

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Lexington County

Honorable Eugene C. Griffith, Circuit Court Judge

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THE STATE,

V.

EDWARD DAVIS, SR.,

RESPONDENT

APPELLANT

**RECEIVED**  
JUL 16 2019  
SC Court of Appeals

APPELLATE CASE NO. 2018-001628

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RECORD ON APPEAL

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INDEX

|                                             |     |
|---------------------------------------------|-----|
| INDEX .....                                 | i   |
| TRIAL TRANSCRIPT (AUGUST 20-22, 2018) ..... | 1   |
| JURY VOIR DIRE .....                        | 9   |
| JURY SELECTION .....                        | 25  |
| JACKSON V. DENNO HEARING .....              | 43  |
| SHAUN PLATT .....                           | 43  |
| HAYLI HOOVER .....                          | 59  |
| COURT'S RULING .....                        | 68  |
| OPENING STATEMENT BY MS. USRY .....         | 72  |
| OPENING STATEMENT BY MR. DAWSON .....       | 75  |
| TESTIMONY                                   |     |
| TIMOTHY PECORI .....                        | 78  |
| KAREN ELLINGTON .....                       | 91  |
| KELSEY WILLIS .....                         | 111 |
| SHAUN PLATT .....                           | 129 |
| MINOR .....                                 | 165 |
| ELISE TISON .....                           | 201 |
| B.D. ....                                   | 209 |
| EDWARD DAVIS, JR. ....                      | 222 |
| HAYLI HOOVER .....                          | 229 |
| MOTION FOR A DIRECTED VERDICT .....         | 258 |
| COURT'S RULING .....                        | 259 |

|                                       |     |
|---------------------------------------|-----|
| CLOSING ARGUMENT BY MS. FULLER .....  | 270 |
| CLOSING ARGUMENT BY MR. CHEHOSKI..... | 281 |
| CHARGE ON THE LAW .....               | 287 |
| VERDICT .....                         | 305 |
| SENTENCING .....                      | 318 |
| INDICTMENT.....                       | 321 |
| SENTENCING SHEET .....                | 323 |
| CERTIFICATE OF COUNSEL .....          | 324 |

State of South Carolina                    )  
                  vs.                                )       Transcript of Record  
                                                      )  
                                                      )  
Edward Davis, Sr.                                )  
                  Defendant                        )

August 20th through August 22nd, 2018

Lexington, South Carolina

B E F O R E:

Honorable Eugene C. Griffith, Jr., Judge

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

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Joy E. Holston  
Official Court Reporter



I N D E X . O F W I T N E S S E S

(IC) - Denotes In Camera  
(DW) - Denotes Defense Witness  
(SW) - Denotes State's Witness

(SW) Shaun Platt - Jackson v. Denno

Direct examination by Ms. Usry: 43

Cross-examination by Mr. Chehoski: 55

(SW) Hayli Hoover - Jackson v. Denno

Direct examination by Ms. Fuller: 59

Cross-examination by Mr. Chehoski: 65

(SW) Timothy Pecori

Direct examination by Ms. Fuller: 79

Cross-examination by Mr. Dawson: 90

(SW) Karen Ellington

Direct examination by Ms. Usry: 91

Cross-examination by Mr. Dawson: 107

Redirect examination by Ms. Usry: 109

(SW) Kelsey Willis

Direct examination by Ms. Fuller: 111

Cross-examination by Mr. Dawson: 119

1     (SW) Shaun Platt

2             Direct examination by Ms. Usry:                     129

3             Cross-examination by Mr. Chehoski:                 147

4             Redirect examination by Ms. Usry:                   153

5

6     (SW)           Minor

7             Direct examination by Ms. Fuller:                   165

8             Cross-examination by Mr. Chehoski:                 194

9

10    (SW) Elise Tison

11            Direct examination by Ms. Usry:                     201

12            Cross-examination by Mr. Chehoski:                 206

13

14    (SW)           B.D.

15            Direct examination by Ms. Usry:                     209

16            Cross-examination by Mr. Chehoski:                 219

17

18    (SW) Edward Davis, Jr.

19            Direct examination by Ms. Fuller:                   222

20            Cross-examination by Mr. Chehoski:                 227

21

22

23

24

25

|    |                                      |     |
|----|--------------------------------------|-----|
| 1  | <u>(SW) Hayli Livingston Hoover</u>  |     |
| 2  | Direct examination by Ms. Fuller:    | 229 |
| 3  | Cross-examination by Mr. Chehoski:   | 252 |
| 4  | Redirect examination by Mr. Fuller:  | 256 |
| 5  | Recross examination by Mr. Chehoski: | 257 |
| 6  |                                      |     |
| 7  | Opening Statements by Kate Usry:     | 72  |
| 8  | Opening Statement by Mr. Dawson:     | 75  |
| 9  | Closing arguments by Ms. Fuller:     | 270 |
| 10 | Closing arguments by Mr. Chehoski:   | 281 |
| 11 | Jury Charge:                         | 287 |
| 12 | Verdict of the Jury:                 | 305 |
| 13 | Sentencing by the Court:             | 318 |
| 14 | Certificate of Reporter              | 320 |
| 15 |                                      |     |
| 16 |                                      |     |
| 17 |                                      |     |
| 18 |                                      |     |
| 19 |                                      |     |
| 20 |                                      |     |
| 21 |                                      |     |
| 22 |                                      |     |
| 23 |                                      |     |
| 24 |                                      |     |
| 25 |                                      |     |

EXHIBITSState's

| <u>NO.</u> | <u>DESCRIPTION</u>         | <u>ID</u> | <u>EV</u> | <u>PAGE#</u> |
|------------|----------------------------|-----------|-----------|--------------|
| 1          | Statement                  |           | X         | 140          |
| 2          | Statement                  |           | X         | 244          |
| 3          | Poster-Residence           |           | X         | 86           |
| 4          | Poster-Interior            |           | X         | 87           |
| 5          | Male-Poster-Diagram        | X         |           | 192          |
| 6          | Female-Poster-Diagram      | X         |           | 193          |
| 7          | Female Back-Poster-Diagram | X         |           | 193          |

Defendant's

| <u>NO.</u> | <u>DESCRIPTION</u>           | <u>ID</u> | <u>EV</u> | <u>PAGE#</u> |
|------------|------------------------------|-----------|-----------|--------------|
| 1          | Voir Dire                    | X         |           | 24           |
| 2          | Defendant's Closing Argument | X         |           | 302          |

1 THE COURT: All right, folks, it is now time for the  
2 State to call its first case for the week. Ms. Fuller,  
3 call your case.

4 MS. FULLER: Thank you, Your Honor, may it please the  
5 Court.

6 THE COURT: Yes, ma'am.

7 MS. FULLER: The State calls the case of Edward  
8 Davis, Sr., under indictment number 2018-GS-32-02261. And  
9 this is an indictment for criminal sexual conduct with a  
10 minor in the third degree. And this was true billed.

11 THE COURT: Ladies and gentlemen of the jury, I am  
12 going to ask questions now a little more focused on this  
13 case. The facts involving it, the potential witnesses to  
14 be called, the parties involved. Now, here is what I  
15 don't need, here is what I do need. If I ask a question,  
16 do you know one of these potential witnesses. You stand  
17 up and say, my name is, my juror name is, I know potential  
18 witness Griffith. Is that a close relationship, would it  
19 affect your ability to be fair and impartial. Judge, I  
20 think it would. I don't need to know all the background  
21 of the relationship, maybe a little bit. If it is a bad  
22 relationship or there was a divorce or something and my  
23 inlaw's or ex-inlaw's cut off my allowance or whatever it  
24 is and you have got a bad taste in your mouth about one of  
25 the witnesses, I don't want everybody else to get the same

1 taste in their mouth because it may have nothing to do  
2 with the case. So I need just for candor but not a full  
3 drawn out explanation. I can ask another question that  
4 can provide me with a yes or no answer and yet we still  
5 can get by. My end result is this, this is a case against  
6 Mr. Davis, he has plead not guilty. He is sitting here in  
7 the courtroom. The State has handed up an indictment and  
8 an indictment is the mere formal allegation by the State  
9 to Mr. Davis. It is not proof of anything, it is a notice  
10 to him of what to be prepared to defend himself in court,  
11 what is the State alleging. That is all it is. It  
12 doesn't prove anything, it is where the State is making  
13 these allegations. He says I want a trial. I deny those  
14 allegations. Simple as that. So what I want in result is  
15 to gave a group of jurors in this box that can be good and  
16 fair and impartial listeners to the case. That is what I  
17 am looking for. I don't want anybody's brother or sister  
18 involved in the case sitting there because that is not  
19 fair to either side. The ultimate result I am in charge  
20 of conducting a fair trial and that is what I am going to  
21 try to do. Now, Ms. Fuller represents the State so what I  
22 want to do first is I am going to publish the indictment  
23 and then I am going to come to the lawyers on the State's  
24 side and then on the Defense side and ask them to  
25 introduce themselves so you can see a name and a face.

1 Now, this indictment that Ms. Fuller handed to me is  
2 numbered 18-GS-32-2261. It alleges that Mr. Davis from  
3 being over age 14 while in Lexington County on July the  
4 12th of '16 did either commit or attempt to commit a lewd  
5 act upon a minor under the age of 16 in violation of code  
6 section 16-3-655. Now, is there any member of the jury  
7 panel know anything about the allegations the State is  
8 making against Mr. Davis on July the 12th of '16.

9 (No response.)

10 THE COURT: And I did not publish the name of the  
11 victim allegedly in this case. I will do that  
12 momentarily. Anybody know anything about the allegations  
13 the State is making regarding to this case. If so please  
14 stand.

15 (No response.)

16 THE COURT: No one is standing. Has any member of  
17 the jury panel read anything, seen a newspaper, read in  
18 the newspaper report, anything on Facebook, social media  
19 from any source whatsoever, heard anything about the  
20 allegations contained in this case. If so please stand.

21 (No response.)

22 THE COURT: No one is standing. Ms. Fuller, please  
23 introduce everyone at your table.

24 MS. FULLER: Thank you, Your Honor. My name is  
25 Assistant Solicitor Sutania Fuller and I am prosecuting

1 this case along with Cocounsel, Assistant Solicitor Kate  
2 Usry. Also at my table is Detective Hayli Livingston with  
3 the Lexington County Sheriffs Department. Assisting is  
4 Investigator Smith and also seated as well Investigator  
5 Shaun Platt.

6 THE COURT: Any member of the jury panel related  
7 blood, marriage or close personal friends to any of those  
8 potential witnesses just introduced. If so please stand.  
9 Got one. Tell me your name, please, sir.

10 JUROR: 216, Corey Wilbanks.

11 THE COURT: Which potential witness are you connected  
12 to?

13 JUROR: The detective.

14 THE COURT: Now, do you work with them, just know  
15 them from growing up.

16 JUROR: Yes.

17 THE COURT: So you consider them a friend?

18 JUROR: Yes.

19 THE COURT: Would that friendship create an issue for  
20 you to be fair and impartial to both the State and to Mr.  
21 Davis?

22 JUROR: I can be fair.

23 THE COURT: Mr. Chehoski, introduce everyone at your  
24 table.

25 MR. CHEHOSKI: My name is Jason Chehoski. I am the



1 Assistant Public Defender with the Eleventh Circuit,  
2 Public Defender's office. Along side me is Cocounsel,  
3 Edward Dawson, also Public Defender's office. We  
4 represent Edward Davis, Sr.

5 THE COURT: All right. Any member of the jury  
6 related by blood, marriage, close personal friends to any  
7 of those four individuals introduced to you just now,  
8 please stand.

9 (No response.)

10 THE COURT: No one is standing. Any member of the  
11 jury panel ever been represented in any capacity or  
12 involved in any case in court with any of the attorneys.  
13 There were four of them introduced to you. Ms. Usry, Ms.  
14 Fuller, formerly Ms. Redline, she got married recently.  
15 Mr. Chehoski and Mr. Dawson. Anybody ever been involved  
16 in any case with any of those four attorneys. Mr. Farley,  
17 what is your number.

18 JUROR: 67, Your Honor. I know many members of the  
19 Solicitor's office.

20 THE COURT: Now, your relationship is to be in court  
21 with any of these attorneys. Would that affect your  
22 ability to be fair and impartial to both the State and the  
23 Defense?

24 JUROR: No, sir.

25 THE COURT: Thank you, sir. All right, folks, I am

1 going to read a list of potential witnesses. It is the  
2 same question. Do you know them, related to them by blood  
3 or marriage, that same exercise. Now, I am not going to  
4 read them in one group but in groups of about ten.

5 Potential witnesses would be Minor ; B.D.

6 ; Edward Davis, Jr.; Detective Hayli Livingston;  
7 Deputy Shaun Platt; School Safety Officer Ben Booth;  
8 Lieutenant Karen Ellington; Sergeant Kelsey Willis. Any  
9 member of the jury panel related by blood or marriage,  
10 close personal friends with any of those potential  
11 witnesses please stand.

12 (No response.)

13 THE COURT: No one is standing. Additional potential  
14 witnesses, Michael Gross; Antoine Kelly; Timothy Pecori;  
15 Elise Tison; Trina Elfering; Channing Anderson; Elease  
16 Anderson; Stephanie Schaller. Any member of the jury  
17 panel related by blood or marriage, close personal friends  
18 to any of those potential witnesses. Tell me your name.

19 JUROR: 179, Andrew Smith.

20 THE COURT: Which one.

21 JUROR: Might not be the same one I know, a gentleman  
22 named Tim Pecori.

23 THE COURT: What did he do for a living.

24 JUROR: A fire fighter.

25 THE COURT: That would be the same one. The fact

1 that you know him, the fact you are freinds with him and  
2 came along with him, so to speak, would that affect your  
3 ability to be fair and impartial in this case?

4 JUROR: I don't believe it would.

5 THE COURT: Additional potential witnesses would be  
6 Jason Rushton, an Investigator. Any member of the jury  
7 panel related by blood or marriage, close personal friends  
8 to Mr. Rushton, please stand.

9 (No response.)

10 THE COURT: Any member of the jury panel,  
11 understanding the allegations made by the State are  
12 criminal sexual conduct, third degree which are codified  
13 as unlawful touching, lewd act type cases. Understanding  
14 the subject matter will be discussing allegations  
15 regarding that, does any member of the jury panel or  
16 members of your immediate family ever been accused of or a  
17 victim of allegations such as that. Now, I have asked it  
18 both ways. Accused of or victim of unlawful touching,  
19 unlawful sexual touching, that type of thing. That will  
20 be the potential subject matter being discussed at trial.  
21 So is there any member of the jury panel, a member of your  
22 immediate family have an issue with being able to hear  
23 subject matter of that type. Ma'am, tell me your name.

24 JUROR: Linda Fogle, juror 68.

25 THE COURT: I asked it both says. So you or a member

1 of your family been involved in a case of this type.

2 JUROR: It was my niece.

3 THE COURT: All right. You have a family member who  
4 is involved in a case of that type?

5 JUROR: Yes.

6 THE COURT: Would that make it difficult for you to  
7 sit fairly and impartially for either side?

8 JUROR: No, sir.

9 MS. FULLER: Your Honor, can we know which side,  
10 accused of or a victim of.

11 THE COURT: That would make sense.

12 JUROR: Victim of.

13 THE COURT: Thank you. Tell me your name.

14 JUROR: 225, Zakiya Zarzana.

15 THE COURT: All right.

16 JUROR: My niece was also a victim.

17 THE COURT: Would that affect your ability to be fair  
18 and impartial in this case?

19 JUROR: Yes.

20 THE COURT: I am going to stand you aside for this  
21 case but you can stay with me so you can get your  
22 instructions, you may be a good candidate for the next  
23 trial. Any member of the jury panel, member of your  
24 immediate family employed in any capacity as a law  
25 enforcement officer whether it is a corrections officer,

1 military police or otherwise, if so please stand. I am  
2 going to start here with Mr. Gibson.

3 JUROR: Number 71.

4 THE COURT: You or a member of your family employed  
5 as law enforcement.

6 JUROR: Yes, sir.

7 THE COURT: You?

8 JUROR: No.

9 THE COURT: Your family?

10 JUROR: Yes.

11 THE COURT: Who?

12 JUROR: My son.

13 THE COURT: And which Department?

14 JUROR: State Trooper.

15 THE COURT: State Trooper. Very well. Would that  
16 affect your ability to be fair and impartial in this case?

17 JUROR: No.

18 THE COURT: Thank you, sir. Gentleman in the blue  
19 shirt. Tell me your name.

20 JUROR: 209, Chris Warner.

21 THE COURT: Mr. Warner, who in your family?

22 JUROR: My brother is Captain of the police  
23 department at Clemson.

24 THE COURT: At Clemson?

25 JUROR: Yes..

1 THE COURT: Would that affect your ability to be fair  
2 an impartial in this case?

3 JUROR: No, sir.

4 THE COURT: Thank you. The gentleman in the dark  
5 red. Tell me your name.

6 JUROR: 146, James Morgan.

7 THE COURT: You or a member of your family employed  
8 in law enforcement?

9 JUROR: My son is a correctional officer.

10 THE COURT: And where is he a correctional officer?

11 JUROR: In Columbia at Broad River.

12 THE COURT: And would that affect your ability to be  
13 fair and impartial?

14 JUROR: No, sir.

15 THE COURT: Thank you. Gentleman in the red. Tell  
16 me your name again.

17 JUROR: 216, Corey Wilbanks.

18 THE COURT: Mr. Wilbanks, who in your family?

19 JUROR: My uncle is a Deputy in Newberry and I have  
20 an uncle in Laurens as a Deputy.

21 THE COURT: The fact that you are kin to Deputy  
22 Wilbanks in Newberry as well as a Deputy in Laurens  
23 County, would that affect your ability to be fair and  
24 impartial in this case?

25 JUROR: No, sir.

1 THE COURT: Thank you so much. Gentleman in the  
2 stripped shirt, tell me your name.

3 JUROR: Harrison Saunders, 170.

4 THE COURT: Who is your family?

5 JUROR: My brother.

6 THE COURT: And where does he work? Your brother is  
7 employed where?

8 JUROR: Here.

9 THE COURT: Lexington?

10 JUROR: Yes.

11 THE COURT: Lexington County or Lexington City?

12 JUROR: County.

13 THE COURT: Is he involved in this case?

14 MS. FULLER: No, Your Honor. He is a probation  
15 officer.

16 THE COURT: Okay, probation officer. And who else in  
17 your family?

18 JUROR: My father.

19 THE COURT: What does he do?

20 JUROR: A constable.

21 THE COURT: A constable, okay. Now the fact that  
22 your brother and your father are employed as law  
23 enforcement, would that affect your ability to be fair and  
24 impartial, Mr. Saunders?

25 JUROR: No.

1 THE COURT: Can you do it?

2 JUROR: Yes, sir.

3 THE COURT: Very well, thank you so much. Gentleman  
4 in the black shirt, tell me your name.

5 JUROR: Logan Orr. My brother-in-law is in law  
6 enforcement in Spartanburg.

7 THE COURT: Brother-in-law is a law enforcement in  
8 Spartanburg?

9 JUROR: Yes, sir.

10 THE COURT: Would that affect your ability to be fair  
11 and impartial in this case?

12 JUROR: No, sir.

13 THE COURT: Thank you very much. Any member of the  
14 jury panel ever been a juror before and if so please  
15 stand, any type of case. Gentleman in the blue, tell me  
16 your name.

17 JUROR: Juror 183, Eric Smith. It was a wreck case.

18 THE COURT: Civil case, how long ago was that?

19 JUROR: It has been years.

20 THE COURT: Thank you so much. I am not going to ask  
21 if they can be fair and impartial, this is just for  
22 information. They have been a juror. Okay. Ma'am, tell  
23 me your name.

24 JUROR: Danelle Crisp, number 42.

25 THE COURT: What type of a case were you a juror on?



1 JUROR: It was a car accident, 25 years ago.

2 THE COURT: Thank you. Ma'am, in the white sweater,  
3 tell me your name.

4 JUROR: Donna Koon, juror number 113. I was involved  
5 in two cases. One was a child molestation case and the  
6 other was a drug case.

7 THE COURT: How long ago were they?

8 JUROR: The child molestation case was 20 plus years  
9 ago. The drug case was three plus years ago.

10 THE COURT: Both of them here in Lexington County?

11 JUROR: Yes, sir.

12 THE COURT: Mr. Gibson.

13 JUROR: I was on a case about 30 something years ago.

14 THE COURT: Okay. Thank you. Ma'am, in the black  
15 dress. Tell me your name.

16 JUROR: Juror number 7, Natalie Bailey. I was on a  
17 workers compensation case.

18 THE COURT: Thank you. In South Carolina workers  
19 comps are heard by a Judge only, don't have a jury trial.  
20 Tell me your name in the gray.

21 JUROR: Number 214, Kathryn Whatley. This was in  
22 Richland I was a juror.

23 THE COURT: Thank you. Gentleman that just stood up,  
24 tell me your name.

25 JUROR: Steve Robinson, 165. It was in Delaware, it

1 was a Federal case.

2 THE COURT: You were in a Federal jury?

3 JUROR: Yes.

4 THE COURT: How long you been in Lexington?

5 JUROR: 22 years.

6 THE COURT: Okay. The gentleman in the necktie, tell  
7 me your name.

8 JUROR: Richard Davis. Magistrates court.

9 THE COURT: What did you hear?

10 JUROR: I think it was like a speeding ticket but I  
11 was dismissed.

12 THE COURT: You never sat?

13 JUROR: Like fifteen minutes after I got sat down I  
14 was dismissed.

15 THE COURT: Okay. Mr. Wilbanks, back to you.

16 JUROR: Drunk driving case.

17 THE COURT: Thank you. Gentleman in the white in the  
18 middle. Tell me your name.

19 JUROR: Juror number 70. William Fuller. I was in a  
20 medical mal practice approxiamtely 24 years ago.

21 THE COURT: Thank you so much. The gentleman, tell  
22 me your name again.

23 JUROR: James Mobley. It was a armed robbery case  
24 eleven years ago from Lexington.

25 THE COURT: Okay. I am going to start, in the green,

1 tell me your name.

2 JUROR: William Long. Magistrates court, drunk  
3 driving, 20 years ago.

4 THE COURT: Okay. Thank you, sir. Ma'am in the  
5 black, tell me your name.

6 JUROR: Addie McCoy, juror 136. I was on a jury 20  
7 years ago.

8 THE COURT: Thank you. Gentleman in the dark red,  
9 tell me your name.

10 JUROR: Larry Woodruff, number 220.

11 THE COURT: How long ago were you a juror?

12 JUROR: Approxiamtely five years, I was a substitute  
13 juror.

14 THE COURT: So you were an alternate?

15 JUROR: Yes, I was the alternate.

16 THE COURT: I always feel bad for the alternate, they  
17 do all the work and they don't get to go listen to the  
18 deliberations. Okay. What kind of case was it?

19 JUROR: Domestic abuse.

20 THE COURT: Thank you. Gentleman in the black, tell  
21 me your name.

22 JUROR: 54, Christopher Dimsdale. Federal trial  
23 involving drugs about ten years ago.

24 THE COURT: Ma'am, in the light green.

25 JUROR: Juror number 184, Cynthia Smithart. It was

1 three or four years ago in this court, it was a drug case.

2 THE COURT: Drug case?

3 JUROR: Yes.

4 THE COURT: Okay, thank you so much. Gentleman in  
5 the green.

6 JUROR: Number 4, Darin Aldinger. It was a drug case  
7 in Magistrate's Court.

8 THE COURT: Okay, thank you, sir. Directly behind in  
9 the dress shirt.

10 JUROR: Number 30, Craig Clardy. It was a car wreck.

11 THE COURT: Here in Lexington?

12 JUROR: Pickens County.

13 THE COURT: Pickens County. Okay, thank you so much.  
14 Last but not least, tell me your name.

15 JUROR: Daniel Schwanda. It was a drug case about 18  
16 years ago.

17 THE COURT: Thank you, sir. Was anybody, member of  
18 the jury panel ever been on a Grand Jury at any time,  
19 please stand.

20 (No response.)

21 THE COURT: I asked something similar to this but  
22 understanding that the subject matter is involving  
23 allegations of some type of sexual misconduct, is there  
24 any members of the jury panel, other than the ones I have  
25 already talked to, going to have difficulty listening to

1 subject matter of that type because of any belief, whether  
2 it be moral, political or religious beliefs that you don't  
3 want to hear, subject matter of that type because I don't  
4 know anything about the case. But I do not want to get 'in  
5 the case and have that be a difficult thing. Anybody  
6 going to have difficulty listening to subject matter of  
7 that type, if so please stand.

8 (No response.)

9 THE COURT: No one is standing. Is there any member  
10 of the jury panel, I am going to kind of ask this both  
11 ways, ever had interactions with law enforcement of any  
12 type that has been, had a negative impact upon you or a  
13 member of your immediate family that you cannot be fair  
14 and impartial in this case. If so please stand.

15 (No response.)

16 THE COURT: No one is standing. Another question  
17 kind of similar. This will be a little more broader.  
18 Does any member of the jury panel know of any reason  
19 whatsoever they can't be fair and impartial to both the  
20 State and the Defense please stand.

21 (No response.)

22 THE COURT: Understanding this, I have told you this  
23 earlier. Any juror who is selected will have to take an  
24 oath that will say, I will listen fairly and impartially.  
25 I will also accept the law as instructed by the Court. I

1 find as a presiding Judge many times people have  
2 misunderstandings of what the law actually is. After the  
3 trial is over they go, I didn't know that was the law  
4 until you instructed it. In any event, my job is to  
5 conduct a fair trial and at the end my job is to instruct  
6 the jury panel that is seated as to what the law currently  
7 is in South Carolina, it changes from time to time. The  
8 Supreme Court makes modifications. The General Assembly  
9 makes changes. It is my job as the Judge to instruct the  
10 law as it is written as I understand it. It is my job  
11 also to tell jurors what the law is, if you have a  
12 different understanding of what the law is you must  
13 disregard your misunderstanding and accept as I am giving  
14 it to you. Is there any member of the jury panel going to  
15 have difficulty accepting an oath to receive the law as  
16 instructed by the Court. If so please stand.

17 (No response.)

18 THE COURT: No one is standing. One of the first  
19 things I go with jurors on is the State has the burden of  
20 proving its case beyond a reasonable doubt. A Defendant  
21 has no duty to prove or disprove anything. They are  
22 presumed innocent and may exercise their right to remain  
23 silent. Is there any member of the jury panel not at this  
24 moment understand that Mr. Davis is presumed innocent at  
25 this moment and throughout the trial please stand.

1 (No response.)

2 THE COURT: No one is standing. Any other voir dire,  
3 ladies and gentlemen?

4 MS. FULLER: Nothing from the State, Your Honor.

5 MR. CHEHOSKI: Nothing from the Defense. We ask that  
6 our voir dire be marked.

7 THE COURT: Absolutely.

8 (Whereupon, Court's Exhibit 1 was marked for  
9 identification only.)

10 THE COURT: Here is what is going to happen. What is  
11 going to happen, the Clerk is going to generate a list  
12 randomly from your number. They are going to call you up  
13 here one at a time. I am going to let you come and stand  
14 right in front of this podium where I have been standing  
15 and you are going to turn and face the doors and the  
16 lawyers get to look at you. And then they are going to  
17 say, please present the juror, please excuse the juror,  
18 please swear the juror, some magic words. Basically each  
19 side has a certain number of please excuse the jurors.  
20 Now when I was a practicing lawyer I struck blue-eyed  
21 people. If they had blue eyes I would strike them. That  
22 was just my method. The lawyers get to look at you and  
23 decide if they want to keep you or excuse you. All right,  
24 they are ready.

25 CLERK OF COURT: As I call you please come forward,

1 bring your purse, books, whatever you have with you and  
2 come stand in front of that podium until I give you  
3 instructions further to have a seat in the jury box or  
4 return to your seat. Number 65, Marlana Estes. What say  
5 for the State?

6 MS. FULLER: Please present this juror.

7 CLERK OF COURT: What say for the Defense?

8 MR. CHEHOSKI: Please swear Ms. Estes.

9 CLERK OF COURT: Have a seat in the jury box, Ma'am.  
10 Number 153, Logan Orr. What say the State?

11 MS. FULLER: Please present this juror.

12 CLERK OF COURT: What say for the Defense?

13 MR. CHEHOSKI: Please excuse Mr. Orr from service on  
14 this case.

15 CLERK OF COURT: Return to your seat, please, sir.  
16 Number 183, Todd Smith. What say for the State?

17 MS. FULLER: Please present the juror.

18 CLERK OF COURT: What say for the Defense?

19 MR. CHEHOSKI: Please swear Mr. Smith.

20 CLERK OF COURT: Have a seat in the jury box, sir.

21 Number 54, Christopher Dimsdale. What say for the State?

22 MS. FULLER: Please present this juror.

23 CLERK OF COURT: What say for the Defense?

24 MR. CHEHOSKI: Please swear Mr. Dimsdale.

25 CLERK OF COURT: Have a seat in the jury box, sir.



1 Number 184, Cynthia Smithart. What say for the State?

2 MS. FULLER: Please present the juror.

3 CLERK OF COURT: What say for the Defense?

4 MR. CHEHOSKI: Please excuse Ms. Smithart from this  
5 case.

6 CLERK OF COURT: Return to your seat, please, Ma'am.

7 Number 131 Melissa Mascioli. What say for the State?

8 MS. FULLER: Please present the juror.

9 CLERK OF COURT: What say for the Defense?

10 MR. CHEHOSKI: Please swear Ms. Mascioli.

11 CLERK OF COURT: Have a seat in the jury box, Ma'am.

12 Number 67, Andrew Farley. What say for the State?

13 MS. FULLER: Please excuse this juror.

14 CLERK OF COURT: Number 43, Tina Cromer. What say  
15 for the State?

16 MS. FULLER: Please present this juror.

17 CLERK OF COURT: What say for the Defense?

18 MR. CHEHOSKI: Please excuse Ms. Cromer from service  
19 in this case.

20 CLERK OF COURT: Return to your seat, please, Ma'am.

21 Number 33, Alex Cleveland. What say for the State?

22 MS. FULLER: Please excuse this juror.

23 CLERK OF COURT: Return to your seat, please, sir.

24 Number 165, Steven Robinson. What say for the State?

25 MS. FULLER: Please present this juror.

1 CLERK OF COURT: What say for the Defense?

2 MR. CHEHOSKI: Please swear Mr. Robinson.

3 CLERK OF COURT: Have a seat in the jury box, sir.

4 Number 127, Kathryn Mahoney. What say for the State?

5 MS. FULLER: Please excuse this juror.

6 CLERK OF COURT: Return to your seat, please, Ma'am.

7 Number 123, Noah Loquist. What say for the State?

8 MS. FULLER: Please present the juror.

9 CLERK OF COURT: What say for the Defense?

10 MR. CHEHOSKI: Please swear Mr. Loquist.

11 CLERK OF COURT: Have a seat in the jury box, sir.

12 Number 9, Steven Baker. What say for the State?

13 MS. FULLER: Please present the juror.

14 CLERK OF COURT: What say for the Defense?

15 MR. CHEHOSKI: Please swear Mr. Baker.

16 CLERK OF COURT: Have a seat in the jury box, sir.

17 Number 202, Brooke Turner. What say for the State?

18 MS. FULLER: Please present the juror.

19 CLERK OF COURT: What say for the Defense?

20 MR. CHEHOSKI: Please swear Ms. Turner.

21 CLERK OF COURT: Have a seat in the jury box, Ma'am.

22 Number 220, Larry Woodruff. What say for the State?

23 MS. FULLER: Please present the juror.

24 CLERK OF COURT: What say for the Defense?

25 MR. CHEHOSKI: Please swear Mr. Woodruff.

1 CLERK OF COURT: Have a seat in the jury box, sir.  
2 Number 42, Danelle Crisp. What say for the State?

3 MS. FULLER: Please present the juror.

4 CLERK OF COURT: What say for the Defense?

5 MR. CHEHOSKI: Please excuse Ms. Crisp from service  
6 in this case.

7 CLERK OF COURT: Return to your seat, please, Ma'am.  
8 Number 174, Kevin Shumpert. What say for the State?

9 MS. FULLER: Please present the juror.

10 CLERK OF COURT: What say for the Defense?

11 MR. CHEHOSKI: Please swear Mr. Shumpert.

12 CLERK OF COURT: Have a seat in the jury box, sir.  
13 Number 122, William Long. What say for the State?

14 MS. FULLER: Please present the juror.

15 CLERK OF COURT: What say for the Defense?

16 MR. CHEHOSKI: Please excuse Mr. Long from service in  
17 this case.

18 CLERK OF COURT: Return to your seat, please, sir.  
19 214, Kathryn Whatley. What say for the State?

20 MS. FULLER: Please present the juror.

21 CLERK OF COURT: What say for the Defense?

22 MR. CHEHOSKI: Please excuse Ms. Whatley from service  
23 in this case.

24 CLERK OF COURT: Return to your seat, please, Ma'am.  
25 Number 132, Janine Maurer. What say for the State?

1 MS. FULLER: Please present the juror.

2 CLERK OF COURT: What say for the Defense?

3 MR. CHEHOSKI: Please swear Ms. Maurer.

4 CLERK OF COURT: Have a seat in the jury box, Ma'am.

5 Number 49, Vickie Davis. What say for the State?

6 MS. FULLER: Please present the juror.

7 CLERK OF COURT: What say for the Defense?

8 MR. CHEHOSKI: Please excuse Ms. Davis from service  
9 in this case.

10 CLERK OF COURT: Return to your seat, please, Ma'am.

11 112, Alisha Knight. What say for the State?

12 MS. FULLER: Please present the juror.

13 CLERK OF COURT: What say for the Defense?

14 MR. CHEHOSKI: Please swear Ms. Knight.

15 CLERK OF COURT: Have a seat in the jury box, Ma'am.

16 Alternates, Your Honor.

17 THE COURT: We will have two.

18 CLERK OF COURT: Number 70, William Fuller. What say  
19 for the State?

20 MS. FULLER: Please present the juror.

21 CLERK OF COURT: What say for the Defense?

22 MR. CHEHOSKI: Please excuse Mr. Fuller from service  
23 in this case.

24 CLERK OF COURT: Return to your seat, please, sir.

25 Number 4, Darin Aldinger. What say for the State?

1 MS. FULLER: Please present the juror.

2 CLERK OF COURT: What say for the Defense?

3 MR. CHEHOSKI: Please swear Mr. Aldinger.

4 CLERK OF COURT: Have a seat in the jury box, sir.

5 That is Alternate one. Number 140, Laterrisa McKenney.

6 What say for the State?

7 MS. FULLER: Please present the juror.

8 CLERK OF COURT: What say for the Defense?

9 MR. CHEHOSKI: Please swear Ms. McKenney.

10 CLERK OF COURT: Have a seat in the jury box, Ma'am.

11 That is Alternate two, Your Honor.

12 THE COURT: Is there any matter of law the Court  
13 needs to take up regarding the selection process employed  
14 or the composition of the jury?

15 MS. FULLER: Nothing from the State, Your Honor.

16 MR. CHEHOSKI: Nothing from the Defense.

17 THE COURT: Very well. Y'all have your juror  
18 information card that has the Clerk's phone number. Make  
19 sure you do, that is the number you are going to call  
20 tonight. You will hear one of the Clerk's voices on the  
21 recorder to say, members of the jury, please call back  
22 tomorrow night after 6:00 or please come in tomorrow at  
23 1:00 or something. If you don't call you won't get the  
24 message. If it is come in and you don't come in I will  
25 send a ride for you. Okay. Y'all need to call in. Now,

1 don't call in early. This is a four-story Court House.  
2 We are on the forth floor, we are going to move down to  
3 the third floor. Ms. Frick will be with me, she will be  
4 the one probably to tell what recording to put on the  
5 machine. Most of the time she is. When she is with me  
6 she is not downstairs telling the other ladies what is  
7 going on in the courtroom because there is a lot going on.  
8 Seven courtrooms active today. Okay. Not counting the  
9 deeds and the mortgages and all of that sort of stuff on  
10 the first floor. So don't call early because the ladies  
11 downstairs are busy doing other work in the Clerk's  
12 office. Wait until after 6:00 and call and listen. Okay.  
13 You are excused.

14 (Whereupon, the remaining jury panel was excused from  
15 court at approximately 11:26 a.m.)

16 THE COURT: All right, there is some pretrial stuff I  
17 need to do to kind of get the case organized that you  
18 don't do when the jury is here. So it is now time for me  
19 to do that. And got another thing going on, this  
20 courtroom, believe it or not is in sibilance of change.  
21 They are putting in a new sound system, moving these  
22 microphones elsewhere. So they don't want us in here this  
23 afternoon because they are going to start working on this.  
24 We are going to be downstairs in a smaller courtroom. So  
25 we have got to move. Ms. Holston has got to move all of

1 her equipment so she has got the most work to do to move,  
2 all we do is walk downstairs. So here is what y'all will  
3 do. I am going to excuse y'all until 2:15. Okay. Now,  
4 when you come back, y'all wear your juror buttons. In  
5 small counties it makes a lot bigger difference. I tell  
6 all jurors, what y'all need to decide this case y'all will  
7 get in the courtroom as a group of 14. I don't want  
8 anything from outside influencing your decision. So I ask  
9 you, if somebody tries to talk to you about this case and  
10 I doubt they will, but in Newberry there is one Court  
11 House, one courtroom and everybody knows everybody and  
12 people in Newberry tend to your business for you. And so  
13 they want to come and talk. These lawyers, they may say  
14 good morning or good afternoon or something like that.  
15 That will be their entire conversation with you. Some lay  
16 people that are non-lawyers or non-members of the court  
17 staff may not know that and they may try to engage. If  
18 they do let one of my Bailiffs know, they will let me know  
19 and I will deal with it. But for our purposes I don't  
20 want you talking about the case until I say, okay, go  
21 deliberate. Until then don't talk about anything. You  
22 can talk about football season, started school, something,  
23 whatever, my gray hair, anything you like you may talk  
24 about but not about the case until it is time to discuss  
25 the case. Now we will start presentation this afternoon,

1 hopefully at 2:15. I will try to keep you in the jury  
2 room minimally. Sometimes things go on, Judge, I have got  
3 a matter of law. And then I have to excuse the jury, I  
4 have to talk to the lawyers. I don't want y'all to get  
5 all tied up in the legal issues. What the evidence is,  
6 should be or can be or won't be, that is something that we  
7 will have to make a full record of in front of Ms. Holston  
8 so I can make a decision and then we will move on. It is  
9 kind of like instant replay on the TV. The referee goes  
10 to the other side and looks at the camera, that is kind of  
11 what I do in the courtroom. Y'all are going to get  
12 witnesses testifying. Y'all are going to make a decision  
13 but what I get thrown in the legal decision, that's is my  
14 decision. The same deal, y'all will answer questions of  
15 facts. Did this happen, did that happen. Now, in a car  
16 wreck case. Did that car have a red light. Did that car  
17 have a green light or just the opposite. Who had the  
18 green light, it is a question of fact. Judges say,  
19 whoever run the green light had the right to proceed.  
20 Whoever had the red light, you need to stop and yield to  
21 the right-of-way. That is the law. So a jury's job is to  
22 answer the question of fact. I won't be in the jury room  
23 when y'all deliberate. When I make a legal decision y'all  
24 won't be in the courtroom with me. Simple as that. For  
25 our purposes don't discuss the case until I tell you to,



1 talk about anything you like but remember, y'all will hear  
2 the testimony and evidence all together. That is why I  
3 don't want you to discuss it outside. Now, another thing,  
4 don't go do any independent research meaning don't go on  
5 the internet, don't do that. I can talk about Laurens.  
6 But I was in Laurens all the time and the guy that owns  
7 the newspaper up there doesn't like me very much. So if I  
8 called him out one time and he made a big issue for it and  
9 Monday morning Judge Addy made a decision to do this and  
10 this and this. Judge Addy is my friend from Greenwood and  
11 he looks like Woody on Toy Story. He wasn't even in the  
12 Court House, I was making the decision and the newspaper  
13 says Judge Addy had made all of these decisions. It was  
14 me. Judge Addy got the blame or the credit, whichever it  
15 was. So just an example that I have firsthand knowledge  
16 of, get it from the horse's mouth in here. Okay. Don't  
17 go do research. Now, another thing. I don't want y'all  
18 talking about the case in the courtroom, in the jury room.  
19 When you get home tonight, don't go on social media and  
20 go, I am on a jury. You are inviting yourself into a  
21 conversation. What is the case about. Don't do that.  
22 You can say I am on a jury and Judge Griffith said do not  
23 discuss it and stop there. I will give you some more  
24 preliminary instructions later. Go with the Bailiffs and  
25 they will show you where to go. See you back here shortly

1 after 2:00. You cannot use your cell phones in the jury  
2 room. Thank you.

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

5 THE COURT: Let's take a couple of minutes and y'all  
6 decide which pretrial things we are going to deal with  
7 first. I want to make a quick phone call and we will get  
8 started.

9 (Whereupon, a short break was taken.)

10 THE COURT: All right. You all ready?

11 MS. FULLER: Yes, Your Honor. First thing that I  
12 would like to address is referring to the actual  
13 indictments.

14 THE COURT: Yes, ma'am.

15 MS. FULLER: There's a small error on there in terms  
16 of the victim. Minor's date of birth is listed as  
17 [REDACTED] and it's [REDACTED].

18 THE COURT: Any objection to amending his birth date?

19 MS. FULLER: So I'm just making a motion to amend.

20 THE COURT: It changes by one month, more or less?

21 MS. FULLER: Yes. Instead of [REDACTED] it's [REDACTED].

22 MR. CHEHOSKI: Your Honor, I don't think that changes  
23 the nature of the charge in any way, I don't think.

24 THE COURT: It's still the same minor, and it's still  
25 a minor --

1 MS. FULLER: That's correct, Your Honor.

2 THE COURT: Fair enough. We'll amend that.

3 MS. FULLER: Do you want me to -- /

4 MR. CHEHOSKI: That's [REDACTED]; is that correct?

5 MS. FULLER: It's -- yes, [REDACTED] instead of 6.

6 THE COURT: Can Ms. Frick make that amendment on the  
7 indictment face itself with your, all's permission?

8 MS. FULLER: I have no objection to that.

9 MR. CHEHOSKI: No objection from the Defense.

10 THE COURT: All right. [REDACTED], is the date of birth  
11 of the minor, granted. And I think that does not change  
12 any of the substance of the allegation. Okay, go ahead.

13 MS. FULLER: Thank you, Your Honor. The second  
14 matter, the State -- I'm doing all the little ones before  
15 we get to Jackson v. Denno.

16 THE COURT: That's fine.

17 MS. FULLER: The State filed a motion in limine for  
18 compliance with the Rape Shield Statute just requesting  
19 that Defense is prohibited from going into -- not that  
20 there is any, but just to be safe out of the abundance of  
21 caution. Anything that has to relate to Minor's  
22 prior specific instances of any sexual activity.

23 THE COURT: Nothing there?

24 MR. CHEHOSKI: Nothing there, Your Honor.

25 THE COURT: Excellent. Motion granted.

1 MS. FULLER: Thank you, Your Honor. Another minor  
2 thing. Just based on discussions with Counsel I just want  
3 to put it on the record is a motion in limine in terms of  
4 reference to the publication of the forensic interview in  
5 this case.

