilt. And that's all you must find for
4 him to be guilty. Firmly convinced. I'm fixing to tell,
5 you about the credibility of a witness. Okay. I want to
6 remind you, an honest man is like a child. Y'all saw
7 ~~they~~ testify. The Judge is going to tell you this. You
8 get to see it in written form. I can't remember if Judge
9 Hocker gives you a copy of the charges or not. His charge
10 on credibility, that's what this case is all about.
11 That's what all these cases are about. The child's word
12 against somebody else. You've got to, you guys have been
13 judging credibility your whole life I imagine. You
14 understand tales. You understand when somebody's telling
15 something that might be deceptive. It might not be a
16 one-hundred percent the truth. We've all experienced
17 that. It's what you're doing as a jury. But you've got
18 these other clues too. You got to hear her testify and in
19 judging her credibility and the evidence presented it
20 simply means believability. It is your duty as jurors to
21 analyze and to evaluate the witness and the evidence and
22 determine the credibility of the witness and the evidence.
23 And determining credibility of witnesses who have
24 testified in this case you may believe one witness over
25 several witnesses or several witnesses over one witness.

1 You may believe a part of the testimony of a witness and
2 reject the remaining part of the testimony of that same
3 witness. In other words, you can believe some things a
4 witness says and disbelieve other things. You may believe
5 the testimony of a witness in it's entirety or reject the
6 testimony of a witness in it's entirety. This is
7 important. You may consider whether any witness has
8 exhibited to you any interest, bias, prejudice or other
9 motive in this case. You may also consider the appearance
10 or manner of the witness while they are on the stand. Now
11 what interest, bias, prejudice or motive has Hailey
12 exhibited. This is important when you're judging
13 credibility. It's what the Judge is going to tell you.
14 Judge the credibility, okay. Have y'all thought about
15 that while y'all were listening to the case and testimony?
16 Naturally, that's what will be asked. Well, if she's
17 making it up, why would she make it up, what interest
18 would ~~Hailey~~ have in fabricating this sexual abuse. I
19 know you guys have been questioning ~~that~~. And y'all asked
20 yourself that and y'all have been waiting for that answer.
21 None, she has no interest. How has this forwarded her
22 best interest as a teenager. The ordeal she has faced
23 following the disclosure has been anything but in a
24 developing teenager's best interest. You understand what
25 I'm saying. I've noticed some things. Just like you,

1 I've sat here listening and I've took notes. What I heard
2 was she was taken out of her home, placed in two different
3 children's homes in Columbia. This is a 14, 15 year old
4 girl. Following this she was placed in two separate
5 foster homes. Okay. I didn't hear anything about a,
6 aside from the sexual abuse, any kind of strife within the
7 Busse home. It sounded like she was well provided for.
8 Living in a nice home. Went to a school where she knew
9 people. Following that she was removed from Newberry
10 Middle School, placed in Richland Northeast where she
11 didn't know a soul. Later removed from Richland
12 Northeast, placed in the school at Mid Carolina. Now this
13 is going to be her memory about her high school years
14 beginning, just shuffling back and forth. Strangers at
15 every school. Not even getting her bearings in one school
16 before she's moved to another. Not getting her bearings
17 in her home environment before she's moved to another
18 home. Easiest thing in the world at that ~~point~~, wouldn't
19 it have been for ~~her~~ to say, I made it up, just let me
20 go home, I made it up, I'm tired of this. Wouldn't that
21 of been the easiest thing in the world for her to do right
22 then. Forced to move out of her three bedroom home she,
23 well, not grew up in, but moved to once she came from
24 Wisconsin, to a trailer on the outskirts of Prosperity. I
25 hope it's not lost on you, there was some recitation from

1 a DSS hearing. That was that transcript they talked
2 about. That was under oath. There was a Judge there too.
3 A Family Court Judge and DSS lawyers. There was this
4 defense lawyer. A room full of strangers listening to
5 these things she has to testify to. The same stuff she
6 had to testify in front of you guys this week. Repulsive
7 things, embarrassing things. Things I wouldn't want to
8 talk about in public. But she's been forced to get up
9 here, under oath, and disclose these things. Do you think
10 that was comforting, do you think that was fun. What
11 interest has she gotten out of these allegations. All
12 right. Bias, prejudice, what bias or prejudice does
13 ~~Harley~~ have against Craig Busse? Testimony I heard,
14 through direct and cross, he was the only father she's
15 ever known. What bias or prejudice does she have. Doesn't
16 even know her biological father. This is the man she's
17 freely admitted, always thought of him like a father. He
18 provided for us. He moved us down here to South Carolina,
19 put a roof over our head. What bias or prejudice does she
20 have against him? Not the closest thing, what motive does
21 she have, the closest thing to a motive I've heard was
22 alluded to by the defense, is a fight over a cell phone.
23 Okay. Now if you're firmly convinced that this girl has
24 fabricated all this over a cell phone getting taken away,
25 go ahead and acquit him. If that motive is logical and

1 reasonable for you to believe that she has carried on this
2 fabrication for two years, over the cell phone that was
3 taken away and since has been given back, a cell phone
4 that had been taken away in the past, if y'all believe
5 that's the motive go ahead and acquit him. There's
6 nothing I can do about it. But if that's logical to you
7 guys, so be it. But that's what the motive is. That's
8 what the defense says she has concocted this over a cell
9 phone getting taken away by her mother. That never made
10 sense to me. Why she going to fabricate this against the
11 Defendant? Her mother took the phone away. Just like her
12 mother taking the phone away in the past. I want you to
13 pay attention to what her disclosure is. An honest man is
14 like a child. Where are all these confusing
15 inconsistencies you were talking about in the openings.
16 The defense said there's going to be a lot of
17 inconsistencies. I don't know how many of you guys have
18 children. When my children tell a story, it's not
19 necessarily makes sense. I don't know if that makes sense
20 to you. You guys go back and we all have a discussion
21 about something, well this happened first, this second,
22 third, fourth. And you may be able to remember certain
23 things on certain days. I know this is kind of cliché,
24 but I honestly cannot remember what I had for dinner two
25 nights ago, typically, unless I sit down and think about

1 it. I feel like sometimes, we as a society, have an
2 expectation for victims to remember every detail, every
3 date, every wrong that's been done to them. That's just
4 not based on any scientific findings or any reality. A
5 juvenile, especially, will be able to tell you things that
6 happened. And if something is a little bit off here or
7 there, that's just how it happens. But where are the
8 glaring inconsistencies. The fact of the matter is, her
9 allegations of sexual abuse, what happened to her, the
10 abuse that she suffered, those remain consistent. I
11 recall during cross-examination, when did you say anything
12 about him performing cunnilingus on you. Well, then we
13 got up there and we shared the transcript, right here.
14 She's been talking about this ever since the first time
15 she was sworn under oath to tell the truth. And she's
16 said it up to this day. Well, you said it happened every
17 day. And when we got up there and had the transcript, she
18 said it seems like it happened almost every day. Forgive
19 her. But something as nightmarish as that, you know, one
20 or two times is too many. It may seem like it happened
21 every day to her or almost every day. But where were all
22 those inconsistencies we were promised in opening
23 statements. What were the allegations. You know, it
24 occurred to me, as I sat here and listened to it, like you
25 guys, that an honest man is like a child. And she alleged

1 digital penetration. What she described is kind of that
2 grooming process that Ariel Gagne talked about. You start
3 with little moves. You start with kind of building your
4 way up. So, he's touching, touching her legs.
5 Eventually, begins touching her under her underwear. Goes
6 to the oral, oral sex. And then it eventually builds up
7 to attempted intercourse. If she is this masterful liar,
8 why didn't she go for it all and say he had intercourse
9 with me. Because that didn't happen. Because she's
10 telling, well, you can figure out that there is credible
11 testimony. Why just say he had sex with her. If you're
12 going to lie, go all out. But you know, he didn't have
13 intercourse with her. You know why. He can't have
14 intercourse with her, he's impotent, cannot sustain an
15 erection. What I want you to ask yourselves and what was
16 compelling to me, how does she know that.

17 MS. BROWDER: Your Honor. Objection as to anything
18 about what he believes and if it's compelling to him or
19 not. It's improper.

20 THE COURT: Well, you know, I'm pretty liberal with
21 closing arguments. I'll overrule your objection and allow
22 him to argue it. Certainly, afford you the same rights.

23 MR. SCOTT: I'm going to repeat what was compelling
24 to me and should be to you, was how did she know that. Is
25 that something parents talk about with their child,

1 step-dad has an erectile disfunction, no. She knew that
2 because she experienced it first-hand. While he was
3 laying on top of her he said his stomach was too big and
4 couldn't get an erection. How does she know that, ask
5 yourselves that. The honest man is like a child, or vice
6 versa. I don't know, you look at it. The way I interpret
7 that, the truly young babies, infants, they don't lie
8 typically. I'm talking about the real young because they
9 don't understand the benefit of it. The older they get,
10 they will lie of course. But that's when they see an
11 obvious benefit. We as adults like to think we don't, but
12 I think we're more compelled to tell untruth rather. Even
13 when we don't get in trouble for it. Sometimes just to be
14 more socially acceptable, we will fabricate, we will
15 deceive. We will tell these untruths I'm talking about.
16 But the innocent, the naive, they are incapable of telling
17 lies and carrying them on. Do you understand what I mean.
18 It takes a level of complexity to take a lie and carry it
19 on and be consistent with it. That's why the honest man
20 is a child. The honest man's, or the child rather,
21 natural state is one of naiveté and honesty. I submit to
22 you that this case is all about credibility, we know that.
23 And I submit to you that there are other queues that we
24 can take in conjunction with her credibility, in
25 conjunction with her testimony. The logical conclusion is

1 she's telling the truth. You heard, you heard the PTSD.
2 I mean, you know, did she have it before. I think that
3 would be the argument that she was diagnosed after
4 bringing forth these allegations. PTSD, post traumatic
5 distress disorder. I submit to you, that's what I'm
6 asking, give, give this victim a voice, hear her out. I
7 submit to you she is credible. I submit to you she knew
8 things that only somebody who experienced these things
9 would have known. I ask you to go ahead and listen to
10 closing argument of the Defendant. But I submit to you,
11 you have evidence to be firmly convinced of his guilt.
12 That's what I'm asking you to do. At the end of this
13 thing go back there and find him guilty. Give a voice to
14 the voices. How about that, find him guilty of criminal
15 sexual conduct with a minor second degree. Thank you.

16 THE COURT: Defense ready for closing?

17 MS. BROWDER: Yes, sir. Why didn't she go for it all
18 starting out? That's the question, ladies and gentlemen.
19 Growing up even today, everybody's got that friend who
20 likes to tell stories. It's kind of what you consider a
21 fishtail. It starts out, I caught a little fish. And
22 then each time they tell the story, maybe it's a week
23 later, maybe it's months later, maybe it's years later,
24 because you hear them tell the story every single time.
25 Each time, that fish gets a little bit bigger because they

1 just want to exaggerate it and make sure that their
2 story's the best story ever. It's very similar to this
3 case. [REDACTED] sat up there and testified, finished what
4 she started back on March 8th, 2017. You heard the
5 testimony and statements that Craig was the disciplinarian
6 in the home. He's the one that had rules for her. And
7 while her mom may have taken the phone away in the past,
8 and I'll get to the phone argument later, he's the one
9 that had the rules for her. You heard Betsy Price testify
10 that she had oppositional defiant behavior. She was angry
11 and resentful and this occurred at home. She didn't like
12 the rules at home, so this was a way to get the
13 disciplinarian out of the house. If you listen to it, she
14 didn't try to get her mother out of the house because her
15 mother was not the one that made all the rules. Now, it's
16 up to the State to prove to you beyond a reasonable doubt
17 and you heard Mr. Scott and saw some stuff on the screen
18 about beyond a reasonable doubt. The way I like to
19 explain it, is like this, maybe it's a little bit easier
20 to understand. My daughter, when she gets up in the
21 morning, she refuses to eat anything but cereal. So, she
22 gets up, she pours her fruit loops and she goes to get the
23 milk. And she goes, mom, the date on here is from today,
24 should I drink it. So I get it and I smell it, and I'm
25 like well, it's fine, okay, go ahead and pour it. So the

1 next day she gets up, she pours fruit loops, she gets the
2 milk out. She goes mom, this date says yesterday and we
3 don't have any other milk. Can I drink it. At that
4 point, think about it. You open it up, you smell it and
5 you think, I'm not quite sure. I think it's probably okay
6 but I'm not quite sure. So let's be on the safe side and
7 not drink it. That's reasonable doubt, ladies and
8 gentlemen. If you have to play it on the safe side, then
9 you have to find Craig Busse not guilty. If you think to
10 yourself, well, just to be safe, I'm not sure, but just to
11 be safe, let's find him guilty. Ladies and gentlemen,
12 that is reasonable doubt. If you have to play it safe,
13 the runner always wins the tie. I'm going to show you
14 beyond a reasonable and to prove to you, they've given
15 y'all several witnesses. And it's up to you to determine
16 the truth and credibility of all these witnesses. And I
17 suggest you look at it kind of like a puzzle. Puzzle
18 pieces, you put the puzzle together. Do the pieces fit,
19 do they go together to have one big picture. And I
20 suggest when you go through all these puzzle pieces, and
21 I'll get to each witness here in a minute, you're going to
22 find that the pieces don't exactly fit together, that the
23 case is riddled with reasonable doubt and that you must
24 find Craig Busse not guilty. The first thing I want to
25 discuss with you, and you heard Lieutenant Lominack

1 discuss it a little bit, but medical evidence. They want
2 you to believe that this whole thing, delayed disclosure,
3 happens. But if delayed disclosure happens, why not be on
4 the safe side and send her for a medical, just to make
5 sure. Or say, they give a little bit over time. It gets
6 bigger and bigger over time, that's how children disclose.
7 Well, isn't it a possibility that they did have sex, so
8 let's send her off for a medical exam, just in case. But
9 law enforcement did not do that. They didn't do anything
10 to help corroborate ~~Hailey's~~ story. And I'll get to that
11 in a little bit too. And because the State knows that
12 ~~Hailey's~~ statement is all over the place, they put up
13 Ariel Gagne to testify about delayed disclosure. I want
14 you to pay attention to what she actually testified to.
15 The, first off, regarding just the interview she had with
16 ~~Hailey~~. The only specific time ~~Hailey~~ gave was October of
17 2016 when ~~Hailey~~ was home sick from school. You heard her
18 mother testify, she was never home from school on October
19 16, she never missed a day of school. Did they put up any
20 witness to show, oh no, she, she was absent that day. You
21 didn't see that witness, ladies and gentlemen. And when
22 Ariel Gagne testified, she said this applies to children
23 ages three through eighteen. And you have to look at it a
24 little ~~bit~~ and you're allowed to use your common sense.
25 And the Judge is going to tell you that in his closing,

1 use your life experience and common sense. [REDACTED] was a
2 teenager when she said this happened. The first thing
3 that Ariel Gagne said is, it's hard for children sometimes
4 because they have a lack of opportunity to disclose or
5 tell somebody. That's not the case here. First off, you
6 heard testimony, she was in a therapist once a week at
7 school in November of 2015 until she told supposedly,
8 [REDACTED] Meetze, about this. Craig didn't take her to
9 counseling, her mother never took her to counseling. It
10 happened at the school, at a safe place and never once did
11 she mention to a therapist, somebody she trusted to talk
12 to once a week about her problems, about this. December
13 of 2016, when she had to go into the hospital for cutting
14 for five days. You heard the testimony from both Hailey
15 and her mother. She was alone the majority of that time
16 in the hospital with doctors or nurses. Craig and her
17 mother were not around, that was also a safe place. If
18 she was worried about telling somebody she loved about it,
19 that was somewhere that she could tell anybody about it
20 and they would have to report it. Did she disclose it
21 then, no. That's the second safe place she could have,
22 she could have done it but she didn't. And then two times
23 her mother asked her about this when she found some texts
24 to a fella named [REDACTED] and a fella named [REDACTED]. And ask
25 you too, ladies and gentlemen, where's [REDACTED] where's