6 THE COURT: You've tried CSC cases before--

7 MS. FULLER: -- well, we're not introducing it.

8 THE COURT: You're not introducing it.

9 MS. FULLER: No. I just want to make sure the  
10 record's clear and he doesn't -- of course, if the door is  
11 open to it in some way. But the victim was 12-years-old  
12 and two months when this occurred. So by statute it's not  
13 admissible in Court. The other witness, B.D. ,  
14 her's is a corroborating interview, but not perceiving the  
15 actual act. Therefore, it's not admissible in  
16 case-in-chief unless the door is open some way. And so,  
17 he had mentioned if we were going to publish it. I just  
18 want the record protected that he can't make an inference  
19 in front of the jury that we're hiding anything or we  
20 didn't publish the videos.

21 MR. CHEHOSKI: Your Honor, the discussion that Ms.  
22 Fuller is alluding to, we had a discussion on Friday. I  
23 was wanting to know if it was going to be published, that  
24 we have certified copies of both the -- of the transcripts  
25 of both interviews from Minor and from B.D. . And

1 we wanted -- if they were going to be introduced, and that  
2 we wanted to introduce the transcript to aid the jury.

3 THE COURT: If you're not going into it, she doesn't  
4 go into it.

5 MR. CHEHOSKI: If she doesn't open the door, I'm not  
6 going into it, Your Honor.

7 THE COURT: Fair enough. So your motion on the  
8 forensic interview is now moot. Okay? Fair enough?  
9 Okay. The interview will not be mentioned unless someone  
10 opens the door. And you all let me know first, Judge, the  
11 door's open. I need to introduce or talk about the  
12 interview because, and we'll do that sidebar. Fair  
13 enough?

14 MS. FULLER: Well, to be clear, Your Honor. I think  
15 testimony about being questioned for the purpose of an  
16 investigation, which we can call it an investigative  
17 interview, I think that is relevant. And the testimony  
18 about going to the Dickerson Center is relevant. In terms  
19 of publishing the actual interview, the rules don't allow  
20 us to do so. His motion in terms of mentioning the word  
21 forensic, we have talked to -- spoken to our witnesses.  
22 It's what they use, but they're prepped on to reduce the  
23 use or to try not to use it. But if it accidentally comes  
24 out because that's their nature, I can't control that.  
25 But we have prepped them in terms of the reduction of the

1 use of the word forensic.

2 MR. CHEHOSKI: Your Honor, I also think that any  
3 consistent statements that come out during testimony would  
4 be -- that are inconsistent with that interview would be  
5 fair game as well.

6 THE COURT: I do, too. I agree with you. So we'll  
7 attempt to say, witness, you were interviewed. Yes. By  
8 whom? By the name, or by Ms. Smith, whomever. And if  
9 there are inconsistencies either way, y'all both have  
10 transcripts and --

11 MS. FULLER: Yeah, if the door --

12 THE COURT: -- you all can use those.

13 MS. FULLER: -- if the door's open, Your Honor.

14 THE COURT: That's fine.

15 MS. FULLER: And I think in terms of housekeeping, I  
16 think that is all I have before the Jackson v. Denno.  
17 I'll let Defense Counsel argue any other little motions  
18 prior to the Denno hearing.

19 MR. CHEHOSKI: Yes. Your Honor, again, just  
20 housekeeping. My practice is always to renew the motion  
21 of discovery. I found that if I don't do it I could waive  
22 it. So I say that for the record. Any considered motion  
23 of discovery is a continuing obligation of the State to  
24 provide any materials. I'm not saying that there is any,  
25 but this is the time I bring it out just to make sure that

1 we're all on the same page.

2 THE COURT: Fair enough.

3 MS. FULLER: On the record, Your Honor, discovery was  
4 completed as of last week. We had some additional items  
5 that were turned over. The only other additional item  
6 would be a diagram we had worked up last week for -- for  
7 purposes in trial. But I'll show that you to, but it's  
8 not discovery, per se.

9 MR. CHEHOSKI: Second, Your Honor. I don't know if  
10 this is the appropriate time, but just want to make sure  
11 as far as Mr. Davis' status on bond. He is here. Bond  
12 was set, I think, at \$750.00 dollars per charge for a  
13 total of \$1,500.00 dollars. I'm asking the Court that he  
14 be allowed to remain on bond through the course of the  
15 trial.

16 THE COURT: As long as he, it will be all right.

17 MR. CHEHOSKI: Yes, sir. And I think also, Your  
18 Honor, it also may have been addressed by my other motion.  
19 May also been addressed by the fact that they're not  
20 introducing the interview, but as far as the hearsay  
21 limited to time and place as well. And also, Your Honor,  
22 with respect to sequestration of witnesses.

23 THE COURT: Do you want to sequester witnesses also,  
24 Ms. Fuller?

25 MS. FULLER: Your Honor, in terms of that, if Your

1 Honor is going to grant his motion, the victim is a minor  
2 child. So I believe her parents, even though one is on  
3 the witness list, have a right to be with her. And so I  
4 would request that, as well as my lead investigating  
5 officer, that they be allowed in the courtroom at all  
6 times.

7 MR. CHEHOSKI: And that's my understanding of the  
8 statute. Again, but one -- there is one child who is on  
9 the witness list who is not a victim as well.

10 THE COURT: Agreed. The investigator, the victim and  
11 the parent.

12 MS. FULLER: Thank you, Your Honor.

13 THE COURT: Or parents, singular or plural, whichever  
14 it is.

15 MS. FULLER: That's correct, Your Honor.

16 THE COURT: They'll be allowed in the courtroom.  
17 Everyone else is sequestered.

18 MS. FULLER: That's fine.

19 THE COURT: Fair enough.

20 MS. FULLER: For pretrial as well?

21 THE COURT: Sure.

22 MS. FULLER: In terms of the time and place  
23 limitation, Your Honor, of course we know there's hearsay  
24 rules and exceptions. We'll be limited to the time and  
25 place. But if the door is opened, if it's -- and I've



1     been before you before in these cases. If it's something  
2     you want us to approach on prior to and let you know, hey,  
3     Your Honor, the door's been open. We're going to go  
4     further. I'll leave that in your discretion, Your Honor.  
5     But I don't want to just say we're limited to that when  
6     the door could easily be open.

7           THE COURT: If the door is open that's different. So  
8     anyway, you're limited to time and place unless there's  
9     another issue, then you all give me a sidebar and tell me  
10    your intent and then we'll decide that then.

11          MS. FULLER: Thank you, Your Honor. And, of course,  
12    there's other hearsay exceptions, like excited utterance  
13    or present sense impression that --

14          THE COURT: I understand.

15          MS. FULLER: -- or state of mind that we may be going  
16    in to.

17          THE COURT: That's fine. We'll deal with that as it  
18    comes up.

19          MS. FULLER: Thank you, Your Honor. And if you just  
20    -- if that's it, let me just clear our witnesses out  
21    briefly.

22           (Whereupon, a brief recess was held.)

23          MS. FULLER: All right. I think that is it. And  
24    then we can just go into the Denno hearing, Your Honor.

25          THE COURT: All right. Let's do it. Call your

1 witness.

2 MS. USRY: Thank you, Your Honor. State calls Deputy  
3 Platt.

4 Shaun Platt, being  
5 first duly sworn, testified as follows:

6 THE CLERK: Have a seat, please, sir.

7 THE WITNESS: Thank you, ma'am.

8 THE CLERK: Once you're seated, I need you to speak  
9 up loud and clear, state your full name spelling your  
10 last.

11 THE WITNESS: Yes, ma'am. My name is Shaun Platt,  
12 P-l-a-t-t.

13 THE COURT: All right. Solicitor.

14 MS. USRY: Excellent. Thank you, Your Honor.

15 DIRECT EXAMINATION

16 By Ms. Usry:

17 Q Deputy Platt, you're employed with the Lexington  
18 County Sheriff's Department?

19 A Yes, ma'am.

20 Q And on July 12th of 2016 you responded to [REDACTED], Lot [REDACTED]  
21 on the West -- on West Main Street in Lexington County to  
22 an incident?

23 A Yes, ma'am.

24 Q And upon arriving on scene did you have an  
25 opportunity to speak to the Defendant in this case, Mr.

1 Davis?

2 A Yes.

3 Q Briefly describe for me when you responded on scene  
4 what did you do prior to going to speak to Mr. Davis?

5 A I met with EMS.

6 Q EMS was already on scene?

7 A Yes, ma'am.

8 Q And who with EMS did you meet with?

9 A Lieutenant Ellington and Sergeant Willis.

10 Q And what was the purpose of your conversation with  
11 them?

12 A To find out why they needed me there, because I came  
13 out as an assist to the other agency.

14 Q And were you able to determine your purpose?

15 A Yes.

16 Q What was that?

17 A To investigate a possible allegation of sexual  
18 assault.

19 Q And once you received that information what was your  
20 next step?

21 A To go inside and talk to the parties involved.

22 Q And was Mr. Davis one of the parties?

23 A Yes.

24 Q And how was he one of the parties?

25 A He was the alleged offender.

1 Q And when you went inside and spoke to Mr. Davis -- is  
2 this a residence?

3 A Yes.

4 Q It's a trailer type residence?

5 A Yes, ma'am.

6 Q And when you walk in the door who was present?

7 A Mr. Davis, Sr., Mr. Davis, Jr., Minor and her  
8 two sisters.

9 Q Were Minor and her two sisters, were they  
10 adults or minors?

11 A Minors.

12 Q And when you walked in the room were they seated  
13 somewhere or standing?

14 A They were seated on a couch across from Mr. Davis,  
15 Sr.

16 Q And when you saw Mr. Davis, how did he appear?

17 A Calm.

18 Q Did he appear to understand what was going on at that  
19 time?

20 A Yes.

21 Q Did he appear to be under the influence of any drugs  
22 or alcohol at that time?

23 A Not to my knowledge.

24 Q And at this point when you were first speaking to  
25 him, besides what information you received from EMS, did

1     you have any evidence of a crime at this point?

2     A     No.

3     Q     What was your purpose?

4     A     To investigate what was told to me by EMS.

5     Q     And tell me what questions did you ask Mr. Davis at  
6     that point or how did you approach him at that point?

7     A     I just asked him an open-ended question as to why I  
8     was there.

9     Q     Was he able to give you a response?

10    A     Yes.

11    Q     Did his response make sense?

12    A     Yes.

13    Q     Did he seem confused at all?

14    A     No.

15    Q     And what did he respond to you?

16    A     He stated he went to give his granddaughter a hug,  
17    and while he was hugging her his hands dropped and touched  
18    her rear-end and he fainted shortly after.

19    Q     And when he gave you this information what did you  
20    do?

21    A     I immediately decided to separate the parties  
22    involved so I could investigate further, so there wouldn't  
23    be any confusion.

24    Q     Who did you separate in particular?

25    A     Mr. Davis, Jr. and his daughter,    Minor    . And I kept

1 Mr. -- and Mr. Davis, Sr. stayed inside.

2 Q He stayed inside. Were the other individuals inside  
3 at that time?

4 A Yes.

5 Q That remained? And was that -- I believe you  
6 mentioned there were two other minor children. Did they  
7 stay inside at that time?

8 A I believe so, yes.

9 Q Was there anyone else inside with Mr. Davis once you  
10 stepped out with Minor ?

11 A Not that I recall.

12 Q And what was your purpose in talking with Minor ?

13 A To get her -- in her words and her words only what  
14 had happened.

15 Q Was she the subject of the first statement made by  
16 Mr. Davis about giving his granddaughter a hug?

17 A Yes.

18 Q At this point was Mr. Davis under arrest?

19 A No.

20 Q After talking to Minor what did you do?

21 A I returned inside and I asked Mr. Davis if he would  
22 complete a statement for me about what he said happened  
23 initially.

24 Q And what was your purpose at that time in going back  
25 in?

1 A Just to further investigate and get it in writing on  
2 what he said happened.

3 Q Are you the only person on scene still, or -- I  
4 believe you mentioned previously EMS. Is there anyone  
5 else on scene at this time?

6 A Law enforcement, no, just two individuals from the  
7 fire department.

8 Q Fire department and EMS response?

9 A Yes.

10 Q When you go back in to ask him to write a statement  
11 is he able to respond?

12 A Yes.

13 Q Does he appear to understand still what's going on?

14 A Yes, ma'am.

15 Q At any time are there any threats to him to make this  
16 statement?

17 A Absolutely not.

18 Q And when you asked him to write a statement was he  
19 willing?

20 A Yes.

21 Q Can you tell me what his response was to you when you  
22 asked him to write a statement?

23 A He explained to me that he could not write well, so  
24 he needed his wife, Wendy Davis, to complete the  
25 statement, when she returned from his mother's house down

1 the road.

2 Q And did Ms. Davis come back to the residence?

3 A Yes.

4 Q And did she assist him in writing the statement?

5 A Yes.

6 Q Were you in the area or inside the home when this  
7 statement was written?

8 A I believe so, yes.

9 Q Did you -- do you recall where it was written in the  
10 home?

11 A Front room, kitchen area.

12 Q This is, I believe I referred to it, as a mobile home  
13 or trailer?

14 A Yes, ma'am.

15 Q Is it a small area?

16 A Yes, ma'am.

17 Q So when you walk into the front room what do you see?

18 A There is a recliner that Mr. Davis was in. And there  
19 was a couch, I believe a television. And behind that was  
20 the kitchen, which it led into, which I believe had a  
21 table and a counter. That's what I recall.

22 Q And the statement was completed within that area?

23 A Yes.

24 Q And by Ms. Davis or Mr. Davis?

25 A Yes.



1 (Whereupon, State's Exhibit number 1 was marked for  
2 identification.)

3 Q I'm going to show you what's been marked as State's  
4 Exhibit 1 for ID purposes only. Is this the form that you  
5 provided to Mr. Davis at that time?

6 A Yes, ma'am.

7 Q And what type of form is this?

8 A It's a voluntary statement form that the Lexington  
9 County Sheriff's Department provides deputies for people  
10 to complete.

11 Q Why did you chose this particular form to provide  
12 him?

13 A Because he was not under arrest.

14 Q He wasn't under arrest at this time?

15 A No, ma'am.

16 Q At what stage were you in the process of responding  
17 to this call at the time this form is filled out?

18 A I was still trying to gather facts in the case.

19 Q And when you read this form did you fill out the top  
20 of this form?

21 A No. I explained to people how to fill it out and  
22 they do it, so it's all in their writing.

23 Q Can you read the first paragraph of this form aloud  
24 for me?

25 A "I, Edward," I believe, "M. Davis am not under arrest

1 and nor am I being detained for any criminal offenses  
2 concerning the offense I am about to make known to D.  
3 Platt. I volunteer the following information on my own  
4 free will for whatever purposes it may serve. I am 58  
5 years of age and I live at [REDACTED] --" I  
6 can't make out the rest of that -- "SC [REDACTED]."

7 Q And is this how the statement was ultimately returned  
8 to you?

9 A Yes.

10 Q Has it been changed in any way?

11 A No, ma'am.

12 Q And what was ultimately written on the statement?

13 A "I, Wendy Davis, writing," the number 4," my husband.  
14 He said he huged (sic) his granddaughter, dropped his arm  
15 down from hug. Hand accidentally touched her butt."

16 Q And who signed the bottom of this form?

17 A Edward Davis.

18 Q And I believe I asked you this question. But at any  
19 time did you threaten him or -- to make a statement for  
20 you?

21 A No, ma'am.

22 Q And did at any time did he appear unwilling to want  
23 to write this particular statement?

24 A No, ma'am.

25 Q And upon receiving this statement what did you do?

1 A I returned to the ambulance to finish my conversation  
2 with Minor .

3 Q Did you ever have any other contact with Defendant  
4 Davis?

5 A Yes.

6 Q Tell me about that contact.

7 A After speaking with Minor , and actually being able  
8 to finish my conversation, I returned inside one more time  
9 to confirm with him and ask him his account of what  
10 happened.

11 Q When you go back inside to affirm his account of what  
12 happened, has any other law enforcement officer responded  
13 to the scene?

14 A No.

15 Q Did you have any backup respond for you?

16 A No, ma'am.

17 Q Is he still inside his residence?

18 A Yes, ma'am.

19 Q Is anyone else present during this conversation?

20 A I believe Wendy may have still been inside.

21 Q There were family members in and out of the house?

22 A Yes.

23 Q Was EMS in and out of the house?

24 A I believe so.

25 Q When you went back in what was the purpose of this

1 conversation?

2 A Just to speak with Edward, Sr. one more time, and I  
3 believe EMS needed to speak with him as well whenever we  
4 went back in.

5 Q And what type of questions did you ask at this point?

6 A I asked the same general question. What happened.

7 Q Are you ever asking more than the general what  
8 happened questions? I believe you said that before.

9 A No.

10 Q Do you ever -- how long is this third conversation?

11 A Not very long.

12 Q And what does he respond to you when you ask what  
13 happened this time?

14 A He came inside after mowing the grass, leaned in to  
15 get a kiss from his granddaughters like he always does,  
16 either on the cheek or the forehead. Edward, Sr. then  
17 demonstrated how he would get a kiss. He leaned over with  
18 both hands behind his back. And I asked him why he hugged  
19 Minor this time and he said that he just did.

20 Q Was that the full extent of your conversation with  
21 him at that point?

22 A Yes.

23 Q Was Miranda given prior to taking this statement?

24 A No, ma'am.

25 Q Why not?

1 A Because he was not in custody.

2 Q Did you arrest him on this date?

3 A No, ma'am.

4 Q Did you get warrants for him on this date?

5 A No, ma'am.

6 Q Where did he go upon the conclusion of your speaking  
7 with him?

8 A With EMS to the hospital.

9 Q For what purpose?

10 A He threatened to kill himself.

11 Q Did he make that threat to you?

12 A No.

13 Q Was that information that you obtained while on the  
14 scene?

15 A Yes.

16 Q Is that common practice, if there's ever any threat  
17 of harm potential?

18 A Absolutely.

19 Q When you talked to him did he ever appear like he was  
20 going to hurt himself?

21 A No, ma'am.

22 Q Did he -- I've asked this with regard to the first  
23 couple of statements. I'm going to ask it again.

24 A Uh-huh.

25 Q Did he appear confused this third time you talked to

1 him?

2 A No, ma'am.

3 Q Did he appropriately respond to your questions?

4 A Yes, ma'am.

5 Q Were arrest warrants obtained in this case?

6 A Yes, ma'am.

7 Q Were they you obtained by you?

8 A No, ma'am.

9 Q Who were they obtained by?

10 A Detective Livingston.

11 Q Do you recall when those arrest warrants were  
12 obtained?

13 A I'm not sure when they were obtained.

14 Q Do you recall when they were served?

15 A Yes, ma'am.

16 Q And when -- what date was this arrest warrant?

17 A November 15, 2016.

18 MS. FULLER: Nothing further, Your Honor.

19 THE COURT: Mr. Chehoski.

20 CROSS-EXAMINATION

21 By Mr. Chehoski:

22 Q Someone doesn't have to be in custody in order for  
23 you to issue Miranda, right?

24 A Correct.

25 Q You could issue Miranda to anybody at any time; is

1     that correct?

2     A     Absolutely.

3     Q     And you still chose not to do that in this occasion?

4     A     Yes.

5     Q     Even though there was an allegation of sexual  
6     assault?

7     A     Yes.

8     Q     And you're talking to the alleged perpetrator?

9     A     Yes.

10    Q     The statement that you took, that was written by Ms.  
11    Wendy Davis?

12    A     Yes.

13    Q     But it was signed by Edward Davis?

14    A     Yes.

15    Q     And you said that EMS was there originally before you  
16    got there?

17    A     Yes.

18    Q     And EMS was -- were they treating -- were they  
19    treating Mr. Davis?

20    A     When I got there?

21    Q     Yes.

22    A     I met Lieutenant Ellington outside. As for their  
23    treating him, I'm not sure.

24    Q     Was there anybody treating Mr. Davis?

25    A     I believe so, but I don't know.

1 Q Had -- were they there to treat Mr. Davis?

2 A Yes.

3 Q And in the course of your investigation were you able  
4 to find out why they were there to treat Mr. Davis?

5 A Yes.

6 Q And that was because he had fainted?

7 A Yes.

8 Q And this was on July 12th?

9 A Yes.

10 Q And July 12th of 2016?

11 A Yes, sir.

12 Q And this was around 1:30 in the afternoon?

13 A Yes.

14 Q Do you remember the temperature on July 12th, 2016?

15 A I do not.

16 Q Do you remember if it was -- if it was hot out that  
17 day?

18 A Yes. It was July in South Carolina.

19 Q Therefore that means it's hot out?

20 A Absolutely.

21 MR. CHEHOSKI: One moment, please, Your Honor. Thank  
22 you, Deputy Platt.

23 THE WITNESS: Yes, sir.

24 MR. CHEHOSKI: Nothing further.

25 THE COURT: Anything else?



1 MS. USRY: No sir, Your Honor.

2 THE COURT: Deputy, you may step down.

3 (Whereupon, the witness stepped down from the witness  
4 stand.)

5 MS. USRY: Your Honor, that's the extent of our  
6 witnesses for this part of the Jackson vs. Denno. There  
7 is another section with another witness. But as far as  
8 these particular statements.

9 THE COURT: Okay. You want to be heard on these, Mr.  
10 Chehoski?

11 MR. CHEHOSKI: Your Honor, I understand there -- I  
12 think what they're saying is there's two different  
13 statements. For this particular statement I know that Mr.  
14 Davis was not in custody at the time. He was interviewed  
15 at his home. He was not taken into custody by law  
16 enforcement. He was taken by EMS at that time. But, Your  
17 Honor, I mean, as it's a non-incriminating statement it's  
18 -- I don't have any objection to this -- for this  
19 statement coming in.

20 THE COURT: Okay. I would agree with you. So no  
21 objection, it comes in.

22 MS. USRY: On all three -- all three sets of the  
23 statements, or sections, I guess.

24 THE COURT: They seem to all be about the same.

25 MS. USRY: Yes.

1 THE COURT: You all know the difference, but they're  
2 consistently were about the same.

3 MS. USRY: That's correct.

4 THE COURT: Fair enough. All three are in -- or  
5 allowed to come in if you want to introduce them.

6 MS. FULLER: Thank you, Your Honor. For the second  
7 statement the State calls Detective Hayli Livingston.

8 Hayli Livingston, being  
9 first duly sworn, testified as follows:

10 THE CLERK: Have a seat, please, ma'am. Once you're  
11 seated, state your full name, spelling your last.

12 THE WITNESS: Detective Hayli Livingston Hoover. Oh,  
13 H-o-o-v-e-r. It's actually two last names though.

14 DIRECT EXAMINATION

15 By Ms. Fuller:

16 Q Detective Livingston, just for the purposes of this  
17 hearing I'm just going to cut to it. You were assigned to  
18 investigate this case, correct?

19 A Correct.

20 Q And you're currently employed with the Lexington  
21 County Sheriff's Department?

22 A Yes.

23 Q Did you have an opportunity to meet with the  
24 Defendant in this case, Mr. Edward Davis, Sr.?

25 A I did.

1 Q Can you explain to the Court what was the nature of  
2 your meeting with him, how did that occur?

3 A Yes. On October 27th, after having reviewed Minor  
4 and B.D. 's investigative interviews, I called the  
5 Defendant and asked if he would like to come in and talk  
6 to me. It would be on a strictly volunteer basis and he  
7 had no obligation to do so. And he stated he would, and  
8 he picked 2:00 p.m., I believe, on the 28th of October,  
9 2016.

10 Q And did you have an opportunity to actually meet with  
11 him in this case?

12 A I did. He came into the Sheriff's Department when he  
13 said he would.

14 Q And when you met with him can you tell me if anybody  
15 else was present with you?

16 A Detective Booth.

17 Q When the Defendant appeared at the Sheriff's Office  
18 that day did he appear to be under the influence of any  
19 drugs, alcohol or anything?

20 A No, he did not.

21 Q Did he understand why he was meeting with you?

22 A Eventually.

23 Q Did you notice any physical or mental disabilities  
24 generally?

25 A No.

1 Q Were you actually able to obtain a statement from him  
2 that day?

3 A I was.

4 Q Was he under arrest at this time?

5 A He was not.

6 Q Did you make any threats or promises to him when you

7 --

8 A I did not, no.

9 Q Let me finish the question. Sorry. When you were  
10 collecting his statement?

11 A No.

12 Q Was his statement verbal or in writing?.

13 A Both.

14 Q Can you explain to the Court the nature of the actual  
15 interview? You mentioned it was in verbal and writing.

16 Explain to the Court what your normal process is.

17 A We made contact with Mr. Davis in the lobby. Myself  
18 and Detective Booth introduced ourselves to him and then  
19 escorted him to an interview room. Once in the interview  
20 room he selected a seat at the table. We again introduced  
21 ourselves, explained that we were investigating a report.  
22 Advised him that he could leave at any time. He could  
23 stop the interview at any time, and if he wanted  
24 representation at any time he could have that. I then  
25 placed one of our statement forms that does have Miranda

1 on it on the table and offered his ability to read along  
2 with me as I read the Miranda warnings. He stated he  
3 understood verbally. And then we had a verbal  
4 conversation which he gave a statement, and at the end of  
5 the conversation I asked if he would write a statement.  
6 He initialed on the Miranda at this time on the same  
7 statement form and then completed a statement.

8 Q Okay. And then just for the Court, too, I'm going to  
9 ask you to slow down just a little bit when you speak.  
10 You're not going too fast, but just a little bit.

11 A Sorry.

12 MS. FULLER: I'm going to have this marked as --  
13 (Whereupon, State's Exhibit number 2 was marked for  
14 identification.)

15 MS. FULLER: Permission to approach this witness,  
16 Your Honor.

17 THE COURT: Yes, ma'am.

18 Q I'm going to hand you State's Exhibit 2 that's been  
19 marked for ID and I'm going to ask if you recognize it?

20 A I do.

21 Q And how do you recognize it?

22 A This is the statement form that Mr. Davis completed  
23 on October 28th, 2016.

24 Q And what exactly is written on it that identifies it  
25 as the actual one that he completed?

1 A All the top information, as well as his signature and  
2 the date.

3 Q And we'll take the verbal statement first. You  
4 mentioned that you read him the Miranda. Is that the form  
5 you used when you read it to him?

6 A Yes.

7 Q Can you go ahead and publish the rights that you  
8 published -- that you read to him that day?

9 A "You have the right to remain silent. Anything you  
10 say can and will be used against you in a court of law.

11 COURT REPORTER: Can you slow down.

12 A Sorry. You have the right to remain silent.  
13 Anything you say can and will be used against you in a  
14 court of law. You have the right to talk to a lawyer for  
15 advice before being asked any questions and to have him or  
16 her present with you during questioning. If you have no  
17 money for a lawyer's fees, the Court will appoint one to  
18 represent you without cost if you wish. And if you decide  
19 to answer any questions without a lawyer present you will  
20 still have the right to stop answering questions at any  
21 time. You also have the right to stop answering questions  
22 at any time until you speak with a lawyer."

23 Q And did he understand the rights that you read to  
24 him?

25 A He did.

1 Q And for the verbal part of the interview do you have  
2 him initial or sign a waiver or anything of that sort?

3 A I did not. It was verbal.

4 Q And did he acknowledge that he was waiving his  
5 rights?

6 A He said he still wished to speak.

7 Q And then at that point did you question him?

8 A I did.

9 Q The statements that he verbally made to you, did they  
10 appear to be freely and voluntarily made?

11 A Yes.

12 Q Regarding the actual written statements did you  
13 review his rights with him again?

14 A Yes.

15 Q And did you use the same form?

16 A Yes.

17 Q And on this particular time did he initial or sign  
18 anything acknowledging that he understood his rights?

19 A He did.

20 Q And is that indicated on that form?

21 A It is.

22 Q How did he do it?

23 A He initialed each right, as well as that he wished to  
24 speak.

25 Q And this was done in your presence?

1 A Yes.

2 Q And regarding the written statement, did he then give  
3 a written statement?

4 A He did.

5 Q And to the best of your knowledge was that statement  
6 done freely and voluntarily?

7 A Yes.

8 MS. FULLER: Your Honor, just for the Court's  
9 purposes, the interview was somewhat lengthy and the  
10 written statement is approximately three pages. I can  
11 publish it for the hearing, but I think I've laid enough  
12 at this time. But it's up to you, Your Honor.

13 THE COURT: Mr. Chehoski, do you have any questions  
14 on the voluntariness?

15 MR. CHEHOSKI: Just a couple questions, Your Honor.

16 THE COURT: Okay. Was it recorded or not?

17 MS. FULLER: It was not recorded. I apologize.

18 THE COURT: Was that your question?

19 MR. CHEHOSKI: That was going to be my question.

20 MS. FULLER: I skipped that question.

21 CROSS-EXAMINATION

22 By Mr. Chehoski:

23 Q Do you have access to an audio recorder?

24 A Not at the time.

25 Q Not at the time? Did any of your colleagues have



1 access to a video -- an audio recorder?

2 A I didn't ask.

3 Q Do you have access to a video recorder?

4 A No.

5 Q Did any of your colleagues have access to a video  
6 recorder?

7 A Not that I'm aware.

8 Q And are there -- are there any rooms in the Lexington  
9 County Sheriff's Department that are wired for recording?

10 A Not at the time that I'm aware.

11 MR. CHEHOSKI: A moment, please. Nothing further,  
12 Your Honor.

13 MS. FULLER: Your Honor, no recross -- I mean,  
14 redirect, and I believe this is -- this is our only  
15 witness on this statement.

16 MR. CHEHOSKI: Again, Your Honor, you're going to  
17 find out this -- this statement is also again  
18 non-incriminating. I mean, again, as far as the  
19 voluntariness of the rest, it looks like there is,  
20 Detective Livingston is saying that she did enter -- well,  
21 did go through Miranda twice with Mr. Davis. However,  
22 it's only recorded once.

23 THE COURT: Okay. I mean, what else could she have  
24 done? She said orally I discussed the Miranda and then I  
25 went through the checklist with him. What else could she

1 have done that you think would be -- make it more  
2 sufficient?

3 MR. CHEHOSKI: Your Honor, again --

4 THE COURT: Or you just think what she did was  
5 insufficient?

6 MR. CHEHOSKI: Your Honor, the fact that it was not  
7 recorded. Even in 2016 those recorders -- digital  
8 recorders are readily available and not that expensive.  
9 And I think at this time, in this day and age, it's  
10 unforgivable not to have, especially when being accused of  
11 a serious offense like Mr. Davis has been accused of, that  
12 these statements are not being recorded.

13 THE COURT: I agree with you. It's a shame, but I  
14 don't think it's -- it's not a requirement that it be  
15 recorded. It's just sometimes it makes it a little easier  
16 on the parties following up to hear a recording. But I  
17 don't know any -- I'm not aware of anywhere in the rules  
18 that it's required to be recorded. It's good practice,  
19 but it's not always followed.

20 MS. FULLER: Your Honor, I don't believe it impacts  
21 the voluntariness of the statement. I don't know if you  
22 need full argument on the issue.

23 THE COURT: No. I mean, if she got the observation,  
24 I think it's in some of her testimony she and Detective --  
25 Cooper?

1 MS. FULLER: Booth.

2 THE COURT: Booth interviewed him together, advised  
3 him of his Miranda, advised him he's not under arrest,  
4 free to leave, free to terminate the conversation, free to  
5 get an attorney if he could afford one, that his  
6 statements he gave could be used against him. And then  
7 she followed up with him with the written Miranda warning  
8 that he initialed. He was sufficiently advised. I think  
9 she said no promises had been made. No threats were made  
10 to him to give a statement, and he -- he wasn't arrested  
11 that day?

12 THE WITNESS: No, sir.

13 THE COURT: Okay. I think his statement is fair  
14 game.

15 MS. FULLER: Thank you.

16 THE COURT: It meets the requirements outlined by  
17 Denno. And I understand you made a record regarding it,  
18 the lack of a recording. Anything else?

19 MS. FULLER: That's it regarding Denno, Your Honor.

20 THE COURT: Anything else you got, Mr. Chehoski?

21 MR. CHEHOSKI: No, Your Honor.

22 THE COURT: Okay. All right. You may step down.

23 (Whereupon, the witness stepped down from the witness  
24 stand.)

25 THE COURT: Any other motions?

1 MS. FULLER: Beg the Court's indulgence.

2 THE COURT: Okay.

3 MS. USRY: Your Honor, I don't believe the State has  
4 anything else. Prior to the hearing today we -- Defense  
5 counsel and I discussed the fact that when fire and EMS  
6 respond on scene, they are the first on scene, there's  
7 some statements made to them by the Defendant. But they  
8 are not working in law enforcement capacity at that time  
9 and we agreed that we weren't going to do a Jackson vs.  
10 Denno hearing on those statements.

11 THE COURT: Fair enough.

12 MR. CHEHOSKI: Your Honor, I don't have anything  
13 further as well.

14 THE COURT: All right. Then we'll break for lunch.  
15 We'll see you all downstairs in 3C.

16 (Whereupon, a lunch break was taken.)

17 THE COURT: All right, folks. Anything you need to  
18 put on the record before we get going? You all good?

19 MS. FULLER: Nothing for the State, Your Honor.

20 MR. CHEHOSKI: Nothing from the Defense, Your Honor.

21 THE COURT: Okay. Bring them in, please.

22 (Whereupon, the jury entered the courtroom at 2:25  
23 p.m.)

24 THE COURT: A little cozier courtroom, huh? This is  
25 -- there's three courtroom's on this floor. If you all

1 get cool you all let me know, because I got on my robe  
2 because I got cold. I got to wear it all the time.  
3 Anyway, if it's too cool let me know. I want you all  
4 comfortable, and then me comfortable. Everybody else is  
5 kind of on their own. That's how Ms. Frick's rules work.  
6 We'll make it however you all want. Okay? I used to have  
7 a law clerk -- and this is my law clerk. She's my lawyer.  
8 And this is Judge McLeod's lawyer, and Judge McLeod is  
9 holding court with Judge Hocker in Greenville. He's a  
10 brand new judge. Just started. So this young lawyer is  
11 training with my law clerk with me. So these are lawyers  
12 not involved in the case that work for me. I want you all  
13 to know who's who. Of course, you know the bailiffs and  
14 you know Ms. Holston, the Court Reporter. Ms. Frick is  
15 Deputy Clerk of Court. And then the deputies are our  
16 security. So that's kind of a tour of the courtroom. The  
17 State sits closer to you all. The Defense table is over  
18 there. And so, here's how it's going to work. The State  
19 prepared the indictment. The State has made allegations.  
20 Mr. Davis has denied those. Since the State brings the  
21 case, the State's got to go first to try to prove it's  
22 case. The State's got to offer evidence, testimony,  
23 witnesses, whatever they believe and wish for us to hear.  
24 And so, we're working together. Fourteen of you all and  
25 one of me, we're working together. I'm going to make the

1 legal decisions. You all are going to make the factual  
2 decisions. Together we make a team. So we're both kind  
3 of judges in fact. You all are judges of the facts. So,  
4 if you all need a break, let me know. Get attention over  
5 here. Ask, wave. Most of the time the witnesses make  
6 good breaking points, meaning the State will present their  
7 witness, question, question, question, and then the  
8 Defense gets an opportunity to cross-examine,  
9 cross-examine. Most of the time those go 45 minutes to an  
10 hour on the earlier witnesses. The latter witnesses  
11 sometimes are shorter. But witnesses make good breaking  
12 points for me. It's okay, we've heard that witness.  
13 Let's take a break. And so, I'll let you all step back in  
14 the jury room and take a break. But that's how it  
15 proceeds. The State will go first. They'll make an  
16 opening statement to you, then the Defense will make an  
17 opening statement to you also, and then they'll call first  
18 witnesses and they'll go forth from there. Remember this,  
19 Mr. Davis pled not guilty. He's presumed not guilty and  
20 presumed innocent until the State's presented all its case  
21 and you all make a deliberation. So that stays with him.  
22 Now, I'll tell you this also. He has a right to remain  
23 silent, and many times in trials the Defense team waits  
24 until the State's presented it's case before they decide  
25 whether they want to put up any evidence or not. That's

1 up to them. That's their decision-making. It's not ours  
2 to question. So the Defense can decide after the State  
3 has put up its case whether they decide they want to put  
4 up anything. State doesn't have an option. They've got  
5 to put their case up, because if they didn't it'd be a  
6 short trial. So understand that's how it's going to go.  
7 You all need to all stand now. Ms. Frick will place you  
8 under oath and we'll get started.

9 (Whereupon, the jury was sworn at 2:28 p.m.)

10 THE COURT: All right. Ms. Usry.

11 MS. USRY: Thank you, Your Honor. May it please the  
12 Court.

13 THE COURT: Yes, ma'am.

14 MS. USRY: Trust. It's a short word, five letters,  
15 trust, but it has a big meaning, and it plays a huge role  
16 in relationships. It's the foundation of all close  
17 relationships. Relationships of intimacy, relationships  
18 between parents and children and relationships between  
19 grandparents and children. And when you have a  
20 relationship of trust between a child and an adult it can  
21 almost take on a relationship of faith. Of faith that  
22 this adult is going to keep you safe, protect you, keep  
23 you from harm. That's the relationship that Minor  
24 had with her grandfather. That's the relationship she  
25 expected from him. That all children expect from their

1 grandparents. But that relationship changed. And it  
2 changed on July 12th of 2016 for her. It changed when she  
3 was over at her grandparents' house with her two younger  
4 sisters. They were alone with their grandfather. Her two  
5 younger sisters were napping, and she played in the  
6 sprinkler outside. July. Playing in the sprinkler in the  
7 summer. A sign of summer freedom, care-freeness for all  
8 children. And when she finishes playing with the  
9 sprinkler he tells her to come inside and take a shower in  
10 his bathroom. And that's when the relationship of trust  
11 and faith is violated. It's violated when she's in the  
12 shower and he begins reaching in, touching her back and  
13 her buttocks. And it's violated over the course of the  
14 next time period that day when he touches her in a chair  
15 in his room and on the bedroom -- bed in his bedroom.  
16 Ladies and gentlemen, this is a case of criminal sexual  
17 conduct with a minor in the third degree, and it's defined  
18 by statute. Criminal sexual conduct with a minor in the  
19 third degree is defined as a lewd or lascivious act of  
20 unlawful touching upon the body or any body part of a  
21 minor with a purpose of arousing the passions or sexual  
22 desire of the perpetrator, of the person doing the  
23 touching or of the child. The person being touched. And  
24 you'll hear more about that law at the conclusion of this  
25 case from the Judge. But I introduce it to you now,



1 today, and right now before we begin the case itself.  
2 That's what the Defendant in this case is charged with.  
3 And as you've heard from the Judge, we have the burden of  
4 proof and we welcome that burden. The State has the  
5 burden. We have to prove this case beyond a reasonable  
6 doubt. Beyond a reasonable doubt. Firmly convinced at  
7 the end of this case that this incident happened. Not --  
8 we don't have to carry a burden of proof of absolute  
9 certainty, because that's an impossible burden. We have  
10 the burden of proofing it beyond a reasonable doubt. And  
11 during the course of this -- and it's going to be short.  
12 We should finish on Wednesday. You're going to hear from  
13 Minor . You're going to hear from law enforcement that  
14 responded. The different people that responded to the  
15 scene that day, because it was reported that day when it  
16 happened. And you're going to hear from the law  
17 enforcement that talked to her after the fact. And all  
18 those people are going to take the witness stand and  
19 you'll have a chance to hear from them in their own words  
20 exactly what happened. And you're going to hear more  
21 detail from them and more descriptions of what happened  
22 that day from Minor , from other people that were  
23 present. Ladies and gentlemen, this case is not a case  
24 where Minor called the police. Where a 12-year-old  
25 called -- a 12-year-old called the police. It's a case

1 where fire and EMS responded to an unresponsive person  
2 because her grandfather had fainted. And when fire and  
3 EMS got there and went to talk to their patient, he told  
4 them that he had fainted after touching his granddaughter  
5 inappropriately, and that's what started this case  
6 rolling. Minor didn't call. But when they responded  
7 and they got that information and they got the Sheriff's  
8 Department involved and they separated her away from her  
9 grandfather, she began telling them what happened and  
10 giving them more information. Trust and faith. Criminal  
11 sexual conduct cases are crimes of secrecy. They happen  
12 behind closed doors. They happen between two people.  
13 They do not happen on camera. Trust and faith were  
14 violated on July 12th of 2016. And ladies and gentlemen,  
15 through the course of today and tomorrow, and maybe some  
16 of Wednesday, we believe we'll prove this case beyond a  
17 reasonable doubt through the witnesses on the scene and  
18 the evidence that we will introduce. And we ask after we  
19 do that that you find the Defendant guilty of criminal  
20 sexual conduct in the third degree against a minor for  
21 unlawfully touching his granddaughter. Thank you.

22 THE COURT: Mr. Dawson.

23 MR. DAWSON: Good afternoon. July 12th, 2016 Edward  
24 Davis' life changed forever. It started as a seemingly  
25 normal day. He'd been out cutting the grass that morning.

1 It was July, so it was very hot. He wanted to beat the  
2 heat. He came back to his house where his three  
3 granddaughters were there. He went to greet his three  
4 granddaughters. One of them is Minor . You're going to  
5 hear a lot about her in the next two days. Edward went to  
6 hug Minor , give her a kiss on the cheek like he normally  
7 does, and his hand slipped at that point and he accidentally  
8 touched her in the butt -- buttocks. Yes, he admits that  
9 he did accidentally touch her, but that's it. That one  
10 time. He apologized for it, he acknowledged it, and then  
11 he moved on. They went out. They played in the  
12 sprinkler. All three of the girls went out there and  
13 played. And then they came back in to the trailer. All  
14 three of the little girls, they took showers at various  
15 points. And at some point Edward began to feel sick and  
16 he began to feel dizzy and he fainted, and EMS was then  
17 called. They responded. And the Solicitor is correct.  
18 He did tell them that he had touched her accidentally on the  
19 buttocks. He was upfront about it. He didn't try to hide  
20 it. But then a few moments later, after EMS is treating  
21 him and whatnot, he finds out that his granddaughter,  
22 Minor , has made some accusations that things went much  
23 farther than that. And that accusation, that story from  
24 his granddaughter changes his life forever. It's a  
25 serious accusation which requires serious proof. The

1 State has the burden to prove this charge beyond a  
2 reasonable doubt. Prove that Edward is guilty of this  
3 charge beyond a reasonable doubt. Edward doesn't have to  
4 prove anything. It's all on the State. He's been charged  
5 with a horrific crime. One that challenges his integrity  
6 as a man and as a grandfather. But the State has to prove  
7 that he's guilty of this crime beyond a reasonable doubt.  
8 He's presumed innocent until they do otherwise. So I ask  
9 of you only a few things for today and tomorrow. Listen  
10 closely and analyze every single piece of evidence that is  
11 presented. Critically listen to everything that you are  
12 told. Everything that is testified to on the stand.  
13 Everything that the State puts up in the form of evidence.  
14 Be critical of the accusation itself. Pay close attention  
15 to the details of the story as I believe you will find it  
16 changes and it escalates over time. So pay attention to  
17 all the details. Pay attention to all the different  
18 accounts. Who's telling what. Does that account match up  
19 with this other account. Does what one witness says match  
20 up with the other witness. Be critical in your analysis  
21 of every single piece of evidence. The devil is in the  
22 details. I believe and I am confident that at the end of  
23 this trial and when you go back to deliberate you'll come  
24 to only one conclusion. Edward Davis is not guilty of  
25 these crimes charged.

1 THE COURT: All right. Call your witness.

2 MS. FULLER: Thank you, Your Honor. The State calls  
3 Timothy Pecori.

4 Timothy Pecori, being  
5 first duly sworn, testified as follows:

6 THE CLERK: Have a seat, sir. Once you're seated,  
7 state your full name, spelling your last, please.

8 THE WITNESS: Timothy Pecori, P-e-c-o-r-I.

9 THE COURT: I want to explain to you something that  
10 just happened so you all understand it. The parties  
11 agreed, they asked the Court and all, all in agreement to  
12 sequester witnesses. What that means is, the witnesses  
13 who aren't the victim and/or the lead investigator, and  
14 they're here in the courtroom, the parents of this  
15 youngster, they can sit in this courtroom during the  
16 entire trial. But the witnesses who aren't one of those  
17 two people are outside in a holding room or sitting  
18 outside nearby. They don't get the benefit -- none of the  
19 witnesses get the benefit of listening to each other's  
20 testimony. You all get to hear it all independently. All  
21 right? So that's why they had to go get the witness. I  
22 wanted you all to know that before I point it out later.  
23 All right. Ms. Fuller.

24 MS. FULLER: Thank you, Your Honor. I apologize.  
25 Getting used to the courtroom.

DIRECT EXAMINATION

By Ms. Fuller:

Q Mr. Pecori, can you go ahead and introduce yourself to the jury. Where are you currently employed?

A I work for Gilbert-Summit Rural Water District.

Q And how long have you been employed there?

A One year and eight months.

Q And prior to that where were you employed?

A I worked for Lexington County Fire Service.

MS. FULLER: Permission to approach the witness, Your Honor.

THE COURT: Yes.

Q I'm going to go ahead and move the microphone closer to your mouth. I just want the jury to make sure they can hear you.

A Okay. Is that better?

Q I'll tell you in a second. And where were you employed previously?

A Lexington County Fire Service.

Q Much better. How long were you employed with Lexington County Fire Services?

A Just shy of 10 years.

Q And while you were employed there what was your position?

A I was a firefighter.

1 Q And I know this is very basic, but were you a  
2 firefighter the entire time you were there?

3 A I was not.

4 Q What other position did you hold?

5 A I was promoted to an engineer.

6 Q And as an engineer what exactly is that?

7 A We were responsible to get all the fire crew to the  
8 fire scene and responsible for the apparatuses.

9 Q And how long did you hold that position?

10 A It was just about four years.

11 Q Would that be considered a promotion while there?

12 A Yes, ma'am.

13 Q And you said you had 10 years experience. Would you  
14 be considered a senior firefighter?

15 A Yes, ma'am.

16 Q I want to speak specifically about this case that  
17 we're here on about today. Mr. Edward Davis, Sr. Can you  
18 tell me whether or not he was ever a patient of yours?

19 A He was.

20 Q And do you recall when that was?

21 A Let me refer to my notes real quick. 7/12/2016.

22 Q So on July 12th of 2016. And where was he a patient?

23 A He was at [REDACTED] in Lexington County.

24 Q And can you tell -- explain to the jury how did he  
25 become your patient on that day?

1 A We were dispatched to a medical first responder call  
2 for an unconscious subject.

3 Q For an unconscious what?

4 A Subject. I'm sorry.

5 Q And did you know anything about the unconscious  
6 person prior to arriving on call, on scene?

7 A We did not.

8 Q Did you know whether it was a male or a female, girl  
9 or boy?

10 A I'm not sure at this time how it was dispatched to  
11 us.

12 Q Had you ever been to that address before?

13 A No, I was not.

14 Q Prior to that day had you interacted with Mr. Davis  
15 before?

16 A No, I had not.

17 Q So I want you to go ahead and take the jury through  
18 that day. You respond to, would you say, a typical call?

19 A It was a typical call. Me and my firefighter  
20 partner, Antoine Kelly, we responded to the call. When we  
21 arrived on scene we established incident command. At this  
22 time we proceeded to do pretty much a routine medical  
23 call. We entered the structure, and that's when we saw  
24 Mr. Davis sitting in his recliner. And at that time I  
25 started patient care, which included --



1 Q I have a couple of questions.

2 A Okay.

3 Q You said you established command. What does that  
4 mean?

5 A What that means is at that point in time when we  
6 arrived on scene we have command of the scene. We are in  
7 charge at that time and moment until, I would say, higher  
8 medical trained personnel arrive on scene.

9 Q So on this particular day you just testified that you  
10 responded to a medical first responder call? You're a  
11 firefighter. Is that normal?

12 A Yes, ma'am. It is normal.

13 Q Can you explain what a medical first responder call  
14 is to the jury?

15 A Medical first responder calls is -- since we're more  
16 widely spread than EMS we are all medically trained to,  
17 just as it says, a first responder to arrive first on  
18 scene and to start patient care.

19 Q I'm sorry. I didn't mean to cut you off. You said  
20 you -- you are -- we'll pick up where you were leaving off  
21 in your narrative. You mentioned that you went to the  
22 house.

23 A Uh-huh.

24 Q At that point did you make entry?

25 A Yes, we did.

1 Q And you said you saw your patient, Mr. Davis. How  
2 did you determine that he was your patient?

3 A When we walked in, just by his demeanor. And when we  
4 walked in and saw him sitting, to my left, in the chair  
5 you could just tell that he was the individual that needed  
6 patient care.

7 Q Can you tell me whether or not anybody else was in  
8 the home that you remember?

9 A There was.

10 Q And who else was in the home?

11 A There were three children in the home at the time.

12 Q And where were they in the home when you entered?

13 A They were located to my right on a couch.

14 Q Once you made entry did you get to speak with your  
15 patient in this case?

16 A I did.

17 Q What's the first thing you did?

18 A Normally when we walk in we just ask basic questions.  
19 I asked what's going on, how are you feeling, just to try  
20 to see what is happening with them. If they could tell us  
21 what's hurting. What lead up to the events.

22 Q And in this case was he able to communicate with you?

23 A He was.

24 Q And what, if anything, did he state to you in  
25 response to what led up to this visit, I guess?

1 A Uh-huh.

2 Q Okay.

3 A He started explaining to us that he had been outside  
4 working. That he wasn't feeling good. And as he  
5 continued to explain, and that's when he verbally -- it  
6 came out that he inappropriately touched his  
7 granddaughter.

8 Q So he stated to you in response to why you're there.

9 --

10 A Uh-huh.

11 Q -- that he inappropriately touched his granddaughter?

12 A Yes, ma'am.

13 Q Now, the word inappropriate. Who used the word,  
14 inappropriate?

15 A He did.

16 Q So just to be clear, this isn't a word that you used?

17 A I did not.

18 Q And when you were dispatched to the scene, if you  
19 could refer to your report, what was the nature of the  
20 call that you were responding to?

21 A It came out that EMS call excluding vehicle accident.

22 Q And referring to the call, the CAD sheet. The call  
23 information sheet.

24 A Uh-huh.

25 Q What was the nature of the call?

1 A Unconscious subject.

2 Q Was there any call or request to respond to an  
3 inappropriate touching at the residence?

4 A There was not.

5 Q You mentioned he said his granddaughter. You  
6 mentioned there were three grandchildren in the home.  
7 Were you able to determine which granddaughter he was  
8 talking about?

9 A Not at the time.

10 Q Just so the jury can kind of visualize what you're  
11 describing, I'm going to show you what I'm going to have  
12 marked as a State's Exhibit.

13 (Whereupon, State's Exhibit No. 3 was marked for  
14 identification only.)

15 Q I'm going to show you State's Exhibit 3. I'm going  
16 to ask you, do you recognize this?

17 A I do.

18 Q And how do you recognize it?

19 A That is the residence we responded to.

20 MS. FULLER: Hold on a second. I apologize, Your  
21 Honor. Did I ask to approach?

22 THE COURT: No, and you're fine. You have already.

23 MS. FULLER: Okay, thank you.

24 Q And you said this is the residence you approached.

25 And just to be clear, is this the residence you approached

1     when Edward Davis, Sr. was your patient?

2     A     It is.

3     Q     And is this a fair and accurate representation of it?

4     A     It is.

5           MS. FULLER: Your Honor, at this time the state seeks  
6     to introduce State's Exhibit 3 into evidence.

7           MR. DAWSON: No objection, Your Honor.

8           THE COURT: State's 3 without objection.

9           (Whereupon, State's Exhibit number 3 was admitted  
10    into evidence.)

11          THE COURT: Folks, so you all know, the exhibits that  
12    are brought up, they're numbered individually and then  
13    they get introduced through the witness that has knowledge  
14    of them. You'll have those in the jury room, so you don't  
15    have to commit them to memory or won't see them again.  
16    You'll see them throughout. Go ahead, Ms. Fuller.

17          MS. FULLER: Thank you, Your Honor. Permission for  
18    the witness to step down.

19          THE COURT: Yes, ma'am.

20          MS. FULLER: You can step down.

21          THE WITNESS: Okay.

22          (Whereupon, the witness stepped down from the witness  
23    stand.)

24    Q     Looking at State's Exhibit 3, where did you enter the  
25    residence?

1 A We entered here on the front porch.

2 Q And would that be the only entrance at the front of  
3 the house?

4 A Yes, ma'am.

5 Q And I'm going to show you while you're there --

6 MS. FULLER: I'm going to mark this as State's  
7 Exhibit 4.

8 (Whereupon, State's Exhibit number 4 was marked for  
9 identification only.)

10 Q And I'll ask if you recognize this?

11 A I do.

12 Q And how do you recognize it?

13 A That looks like the interior of the home.

14 MS. FULLER: Your Honor, at this time the State seeks  
15 to move State's Exhibit 4 into evidence.

16 MR. DAWSON: No objection, Your Honor.

17 MS. FULLER: Permission to publish.

18 THE COURT: State's 4 has been admitted without  
19 objection.

20 (Whereupon, State's Exhibit number 4 was admitted  
21 into evidence.)

22 Q Using this diagram, obviously not to scale, can you  
23 please explain to the jury where everyone was -- where  
24 everyone was located when you entered the residence.

25 A Like I said, we entered the home here in front of the

1 house off the patio. When we -- I entered the house I saw  
2 Mr. Davis here in his recliner. And I noticed three  
3 children here sitting on the couch.

4 Q Thank you so much. And when he stated he  
5 inappropriately touched his granddaughter where was he  
6 sitting?

7 A He was still sitting in his recliner.

8 Q And when you were assessing him you described  
9 speaking to him and all of that, did that take place in  
10 that same place?

11 A It did.

12 Q You may take your seat. Thank you so much.

13 (Whereupon, the witness returned to the witness  
14 stand.)

15 Q After your initial assessment of the patient in this  
16 case did you leave the scene, or can you tell the jury  
17 what happened next?

18 A After our initial assessment and after he told us  
19 what had happened, I continued to stay in the structure  
20 with them as more people arrived on scene. And  
21 afterwards, after being on scene quite a while, we  
22 eventually did get cleared to go back to the station.

23 Q You mentioned more people. Who also arrived on  
24 scene?

25 A Just behind us was EMS supervisor, and just behind

1 her it was EMS units and the Sheriff's Department.

2 Q And do you recall whether or not they entered the  
3 residence as well?

4 A They did.

5 Q And then just to be clear, you were the first one on  
6 scene?

7 A Yes, ma'am.

8 Q When you were there with the patient, do you recall  
9 if he stated anything else? Can you describe what his  
10 demeanor was or comments that he made?

11 A As I was sitting there assessing him he kept -- he  
12 just kept -- he was nervous and he kept just trying to  
13 justify why he inappropriately touched his granddaughter,  
14 and it just -- over and over. And it was just he was very  
15 nervous, he was just very adamant about that. And then  
16 that's kind of where he stayed at the whole time.

17 Q Is this a case that you remember here two years  
18 later?

19 A I do.

20 Q And why is that?

21 A Just the nature of the call. What it started out as  
22 and how it just all unfolded of the events.

23 Q And then after this call, is that when you shortly  
24 retired from being a firefighter?

25 A Yes, ma'am.



1 MS. FULLER: Beg the Court's indulgence.

2 THE COURT: Yes, ma'am.

3 MS. FULLER: No further questions at this time, Your  
4 Honor.

5 CROSS-EXAMINATION

6 By Mr. Dawson:

7 Q Mr. Pecori, this statement that Mr. Davis made to you  
8 about touching his granddaughter, he -- you said in your  
9 statement that he willingly told you that, correct?

10 A Yes, sir.

11 Q He didn't try to hide it?

12 A No, sir.

13 Q He was upfront about it?

14 A He was.

15 Q Also in your written statement you wrote that right  
16 after this event, correct?

17 A What was that again?

18 Q You wrote that -- you wrote it right after this  
19 event?

20 A Yes, sir.

21 Q So it was fresh in your mind at that point?

22 A Yes, sir.

23 Q And you tried not to leave anything out, right?

24 A Yes, sir.

25 Q So that statement that you made, that you wrote after

1 this incident, this report, is a full and accurate summary  
2 of your interaction with Mr. Davis; is that correct?

3 A Yes, sir.

4 MR. DAWSON: All right. Thank you. No more  
5 questions, Your Honor.

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

7 (Whereupon, the witness stepped down from the witness  
8 stand.)

9 MS. USRY: State calls Karen Ellington.

10 Karen Ellington, being  
11 first duly sworn, testified as follows:

12 THE CLERK: Have a seat, ma'am. Once you're seated  
13 speak up loud and clear, state your full name, spelling  
14 your last.

15 THE WITNESS: Karen Ellington, E-l-l-i-n-g-t-o-n.

16 DIRECT EXAMINATION

17 By Ms. Usry:

18 Q Thank you, Ms. Ellington. Where do you currently  
19 work?

20 A I'm a Senior Paramedic with Lexington County EMS.

21 Q What's your title there?

22 A Lieutenant.

23 Q Lieutenant. Lieutenant Ellington. So how long have  
24 you worked with Lexington EMS?

25 A About seven and a half years.

1 Q What has been your various roles at that location?

2 A I started out as a basic. There's different levels  
3 of care in EMS. I started out as basic, went to  
4 paramedic, then you're a crew chief on an ambulance, and  
5 then promoted to Lieutenant.

6 Q And just so we understand basic verse paramedic,  
7 verse lieutenant, is there different levels of education  
8 or experience? Can you give me a little bit of  
9 information on that?

10 A Yes, ma'am. Basic is the lowest level of EMS, then  
11 the next level is paramedic. It's an additional year's  
12 worth of schooling. The difference in the two basically  
13 is one's considered basic life support, paramedic is  
14 considered advanced life support. Paramedics can do more  
15 advanced care, cardiac treatments, IVs, drugs, that kind  
16 of thing, medications. Then lieutenant, the current  
17 position of that is more of a supervisor role. You may  
18 have seen just the trucks that look like ambulances that  
19 drive around. So I drive around by myself. I'm a  
20 supervisor, so I have 14 to 20 people underneath me that I  
21 supervise. And I respond to higher acuity calls, or help  
22 out in any way that I can.

23 Q Why -- do you respond with an ambulance, or how does  
24 that respond, or --

25 A It depends on what the call is. If it's a higher

1 level of care I'll typically go. If there's a reason that  
2 I think that they may need help I'll go, or if I just want  
3 to go with them. But typically I will get dispatched to  
4 the higher level of care calls.

5 Q Were you working on July 12th of 2016?

6 A Yes, ma'am.

7 Q What was your role on that date?

8 A I was a lieutenant. So I was driving around in the  
9 truck by myself.

10 Q And did you receive a call for service on that date  
11 for [REDACTED], Lot [REDACTED]?

12 A Yes, ma'am.

13 Q Is that location in Lexington County?

14 A Yes, ma'am.

15 Q Describe how that call came out.

16 A The call came out as an unconscious call. So like I  
17 said, an ambulance was dispatched, and then I went along  
18 as well to help out. An unconscious call is typically a  
19 higher medical call. I was also closer than the ambulance  
20 and I knew that. So I knew that I could get there quick  
21 and help out immediately.

22 Q Do you recall what time that call went out?

23 A Can I refer to my notes?

24 Q Yes.

25 A The call was dispatched at 1:28. 1:28 in the

1     afternoon.

2     Q     And how long did it take you to respond?

3     A     The call was dispatched at 1:28. I arrived at 1:32,  
4     so four minutes.

5     Q     And did you arrive more quickly than the ambulance  
6     that was in the area at that time?

7     A     Yes, ma'am.

8     Q     When you got on scene were you the first emergency  
9     vehicle on scene?

10    A     Well, the fire truck was there first. The fire was  
11    the first responder, and I arrived shortly thereafter.

12    Q     Tell me what you did once you got on scene.

13    A     Once I got on scene I entered the residence where  
14    there was two fireman already inside. They were speaking  
15    to the patient. The call, like I said, was an unconscious  
16    patient. And all I could tell from the notes was that it  
17    was an elderly male patient. So when I entered the  
18    residence I saw the two fire guys there, and there was an  
19    elderly male patient sitting upright in a chair that they  
20    were talking to.

21    Q     Was he unconscious?

22    A     No. He was talking.

23    Q     Did he appear to be appropriately responding to  
24    questions at that time?

25    A     Yes, ma'am.

1 Q Who else was in the residence?

2 A There was some children on a couch. Well -- so we  
3 were facing the patient, so they were to our backs. And  
4 then there was another male patient -- I mean, another  
5 male that I know now is the children's father.

6 Q In addition to the patient that you're responding to,  
7 another male --

8 A Correct.

9 Q -- that was the children's father?

10 A Correct, yes. So the patient was in a recliner. And  
11 then there was, like I said, on the other side of the room  
12 there's three children on a couch and another -- another  
13 male.

14 MS. USRY: Your Honor, I ask that the witness briefly  
15 step down.

16 THE COURT: Certainly.

17 (Whereupon, the witness stepped down from the witness  
18 stand.)

19 Q Lieutenant Ellington, you mentioned -- excuse me.

20 Just making sure everybody can see the board. You  
21 mentioned your back was to the children on the couch.

22 Just describe that in State's 4 for us very briefly.

23 A Okay. So the patient was in this chair. So the fire  
24 and myself were here talking to him, which means our backs  
25 were to the rest of the room and they were here. I'm

1       sorry. So they were there.

2       Q       And what is your focus when you go into the  
3       residence?

4       A       The patient, obviously.

5       MS. USRY: Thank you. You can return to your seat.

6       (Whereupon, the witness returned to the witness  
7       stand.)

8       Q       So tell me what you did while you were in the  
9       residence.

10      A       So when I first approach a patient, since I'm the  
11      first EMS personnel there, obviously I could tell  
12      immediately that he's not unconscious. So I just  
13      introduce myself and ask him what's going on and what  
14      happened today, that kind of thing.

15      Q       Was he able to respond?

16      A       Oh yes, ma'am.

17      Q       Did he appear confused at all?

18      A       No, ma'am.

19      Q       And what did he ultimately respond to your questions?

20      A       He said he was fine and he didn't need any medical  
21      help. And then he just said, so this is what happened. I  
22      was hugging my granddaughter and I touched her bottom and  
23      she got upset, so I got upset and I passed out.

24      Q       And did he indicate -- or excuse me. So once he gave  
25      you that information what did you do?

1 A Well, about that time I heard the sirens for the  
2 ambulance pull up. So I excused myself from the residence  
3 and I stepped outside. I told them that I was going to  
4 speak to the crew that was coming in and kind of fill them  
5 in.

6 Q And backing up a little bit. You indicated you asked  
7 him a question and gave an answer. Was that the full  
8 extent of his answer? Was that the full -- all the  
9 information he gave you at that time?

10 A Yes, ma'am.

11 Q Did you write a report with regard to this?

12 A Yes, ma'am.

13 Q Is that all the information you included in your  
14 report?

15 A In terms of what he said at that moment?

16 Q Uh-huh.

17 A Can I read from my report?

18 Q You can refresh your memory from your report.

19 A "During my assessment he mentioned that he touched  
20 his granddaughter the wrong way. She got upset, which  
21 made him upset --

22 COURT REPORTER: Slow down, please.

23 MS. USRY: Slowly.

24 THE COURT: You're reading really fast.

25 THE WITNESS: Oh, I'm so sorry.



1 Q Slowly. We're trying to get it down.

2 THE COURT: Ms. Usry asked you a question, so answer  
3 her question. If you need to refer to it to refresh your  
4 memory that's fine, but don't read it to us.

5 THE WITNESS: Oh, sorry.

6 Q No, you're fine. So you can refresh your memory.

7 A Okay.

8 Q Yeah, thank you.

9 A Okay. So he said that he touched his granddaughter  
10 the wrong way. She got upset. He got upset and he passed  
11 out. So he explained further that he accidentally touched  
12 her bottom.

13 Q And you said you took -- what did you do after you  
14 said -- what did you do after you received that  
15 information?

16 A So when I heard the sirens from the ambulance, so I  
17 excused myself from the residence leaving him in the care  
18 of the fire -- the two fire that were still on scene with  
19 him and I said that I was going to fill the crew in. And  
20 so, I stepped outside to talk to the crew when I got  
21 there.

22 Q And what did you do next?

23 A I filled them in quickly on what -- obviously that he  
24 was not unconscious, and that what he had said. And I  
25 told them that I was going to call for the police to come

1 on scene. And so then I notified our dispatch to send the  
2 police to our scene.

3 Q Why did you make that decision?

4 A So EMS, we're considered mandatory reporters. And  
5 any time that we hear, see anything for -- especially --  
6 or for anybody in the public, but especially for children  
7 or the elderly we are mandated to report anything that we  
8 consider to be wrong, I guess. And so the statement that  
9 was made, in my medical opinion, doesn't -- didn't add up.  
10 It's not going to make somebody go unconscious. Getting  
11 upset doesn't cause you to go unconscious. So the  
12 statement with the reason that I was out there just didn't  
13 -- didn't sit well with me. And we're also in EMS, pretty  
14 much trained to go on our gut sometimes because that's --  
15 we have to make -- we have to make a lot of decisions in a  
16 short amount of time, and sometimes we just have to go  
17 with our gut. So the statement that was made didn't sit  
18 right with me for the reason that I was there, and  
19 considering it involved a child, I figured that was  
20 probably mandatory reporting. So I reported it.

21 Q So you reported it. Did the Sheriff's Office  
22 respond?

23 A Yes, ma'am.

24 Q Did a Lexington County Sheriff's Department deputy  
25 respond?

1 A Yes, ma'am.

2 Q What did you do in the meantime while you waited for  
3 that deputy?

4 A Well, the ambulance crew that got there went inside  
5 to speak to the patient as well. I stayed outside, and I  
6 didn't enter the residence again until the police officer  
7 got there. But I ended up calling -- I called my  
8 supervisor on a work cell phone to let her know the  
9 situation and that I was probably going to be out on the  
10 scene for an extended period of time, just to let her know  
11 that that's why I was still there. We're not really  
12 trained to be on scenes for longer than 20 to 25 minutes,  
13 or need to be. We're an emergency service. We kind of  
14 come and go. So I knew that this was going to take longer  
15 than 20 to 25 minutes. So I let her know that I wasn't  
16 going to be back available any time shortly.

17 Q When the actual ambulance response were on scene did  
18 they take the lead in patient response upon arrival?

19 A Yes. So they then entered the residence and I didn't  
20 go back in with them.

21 Q And they did that in this specific case as well?

22 A Yes. Yes.

23 Q And so, upon arrival of the sheriff's deputy, I  
24 believe it was Deputy Platt, did you talk to him?

25 A Yes. I told him what the statement was made to me.

1 That that was the reason I'd called, and that I have not  
2 spoken to the patient. Like that was it. That was the  
3 only contact I'd had with him and that was the reason that  
4 I called them.

5 Q While you were in the residence the first time, that  
6 very brief time you talked to the patient, did you talk to  
7 anyone else?

8 A No.

9 Q And once Deputy Platt arrived on scene did you go  
10 back in the residence with him?

11 A With him, yes.

12 Q And tell me about that.

13 A To my recollection, Platt just explained to them why  
14 he was there, that a statement was made. And so, he got  
15 called out and he -- you know, and that's why he was  
16 there. He -- to the best of my knowledge, he then asked  
17 to speak with the granddaughter and asked me to be there  
18 with him while he talked to her because there was no other  
19 -- there wasn't a female officer or anybody present. And  
20 he just wanted a female present during that conversation.

21 Q Did he talk to the granddaughter? Who -- what was  
22 the granddaughter's name?

23 A Minor.

24 Q Did he talk to Minor in the residence?

25 A No, ma'am. They stepped outside. And then Minor's

1 father came as well.

2 Q So who all, when you stepped outside the residence,  
3 who was present for this conversation?

4 A For that conversation was me and Platt and Minor  
5 and her father. And then he got his lawyer on speaker  
6 phone.

7 Q Who's he?

8 A I'm sorry. Minor 's father called his lawyer, or at  
9 least that's what he said. He was calling his lawyer and  
10 was on speaker phone.

11 Q So when you have Minor outside and you're speaking  
12 with her how many emergency vehicles are on scene at that  
13 time?

14 A Vehicles, three. You got fire -- well, four. I'm  
15 sorry. Fire, my truck, the ambulance and the police car.

16 Q And would you describe the scene as calm, chaotic or  
17 something else?

18 A It was all happening very fast. I think all of this  
19 was just in a matter of minutes, obviously. So it was a  
20 lot of people in a small space and then just a lot going  
21 on. So I don't know that I would necessarily call that  
22 calm, but it wasn't chaotic to the point where, you know,  
23 everybody was running around. It was just a lot of high  
24 energy.

25 Q Was this the first time that anyone had spoken to

1 Minor outside the residence?

2 A Yes.

3 Q And what type of questions were asked of her?

4 A To the best of my knowledge he just -- Officer Platt  
5 just asked, you know, what happened, and then Minor just  
6 started -- Minor started talking and the story was --  
7 I'm sorry.

8 Q So Minor started talking. Did she appropriately  
9 answer the question?

10 A Uh-huh. Yes.

11 Q What happens -- without going into what was said,  
12 what happens during the conversation?

13 A During the conversation Minor's father got upset.  
14 He was going to excuse himself from the conversation and  
15 go back inside. When Officer Platt asked him why he said,  
16 well, he needed to handle something. And he started  
17 approaching to walk back up the stairs and go back in the  
18 front door, and Officer Platt left me with Minor and  
19 tried to stop her father from going back inside.

20 Q Was that -- was he emotional when he went? Got  
21 upset? What do you mean by that?

22 A He appeared very calm. You could -- I mean, it  
23 appeared to me that he was pretty upset. He wasn't  
24 yelling. He wasn't irate or anything. He was calmly just  
25 saying, excuse me. I'm going to go back inside to handle

1 something.

2 Q And did Minor continue to talk?

3 A She did a little bit after they walked to the side.

4 Yes, ma'am.

5 Q Would you consider the scene stressful for a

6 12-year-old or not?

7 A Yes. It was stress for a non-12-year-old.

8 Q And so, when you -- you were present during the  
9 entire conversation. Did you hear what Minor said?

10 A Yes, ma'am.

11 Q What did she say in response to Officer Platt's  
12 questions?

13 A She started explaining that she was in the shower and  
14 her grandfather was touching her bottom. She stated when  
15 she got out of the shower and her towel was on, her  
16 grandfather asked her to sit on his lap facing him. So  
17 forward facing like straddling his lap. She said that she  
18 said no to that. She said that he described for her to  
19 lay down on the bed and that he tried to touch her vagina.  
20 That he raised her shirt and touched her breast. He also  
21 -- she said that he said real women take their pants off,  
22 but she didn't do that either. She stated that the  
23 grandfather told her not to tell anyone because it would  
24 upset them, and that he would buy her anything that she  
25 wanted whenever they went places. And that he would give

1 her \$80.00 dollars. To which she said to him, you can't  
2 pay me \$80.00 dollars for sex.

3 Q Is this a continuous monologue by her --

4 A Yes.

5 Q -- that you record?

6 A Yes.

7 Q Do you ask her any other followup questions?

8 A I only asked her simply if there was -- if they had  
9 sex. If any sex had happened today.

10 Q What's the purpose of that question?

11 A If there had been sexual intercourse, medically we  
12 would have had to transport her to the hospital for an  
13 exam. But she replied, no.

14 Q And after this conversation concluded and you got  
15 this -- well, how about this. Why didn't you ask her any  
16 followup -- further followup questions after that point?

17 A One, I'm not a police officer. So I'm not -- I'm not  
18 trained to ask her those kind of questions. I asked her  
19 just simply the medical type of questions. And I was  
20 alone with her. And so, I didn't want to really ask  
21 anything that -- without other witnesses around.

22 Q So what did you do next?

23 A At that point we took Minor and her father, we got  
24 into the back of the ambulance. It was hot. It was very  
25 hot that day. We were all hot. So the back of the



1 ambulance, we keep it running. The ambulance, we keep it  
2 running on scene so the air conditioning, so we just got  
3 in there, just a little bit of a controlled environment,  
4 get some AC. Just kind of get away from the scene for a  
5 second.

6 Q While you were in the back of the ambulance do you  
7 discuss this any further --

8 A No.

9 Q -- as far as details of the assault?

10 A No.

11 Q What general conversation are you having?

12 A I don't -- I don't remember specifically. But I can  
13 talk to a wall. I can make general conversation with  
14 anybody. So typically I would just make general  
15 conversation on whatever's appropriate for the person, the  
16 age group. But I don't remember the exact conversation.

17 Q What else did you do while on scene that day?

18 A Myself? Just stayed with Minor. And I know her  
19 sisters came into the ambulance at one point.

20 Q And you continued to stand by during that time?

21 A Yes.

22 Q Did you stand by until Minor and her family left  
23 the scene?

24 A Well, until everybody left the scene. The patient  
25 was ultimately transported -- the grandfather was

1 ultimately transported to the hospital. And once they  
2 left the scene, then I left the scene and I went back to  
3 our operations center and wrote down as much as I could  
4 remember.

5 MS. USRY: Nothing further for the witness, Your  
6 Honor.

7 CROSS-EXAMINATION

8 By Mr. Dawson:

9 Q Ms. Ellington, the conversation you had with Edward  
10 when you first arrived, you said that he stated that he  
11 accidentally touched or grazed her rear-end; is that  
12 correct?

13 A He touched her bottom.

14 Q That he accidentally touched her?

15 A Yes.

16 Q And he was upfront about this?

17 A Uh-huh.

18 Q But -- and didn't try to hide it?

19 A Uh-uh. No. Sorry. No.

20 Q Okay. And you also mentioned on direct examination  
21 that Edward -- he didn't seem confused?

22 A No.

23 Q He seemed calm?

24 A Yes.

25 Q Was -- did you take his vital signs?

1 A Vital signs, no. What I do is -- typically when I  
2 first get on scene I will grab your wrist and check your  
3 pulse, and then I can medically tell you a lot of things  
4 just by doing that. I can kind of guesstimate your blood  
5 pressure, see if it's too high or, I mean, too low. And I  
6 can tell if your heart rate is too low or too fast. I can  
7 tell a lot by that.

8 Q And when you checked his pulse --

9 A It was fine.

10 Q It was fine. It wasn't accelerated?

11 A Not to my knowledge.

12 Q And then this conversation that you had with Minor  
13 when you were alone with her, you included that in your  
14 statement, correct?

15 A Yes.

16 MR. DAWSON: Your Honor, may I approach the witness?

17 THE COURT: You may.

18 Q If you can just read the highlighted part there to  
19 yourself.

20 A Uh-huh.

21 Q You asked Minor if this had ever happened before  
22 and she answered no; is that correct?

23 A That's what I wrote, yes.

24 Q And you asked her if anything sexual happened that  
25 day and she answered no?

1 A Yes.

2 MR. DAWSON: One moment, Your Honor.

3 THE COURT: All right.

4 MR. DAWSON: No more questions, Your Honor.

5 THE COURT: All right.

6 MS. USRY: And very briefly, Your Honor.

7 REDIRECT EXAMINATION

8 By Ms. Usry:

9 Q Lieutenant Ellington, when you were asked about  
10 whether you wrote in your statement if anything sexual  
11 happened that day, what was your specific question to her  
12 on scene?

13 A To my recollection if there was -- if they'd had sex  
14 that day.

15 Q When you wrote it in your statement, you wrote  
16 anything sexual. But you're on scene, how would you have  
17 asked the question?

18 MR. DAWSON: Objection, Your Honor. It calls for a  
19 speculative answer.

20 A I mean, I don't remember the exact wording of it.

21 THE COURT: Okay. That's a fair enough answer.

22 A I can tell you my intent of the question.

23 Q And what -- what was your -- did you ask the question  
24 for purposes of medical diagnosis and treatment?

25 A Correct.

1 Q And what was the intent of the question?

2 A To know if there was penetration that happened that  
3 day because, like I said, I would need to transport her  
4 medically.

5 MS. USRY: Thank you, Your Honor.

6 THE COURT: You may step down.

7 (Whereupon, the witness stepped down from the witness  
8 stand.)

9 THE COURT: It's time for a break, isn't it?

10 MS. FULLER: I know you.

11 THE COURT: Let's take a short break. You all step  
12 back in the jury room. Use the restroom. If you need to  
13 use the phone you can do so. But I do need a break, so  
14 we'll take a break. Don't discuss the case. We'll be  
15 back here in a few minutes.

16 (Whereupon, the jury was excused from open court for  
17 a break.)

18 (Whereupon, a short break was taken.)

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

20 (Whereupon, the jury came into open court at  
21 approximately 3:31 p.m.)

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

23 MS. FULLER: Thank you, Your Honor. The State calls  
24 Kelsey Willis.

25 Kelsey Willis, being

1 first duly sworn, testified as follows:

2 THE CLERK: Have a seat, please, sir. Once you're  
3 seated, state your full name, spelling your last.

4 THE WITNESS: My name is Kelsey Willis. Last name  
5 W-i-l-l-i-s.

6 DIRECT EXAMINATION

7 By Ms. Fuller:

8 Q Mr. Willis, where are you currently employed?

9 A I'm currently employed by Saluda County EMS.

10 Q And how long have you been employed there?

11 A For about two years now.

12 Q Before that where were you employed?

13 A I was employed by Lexington County EMS.

14 Q And how long had you worked for Lexington County EMS?

15 A Approximately seven years.

16 Q While you were employed with Lexington County EMS  
17 what was your position?

18 A I was a sergeant, crew chief paramedic and field  
19 training officer.

20 Q Can you explain to the jury what exactly was your job  
21 responsibilities at that time?

22 A Okay. As a crew chief paramedic my job was to  
23 command the crew and ambulance providing advanced life  
24 support, as well as -- as well as training new paramedics  
25 and new employees in Lexington County in the field

1 training officer capacity.

2 Q And you mentioned you were a paramedic. We've heard  
3 already that that is highest level of EMT --

4 A Yes.

5 Q -- is that correct?. So we won't go into that. I  
6 want to speak to you specifically about this case. Mr.  
7 Davis, Edward Davis, Sr.

8 A Yes, ma'am.

9 Q Do you recall ever having him as a patient?

10 A I do.

11 Q And was that when you worked with Lexington County  
12 EMS?

13 A That's correct.

14 Q Do you recall when that was?

15 A It was July 12th, 2016.

16 Q And do you recall where?

17 A Yes. It was at [REDACTED], Lot [REDACTED] in  
18 Lexington.

19 Q And would that also be in Lexington County?

20 A That's correct.

21 Q What was the nature of the call that you were  
22 responding to?

23 A We were dispatched to an unconscious person.

24 Q And when you arrived on scene were you able to  
25 determine who the unconscious person was?

1 A I was after a brief report from Lieutenant Ellington  
2 that was on scene. When we made entry into the house we  
3 determined that Mr. Davis was our patient.

4 Q And what exactly do you remember doing when you  
5 entered the residence?

6 A We entered the residence, we found the patient  
7 sitting in a chair. I immediately started an assessment  
8 and tried to obtain a history of the present illness,  
9 which is to determine what had happened, what caused the  
10 medical event, what the medical event was and what his  
11 current condition was.

12 Q And can you explain to the jury what did you do next?

13 A Okay. As part of my assessment I would have gone up,  
14 checked vital signs and placed the patient on a cardiac  
15 monitor to determine an EKG rhythm obtained at 12 lead EKG  
16 which takes a good picture of the heart and then check the  
17 blood glucose level.

18 Q And can you tell the jury what his vitals were?

19 A I can. His vital signs were -- blood pressure was  
20 128 over 80. His heart rate or pulse was 88. His  
21 respirations were 18 and regular, and his oxygen level was  
22 98 percent.

23 Q And did any of that concern you?

24 A No. At that time those vitals are completely within  
25 normal limits.



1 Q What, if anything, do you recall happening next?

2 A I asked Mr. Davis what had happened, just as I would  
3 in any scenario. Just asked him what caused the medical  
4 event, and he went into explaining to me what caused him  
5 to pass out. He told me that he had gone into -- I  
6 believe it was the bedroom and saw his granddaughter nude.  
7 And apparently at that moment it was -- there was  
8 something about after a shower. I don't remember the  
9 exact words there. But he gave her a hug, and the words  
10 that he told me was my hand slipped and I touched her on  
11 the butt.

12 Q And all this information, would this have been coming  
13 from your patient at this time?

14 A That's correct.

15 Q Did you speak to his granddaughter that he was  
16 referring to about any of this?

17 A Not about anything that occurred at that time -- or  
18 prior to us coming, no.

19 Q Did you speak with her at all?

20 A I did. The reason I asked her, apparently she had  
21 called 911. She or one of her sisters on scene had called  
22 911. So when I addressed them it was to determine what  
23 had happened medically, and she replied to me that he had  
24 passed out on the bed and he was out for about 10 minutes.

25 Q As it relates to the case, I know you guys do EMS

1 reports to document what happened.

2 A That's correct.

3 Q As it relates to the actual investigation of the  
4 criminal case did you write a written statement at that  
5 time for law enforcement?

6 A I did not write anything other than my patient care  
7 report.

8 Q Can you describe for me what the -- his  
9 granddaughter's demeanor was, or if you took note of that  
10 at all?

11 A Yes. When I walked in the house the children there  
12 were all visibly upset and appeared nervous.

13 Q When he mentioned seeing and touching his  
14 granddaughter, did you know which granddaughter he was  
15 referring to?

16 A I knew that it was the oldest granddaughter there.

17 Q And how did you know it was the oldest granddaughter?

18 A It came up maybe in conversation, he may have  
19 mentioned her name. I'm -- I'm not exactly sure of the  
20 details. But I did -- I do recall it being the oldest  
21 granddaughter there.

22 Q So when he made his statements, in your mind,  
23 however, if it was a gesture or something on scene, you  
24 knew he was referring to the oldest granddaughter?

25 A That's correct.

1 Q And just so the jury -- we've had every witness do  
2 this.

3 MS. FULLER: Permission for the witness to step down?

4 THE COURT: Absolutely.

5 (Whereupon, the witness stepped down from the witness  
6 stand.)

7 Q Just so it's clear so the jury completely understands  
8 what's happening. When you arrive on scene do you recall  
9 if fire was on scene?

10 A They were.

11 Q And then you recall Lieutenant Ellington being on  
12 scene?

13 A I do.

14 Q And your next step, you actually said you connected  
15 monitors at that point?

16 A That's correct.

17 Q Is everyone standing huddled around the patient or is  
18 this now your patient?

19 A It's my patient at this point. I believe that  
20 Lieutenant Ellington was outside when I started my  
21 assessment. We come in here, enter, the patient was  
22 sitting in a chair here.

23 Q I'm going to go ahead -- I apologize. I'm going to  
24 pull it up, I just want to make sure the entire jury can  
25 see. It's a little tight in here. Just so the jury

1 understands that people are moving around --

2 A Yes.

3 Q -- but now this is your patient, and you performed a  
4 full assessment on your own, which means the questioning  
5 and answering?

6 A That's correct.

7 Q You wouldn't have just relied on what other people --

8 A No.

9 Q -- fire, first responders statements?

10 A As a matter of fact, you are -- our policy is that  
11 the crew chief, or the paramedic on scene does all the  
12 interview. And there's only one interview, so we don't  
13 get mixed stories from a patient as far as what happened  
14 as his medical, you know.

15 Q Perfect. So you would be -- I apologize. Before I  
16 moved it up, I had you get up you were beginning to  
17 explain. So you made entry through the front door?

18 A I did. We made entry through the front door. The  
19 patient's in a chair approximately here. So I would have  
20 set my equipment down here, a heart monitor. Attached the  
21 patient to the heart monitor there. And that's where I  
22 performed my full assessment.

23 MS. FULLER: So just let the record reflect he's  
24 pointing to the recliner by the window.

25 Q Correct?

1 A Correct.

2 Q In the front of the house. I think that's all the  
3 questions I have from that. You can take your seat back.

4 (Whereupon, the witness returns to the witness  
5 stand.)

6 Q Can you tell me whether or not the patient was  
7 transported from the scene?

8 A The patient was transported from the scene ultimately  
9 after initial refusal of care.

10 Q And for medical purposes, were you able to determine  
11 why he was -- why did you make the decision to actually  
12 transport him?

13 A The initial -- he initially refused transport based  
14 on the initial medical episode. However, I was informed  
15 by Officer Platt, Deputy Platt, that the patient had made  
16 remarks concerning attempted suicide after the -- after we  
17 had remained on scene. And at that point it is our policy  
18 that anybody who attempts suicide must be transported to  
19 the hospital for evaluation. So that's why we transported  
20 him at that point.

21 Q So it's a mandatory transport at this point?

22 A That's correct.

23 Q And so, just to be clear, the Defendant, Mr. Davis,  
24 left the scene with you and not law enforcement; is that  
25 correct?

1 A That's correct.

2 MS. FULLER: Beg the Court's indulgence.

3 THE COURT: Yes, ma'am.

4 MS. FULLER: No further questions, Your Honor.

5 THE COURT: Mr. Dawson.

6 CROSS-EXAMINATION

7 By Mr. Dawson:

8 Q Mr. Willis, you said on direct examination that you  
9 did not do a written report after this incident; is that  
10 correct?

11 A That's correct.

12 MS. FULLER: Objection, Your Honor. That wasn't --  
13 that wasn't his testimony.

14 THE COURT: I thought that was your question.

15 MS. FULLER: He did a written report. My question  
16 was, did he do a written statement for the criminal case.

17 MR. DAWSON: A statement. That's correct.

18 THE COURT: I'm not sure there's any difference, but  
19 he can cross-examine the witness.

20 Q You didn't provide a written statement after your  
21 patient care report; is that correct?

22 A That's correct. That's correct.

23 Q And then recently an investigative report on August  
24 8th of 2018, just two weeks ago, you give another initial  
25 -- or another interview to the Solicitor's Office; is that

1 correct?

2 A I believe. I'm not sure the date, but.

3 Q All right. And in that interview you said, as you've  
4 previous stated on direct examination, that the  
5 granddaughters, Minor and the other two were visibly  
6 shaken; is that correct?