1 [REDACTED] Why didn't they come testify today or this week.
2 If those were her first disclosures as to what she
3 originally said happened, where are they, wouldn't that be
4 the most important thing to see what she was saying back
5 then when this supposedly happened. But they weren't here
6 to testify. But her mom confronted her about those. And
7 what did [REDACTED] say, I lied. I didn't know how to tell
8 you, I lied. You had two chances and she didn't do it
9 then either. [REDACTED] You also heard Ariel Gagne say that, well,
10 with a lot of children behavior becomes normal sexual
11 behavior to these children. But then on cross-examination
12 she said, yeah, that's mostly regarding young children
13 because teenagers know what appropriate sexual behavior
14 is. So that can't apply to [REDACTED] She talked about the
15 verbal skills to disclose. Again, she said that applies
16 mostly to younger victims. [REDACTED] [REDACTED] at the top end of
17 that scale. That doesn't apply to [REDACTED]. And then she
18 talked about the timeframe. She said it's harder for
19 younger kids to give timeframes. The only actual date
20 [REDACTED] originally gives anybody is October of 2016. Like
21 I said, we heard testimony she wasn't home sick any day in
22 October of 2016. But then she changes it ultimately to it
23 happens almost every single day. That's a big timeframe,
24 ladies and gentlemen, [REDACTED] it is very vague. Because she can't
25 keep the details straight because this fish is starting to

1 grow a little bit more. And I'll get to why she didn't
2 just say, well, I lied. Because ladies and gentlemen, at
3 that point, she's in deep. She knew she'd get in trouble
4 if she said she lied about this and this is where we are
5 in the process. And then the last one, she said oh, and
6 by the way with the dates, she couldn't remember dates
7 asking some of the most traumatic events that happened to
8 her in her life, yet when she was on the stand and I threw
9 up dates in February, like you went to [redacted]'s house
10 after school on February 19th, February 14th, February
11 21st, February 23rd, February 24th. Her response
12 immediately was, yes, I went there, yes. She knew those
13 dates, but she can't remember the most traumatic events of
14 her life. Pay attention to that, ladies and gentlemen.
15 And the last one was that Ariel Gagne talked about was
16 fear of being harmed. [redacted] was in fear of being
17 physically harmed or harmed in some way. However she was
18 already harming herself, ladies and gentlemen. You heard
19 Betsy Price testify, she had been cutting since before she
20 alleged that any of these events ever occurred. So that
21 doesn't apply to [redacted]. So then that takes you to the
22 initial disclosure of [redacted] [redacted] and [redacted] say
23 they were very close friends. Yet they never hung out
24 after school anywhere. [redacted] never had the opportunity to
25 see how [redacted] acts around Craig. See that they have, as

1 everybody else testified to, a normal father/daughter
2 relationship. And Hailey testified today she knows
3 [REDACTED]'s last name is Meetze. But you also heard her
4 testify that previously she, when asked what [REDACTED]'s last
5 name was, a friend she was very close to and trusted
6 enough to tell that I'm being sexually abused. It's
7 [REDACTED], I think. I'm horrible with names, I'm not sure.
8 Does that make sense, ladies and gentlemen. Think about
9 why she would tell somebody who had never been around
10 Craig before and seen how she reacts and acts around
11 Craig. How she continuously considers him her father.
12 Asks to go places with him and ask why she would tell
13 someone she just became friends with on Facebook in
14 January of 2018, this year, several weeks ago. And she
15 tells in the middle of a art class. Supposedly, she's
16 crying and she's upset, twenty other people around. How's
17 that a safe place to tell anybody, ladies and gentlemen.
18 She said, [REDACTED] said, nobody noticed she was crying,
19 nobody noticed she was upset. [REDACTED] wanted out of the
20 house because she was in trouble over this inappropriate
21 content that was found on her phone, that they got in an
22 argument about. She wanted to get Craig out of the house
23 so that she could do her thing, have her own rules and get
24 her phone back. She never expected it to blow up, ladies
25 and gentlemen. She never expected it to go so far, she

1 has to move to Prosperity and be put into DSS custody,
2 because she didn't mention anything about her mother to
3 [REDACTED] knowing, or anything of that nature. You didn't
4 hear anybody testify about that. She was trying to get
5 Craig out of the house, not get out of the house herself
6 with her mother. And then Lieutenant Lominack, ladies and
7 gentlemen, his only job in this case is to investigate it.
8 And in this case, as you heard Mr. Scott say, and I would
9 agree, most, most cases like this do happen in secret.
10 However, it's up to investigation to try to corroborate
11 things. Try to say, you know what, let's make sure this
12 is right before I just arrest somebody. Did he send her
13 for a medical, no. Did he follow-up and check any of the
14 dates from school to make sure that the date that she gave
15 him, October of 2016, that she was actually out from
16 school one of those days, no. You didn't hear anybody
17 come testify from the school about that. The only thing
18 he did was talk to Craig Busse and he even messed that up
19 too, ladies and gentlemen. He, one, didn't give a written
20 statement because [REDACTED] he said, oh, it didn't really help me to
21 get a written statement because he denied it. And he
22 said, well, Craig gave some terrible excuse as to why this
23 happened. Ladies and gentlemen, if you remember his
24 testimony, he said he asked Craig why would she make this
25 up. And the only thing, he's asked a question. The only

1 thing he came come up with, is well, she talked to my
2 daughter, **Katie**, who's been sexually abused before by some
3 unrelated individual back in December, several months
4 before this argument happened. Maybe she got it from
5 there, I don't know. Did anybody go check up with this
6 **Katie** girl, this daughter, to see if she'd been sexually
7 abused. Did **Hailey** ever testify on the stand, she ever
8 did or didn't talk to **Katie** about this. But they want to
9 try to disprove his statement, why not ask **Hailey** on the
10 stand. Did you ever talk to her about sexual abuse
11 before. Ask yourself why that question wasn't asked,
12 ladies and gentlemen. And finally, you heard him, Craig
13 came and voluntarily talked. He never asked for an
14 attorney because he had nothing to hide, ladies and
15 gentlemen, nothing to hide. And when he was told to come
16 in, he voluntarily turned himself in. If he was guilty,
17 guilty people run all the time. Why didn't he run,
18 because he's trusting the system. That takes you to Betsy
19 Price. And the Judge is going to instruct you that while
20 she was considered an expert witness, you consider her
21 testimony like anyone else's testimony. First off, she
22 gives **Hailey** the diagnosis of PTSD, major depressive
23 disorder and opposition defiant disorder. Pay attention
24 to where she said **Hailey** said this happened, in the
25 bedroom with the door shut. Yet you heard **Hailey**, **Hailey**

1 testify, most of the time the door was open. So I'll get
2 to ~~Mailey~~ in a minute, but most of the time the door was
3 open. She said it was shut every single time. There's
4 the first inconsistency. She never gave any specific
5 dates as to when anything happened. And she stated that
6 she gave the PTSD symptoms because she was hesitant and
7 avoidant and yet she didn't check ~~those~~ boxes in her
8 assessment. She was irritable, she didn't check that box
9 in her assessment. She was cutting, she indicates the
10 cutting was indicative of the PTSD. But ladies and
11 gentlemen, she then later testified, well, she was doing
12 this long before she said any of these allegations
13 occurred. So that can't be attributed to any allegations.
14 And where is her therapist from before, do we know she was
15 even diagnosed with PTSD before. We don't know, we don't
16 know what was going on before that. And then to give the
17 diagnosis, she said well it was because she was avoidant.
18 It was because she had negative altering thoughts and
19 moods. Yet she testified that she was exhibiting these
20 symptoms from the age of nine. She's alleged this stuff
21 started happening when she was approximately fourteen. So
22 that symptom right there goes to her depression that was
23 happening five, six years prior. It has nothing to do
24 with this sexual abuse allegation. And she stated that
25 ~~she got her information from, a lot of her information~~

1 from Kailey. Yet Kailey never reported to her the
2 hospitalization three months prior in December of 2016,
3 where she's in the hospital for five days for cutting on
4 herself. Why leave that out when you are seeing a
5 therapist, ladies and gentlemen. Then in her assessment,
6 this is an important part, we'll get to this, but Betsy
7 Price, that she has a history of lying and conning. She
8 has a history of being angry, resentful, spiteful and
9 vindictive. Ladies and gentlemen, that goes exactly to
10 her motive of why she would want to get Craig Busse out of
11 the house. And then she says nightmares, that Kailey
12 reports having these nightmares. If you heard Kailey
13 Counts testify, her best friend, who says they spent every
14 single weekend together essentially for a year and a half.
15 Not once did she notice Kailey having any type of sleep
16 disturbances, any type of nightmares. And they were
17 sleeping in the same bedroom for essentially three days
18 out of the week, ladies and gentlemen. But she's got to
19 keep her story going at this point, she's in too deep.
20 And with Kailey and Gina Counts, you heard them say,
21 Kailey acted completely the same around Craig when they
22 were around. They would hang out as a family. They said
23 the family would hang out together. They said they acted
24 the same as Kailey acted with her father, Ron Counts. And
25 Gina testified that after Kailey previously testified in a