7 A That's correct.

8 Q Now, you also spoke with investigator Jason Rushton;  
9 is that correct?

10 A That's correct.

11 Q And that was on November 20th of 2017?

12 A I'm not sure the date, but I remember speaking with  
13 him.

14 Q But you do recall speaking with him?

15 A I do.

16 Q Okay. If you could just read these two lines right  
17 here where I've got it highlighted and underlined.

18 MS. FULLER: Objection, Your Honor.

19 Q Read it to yourself.

20 A Sorry.

21 THE COURT: Hang on. Come over here.

22 (Whereupon, a bench conference was held in the  
23 presence of the jury but out of the hearing of the  
24 jury.)

25 THE COURT: All right, Mr. Dawson, rephrase your

1 question.

2 MR. DAWSON: Thank you, Your Honor.

3 Q Mr. Willis, you talked with Jason Rushton, correct?

4 A I did..

5 Q And when you spoke with Jason Rushton you told him  
6 something different about the demeanor of the three  
7 grandchildren, and specifically, Minor ?

8 MR. FULLER: Objection, Your Honor. He can be  
9 specific, allow him to deny it and properly impeach him if  
10 that's where he's going, which I'm assuming.

11 THE COURT: I think that is where he is going. So  
12 ask him time and place as to the interview, if he  
13 remembers.

14 Q Mr. Willis, let me rephrase this one more time.

15 A Okay.

16 Q I'll try to get it right this time around. All  
17 right. You spoke with Jason Rushton on November 20th,  
18 2017, correct?

19 A I did.

20 Q And you talked about your experience with this  
21 incident; is that correct?

22 A That's correct.

23 Q Do you remember what you said in that situation?

24 A I gave him an account of the facts that I remembered  
25 from the call.



1 MR. DAWSON: One moment, Your Honor.

2 THE COURT: Okay.

3 Q Do you remember speaking with Mr. Rushton about the  
4 demeanor of the girls that day?

5 A I do.

6 Q You do?

7 A I do.

8 Q Do you remember what you told him?

9 A I believe that he asked me if she was crying and I  
10 said no.

11 Q Do you remember anything else?

12 A I don't. I remember speaking with him about it. But  
13 as far as exact details, no, I do not.

14 Q Okay. Would a copy of your interview help refresh  
15 your recollection?

16 MS. FULLER: Objection, Your Honor.

17 THE COURT: All right. Let's put this on the record.  
18 You all step back in the jury room. I've got to put  
19 something on the record, make sure I'm clear on it.

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

21 THE COURT: All right. Just so I'm clear, what  
22 you've got right there is notes taken by the investigator  
23 that interviewed the witness?

24 MR. DAWSON: Our investigator. Yes, sir.

25 THE COURT: All right. Not his statement?

1 MR. DAWSON: No.

2 THE COURT: His written statement? Notes from  
3 someone else who interviewed him?

4 MR. DAWSON: It's a summary of that interview.

5 THE COURT: Here's what you do. You ask him whatever  
6 you want, anything you like. If it's not his statement,  
7 you can't impeach him with the statement. If you want to  
8 call a witness, whomever, do you remember interviewing  
9 this witness, what did he say, that's what you've got.  
10 Okay? But you can't impeach him with my statement because  
11 he didn't, that's kind of where the box word is. He  
12 didn't give a statement, you can't impeach him with that.  
13 You can impeach him what the witness says. We talked  
14 about, we did this, we did that, but not with that  
15 statement. I think that's all I can tell you with him  
16 sitting here. All right? I don't want to tell you what  
17 he's going to testify to because I don't know, and I don't  
18 want to say if he testifies this way, that way, another  
19 way, then you go left and you go right. That's for you to  
20 do. All right. So you get some help from Mr. Chehoski.  
21 What else you got?

22 MR. CHEHOSKI: Well, Your Honor, all we're looking to  
23 do is he did give a -- he did give an interview to our  
24 investigator, Mr. Rushton. We want to find out if he  
25 remembers what he told Mr. Rushton and we're going to use

1 that report to refresh his recollection.

2 THE COURT: You can't.

3 MR. CHEHOSKI: Yes, we can under --

4 THE COURT: No, it is not his report. That's not  
5 this gentleman's report. His memory is not going to be  
6 refreshed by someone else's report. That's not any good.

7 MR. CHEHOSKI: Your Honor, it doesn't -- it's my  
8 understanding if anything is going to refresh the witness'  
9 memory, it says if, a witness uses a writing.

10 THE COURT: It is writing.

11 MS. FULLER: That is his writing.

12 MR. CHEHOSKI: It just says a writing. It doesn't  
13 say his writing or her writing.

14 THE COURT: In this courtroom it's going to be his  
15 writing. I promise you that's the rule. You can't -- you  
16 can't give someone else -- someone -- if it's the Bible or  
17 something that's a memory thing, you remember the Ten  
18 Commandments, sure. That's not his writing, but that's  
19 different. A person can't have their memory refreshed  
20 with someone else's notes.

21 MR. CHEHOSKI: Your Honor, under --

22 MS. FULLER: I wish I could do that.

23 MR. DAWSON: -- under --

24 THE COURT: Hang on, Jason. My son is calling me.  
25 He's called me twice. You all look it up, and I'll be

1 glad to hear it, but I think it's his writing. Okay? You  
2 can study it while I take this call.

3 (Whereupon, a short break was taken.)

4 THE COURT: For the record, normally the rules  
5 require one lawyer, one witness, one cross-examinee. I am  
6 letting y'all by like that right now because I know Mr.  
7 Dawson is learning. All right. Mr. Chehoski, what we  
8 got?

9 MR. CHEHOSKI: Your Honor, if Your Honor rules like  
10 you are going to rule, we'll move on. But under State vs.  
11 Smith it says a witness may refresh their own memory from  
12 notes taken by counsel or other persons at a former trial  
13 or from his own testimony or copies of the same. It  
14 doesn't have to be -- I think under State vs. Smith and  
15 applying it, it does not have to be their own writing.  
16 The rule, as I understand it, is if a writing refreshes  
17 their memory they're allowed to use it. The only  
18 requirement is that the parties submitting that writing to  
19 refresh the memory has to turn it over to the opposing  
20 party. We're fine with that. But if Your Honor insists  
21 on, we can move on.

22 THE COURT: I will be happy to let you call Mr.  
23 Rushton. I just, I don't see that it's fair to utilize a  
24 writing taken from someone else because it just -- it has  
25 to have personal knowledge in there or something to that

1 effect. But a writing needs to be contemporaneous to the  
2 witness. And I just don't see someone else's writing  
3 being that. I just see it as a disconnect.

4 MS. FULLER: And, Your Honor, if I may be heard, too.  
5 I would object at this time. I don't think he's laid any  
6 type of foundation to even call Rushton at this case. He  
7 hasn't even asked him a question to impeach him or  
8 impeached this witness.

9 THE COURT: I thought he did. I thought he asked did  
10 you tell him --

11 MS. FULLER: He did.

12 THE COURT: -- did you tell him that you saw the  
13 children crying. And he said I think I told him they  
14 weren't, or something like that.

15 MS. FULLER: No. He said that he admitted to -- you  
16 can't answer. He wants to. He admitted to saying that to  
17 the officer. Because it's not a question I asked him on  
18 direct --

19 THE COURT: I understand. But I thought he answered  
20 another question he didn't remember.

21 MS. FULLER: No. He has not asked him a question to  
22 impeach him. So I don't even think Rushton is available  
23 to call to impeach this witness yet.

24 THE COURT: What was the last question?

25 MR. DAWSON: I believe the last question I asked him

1 was about whether or not he remembered telling Mr. Rushton  
2 that the granddaughter seemed upset. And if I remember  
3 correctly his answer was no.

4 MR. CHEHOSKI: That's where we were when the  
5 objection started.

6 THE COURT: Okay. The children appeared upset, they  
7 appeared whatever they did. But let's move on. Try to  
8 rephrase your question as to -- I mean, there's a  
9 difference in a question of did you notice the girls  
10 crying. No, they weren't. As opposed to appear and  
11 describe their appearance. Maybe you ask him to describe  
12 their appearance, their demeanor, something along those  
13 lines. And maybe that would take you down the path where  
14 you need to go. I don't know. I can't tell you how to  
15 try your case. I mean, that may take us nowhere, but it's  
16 okay. Are y'all ready?

17 MS. FULLER: Thank you, Your Honor.

18 (Whereupon, the jury came into open court at  
19 approximately 4:00 p.m.)

20 THE COURT: All right. Thank you all for your  
21 patience. We went on a little break. My son called me  
22 and I had to try to assist him with something. He's  
23 starting a new school today. Anyway, I got that taken  
24 care of. Mr. Dawson.

25 MR. DAWSON: Thank you, Your Honor.

CONTINUE CROSS-EXAMINATION

1  
2 By Mr. Dawson:

3 Q Mr. Willis.

4 A Yes, sir.

5 Q I just want to clarify. I asked you if you  
6 remembered telling Mr. Rushton that -- or asked you -- I  
7 asked you if you remember telling Mr. Rushton that the  
8 girls were not crying; is that correct?

9 A That they were not crying. That's correct.

10 Q Okay. And you said earlier on direct examination  
11 Antoine Kelly was your partner, correct?

12 A That is incorrect.

13 Q Sorry. I thought I heard that. Was Antoine Kelly  
14 present when you interviewed Mr. Davis on scene?

15 A I'm not sure if he was in the house or not. At that  
16 point I'm looking at my patient and that's all I'm  
17 thinking about is the interview of the patient for medical  
18 purposes.

19 MR. DAWSON: All right. No more questions, Your  
20 Honor.

21 THE COURT: Any redirect, Ms. Fuller?

22 MS. FULLER: No redirect, Your Honor.

23 THE COURT: All right. You can step down.

24 THE WITNESS: Thank you.

25 (Whereupon, the witness stepped down from the witness

1 stand.)

2 MS. USRY: Thank you, Your Honor. The State calls  
3 Officer Platt.

4 Shaun Platt, being  
5 first duly sworn, testified as follows:

6 THE CLERK: Take a seat, please. Once you're seated,  
7 state your full name, spelling your last.

8 THE WITNESS: Yes, ma'am. Shaun Platt, P-l-a-t-t.

9 DIRECT EXAMINATION

10 By Ms. Usry:

11 Q Thank you, Officer Platt. Where are you employed?

12 A The Lexington County Sheriff's Department.

13 Q And how long have you worked there?

14 A Almost six years.

15 Q And what positions have you held while working with  
16 the Lexington County Sheriff's Department?

17 A Patrol deputy, field training officer and currently  
18 master deputy of the south region.

19 Q What areas does the south region cover?

20 A South of 302 all the way out to Orangeburg, Calhoun  
21 County to the 129 and out to the 39 off of 20.

22 Q Is the working with the Lexington County Sheriff's  
23 Department the extent of your law enforcement experience?

24 A No, ma'am. I've done -- I've been in the National  
25 Guard for about 10 years and I've been a military police



1 officer.

2 Q How long were you a military police officer?

3 A Ten years.

4 Q For the entire 10 years?

5 A Yes, ma'am.

6 Q Are you currently still in that position?

7 A Yes.

8 Q What was your position at the Lexington County  
9 Sheriff's Department on July 12th of 2016?

10 A I was a field training officer in the west region on  
11 the Delta shift.

12 Q And were you working that day?

13 A Yes, ma'am.

14 Q Did you receive a call to respond to [REDACTED]

15 [REDACTED], Lot [REDACTED] in Lexington County?

16 A Yes.

17 Q Is that location in Lexington County?

18 A Yes, ma'am.

19 Q And how did that call come out to you?

20 A As an assist for EMS.

21 Q Do you recall about what time of day that call would  
22 have come out?

23 A About 1:30 in the afternoon.

24 Q And an assist for EMS, what does that mean?

25 A It could vary.

1 Q When you responded to the scene what did you see?

2 A An ambulance and I believe a fire service truck.

3 Lieutenant Ellington and Sergeant Kelly were there and I  
4 spoke to them.

5 Q Were they outside the residence or inside the  
6 residence?

7 A I met them outside.

8 Q And what was the purpose of your conversation at that  
9 time?

10 A Allegations of sexual assault.

11 Q And when you arrived on scene did you have any prior  
12 knowledge of what you were responding to other than  
13 assisting other agencies?

14 A No.

15 Q And did you learn your purpose for responding to that  
16 call upon speaking to those individuals?

17 A Yes.

18 Q And once you did that tell me what your next steps  
19 were.

20 A My next steps were to find out what the allegations  
21 were and then go inside and talk to the offender and  
22 victim and try to find out what exactly happened.

23 Q Describe for me when you walked into the residence  
24 what you see.

25 A There is -- at the time I didn't realize it, but it

1 was the Defendant who was sitting in a recliner, Mr.  
2 Edward, Sr., to the left of me. There was a television, a  
3 couch and I believe another chair. And on the couch were  
4 Minor , Edward, Jr., and his two other daughters.

5 Q And during the course of your investigation did you  
6 learn whether or not Minor was involved in this  
7 incident?

8 A Yes.

9 Q And what was her role in this incident, in your  
10 response?

11 A She's the victim.

12 Q And when you went to the residence did you speak with  
13 Mr. Edward Davis, Sr. in the recliner?

14 A I did.

15 Q When you approached him describe for me how he  
16 appeared.

17 A Calm, collected.

18 Q Did he appear to appropriately answer any questions  
19 you asked him?

20 A Yes.

21 Q Did he ever appear confused?

22 A Not at all.

23 Q Did he ever appear under the influence of anything?

24 A Not to my knowledge, no.

25 Q And what exactly did you ask him when you saw him?

1 A What happened today. Why am I here. An open-ended  
2 question such as that.

3 Q So you indicated an open-ended question. Is that how  
4 you normally --

5 A Yes.

6 Q -- respond to a scene?

7 A Yes.

8 Q And did he respond?

9 A Yes.

10 Q What did he say?

11 A He stated when he -- he went to give his  
12 granddaughter a hug, and while he was hugging her his  
13 hands dropped and he touched her rear-end, and then he  
14 fainted shortly after.

15 Q And when you asked him this question, is this  
16 happening in front of all the other people in that room?

17 A Yes.

18 Q And I'm going to just briefly show you State's 4.

19 MS. USRY: Permission for the witness to briefly step  
20 down, Your Honor.

21 THE COURT: Yes.

22 (Whereupon, the witness stepped down from the witness  
23 stand.)

24 Q So and just -- if we can, I'm going to try and hold  
25 it up so everybody can see. So when you said you

1     responded, where's the front door of the residence on this  
2     picture?

3     A     Right here on the front porch.

4     Q     Is that the door you entered?

5     A     Yes, sir.

6     Q     And when you went in, point to the recliner that the  
7     Defendant, as you refer to, would have been in.

8     A     This one right here to my left.

9     Q     Is this a large room?

10    A     Not really.

11    Q     What type of residence is this?

12    A     A single-wide trailer.

13    Q     And you indicated the couch and three -- the three  
14    girls sitting on the couch. What couch was that?

15    A     Right across from the Defendant.

16    Q     Thank you. You can --

17           (Whereupon, the witness returned to the witness  
18     stand.)

19    Q     So upon Mr. Edward Davis, Sr. responding to your  
20    question and giving you that information about touching  
21    his granddaughter, what did you do?

22    A     I separated them. I asked Edward, Jr. if he'd step  
23    outside with his daughter and speak with me in private  
24    away from Edward, Sr.

25    Q     Did you attempt to speak to the daughter in private

1 at that time?

2 A I did. But Edward, Jr. asked -- wasn't comfortable  
3 with this. So I didn't mind if he accompanied me as well  
4 since she was young. So I didn't have a problem with him  
5 coming out and speaking as well.

6 Q During the course of your investigation at the scene  
7 were you able to determine her age?

8 A Yes.

9 Q What was her age?

10 A Twelve-years-old.

11 Q She was twelve-years-old on July 12th of 2016?

12 A Yes.

13 Q So when you spoke with her outside the residence who  
14 was present?

15 A Lieutenant Ellington, myself, Edward, Jr., Minor ,  
16 and whoever was on the phone at the time with Edward, Jr.

17 Q So tell me about this. What phone?

18 A Edward, Jr. felt comfortable coming outside but he  
19 wished to speak with his attorney on the phone while I  
20 spoke with Minor . I told him that was okay, and we  
21 stepped outside and --

22 Q How did that happen? Can you describe that so we'll  
23 understand the attorney on the phone thing.

24 A While inside I asked Minor -- or I asked Edward,  
25 Jr. if I could speak with Minor outside. He said he

1 would go with me, but he wanted to be on the phone with  
2 his attorney while I spoke to her. I told him that was  
3 okay. I wasn't worried about that at the time. And we  
4 stepped outside, and he was on the phone with his attorney  
5 while we began to speak -- or to my knowledge his  
6 attorney.

7 Q You didn't verify that?

8 A No, I did not.

9 Q When you were talking to Minor what type of  
10 question did you ask her?

11 A I asked her in her own words what happened today.

12 Q And what was the purpose of that question?

13 A So she could tell me in her own words and I wouldn't  
14 direct anything or askew what she wanted to tell me. I  
15 wanted her to tell me exactly what happened from her point  
16 of view.

17 Q When you spoke with her how many law enforcement  
18 vehicles were on scene at that time?

19 A Just me.

20 Q But the vehicles.

21 A Oh, one.

22 Q Were there any other fire, EMS vehicles on the scene?

23 A Yes. There was still an ambulance, I believe another  
24 ambulance showed up somewhere else, and I believe there  
25 was also a fire service vehicle on scene.

1 Q And between the time you responded to the scene and  
2 went inside and briefly spoke with the Defendant and then  
3 came back outside with Minor , how long -- was that a  
4 long period of time?

5 A Not very, 10, 15 minutes, 20 at the max.

6 Q Is the scene chaotic, calm, something else?

7 A It's -- it's a lot of moving parts, and I'm the only  
8 one trying to control several moving parts of different  
9 people. So I had to move around a lot. It was a lot of  
10 confusion going on.

11 Q And during this confusion, was Minor able to  
12 respond to your question?

13 A No, not initially. When she initially started  
14 talking she began to tell me what her grandfather did to  
15 her and her father got upset and I had to attempt to calm  
16 him down. While I was attempting to calm him down, she  
17 went and spoke with Lieutenant Ellington at the back of  
18 the truck while I calmed Edward, Jr. down and explained  
19 the situation as she was -- initially she said --

20 Q Well, let me stop you right there. So you said -- so  
21 she was able to initially give you some information?

22 A Yes.

23 Q And are you able to stay for her entire first  
24 statement?

25 A No.



1 Q And that's because you had to step away with her  
2 father because he became upset?

3 A Yes.

4 Q But you were able to hear part of it?

5 A Yes.

6 Q Can you tell me the part that you heard?

7 A Yes, ma'am. Minor stated while at her  
8 grandfather's she got finished playing in the sprinkler  
9 and wanted to take a shower. When she went into the  
10 bathroom her grandfather stated he was going to take a  
11 shower with her, then turned off the lights and began to  
12 feel around asking Minor where she was, in turn touched  
13 her -- touched her bottom. And then upon hearing this is  
14 when Edward, Jr. told me he had another situation to  
15 handle, quote, and that's when I had to step away with him  
16 to attempt to calm him down after he heard his daughter  
17 say that.

18 Q Does she continue to speak with Lieutenant Ellington?

19 A To my knowledge, yes.

20 Q And when you step away with her father are you able  
21 to calm him down?

22 A Yes.

23 Q Does he go into the residence?

24 A No. He does not make it back inside at that time. I  
25 was able to convince him to stay outside with Minor.

1 Q And tell me what you do next.

2 A I contacted my supervisor at the time, Master Deputy  
3 Nicholson, and advised her of the situation of what all  
4 was going on.

5 Q And then after you contacted your supervisor what was  
6 your next course of action?

7 A Lieutenant Ellington approached me and explained to  
8 me what Minor told me -- or what Minor told her.

9 Q And what did you do after that?

10 A I went back inside the residence and asked B.D.  
11 and C.D. to accompany their dad at the back of the  
12 ambulance. And then I asked Edward, Sr. if he would  
13 complete a written statement for me.

14 Q So when you go back in the residence and remove the  
15 -- are they younger or older than Minor ?

16 A I believe younger.

17 Q So when you removed the younger sisters out of the  
18 residence who else is in the residence at that time?

19 A Just Edward, Sr., I believe. His wife was down the  
20 road, I believe, at his mother's house or her mother's  
21 house, one of the two.

22 Q And does his wife ever respond on the scene?

23 A Yeah. She returns and completes a statement for him.

24 Q So you ask him to write a statement. Tell me about  
25 that.

1 A I ask him to write a statement in his own words as to  
2 what happened today. He said he would, but he couldn't  
3 write well and needed his wife, Wendy Davis, to complete  
4 the statement when she returned from his mother's house  
5 down the road. And when she returned she completed a  
6 written statement.

7 Q I'm going to show you what's been marked as State's  
8 Exhibit 1, currently for ID purposes only. Is that the  
9 statement that you received?

10 A Yes.

11 Q Is that the statement form you gave him?

12 A Yes.

13 Q And upon completion by he and his wife was it  
14 returned to you?

15 A Yes.

16 Q And does it appear currently in the form that it was  
17 returned to you in?

18 A Yes, ma'am.

19 MS. USRY: Your Honor, State moves State's 1 into  
20 evidence at this time.

21 THE COURT: Any objection?

22 MR. CHEHOSKI: No, Your Honor.

23 THE COURT: State's 1 is admitted without objection.

24 (Whereupon, State's Exhibit number 1 was admitted  
25 into evidence.)

1 Q And so, I notice on State's 1, Deputy Platt, that  
2 it's titled a Voluntary Statement Form.

3 A Yes, ma'am.

4 Q Describe for me what a voluntary statement form is.

5 A A voluntary statement form is a form we give  
6 individuals that are not under arrest at the time we ask  
7 them to write a statement. We just ask them to put what  
8 happened in their words on paper, but they're not under  
9 arrest at the time they wrote a statement.

10 Q And you indicated the statement form was filled out.  
11 What was written on the statement form?

12 A "I, Wendy Davis, writing for my husband. He huges  
13 (sic) granddaughter, drop his -- dropped his arm down from  
14 the hug. Hand accidentally touch her butt," quote/unquote.

15 Q And is the statement form signed?

16 A Yes.

17 Q Who signs the statement form?

18 A Edward Davis.

19 Q And when you are, asked them to provide the statement  
20 was there any refusal --

21 A No.

22 Q -- or desire not to write a statement?

23 A No.

24 Q And upon receipt of the statement what did you do?

25 A I think asked Wendy if she saw the incident occur and

1 she said no.

2 Q Did you then leave the incident location, or inside,  
3 I guess, the residence I should say.

4 A I left the residence and then went back to the  
5 ambulance to finish my conversation from Minor so I  
6 could actually hear it from her myself.

7 Q So you -- when you say you hear it from her yourself;  
8 is that because you didn't previously hear her full  
9 statement --

10 A Yes.

11 Q -- to Lieutenant Ellington?

12 A Yes.

13 Q And during that conversation with her is she able to  
14 give you further information of a sexual assault?

15 A Yes.

16 Q And specifically is she able to give you a timeframe  
17 for a sexual assault that occurred to her?

18 A Yes. Earlier that day.

19 Q And is she specifically able to give you a location  
20 or place of that sexual assault that happened to her?

21 A Yes.

22 Q What place or location is she able to give you during  
23 that conversation?

24 A At that time she told me it was the shower and also a  
25 chair in the bedroom.

1 Q In the bedroom --

2 A Yes.

3 Q -- of the residence that you were at --

4 A Yes.

5 Q -- that day? And just for clarification for the  
6 record, that's [REDACTED], Lot [REDACTED]?

7 A Yes, ma'am.

8 Q During your conversation with her this second time  
9 where does that take place?

10 A At the outside of the ambulance, on the back of the  
11 ambulance, there's a step. We sat down there and she sat  
12 next to me.

13 Q And who's present during this time?

14 A She, I and Lieutenant Ellington.

15 Q And what's her demeanor when you were speaking with  
16 her in the back of the ambulance by yourself?

17 A Initially it started out okay, but she began to tear  
18 up and she questioned why her grandfather would do that to  
19 her. She began to get emotional at the end of it.

20 Q How long is this conversation?

21 A I honestly do not remember, 10, 15 minutes.

22 Q When you complete your conversation with her what do  
23 you do?

24 A I go back inside after hearing what she said  
25 firsthand, and then I asked Edward, Sr. again in his words

1     what happened, and --

2     Q     Does he want to talk to you at that time?

3     A     Yes.

4     Q     And is he still sitting in the recliner in his home?

5     A     I don't remember. I remember we were in the room. I  
6     don't know if he was sitting or standing.

7     Q     You were still in the residence itself?

8     A     Yes, in the same residence. Yes, ma'am.

9     Q     And does he respond to your questions?

10    A     He does.

11    Q     Does he appear not to understand your question?

12    A     No.

13    Q     Does he appear to be under the influence and not want  
14    to speak to you?

15    A     No.

16    Q     What does he ultimately respond?

17    A     "He said he came inside after mowing the grass,  
18    leaned in to get a kiss from his granddaughters like he  
19    always does, either on the cheek or the forehead. He then  
20    demonstrated how he would get a kiss. He leaned over with  
21    both hands behind his back." And I asked him why he  
22    hugged Minor this time and he stated, "He just did."

23    Q     So he said he leaned in with his hands behind his  
24    back?

25    A     Yes.

1 Q And you indicated he demonstrated that for you?

2 A He demonstrated it for me. Yes, ma'am.

3 Q Do you recall how he demonstrated it?

4 A I believe so, yes.

5 Q Is that something you could show the jury?

6 A Sure.

7 MS. USRY: Your Honor, permission for the witness to  
8 step down briefly.

9 THE COURT: Sure.

10 Q Just very briefly, if you'll demonstrate what you  
11 were shown that day.

12 (Whereupon, witness demonstrates for the jury.)

13 Q Thank you.

14 (Whereupon, the witness returned to the witness  
15 stand.)

16 Q After speaking with Mr. Davis this time what did you  
17 do next?

18 A I asked Lieutenant Ellington if she would complete a  
19 statement with what she heard and she said she would but  
20 I'd have to collect it at a later date from her  
21 supervisor. I went back outside and notified EMS of what  
22 I'd heard, what had been told to me about Mr. Edward, Sr.  
23 wanting to harm himself. So they in turn had to transport  
24 him. And while I was going back to the ambulance I  
25 noticed a sprinkler going outside. And I collected the



1 rest of my statements and Mr. Edward, Jr. left the scene.

2 Q Mr. Edward, Jr., that's Minor 's father?

3 A Yes.

4 Q So you released --

5 A All three of them.

6 Q -- Minor and her sister and her father?

7 A And her other sister, yes.

8 Q And did you arrest Davis, Sr. that day?

9 A No.

10 Q What action did you take upon completion of  
11 responding to and investigating the call that day?

12 A Notified my supervisor and referred it to  
13 investigations.

14 Q Who was the investigator assigned to this case?

15 A Detective Livingston.

16 Q Is that who's seated in the courtroom today?

17 A Yes.

18 Q And do you know whether a warrant was ever obtained  
19 in this case?

20 A Yes.

21 Q And was a warrant for criminal sexual conduct with a  
22 minor ever -- was that -- was that what was obtained in  
23 this case?

24 A Yes.

25 Q And do you know what date that warrant was served?

1 A On November 15th, 2016.

2 MS. USRY: Beg the Court's brief indulgence.

3 THE COURT: Yes, ma'am.

4 Q And just very, very briefly, one thing I neglected to  
5 ask you. When you went back into the home the very last  
6 time you spoke with Mr. Edward, Sr., do you -- or during  
7 your course of your time there do you recall his demeanor?

8 A It was very calm, collective. He didn't have any  
9 problems talking with me.

10 Q And he never appeared confused?

11 A No.

12 MS. USRY: Nothing further for this witness at this  
13 time, Your Honor.

14 CROSS-EXAMINATION

15 By Mr. Chehoski:

16 Q Mr. -- Deputy Platt, help me understand something  
17 here. When you first arrived Mr. Davis, Sr. was on the  
18 recliner?

19 A Yes.

20 Q Right?

21 A Yes.

22 Q Minor was on the couch and along with her father  
23 and two sisters?

24 A Yes.

25 Q All right. And once you became aware of the

1 allegation you and Minor and Edward, Jr. left the --  
2 went outside?

3 A Yes.

4 Q Is that correct?,

5 A Yes, sir.

6 Q And that means, if I stand corrected, that Mr. Davis  
7 was alone with his two younger grandchildren?

8 A Yes, to my knowledge.

9 Q Thank you. And see, after -- you didn't do any  
10 investigation at the house; is that correct?

11 A I don't understand the question.

12 Q You didn't go into the bathroom?

13 A No.

14 Q You didn't see if the bathroom -- the bathtub was wet  
15 like water had been run?

16 A No, sir.

17 Q You did not collect any clothes?

18 A No, sir.

19 Q And as you said, you state -- noted Mr. Edward  
20 Davis', Sr. demeanor to be calm, correct?

21 A Yes.

22 Q And actually in your report you said it was very  
23 calm, correct?

24 A If you'll direct me to it, I'll clarify.

25 Q I believe it's on the last page. The last page of

1 your narrative.

2 A Okay.

3 Q Pretty much in the middle. "Edward appeared very  
4 calm."

5 A Yes, it is.

6 Q Okay. Now, when you went out to speak to Minor the  
7 second time --

8 A Yes.

9 Q -- all right, after -- and Lieutenant Ellington was  
10 still there?

11 A Yes.

12 Q And this was after you had calmed down Edward, Jr.?

13 A Yes.

14 Q And there was still EMS personnel there, correct?

15 A Yes.

16 Q And there was still fire -- fire department personnel  
17 there?

18 A Yes.

19 Q And you're still the only law enforcement officer  
20 there?

21 A I wasn't always the only law enforcement officer  
22 there.

23 Q Right.

24 A Yeah.

25 Q And you said there was a lot of moving parts?

1 A Yes.

2 Q Right? And that's still ongoing?

3 A Yes.

4 Q And you said Minor 's demeanor was -- let me make  
5 sure I have this right. Was it that she began to tear up?

6 A The second time on the back of the ambulance, yes.

7 Q Okay. And this is while she's recounting her story?

8 A Yes.

9 Q All right. Because that's kind of where I want to  
10 get into is that if she's -- she's still feeling the  
11 stress of the incident in your -- to your observation?

12 A I would assume, yes.

13 Q And that's where -- and in that second time, I want  
14 to make sure I get this right. That's the time that  
15 Minor stated that Edward asked her to sit on her lap.  
16 This would be on page five of your report at the bottom of  
17 it.

18 A Yes, sir.

19 Q Let me just make sure you have that.

20 A Yes.

21 Q Is that the same page?

22 A Yes.

23 Q Okay. We're working on the same page then. And  
24 that's where she clarified what sitting on his lap  
25 frontways meant, right? That second to the last

1 paragraph?

2 A " Minor stated she sat on Edwards' left leg but he  
3 wanted her to sit on his lap," quote, "frontways," yes.

4 Q Okay. And then you said that she had left the room;  
5 is that right?

6 A She stated she was able to get out of the room  
7 because her sister, B.D. , woke up. Minor then went  
8 outside to play in the sprinkler again..

9 Q I'm going up a few more lines. She left the room,  
10 put her pants on and then returned to the room; is that  
11 right?

12 A Which line?

13 Q It would have been the fourth line from the top of  
14 that paragraph.

15 A Yes.

16 Q And so again, I just want to make sure I say it. She  
17 left the room, put her pants on, and after putting her  
18 pants on she returned to the bedroom?

19 A That's what my report says. Yes, sir.

20 Q And just -- you've been through training on these,  
21 and you were taught how to give reports?

22 A Yes.

23 Q And you were taught that it's important to be as  
24 complete as possible, correct?

25 A Yes.

1 Q And as accurate as possible; is that correct?

2 A Yes.

3 Q And as thorough as possible, right?

4 A What I saw, what I heard and what I did --

5 Q Exactly.

6 A -- goes on the reports. Yes, sir.

7 Q Okay. And towards the end of your time there you  
8 actually witnessed a confrontation between Edward, Jr. and  
9 Edward, Sr.; is that right?

10 A No.

11 Q No?

12 A No. They said -- they had words in passing.

13 Q They had words in passing. Okay. That's when Mr.  
14 Davis, Jr. came in to get his keys?

15 A On the last page, sir?

16 Q Yes, sir. On page six.

17 A Yes.

18 Q And Mr. Davis, Jr. asked -- asked him a question?

19 A Yes, he did. He asked, "Why would you molest my  
20 daughter," quote/unquote.

21 Q And Mr. --

22 MS. USRY: Your Honor, I'm going to object, I  
23 believe, to the next question. Self-serving hearsay,  
24 which we can approach on.

25

1 (Whereupon, a bench conference was held in the  
2 presence of the jury but out of the hearing of the  
3 jury.)

4 THE COURT: For the record, we had a sidebar and the  
5 State made an objection, and subject to the objection I'm  
6 going to allow the question.

7 Q Officer Platt, now was -- now you heard the question  
8 that was asked, correct?

9 A Yes.

10 Q And was the response immediate?

11 A Yes.

12 Q And what was that response?

13 A "You know I wouldn't do that," quote/unquote.

14 Q And again -- and again, you could tell that Mr.  
15 Davis' demeanor was very calm?

16 A Yes.

17 Q And that he'd given a statement before and he claimed  
18 that the touching was accidental?

19 A Yes.

20 MR. CHEHOSKI: One moment, please, Your Honor.

21 Nothing further at this time, Your Honor.

22 THE COURT: Redirect.

23 MS. USRY: Thank you, Your Honor.

24 REDIRECT EXAMINATION

25 By Ms. Usry:  
/



1 Q Deputy Platt, while on scene you indicate there's no  
2 other law enforcement, but are EMS and fire on scene?

3 A Yes.

4 Q Are they in and out of the residence --

5 A Yes.

6 Q -- continuously?

7 A Yes.

8 Q And when you went and talked to Minor outside with  
9 her father was EMS still in the house?

10 A I believe one of them was, yes.

11 Q And the other two younger sisters were in the house  
12 as well?

13 A Yes, B.D. and C.D.

14 Q And then just going back to, you indicated, just so  
15 we got the timeline right in our head, you take Minor  
16 out of the house and speak to her the first time --

17 A Yes.

18 Q -- and that conversation gets interrupted?

19 A Yes.

20 Q And so, because of that, a short time later you  
21 remove Minor from the ambulance to speak to her again?

22 A Yes.

23 Q And you indicated -- or you testified that Lieutenant  
24 Ellington was present?

25 A Yes.

1 Q And Defense asked you a couple more questions about  
2 that conversation?

3 A Yes.

4 Q Okay. So tell me the type of question you asked her?

5 A I asked her to continue where she left off earlier  
6 before I had to tend to Edward, Jr.

7 Q And I think you testified she was still under the  
8 stress of the incident at that time, or appeared to be so?

9 A Yes. Yes.

10 Q And was she able to answer your question?

11 A Yes.

12 Q Can you tell me what she told you in response to  
13 this?

14 A " Minor continued by stating she took a shower, and  
15 after getting out of the shower her grandfather, Edward,  
16 Sr., asked her to sit on his lap. Minor stated Edward  
17 was sitting on a chair near the foot -- near the foot of  
18 the bed. Minor stated she sat on Edward's left leg, but  
19 he wanted her to sit on his lap frontways," quote/unquote.  
20 "I asked her what she meant. She in turn stated facing  
21 him. She then left the room, put her pants on. After  
22 putting her pants on she returned to the bedroom. He  
23 asked her to lay on the bed so that he could show her  
24 something. He began to grab her legs and near her vagina  
25 on the outside of her pants. While she was laying on the

1     bed he lifted her shirt trying to grab her breasts. He  
2     then asked her to take her pants off. She again replied  
3     no. She stated her grandfather said she would give -- he  
4     would give her \$80.00 dollars and she replied \$80.00  
5     dollars for sex. He also said he would get her what she  
6     wanted wherever they went and not tell --"

7           THE COURT: Time and place. He can't just read the  
8     entire statement, can he?

9           MS. USRY: Your Honor, Rule 106, Rule of Completion,  
10    he was crossed on these statements and our --

11          THE COURT: All right. Let's make a record of that.  
12    I didn't see that coming. You all step in the jury room  
13    real quick for me. You can't discuss the case.

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

15          THE COURT: I must have missed something. You all  
16    didn't go into that on direct. Why can you then do it on  
17    redirect when he talked about just the statement between  
18    the son and the father?

19          MS. USRY: He previous to that line of questioning,  
20    Your Honor, directly asked questions about this time on  
21    the back of the ambulance with Minor . Specifically he  
22    went into the statements and the officer did testify to  
23    them.

24          THE COURT: I know, but he didn't go into -- it seems  
25    inappropriate to me that he's reading his statement. Very

1 inappropriate.

2 MS. USRY: Yes, sir.

3 THE COURT: I mean, I feel like I've got a PCR issue  
4 right now.

5 MS. USRY: Yes, sir.

6 THE COURT: I'm very apprehensive about what we've  
7 just done. I didn't see that coming. I wish you all had  
8 given me a heads up that that was -- you were going, for  
9 completeness purposes go on because I didn't anticipate  
10 that.

11 MR. CHEHOSKI: Your Honor --

12 THE COURT: There's more going on here. Y'all are  
13 facing me, I'm seeing --

14 MS. USRY: Yes, sir.

15 THE COURT: Anyway, can we take a short break and  
16 maybe talk in the back, the attorneys?

17 MS. USRY: Yes, sir.

18 THE COURT: All right.

19 (Whereupon, a break was taken for the Court and the  
20 Attorneys to talk in-chambers.)

21 THE COURT: The jury wants to take notes. So I let  
22 them take notes as long as they follow my instructions.  
23 So when they get that ready we are ready to go. Bring  
24 them in.

25 (Whereupon, the jury came into open court at

1 approximately 4:51 p.m.)

2 THE COURT: I'm sorry I didn't offer you all notepads  
3 before. You all are more than welcome to take notes. And  
4 I'll give you more instruction on those later. You're  
5 more than welcome to take notes. Okay, Ms. Usry, continue  
6 on.

7 MS. USRY: Your Honor, the State has no further  
8 questions for this witness at this time.

9 THE COURT: All right. Anything from you?

10 MR. CHEHOSKI: I don't have any recross, Your Honor.

11 THE COURT: All right. Officer Platt, you may step  
12 down.

13 THE WITNESS: Yes, Your Honor.

14 (Whereupon, the witness stepped down from the witness  
15 stand.)

16 THE COURT: The next witness is going to be a little  
17 lengthier?

18 MS. FULLER: Very, yes.

19 THE COURT: Fair enough. It's a good time to break  
20 for the day. Took a break, I didn't realize they were  
21 going to have no more questions. That's fair enough.  
22 We're done for the evening. You all go home and enjoy  
23 your evening. You can't discuss the case. If someone at  
24 home otherwise, anyway, I'm a juror. Judge Griffith says  
25 do not discuss the case and we're not going to. See you

1 in the morning. What time you all want to be here?

2 MS. FULLER: What time do you want to be here?

3 THE COURT: I will say 9:15. Is that too early for  
4 you all? We'll try and start --

5 MR. CHEHOSKI: That's fine with me.

6 THE COURT: -- at 9:30. You all will do the same  
7 routine. They'll get you downstairs. They'll bring you  
8 up. We'll get you started. They may have a cup of coffee  
9 or some water for you. Thank you all for your attention.

10 (Whereupon, the jury was released for the day at 4:56  
11 p.m.)

12 MS. FULLER: Your Honor, if you don't mind --

13 THE COURT: You can go get it. We're at ease right  
14 now.

15 MS. FULLER: -- can we protect the record for what we  
16 discussed?

17 THE COURT: Absolutely.

18 MS. FULLER: And the rules and the arguments.

19 THE COURT: I think we should. I'll tell you what I  
20 did, first of all. Corporal, right?

21 MR. PLATT: Corporal. Yes, sir.

22 THE COURT: Corporal Platt was testifying on redirect  
23 and he got to reading the part of his narrative regarding  
24 the interview of some of the witnesses, including the  
25 Defendant and including the victim. And it was the

1 Court's observation that he was reading more into the  
2 record than had been read on direct. And so, I asked him  
3 to stop out of an abundance of caution for fear of the  
4 confrontation issues and hearsay. So after that we  
5 discussed in -- on the record whether it was a Rule of  
6 Completion issue and the door had been open, those kind of  
7 things. We stepped out and had a conference in-chambers  
8 where we discussed those issues more fully. The Court was  
9 concerned that the confrontation issue must be complied  
10 with. Rule 106 also is an issue for publishing a  
11 statement and I expressed my concerns. From that point  
12 the conference ended. And whatever you all want to put on  
13 the record you all are welcome to. Mr. Chehoski, you may,  
14 and Ms. Usry, you may.

15 MS. USRY: Thank you, Your Honor. Just very briefly.  
16 I do believe some of this was already on the record before  
17 we stepped out. But the State was arguing under 106 Rule  
18 of Completion that we could go into that statement. And  
19 just for clarification, during cross there were some  
20 specific questions about the second conversation with  
21 Minor . Not the very first one, but the second one in  
22 the back of the ambulance. In my direct of Master Deputy  
23 Platt I kept that and limited to time and place per prior  
24 rulings and our agreements.

25 THE COURT: Uh-huh.

1 MS. USRY: When that cross happened going into those  
2 statements and asking specifics of those statements I then  
3 went back to it in redirect. And leading up, I did try to  
4 lay a record that there was a question -- it was an  
5 open-ended question. She gave a response to that  
6 question. And in fact, I reiterated the fact that Defense  
7 counsel had just asked was she, used the word, it was a  
8 stressful incident or distress. I used those exact words  
9 to -- in my redirect. And then asked the question again  
10 to lay the foundation that he half laid about being  
11 excited or stressful for excited utterance. And then to  
12 further go into it under Rule 106, Rule of Completion, and  
13 he continued. We believe those questions were proper.  
14 The door was open by that cross-examination of that  
15 particular statement. We would not have previously gone  
16 into it had he not asked those questions. And I will note  
17 that an objection was never made by Defense counsel and  
18 the witness going through those statements. So at that  
19 point there may be some trial strategy involved for that  
20 reason. I don't know.

21 THE COURT: Mr. Chehoski, anything you want to put on  
22 the record?

23 MR. CHEHOSKI: Your Honor, there's the other -- just  
24 the other matter. It was during my cross-examination of  
25 Corporal Platt. I did bring up the confrontation between



1 Edward Davis, Jr. and Edward Davis, Sr., and I believe  
2 laid a proper foundation for the response which was  
3 objected to under self-serving hearsay. For it being  
4 excited utterance, that it was an immediate response to  
5 the posed question.

6 THE COURT: And let me make sure I'm clear. Your  
7 question was an excited utterance of your client, Mr.  
8 Davis, Sr., and Ms. Usry made some comments about excited  
9 -- excitement, and that would be with the victim.

10 MR. CHEHOSKI: Correct.

11 THE COURT: Separate comments, but --

12 MR. CHEHOSKI: Separate comments. Yes, Your Honor.

13 THE COURT: All occurring on the day of the incident.  
14 So I want to make certain that the record's clear. You  
15 all were discussing two separate excited utterances. Mr.  
16 Usry objected to the hearsay statement made by your  
17 client, and I allowed that in subject to her objection on  
18 hearsay. So your record's complete on that, Ms. Usry.

19 MS. USRY: Thank you.

20 MR. CHEHOSKI: Yes, Your Honor. The Court did stop  
21 on its own volition. I did say that -- the State is  
22 correct, I did not make a formal objection to the line of  
23 questioning and the Court did stop that.

24 THE COURT: All right. I'll be here as close to 9:00  
25 as I can. Do we need to put anything on the record before

1 we get started, 9:15, 9:20, let me know. Thank you all.  
2 I want Mr. Davis, the prosecutors and the Defense lawyers,  
3 you're still on bond. You come back tomorrow for trial.  
4 If you don't, we'll start without you.

5 MR. DAVIS, SR.: I'll be here.

6 THE COURT: Okay. All right. But if you don't,  
7 they're going to come find you. I am going to issue a  
8 bench warrant but we are going to keep moving. Okay. You  
9 understand?

10 MR. DAVIS, SR.: Yes, sir. I understand.

11 THE COURT: All right.

12 (Whereupon, the trial will resume at approximately  
13 9:15 the next morning.)

14 AUGUST 21, 2018.

15 THE COURT: Are y'all ready to go?

16 MS. FULLER: Your Honor, the victims are coming but  
17 there is one thing that I just wanted to put on the record  
18 briefly. The next witness is going to be the victim. So  
19 in terms of motion in limine, based on the Defendant's  
20 statement to law enforcement which I will have a motion on  
21 later prior to the introduction of that statement. He  
22 made comments about her having problems in the past being  
23 flirty, thoughts he says about dad, constantly fussing at  
24 her for acting inappropriate. I would just want to, in  
25 compliance with Rape Shield, if that is any type of.

1 subject of cross-examination that Defense Counsel be  
2 limited in going into anything that broad to be suggestive  
3 of anything.

4 MR. CHEHOSKI: Your Honor, without disclosing too  
5 much I don't think my cross-examination will be touching  
6 on that subject.

7 THE COURT: Okay, so long as it doesn't and y'all  
8 comply with her request to not that will be good. If you  
9 get close there, give me a heads up.

10 MR. CHEHOSKI: I am not planning on going near there.

11 THE COURT: Okay.

12 MS. FULLER: We are ready.

13 THE COURT: Bring the jury.

14 (Whereupon, the jury came into open court at  
15 approximately 11:18 a.m.)

16 THE COURT: Welcome back, sorry for the delay.  
17 Something came up with me and delayed me. All the lawyers  
18 have been here waiting on me so as the Court Reporter. In  
19 any event we are ready to go forward. Does everybody have  
20 a notepad they need. Here is the way the notes work. I  
21 told you I would explain to you later and I will explain  
22 it to you in my closing instructions. Any of y'all are  
23 allowed to have a notepad if you like. If you don't want  
24 one don't take one. If you want one take one. At the end  
25 I tell people, you find out when you are a teacher,

1 teachers tell me and I am not a teacher but I was formerly  
2 married to one. People learn different ways, you are what  
3 you are. So when you are deliberating the people that  
4 listen and watch have just as much as better than people  
5 who took notes and watched. Everybody is on an even kill,  
6 a note taker's notes don't trump a memory person that  
7 visually and auditory learn, everybody is on an even kill.  
8 So just because you took notes and wrote something down  
9 does not mean a person is much better. Everybody gets an  
10 equal vote, one does not trump the other. So that is kind  
11 of how it works. Use your notes for your own benefit and  
12 y'all answer questions of fact at the appropriate time.  
13 So those are my instructions on notes. Ms. Fuller, are  
14 you ready to call your witness?

15 MS. FULLER: Yes, Your Honor. The State calls

16 Minor

17 Minor, being

18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 By Ms. Fuller:

21 Q Minor, I'm going to ask you to just go ahead and  
22 state your full name for the record.

23 A Minor

24 MS. FULLER: Do I have permission to --

25 THE COURT: Yeah. We can hear her.

1 Q Okay. Say it again.

2 A Minor .

3 Q Minor , I know you're a little nervous today. I'm  
4 just going to ask you just a few questions. We'll just  
5 try to not to keep you on there too long. Okay? How old  
6 are you, Minor ?

7 A Fourteen.

8 Q And what's your date of birth?

9 A [REDACTED], 2004.

10 Q And are you currently in high school?

11 A Yes, ma'am.

12 Q When's your first day of school?

13 A Today.

14 Q And what grade would you have been starting?

15 A Ninth.

16 Q I'll just ask you few questions about your family.

17 Who are your parents?

18 A My mom's name is Kathleen Davis and my dad's name is  
19 Edward Davis.

20 Q And are your parents here today?

21 A Yes, ma'am.

22 Q And do you have any sisters?

23 A I have two sisters.

24 Q And what are their names?

25 A B.D. and C.D. .

1 Q And how old is B.D. ?

2 A B.D. is 12.

3 Q And C.D. ?

4 A Eight.

5 Q And where is C.D. ?

6 A C.D. 's at school. It is her first day too.

7 Q And how about B.D. ?

8 A B.D. 's here.

9 Q Just, let's kind of get started. Do you know Mr.

10 Edward Davis?

11 A Yes, ma'am.

12 Q And who is he to you?

13 A My grandfather.

14 Q And did you call him grandfather?

15 A I called him Papa.

16 Q And is he married?

17 A Yes, ma'am.

18 Q And who's he married to?

19 A Wendy Davis.

20 Q And what do you call her?

21 A Grandma.

22 Q Before all of this, why we're here, how often did you  
23 spend time with your grandparents?

24 A A lot.

25 Q What do you mean by a lot?

1 A We were always like -- we spent the -- we spent the  
2 night sometimes, but like Grandma would like take us to  
3 the flea market. And we just -- she'd take us to the  
4 park. We do a lot with her, and then we'd be with him  
5 like on the weekends and sometimes, he didn't work on  
6 Tuesdays. So we'd be with him.

7 Q And that was during the school year or over the  
8 summer?

9 A In the summer, we spent the night more. But like  
10 grandma used to get us off the bus and that's when we  
11 would like go to the park and stuff.

12 Q And that was --

13 A During the school year.

14 Q -- during the school year? And was this for the  
15 majority of your life?

16 A Yes, ma'am.

17 Q On July 12th of 2016, how old were you?

18 A Twelve.

19 Q I want to -- want you to take your time and I want  
20 you to take me through that day. All that you can  
21 remember. Okay? So that day, where were you?

22 A I was at my grandparent's house.

23 Q And how long had you been there?

24 A We had came over Monday night. So we'd been there  
25 since like five or six o'clock Monday.

1 Q Okay. So just the night before?

2 A Yes, ma'am.

3 Q And in that -- that July, would that be summertime or  
4 were you still in school?

5 A Summertime.

6 Q And tell me about that morning.

7 A That morning, we woke up and he was cooking breakfast  
8 like he always does because he's -- like he would cook  
9 because he was good at it. I think Grandma was getting  
10 ready for work and my sisters, they were already awake  
11 because they wake up before me. And so, I think they  
12 might have been in the kitchen or on the floor, either one  
13 of them, because they have -- they had a pullout bed thing  
14 that they would -- that they would put on the floor for  
15 them and I'd sleep on the couch. So the TV was on and he  
16 was cooking, Grandma was getting ready for work and my  
17 sisters were playing, doing something. I don't know.

18 Q So it was just a typical morning at your  
19 grandparent's?

20 A Yes, ma'am.

21 Q Okay. You mentioned your grandmother, she was  
22 getting ready for work. Where did she work?

23 A She worked at Dollar Tree.

24 Q Okay. And was anything -- did your grandfather, too?

25 A Yes, ma'am.



1 Q Did he work that day?

2 A Yes, ma'am.

3 Q Go ahead and tell the jury about that. Did he leave  
4 the residence that morning?

5 A They left, I think, around the same time.

6 Q Okay.

7 A She went to work at Dollar Tree and he went to do  
8 yard work for somebody and I had to watch my sisters.  
9 They were, B.D. was ten and C.D. was six at the  
10 time. And so, I had to watch them. And so, we watched TV  
11 and played games. That's kind of all we did the whole  
12 time, besides, you know, they ate everything they could  
13 see. But it was like, it was getting late. So we were  
14 like, because he told us he should be home around like  
15 10:00 or 10:30 but it was like 11:00. And, I mean, we  
16 still hadn't heard from him. So like they was getting  
17 worried, but my dad had come over and because he was  
18 looking for him to see if he was home yet, but he wasn't  
19 home. So then Dad left. So we told him we'll call him  
20 when he gets home.

21 Q Okay.

22 A We never--

23 Q And that's okay and things -- if you don't remember  
24 certain things or if you remember something you want to  
25 explain, that's fine. Did he eventually come home?

1 A Yes, ma'am.

2 Q Okay. And what do you remember about that?

3 A We heard his car because like they have a dog. And  
4 the dog like barks when he is like coming down the road.  
5 So that is how we know he is coming home and then you can  
6 hear the truck start when he gets closer. So we knew he  
7 was coming home. So they wanted to play sleep, you know,  
8 just like. So we were all like, okay, let's play sleep.  
9 And he comes in the house and I guess he thought we was  
10 asleep. But we were all on the couch because we had put  
11 the pull up bed up because he always tells us that if  
12 we're not going to use it anymore to put it up. So we had  
13 put it up already into my dad's old bedroom. So we had  
14 played asleep and he went back into his bedroom and I  
15 think he like washed off because it's hot and he probably  
16 smelt like outside.

17 Q And if you don't know what he did because you were in  
18 the living room, that's fine. What do you remember next  
19 happening?

20 A He went back outside and I don't know what he did  
21 outside, but I know that eventually he pulled out the  
22 sprinkler.

23 Q Okay.

24 A But I had gotten up when he came back in the house  
25 because I didn't know he'd come in the house. But I had

1 gotten up and was sitting up and he came back in the house  
2 and I had saw the sprinkler and he asked me, did I want to  
3 go play outside in the sprinkler and I told him, yes, sir.  
4 And so, I went outside and played in the sprinkler. It  
5 was like, it wasn't that long. We weren't outside for  
6 long, or I wasn't in the sprinkler for long. It wasn't  
7 that long. And then we went back on the porch and he sat  
8 down. I can't remember if it was the chair or a cooler he  
9 sat down on but it was something. And he told me to sit  
10 on his lap. And so I did and then we went back inside and  
11 he told me to take a shower because he didn't, he said  
12 that he didn't want my sisters to know I was outside  
13 because then they might get mad. And then they'll want to  
14 play outside too.

15 Q And you mentioned your sisters. Where were they at  
16 this point when you were playing outside?

17 A They were still asleep on the couch. They fell  
18 asleep.

19 Q So you said you guys were pretending to be asleep?

20 A But they actually -- they actually fell asleep. I  
21 didn't.

22 Q Okay. So you mentioned that he said to go take a  
23 shower and tell me what you did then.

24 A I went to take a shower.

25 Q It's okay. And where did you go take a shower?

1 A In their room because that's where the shower is.

2 Q Okay. And what, if anything, happened next when you  
3 were there?

4 A So I got undressed in the bathroom -- I got undressed  
5 in the shower. The shower head wasn't on. I just put my  
6 clothes outside and put my towel on the door and started  
7 the water.

8 Q Okay.

9 A And I was, I was washing, and then the light, all of  
10 the lights in the room went off because, I think I had the  
11 light on in front of their sink in the bathroom. Those  
12 are the lights I think that I had on.

13 Q Okay.

14 THE WITNESS: May I have some water?

15 MS. FULLER: My apologies.

16 THE WITNESS: Thank you.

17 MS. FULLER: You can drink that anytime you need it.

18 Okay?

19 Q And you said -- I'll get you to explain that a little  
20 later. But the light's on, where the lights were on over  
21 the sink, you said, and you were in the shower and you saw  
22 the lights go out. What happened after the lights go out?

23 A He said -- he said he was going to get in the shower  
24 with me.

25 Q So let me ask you this. Was he in the room already

1 when you went to take a shower?

2 A Yes, ma'am.

3 Q Okay. But he wasn't in the --

4 A Well, I don't, here's the thing, I was in the  
5 bathroom. So I'm not one-hundred percent sure if he was  
6 in the bathroom during the whole time. But the bathroom  
7 is kind of in a corner.

8 Q Okay.

9 A And then there's the whole bedroom.

10 Q That's fine.

11 A So I'm not one-hundred percent sure he was in the  
12 bedroom the whole time.

13 Q Okay. And so what do you remember next happening?

14 A He told me he was going to get in the shower with me.  
15 And then he starts feeling around in the shower. And then  
16 he hits like my lower back and my bottom. And I told him,  
17 I was like, I'm right here. And then he left. Then he  
18 came back and said he was going to get in the shower with  
19 me. And this time he said that he was really going to get  
20 in the shower. And then he starts feeling around again  
21 and he didn't touch my back, just my bottom this time. So  
22 I moved again and then he stopped.

23 Q Okay.

24 A And then I finished bathing and he stood in there.  
25 Not in the bathroom, he's in his room. So I didn't have

1 any, because when they came over Monday night we wasn't  
2 expecting them. So we didn't have anything like packed  
3 and ready. So we just threw in clothes and I only had the  
4 dress that I was wearing when I went out into the  
5 sprinkler and my pajamas. And I think we had already  
6 bathed the night before. So when they came and got us  
7 everybody was washed. So I went in my pajamas which I was  
8 already in. And those were some tights and a shirt, I  
9 guess. But I know I had on tights. They didn't have like  
10 a shirt to wear. So I went into my grandmother's drawer  
11 and got one of her shirts. And then I went back out there  
12 to get my pants because, but then, my sisters started like  
13 to wake up and I didn't want to wake them. So I went and  
14 got my pants and went into the bathroom in their room and  
15 got dressed.

16 Q Okay.

17 A And then before I got dressed, he told me -- I was  
18 sitting on my towel and he told me to sit on his lap.

19 Q Okay. Let's slow down there. So you got out of the  
20 shower, you didn't get dressed right then. You were in a  
21 towel?

22 A Yes, ma'am.

23 Q Okay. And then what happened after that?

24 A He told me to sit on his lap and --

25 Q And where was this?

1 A In a chair across from his bed. Like in between my  
2 grandmother's dresser and like another dresser.

3 Q Okay.

4 A There's a chair and it's by the window. So that way,  
5 like at night like if he wants to see his dog, he can see  
6 him from his room.

7 Q Okay.

8 A But he was sitting in that chair and he told me to  
9 sit on his lap and he was sitting with his legs open. And  
10 so I sat on the left leg. And he said not like that, but  
11 I didn't know what he meant. And so then I asked him what  
12 he meant. And he just, he said never mind. So then I get  
13 back up and I got dressed. I got the shirt, I got the  
14 pants and all that and he told me to sit on his lap again.  
15 And since I'm dressed now I don't think anything of it  
16 because this is my grandfather. So I sit back on his lap  
17 and this time he starts like kissing on my cheek and my  
18 neck and all that. And I moved and he said, what, you  
19 don't know like that. I told him, no. So he stops, but  
20 then he starts doing it again. And then he kissed my  
21 mouth. And then like moves me to, so this is the foot of  
22 the bed, like this is the chair and this is like the foot  
23 of the bed. He moves me and sits me on that into where  
24 he's in between my legs and starts kissing me on my mouth  
25 and tries to lay me back. But my feet are on the ground

1 the whole time. He like lays me back and starts kissing  
2 me and touching like in my inner thighs and my vagina.  
3 And then, B.D., my little sister, she comes, we can  
4 hear her walking. So he gets off me and sits back in that  
5 chair. And I moved at this point to the side of the bed  
6 where the door is. So when B.D. comes in, I leave and  
7 I don't know if there were words exchanged in between  
8 B.D. and him or not. I don't know. I left. But  
9 then, I'm sitting in the chair, there's a chair, there's a  
10 bar going into their kitchen and there's a chair right  
11 there and then there's another chair, and then there's the  
12 couch and there's the TV. I'm sitting in the chair across  
13 from the TV and he comes back out and like starts kissing  
14 on my cheek and my neck and trying to put his tongue back  
15 in my mouth and feeling on my chest and telling me to come  
16 back in the room when B.D. leaves. And I don't know  
17 what to do because I don't want him to hurt my sisters, I  
18 don't want him to hurt me, I don't want him to touch my  
19 sisters, I don't want him to touch me, but -- I'm sorry.  
20 So B.D. comes back out and sits in the chair, and then  
21 she moves from the couch to the recliner this time. She  
22 sits in the recliner and I asked if she was going back to  
23 sleep and she said, yeah, and I almost told her, don't,  
24 but I didn't want her to like be upset because like I --  
25 she's 10. I don't want her to be upset because this is



1 hard. I don't want her to -- so I went back into the room  
2 because I didn't want him to hurt them and I didn't want  
3 him to hurt me. And then, he was looking -- I don't know  
4 what he was doing. He was in his top drawer and he closes  
5 it, and then he comes back over to me and this time, I'm  
6 on the side of the bed and -- I'm on the side like where  
7 -- when I told you I had moved when B.D. came in. And  
8 I had got there and he like laid me back again and he  
9 starts telling me to take my pants off and he keeps  
10 telling me to take my pants off and I keep asking him, why  
11 do I have to take my pants off. And he won't tell me why  
12 and he keeps telling me that he was going to teach me a  
13 lesson and that it was something I needed to learn because  
14 I was 12 and it was time for me to learn and that he was  
15 going to teach me a lesson. And he kept telling me to  
16 take my pants off and he told me he would buy me anything  
17 I wanted and that he would give me \$80.00 dollars. And  
18 then he told me if I wanted something just tell him and he  
19 would get it and that I never had to ask for anything.  
20 Just -- and then he starts kissing me again. And then I'm  
21 wearing her undershirt. So he lifts it up and then he  
22 lifts my bra up and he starts like kissing on my chest and  
23 like -- so I get on my chest and he's telling me to take  
24 my pants off and he keeps touching in between my thighs  
25 and he just keeps touching me. And then finally he just

1 stops. He stopped and he tells me to put the dress back  
2 on and that he's going to go wake my sisters up and that  
3 we were going to play in the sprinkler again. And so he  
4 leaves and I put the dress back on and he got my sisters  
5 up and by the time I come out, they're outside already  
6 playing in the sprinkler. And I don't get back in the  
7 sprinkler. This time I stand on the porch because I don't  
8 want to do anything. I don't want -- I don't want -- I  
9 don't want to play. I don't want to do anything. And  
10 they asked me what was wrong and I just told them I was  
11 tired. I told them it was nothing. That I -- they got to  
12 take a nap. You know, I didn't. That that's why I was  
13 upset because I was just tired. And then he told us to go  
14 back inside. He said, I can go first and to take the  
15 dress off and then put it outside. Because the whole time  
16 -- after I had played in the sprinkler and came back in, I  
17 had put the dress on the floor because I didn't know where  
18 to put it because I didn't want to put it on the bed  
19 because I don't want it to like make the bed wet. So it  
20 was on the floor. And so, it was like lying in a pile and  
21 it was wet. So when I put it back on, it was still wet.  
22 So he told me to change back into what I had on and to lay  
23 the dress outside on the porch so that the sun would dry  
24 it because it's hot and the sun was out and it's July and  
25 it's supposed to be a normal day. So then B.D. and

1 C.D. changed out of theirs. They come into the house  
2 and they change and me and him was on the porch but we  
3 didn't say anything. And then they go back outside. So I  
4 go back inside and I lay on the couch and I just wanted to  
5 go to sleep. But he comes inside and he sits on the  
6 recliner across from the couch and he was telling me that  
7 he was sorry and that he would never do it again and not  
8 to tell on him because if I told, they'd be mad at me and  
9 that -- and that no one would believe me because I was  
10 just a little girl and nobody was going to believe me and  
11 just not to tell anybody and that he was sorry and that he  
12 would never do it again. And then he told me that he knew  
13 I was going to tell on him. That he knew I was going to  
14 tell my mama and that -- he said that he was going to hang  
15 himself and that he was going to lose his wife and his  
16 family and everybody's going to hate him and that he was  
17 going to kill himself and that he was sorry, that he  
18 wasn't going to do it again. And then -- and then, he  
19 started sweating really bad and my sisters had come back  
20 in and they were asking me what was wrong. And then they  
21 was asking him what was wrong with him. And then he just  
22 wouldn't talk. And so then I ran into the room and he  
23 tried to come into the room and ask me what I was doing  
24 and B.D. came and was trying to help him walk. And  
25 then he fell onto the bed and I was calling dad. I was

1 calling my dad because I didn't know what was going on. I  
2 thought it was my fault. And then -- and then, he passed  
3 out on the bed and, I guess, my dad had called Grandma and  
4 Grandma had called 911 and Grandma had told me to get --  
5 to tell B.D. to get a cup of water, for me to get a  
6 rag, and just to help him because she thought that he was  
7 like dehydrated or something because he had been outside  
8 working. And so then my dad came because my dad came  
9 really fast. He was there in like two minutes. And so  
10 then my dad was able to help us get him into the chair in  
11 the kitchen.

12 Q Minor , I'm going to stop you there. I'm sorry to  
13 let you go on for so long. I just didn't want to  
14 interrupt you. But before we get there I'm going to go  
15 back and make sure the -- everyone can understand exactly  
16 where you're talking about and I'm just going to come up  
17 to you with this and just clarify some things for the  
18 jury. Let me make sure everyone can see here.

19 (Whereupon, State's Exhibit number 4 was published  
20 for the jury.)

21 Q Okay. Minor , this is State's Exhibit 4. Do you  
22 recognize this?

23 A Yes, ma'am.

24 Q Okay. And is this what the inside of your  
25 grandparent's mobile home looks like?

1 A Yes, ma'am.

2 Q Okay. Can you show the jury -- when you were  
3 talking, you mentioned that you guys were on the couch at  
4 first. And just to be clear, is that where you slept the  
5 night before too?

6 A Yes, ma'am.

7 Q Okay. Can you point on here where you're talking  
8 about? And keep your voice up too. Okay?

9 A That's the couch that I slept on and that my sisters  
10 slept on later the next day.

11 Q Okay. Do you see the front door right here?

12 A Yes, ma'am.

13 Q And keep your voice up.

14 A Yes, ma'am.

15 Q And when you mentioned your grandfather came home,  
16 did he come through the front door?

17 A Yes, ma'am.

18 Q And on here, can you show the jury where his bedroom  
19 is?

20 A This is the bedroom, that's his bedroom, that's the  
21 master bedroom.

22 Q Okay. And you also talked about the bathroom and the  
23 shower. Can you show on here where that is?

24 A That's the bathroom.

25 Q And is that the only shower in the home?

1 A No, ma'am. But it's the only one that works.

2 Q So that's the only bathroom that works in the home?

3 A Yes, ma'am.

4 Q Okay. And when you were describing what happened in  
5 the bedroom, you mentioned during your testimony that your  
6 grandfather was sitting on a chair in the bedroom. Where  
7 was that chair?

8 A It was like right over here.

9 Q You also talked about the sink for the bathroom.  
10 Where is that?

11 A It's right over here.

12 Q So it's outside of the bathroom?

13 A Yes, ma'am.

14 Q So when you were talking about you saw the lights go  
15 out, are those the lights on the outside?

16 A Yes, ma'am.

17 Q And are there lights also in the bathroom?

18 A Yes, ma'am.

19 Q Minor, you mentioned after all of this -- before  
20 and after, you went outside, the sprinklers were on and  
21 you guys were playing where you played earlier. State's  
22 Exhibit 3. Can you point out for the jury, well, do you  
23 recognize this?

24 A Yes, ma'am.

25 Q And is this your grandparent's mobile home?

1 A Yes, ma'am.

2 Q And where did you play outside?

3 A Right over here.

4 Q And when you went back outside, you said you stood  
5 out there. Where did you stand?

6 A On the porch right here.

7 Q And where were your sisters?

8 A Like right there where, here.

9 Q When you went back -- when you left the room and  
10 B.D. went in the room, where was C.D. ?

11 A She was on the couch the whole time.

12 Q Can you tell me whether or not she was awake or was  
13 she sleeping?

14 A C.D. was asleep.

15 Q Now, you were just getting to your -- and just to  
16 kind of flush that out a little bit. You said after he  
17 was apologizing to you and he started not to feel well.  
18 Just so it's clear, what happened after that? What did  
19 you remember happening?

20 A He started sweating like really, really bad and like  
21 his head started like rolling back. His head started  
22 rolling back and my sisters were asking me what was wrong  
23 with him and why was he not feeling well and he wouldn't  
24 answer them. And so I went back into his room and got his  
25 cell phone because I didn't have mine and neither did my

1 sisters. So I had used his cell phone to call my father  
2 and tell him that something was wrong with Papa and that  
3 we don't know what's wrong with him. And so then he had  
4 come back, he was trying to come back into the room and

5 B.D. and C.D. was with him so like he wouldn't fall  
6 in the kitchen or something. And then he made it to the  
7 bed and had fallen out and was like -- had passed out. So  
8 somewhere in between all of that, we got a phone call from  
9 Grandma and Grandma had said that Daddy had called her and  
10 told her what was going on and she said that he's probably  
11 dehydrated and that we just needed to get him some water  
12 and make sure he was okay and to put a wet cloth on his  
13 head so that, to cool him down.

14 Q And did you guys do that?

15 A B.D. went and got water and I got the -- I got  
16 the cloth for his head and C.D. just kind of stayed  
17 with him the whole time because the cloths are under the  
18 sink. So I went to get it and then wet it.

19 Q And then after that did other people show up at the  
20 house?

21 A My father had shown up and we -- and they would have  
22 helped us get him into the kitchen into a chair and he was  
23 trying -- he was getting -- B.D. and my dad were  
24 trying to get him to drink water. And then Grandma had  
25 shown up and she said that she had called the ambulance or



1 911 to -- just because he had passed out. And he told her  
2 that he wasn't going to go and that he was fine and he got  
3 him back into the recliner. And then fire services had  
4 shown up and they started checking on him.

5 Q And when they were checking on him, where were you?

6 A Me, B.D. , C.D. and my dad were on the couch  
7 across from the recliner that he was sitting in and I  
8 don't know where Grandma went. I think she might have  
9 been in -- she was on the step right by the door.

10 Q And so people were coming in and out of the home  
11 checking on him?

12 A Yes. Then, by then they like had -- oh my gosh. I  
13 don't know what she is. The lady who was up here.

14 Q It's okay if you don't remember who someone is.

15 A She had shown up and was checking on him. And then  
16 the ambulance had shown up and they started working on his  
17 vitals and stuff. And he had told them that he had  
18 touched -- he had hugged me and had touched my behind and  
19 it made him feel bad. And then, they went -- the lady  
20 went back outside. And then the police were there and she  
21 asked, do we know why he was here. I told her, no. And  
22 she said that something that he said had rubbed her the  
23 wrong way. And so she called him because it didn't kind  
24 of sound right. So then, he asked -- the officer asked  
25 him again what happened and he told him what --

1 MR. CHEHOSKI: Your Honor, I'd have to object at this  
2 point. Again, this is -- has already been covered by  
3 other testimony and now it's cumulative and it's hearsay.

4 MS. FULLER: Well, Your Honor, this is the  
5 Defendant's words.

6 THE COURT: How is it hearsay?

7 MR. CHEHOSKI: Your Honor, it's questioning the first  
8 responders and it's not a conversation she's participating  
9 in. It is just one that she is witnessing. And she's,  
10 that's what's hearsay.

11 THE COURT: All right. As long as she doesn't repeat  
12 what the first responders said, she can repeat what they  
13 asked her.

14 MS. FULLER: That's fine, Your Honor.

15 THE COURT: Okay.

16 MR. CHEHOSKI: I move to strike the offending parts.

17 MS. FULLER: With that, there's -- I don't think  
18 there was anything offended, offensive, Your Honor, but we  
19 can move on --

20 THE COURT: Let's move on.

21 MS. FULLER: -- she was just setting the scene.

22 THE COURT: Okay.

23 MS. FULLER: So that's fine.

24 Q After this conversation takes place, do you stay in  
25 the home or are you taken outside of the home?

1 A Outside.

2 Q Okay. And when you're outside of the home, do you  
3 recall speaking with the first responders that were  
4 on-scene?

5 A Yes, ma'am.

6 Q And that was the police officer?

7 A Yes, ma'am.

8 Q And one of the EMS workers?

9 A Yes, ma'am.

10 Q When you're walking outside, who's walking with you?

11 A My father and the -- the police officer and the EMS  
12 lady.

13 Q Did you actually hear what your grandfather told  
14 them? Like do you actually hear what your grandfather  
15 says in the home?

16 A When they first showed up, yes ma'am.

17 Q Okay. And so after that, you were taken outside of  
18 the home?

19 A Yes, ma'am.

20 Q And can you tell me whether or not, at that point,  
21 you spoke to the officer outside of the home?

22 A Yes, ma'am.

23 Q What, if anything, do you remember happening after  
24 that?

25 A They kept rushing in and out of like the house, but

1 they had taken my dad and me into the back of an  
2 ambulance. And -- well, he wasn't hungry, but I was  
3 hungry. So they gave us, I think he gave me like food --

4 Q Okay.

5 A -- and he just talked to us. And then the lady came  
6 in and she just talked to us. And then finally B.D.  
7 and C.D. came and then they were put in the back of  
8 ambulance with us and they don't know what was going on.  
9 They were confused, but he gave them food too, and they  
10 didn't care anymore.

11 Q Okay. Minor, after all of this happened, what is  
12 different about your life now?

13 A It used to be like the seven of us. Like my three  
14 sisters, and then my parents -- I mean, my two sisters.  
15 My two sisters, my parents and my grandparents and now,  
16 it's just the five of us. Like we did a lot. Like  
17 Sundays, we were always together, like vacations, like we  
18 always took Grandma with us. We did a lot together and  
19 now we don't have that anymore. But it brought me and my  
20 dad closer because me and him weren't very close and like  
21 we were always like arguing about something and now it  
22 doesn't even matter anymore.

23 Q And I just have a few more things. Okay?

24 MS. FULLER: Your Honor, permission for her to step  
25 down just briefly.

1 THE COURT: Certainly.

2 Q I'm going to show you State's Exhibit 5 and just to  
3 just go over everything that happened and just so the jury  
4 can actually see --

5 MR. CHEHOSKI: Your Honor, I have an objection. It's  
6 nothing -- State's Exhibit 5 is not in evidence yet and is  
7 being shown to the jury.

8 THE COURT: I'm not sure what it is.

9 MS. FULLER: It's for demonstrative purposes.

10 THE COURT: All right. You all come over here real  
11 quick.

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

15 Q Minor , I'm sorry, but I'm going to have to ask you  
16 to step down again but I'm going to show you this drawing.  
17 Do you recognize this? And it's -- what is it a drawing  
18 of? Go ahead and speak into the microphone.

19 A A male.

20 Q Okay. I'm going to ask you some questions about your  
21 testimony and just have you mark on it for the jury.  
22 Okay?

23 MS. FULLER: At this time, Your Honor, I'll just seek  
24 to move State's Exhibit 5 into evidence.

25 THE COURT: You can move it in.

1 MR. CHEHOSKI: Just subject to my previous objection,  
2 Your Honor.

3 THE COURT: It's demonstrative, let her draw one and  
4 keep it relevant. It's not tied to anything right now.

5 MS. FULLER: Exactly.

6 THE COURT: So if it is going to be demonstrative  
7 evidence, do you want it in?

8 MS. FULLER: It doesn't matter to me, Your Honor. I  
9 was just going to have her mark on it.

10 THE COURT: Let's just use it for exclamation --

11 MR. CHEHOSKI: If it's just used for demonstrative  
12 purposes, Your Honor, then it is not--

13 THE COURT: It's not going to come into evidence.  
14 Okay.

15 MR. CHEHOSKI: Right.

16 THE COURT: That's kind of what I was thinking.

17 MS. FULLER: That's what I --

18 THE COURT: I misunderstood what you all said, but  
19 it's just going to be to show the jury. It won't go back  
20 in the jury room.

21 MS. FULLER: I was just trying to make it easy and --

22 THE COURT: Okay.

23 MS. FULLER: -- whatever Defense wants. Minor , you  
24 can come on. Thank you, Judge.

25

1 (Whereupon, State's Exhibit 5 was marked for  
2 identification only.)

3 Q You testified that your grandfather was kissing on  
4 you. Can you, for the jury, just circle what he used to  
5 actually do that?

6 (Whereupon, the witness indicates for the jury.)

7 Q And you testified -- let me make sure I get it right,  
8 that he rubbed on you and touched your vagina area. What  
9 did he use to do that?

10 (Whereupon, the witness indicates for the jury.)

11 Q Did he use one hand or both of his hands? If you  
12 don't remember, that's fine.

13 (Whereupon, the witness indicates for the jury.)

14 MS. FULLER: And let the record reflect that she is  
15 circling on State's 5 for ID purposes the male's mouth and  
16 two hands.

17 Q You mentioned when you were in the shower -- looking  
18 at State's 7, that he touched your lower back and bottom  
19 area. Can you go ahead and circle for the jury or  
20 identify for the jury what you're referring to?

21 (Whereupon, the witness indicates for the jury.)

22 MS. FULLER: And let the record reflect, on State's  
23 7, that she's circling the lower back and the bottom area.

24 Q Now, Minor, you mentioned that while in the bedroom  
25 on the bed he was touching your body. Can you state first

1 for the record clearly where he was touching? And keep  
2 your voice up too.

3 A My inner thighs and my vagina and my breasts.

4 Q Okay. Go ahead, on State's 6, and circle for the  
5 jury where he was touching. You do what you recall.

6 (Whereupon, the witness indicates for the jury.)

7 Q And you mentioned that he was kissing on you, as  
8 well, and where on the body, whether on the skin or  
9 outside of the skin, where he was kissing? And you can  
10 state it for the record.

11 A My mouth. I'll have to double circle my chest.

12 Q That's fine.

13 A Okay. I'll draw it smaller.

14 (Whereupon, the witness indicates for the jury.)

15 A My chest --

16 Q Okay.

17 A -- and my back.

18 (Whereupon, the witness indicates for the jury.)

19 MS. FULLER: And let the record reflect, for State's  
20 Exhibit 6, that she circled her area below the waist, her  
21 vagina and inner thigh area, she circled her chest area,  
22 her mouth and her neck. Minor , you can take your seat.

23 (Whereupon, State's Exhibits 6 and 7 were marked for  
24 identification only.)

25 Q Minor , can you tell me, emotionally, how this has



1 personally impacted you?

2 MR. CHEHOSKI: Your Honor, I object to that. That's  
3 inappropriate for this proceeding.

4 THE COURT: I'm going to allow it.

5 MR. CHEHOSKI: Thank you, Your Honor.

6 Q How this has impacted you?

7 A Like I have depression like and sometimes it'll get  
8 like really bad. And I just get like really, really down  
9 on myself and I have bad -- I have nightmares. Really bad  
10 dreams. And he's -- it's not even like he's doing  
11 anything to me. He's just there, and I have really bad  
12 anxiety. I don't even like to be looked at sometimes and  
13 like I just stay by myself. Like sometimes I won't even  
14 like really leave my room. It hurts because I'm telling  
15 you, he was my best friend over anybody. The person I  
16 trusted over everybody did this to me. Like I don't know  
17 what somebody could do to me. So I don't -- I don't like  
18 to be touched and I don't like to be looked at a lot.

19 MS. FULLER: Thank you, Minor . Minor , I don't  
20 have any more questions at this time, but please answer  
21 any questions that Defense counsel has for you. Okay?

22 THE WITNESS: Yes, ma'am.

23 CROSS-EXAMINATION

24 By Mr. Chehoski:

25 Q Is it okay if I call you Minor ?

1 A Yes, sir.

2 Q All right. Minor , I have a couple of favors to ask  
3 you before we get started. First, I have a tendency to  
4 talk really fast. If I go too fast, ask me to slow down  
5 or ask the question again. Okay?

6 A Yes, sir.

7 Q Also, if you need to take a drink of water or need a  
8 break, just let me know. Okay?

9 A Yes, sir.

10 Q And if we need to take a break, we can ask the Judge  
11 for a break. Okay?

12 A Yes, sir.

13 Q All right. Something -- I kind of just want to touch  
14 on just a few things that you testified to. You said that  
15 when Mr. Davis got home, you wanted to play a joke on him;  
16 is that right?

17 A Yes, sir.

18 Q And you -- you were pretending to be asleep?

19 A Yes, sir.

20 Q All right. And in the -- let me just make sure I get  
21 this right. In the minutes between the time he pulled up  
22 and got the sprinkler ready and came inside, in that time,  
23 your -- both of your sisters actually did fall asleep?

24 A Yes, sir.

25 Q All right. And it was while they were falling asleep

1 that you went out to play?

2 A They were already asleep by the time we'd went out.

3 Q Right. They had fallen asleep when you went out to  
4 play?

5 A Yes, sir.

6 Q All right. Again, I may ask a question a couple of  
7 times. I just want to make sure I understand. And whose  
8 idea was it for you to take a shower?

9 A His.

10 Q His? And did you think it was a good idea?

11 A I mean, I've always been told don't question adult's  
12 logic.

13 Q All right.

14 A So like -- and like I smelt like outside. So he  
15 said, so my sisters wouldn't know I was outside.

16 Q All right. And they would be mad if you had played  
17 without them?

18 A Yes, sir.

19 Q All right. You said you weren't out for very long?

20 A No, sir.

21 Q All right. All right. Now, I want to make sure I  
22 get this sequence correct. Is -- you went to take the  
23 shower, right?

24 A Yes, sir.

25 Q All right. You were wearing a dress at that time?

1 A Yes, sir.

2 Q And you said you put the dress on the floor?

3 A Yes, sir.

4 Q The dress, I'm assuming, was wet at this time?

5 A Yes, sir.

6 Q All right. And then, you went to take the shower and  
7 you came out in a towel; is that right?

8 A Yes, sir.

9 Q At which point, you -- that was when he asked you to  
10 sit on his lap the first time?

11 A Yes, sir.

12 Q All right. And then -- and then you left the room to  
13 get your clothes?

14 A I just wanted to get my pants.

15 Q You left the -- you left the room to get your pants?

16 A Yes, sir.

17 Q All right... And those -- your pants were in the bag  
18 and that was in the --

19 A The living room.

20 Q -- in the living room?

21 A Yes, sir.

22 Q Okay. And then you got your pants and you went back  
23 in the room?

24 A Yes, sir.

25 Q All right. At that point you said some time B.D.

1 came into the room?

2 A Yes, sir.

3 Q And when she came in the room, you left the room?

4 A Yes, sir.

5 Q All right. So -- again, I just want to make sure I  
6 understand this. You were already in the room when

7 B.D. came in?

8 A Yes, sir.

9 Q Okay. Thank you. At that point, you went out back  
10 into the living room?

11 A Yes, sir.

12 Q All right. And you said C.D. was asleep the whole  
13 time?

14 A Yes, sir.

15 Q All right. And so this sequence that happened in the  
16 living room, that happened in front of a sleeping C.D. ?

17 A Yes, sir.

18 Q All right. But B.D. was awake at that time?

19 A Yes, sir.

20 Q All right. And, at that point, you went back into  
21 the room?

22 A Yes, sir.

23 Q All right. And you said this whole time, you were  
24 wearing a -- it was one of your grandmother's shirts?

25 A Yes, sir.

1 Q And your pants?

2 A Yes, sir.

3 Q And you said they were tights; is that right?

4 A Yes, sir.

5 Q Okay. They were not jeans?

6 A No, sir.

7 MR. CHEHOSKI: All right. One moment, please.

8 Q Just a couple of more questions, Minor, and thank  
9 you for your patience with me. After the three of you  
10 played in the sprinkler the second time, you -- he -- Mr.  
11 Davis sent you into the house; is that right, to dry off,  
12 and he sent you in one at a time?

13 A Yes, sir.

14 Q He stayed outside while this happened?

15 A Yes, sir.

16 Q All right. And you went in first?

17 A Yes, sir.

18 Q All right. And you had -- excuse me. Sometimes, I  
19 need some water, too. Thank you, again. And when you  
20 went out the second time, you put -- you were wearing the  
21 same dress?

22 A Yeah. He told me to put the dress back on.

23 Q Dress back on?

24 A Yes, sir.

25 Q The same dress that was already wet?

1 A Yes, sir.

2 Q All right. And then you came back and changed into  
3 the same clothes you had been wearing before?

4 A Yes, sir.

5 MR. CHEHOSKI: All right. One more moment and I  
6 think we're almost done. Thank you, Minor. That's all  
7 the questions I have.

8 MS. FULLER: No redirect, Your Honor..

9 THE COURT: You may step down.

10 (Whereupon, the witness stepped down from the witness  
11 stand.)

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

15 THE COURT: All right, folks. I'm going to take a  
16 quick break and we're going to come in and we're going to  
17 take one more witness before we go to lunch. We'll go to  
18 lunch and I understand the next one's going to be long.  
19 So you all step in the jury room. We'll be back out here  
20 in about 10 minutes and we'll finish up our witness and go  
21 to lunch.

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

24 THE COURT: We will take a short break.

25 (Whereupon, a short break was taken.)

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

2 (Whereupon, the jury came into open court at  
3 approximately 12:25 p.m.)

4 THE COURT: All right.

5 MS. USRY: The State calls Elise Tison to the stand.

6 ELISE TISON, being  
7 first duly sworn, testified as follows:

8 DIRECT/EXAMINATION

9 By Ms. Usry:

10 Q Once you're seated, state your full name, spelling  
11 your last, please.

12 A Elise Tison. Last name is T-i-s-o-n.

13 Q Thank you, Ms. Tison. Can you tell me where you  
14 currently work?

15 A I work at Dickerson Children's Advocacy Center.

16 Q And can you tell me your role there?

17 A I'm the forensic services coordinator.

18 MR. CHEHOSKI: Objection, Your Honor, to -- for a  
19 pre-trial motion.

20 THE COURT: Okay. Sustained. Keep going.

21 MS. USRY: Yes sir, Your Honor.

22 MR. CHEHOSKI: Move to strike.

23 MS. USRY: It's just her title, Your Honor. We're  
24 moving on.

25 THE COURT: Okay.



1 MS. USRY: Yes, sir.

2 THE COURT: I agree. I'm going to let you, move on.

3 Q And as part of your job as a coordinator, what does  
4 that entail?

5 A I do child interviews and counseling and I also am in  
6 charge of the interns.

7 Q Can you tell me your educational background for this  
8 position?

9 A Sure. I have a Bachelor's in social work from the  
10 University of South Carolina, a Master's of social work  
11 from the University of South Carolina and I have a  
12 certificate in child welfare.

13 Q And are you specifically trained, if at all, in  
14 interviewing children?

15 A Yes.

16 Q And can you just briefly tell me about that training?

17 A I completed 40 hours of training known as the  
18 Child-First Protocol and that's through the Children's Law  
19 Center.