1 court hearing, and the State wants you to believe this
2 statement about an actress, had something to do with her
3 being in theater class and being in that contest. Pay
4 attention, ladies and gentlemen. When Hailey testified,
5 when asked after you testified in a Family Court hearing
6 and you went to Arby's with the Counts, do you recall
7 making a statement about being a good actress. And she
8 unequivocally, three times, said absolutely not, no, I
9 never made any sort of statement. Yet the State wants you
10 to believe, ultimately after that, oh, well, it was some
11 statement about being in theater class which she had just
12 started in August of 2017. But that doesn't line up with
13 Hailey's testimony because Hailey's testimony is no, I
14 never said that at all. But, ladies and gentlemen, she's
15 a good actress, she's got to keep the story going. We got
16 to start changing the details now to make it fit the
17 puzzle of what she's saying. So that takes me to Hailey
18 and that motive. The State wants you to say that where
19 are all of these inconsistencies. Well, ladies and
20 gentlemen, you heard her say originally that this happened
21 every now and then. Then it became almost every single
22 day. The first time, and she testified, the first time I
23 said almost every single day was to the DSS attorney which
24 was months later. First time she ever said anything about
25 oral sex, is that first time to the DSS attorney months

1 later. The fish is getting bigger each time she tells the
2 story. When this happens, she said it happens in the
3 bedroom every single time. And everybody that testified
4 about the house testified essentially, Craig and Meagan's
5 room is right here. CJ's room is approximately six feet
6 away right here. Ladies and gentlemen, and her
7 grandmother's in the living room the majority of the time,
8 and this, these allegations supposedly start getting worse
9 and worse. Her grandmother's in her living room which
10 isn't too far away either. Yet not once did anybody see
11 anything happen, nobody heard anything. Does that make
12 sense, ladies and gentlemen, that someone would do
13 something with a door open, two people in the house almost
14 every single day. No, that does not make sense. You're
15 allowed to use your common sense. She stated her
16 relationship changed, which you heard her testify. I
17 continued to ask if you went places with him. If somebody
18 is sexually abusing you, would you continue to voluntarily
19 ask to go places with them alone. No, you use your common
20 sense. This part about the surgery. She first testified
21 to you that he couldn't have sex because it had something
22 to do with his health. She never said anything about the
23 surgery. Then when asked well, did he tell you about the
24 surgery. She, said no. Then she goes, well yes, he did.
25 Ladies and gentlemen, this is where the surgery comes in

1 to play. If he can't get an erection, which she readily
2 admits, how is it possible to have oral sex with him. And
3 if he can't have an erection, how's it possible to attempt
4 to have sex with him. It doesn't make sense. Her story
5 and details do not add up. You are allowed to use your
6 common sense and your life experience. And this came out
7 after this blow up over the phone. The blow up over the
8 phone happened on Monday. Pay attention to the details
9 about the blow up over the phone. It happened on Monday,
10 March 6th. Craig found the phone with the inappropriate
11 content. And you heard Meagan call or Meagan say she was
12 not home, she was at work. So she called and they were on
13 speaker phone. So her mom was not the one that found the
14 stuff and is getting her in trouble. Craig was the one
15 that found the stuff and was getting her in trouble.
16 Called Meagan, her mom say, hey, look, this is going on.
17 If he was grooming her and saying well, I'll keep this
18 quiet, he wouldn't of said anything to her. He would've
19 kept it quiet and said, hey, do something for me right
20 now. But that's not what happened. He called mama and he
21 said look at what's going on, this is happening. Craig
22 got her in trouble. And you heard mom testify this was a
23 huge blow up. This wasn't like normally when I took the
24 phone away. This was she was screaming, she was
25 hollering. This was the same as back in December when we

1 had to put her in the hospital, she was mad. And at that
2 point she became spiteful and vindictive and said you know
3 what, I have to tell somebody who's not going to know how
4 my relationship is with Craig. And I'm going to tell
5 somebody at school in the middle of art class so they
6 can't do anything about it. And they have to tell
7 somebody so that he can get out of the house. I'm not
8 going to say anything about my mom because I don't want to
9 see anything happen to my mom. She didn't know it was
10 going to blow up this big, ladies and gentlemen. And she
11 was afraid of getting in trouble. And what would happen
12 if you would say right now, I lied about this whole thing.
13 Fear of getting in trouble of saying that you lied.
14 Ladies and gentlemen, the State wants you to rely on your
15 emotions when you come to a verdict in this case. They
16 are over here saying, the child is now in a trailer in
17 Prosperity, the child is taken away from school. Ladies
18 and gentlemen, that's not what you have to pay attention
19 to. That's not anything that has to do with the elements
20 of whether she is credible or not. You have to rely on
21 the facts. You have to determine whether what she said on
22 the stand is true beyond a reasonable doubt, not maybe I
23 think she might be. Well, on the safe side and find him
24 guilty. If you have to play it on the safe side, that is
25 not guilty, ladies and gentlemen. I grew up in Lexington,

1 South Carolina. And growing up my dad always had the, the
2 saying, Anna, the right thing to do isn't always the
3 easiest thing to do. And I learned that the hard way. I
4 played basketball in high school and other sports, but I
5 remember specifically basketball. I was in the sophomore
6 year. And I got invited to the prom by a senior and I was
7 just absolutely excited about. Yes, I would go to the
8 prom. Go home, tell my parents and my dad looks at me and
9 he goes, Anna, you know you have a basketball tournament
10 you've already committed to that day. You can't go to the
11 prom. I said why not, that's more important to me. And
12 his statement was, Anna, the right thing to do is not
13 always the easiest thing to do. You may not want to go
14 play basketball. You may want to go to the prom, but the
15 right thing to do is to go to that basketball tournament
16 you committed to. Ladies and gentlemen, it's not going to
17 be easy to look over there and say the words, not guilty.
18 But with this case and with the evidence that was put up
19 and shown to you, and the circumstances around it, the
20 right thing to do, the only verdict you can come back with
21 is not guilty. Thank you.

22 THE COURT: Thank you, Ms. Browder. Solicitor, any
23 reply argument?

24 MR. SCOTT: Yes, Judge. The Judge is going to tell
25 you what we say isn't evidence. And if we remember

1 something different, rely on how you recall it, you are to
2 rely on your own memory of the testimony. A couple of
3 things, the defense will have you believe that Craig found
4 the phone and not the mother. The testimony to my
5 recollection is the mother found the phone. And that is
6 the other thing. Craig is the disciplinarian here. And
7 why is it that the mother is the one who takes the phone
8 away and disciplines here. You understand, that is why
9 this little motive doesn't fit. It is to get Craig out of
10 the house, this is the words I just took down in that
11 closing, to get Craig out of the house so she can get her
12 phone back and have her way. That is the motive, that is
13 what we are told to believe this whole thing is about.
14 This one singular argument where her mom finds some
15 material on the phone, takes her phone away. And she
16 suddenly makes up all this stuff about Craig and it is
17 carried on to this day. And she is in too deep, okay.
18 She is in too deep now because she has to stick with it.
19 What are the ramifications that while she is in DSS
20 custody she says I made it up. She is a juvenile, what do
21 you do with her. Nothing, you put her back in her home.
22 Do you understand what I am saying. It never got so big
23 that she couldn't say, I made it up and go back to her
24 family life. So we are to believe for nine months, while
25 she is in foster care she carried this line on and still

1 to this day she has carried it on. It doesn't fit. The
2 medical evidence aspect, that is typical too, what we see,
3 you beat up on law enforcement. My recollection of no
4 medical exam is because there was a 72 hour window they
5 have to abide by. If there is a sexual assault you have
6 72 hours to perform the sexual assault kit. Otherwise it
7 is outside the scope, you aren't going to find any
8 evidence. What evidence would you have found any way.
9 The testimony was there was never any intercourse. You
10 are not going to find any semen or anything like that.
11 The only insertion was he put his hand down her pants at
12 some point. What are you going to find in a rape kit if
13 there is oral sex. What are you going to find in a sexual
14 assault kit if there is oral sex. Nothing, nothing. So
15 in other words, a sexual assault kit is really not
16 relevant in this case. Why didn't they take a written
17 statement from the defendant. Guess what, law enforcement
18 can't make you give a written statement, that is up to
19 you, can't make you do it. Okay. So that is why he
20 didn't have a written statement, can't force him to do it.
21 Well, what was the statement he did make. You know, ask
22 yourself this. What would you do if you were confronted
23 with an allegation that you had done something this
24 heinous. What would your reaction be. Put yourself in
25 the mindset, the reaction of a normal person, what is it.