20 Q And have you previously conducted child-friendly  
21 interviews?

22 A Yes.

23 Q Is that part of your position at the Dickerson  
24 Center?

25 A Yes.

1 Q And do you have an idea of how many years you've been  
2 conducting those interviews?

3 A Since February of 2016.

4 Q And can you give me an idea of how many  
5 child-friendly interviews you've conducted?

6 A Over 450.

7 Q And do you know if you were referred, an individual  
8 by Minor to interview?

9 A Yes.

10 Q Can you tell me when you were referred that  
11 individual?

12 A I don't have that information this afternoon.

13 Q Did you ultimately set up an interview with that  
14 child?

15 A Yes.

16 Q What date was that interview set?

17 A August the 1st of 2016.

18 Q And as part of conducting your interview, did you  
19 determine her date of birth?

20 A Yes.

21 Q Can you give me that?

22 A [REDACTED], 2004.

23 Q Can you just tell me a little bit about when you have  
24 a child come to the Dickerson Center for children, how  
25 that is set up?

1 A We have the parents or guardian come into the room  
2 and they sign consent forms with the interviewer. And  
3 then we have a victim advocate in the room, whoever the  
4 guardian is, and then if law enforcement or DSS is  
5 present. And then I take the parents back into the  
6 waiting room, I take the child into the interview room,  
7 conduct the child's interview. And then I take them back  
8 to the waiting room, then I bring the parents back into  
9 the room and we do a post-interview with law enforcement,  
10 DSS, victim advocates, myself and the parent or guardian.

11 Q And with regards to Minor , who referred this  
12 interview to you? How do you receive a request for an  
13 interview?

14 A We received a request from Hayli Livingston from the  
15 Lexington County Sheriff's Department.

16 Q And when you conduct the actual child-friendly  
17 interview with the child, who's present?

18 A It is just myself and the child in the room,  
19 interviewing the child.

20 Q And where is the interview actually conducted?

21 A At the Dickerson Child's Advocacy Center.

22 Q Is anyone else allowed to observe the interview?

23 A Law enforcement and DSS are allowed to observe the  
24 interview only as long as they're involved in the  
25 investigation.

1 Q And how are they able to observe it?

2 A We have a room set up and they are able to observe  
3 the live feed from the interview. It's a separate room  
4 from the actual interview.

5 Q And during your interview -- your child-friendly  
6 interview with Minor , did she disclose anything  
7 with regard to a sexual assault?

8 A Yes.

9 Q And specifically, did she disclose a timeframe for  
10 that sexual assault?

11 A Yes. She disclosed it happened July 12th of 2016.

12 Q And with regard to a sexual assault, did she disclose  
13 a place where it occurred?

14 A Yes.

15 Q And --

16 A She --

17 Q Sorry.

18 A Sorry.

19 Q And so, I'll ask the followup question. So it would  
20 be, specifically, where -- what place did she say all of  
21 that occurred?

22 A She disclosed it happened in the bedroom and the  
23 bathroom of her grandparent's house.

24 Q And upon the conclusion of your interview with  
25 Minor , what did you do?

1 A I sent her back to the waiting room and then do the  
2 post again with the parents. And then I refer for a  
3 couple of different things.

4 MS. USRY: Nothing further for this witness, Your  
5 Honor.

6 CROSS-EXAMINATION

7 By Mr. Chehoski:

8 Q This particular interview was not observed; is that  
9 right?

10 A That's correct.

11 Q And did Minor give a specific time as to when this  
12 happened, on the date in question?

13 A She disclosed it happened on July 12th of 2016.

14 Q I'm talking about a specific time on that day.

15 A I'm sorry. I don't understand the question.

16 Q You know, what time of the day that happened.

17 A It's possible that, I don't remember.

18 MR. CHEHOSKI: Okay. That's all I have, Your Honor.

19 THE COURT: Okay.

20 MS. USRY: Nothing further, Your Honor.

21 THE COURT: You may step down.

22 (Whereupon, the witness stepped down from the witness  
23 stand.)

24 THE COURT: Is it a good time for a lunch break now?

25 MS. USRY: Yes, Your Honor.

1 THE COURT: Okay. Let's break for lunch. If you all  
2 will be back in the jury room just before 2:00, we'll try  
3 to get started at 2:00 o'clock sharp and catch up a little  
4 bit. Okay? Can't discuss the case yet. See you after  
5 lunch.

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

8 MS. FULLER: Your Honor, just real quickly. There's  
9 a portion of the Defendant's statement, under the rule of  
10 completeness, the entire statement should come in. But I  
11 have an argument for a portion that shouldn't. Do you  
12 want that now or before -- or later before the actual  
13 witness?

14 MR. CHEHOSKI: I don't know what, specifically,  
15 they're talking about, Your Honor.

16 MS. FULLER: If you want to do it now before lunch or  
17 if you want to do it later.

18 THE COURT: He may be okay with it. I don't know.  
19 So tell him what you don't want to let in.

20 MS. FULLER: Specifically, when he's being questioned  
21 -- it's on page three of the report. When he's being  
22 questioned about why would Minor say these things. He  
23 replies, my grandfather -- my granddaughter is a terrible  
24 child. I believe that is attacking the victim's  
25 character, like saying she's a terrible child. And so,

1 that part I would want redacted or not allowed in. And  
2 then, further on, he says, he went on to say that Minor  
3 has created problems in the past with being so flirty. I  
4 asked him to elaborate. And he said, I thought she would  
5 say this about her dad before she did about me. And he  
6 told me that Minor and her parents do not get along  
7 because they have to constantly fuss at her for acting  
8 inappropriate. It's just, those two sentences, with the  
9 sentence with the terrible child, I believe one goes to  
10 victim character and the other one potentially touches on  
11 some Rape Shield, what I call, the motion for to prohibit.  
12 Just an insinuation or a suggested --

13 THE COURT: I understand.

14 MS. FULLER: Okay.

15 THE COURT: Let me hear what he says.

16 MR. CHEHOSKI: Your Honor, no objection.

17 THE COURT: No objection. See there, how easy it is.

18 MS. FULLER: That was easy.

19 THE COURT: Okay. Fair enough.

20 MS. FULLER: All right. Thank you.

21 THE COURT: All right.

22 (Whereupon, a lunch break was taken.)

23 THE COURT: Bring the jury in.

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

1 THE COURT: All right. Call your witness.

2 MS. USRY: Thank you, Your Honor. The State calls

3 Ms. B.D.

4 B.D., being

5 first duly sworn, testified as follows:

6 MADAM CLERK: Once you're seated, state your full  
7 name, spelling your last, please.

8 THE WITNESS: My name is B.D.

9 DIRECT EXAMINATION

10 By Ms. Usry:

11 Q Thank you, B.D. B.D., can you tell me how  
12 old you are?

13 A Twelve.

14 Q And can you tell me your -- who lives with you?

15 A My mom, dad and sisters.

16 Q And what are your sisters' names?

17 A Minor and C.D.

18 Q And are you in school?

19 A Yes, ma'am.

20 Q Okay. Where are you in school?

21 A White Knoll.

22 Q And when do you start school?

23 A Tomorrow.

24 Q And where did you go prior to going to White Knoll  
25 tomorrow?



1 A East Point.

2 Q East Point? Is that what you said?

3 A Yes, ma'am.

4 Q Do you recall -- well, tell me this before I tell you  
5 that. Did you -- do you recall who Eddie Davis, Sr. is?

6 A Yes, ma'am.

7 Q And who is that to you?

8 A He was my grandfather.

9 Q And did you call him Grandfather or something else?

10 A I called him Papa.

11 Q And did you ever go over to his house?

12 A Yes, ma'am.

13 Q Can you tell me about that?

14 A We went about every other weekend and we would stay,  
15 and Sunday we would leave.

16 Q So who's we? Who would stay?

17 A Me, Minor and C.D.

18 Q And would it just be your grandfather in the house  
19 when you stayed?

20 A No, ma'am.

21 Q Who else was there?

22 A My grandmother.

23 Q And do you know her name?

24 A Wendy.

25 Q Wendy? And do you still go visit your grandad?

1 A No, ma'am.

2 Q And can you recall the last time you visited your  
3 granddad?

4 A Yes, ma'am.

5 Q Do you know when that was?

6 A Yes, ma'am.

7 Q Do you know what year it was?

8 A Yes, ma'am.

9 Q Okay. What year?

10 A 2016.

11 Q And was it the summertime?

12 A Yes, ma'am.

13 Q What do you recall about the day you -- the last time  
14 that you went over to visit your granddad?

15 A I remember waking up that morning and like they were  
16 leaving for work.

17 Q Okay. So did you spend the night there?

18 A Yes, ma'am.

19 Q So you woke up at his house?

20 A Yes, ma'am.

21 Q And when you woke up at his house, who else was  
22 there?

23 A Minor , C.D. and my grandmother.

24 Q Your -- and who else?

25 A Grandmother.

1 Q Your grandmother. And did your grandmother and  
2 grandad stay there the whole day with you?

3 A No, ma'am.

4 Q Tell me about that. What happened next?

5 A I'm pretty sure they like went to work and we -- me,  
6 Minor and C.D. stayed home and played with each  
7 other.

8 Q And did your grandad or grandma ever come home?

9 A Yes, ma'am.

10 Q When do you first remember seeing -- or who do you  
11 first remember seeing?

12 A My grandfather.

13 Q Okay. Can you tell me about that? When did you  
14 first see him?

15 A When I woke up -- I had fallen asleep on the  
16 recliner. I had woken up and went into the room to use the  
17 bathroom.

18 Q To go use the bathroom?

19 A Yes, ma'am.

20 Q Okay. So you said you'd fallen asleep on the  
21 recliner. Where was the recliner located?

22 A Like beside the door.

23 Q Is it in the living room?

24 A Yes, ma'am.

25 Q Was anyone else in the living room with you when you

1     woke up?

2     A     Yes, ma'am.

3     Q     Who else?

4     A     C.D. .

5     Q     C.D. ? And what was C.D. doing?

6     A     She was asleep.

7     Q     Okay. And when you woke up and you went to use the  
8     bathroom, tell me about that.

9     A     I had fallen asleep because me and C.D. were  
10    pretending to sleep. And so, I had woken up and went to  
11    the bathroom and washed my hands and went out and fell  
12    back asleep.

13    Q     So when you went in to use the bathroom, what  
14    bathroom did you go use?

15    A     The one in my grandparents' room.

16    Q     And was anybody in the room when you went back there  
17    or was it empty?

18    A     My grandfather was in there.

19    Q     And was Minor in the house?

20    A     Yes, ma'am.

21    Q     Did you ever see her?

22    A     Yes, ma'am.

23    Q     And tell me about that. When did you see her?

24    A     I was like about to step down into the room and all  
25    and Minor had walked out the room.

1 Q Okay. And what room are you referring to? You're  
2 about to step down into what room?

3 A My grandparents room.

4 Q Your grandparents room? Is that their bedroom?

5 A Yes, ma'am.

6 Q Okay. And when you stepped down to go into the room,  
7 is there a door there?

8 A Yes, ma'am.

9 Q Was it open or shut?

10 A It was closed.

11 Q It was closed? Is that what you said?

12 A Yes, ma'am.

13 Q Speak up a little bit. I'm just trying to make sure  
14 I hear you right. So when she came out -- she came out of  
15 the bedroom, was the door open or closed?

16 A It was closed.

17 Q And so, when she walks out, do you go into the room?

18 A Yes, ma'am.

19 Q And tell me what you saw when you went in there.

20 A I saw my grandfather sitting on a chair in front of  
21 the window.

22 Q And did you go talk to him?

23 A Yes, ma'am.

24 Q And tell me about that.

25 A I walked into the room and he like said my name and

1 all, so I went and gave him a hug and all.

2 Q And what did you do next?

3 A Went to the bathroom.

4 Q And tell me, what's the next thing you remember? You  
5 went in the bathroom and what happened next?

6 A I was washing my hands while I was in the bathroom  
7 and he left. And then, I was washing my hands and he came  
8 back into the room and I left.

9 Q So when you're washing your hands, how can you see if  
10 he comes back?

11 A The sink wasn't in the bathroom. It's out --

12 Q So it's kind of in the bedroom?

13 A Yes, ma'am.

14 Q So where the toilet and bath are, there's a different  
15 room? Is that -- am I understanding that?

16 A Yes, ma'am.

17 Q Okay. So you're washing your hands and he comes back  
18 in. Tell me what happens next.

19 A I leave and fall back asleep on the recliner.

20 Q Back in the recliner? So in what is that recliner in  
21 that you go back to?

22 A The living room.

23 Q And when you go out to the living room, who's in the  
24 living room?

25 A Minor and C.D.

1 Q And do they both stay out in the living room with  
2 you?

3 A No, ma'am.

4 Q Tell me what happened.

5 A C.D. was still asleep and Minor went back.

6 Q Went back where?

7 A Into the room. My grandparents room.

8 Q And did you talk with her at that time?

9 A No, ma'am.

10 Q So you woke up from a nap, went to the bathroom, then  
11 came back and went back to sleep?

12 A Yes, ma'am.

13 Q What's the next thing you remember?

14 A Getting tapped on the leg and ask me -- and he asked  
15 me if I wanted to go in the sprinklers.

16 Q And who's he?

17 A My grandfather.

18 Q And did you go in the sprinklers?

19 A Yes, ma'am.

20 Q Who else -- did anybody else go in the sprinklers?

21 A Yes, ma'am.

22 Q And tell me about that.

23 A Minor and C.D. went into the sprinklers with me.

24 Well, C.D. went into the sprinklers with me. Minor  
25 was like in front of the step.

1 Q She was outside?

2 A Yes, ma'am.

3 Q And in front of the steps, where is that? Is that in  
4 front of the house?

5 A Yes, ma'am.

6 Q So she's outside the house?

7 A Yes, ma'am.

8 Q Okay. My question wasn't clear. So she's outside  
9 the house. And so you were playing in the sprinklers.  
10 Can you tell me what happens next?

11 A We go back in the house and he sits on the recliner  
12 -- my grandfather sits on the recliner and kind of like  
13 falls out and says that he's not feeling good and that he  
14 was sick. And then, so like he got up and like tumbled  
15 into his room onto his bed. And I got him a wet rag and  
16 some water, and Minor called my dad, and C.D. was  
17 helping me and her.

18 Q So you were trying to help him? Does he --

19 A Yes, ma'am.

20 Q You said he kind of stumbles?

21 A Yes, ma'am.

22 Q And what's C.D. doing?

23 A C.D. 's kind of like helping me fix the water and  
24 all, and then she went to Minor .

25 Q So when all of this is happening with your grandad,



1 there's only the three of you all in the house?

2 A Yes, ma'am.

3 Q And does anybody come to the house after Minor  
4 makes the phone call?

5 A Yes, ma'am.

6 Q Who comes?

7 A My dad and my grandmother, and then like the police  
8 and the ambulance.

9 Q What do you do while the police and the ambulance are  
10 there?

11 A I sit on the couch and watch everything.

12 Q And do you stay in the house the whole time?

13 A Yes, ma'am. Well, we go outside with the ambulance a  
14 few times. We were like in and out.

15 Q Okay. And so, you go out to the ambulance, too?

16 A Yes, ma'am.

17 Q B.D. , do you recall how old you were when this  
18 happened?

19 A I think I was 10.

20 Q You think you were 10? Okay. Do you recall how old  
21 C.D. was when all of this happened?

22 A Six.

23 Q And you indicated earlier -- is this the last time  
24 you were at your grandparents house?

25 A Yes, ma'am.

1 Q Is this the last time that you visited and played  
2 with your grandparents?

3 A Well, we go see my grandmother sometimes.

4 MS. USRY: Beg the Court's brief indulgence, Your  
5 Honor.

6 THE COURT: Sure.

7 MS. USRY: Nothing further. B.D. , answer any  
8 questions that Defense may have. Okay?

9 THE WITNESS: Okay.

10 CROSS-EXAMINATION

11 By Mr. Chehoski:

12 Q Is it okay if I call you B.D. ?

13 A Yes, sir.

14 Q All right. My name is Mr. Chehoski. You can call me  
15 Mr. Jason. I just have a favor before we get started.  
16 This won't take long. If I go too fast, I sometimes do  
17 that, just tell me to slow down or repeat the question.  
18 Okay?

19 A Yes.

20 Q And if you need a break, if you need a drink of  
21 water, just let us know and we can get you that. Okay?

22 All right. B.D. , you said that you were pretending  
23 to be asleep on the couch?

24 A Yes.

25 Q All right. And that you were pretending to as a joke

1 on your grandfather?

2 A No.

3 Q No?

4 A No. I was -- me and C.D. were just pretending to  
5 go to sleep to make Minor look like she was a good  
6 babysitter.

7 Q Okay. All right. Not as a joke on your grandfather  
8 though?

9 A Yeah.

10 Q Okay. And you said that when you woke up, Minor  
11 came out of the bedroom --

12 A Uh-huh.

13 Q -- before you went in; is that right? And do you  
14 recall how long you'd been asleep?

15 A No, sir.

16 Q All right. So -- and let me make sure that you were  
17 not in the bedroom with Minor at the same time?

18 A No, sir.

19 Q All right. And I don't know if you remember. Do you  
20 remember what Minor was wearing?

21 A No, sir.

22 Q All right. Do you remember talking to the Dickerson  
23 Center -- to folks at the Dickerson Center about this in  
24 October of 2016?

25 A No, sir.

1 MR. CHEHOSKI: All right. One moment, please, Your  
2 Honor.

3 THE COURT: Okay.

4 Q All right. Do you remember -- do you think it might  
5 have been she was wearing a pink shirt and blue jeans?

6 A Yeah.

7 Q Does that refresh your memory?

8 A Yes, sir.

9 Q And is that right?

10 A Yes, sir.

11 Q All right. And when you left the bedroom, Mr. Davis  
12 was still in it?

13 A Yes, sir.

14 MR. CHEHOSKI: All right. Thank you. That's all the  
15 questions I have.

16 THE COURT: Ms. Usry, anything else?

17 MS. USRY: Nothing further for this witness. Thank  
18 you, Your Honor.

19 THE COURT: All right, young lady. You may step  
20 down.

21 (Whereupon, the witness stepped down from the witness  
22 stand.)

23 MS. FULLER: Your Honor, the State calls Edward  
24 Davis, Jr.

25 Edward Davis, Jr., being

1 first duly sworn, testified as follows:

2 MADAM CLERK: Have a seat, please, sir.

3 THE WITNESS: All right.

4 MADAM CLERK: And once you're seated state your full  
5 name, spelling your last.

6 THE WITNESS: Yes, ma'am. Edward Davis, Jr.,  
7 D-a-v-i-s.

8 DIRECT EXAMINATION

9 By Ms. Fuller:

10 Q Mr. Davis, are you Minor 's father?

11 A Yes, ma'am.

12 Q How about Mr. Davis, Sr. that is on trial today, what  
13 is your relationship to him?

14 A That is my father.

15 Q Before the reason why we're here today, can you  
16 describe your family life and relationship --

17 A Yes.

18 Q -- before this?

19 A We were a very tight family. We went to church  
20 together on Sundays, we ate Sunday dinners together, my  
21 kids would spend every other weekend over there, my father  
22 and I would work together in yards. We just were a very,  
23 very tight and close family.

24 Q I want to show you State's Exhibit 3 and ask if you  
25 recognize this.

1 A Yes, ma'am. I grew up there from the age of 10.

2 Q So this is where you lived with your parents?

3 A Yes, ma'am.

4 Q And we learned earlier, that's Ms. Wendy?

5 A Ms. Wendy Davis and Mr. Edward, Sr.

6 Q And when your -- your children -- and what are their  
7 names?

8 A Minor , B.D. and C.D. .

9 Q When they would spend time with their grandparents,  
10 is that the house they would go to?

11 A Yes, ma'am.

12 Q Looking at State's Exhibit 4, do you recognize this?

13 A Yes, ma'am.

14 Q On this diagram, there are two bathrooms listed on  
15 here?

16 A Uh-huh.

17 Q Which bathroom was primarily used in this home?

18 A The master bathroom in my parents room.

19 Q And what about the -- this other bedroom? Whose room  
20 was that?

21 A That was my room growing up. It was only a sink and  
22 a toilet in there and in my later teenage years, I kind of  
23 messed up the plumbing. So it didn't work.

24 Q Okay. So if the kids -- when they were staying and  
25 needed to use the bathroom --

1 A It'll be in the master bedroom. My parents bedroom.

2 Q I want to speak specifically now about the day of  
3 this incident. Do you recall your children spending the  
4 night with your parents?

5 A Yes, ma'am.

6 Q Can you tell me about that morning? What, if  
7 anything, do you remember?

8 A Well, I left out that morning to go to my great  
9 uncle's house and I was over there. And then, I got a  
10 phone call from Minor saying that something's wrong with  
11 Papa, I need to come over there. She said he's passed  
12 out... He's alive and he's breathing, but I need to come  
13 over there and check on him. And that's all I heard and I  
14 hung up the phone and was there.

15 Q Okay. And so you actually arrived at the house?

16 A Yes, ma'am.

17 Q And did you get to interact with your dad on that  
18 day?

19 A I did.

20 Q And how would you describe him?

21 A I could tell something was wrong. I couldn't quite  
22 -- I don't know what was wrong. But he kind of had a  
23 dazed look in his eyes and he looked like he just wasn't  
24 feeling well.

25 Q Now, after that, were you still present when -- we

1 heard testimony that first responders arrived on the  
2 scene. Were you still there?

3 A Yes, ma'am.

4 Q And ultimately there was a disclosure made in this  
5 case. Now, without telling me what was said, do you  
6 recall your daughter speaking with law enforcement that  
7 day?

8 A Yes, ma'am.

9 Q Can you tell me, were you actually present for the  
10 conversation?

11 A For the beginning part of it.

12 Q And you mentioned the beginning. Well, for that  
13 portion, do you recall her demeanor and how she looked?

14 A Yeah. She was -- she was shaking. She was very  
15 disturbed.

16 Q And you said for the beginning part. What happened?

17 A She started explaining to Officer Platt, a first  
18 responder and myself about what took place --

19 Q Okay.

20 A -- in the home.

21 Q And without saying -- just so we're clear, without  
22 saying what was said. And what do you recall? What did  
23 you do next?

24 A I headed up the steps to go and confront -- to find  
25 out -- confront my father to find out what is this my



1 daughter is saying about him.

2 Q And were you able to do that?

3 A No, ma'am.

4 Q How would you describe your state of mind at that  
5 point?

6 A There was anger, there was confusion, there was -- I  
7 was hurt. I just didn't know what to do.

8 Q After that point, what changes have taken place in  
9 your family?

10 A We're down to just us.

11 Q I'm sorry. You said you're down to what?

12 A Just us five now.

13 Q What about Minor ? And you can take your time. If  
14 you need a break, just let me know.

15 A My daughter, her drive wasn't the same, her focus.  
16 She just -- she was insecure of herself. I can tell, you  
17 know. When we were at home, she'd get out the shower and  
18 she'd have on like so many layers of clothes at home  
19 around her family when she's supposed to be safe and feel  
20 safe.

21 Q How has this changed you?

22 MR. CHEHOSKI: Objection, Your Honor.

23 THE COURT: I'll sustain that.

24 Q What changes have you made for your family and for  
25 Minor ?

1 A For my family, I feel like I let my children down, so  
2 I stopped working. I became a stay-at-home dad so I could  
3 take them to school and pick them up. Any activities, I  
4 have to be there and I don't leave them nowhere alone.

5 Q I know this is a lot, but there's been some mention  
6 that -- just one brief question for you that I neglected.  
7 On that day when you actually saw Minor , do you remember  
8 what she was wearing?

9 A No, ma'am. I don't. That wasn't my main concern.  
10 Just my child's well-being.

11 MS. FULLER: Okay. Beg the Court's indulgence. No  
12 further questions at this time.

13 CROSS-EXAMINATION

14 By Mr. Chehoski:

15 Q Mr. Davis.

16 A Yes, sir.

17 Q I just have a couple of questions for you. On the  
18 day of July 12th of 2016 after you got the phone call, you  
19 did ask your father a question; is that correct?

20 A Not after I got the phone call. I did not.

21 Q You did not ask him why -- why he molested your  
22 daughter?

23 A This was during the process after the EMS and  
24 everybody else was there.

25 Q Right.

1 A Yes.

2 Q Yeah. During this whole process --

3 A Yes. I did.

4 Q -- you did ask him that?

5 A I did.

6 Q And was his response immediate?

7 A Yes.

8 Q Was -- did he admit that he did that?

9 A No.

10 Q Did he deny that he did that?

11 A Right.

12 MR. CHEHOSKI: All right. That's all, Your Honor.

13 Thank you.

14 MS. FULLER: No redirect, Your Honor.

15 THE COURT: All right. Mr. Davis, you may step down.

16 THE WITNESS: Thank you, sir.

17 (Whereupon, the witness stepped down from the witness  
18 stand.)

19 THE COURT: All right, folks. The lawyers are  
20 telling me they need a break. They got to get a witness  
21 in here. Anyway, step back in the jury room and we'll  
22 have you back out here in a few minutes.

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

25 THE COURT: We will take a break.

1 (Whereupon, a short break was taken.)

2 THE COURT: All right. Ready?

3 MS. FULLER: The State's ready, Your Honor.

4 THE COURT: All right.

5 (Whereupon, the jury came into open court at  
6 approximately 2:45 p.m.)

7 THE COURT: All right. Call your witness.

8 MS. FULLER: Thank you, Your Honor. The State calls  
9 Detective Hayli Livingston Hoover.

10 Hayli Livingston Hoover, being  
11 first duly sworn, testified as follows:

12 MADAM CLERK: Have a seat, please, ma'am. Once  
13 you're seated, state your full name, spelling your last,  
14 please.

15 THE WITNESS: Hayli Livingston Hoover, H-o-o-v-e-r.

16 DIRECT EXAMINATION

17 By Ms. Fuller:

18 Q Detective Livingston, where are you currently  
19 employed?

20 A The Lexington County Sheriff's Department.

21 Q And how long have you been employed there?

22 A January of 2015.

23 Q And how long have you been in law enforcement?

24 A Nine years.

25 Q Where were you prior to the Lexington County

1 Sheriff's Department?

2 A The Irmo Police Department.

3 Q And how long were you there?

4 A Six and a half years or so.

5 Q And prior to becoming a law enforcement officer, what  
6 did you do?

7 A Well, while in school, in college, I worked as a  
8 technician in the emergency room at Newberry Hospital and  
9 I also worked for Newberry County EMS for seven years.

10 Q And so, becoming a law enforcement officer was a  
11 career change for you?

12 A Very much so.

13 Q And why did you do that?

14 A On my last year prior to graduating with all  
15 intention of going to med school, I ran an EMS call  
16 involving two young ladies that were being victimized at  
17 home. I was their first disclosure. I didn't know what  
18 that meant. I was 18 at the time or 19, but I watched how  
19 it all unfolded with law enforcement and I just developed  
20 this passion for helping kids. And so I switched careers  
21 at that point.

22 Q And as a detective, what kind of detective are you?

23 A I'm currently assigned to a Federal grant, which only  
24 allows me to investigate child abuse, physical and sexual,  
25 as well as vulnerable adult abuse.

1 Q What type of training do you have for that  
2 specialized section of law enforcement?

3 A I hold several certifications from numerous classes  
4 that specialize in the investigation, prosecution,  
5 interviews of child abuse, physical and sexual, to include  
6 Child First, which you guys heard Elise talk about. Our  
7 team is certified to do the child friendly interviews as  
8 well.

9 Q For investigating child abuse cases, what's your  
10 general approach?

11 A So initially the road which you saw Deputy Platt,  
12 they go to the scene, they do minimal investigations, they  
13 take a report. The report is put into a database that we  
14 call the Hopper. An investigative sergeant -- four of  
15 them actually then go through them and assign them  
16 accordingly to whichever investigator fits the parameters  
17 of whatever the case is.

18 Q And once the case is assigned to you, what's your  
19 normal procedure?

20 A Well, it's case specific. I can't put them all into  
21 one category. But generally, the first thing that I do is  
22 read the initial report and any statements, evidence or  
23 photographs that are uploaded. And then I make contact  
24 with the victim's parent or guardian and discuss the  
25 process with them.

1 Q We're here on the case of Edward Davis, Sr. Do you  
2 -- were you the one assigned to this case?

3 A I was.

4 Q And once you received this case, what did you do?

5 A I made contact with the victim, Minor 's mother,  
6 Kathleen. I introduced myself and I gave her kind of a  
7 brief synopsis of what would be to come depending on what  
8 happened. I then explained to her that I would like  
9 Minor to participate in a child friendly interview at  
10 the Dickerson Center. She agreed and I sent an intake to  
11 the Dickerson Center to have them schedule it for her.

12 Q And we know that interview was actually scheduled.  
13 What is the purpose of sending a child to the Dickerson  
14 Center versus you conducting that child friendly interview  
15 yourself since you do have the same training?

16 A Well, the interviewers at the child advocacy centers  
17 all over the country are proficient in these interviews.  
18 That's all they do every day. So I would leave it to the  
19 hands of somebody that I knew was more proficient at it.  
20 Also, it keeps us from inadvertently asking questions that  
21 we shouldn't, because we do have prior knowledge of the  
22 case that they don't always have.

23 Q So it's safe to say that this is a investigative tool  
24 that law enforcement relies on?

25 A Yes.

1 Q Go ahead and take the jury, basically, through your  
2 investigation. After this, what did you do?

3 A So after I spoke with Kathleen and we got the  
4 interview scheduled, I was unfortunately unable to make it  
5 to observe the interview this time due to our caseload.  
6 So we get a written synopsis by the interviewer that kind  
7 of summarizes what goes on in the interview. We also get  
8 a DVD, which is the audio -- excuse me, audio/video of the  
9 interview. After I got Minor 's back, I read over the  
10 synopsis, I watched the video, and then from there I  
11 determined that I wanted B.D. to participate in one  
12 also. So I contacted Mr. Davis this time, I believe, and  
13 he said that that would be okay and I sent another intake  
14 to the Dickerson Center to have B.D. interviewed. Do  
15 you want me to keep going?

16 Q Yes.

17 A After I got B.D. 's interview back, I read  
18 everything again and that's when I reached out to the  
19 Defendant to ask if he would be willing to talk to me. I  
20 did so on the phone. I introduced myself, I told him that  
21 I was investigating a report in which he was named and I  
22 asked if he would be willing to come in voluntarily and  
23 speak to me. He stated he would and he asked if he could  
24 come -- that was on the 27th of October of 2016. He asked  
25 if he could come at 2:00 p.m. on the 28th.



1 Q And so, let me stop you there. Just to be clear, at  
2 this point, were there any arrest warrants for Mr. Davis?

3 A There were not.

4 Q And you mentioned that he selected the date and time.  
5 Where was he supposed to meet you?

6 A The lobby of the Sheriff's Department on Gibson Road.

7 Q And you said this was on October 28th. --

8 A 28th --

9 Q -- of 2016?

10 A Yes, ma'am.

11 Q Can you tell the jury whether or not he appeared that  
12 day?

13 A He did.

14 Q And explain to the jury what happened when he  
15 appeared.

16 A As our protocol, we generally try to have two  
17 investigators when we interview somebody who's listed as  
18 an offender just for safety reasons. So myself and  
19 another detective, Detective Booth, made contact with Mr.  
20 Davis in the lobby. We introduced ourselves, we asked him  
21 if he would go to an interview room with us so that we  
22 could speak privately, he said that he would. Once we got  
23 into the interview room --

24 Q Detective --

25 A I'm sorry.

1 Q Let me slow you down for a second --

2 A Sorry.

3 Q Okay. So you meet with Detective Booth. I'm sorry.

4 You can pick up where you were. Just slow down --

5 A Okay.

6 Q -- just a little bit.

7 A So we escorted him to the room. Once inside the  
8 interview room, we introduced ourselves more in depth than  
9 in the lobby of the Sheriff's Department. I asked him  
10 what name he preferred to be called and he told me Eddie.  
11 We then -- or I then explained to him that he was here  
12 strictly voluntarily. I let him pick a seat in the room  
13 at the table. I told him that at any time if he felt like  
14 he needed to get up, he wanted to call an attorney, he  
15 wanted to leave, he didn't want to talk anymore, whatever  
16 the case was, he had that option. He acknowledged that he  
17 understood that. I then took one of our written statement  
18 forms that has Miranda on it, placed it on the table --

19 Q Let me stop you there. You said Miranda. What is  
20 Miranda?

21 A Miranda is -- it's basically the rights of a  
22 Defendant or a suspect that enables them the right to not  
23 speak to us, to ask for legal counsel, to not speak to us  
24 until they ask for legal counsel. That type of thing.

25 Q Okay. And were there any threats or promises made to

1 him at this point?

2 A No.

3 Q Did he appear to be in his right mind when he spoke  
4 with you?

5 A He did.

6 Q And you mentioned you placed a statement form in  
7 front of him with Miranda on it. Did he understand those  
8 rights?

9 A He said he did.

10 Q And you said this is the -- basically, the right to  
11 remain silent --

12 A Right.

13 Q -- if you want an attorney, you can have one?

14 A Yes, ma'am.

15 Q Okay. At that point, did you actually speak with  
16 him?

17 A I did. He stated he still wished to talk.

18 Q Okay. And can you -- if you remember, how did you  
19 begin that interview?

20 A I asked him if he knew why I'd asked him to come in  
21 and he told me he did not. His exact words were, no  
22 ma'am, not really. I explained to him that on July 12th  
23 of 2016, a report was filed in which allegations were made  
24 and that the report was actually initiated because of  
25 statements that he made to first responders, EMS

1 personnel. He told me he didn't know what I was talking  
2 about. I further explained that what I was referring to  
3 was where he made a reference that he, quote, "touched his  
4 granddaughter inappropriately," in front of first  
5 responders. And he said, I never said anything like that.  
6 I asked, again, why three first responders would complete  
7 written statements saying that he did if he did not, in  
8 fact, say that stuff. And his reply was, quote, "Well, I  
9 said something like that. I said I accidentally touched  
10 my granddaughter inappropriately."

11 Q Okay. The word inappropriate, did that -- those are  
12 in your notes, because I see you looked down. Is that a  
13 word that you mentioned while questioning him or was the  
14 first time the word came up was out of the Defendant's  
15 mouth?

16 A Initially, it did not come up. I asked him -- I read  
17 it straight from the statement -- straight from the report  
18 that were his words, and that's --

19 Q And the report -- report that you had stated that he  
20 inappropriately touched his granddaughter?

21 A Yes.

22 Q And then, you asked and then he replied?

23 A Right.

24 Q Take me from there. Did the interview continue?

25 A It did.

1 Q And what happened next?

2 A I asked him an open-ended question. I asked him to  
3 tell me what happened that day or discuss that day, and he  
4 told me that he and his wife left for work about 9:00 a.m.

5 Q Slow down just a little bit. I'm sorry.

6 THE WITNESS: Sorry, guys.

7 A That his grandchildren, Minor , B.D. and  
8 C.D. had all spent the night the night of the 11th.  
9 The night prior. He told that at about 9:00 a.m. that  
10 morning of the 12th, he and his wife left for work. He  
11 went to do landscaping. He didn't specify what his wife  
12 did. He said when he got home at about 11:00, he secured  
13 all of his lawn equipment in the back yard and he turned a  
14 sprinkler on in the front yard. He said that when he  
15 entered the house, he -- Minor , quote, "jumped up, ran  
16 over to him, and then hugged and kissed him on the jaw."

17 Q I'm going to stop you there. I just have a couple of  
18 questions.

19 A Okay.

20 Q Did he say that he heard the girls were up in the  
21 house playing? Is that what he told you that day?

22 A Yes. I'm sorry. He said that he heard them playing  
23 inside.

24 Q And he mentioned -- he said Minor jumped up. So  
25 he's saying that she was awake when he got in the home?

1 A Yes.

2 Q Did he tell you where this was? Whether this was in  
3 the living room or he didn't mention?

4 A He didn't say. He just said when he walked in the  
5 door.

6 Q Okay. And what did he say after that?

7 A He told me that after she -- or while she was kissing  
8 him on the jaw, he hugged her and that his hands, quote,  
9 "fell down her back and hit her butt."

10 Q Okay. So would that mean that -- he said the kids --  
11 the girls were playing inside. So they were up. So this  
12 would have taken place in front of the children? The  
13 other two.

14 A That's how I understood it.

15 Q And did the interview continue after that?

16 A It did.

17 Q And what else did he say?

18 A He then stated that after the incident occurred,  
19 Minor told -- said to him, Papa, you grabbed my butt and  
20 I'm going to tell. He said that he told Minor that he  
21 did not do that, and then he walked to the bedroom to  
22 watch TV.

23 Q Let me clarify that because I might be confused. He  
24 said -- he's telling you that she jumped on him and his  
25 hands fell and hit her butt. And then when she questions

1 him, he tells her I did not hit your butt?

2 A Correct. That's what he told me.

3 Q Okay. And what else did he say?

4 A He said that while he was in his bedroom watching TV,  
5 and then he explained that he has a chair and a TV in his  
6 room that he goes to, that B.D. came into the room to  
7 use the bathroom that's inside of his bedroom. He said  
8 that once B.D. was done, he asked the girls, all three  
9 of them, if they wanted to go play outside in the  
10 sprinkler. They said that they did, and he took them out  
11 to play. Once they were done playing, he said he had them  
12 go in one at a time and change clothes while he stayed  
13 outside with whichever two weren't inside. He told me  
14 that he does this for his own comfort.

15 Q I'm sorry. He stated he does this for his own  
16 comfort. What did that mean?

17 A When I questioned him further, he evaded the  
18 question, but he said that he only sends them in one at a  
19 time for his own comfort.

20 Q Okay. And what else did he say?

21 A He said that when they all got changed, they went  
22 back inside. He started to feel sick, at which time, he  
23 told Minor , and this was his quote, "he was sorry for  
24 touching her like that." He told me he then must have  
25 , passed out because he doesn't remember anything else until

1 EMS was there.

2 Q When he is disclosing all of this to you and  
3 reporting this to you, were you asking any specific or  
4 pointed questions or was it still that open-ended style --

5 A Not --

6 Q -- of questioning?

7 A Not at that time. It was open-ended.

8 Q At any point did it switch to a pointed questions?

9 A It did.

10 Q And what type of pointed questions did you ask?

11 A I asked him to tell me about what happened in the  
12 bedroom with Minor. He denied ever being in the bedroom  
13 with her. I asked him if an incident took place while

14 Minor was showering and he told me that Minor never  
15 took a shower at his house. And that, quote, "While EMS  
16 was there, his wife checked and the shower was dry."

17 Q Did you ask him any other questions or was that --

18 A I did.

19 Q Okay.

20 A I asked him why Minor would say these things and  
21 why these allegations would have come out --

22 MR. CHEHOSKI: Your Honor, I'd have to object at this  
23 point per the statements that we talked about right before  
24 lunch.

25



1           (Whereupon, a bench conference was held in the  
2           presence of the jury but out of the hearing of the  
3           jury.)

4       Q     I'm sorry, Detective Livingston. You said you asked  
5           him one more question, or another question?

6       A     Yes.

7       Q     And what was his response?

8       A     He said, she tries to act like my wife and will sit  
9           on the couch and wink at me while she licks her lips. He  
10          went onto say after that that he does not even allow his  
11          grandchildren to sit on his lap or hug him because, quote,  
12          "it makes him uncomfortable."

13      Q     And this was in response to the allegation? This is  
14          --

15      A     This is in response to why she would say this if it  
16          weren't true.

17      Q     Was that the extent of your interview?

18      A     No. It was not.

19      Q     What happened next?

20      A     I then took the statement form that I'd previously  
21          laid on the table. There is a portion of it at the top  
22          that asks for the date, time, location, detective's names  
23          and what agency they're from. I always fill that part out  
24          because I don't expect a suspect to know all of that. I  
25          filled that portion out. I asked him if he would be

1 willing to write a statement about the details that we had  
2 discussed. He told me that he would. I then had him fill  
3 out the rest of the top, which is like his demographics.  
4 His name, birthday, address, phone number, stuff like  
5 that.

6 Q I'm going to stop you for one second --

7 A Okay.

8 Q -- and I'm going to show you State's 2, and I did  
9 have a question. You mentioned he said something about he  
10 doesn't let his grandchildren sit on his lap. Was that  
11 another pointed question --

12 A No.

13 Q -- about Minor sitting on his lap?

14 A No. That was one fluid answer to why would she say  
15 these things.

16 Q Okay. You mentioned a statement form. I'm going to  
17 show you State's Exhibit 2. Do you recognize this?

18 A I do.

19 Q And you were beginning to describe completing the top  
20 of the statement form?

21 A Correct.

22 Q How do you recognize this form?

23 A That's the statement that he completed that day.

24 Q Okay. And his name is on this statement?

25 A It is.

1 Q And did he sign this statement?

2 A He did.

3 Q And did you collect -- was this statement collected  
4 in your presence?

5 A Yes.

6 MS. FULLER: At this time, Your Honor, the State  
7 seeks to move State's Exhibit 2 into evidence.

8 MR. CHEHOSKI: Without objection.

9 THE COURT: State's 2 is in without objection.

10 (Whereupon, State's Exhibit number 2 was admitted  
11 into evidence.)

12 Q You -- I think you were getting to the Miranda  
13 portion?

14 A Yes. On the form, it has Miranda rights. We ask  
15 that -- when someone's filling this out, that they initial  
16 next to each one indicating that they understand it. And  
17 at the very bottom of that portion it -- you basically  
18 initial, saying that you're still willing to give a  
19 statement, which he did. He then -- as he began writing  
20 the statement, I excused myself to confirm some of the  
21 things that he had told me during the interview. When I  
22 re-entered --

23 Q You can keep going.

24 A Once I was able to confirm some of the things, I  
25 stepped back into the room to advise him of the

1 information I had discovered.

2 Q And was anything else said verbally at that point?

3 A Yes.

4 Q And not from what you learned, but from in the room  
5 from the Defendant?

6 A Only in regards to what I told him I learned.

7 Q And what did he say?

8 A They must all be against me, except my son. We even  
9 went to the barber shop a couple weeks ago.

10 Q Regarding his actual statements; was he able to  
11 actually write this statement?

12 A He did.

13 Q And was this done -- was the written statement done  
14 before or after the verbal statement that was given to  
15 you?

16 A It was at the very end as I stepped out to confirm  
17 the things he'd said.

18 Q And who was left in the room?

19 A Detective Booth.

20 Q And did you enter back in the room while the  
21 statement was still being --

22 A Yes.

23 Q -- completed?

24 A Yes.

25 Q Would you mind publishing the statement to the jury?

1 A "I got home about 11:00 a.m. I --" can't read the  
2 word, "-- move her in the back yard. Put the water on the  
3 grass. Went in the house. I said, your were in here  
4 playing. Minor jump up and hug me and kiss me on my  
5 jaw. My hand hit her butt. She said, Papa, you felt my  
6 butt. I said, Minor, you know I did not do that. I am  
7 going to get you for that. I went to my bedroom to look  
8 at the TV. I said, let me go and move that water. I went  
9 back in the house, in my room and sat down. Then

10 B.D. came in the room. I said, do your all want to  
11 play in the water. They said, yes. We played in the  
12 water, went back in the house, then I got sick."

13 MS. FULLER: Beg the Court's indulgence. Your Honor,  
14 I'm sorry. I didn't remember if I'd moved the statement  
15 into evidence.

16 THE COURT: You did.

17 MS. FULLER: I'm sorry.

18 Q I know I went over this verbally, but also in  
19 writing, did he write admitting that his hand hit her butt  
20 when she jumped up, but then also in the same statement  
21 indicate that he told her that he didn't?

22 A Yes.

23 Q And that's also in writing?

24 A Correct.

25 Q Is there anything else -- there's two more pages to

1 this statement. Can you please publish that?

2 A I'm sorry. He initialed at the bottom and I failed  
3 to read the top part. He wrote, "Then, I said, I need to  
4 get to my bed. They' said, no, Papa. I said, yes, I need  
5 to lay down. That was the last thing I remember." After  
6 he completed his portion, oftentimes we do what's called a  
7 Q and A, or question and answer with people. It applies  
8 to anybody that we interview. Oftentimes, you know, if  
9 things are left out, then we can actually write a question  
10 and have them write a response to it. Do you want me to  
11 read those?

12 Q Yes.

13 A Okay.

14 Q And what questions were asked.

15 A The question was, "What do you feel should happen to  
16 someone who has done these things, the things that are  
17 alleged." He said, "He should punish. If he did  
18 something like this, give them a fine to pay."

19 Q Okay. And the next question?

20 A The next question was, "Did you grab Minor 's butt?"  
21 His answer, "Hugged her and my hand hit her butt, and if  
22 it rest on her, it did not -- I did not know."

23 Q And the next question?

24 A "Did you kiss her when she was in your bedroom?"

25 "No."

1 "Did Minor kiss you while in your bedroom?"

2 No. She kissed me in the living room."

3 "Did you cut the lights off of -- did you cut the  
4 lights off when Minor was in the shower?"

5 "No."

6 "Did you get in the shower with Minor?"

7 "No way."

8 "Or try to?"

9 "No."

10 "Was Minor upset with you?"

11 "She was a little upset and I told her that I was  
12 sorry for touching her like that."

13 "What did you tell EMS when they were at your house?"

14 Answer, "I accidentally and touch her on the butt."

15 "Is there anything that you have not told us about or  
16 any question that we have not asked?"

17 "No. All that I thought that I should answer. I am  
18 so sorry that all of this has happened and I want my  
19 family back together and I love you all very, very much."

20 End of statement.

21 Q Did that complete the interview?

22 A It did. No, it did not. I requested his -- he to  
23 sign a medical release form and then he did.

24 Q Okay.

25 A Sorry.

1 Q While you were interviewing him, is there anything  
2 that you observed about his demeanor?

3 A Yes.

4 Q And what is that?

5 A He appeared much more calm than most people in that  
6 situation. He was very relaxed in the chair. Didn't get  
7 upset. He almost pitched us his story as like a sales  
8 pitch. Like a rehearsed sales pitch. Like a salesman.

9 MR. CHEHOSKI: Objection, Your Honor. That's --

10 THE COURT: Sustained.

11 MR. CHEHOSKI: Move to strike.

12 THE COURT: Folks, since I sustained the objection,  
13 you all disregard the last answer. Ask your next  
14 question.

15 Q Was there anything else, without opinion, about his  
16 demeanor that you observed, that you saw for yourself?

17 A He smirked a lot when we would discuss the  
18 wrongdoings. I mean, at certain points, almost the worst  
19 they got, the more he would smile versus smirk.

20 Q Okay. Where did your investigation take you next?

21 A After I interviewed Mr. Davis, I then called Kathleen  
22 and asked if I could speak to Minor. This is called a  
23 minimal fact-find followup and it's very typical in these  
24 type of cases.

25 Q And in this particular case, why was that necessary?



1 Why was it conducted?

2 A As with most cases, while the interviewers at the  
3 child advocacy centers do a very good job, they aren't law  
4 enforcement. So sometimes they fail to ask specific  
5 details that we would need for a search warrant or arrest  
6 warrant. And that's why I called and requested to speak  
7 to her.

8 Q In this particular case, when you -- did you actually  
9 speak to Minor ?

10 A I did.

11 Q And just a specific question. What, if anything, did  
12 Minor tell you concerning the actual time of when this  
13 sexual assault occurred?

14 A She said it was July 12th, 2016.

15 Q And specifically, when you were speaking with her  
16 concerning the actual place that it occurred, did she  
17 disclose that to you?

18 A She did.

19 Q And where did she say it occurred?

20 A She mentioned the bed twice, a chair in the bedroom  
21 and the shower at her grandparents house.

22 Q What -- what else did you do in this case?

23 A After I spoke to everyone that I needed to speak to,  
24 I then reviewed everything that I had again, at which  
25 point I came to the conclusion that I would be seeking

1 warrants.

2 Q And did you seek a warrant in this case?

3 A I did.

4 Q And what was that warrant for?

5 A Criminal sexual conduct with a minor in the third  
6 degree.

7 Q And what was the basis? What made you make that  
8 decision to obtain a warrant in this case?

9 A Law enforcement often operates off of what's called  
10 the totality of circumstances. The best way for me to  
11 explain that is there's a whole bunch of puzzle pieces  
12 that make up a picture. So, you know, oftentimes, if we  
13 have one or two pieces missing, we can't go forward. In  
14 this particular case, what I deem to be the necessary  
15 puzzle pieces were Minor 's detailed child friendly  
16 interview, as well as certain corroborating factors  
17 offered by B.D. in her interview, as well as the  
18 interview with Mr. Davis who, by his demeanor and  
19 evasiveness and, you know, several inconsistencies that we  
20 were able to catch him in. In our training and  
21 experience, those are often indicative of deception. So I  
22 took all of that and that's when I formulated the warrant.

23 Q When you formulated the warrant, were you able to  
24 obtain his age, as well?

25 A Yes. He was 58-years-old.

1 Q And do you have a date of birth?

2 A I do. One second. [REDACTED] of 1958.

3 MS. FULLER: Thank you. Beg the Court's indulgence.

4 No further questions at this time..

5 CROSS-EXAMINATION

6 By Mr. Chehoski:

7 Q Investigator, is there a difference between grabbed  
8 and hit?

9 A Yes.

10 Q And in this statement, Mr. Davis states that Minor  
11 said he grabbed her butt.

12 A In his written statement?

13 Q Yes.

14 A I'll have to check. Felt.

15 Q Felt my butt. Is there a difference between felt?

16 A Yes.

17 Q And so, could this just be a difference in  
18 interpretation?

19 MS. FULLER: Objection.

20 Q You're saying that at one point, he said --

21 THE COURT: Hold on. Hang on. On what basis?

22 MS. FULLER: Speculation.

23 THE COURT: Why don't you rephrase that.

24 MR. CHEHOSKI: Yes, Your Honor.

25 Q In your interview, you -- your first question was

1 about punishment; is that right?

2 A That was not the first question.

3 Q Well, the first question in the Q and A.

4 A That was a question that was asked. Yes.

5 Q Yes. It's the first one that was written.

6 A Right.

7 Q You did not ask about a suicide threat?

8 A I did.

9 Q Not in the Q and A, you did not?

10 A No. In the Q and A, I did not.

11 Q You did not ask in the Q and A about offering \$80.00  
12 dollars?

13 A I did not.

14 Q You did not ask her -- ask in the Q and A about  
15 buying her things?

16 A Correct.

17 Q All right. You did not record this interview; is  
18 that correct?

19 A Correct.

20 Q Are there audio recording devices at the Sheriff's  
21 Office?

22 A There are now. There were not at the time.

23 Q There were not two years ago? Are there video  
24 recording devices at the Sheriff's Office?

25 A There are now.

1 Q All right. Do investigators have cell phones?

2 A We do.

3 Q Do those cell phones have recording devices on them?

4 A I'm sure they do.

5 Q You did not think to use your cell phone?

6 A It wasn't protocol at the time.

7 Q In the course of your investigation, you became aware  
8 of the existence of a neighbor; is that right?

9 A At some point, I think Minor mentioned a neighbor.

10 Q Yeah. The neighbor's name is Tyrese?

11 A Yeah. I think that's what she told me.

12 Q You did not speak to Tyrese?

13 A I did not.

14 Q Also, at the statement -- and I talked about that  
15 first question that you asked in the Q and A. What was  
16 Mr. Davis' answer again?

17 A "He should punish. If he did something like this,  
18 give him -- give them a fine to pay."

19 Q Okay. The word if, is that capitalized?

20 A Yes.

21 Q Are the other words -- both letters are capitalized?

22 A Yes.

23 Q Are all -- are the letters in the other words  
24 capitalized, all of them?

25 A Just some of them.

1 Q Okay. Some of them, but the if is both capitalized?

2 A Correct.

3 MR. CHEHOSKI: Okay. One moment, please, Your Honor.

4 THE COURT: Okay.

5 Q And just kind of a couple of things -- a couple of  
6 more things. First, Mr. Davis was willing to come talk to  
7 you?

8 A He was.

9 Q And he showed up at the appointed time and date?

10 A He did.

11 Q And when he -- when he asked -- first asked him about  
12 it, he initially, you said, denied it saying that he  
13 hadn't done anything?

14 A He denied knowing what I was talking about.

15 Q Denied knowing what you were talking about?

16 A Right.

17 Q And then, when you told him what -- what your -- what  
18 you been reported and what he had told, what he had told  
19 the first responders he said that he accidentally touched  
20 her?

21 A Correct.

22 Q All right. And in his statement, he said that his  
23 hand -- again, he dropped his hand and it hit her butt?

24 A Yes.

25 MR. CHEHOSKI: Thank you. Nothing further.

1 MS. FULLER: Briefly, Your Honor.

2 REDIRECT EXAMINATION

3 By Ms. Fuller:

4 Q For interviews of potential suspects -- I don't want  
5 to just be so common with it, but do you always show your  
6 hand when you're questioning them? Do you tell them  
7 everything you have against them?

8 A Absolutely not.

9 Q Can you explain that? What's the typical method of  
10 conducting an interrogation or an interview?

11 A For me personally, I don't like to do more  
12 interrogations, which is more pointed, direct questioning  
13 unless I have them in custody. I prefer a more open-ended  
14 approach so that I don't pigeon hole myself into a yes or  
15 no answer, and that's what I did here. We don't -- very  
16 seldom at this point in the investigation would we offer  
17 up any allegations, especially when you have interfamilial  
18 stuff like this. At this point in the investigation, I  
19 didn't feel like it was prudent to tell him everything  
20 that his granddaughter was alleging.

21 Q And that's just standard in how you conduct your  
22 interviews?

23 A Absolutely, yes.

24 Q There was -- just for context purposes, there was  
25 some mention of somebody named Tyrese.

1 A Uh-huh.

2 Q Based on your investigation, could you determine if  
3 Tyrese witnessed this sexual assault?

4 A Minor told me that he may have been outside. I  
5 actually rode by the residence once, couldn't get anybody,  
6 and just didn't attempt contact after that.

7 MS. FULLER: Okay. Thank you. I don't have anything  
8 further.

9 MR. CHEHOSKI: Your Honor, just quickly.

10 RECROSS-EXAMINATION

11 By Mr. Chehoski:

12 Q You said you don't like to end pointed questions on  
13 recross, just a moment ago?

14 A I don't like to use nothing but, yes.

15 Q All right. And -- but you did ask whether or not he  
16 grabbed Minor 's butt, correct?

17 A I asked him to tell me what happened.

18 Q In the Q and A?

19 A Yes.

20 Q "Did you grab Minor 's butt."

21 A After he had gone over everything verbally. Yes.

22 Q And you asked her, again, too -- you said you don't  
23 want to pigeon hole yourself, but you asked about kissing  
24 her in the bedroom?

25 A Correct.



1 Q And about cutting the lights off?

2 A Uh-huh.

3 Q And about getting in the shower?

4 A Yes.

5 MR. CHEHOSKI: All right. Thank you.

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

7 THE WITNESS: Thank you.

8 (Whereupon, the witness stepped down from the witness  
9 stand.)

10 MS. FULLER: Thank you, Your Honor. At this point,  
11 the State rests it's case.

12 THE COURT: I've got a couple things to put on the  
13 record. You all step in the jury room and have a break  
14 and I'll let you know when we're going to finish up this  
15 afternoon. Don't talk about the case yet. We haven't --  
16 I've got to talk to the Defense, see if they're going to  
17 put anything up. Remember, I told you they get to decide.  
18 So you all step in the jury room and don't talk about the  
19 case.

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

21 THE COURT: All right. The State's rested. How much  
22 have you got?

23 MR. CHEHOSKI: Thank you, Your Honor. At this time,  
24 the Defense moves for a directed verdict of not guilty,  
25 incorporating all prior objections and motions. At the

1 end of the State's evidence they have not produced the  
2 existence of sufficient evidence that a reasonable juror  
3 could find the Defendant guilty. And so, the State -- I  
4 keep saying that. The Defense moves for a directed  
5 verdict of not guilty.

6 THE COURT: All right. Considering the evidence the  
7 State has presented in a light most favorable to the  
8 State. They've gotten past the threshold to get past a  
9 directed verdict. The testimony presented presents at  
10 least a question of fact and not just mere suspicion. It  
11 presents enough for the jury to resolve that question of  
12 fact as to whether or not this lewd act occurred or not.

13 MS. FULLER: Thank you, Your Honor.

14 THE COURT: All right. What else you got?

15 MR. CHEHOSKI: Your Honor, at this time, we'd also  
16 request a Fifth Amendment colloquy between the Court and  
17 Mr. Davis.

18 THE COURT: Okay. And also, all of your motions and  
19 bases respectfully are on the record, and would you like  
20 me to re-instruct the jury on that motion to strike, the  
21 comment about --

22 MR. CHEHOSKI: Yes, Your Honor. That's --

23 THE COURT: Remind me of that testimony and I'll tell  
24 them in response to the question, please disregard that  
25 answer. Do not consider it.

1 MR. CHEHOSKI: I'm trying to remember now.

2 MS. FULLER: The question, it was -- it's either on  
3 the line of beyond observations or opinion. But I think  
4 your instruction was enough to bring any more light to it,  
5 which is highlight, and I don't think it was that much of  
6 a problem.

7 THE COURT: Well, that's up to him, though. I mean,  
8 I tend to agree --

9 MR. CHEHOSKI: Yeah. I --

10 THE COURT: I tend to agree with you. If you keep  
11 repeating it --

12 MS. FULLER: Okay.

13 THE COURT: -- then they go, what's so important  
14 about it.

15 MR. CHEHOSKI: Yeah.

16 MS. FULLER: That was -- appeared like he was trying  
17 to sell it --

18 MR. CHEHOSKI: Oh, that. Yeah.

19 MS. FULLER: -- like a salesperson --

20 MR. CHEHOSKI: Right.

21 MS. FULLER: -- or oversell or something like that.

22 THE COURT: He had rehearsed it or something.

23 MR. CHEHOSKI: Yeah. Or that it was -- that it was a  
24 sales pitch.

25 MS. FULLER: I think it was her observation and

1 that's how she articulated it.

2 THE COURT: I mean, if you want me to --

3 MR. CHEHOSKI: No. Your Honor, that's -- again,  
4 that's -- we'll find that a curative instruction at the  
5 time will be sufficient.

6 THE COURT: Very good. All right. So you want me to  
7 speak with your client about testifying or not?

8 MR. CHEHOSKI: Yes, please.

9 THE COURT: All right. Mr. Davis, stand up, please.  
10 Now, I want to go over a couple of rights with you, and I  
11 kind of explained it to the jury. So I'm going to kind of  
12 go over the same rights. You're being indicted for  
13 criminal sexual conduct third, which formally was known as  
14 a lewd act on a minor but it's the same basic parameters..  
15 The certain age -- certain age of the victim and the actor  
16 and a lewd or lascivious touching. The State's presented  
17 evidence, presented witnesses and they believe they've  
18 proven their case beyond a reasonable doubt. The State  
19 has presented all of the evidence they're going to get to  
20 present because they've now rested. The State's got to  
21 prove it's case. You are allowed under the Fifth  
22 Amendment to not testify and to remain silent and you  
23 don't have to present a single witness from your side at  
24 all. What the State's presented, the jury can consider  
25 and they weigh and decide whether or not they believe the

1 State's proved its case beyond a reasonable doubt. Now,  
2 you have a decision to make. If you want to present a  
3 defense, and particularly, do you wish to testify or not.  
4 Now, I want you to know this. If you choose to not  
5 testify that's your constitutional right. Do you  
6 understand that?

7 MR. DAVIS, SR.: Yes, sir.

8 THE COURT: All right. If you want to exercise your  
9 right, I will instruct the jury as am required to do so.  
10 Members of the jury, the State has to prove its case. It  
11 has to prove it to a beyond a reasonable doubt's standard.  
12 A reasonable doubt is defined as the fact that Mr. Davis  
13 chose to not present a defense or to not testify.  
14 Particularly, to not testify. You will not be allowed and  
15 should not discuss his exercising that right in their  
16 deliberations. Okay? So if you decide that you don't  
17 want to testify, that is exactly what I'll tell the jury.  
18 And in fact, it'll be the last thing I'll tell the jury is  
19 they are not to discuss your exercising your Fifth  
20 Amendment right to remain silent at all. They have to  
21 consider the case, guilty or not guilty, on what they've  
22 heard and not your choosing to exercise that right. Do  
23 you understand that?

24 MR. DAVIS, SR.: Yes, sir.

25 THE COURT: Have you had enough time to discuss that

1 with your two lawyers? I mean, I'll give you --

2 MR. DAVIS, SR.: Yes, sir.

3 THE COURT: -- we've got a little break right here  
4 and a lot of times I'll say, okay, please discuss it  
5 further if you want to. Mr. Chehoski, if you all want to  
6 step out --

7 MR. CHEHOSKI: Yeah.

8 THE COURT: -- I mean, you all can step out. We'll  
9 stay in here for a few minutes. You all don't have to sit  
10 here, and you can talk more freely in another room.

11 MR. CHEHOSKI: Thank you. We'll be back in one  
12 moment, Your Honor.

13 THE COURT: You're welcome. That's fine. We'll  
14 stand at ease.

15 (Whereupon, a short break was taken.)

16 THE COURT: Do you all want to argue, charge first  
17 thing in the morning?

18 MR. CHEHOSKI: Yes, please.

19 THE COURT: All right. Well, that's kind of what  
20 they want to do. And that answers the question for Mr.  
21 Williams who came in. We're going to start a trial at  
22 2:00 with them, backing this one up, and that's kind of  
23 why they showed up. So that helps a lot.

24 MR. CHEHOSKI: I imagine so, sir.

25 THE COURT: All right. Let's get the jury in and

1 tell them we're going to start at 9:00 and get this thing  
2 to them promptly. Does that suit you all, 9:00 o'clock?

3 MS. FULLER: Yeah. That's fine. He's going to  
4 officially rest on the record, and then --

5 THE COURT: Yeah. We'll do that. We'll bring them  
6 in.

7 (Whereupon, the jury came into open court at  
8 approximately 3:38 p.m.)

9 THE COURT: All right. Mr. Chehoski?

10 MR. CHEHOSKI: Your Honor, the Defense rests.

11 THE COURT: Okay. That's kind of what I was talking  
12 about. The State's put up its case. The Defense has  
13 chosen to not put up anything, which means the next step  
14 would be for me -- would you like the instruction first or  
15 not? And I've got an instruction ready.

16 MS. FULLER: Today?

17 THE COURT: No. No. Tomorrow. The instruction  
18 first. Do you all care? I mean, you all talk about it.  
19 I don't care.

20 MS. FULLER: I prefer closing first.

21 THE COURT: Okay. I'm trying something new.  
22 Sometimes I'm giving my instructions first and letting the  
23 lawyers summarize second. In the old fashioned way is the  
24 lawyers close and the Judge instructs last. We'll  
25 instruct last unless you all tell me --

1 MR. CHEHOSKI: No objection, Your Honor. Whatever --  
2 whatever the Court feels is best.

3 THE COURT: All right. Good enough. Anyway, I've  
4 just about got my instructions prepared because Whitney's  
5 been working on them even though she was out being trained  
6 on civil court E-Filing this morning, along with Jeff.  
7 They went down to Berkeley and got some real fancy  
8 training. So they're much smarter today than they were  
9 yesterday. Anyway, we're going to do this instruction and  
10 arguing and charge, and I'm doing it for a reason  
11 tomorrow. That way you all won't be on a burden of  
12 looking at your watch and worrying about what we're going  
13 to do tonight. You all are going home momentarily and  
14 we're going to finish up in the morning. Plus, the added  
15 benefit is, if we do it tonight, you all have got to come  
16 back in the morning for trial number two. If we do it in  
17 the morning, that jury comes in tomorrow and you all only  
18 do this. So this is the only trial you all are going to  
19 get. So I'm kind of giving you all a break. The other  
20 panel -- the big group's coming back in and doing trial  
21 number two. Okay? I told you about two trials. You all  
22 are going to get one and once you all are done, you all  
23 are done. Okay? So you all's service will be over  
24 tomorrow. You know, however we got -- so can you all be  
25 in the courthouse by 9:00? Is that too early?



1 MR. CHEHOSKI: We can --

2 THE COURT: That way we can do our -- the three  
3 things. Summarize, summarize, instruct. Now, until you  
4 hear the summaries and my instructions, you're still not  
5 allowed to discuss the case. Okay? See you in the  
6 morning.

7 (Whereupon, the jury was excused from open court at  
8 approximately 3:40 p.m.)

9 August 22, 2017

10 THE COURT: All right. You all ready?

11 MR. CHEHOSKI: Your Honor, before we get started, I  
12 guess, before we bring in the jury, a couple of issues  
13 with jury instructions.

14 THE COURT: Yeah.

15 MR. CHEHOSKI: First, and I'm pretty sure -- I'm  
16 positive this was completely accidental. But there's  
17 nothing in the proposed instructions from the Court  
18 regarding the Defendant's asserting his right -- Fifth  
19 Amendment right to remain silent.

20 THE COURT: That should be in there, you are right.  
21 You can tell me this ahead of time. You don't have to  
22 wait until the last minute at 9:07.

23 MR. CHEHOSKI: Well --

24 THE COURT: I have been in here 20 minutes. You all  
25 know that's my pet peeve is don't wait until after I come

1 in to say oh, by the way.

2 MR. CHEHOSKI: Your Honor --

3 THE COURT: Let's get it done, because the jury's  
4 waiting on you.

5 MR. CHEHOSKI: -- and the other -- and the other one  
6 is just in reference to the Defense's proposed  
7 instructions. I have had an objection to both of them.  
8 As far as the reasonable doubt, Your Honor, I notice the  
9 approved language in Darby. I find -- I think that the  
10 Court's instructions on reasonable doubt is sufficient. I  
11 find that the language regarding very few things that we  
12 know with absolute certainty implies that -- implies a  
13 lessening of what the burden actually is.

14 THE COURT: I don't generally read that one.

15 MR. CHEHOSKI: Okay. And as far as the other one  
16 regarding the statement of Defendant, I object to that.  
17 First of all, the Court's instruction on weighing the  
18 evidence should be sufficient. And commenting on the  
19 statement of the Defendant also implies on his right to  
20 remain silent, for not taking the stand during the trial.

21 THE COURT: Well, I generally give that statement of  
22 the Defendant. I kind of like that one. So I'm kind of  
23 with you and against you. You got to make a comment on  
24 the statement. I've got to give some instruction on it.  
25 But I do have to give the comments, because I told them I

1 would and I did, of the Defendant not testifying.  
2 Certainly that will be in the very end. You all give  
3 Whitney a break. She's never done one before, and she was  
4 in E-File training yesterday and she did a really good  
5 job. So her first -- her first shot. I'm proud of her.  
6 You all let her know ahead of time before 9:05 that we  
7 want to talk about the instructions, because she's been  
8 here since -- what time did you get here?

9 MS. YONGUE: Around 8:00.

10 THE COURT: Around 8:00.

11 MS. FULLER: I emailed my request last night, Your  
12 Honor.

13 THE COURT: Okay.

14 MS. FULLER: Okay.

15 MR. CHEHOSKI: Your Honor, I've been working on  
16 closing since 5:00 and I just kind of got around to it  
17 about 8:30.

18 THE COURT: All right. Since I don't have my charge  
19 ready y'all are going to argue first and I wanted to do it  
20 the other way around. But we've got to work on it, so  
21 it's the only way I can fix it, because I don't want to  
22 hold the jury up any longer. I'm not going to fix my  
23 charge and make them wait longer, okay? I'm going to do  
24 it the old fashioned way. I like the newfangled way  
25 better. All right. I've got statement of the Defendant.

1 That's good. I believe we can leave that one alone. And  
2 failure of the Defendant to testify will be the last thing  
3 in the instruction. Anything else?

4 MS. FULLER: Nothing from the State, Your Honor.

5 THE COURT: Excellent. Bring in the jury.

6 (Whereupon, the jury came into open court at  
7 approximately 9:10 a.m.)

8 THE COURT: Ms. Janine Maurer, she's our foreperson,  
9 and thank you for agreeing. You didn't realize it, but  
10 you were unanimously elected by the other 13. We had a  
11 little secret vote. No. My practice is to pick the  
12 foreperson, and I have a little rhyme and a little reason  
13 to how I do it. And I don't know why I picked her, but  
14 she looked like the one that needed to be picked. And so,  
15 anybody got an objection to that? See there, it was  
16 unanimous. All right. Here's what's going to happen.  
17 You all have heard all the testimony. The lawyers get to  
18 summarize the facts, testimony, evidence you all have  
19 seen. They're going to make presentations to you. I call  
20 them summaries, some of them call them closings. After  
21 they get done, then I'll give you my instructions on the  
22 law. And it depends on how long they talk as to whether  
23 we take a break between their summaries and my  
24 instructions. Okay? So without anything further to say,  
25 Ms. Fuller.

1 MS. FULLER: Thank you, Your Honor. May it please  
2 the Court.

3 THE COURT: Yes, ma'am.

4 MS. FULLER: Good morning. This case is about that  
5 trust that was broken that we talked about on Monday.  
6 That trust between papa, Mr. Edward Davis, Sr., and then  
7 12-year-old Minor . That faith that she had in her  
8 grandfather to protect her from the harm. The very harm  
9 that he caused, that he ended up doing. That's what this  
10 case is about. You all sat here, paid attention and  
11 listened and heard what Minor endured on July 12th of  
12 2016 at the hands of that man. The man she loved. The  
13 man that she told you was her best friend. The man that  
14 was her world. The man next in line to her very dad who  
15 carries the same name that was supposed to protect her.  
16 There's nothing like a grandparent's love. She described  
17 to you what her summers were like, what her school year  
18 was like. Her grandparents, they were an integral part of  
19 her growing up. You heard her. Picking her up from the  
20 bus stop. They loved to go spend time with Papa. Papa.  
21 She took that stand. She was brave yesterday. Just like  
22 she was brave on July 12th, 2016 when she told what  
23 happened to her. She was strong, and she is strong.  
24 She'll get through this. But today we are here because he  
25 needs to be held accountable. She took that stand and

1 told you this was a typical day. It was a typical day.  
2 Spent the night at grandparents house. They went to work.  
3 Papa wasn't supposed to be gone too long. Minor was  
4 left in charge. Why? Because she was the oldest. You  
5 saw B.D. take that stand. She was 10 then. She  
6 remembers that they left for work. Her grandparents. And  
7 they heard him -- his truck pulling up and they were going  
8 to pretend to be asleep. So why, so Minor looked like a  
9 good babysitter. You heard her. But they ended up  
10 falling asleep. Minor gets up. Papa sees her. Papa  
11 says you want to come and play in the sprinkler. Normal.  
12 That's fine. She's 12. Twelve-years-old in the middle of  
13 July. It's hot. Sprinklers, cold. That's what she  
14 wanted to do. She's a kid. He tells her to take a  
15 shower. And that, ladies and gentlemen, is when her  
16 normal, the life as she knew it, that's when it began to  
17 change. That is the moment. She goes and uses the only  
18 shower in that -- in that mobile home, in her grandparents  
19 house, which is in their bedroom. She testified and told  
20 you how he entered the room, entered the bathroom. Cut  
21 the lights off. What is he doing cutting the lights off?  
22 What is he doing telling his 12-year-old grandchild that  
23 he is about to take a shower with her? And then she  
24 recalls that he begins feeling around. She testified and  
25 pointed out on a diagram that he touched her lower back,

1 then he put his hand out and then again he touches her,  
2 but this time he touches her butt while she is standing  
3 naked in the shower. And then he leaves when she stops  
4 her shower. She testified here and told you that she put  
5 her towel on. Her next step was to get dressed. She was  
6 confused. She doesn't know what's going on. She doesn't  
7 understand. She's 12. She shouldn't have to understand  
8 this. She shouldn't have to experience this. She  
9 described to you how she leaves the bathroom, and then he  
10 tells her to come sit on his lap while she's only covered  
11 in a towel. She describes she gets dressed. She leaves  
12 the room to get her pants, comes back and gets dressed in  
13 the bathroom. This time she comes out and he says to sit  
14 in my lap -- my lap again. You saw her when she was  
15 testifying. Defense counsel asked her -- replayed her  
16 testimony on cross and she looked down at her hand. I  
17 don't know if you saw her. She did this (demonstrating),  
18 she said left leg. I sat on his left leg. She paused and  
19 thought about it and had took her hand like this to the  
20 left. She remembered where she sat and she recalled it on  
21 that stand. He kisses her on her neck. He kisses her on  
22 her mouth. She's 12-years-old. She's 12. He then puts  
23 her on that bed. She's dressed now. She says she keeps  
24 her feet on the floor. You heard her testimony. If I'm  
25 recalling it wrong, you go with what you remember she

1 said. But she kept her feet on that floor and he began to  
2 touch her. He touched her in her thighs. He touched her  
3 vagina area. He lift up -- lifted up her shirt, touched  
4 her breasts, her chest area and put his mouth on it. Even  
5 at 14, how can she even say those words, but she was 12.  
6 On that diagram she even said, well, I'm going to have to  
7 circle my chest twice. Did you catch that? Because he  
8 touched her there with his hands and he used his mouth.  
9 I'll get to the fainting soon, I'll get to that.

10 B.D. took the stand and what does she do? She  
11 doesn't know what's going on. But she helps corroborate  
12 that alone time, that opportunity that he had. She  
13 remembers him leaving, but the next time she remembers  
14 seeing Papa was when? When she walks into his bedroom.  
15 She didn't know Papa was home. Why? Because she was  
16 sleeping. And what does she tell you guys? That as she's  
17 walking in the room Minor 's coming out. And where's  
18 Papa? Sitting in the same chair that Minor testified  
19 that when they heard someone walking -- this is a mobile  
20 home. When they heard someone walking, he got up and sat  
21 in that chair. Where did B.D. say she went and gave  
22 him a hug? In that chair. She goes and used the  
23 bathroom, and she steps out to wash her hands and what  
24 does she see? She sees Papa coming back to the room.  
25 What did Minor say? When she leaves the room she goes



1 to the living room and he comes out there and tells her to  
2 come back when B.D. was done. She's 12. And I'm  
3 sorry I have to keep repeating that. But she's a child.  
4 She should not be in a situation where she has to tell an  
5 adult, her grandfather, no. But she told you the assault  
6 continued on that bed. He tells her to take her pants off  
7 and she has to say no. I'm glad she knew enough to say  
8 no. You heard them talk about -- you heard testimony  
9 about the fainting. Let's get to that, in his words.  
10 Let's get to that in his words. After this he goes and  
11 pats B.D. on the way and tells them let's go play in  
12 the sprinkler. Minor describes she didn't want to go  
13 back into the sprinkler with him. She's upset. She's  
14 confused. She's concerned about her little sister. She  
15 stands on that porch probably just keeping watch. She  
16 didn't know what to do. A burden she should never have to  
17 carry. What if he hurts my sisters. At 12? She  
18 describes he starts apologizing to her. Said I'm sorry.  
19 I'm sorry for doing that. Sorry doesn't cut it. Sorry  
20 doesn't cut it. It doesn't erase what you did. This  
21 fainting. I submit to you, ladies and gentlemen, his  
22 conscious got the better of him. She describes him  
23 starting to sweat and then he passes out. And you know  
24 what's kind of remarkable? It's the same little  
25 12-year-old girl who he's supposed to protect, look out

1 for, keep free from harm, she's the one calling for help.  
2 She's the one calling for help for that man after he did  
3 all of that to her. I don't know if irony is the word,  
4 but that's -- there's something there. Let's talk about  
5 what he said. Nothing was hidden from you. Nothing.  
6 Every account of what he said he put up here. So you have  
7 it all, and you all can weigh it. The firefighter.  
8 Remember him, Timothy Pecori? No longer a firefighter  
9 after 10 years of service. He switched professions  
10 altogether shortly after this call. He told you this was  
11 a call that stuck with him. All he testified to  
12 remembering that man telling him in response to the reason  
13 why he fainted were his conscious got the better of him.  
14 These first responder's job is to figure out what brought  
15 about -- I don't want to say the difficulty, but what  
16 brought about your loss of consciousness. All of them  
17 begin their inquiry the same, and we get three different  
18 things. First he tells the firefighter who's the first  
19 one there, well, I inappropriately touched my  
20 granddaughter. Inappropriately, wrong, wrongdoing,  
21 improper. Who uses the word inappropriately? Who used it  
22 first? That man. Inappropriately touched his  
23 granddaughter. Then Lieutenant Ellington, she said she --  
24 she testified here. She's over at EMS. And she told you  
25 guys she arrived shortly after. She's the next level up,

1 she begins her care, that's her patient now, touched her  
2 the wrong way. Let me read exactly what she had in her  
3 statement that we had read. "He touched her the wrong  
4 way. She got upset, which made him upset and he passed  
5 out." She then wrote, "He went on to say that he was  
6 hugging her and accidentally touched her bottom. This is  
7 where we now get his explanation. When the firefighter  
8 was on the stand he said he sat there and he had to watch  
9 him for a while and he just kept having -- he was adamant  
10 about explaining, accidentally touched her bottom. And this  
11 all in response to why did you faint. Then the ambulance,  
12 the actual EMT paramedics arrive. And he stood, I think,  
13 right here. When he was standing here I asked him did you  
14 rely on anyone else's assessment? No. He has to begin  
15 the same assessment. Same Q and A. Why did you faint?  
16 I'm paraphrasing. But why? He starts talking something  
17 about she just got out the shower. Saw her nude. He's in  
18 the bedroom. He puts himself there while she's in the  
19 shower. You guys can -- you guys can judge this. I  
20 submit to you, those first responders, they don't know.  
21 They have no motive. They have nothing to gain. But what  
22 they did do as mandatory reporters is call for law  
23 enforcement, because something didn't sit well. Something  
24 was wrong. Law enforcement arrived. Now he has it. It's  
25 dropped my arm as I was giving her a hug. Hand accidentally

1 touched butt. I submit to you an accidental butt touching  
2 from a hug, that however you picture it going down, does  
3 not result in loss of consciousness. Then later on,  
4 remember the officer who said he goes back just to say  
5 hey, open-ended, you want to tell me what happened. It's  
6 slightly different now. He says I leaned in for a kiss  
7 with my hands behind my back. Why is that important? And  
8 the officer stood here and demonstrated how he did it.  
9 His hands behind his back. And was like, well, why did  
10 you hug her, when did you hug her. We don't know. That's  
11 all we know. This version is my hands were behind my  
12 back. You guys judge it. The case is designed to a  
13 detective. And she took the stand, Detective Livingston.  
14 At first he's evasive. He denied even remembering EMS at  
15 his house. Denies making any statements. And then when  
16 she's specific about why would three first responders say  
17 that you inappropriately touched your granddaughter if --  
18 why would they write statements? Then he says, well, I  
19 said something like that. I said I accidently touched her  
20 butt inappropriately. Again that word inappropriate.  
21 Then it's no longer I leaned in for a kiss. Then in this  
22 story it's the kids were up playing. B.D. says she  
23 was asleep. But the kids were up playing and Minor, as  
24 he comes in the house, jumped up, ran over to him and  
25 hugged him and kissed him on the jaw. Which one is it?

1 Are your hands behind your back? Is your 12-year-old  
2 granddaughter jumping up? Okay, and then she falls. How  
3 do you picture it happening? It just doesn't make sense.

4 Minor told the officers -- that officer that day what  
5 happened to her and she stood here and told you again.  
6 When I'm done arguing, or making my remarks, Defense  
7 counsel is going to have the same opportunity. As an  
8 advocate, that's the hardest part, because I can't jump up  
9 and say anything else. I can't. But I'm asking you do  
10 not get distracted by anything they may say. Don't follow  
11 all these different rabbit holes. Don't follow these  
12 smoke screens. You listen to questions, because they're  
13 building a case by the questions they ask, right? How  
14 about what she was wearing. Who cares what she was  
15 wearing. Who cares. Who cares. They ask a 10-year-old,  
16 who's 12 now, what she was wearing. Whatever that means,  
17 whatever evidence that may be of, whatever it is, do not  
18 follow or fall for it. Who cares. That's why I made the  
19 point, you were there, what was she wearing. Two years  
20 later, what was she wearing. I don't know. Because it  
21 doesn't matter. It's a distraction. It's a smoke screen.  
22 If there are other little details that they may have  
23 picked up on, it doesn't matter. What is consistent is  
24 what she sat on that stand and said. You heard an officer  
25 testify to some of it and you heard Lieutenant Ellington

1 testify to some of it. Formally, the law in this case is  
2 criminal sexual conduct with a minor third degree, and  
3 that's what he's formally charged with. You were probably  
4 listening to certain questions like why is she asking  
5 that. It's because I have to prove each and every element  
6 of this statutory code, each of it, beyond a reasonable  
7 doubt. I kept saying she's 12. I asked how old was he,  
8 because it's important, because I have to prove it. I  
9 have to prove his age. I have to prove her age. The  
10 Defendant must be over the age of 14 to be charged with  
11 this offense. He was 58. So I submit to you this element  
12 of the statute has been met. Willfully and lewdly commits  
13 or attempts to commit a lewd act upon or with the body or  
14 its parts. He touched her. He told her to take her pants  
15 off. He touched her and he kissed her. Of a child under  
16 the age of 16. She was 12. I submit to you this element  
17 has been met. With the intent of arousing, appealing to  
18 or gratifying the lust or passions or sexual desires of  
19 the person, meaning the Defendant, or of the child. He  
20 asked her to take her pants off. He's touching her  
21 inner-thigh. He's touching her vagina. What other  
22 purpose is there. He kissed her mouth. I submit to you,  
23 ladies and gentlemen, that this element of what he's  
24 charged with has been met in this case. We talk about  
25 beyond a reasonable doubt. And I'm sorry that I'm up here

1 so long. I just don't have another chance. Beyond a  
2 reasonable doubt. This is a burden that we welcome. We  
3 welcome in each and every case. It is our burden, it is  
4 not the Defendant's. It is not proof beyond all doubt,  
5 because there -- there's very few things in life that we  
6 are absolutely certain of, one-hundred percent, very few.  
7 But what the law says is doubt that -- it is proof that  
8 leaves you firmly, firmly convinced of someone's guilt.  
9 Firmly convinced. Something I always say to jurors is  
10 that all of you are the judges of the credibility. It's  
11 part of the Judge's instructions, and he'll charge you on  
12 the law. So take what he says, because this is law I'm  
13 talking now. You all are the judges of the credibility  
14 and the believability of each and every witness that takes  
15 that stand. That means that you can judge their  
16 appearance -- this is -- you can judge their appearance,  
17 their words, their demeanor. If they looked to the left,  
18 the right, up, down, you can judge it all. You are the  
19 fact-finders. You say what happened in this case. That  
20 is your job. The sole judges. On July 12th of 2016

21 Minor lost her innocence that day. She lost more than  
22 she would ever gain back in her life, ever. She talked  
23 about depression and anxiety. She'll get beyond those  
24 though, she will, she's strong. She stood up in a room  
25 full of strangers. I know she will, she will. She lost

1 her family of seven, she lost her grandmother, she lost  
2 her grandfather. Her dad stopped his job so he can be  
3 there every moment for his girls. That's a tough thing,  
4 that's tough. She told you, if he could do this to her,  
5 what would somebody else do. I ask each and every one of  
6 you to render a verdict that speaks justice and truth in  
7 this case and you find that man guilty for what he did to  
8 that 12-year-old on July 12th of 2016 and convict him of  
9 criminal sexual conduct with a minor in the third degree.  
10 Thank you.

11 THE COURT: Mr. Chehoski.

12 MR. CHEHOSKI: Your Honor. Emotion is a part of our  
13 lives. It's what's make's us unique. Both as individuals  
14 and collectively as a human race. And as attorneys we are  
15 taught to tap into the emotion of a case. And sometimes  
16 it's hard to find it but not in this case. In this case  
17 the emotion is obvious and it's heartbreak. I'm  
18 heartbroken not only for Edward Davis but for Minor and  
19 her whole family. Regardless of your verdict, this family  
20 will never be the same. But even though this is an  
21 emotional case we have to put those feelings aside. In  
22 this country we do not convict people on emotion, we  
23 convict -- it requires evidence. And as jurors, it is  
24 your responsibility to determine the credibility and the  
25 weight and the competency of the evidence from that stand



1 You have to determine whether it's changed. Not just in  
2 the main facts, but also in the salient details. Edward  
3 Davis from the very beginning has maintained that this was,  
4 an accidental touch, that he gave his daughter a hug and  
5 that his hand drops, it brushed against her behind. From  
6 the first responders to Corporal Platt and to Investigator  
7 Livingston-Hoover, that's what his story has been. And  
8 while I say you have to set your own emotions aside, it's  
9 relevant to consider Mr. Davis' emotions. When you are  
10 accused of something, or when you have been caught doing  
11 something wrong, your body changes. It's involuntary, it  
12 physiologically changes, your pulse spikes, your blood  
13 pressure, it increases, it's not something you can mask.  
14 Just like his story, his physiological and emotional state  
15 remain consistent. Kelsey Willis told me that. His blood  
16 pressure, his pulse, his blood sugar, all of that remained  
17 within normal limits. Now, I'm talking with -- about  
18 Minor . I have no desire to beat up on a 14-year-old.  
19 It doesn't make me feel good. But as jurors, it is your  
20 responsibility to critically evaluate her story and  
21 critically evaluate her emotions. I don't know what to  
22 make of her statement about her relationship with her  
23 father, but keep that in mind as you evaluate her story.  
24 And before I get into her inconsistencies and the problems  
25 that I see in her story, let me talk to you briefly about

1 reasonable doubt. The Judge will instruct you that  
2 reasonable doubt is the kind of doubt that would cause you  
3 reasonable -> each one of you to hesitate to act. Ms.  
4 Fuller used the phrase firmly convinced and these words  
5 have important meanings. But sometimes you might process  
6 it and say what does that mean. And hopefully to help you  
7 out we can kind of draw a little picture as how I view it.  
8 Not guilty, guilty. Right now each one of you are right  
9 here. Excuse my horrible writing and my horrible drawing.  
10 In order for you to find Mr. Davis guilty you would have  
11 to have no hesitation in making the leap from here to  
12 here, it is not I think I can make it, it's not I'm pretty  
13 sure I can make it. It's no hesitation. To me that's  
14 what reasonable doubt looks like. And whether she knows  
15 it or not, Minor 's story has changed and has grown over  
16 time. You need to account for these in your  
17 deliberations. You heard from Ms. Tison from the  
18 Dickerson Center, and from Investigator Livingston-Hoover  
19 about a disclosure in the bedroom and in the bathroom.  
20 For the first time yesterday we heard that there something  
21 may have happened in the living room. These are something  
22 that you have to account for. You also have to account  
23 for how this whole situation started. A prank. To  
24 playing a joke on her dad -- on her grandfather, rather,  
25 by pretending to be asleep. And in the few minutes that

1 it took for that to hatch this joke and this prank, and in  
2 the giddiness of carrying it out, you have to believe that  
3 two of the girls, while pretending to be asleep, did fall  
4 asleep. And if that didn't happen, then the stage is not  
5 set for anything else that may have occurred later that

6 Minor testified to. And you also have to account for  
7 the reason why Minor said she was taking a shower in the  
8 first place. To say so that her sisters wouldn't know  
9 that she had been playing, or that they wouldn't know --  
10 they wouldn't smell that she had been outside. And while  
11 it may be a bit silly or trivial that her sisters would  
12 care that she had played, it also -- I mean, especially  
13 when you consider that Edward supposedly had woken them up  
14 so they could play. And that Minor had put the same  
15 dress on that was wet, that they would have noticed and  
16 that had smelled like it had been outside. That doesn't  
17 carry a lot of weight. And Ms. Fuller talked about the  
18 clothes. Yes, the clothes matter. It matters because  
19 it's inconsistent. If it goes from a dress to tights and  
20 a tank top. But B.D. says she's wearing jeans.