1 It is adamant. Who said this, what did they say I do.
2 You are appalled, you are beside yourself. I am getting
3 close to the end. Listen, there is a noteworthy in this.
4 Think about it. What is his response. Oh, well, you
5 know, I did have this daughter, step-daughter who accused
6 somebody of sexual assault. I think that is why she said
7 this. Is that logical, is that a reasonable response when
8 you are confronted with such allegations. No, it is not,
9 it is not. The fish did not get bigger and bigger and
10 bigger like the defense will have you believe. This lie
11 that keeps getting bigger and bigger. Ask yourself, if
12 you want to make the fish as big as it can get just allege
13 sexual intercourse. She didn't, she said it didn't
14 happen. And the only reason she knew to not say that is
15 she knew he is impotent. Okay. I am done, sorry. Just
16 wanted to bring those up to your attention. I still stand
17 by the fact the evidence, her credibility, you should be
18 firmly convinced he did it. Just look at the cues. Thank
19 you, ladies and gentlemen.

20 THE COURT: Mr. Foreman and ladies and gentlemen of
21 the jury, I think we will take a short break. And then we
22 will bring you back out and I will charge you on the law.
23 Go back to the jury room, don't begin deliberations yet.

24 (Whereupon, the jury was excused from open court for
25 a break.)

1 THE COURT: We will take about a ten minute recess.

2 (Whereupon, a short break was taken.)

3 THE COURT: Let's bring the jury back in.

4 (Whereupon, the jury came into open court at
5 approximately 11:25 a.m.)

6 THE COURT: Let the record reflect the jury is back
7 in the courtroom. Mr. Foreman and ladies and gentlemen of
8 the jury, I now will charge you the law applicable to this
9 case and you must consider this charge as a whole and not
10 focus on some portions to the exclusion of other portions.

11 The indictment in this case charges the Defendant
12 with criminal sexual conduct with a minor in the second
13 degree. I remind you, the fact that the Defendant has
14 been arrested, charged and indicted in this case is not
15 evidence in this case, and cannot be considered by you as
16 evidence of guilt in this case nor does it create any
17 presumption or inference of guilt. This document is
18 simply the formal written instrument which contains the
19 charge made against the Defendant. It is the formal
20 document by which this case is brought into this court.

21 Now, the Defendant has plead not guilty to this
22 indictment and that plea of not guilty puts the burden on
23 the State to prove the Defendant guilty. A person charged
24 with committing a criminal offense in South Carolina is
25 never required to prove himself innocent. I charge you

1 that it is an important rule of the law that a Defendant
2 in a criminal trial, no matter how serious the charge may
3 be, will always be presumed to be innocent of the crime
4 for which the indictment was issued unless guilt has been
5 proven by evidence satisfying you of that guilt beyond a
6 reasonable doubt. This presumption of innocence does not
7 end when you begin your deliberations but it accompanies
8 the Defendant throughout the trial unless you reach a
9 verdict of guilt based on evidence satisfying you of that
10 guilt beyond a reasonable doubt. Now, this presumption of
11 innocence is like a robe of righteousness placed about the
12 shoulders of the Defendant which remains with the
13 Defendant unless it has been stripped from the Defendant
14 by evidence satisfying you of the Defendant's guilt beyond
15 a reasonable doubt. This presumption of innocence is not
16 a mere legal theory, it is not just a legal phrase that we
17 use. It is a substantial right to which every Defendant
18 is entitled unless you, the jury, are satisfied from the
19 evidence of the Defendant's guilt beyond a reasonable
20 doubt.

21 Now, concerning reasonable doubt, some of you, I
22 don't know this, but some of you may have served as jurors
23 in civil cases where you were told that it is only
24 necessary to prove that a fact is more likely true than
25 not true such as by the greater weight or the

1 preponderance of the evidence. But in criminal cases the
2 State's proof must be more powerful than that, it must be
3 beyond a reasonable doubt. Proof beyond a reasonable
4 doubt is proof that leaves you firmly convinced of the
5 Defendant's guilt. There are very few things in this
6 world, and I think you were told this earlier, that we
7 know with absolute certainty and in criminal cases the law
8 does not require proof that overcomes every possible
9 doubt. If based on your consideration of the evidence you
10 are firmly convinced that the Defendant is guilty of the
11 crime charged you must find the Defendant guilty. If on
12 the other hand, you think there is a real possibility that
13 the Defendant is not guilty you must give the Defendant
14 the benefit of the doubt and find him not guilty.

15 Now, I remind you once again, that during this trial
16 you and I have had certain duties to perform. As the
17 trial Judge, it has been my responsibility to preside over
18 the trial of this case. And I have also had the duty to
19 rule on the admissibility of evidence offered during this
20 trial. You are to consider only the competent evidence
21 before you.

22 If there was any testimony ordered stricken from the
23 record in this case during this trial, I don't recall that
24 there was, you must disregard that testimony. You are
25 only to consider the testimony which has been presented

1 from the witness stand, any exhibits which have been made
2 a part of the record in this case, and I am not certain
3 that there were any exhibits, and any agreements or
4 stipulations of counsel.

5 I have the additional duty to charge you the law
6 applicable to this case as I am doing now. As the
7 presiding Judge I am the sole Judge of the law in this
8 case and it is your duty, as jurors, to accept and apply
9 the law as I now state it to you. If you already have any
10 idea as to what the law is or what the law ought to be and
11 it does not agree with what I now tell you the law is you
12 must abandon your idea because you are sworn to accept the
13 law and apply the law exactly as I state it to you.

14 Now, as I previously told you, in every case tried in
15 this court before a jury, the jury becomes the sole and
16 exclusive judge of the facts in a case. A trial Judge
17 cannot intimate, state, comment on or make any statement
18 to a trial jury about the facts in the case. Since you,
19 the jury, are the sole judge of the facts in this case you
20 are not to infer from what I have said during the progress
21 of this trial and the ruling upon the admissibility of
22 evidence or otherwise or making any rulings on any
23 objections or anything that I say now during the course of
24 this instruction to you that I have any opinion about the
25 facts in this case. I do not have an opinion about the

1 facts in this case. The law does not allow me to have an
2 opinion about the facts in this case. This is a matter
3 solely for you, the jury, to determine. As jurors it is
4 your duty to determine the facts, evaluate the evidence
5 presented during this trial.

6 Now, Mr. Foreman, ladies and gentlemen of the jury,
7 there are two types of evidence which are generally
8 presented during a trial, that being direct evidence and
9 circumstantial evidence. Direct evidence directly proves
10 the existence of a fact and does not require deduction.
11 Circumstantial evidence, however, is proof of a chain of
12 facts and circumstances indicating the existence of a
13 fact. Crimes may be proven by circumstantial evidence.
14 The law makes no distinction between the weight or value
15 to be given to either direct or circumstantial evidence.
16 However, to the extent the State relies on circumstantial
17 evidence, all of the circumstances must be consistent with
18 each other and when taken together point conclusively to
19 the guilt of the accused beyond a reasonable doubt. If
20 these circumstances merely portray the Defendant's
21 behavior as suspicious the proof has failed. Once again,
22 the State has the burden of proving the Defendant guilty
23 beyond a reasonable doubt and this burden rests with the
24 State regardless of whether the State has relied on direct
25 evidence, circumstantial evidence or some combination of

1 the two.

2 Necessarily, it is your job to determine the
3 credibility of witnesses who have testified in this case
4 and the evidence presented. Credibility simply means
5 believability. It becomes your duty as jurors to analyze
6 and to evaluate the witnesses and the evidence and
7 determine the credibility of the witnesses and the
8 evidence. In determining the credibility of witnesses who
9 have testified in this case, you may believe one witness
10 over several witnesses or several witnesses over one
11 witness. You may believe a part of the testimony of a
12 witness and reject the remaining part of the testimony of
13 that same witness. You may believe the testimony of a
14 witness in its entirety or reject the testimony of a
15 witness in its entirety. You may consider whether any
16 witness has exhibited to you any interest, biased,
17 prejudiced or other motive in this case. You may also
18 consider the appearance and manner of a witness while on
19 the witness stand.

20 Now, in order to establish criminal liability, Mr.
21 Foreman and ladies and gentlemen of the jury, criminal
22 intent is required. For example, the mental state
23 required to be proven by the State for a particular crime
24 might be purpose, intent, knowledge, recklessness or
25 criminal negligence. Criminal intent must be proven by

1 the State beyond a reasonable doubt. Criminal intent is
2 always a matter that must be determined by the jury from
3 the circumstances surrounding the situation. There is no
4 way to prove intent to a mathematical certainty.
5 Certainly there is no way medical science can dissect a
6 person's brain and determine what the person had in mind.
7 So the law says that criminal intent may be inferred from
8 the circumstances shown to have existed. This is how you
9 make a determination of whether or not the element
10 requiring intent was present. It is not necessary to
11 establish intent by direct and positive evidence, but
12 intent may be established by inference in the same way as
13 any other fact by taking into consideration the acts of
14 the parties and all of the facts and circumstances of the
15 case. Criminal intent is a mental state, a conscious
16 wrongdoing. It is up to you to determine what the
17 Defendant intended to do based on the circumstances shown
18 to have existed. Criminal intent can arise from action or
19 a failure to act. It may arise from negligence,
20 recklessness or an indifference to duty or to consequences
21 that is considered by the law to be equivalent of criminal
22 intent.

23 Now, I explained to you yesterday concerning expert
24 witnesses and let me cover that again. The rules of
25 evidence ordinarily do not permit witnesses to testify to

1 opinions or conclusions. An exception to this rule exists
2 for witnesses we call expert witnesses. A witness who by
3 education and experience has become an expert in some art,
4 science, profession or calling may state an opinion as to
5 relevant and material matter in which the witness claims
6 to be an expert in and may also state the reasons for that
7 opinion. You should consider any expert opinion received
8 in evidence in this case, and like any other evidence,
9 give it the weight you think it deserves. If you decide
10 that the opinion of an expert, an expert witness is not
11 based on sufficient education and experience, or if you
12 conclude that the reasons given in support of the opinion
13 are not sound, or that the opinion is outweighed by other
14 evidence you may disregard the expert's opinion entirely.
15 An expert witness' testimony is to be given no greater
16 weight than that of other witnesses simply because the
17 witness is an expert. You are not required to accept an
18 expert's opinion even though it is not contradicted.

19 Now, the Defendant in this case elected not to
20 testify. I instruct you and emphasize that the fact that
21 the Defendant did not testify is not a factor to be
22 considered by you in any way in your deliberations and in
23 your consideration on the question of the guilt or
24 innocence of the Defendant. It must not be considered by
25 you in any manner whatsoever. A Defendant has the

1 constitutional right to remain silent. And the assertion
2 of this right must not be considered by you in your
3 deliberations. I repeat, under the oath you took, you are
4 to draw no conclusion whatsoever from the fact that the
5 Defendant in this case did not testify. The fact that
6 this Defendant elected not to testify should not even be
7 discussed in the jury room during your deliberations. As
8 I have stated to you several times, the burden of proof is
9 on the State. The Defendant is not required to prove his
10 innocence. The burden of proof remains on the State to
11 prove guilt beyond a reasonable doubt.

12 Now, as we have stated and as you know, the Defendant
13 has been charged with second degree criminal sexual
14 conduct with a minor. The State must prove beyond a
15 reasonable doubt that the Defendant engaged in a sexual
16 battery with the victim. A sexual battery is sexual
17 intercourse, cunnilingus, fellatio, anal intercourse or
18 any intrusion however slight of any part of a person's
19 body or of any object into the genital or anal openings of
20 another person's body except when the intrusion is
21 accomplished for medically recognized treatment or
22 diagnostic purposes. The State also must then prove
23 beyond a reasonable doubt that the victim was less than 16
24 years old, and at least 14 years old and that the
25 Defendant was either in a position of familial, custodial

1 or official authority to coerce the victim to submit or
2 that the Defendant was older than the victim.

3 Mr. Foreman and ladies and gentlemen of the jury,
4 there are two possible verdicts in this case. Not guilty
5 or guilty of the crime charged. Your verdict in this case
6 must be unanimous among the twelve of you. And, Mr.
7 Foreman, when you have reached a verdict, once I tell you
8 to begin your deliberations, just knock on the door and
9 inform the bailiff that you have reached a unanimous
10 verdict. Now, I realize what I just read to you was a lot
11 and I routinely give a copy of this jury charge to the
12 jury for your use in however you want to use it, for
13 whatever purpose that you want to use it. Now, there is a
14 verdict form and I am going to walk down there, Mr.
15 Foreman, and show you the verdict form. It is very easy
16 to complete but it must be completed in order to reflect
17 what your verdict is. It just shows the name of the case,
18 the State of South Carolina versus Craig Carl Busse, that
19 is the indictment number. And the only question you are
20 to consider as to the indictment which charges the
21 Defendant with criminal sexual conduct with a minor second
22 degree, we, the jury, find the Defendant and you will put
23 your initials on whatever your verdict is, either guilty
24 or not guilty and sign it and we have already dated it.
25 Now, what I will want you to do is all 14 of you go back

1 to the jury room, do not begin your deliberations yet. I
2 just need to talk to the lawyers to make sure that my
3 charge is correct and it does not need any changes or
4 amendments. If the bailiff brings to you the verdict form
5 and the copy of the jury charge and I don't believe that
6 there were any exhibits, oh, this is one exhibit. There
7 is one exhibit. When those documents are brought to you
8 then that will be your cue for two things to happen. The
9 two alternates will need to exit the jury room and come
10 back out into the courtroom and I will talk with you then
11 and then you will begin your deliberations. If there has
12 to be a correction or an addition to the jury charge then
13 I will bring all 14 of you back. Okay. Now, one last
14 thing, since we are approaching the lunch hour. Once you
15 start into your deliberations and you maybe have a feel of
16 how they are going, I will pass a note back there to see
17 if you want us to provide you with lunch. Let us know if
18 you want a lunch or not. Newberry County provides Little
19 Caesars Pizza. Okay. But I want you to get into your
20 deliberations a little bit, just see how things are. All
21 14 go back to the jury room, don't begin your discussions
22 yet.

23 (Whereupon, the jury was excused from open court.)

24 THE COURT: Does the State have any exceptions or
25 objections to the Court's charge?

1 MR. SCOTT: No, Your Honor.

2 THE COURT: The Defense?

3 MS. BROWDER: No, sir.

4 THE COURT: Okay.

5 MS. BROWDER: I do just have a question, Your Honor,
6 regarding the charge. It is the charge that took out the
7 CSC in it, of course the copy I have has the CSC in it.

8 THE COURT: Right. And what I read, of course, I did
9 not charge the lessor included. And what they will be
10 getting does not have the lessor included.

11 MS. BROWDER: All right. Thank you.

12 THE COURT: If you will take that back to them and
13 bring the two alternates out.

14 (Whereupon, the jury begin deliberations at
15 approximately 11:41 a.m.)

16 (Whereupon, the alternates were excused from the
17 trial of the case at approximately 11:43 a.m.)

18 THE COURT: It is my understanding that we have a
19 verdict. I will caution everybody that I won't tolerate
20 any emotional outbursts. If you feel like you can't
21 control your emotions I would ask that you leave at this
22 time. All right, Madam Bailiff, if you will bring the
23 jury out, please.

24 (Whereupon, the jury came into open court with the
25 verdict at approximately 2:35 p.m.)

1 THE COURT: Let the record reflect the jury is back
2 in. Mr. Foreman, without telling me what the verdict is,
3 it is my understanding that you have reached a verdict in
4 this case. Is that correct?

5 MR. FOREMAN: Yes, sir.

6 THE COURT: And is the verdict unanimous among the
7 twelve of you?

8 MR. FOREMAN: Yes, sir.

9 THE COURT: If you will hand the verdict form to the
10 Bailiff, please.

11 (Whereupon, the Foreman hands the verdict form to the
12 Bailiff, the Bailiff hands the verdict form to the
13 Court.)

14 THE COURT: All right, Madam Clerk, if you would
15 publish. Mr. Busse, if you would please stand.

16 CLERK OF COURT: Indictment number 2017-GS-36-414.
17 The State of South Carolina versus Craig Carl Busse. As
18 to indictment number 2017-GS-36-414, which charges the
19 Defendant with criminal sexual conduct with a minor second
20 degree. We, the jury, find the Defendant guilty. Signed,
21 J. Craig Kesler, Foreperson.

22 Ladies and gentlemen, if this is your verdict please
23 indicate by raising your right hand.

24 (Whereupon, all jurors raised their hand.)

25 THE COURT: Let the record reflect that all twelve

1 hands were raised. Does the Defense request individual
2 polling of the jury?

3 MS. BROWDER: Please.

4 THE COURT: Okay. All right. Mr. Busse, you can
5 have a seat.

6 CLERK OF COURT: Cindy Disarro, is this your verdict
7 and is it still your verdict?

8 MS. DISARRO: Yes.

9 CLERK OF COURT: Walter Estes, is this your verdict
10 and is it still your verdict?

11 MR. ESTES: Yes.

12 CLERK OF COURT: Anne Scott, is this your verdict and
13 is it still your verdict?

14 MR. SCOTT: Yes.

15 THE COURT: Robert Reynolds, is this your verdict and
16 is it still your verdict?

17 MR. REYNOLDS: Yes.

18 THE COURT: Michael Gagliardi, is this your verdict
19 and is it still your verdict?

20 MR. GAGLIARDI: Yes.

21 CLERK OF COURT: David Riber, is this your verdict
22 and is it still your verdict?

23 MR. RIBER: Yes.

24 CLERK OF COURT: Lachina Feaster, is this your
25 verdict and is it still your verdict?

1 MS. FEASTER: Yes.

2 CLERK OF COURT: Jamarrian Dewalt, is this your
3 verdict and is it still your verdict?

4 MR. DEWALT: Yes.

5 CLERK OF COURT: Craig Kesler, is this your verdict
6 and is it still your verdict?

7 MR. KESLER: Yes.

8 CLERK OF COURT: Dean Richardson, is this your
9 verdict and is it still your verdict?

10 MR. RICHARDSON: Yes.

11 CLERK OF COURT: Sandra Myers, is this your verdict
12 and is it still your verdict?

13 MS. MYERS: Yes.

14 CLERK OF COURT: Charlie Johnson, is this your
15 verdict and is it still your verdict?

16 MR. JOHNSON: Yes.

17 CLERK OF COURT: Thank you.

18 THE COURT: Thank you, Madam Clerk. Ladies and
19 gentlemen, I want to thank you for your jury service. The
20 verdict that you reach in this case does not matter to the
21 Court. What matters to the Court is that you, the jury,
22 perform your duties conscientiously, diligently and I know
23 that you have done that. You have been very attentive
24 throughout this entire trial. That is one of the things I
25 told you at the outset, since you are not permitted to

1 take notes that you need to pay attention. And one of the
2 jobs or my role during a trial is to keep an eye on the
3 jury and that is what I do and that is what I did. And
4 every time I looked at you you were all paying very close
5 attention to what was going on in the trial. So I
6 appreciate that. So thank you for your jury service and
7 we have no further work for the jury so you are free for
8 the remainder of the week, you do not need to come back.
9 Mr. Foreman, you will need to hang around for just a
10 second because you will need to sign the back of the
11 indictment. And we do have your checks and I think,
12 Beverly, you just go out in the hallway. I do like to
13 shake the hands of my jury's so I am going to come down
14 and do that as you are filing out. You are dismissed and
15 free to leave.

16 (Whereupon, the jury was excused from open court.)

17 THE COURT: All right, we are going to take about a
18 ten or fifteen minute recess before we proceed with
19 sentencing.

20 (Whereupon, a short break was taken.)

21 THE COURT: Ms. Browder, you and your client want to
22 come up here.

23 MS. BROWDER: Your Honor, prior to this, I just want
24 to at this point renew all of my prior motions in addition
25 to requesting a new trial, specifically as to the issues

1 of the content of the text messages regarding the phone
2 blowup and this inappropriate sexual photographs between
3 the victim and another boy. In addition, as to the
4 State's closing argument regarding the State's prosecutor
5 indicating that he believes the testimony is compelling,
6 which I believe is improper bolstering of the victim.

7 THE COURT: What I will certainly allow you to do, if
8 you want to take advantage of this, to formalize your
9 motion for a new trial in ten days. Would you like that?

10 MS. BROWDER: Yes, sir.

11 THE COURT: Ten days, okay. This is the sentencing
12 phase of the case, State of South Carolina versus Craig
13 Carl Busse who has been found guilty by a jury, criminal
14 sexual conduct with a minor second degree. I will hear
15 from the State first if it wishes to address the issue of
16 sentencing.

17 MR. SCOTT: Your Honor, [REDACTED] does not wish to
18 address the Court. She does want to thank the jury, their
19 attentiveness and their verdict. And the State would echo
20 the verdict of the jury that it does speak the truth. The
21 criminal history is out of Wisconsin. And as we have
22 spoke, basically due to the fact that they moved here, I
23 think in 2015 when some of these allegations begun. A lot
24 of arrest, but it is difficult to see the actual
25 convictions. I see a resisting or obstructing an officer

1 in '84; and then a number of arrests. There is a sexual
2 assault--

3 MS. BROWDER: Your Honor, I would object to any of
4 that because that, those were dismissed and they should
5 not be taken into consideration at all.

6 MR. SCOTT: Well, there is an arrest, it is unclear
7 what--

8 THE COURT: I would not take, if there is, and I
9 realize sometimes out-of-state rap sheets are hard to
10 decipher. But I will not consider any offenses where
11 there is just an arrest and no proof of a conviction. I
12 will not take that into account at all.

13 MR. SCOTT: The obstruction, I think, is clear.
14 Judge, you heard the facts. This is a girl who is
15 vulnerable to begin with. He is in a position of familial
16 authority, somebody should have been trusting, somebody
17 she thought of as a father and took advantage of her.
18 Unfortunately we get too many of these cases. I want to
19 thank the jury because these cases are so hard, you have
20 got this girl who has got no position in society, no power
21 in society. And it is her word against his and she has
22 got no motivation. That is what that closing argument was
23 all about, what does she have to gain from this. And they
24 saw the truth and I think the sentence needs to reflect
25 what the rest of her life is going to be like. Trust

1 issues, you know, that is never going to be the same.
2 That will never be normal and what he has taken away from
3 her, I think that needs to be addressed. And I speak on
4 behalf of Hailey. Thank you.

5 THE COURT: Thank you, Solicitor. Ms. Browder, will
6 be glad to hear from you.

7 MS. BROWDER: Thank you, Your Honor. Mr. Busse is a
8 truck driver. As you notice, he has a very supportive
9 family, they have been sitting in the audience behind him.
10 He essentially has no prior record other than the 1984
11 obstructing an officer which was, I don't do math, but 30
12 years ago when he was young, Your Honor. I have
13 instructed Mr., I don't want it to be construed in any way
14 of him not speaking to Your Honor, I have instructed him,
15 as his attorney, not to say anything regarding this
16 proceeding for purposes of an appeal, in case the case
17 would be overturned, it would come back. I didn't want
18 anything to be used one way or the other against him.

19 THE COURT: Sure.

20 MS. BROWDER: I would say in part of mitigation, Your
21 Honor, we will be, we are asking for a minimal sentence.
22 We understand this is a serious charge. But due to the
23 fact that he has no prior record and if you do look at the
24 facts and circumstances, you did hear the testimony and
25 this is considered what would be, considered an incestual

1 sexual abuse. I do a lot of sexual violent predator cases
2 and in those SVP cases it is very clear that those types
3 of sexual abuse are considered the lowest recidivism rate
4 possible, it is only four percent ever do it again if they
5 were to get out. So based on that we would ask for a
6 minimal sentence. And then I do believe his mother would
7 like to speak on his behalf as well as, I believe, Meagan
8 Busse would like to speak on his behalf at the appropriate
9 time.

10 THE COURT: Okay. I will be glad to hear from them.
11 Ms. Busse and then you say his mom. Come on up.

12 MS. BROWDER: I will let Ms. Busse go first.

13 THE COURT: Okay. You can come around as Ms. Busse
14 is speaking. Madam Clerk, if you will swear Ms. Busse in,
15 please.

16 MEAGAN BUSSE, being
17 first duly sworn, testified as follows:

18 THE COURT: I will be glad to hear from you, Ms.
19 Busse,

20 MS. BUSSE: I would like to say that he has been a
21 great father to all of his children. I was never in any of
22 the occasions that she ever spoke of and I have never seen
23 any signs of any abuse. I, myself, was abused as a child
24 so I know what to look for. And I know that, I know he is
25 a great person and I know that he would never

1 intentionally hurt anyone. And I don't want to see him
2 with a maximum sentence. He doesn't deserve that, he
3 deserves to be able to be with his family even if that
4 excludes myself and my daughter. He doesn't deserve that.
5 Thank you.

6 THE COURT: Thank you, Ma'am. And I need to have you
7 sworn in. Can you state your name, please, Ma'am.

8 MS. MOTLEY: Carmel Motley, (phonetic).

9 THE COURT: Yes ma'am, Ms. Motley, I will be glad to
10 hear from you.

11 MS. MOTLEY: My son moved down here to be closer to
12 family and I don't want to lose him. He is a good man.
13 When his family came down to be with us or with me and my
14 sister I took her as one of my own. And she has done this
15 to Craig for no reason at all. I think ~~any~~ needs a
16 whole lot of help. And I don't ever want to see her
17 again. I just want you to be very lenient with my son.

18 MS. BROWDER: I think that is it, Your Honor. We
19 would ask for a lenient sentence, Your Honor.

20 THE COURT: Is there any amount of credit time.

21 MS. BROWDER: He bonded right out.

22 THE COURT: Immediately out?

23 MS. BROWDER: Yes, sir.

24 THE COURT: Okay.

25 MS. BROWDER: So one day, I think, is what he would

1 be given credit for.

2 THE COURT: These are very difficult cases, there is
3 no question about it. I would certainly commend all three
4 attorneys for the excellent job that you folks have done
5 in representing your respective sides. It is tough for
6 the lawyers, certainly tough for the Judge. But I want to
7 make perfectly clear that when a jury comes back with a
8 guilty verdict that this jury has done then I take as fact
9 as absolute truth the State's case concerning the
10 allegations made against you, Mr. Busse. I don't try to
11 analyze the facts and come up with my own determination of
12 what happened or what did not happen. The jury remembers,
13 I instructed them I don't have a view of the facts. So
14 when they come back with a guilty verdict than I take as
15 absolute truth that over a two-year period of time you
16 molested your step-daughter, plain and simple. That is
17 factored into my decision. The fact that you do not have
18 a prior record other than a 1984 conviction certainly is
19 to your benefit. This is a terrible, terrible case that
20 this young girl had to go through over a two-year period
21 of time. All right, Mr. Busse, sentence of the Court is
22 you be committed to the State Department of Corrections
23 for a period of 15 years. I will reserve ruling on the
24 issue of sex offender register. Good luck to you, sir.

25 MR. BUSSE: Your Honor, can I say goodbye to

1 everyone.

2 THE COURT: You certainly can.

3 MR. SCOTT: I think the registry is mandatory.

4 THE COURT: Not on the second, I think it is just
5 mandatory on the first, it is not mandatory on the second,
6 is it?

7 MR. DANIEL: That might relate to the GPS, Your
8 Honor. I believe the registry itself may be mandatory. I
9 will look at the statute.

10 THE COURT: Let's take a look, I want to see the
11 lawyers back in-chambers for just a minute.

12 (Whereupon, a short break was taken.)

13 THE COURT: We are back on the record on the State
14 versus Craig Busse case. The Court was in error in
15 reserving ruling on the issue of sex offender registry, it
16 is mandatory and so the sentencing sheet so reflects.

17 MS. BROWDER: Thank you, Your Honor.

18 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
19
20
21
22
23
24
25

1 CERTIFICATE OF REPORTER
2
3

4 State of South Carolina)
5 County of Newberry)
6
7

8 I, Joy E. Holston, Official Court Reporter for the
9 Eighth Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete transcript of record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the County of Newberry, South
14 Carolina on the days of February 5th through February 7th,
15 2018.

16 I do further certify that I am neither of kin,
17 counsel nor interest to any party hereto.
18
19

20 July 13, 2018

21 *Joy Holston*
22

23 Joy E. Holston, Court Reporter

24 My Commission expires: May 2, 2026
25

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY
STATE VS.CRAIG CARL BUSSEAKA: Cr BusseRace: WhiteSex: MAge: 56DOB: [REDACTED]SS#: [REDACTED]Address: 2442 Wilson RoadCity, State, Zip: Newberry, SC 29108DL# [REDACTED]SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or☐ PLEADSTO: Criminal Sexual Conduct With A Minor, Second DegreeIn violation of § 16-03-0655(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0397☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

100588

Taylor Daniel, Assistant Solicitor

SC Bar #

Defendant.

Anna R. Brouder 72808
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 15 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 Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 (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: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐

I, Elizabeth P. Folk, Clerk of Court, Newberry,

☐ Set by SC DPPPS South Carolina, do hereby certify that this is a true Copy of the original on file in this office.

Recipient: _____

APR 17 2019

*Fine:

Clerk of Court

§14-1-206 (Assessments 107.5%)	\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ 3.75
3% to County (if paid in installments)	\$	\$ 128.75
TOTAL		\$ 128.75

Clerk of Court/Deputy Clerk: _____

Court Reporter: _____

SCCA/217 (07/2016)

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: RESERVE PROBATIONon the issue of SEX OFFENDER REGISTRY
MANDATORY☐ Appointed PD or appointed other counsel,

Proviso §61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge: _____

Judge Bar ID: 2535Judge Code: 21107Sentence Date: 2/7/18

WITNESSES

Garrett Lominack
Newberry County Sheriff's Department

WARRANT NUMBER

2017 A34 10100216

TRUE BILL

mpkoon
Foreman of the Grand Jury
Date: 9/18/17

VERDICT

J. Craig Kessler

Foreman

2/7/18

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

September Term, 2017
Indictment # 2017-GS-36-00414

THE STATE

vs.

CRAIG CARL BUSSE

INDICTMENT FOR

Criminal Sexual Conduct With A Minor, Second Degree
SC Code: § 16-03-0655(B)(2)

CDR: 0397

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

I, Elizabeth P. Folk, Clerk of Court, Newberry, South Carolina, do hereby certify that this is a true Copy of the original on file in this office.

APR 17 2019 Elizabeth P. Folk
Clerk of Court

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

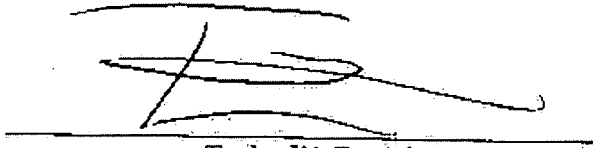
INDICTMENT FOR

**Criminal Sexual Conduct With A Minor, Second
Degree
§16-03-0655(B)(2)**

At a Court of General Sessions, convened on the 8th day of September, 2017, the Grand Jurors of Newberry County present upon their oath:

The defendant, Craig Carl Busse, did on or about June 28, 2016 to March 1, 2017, in Newberry County, South Carolina, commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree by engaging in a sexual battery with a minor, [REDACTED] (D.O.B. [REDACTED]) who was at least fourteen (14) years of age but less than sixteen (16) years of age and the Defendant was in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim. All in violation of Section 16-3-655(B)(2), *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Taylor W. Daniel
Assistant Solicitor

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2018-000201

RECEIVED
APR 19 2019
SC Court of Appeals

The State of South Carolina,

Respondent,

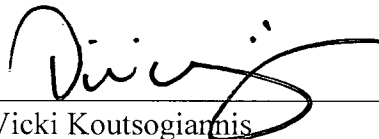
v.

Craig C. Busse,

Appellant,

RULE 210 CERTIFICATION

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



Vicki Koutsogiannis
Law Office of James R. Snell, Jr., LLC
123 Harmon Street
Lexington, South Carolina 29072
(803) 359-3301
Attorneys for Appellant

April 18, 2019
Lexington, South Carolina