21 B.D. says she's wearing a pink shirt. Not tights,  
22 not a dress, that matters. That's why I care, that I ask  
23 these questions. You also have to take into account what

24 B.D. also testified to, because according to Minor ,

25 B.D. all but caught their grandfather red-handed by

1 walking into the door with both of them in the room. But  
2 B.D. completely contradicted that. She says the  
3 three of them were never in the room together and Minor  
4 came out before she got in that room. And perhaps most  
5 importantly you have to account for Minor saying she's  
6 repeatedly going into the room. As jurors, you take your  
7 common sense, you take your experience into that jury room  
8 with you. And each one of us, part of human life is  
9 experiencing trauma in some way. It doesn't make any  
10 sense whatsoever to go back into the same place with the  
11 same person who committed that trauma. And it makes even  
12 less sense to do it again and again repeatedly. I don't  
13 know what happened, but I have doubts between her story  
14 about the clothes, about the shower, about the prank,  
15 about B.D. , or about trying to get back into that  
16 room. I'm having some doubts in making that jump. I also  
17 want to talk about these, again, supposed confessions or  
18 statements. He said everything consistent. Yes, he said  
19 he touched his daughter inappropriately. He said he  
20 touched her by accident. And isn't there room for  
21 overlap. Is there overlap that -- in Mr. Davis' mind that  
22 by accidentally touching his granddaughter on the backside.  
23 Isn't that -- couldn't that also be inappropriate? Isn't  
24 that the same thing? Isn't that what Mr. Davis has been  
25 saying all along? And there seems to be this gap between

1    what law enforcement and first responders have asked and  
2    what they actually meant. You see this in two places in  
3    this trial. But first is the investigation and the  
4    interview between Investigator Livingston-Hoover and Mr.  
5    Davis. You see that she's -- she's there. But she's been  
6    trained. She has this agenda. This is the reason why she  
7    got into law enforcement. There's a reason there's a  
8    federal grant. And she sees no difference between, again,  
9    what the statement says is -- Minor says, you felt my  
10   body. There's a difference between that and dropping my  
11   hands and accidentally brushing against her butt. Yet in  
12   Mr. Davis' mind all he's thinking is that's all I did.  
13   I've apologized. And he thought it was over from the  
14   moment he apologized, because that's all it was, was an  
15   accidental touching. But you also see this in the  
16   discussion between Lieutenant Ellington and Minor .  
17   Lieutenant Ellington asked if anything special happened.  
18   In her mind she's asking if there's a sexual battery.  
19   That has a specific meaning for someone with her training.  
20   But does that -- is that going to have the same meaning in  
21   the head of a 12-year-old girl? And if it does, does that  
22   make her denial that anything sexual happened a little  
23   more illuminating? This is about all I have to say. I'm  
24   going to give this case over to you, along with Mr. Davis.  
25   I'm giving to you an innocent man and the law requires you

1 to view him as such. I've given you my argument for why  
2 you should find him not guilty. I've told you why I think  
3 you should have a hesitation in acting. I've drawn for  
4 you why I think there's a hesitation to make that leap. I  
5 ask you to return Mr. Davis to me with the only  
6 justifiable verdict in this case. One of not guilty.  
7 Thank you.

8 THE COURT: All right. Ms. Moore, we've been here  
9 about 40 minutes. It'll take me about 15, maybe 20  
10 minutes. You all okay with going on with my instructions  
11 right now?

12 MADAM FORELADY: Yes.

13 THE COURT: All right. Good enough. Ms. Moore,  
14 members of the jury, the State of South Carolina has  
15 charged Mr. Davis, Sr. with one count of criminal sexual  
16 conduct with a minor in the third degree. You all bear in  
17 mind, as I instructed you earlier, that he's pled not  
18 guilty and by that plea he has denied all the charges  
19 alleged in that indictment. I told you earlier that he's  
20 clothed with the presumption of innocence and this  
21 presumption of innocence continues throughout the trial  
22 and entitles him to a verdict of not guilty until that  
23 presumption is dispelled by evidence satisfying you that  
24 the State's proved its case beyond a reasonable doubt and  
25 that he's guilty of this offense charged. The State must

1 prove each and every element of the offense charged beyond  
2 a reasonable doubt.

3 The constitution of the law which makes you the jury,  
4 the finders of fact, also makes me the instructor of the  
5 law. I told you earlier on you all would have to accept  
6 the law as instructed by the Court and therefore if you  
7 have an understanding of what the law is or what you heard  
8 it was or what you think it should be, you all must set  
9 aside that misunderstanding and accept it as I am giving  
10 it to you here today. If I should make a mistake as to  
11 the instruction on the law there's another time and  
12 another place that that error can be considered and, if  
13 necessary, corrected. But for our purposes you must  
14 accept the law as given to you here today.

15 In all criminal prosecutions the State has the burden  
16 of proof. The State must prove it's case, according to  
17 our constitution, to the standard of proof called beyond a  
18 reasonable doubt. And so a person is not found guilty  
19 until the State has met that burden. And if the State  
20 fails to meet that burden then a person is entitled to a  
21 verdict of not guilty. Now the same constitution which  
22 makes me the instructor of the law makes you, as a group,  
23 the finders of fact. I'm not allowed to have an opinion  
24 as to what facts you should find or suggest to you in any  
25 way my opinion on the facts as they may be found. It is,

1 in fact, your job to make those decisions and your  
2 decision must be unanimous.

3 Now, y'all as a group, in evaluating and determining  
4 facts must review the evidence and testimony which have  
5 been presented. In doing this y'all are really evaluating  
6 the credibility of the evidence and testimony. You all  
7 may use anything in your collective wisdom and experience  
8 of your own lives that you deem -- you use on an ordinary  
9 daily commonsensical basis in evaluating whether someone's  
10 telling you the truth or whether it's believable or not.

11 Now, in passing on a person's credibility or the  
12 believability of any evidence there's some other things  
13 that you perhaps do use. Maybe you're not aware of them,  
14 but you do it naturally just by interacting with others.  
15 So in passing upon credibility you can also consider what  
16 was the manner and the appearance of any witness who  
17 testified. Was the witness straightforward or hesitate in  
18 answering the questions, how the witness come to know the  
19 fact to which he or she testified to, what was their  
20 ability to recollect those facts. Is there some reason a  
21 witness would want to give testimony which would help or  
22 hurt one side or the other. In other words, was one  
23 witness biased or prejudiced towards one side or the  
24 other. You can consider whether the testimony of a  
25 witness was strengthened or weakened by other testimony or



1 by other evidence. You can believe as much of any  
2 witness' testimony as y'all see or deem appropriate. You  
3 can believe one witness against many, several against a  
4 few. You can believe part of a witness' testimony and  
5 disbelieve the rest. Whatever y'all agree as facts  
6 unanimously or what the facts become as far as this case.  
7 The fact the testimony is not controverted does not mean  
8 you must accept it as true and undisputed. You still must  
9 evaluate and gauge credibility of the witness who  
10 presented the testimony and evaluate the believability of  
11 the truth and the facts offered through this testimony.

12 Now, weighing evidence is entirely a mental process.  
13 Until you weigh this evidence do not count the witnesses  
14 and go this many versus that many, therefore. That's not  
15 what you do. You must make determinations of what you  
16 find to be true and what you find believable and you find  
17 this unanimously. You weigh evidence using your good  
18 judgment and your collective common sense.

19 There's two types of evidence generally presented in  
20 a case; direct evidence, there's circumstantial evidence.  
21 Direct evidence is testimony of a person who was there who  
22 is an eyewitness. I saw this, I smelled that, I noticed  
23 this, it appeared to me that. That's direct testimony.  
24 Now another type of testimony is circumstantial evidence,  
25 and it's proof of a separate chain of facts and

1 circumstances indicating the existence of a fact. Our law  
2 makes no distinction between the weight or the value to be  
3 given to direct evidence over circumstantial evidence.  
4 There's not a greater degree of certainty required for  
5 circumstantial evidence than of direct evidence. My  
6 instruction is that you weigh all the evidence, whether it  
7 be direct evidence or circumstantial evidence. But to the  
8 extent that the State relies on circumstantial evidence  
9 all the circumstances must point to and would, or be  
10 consistent with one another and when taken together point  
11 conclusively to the guilt of the accused beyond a  
12 reasonable doubt. If the circumstances merely portray a  
13 behavior as suspicious then the proof has failed. Now  
14 after weighing all the evidence, whether it be direct or  
15 circumstantial or any combination, if you aren't convinced  
16 of his guilt beyond a reasonable doubt you must find him  
17 not guilty.

18 Now we've been using the term, reasonable doubt,  
19 beyond a reasonable doubt. What is a reasonable doubt. A  
20 reasonable doubt is simply this. It's the kind of doubt  
21 which would cause a reasonable person to hesitate to act.  
22 Reasonable doubt may arise from evidence which is in the  
23 case or from a lack or absence of evidence in the case.  
24 Proof beyond a reasonable doubt is proof that leaves you  
25 firmly convinced of the Defendant's guilt. It is a doubt

1 to which one could assign a reason, if the assignment can  
2 be done reasonably, firmly and convincingly. A reasonable  
3 doubt is the kind of doubt which make a reasonable and  
4 conscientious, honest person hesitate to act in a manner  
5 of their own affairs. Now I also instruct you further  
6 that a Defendant is entitled to every reasonable doubt.  
7 That means if you have a doubt about anything in this  
8 trial you must resolve that doubt in his favor.

9 Now the very fact that you engage in a full and free  
10 discussion of the issue of guilt or innocence, or  
11 non-guilt, that does not automatically create a reasonable  
12 doubt in this case. You must make a determination of  
13 whether or not a reasonable doubt exists as to his guilt.  
14 And I'll tell you again, if the State has failed to meet  
15 it's burden beyond a reasonable doubt then the Defendant  
16 is entitled to a verdict of not guilty.

17 Now criminal intent is a term that you've got to  
18 determine. It's a necessary element for each crime that's  
19 being charged. The State has to prove criminal intent  
20 beyond a reasonable doubt. It's a matter to be determined  
21 by you as a jury from the circumstances surrounding the  
22 situation. There's no way to prove intent to a  
23 mathematical certainty. There's no way medical science  
24 will allow us to dissect a person's brain and determine  
25 what he or she had in mind. So our law allows you to.

1 infer criminal intent from the circumstances which show,  
2 which have been shown to have existed both before and  
3 after the fact. You make the determination as to whether  
4 or not the element of intent was present or whether it  
5 didn't exist. But I'll tell you that criminal intent is a  
6 state of mind that operates jointly with an act or  
7 omission in the commission of a crime. Criminal intent is  
8 a mental state of conscious wrongdoing. It's up to you as  
9 a group to determine what the Defendant intended to do  
10 based upon the circumstances shown to have existed. The  
11 State must prove criminal intent beyond a reasonable doubt  
12 just as they must prove the other elements of criminal  
13 sexual conduct with a minor in the third degree.

14 Now there was a statement which was admitted and  
15 you'll have in the jury room that's alleged to have been  
16 made by Mr. Davis. Admitted into evidence, so you all  
17 will have in the jury room. I had to make the  
18 determination, as the Court, as to whether or not the  
19 statement was admissible and I did that. And I instruct  
20 you that it's your decision and your ultimate decision of  
21 whether or not the Defendant made the statement. If he  
22 did make the statement you must determine whether the  
23 statement was made by the Defendant voluntarily and of his  
24 own free will. This means the statement was not caused by  
25 pressure, force, fear, threats, intimidation, or a hope or

1     promise of leniency or reward of any kind. You must  
2     determine whether the statement was voluntary. You must  
3     consider the characteristics of the Defendant and the  
4     details of the questioning. Some factors you may consider  
5     are the age of the Defendant, the Defendant's education or  
6     lack of education, the Defendant's mental ability or  
7     capacity, the Defendant's intelligence or I.Q., the  
8     Defendant's background and his environment, the place and  
9     the length of the detention and the length of the  
10    questioning. You can consider the nature of the  
11    questioning. You can figure, consider the advice or lack  
12    thereof for the Defendant of his constitutional rights  
13    regarding the right to remain silent, that the statement  
14    can be used against you in a court of law, that the right  
15    to have a lawyer present and if you couldn't afford a  
16    lawyer that a lawyer will be appointed to assist him  
17    without any cost, and that he can stop making a statement  
18    at any time. You must consider all the surrounding  
19    circumstances before you give any weight to the alleged  
20    statement. The State has the burden of proving beyond a  
21    reasonable doubt that the statement was voluntary. And if  
22    you determine it was, you may give the statement any  
23    further consideration you deem proper and you may decide  
24    what weight you believe it deserves and should be  
25    considered. And if you believe or determine that the

1 statement was not free and voluntary, you should not  
2 consider the statement at all.

3 Now the specifics of the law in the case, some of the  
4 elements are very simple, some of them are a little bit  
5 more difficult to explain. But in this case Mr. Davis is  
6 charged with one count of criminal sexual conduct with a  
7 minor in the third degree. Our statutory code of laws is  
8 written out what this charge and the elements are. It  
9 says that a person is guilty of criminal sexual conduct  
10 with a minor in the third degree if the actor was over age  
11 14. Also the actor willfully and lewdly either committed  
12 or attempted to commit a lewd or lascivious act upon the  
13 body or the parts of a child under 16 with the intent to  
14 arouse or appealing to or gratifying the lust, passions or  
15 desires of the actor or the child. I'm going to break  
16 that down a little bit. The State must first prove that  
17 the Defendant was over the age of 14. Second, the State  
18 must prove that the Defendant willfully and lewdly  
19 committed or attempted to commit a lewd or lascivious act  
20 upon the body parts of a child under the age of 16. Now I  
21 note for you. It says criminal sexual conduct with a  
22 minor and normally minors are under 18. It probably is  
23 mistitled by the General Assembly. It probably should be  
24 criminal sexual conduct with a child under age 16 because  
25 that is the element. The child must be under 16, even

1     though it says minor which would be kind of misnamed. The  
2     State must prove that the actor did this with the intent  
3     to arouse or appeal or gratify the lust, passions or  
4     sexual desires of either the Defendant or of the child.  
5     Willfully is defined as a voluntary and intentionally with  
6     the specific intent to do something the law forbids. Lewd  
7     means obscene, lustful, indecent or lecherous. Lascivious  
8     is defined as tending to incite lust, lewdness, indecent  
9     or obscene, or tending to deprave the morals in respect to  
10    sexual relations.

11           Now lastly I must instruct you and emphasize that Mr.  
12    Davis in this case did not testify. The fact that he did  
13    not testify is his constitutional right to remain silent.  
14    Because he elected to claim that constitutional right and  
15    that constitutional protection he has, you must consider  
16    the evidence which was presented by the State in making  
17    the determination of whether the State proved its case  
18    beyond a reasonable doubt or not. Your decision must be  
19    unanimous. However, the fact that Mr. Davis did not  
20    testify and exercised his constitutional right to remain  
21    silent should not be considered by you in any manner  
22    whatsoever. A person has the constitutional right to  
23    remain silent and his assertion of this right must not be  
24    considered in your deliberations. So under your oath  
25    you're to draw no conclusion whatsoever from the fact that

1 he chose to not testify. The very fact that he didn't  
2 testify should not even be discussed in the jury room. As  
3 I've told you, the burden is upon the State to prove it's  
4 case beyond a reasonable doubt. The burden is not upon a  
5 person to prove his innocence. So the State must prove  
6 the elements of criminal sexual conduct with a minor in  
7 the third degree beyond a reasonable doubt.

8 Now, Ms. Maurer, as you all retire to the jury room  
9 to begin your deliberations, be mindful that when we went  
10 through the process of selecting the jury we were very  
11 careful, we asked questions to make certain that you all  
12 as a group could be fair and impartial. And that's what  
13 we did. We were very careful with that. Throughout the  
14 trial I made every attempt to conduct a fair trial per the  
15 law and the procedures of South Carolina. The State's  
16 presented its case. Mr. Davis has presented  
17 cross-examination and whatnot. It's up to you to make  
18 certain your verdict is fair and just, that it's  
19 unanimous. I'm certain you will. But what I want you to  
20 do is this, is follow my instructions. I'll give you a  
21 copy of them for the jury room if you need, have a  
22 unanimous verdict and don't let anything that you didn't  
23 hear, remember I said what you need to decide the case  
24 you'll get in the courtroom. You confine y'all's decision  
25 making to what was presented to you. If y'all can do that



1 and follow the instructions, I'm certain your verdict will  
2 be fair and just, and I'm confident y'all can do that.  
3 Now, once I send you back to the jury room, I'll pull the  
4 alternates out, I have an opportunity to ask the  
5 attorneys, we kind of previewed the instructions yesterday  
6 afternoon and again this morning. But until I deliver my  
7 instructions they really don't know. They kind of have a  
8 really good idea of what I'm going to say, because I've  
9 been here holding court in Lexington over the last two and  
10 a half years a lot, but over the last 10 years as much as  
11 my own county. So these lawyers are kind of familiar with  
12 me and my instructions, but they have an opportunity to  
13 make comments. Judge, you kind of glossed over this  
14 aspect of the instruction. Will you give additional, more  
15 detailed instructions on this aspect or that aspect of the  
16 law. And I consider those suggestions and if I need to  
17 I'll bring you back in here. They also review and make  
18 certain the evidence that Ms. Holston and I admitted is  
19 numbered properly and you all get the evidence. So once  
20 we get the instructions consistent and the evidence back  
21 there to you then you can begin your deliberations. Until  
22 then you can kind of just sit quiet. Maybe you can get up  
23 and take a break, everybody go to the bathroom. Now, once  
24 you begin your deliberations you're on your time. If  
25 y'all want a break, take a break. Just tell the bailiffs,

1 we're going to take a break for 10 minutes or 15 minutes  
2 or whatever, up to you. Okay. So you don't have to ask  
3 my permission or anybody's permission, y'all just work.  
4 If you want to take a break, take a break. But I'll tell  
5 you this, if someone needs a break and they want to step  
6 outside and check on children or something, stop your  
7 deliberations. If all 12 of you aren't in there, don't  
8 deliberate. If you have any questions, Judge, please  
9 explain to us again what reasonable doubt is, I'll do  
10 that. If you want to hear testimony replayed, we have the  
11 ability to do that. Joy and I, we've been working  
12 together 10 years. She got me this morning. Normally I  
13 say this, and court reporters have a thing that when they  
14 replay testimony they got to get their speakers out of  
15 their car because they don't bring them in. She brought  
16 hers in this morning to take that away from me, because  
17 normally she goes, oh, I have to replay testimony.  
18 Anyway, she can replay it, but I need to know who it is so  
19 she can cue it up. So write down if you all want to  
20 rehear testimony of someone, who it is. You don't  
21 remember the name, you know, it was the fireman. We can  
22 figure it out. So if you want to hear testimony again let  
23 me know. You got any questions, you write them down. If  
24 you want a break, take it. I think that's it. So you all  
25 step in the jury room. I'll speak with the lawyers and

1 confer with the lawyers and the clerk, and once you all  
2 get the stuff back there you all can begin your  
3 deliberations.

4 (Whereupon, the jury was excused from open court at  
5 approximately 10:00 a.m.)

6 MS. FULLER: Your Honor, I have a matter. It's not  
7 regarding the instructions. I've been before you but I  
8 didn't know your practice in terms of objections during  
9 closing, so I didn't want to risk it. You couldn't see  
10 what he was drawing over here, but it's my argument it's a  
11 misstatement of the law. The Defendant is presumed  
12 innocent. He's not presumed not guilty. And so, it is  
13 the scales of justice for a reason. It's a balancing  
14 test. And for him to have done this in closing I think is  
15 a misstatement of the law. And I just request that -- not  
16 necessarily to, just your standard curative instructions  
17 that closing argument is not considered, whatever Defense  
18 Counsel argued about the law is not the law of this case.  
19 And this, and now that I know he does this I would object  
20 to all future use of this in all of his trials, because  
21 this is not what the law says.

22 THE COURT: Anything, Mr. Chehoski?

23 MR. CHEHOSKI: Your Honor, I don't think that is an  
24 inaccurate statement of the law. I don't think also that  
25 the, in our case if it was, if it was balanced, and if

1 what's she's saying is that if it was balanced, then any  
2 little, in the State's favor results in a conviction,  
3 that's not what the law is. We're talking about beyond a  
4 reasonable doubt. I think that's a perfectly accurate  
5 statement of the law, Your Honor. And also, the Court  
6 says that arguments are not evidence and they have to  
7 follow your instructions anyway.

8 THE COURT: All right. I listened to your argument.  
9 I didn't see that picture or that drawing. I think,  
10 pardon my handwriting, but that's not much writing and you  
11 misspelled guilty. I generally don't say that closing  
12 arguments are not evidence. I generally don't say that,  
13 but sometimes I've heard that said in the past. I'm going  
14 to decline to reinstruct the jury on that. That is not  
15 going back to the jury because it's not evidence admitted.  
16 But I may add in to my instructions toward the end in the  
17 summary that the closing arguments aren't evidence and you  
18 consider the evidence which was present from the witness  
19 stand. I may put a statement in kind of like that to  
20 protect from that. But if you want to make that an  
21 exhibit, Ms. Fuller.

22 MS. FULLER: I mean, it's a clear misstatement of the  
23 law and I'll stand on that.

24 THE COURT: Okay.

25 MS. FULLER: He is not presumed not guilty, and for

1 him to argue that, he's making a leap from not guilty to  
2 guilty is a misstatement. And I am adamant about that.  
3 And we can make it an exhibit.

4 THE COURT: Okay, make it an exhibit. But I'm not  
5 going to bring them back in and reinstruct them. I think  
6 my instructions were pretty clear. I didn't know that was  
7 on here and it --

8 MS. FULLER: In the future, Your Honor, what is your  
9 position on objections during closing?

10 THE COURT: I kind of go both ways.

11 MS. FULLER: Okay.

12 THE COURT: I think that might be 2, I asked for my  
13 voir dire to be a Court's exhibit. He did, just a couple  
14 of his voir dire questions I did not ask, and that what he  
15 was referring to.

16 MR. CHEHOSKI: That's correct.

17 THE COURT: Okay. And so, we'll make -- I remember  
18 you asking that and I remember not asking all your  
19 questions, and the record's clear as to what I asked. So  
20 whatever's on your voir dire that I didn't ask is what you  
21 were protecting. And so, you're now protected on that.

22 (Whereupon, Court's Exhibit 2 was marked for  
23 identification only.)

24 MR. CHEHOSKI: Your Honor, I have that back in my  
25 office. I'll get it.

1 THE COURT: Ms. Fuller, if you want to make any  
2 further record of that, that your belief that's a  
3 misstatement of the law --

4 MS. FULLER: I think I have, Your Honor.

5 THE COURT: Okay. Fair enough.

6 MS. FULLER: Your Honor, the instruction that you  
7 said you were going to add, are you adding it today or in  
8 the future?

9 THE COURT: In the future.

10 MS. FULLER: Thank you, Your Honor.

11 THE COURT: I'm not going to add it now. It won't  
12 make sense. It will be wrong, it won't be wrong, it will  
13 be, the timing will not be proper. My instructions are  
14 what I've printed up for you all, and Joy will have a copy  
15 of that, but what I said is what the charge is. What this  
16 typed up is more for her, part of her packet if she -- if  
17 she has to create a record, she has that in writing from  
18 me. And the jury -- here's my normal practice, and you  
19 all probably know this. If they ask me for a portion of  
20 the law, I generally give the portion they ask for from my  
21 instructions which are typed up. If they say what's  
22 reasonable doubt, I give them reasonable doubt. What's  
23 CSC third with a minor, I give them that. If you all want  
24 to give them the whole instruction, I'm okay with that,  
25 too. But you all got to agree to that.

1 MR. CHEHOSKI: Your Honor, I guess my concern is  
2 since you -- what was drafted and what was presented to  
3 the jury are a little bit different in the additions of  
4 what I requested for and what Ms. Fuller requested.

5 MS. FULLER: What he published is the law of the  
6 case.

7 THE COURT: What I published is what's on record, but  
8 this is very close to it. I can't say it's verbatim, but  
9 it's very close to what you all just heard is what this is  
10 printed up. And it includes failure of the Defendant to  
11 testify, statement of the Defendant, and my reasonable  
12 doubt charge, not the one, Ms. Fuller typed one up, but I  
13 think it was one of my former ones, but it was very close.  
14 But y'all are welcome to see it. It'd suit me to give the  
15 evidence to them, and if they ask, then I give them the  
16 part they ask for.

17 MS. FULLER: If they ask.

18 THE COURT: Right. Fair enough. All right. We'll  
19 stand at ease. Y'all go over the evidence.

20 (Whereupon, the jury started deliberations at  
21 approximately 10:22 a.m.)

22 (Whereupon, a break was taken waiting on the jury's  
23 verdict.)

24 (Whereupon, a spectator, Ms. Wendy Davis, the  
25 Defendant's wife seated in the courtroom has medical

1 problems.)

2 THE COURT: Okay. Let's get the jury in, hear the  
3 verdict and then stand down for a little bit until we get  
4 her attended to. Is that okay?

5 MS. FULLER: The ambulance came and they are taking  
6 her to the hospital.

7 THE COURT: Let's get the jury in here, I guess  
8 attend to this and then y'all can attend to her.

9 (Whereupon, the jury came into open court with the  
10 verdict at approximately 10:50 a.m.)

11 THE COURT: Ms. Maurer, have y'all reached a verdict?

12 MADAM FORELADY: Yes, Your Honor, we have.

13 THE COURT: Was it unanimous?

14 MADAM FORELADY: Yes, sir. It was.

15 THE COURT: Okay. And we gave you the indictment.  
16 On the very bottom is showed the verdict. Did you write  
17 it there and sign it?

18 MADAM FORELADY: Yes, sir. I did.

19 THE COURT: Excellent. Give it to the bailiff and  
20 bring it on to the Clerk. You may publish the verdict.

21 MADAM CLERK: Yes, sir. Indictment 2018-GS-32-02261,  
22 the State vs. Edward Davis, Sr., indicted for criminal  
23 sexual conduct with a minor third degree. The jury  
24 unanimously finds the Defendant guilty of criminal sexual  
25 conduct with a minor third degree. And it is so signed by



1 the Forelady, August 22nd, 2018. Madam Forelady, ladies  
2 and gentlemen of the jury, if this is your verdict please  
3 indicate each of you by raising your right hand.

4 (Whereupon, all jury members raise their hands.)

5 MADAM CLERK: All hands raised, Your Honor.

6 THE COURT: Mr. Chehoski, any other issues for the  
7 jury?

8 MR. CHEHOSKI: We ask the Court to poll the jury,  
9 please.

10 THE COURT: All right. And just poll them by juror  
11 number?

12 MADAM CLERK: Yes, sir.

13 THE COURT: The Clerk will call you by number. And  
14 so, if you all remember your juror number, that's what you  
15 respond to.

16 MADAM CLERK: If you'll hold your hand up when I call  
17 your number. Hold your hand up and I will ask you as to  
18 the verdict, was this your verdict and is it still your  
19 verdict. And at that time give me your response, please.  
20 Number 65. As to the verdict, was this your verdict, is  
21 it still your verdict?

22 JUROR NO. 65: Yes.

23 MADAM CLERK: Number 183.

24 JUROR NO. 183: Yes.

25 MADAM CLERK: As to the verdict, was this your

1 verdict, is it still your verdict?

2 JUROR NO. 183: Yes.

3 MADAM CLERK: Thank you. Number 54. As to the  
4 verdict, was this your verdict, is it still your verdict?

5 JUROR NO. 54: Yes.

6 MADAM CLERK: 131. As to the verdict, was this your  
7 verdict, is it still your verdict?

8 JUROR NO. 131: It is.

9 MADAM CLERK: 165. As to the verdict, was this your  
10 verdict, is it still your verdict?

11 JUROR NO. 165: Yes.

12 MADAM CLERK: 123. As to the verdict, was this your  
13 verdict, is it still your verdict?

14 JUROR NO. 123: Yes, ma'am.

15 MADAM CLERK: 9. As to the verdict, was this your  
16 verdict, is it still your verdict?

17 JUROR NO. 9: Yes, ma'am.

18 MADAM CLERK: 202. As to the verdict, was this your  
19 verdict, is it still your verdict?

20 JUROR NO. 202: Yes, ma'am.

21 MADAM CLERK: 220. As to the verdict, was this your  
22 verdict, is it still your verdict?

23 JUROR NO. 220: Yes, ma'am.

24 MADAM CLERK: No. 174. As to the verdict, was this  
25 your verdict, is it still your verdict?

1 JUROR NO. 174: Yes, ma'am.

2 MADAM CLERK: Number 132. As to the verdict, was  
3 this your verdict, is it still your verdict?

4 JUROR NO. 132: Yes, ma'am.

5 MADAM CLERK: 112. As to the verdict, was this your  
6 verdict, is it still your verdict?

7 JUROR NO. 112: Yes, it is.

8 MADAM CLERK: All jurors polled, Your Honor.

9 THE COURT: Very well. Anything else?

10 MR. CHEHOSKI: Nothing from the Defense, Your Honor.

11 THE COURT: Okay, all right. I want you all to step  
12 back in the jury room. I want the alternates to come back  
13 around, too. I'm going to talk to all 14 of you all and  
14 then I'm going to let you all go. So I just want to come  
15 back and speak to you. So I want the alternates and the  
16 12 here to go back to the jury room. Now, is Ms. Davis  
17 still here, do you all know? Is she there?

18 MS. FULLER: No, she's gone.

19 MR. CHEHOSKI: No, she's gone to the hospital.

20 THE COURT: All right. I'll be back in a moment.  
21 We'll deal with this. We may delay it. Judge Lee is  
22 ready to come in. We kind of moving courtrooms a little  
23 bit. You all step back in the jury room and let me talk  
24 to you all. I'll be right back there.

25 (Whereupon the jury exited the courtroom at 10:55

1. a.m.)

2 (Whereupon, the Court steps to the jury room and  
3 talks to the jurors.)

4 THE COURT: For the record, I went back to the back  
5 and spoke with the jury members and they asked if they  
6 could come in during the sentencing proceedings and I told  
7 them absolutely, that would be perfectly fine. And so  
8 they did. Mr. Chehoski, do you want to let me hear from  
9 Ms. Fuller first and hear from you last?

10 MR. CHEHOSKI: Your Honor, I still think I have to  
11 renew my --

12 THE COURT: Oh, you do.

13 MR. CHEHOSKI: -- do my posttrial motions. And at  
14 this point and time the Defense does move for a new trial  
15 based on all previous, previous motions and objections.  
16 And also due to the brevity of the deliberations, that the  
17 jury did not fully consider the weight of the evidence and  
18 the weight of the testimony. I'll have a second motion  
19 after this one, Your Honor.

20 THE COURT: Okay. Regarding your motion for a new  
21 trial, the Court understands that the jury was not out too  
22 long, but the, jurors can make decisions in whatever time  
23 fashion they believe as long as the decision was  
24 unanimous. They were polled. The testimony and evidence  
25 that was presented to them was factual and they made a

1 decision in fact and the Court will not grant a new trial  
2 on that basis. But understanding it's your motion and  
3 with all the particular bases, respectfully denies.

4 MR. CHEHOSKI: Your Honor, my second motion is  
5 regarding sentencing. During deliberations Mrs. Wendy  
6 Davis, Mr. Davis' wife, collapsed either through -- it  
7 could be anything as simple as a panic attack to something  
8 much more serious. With the weight of all that is  
9 happening and the weight of all this pressure and stress  
10 of this trial, we're asking the Court to consider  
11 deferring sentencing at least until we find out the  
12 outcome of Mrs. Davis, especially given the nature of the  
13 parties, everybody here is related to each other.

14 MS. FULLER: Your Honor, may I be heard?

15 THE COURT: Uh-huh.

16 MS. FULLER: Your Honor, obviously the State here  
17 objects. Minor has been waiting two years and a month  
18 and some days for justice in this case and it's here. I  
19 don't -- she missed school yesterday and she missed it  
20 today. I don't see any reason to delay it. My sympathies  
21 to what's happening. We don't know what the end result  
22 is. But I don't think there's any reason to defer  
23 sentencing at this time. And either way, he'll be taken  
24 into custody at this point.

25 THE COURT: Who lives in the Davis home, Davis, Sr.?

1 MR. CHEHOSKI: Just the two of them, Your Honor.

2 THE COURT: And did I understand there's only -- Mr.  
3 Davis, Jr. is the only child?

4 MS. FULLER: He's the only child of Wendy, but not  
5 his only child. He has several other grandkids and his  
6 other siblings, and she has siblings as well.

7 THE COURT: All right. I don't want to create more  
8 problems trying to get it done today, because there's --  
9 I'm going to go off the record. You all come up here.

10 (Whereupon, a bench conference was held.)

11 THE COURT: I want to go ahead and hear what -- the  
12 mitigating facts, and then I'm going to kind of wait for  
13 more information here for a few minutes and decide whether  
14 or not to impose the sentence today, immediately or wait a  
15 little bit. By a little bit, I'm -- I'm worried about  
16 grandmother and her condition in the emergency room.  
17 That's kind of the information I need. And that won't  
18 affect the sentence, but it does impact the family as a  
19 whole. So anyway, let's get -- let's get this done, and  
20 that way we can attend the grandmother.

21 MS. FULLER: Thank you, Your Honor.

22 THE COURT: All right. Let me hear from you, Ms.  
23 Fuller.

24 MS. FULLER: Thank you, Your Honor. Obviously you  
25 sat through the trial. I'm not going to go over the facts

1 of this case. Some things that weren't presented that I  
2 think should be considered in this case is that -- for  
3 sentencing purposes, at no point, nor does he -- nor does  
4 he need to. I'm not saying that. But throughout the last  
5 two years the comments that he's made to different people  
6 in the public, his explanations for why he accidentally  
7 touched her butt kept changing. One thing that he shared  
8 with his son and daughter-in-law is that he was getting  
9 marijuana out of her pocket, and if you don't drop these  
10 charges then he's going to turn it into our office.

11 Minor : Not marijuana. Like a Jolly Rancher.

12 MS. FULLER: A Jolly Rancher candy bar that had  
13 marijuana. Like he knew --

14 Minor : He knew had marijuana in it.

15 MS. FULLER: Well, he just kept doing different  
16 stuff. Kept lying about different things in the community  
17 just to avoid this and just smearing their name with  
18 different people that they would be approached randomly  
19 about what's going on in this family. Minor , she  
20 testified. There's something that she wrote entitled Papa  
21 that she wants to share with the Court and for her  
22 grandfather to actually hear. And I'm going to ask her to  
23 read this to you at this time.

24 THE COURT: Okay.

25 MS. FULLER: If she can't make it through the whole

1     thing I will finish it for her.

2                   Minor       :   So I wrote this in English class. We  
3     were doing vignettes and one of them -- we had to pick  
4     three and one of them was an event that changed our life.  
5     So I chose this. I did not necessarily go into it,  
6     because it says not to. So I wrote this. "You told me  
7     that you'd always be there for me, that you'd never fail  
8     me. Well, guess what? You did. I will never forget --  
9     forget. I see you every day when I look at my dad.  
10    Sometimes I can't even look at him. Mostly I see your  
11    eyes. Something about them. I still see them in my  
12    nightmares. Your eyes were like what I would think a  
13    demon's would be. What were you -- when you were doing  
14    this to me I looked into your eyes. They didn't belong to  
15    you. It was as if you sucked the life out of me just  
16    looking in my eyes. It scared me. Why are you doing this  
17    to me. You didn't care that I was crying. You kept doing  
18    it. I hate you. Your wife, my grandmother, and mom's  
19    dad, she didn't -- she doesn't believe me. She was my  
20    best friend since I was little, but she believes you. She  
21    called me a liar. How would I lie. You told me you were  
22    teaching me a lesson. I found out what that lesson was.  
23    You said since I was 12 it was time for me to learn. You  
24    offered me money like I was a prostitute. Well, I wasn't.  
25    I was a little girl. A little girl who looked up to you



1 and admired you all my life. You got what you wanted.  
2 You took my innocence. It's always been my parents, my  
3 sisters, you, your wife and me. Now I don't even have  
4 that and you keep on lying."

5 MS. FULLER: And that's it, Your Honor. It's  
6 something she wrote a year after this happened to her. I  
7 don't think her parents have anything specific to say to  
8 the Court, Your Honor. And that's it that we have. He  
9 does not have a prior record.

10 THE COURT: Okay. Mr. Chehoski, what you got?

11 MR. CHEHOSKI: Sorry, Your Honor. This is always one  
12 of the harder parts of the job. Always -- I always -- at  
13 this point I kind of feel like I've let my clients down.  
14 As she said, he has no record. He's 60-years-old. His  
15 wife, Wendy, has been here the whole time. Our original  
16 strategy was to -- was to testify, that he would testify.  
17 And then as we discussed -- when we discussed this issue  
18 yesterday we thought that everything that needed to be  
19 said had already been said. Your Honor, the story with us  
20 had always been the same. It was an accidental touching.  
21 The jury obviously disagrees. While we disagree with it,  
22 we have to respect it. In the course of the  
23 investigation, and this was just at the time -- I'm not  
24 going to speak to how they feel now. But Jason Rushton,  
25 my investigator, did speak with Edward Davis, Jr., and at

1 that time he said that he did not want to see his father  
2 go to prison because it would devastate his mother. Like  
3 I said, that was at that time. I'm not saying that's how  
4 they feel now. I do want the Court to consider all that  
5 has happened. I want to put on the record also that some  
6 of the collateral consequences of criminal sexual conduct  
7 with a third, it is considered violent. That means that  
8 any sentence that a Judge imposes he'll have to serve at  
9 least one-third before he's eligible -- eligible for  
10 parole. It is considered serious under the three strikes  
11 rule. He will be classified as a sex offender, Your  
12 Honor. That is a lifetime. Also, he will be subjected to  
13 mandatory GPS monitoring. That is also for life. Your  
14 Honor, he's -- for about the last three years he'd been  
15 working at Food Lion. Had a work schedule that was  
16 consistent. Sometimes 4:00 to 9:00, sometimes mornings.  
17 He would have Tuesdays and Sundays off. He's a man of  
18 faith, Your Honor. This is a family of faith. During the  
19 course of my representation there did come a time when he  
20 brought a -- the Jolly Rancher to us. A brief Google  
21 search said that it might be laced with THC. We did have  
22 it tested. The testing came back negative. I know Mr.  
23 Davis feels like he's just been kicked in the stomach. I  
24 certainly do. This was a hard fight case. The State  
25 presented their case well. Your Honor, we ask the Court

1 for mercy based on a minimal prior record. I don't see  
2 how we can get it. If the Court is amenable to it,  
3 there's going to be -- I expect there to be a no contact  
4 order. I ask that that no contact order be only for Mr.  
5 Davis and not his wife. Your Honor, I find that Mr. --  
6 this is my personal opinion, is that I think Mr. Davis is  
7 a good man. I think he's an honest man whose worked hard  
8 -- who works hard. Based on events notwithstanding, he's  
9 now a felon. With all the collateral consequences, Your  
10 Honor, those -- that is a severe punishment. I ask the  
11 Court for mercy.

12 THE COURT: Mr. Davis, would you like to say  
13 something?

14 THE DEFENDANT: Your Honor, I'd like to say I'm not  
15 much of a talker, but I will speak. I'm not the person  
16 you all think I am. I'm an honest person. I'm a hard  
17 working person. I believe in doing what saith the Lord.  
18 I love my grandkids. No matter what happened, no matter  
19 happened today, or for the rest of my life, they always  
20 will be my family. I will always love them. I made a  
21 mistake, I accident and touched my granddaughter's behind.  
22 That was an accident. So you all judge me as a bad  
23 person. I have to live with that. You all have to live  
24 with it as well. But I say God is my, I trust and I  
25 depend on him. He will get me through this one way or the

1 other. And one more thing if it's okay. I'd love to have  
2 a little bit of mercy upon me just -- just so that I can  
3 check and take care of my wife. If I can be -- just to go  
4 and be with her until this is all said and done, and I'll  
5 come back and turn myself in. I'm not a bad person. I  
6 just need to be with my wife. It's just only me and her.  
7 That's all, me and her, and I just want to be there with  
8 her. And if things work out for her, she's better, she's  
9 okay, I can walk home to get the keys to get to my car,  
10 because she got the keys in her purse. So that means I  
11 would have to walk all the way to my house to get my keys  
12 to my truck, take my truck to go to the hospital just to  
13 check on my wife. That is my wife, she -- we been married  
14 for 34 years. We've been together 39 years. That is my  
15 pride and my joy. She's next after God almighty, and I  
16 just want to be able to go and check on my wife to make  
17 sure she's okay. I'm not a bad person. I'm not hard to  
18 get along with. I just want a little mercy just to take  
19 care of my wife.

20 MS. FULLER: Your Honor, may I be heard?

21 THE COURT: You may.

22 MS. FULLER: Regarding sentencing, the conversation  
23 that his son had with the investigator, his comment that  
24 he told me he said was he didn't want to see his dad go to  
25 prison for the rest of his life. My conversations with

1 him have been he needs to be held accountable. He's  
2 facing 15 years in prison. You sat through this trial and  
3 I believe the sentence needs to reflect what he did to  
4 that 12-year-old little girl.

5 THE COURT: As you know, it is not my job to judge,  
6 it's my job to judge your conduct as the jury's found and  
7 the jury unanimously found a verdict of guilty. And so,  
8 that's where I am restricted to. Anyway, I'm going to  
9 impose sentence right now. I think it's the proper thing  
10 to do, and I'll do it now. So the sentence of the Court is  
11 that Mr. Davis be confined for seven years and given  
12 credit for whatever pretrial confinement he has. I'll  
13 sign a restraining order for him not to communicate with  
14 the family, but not for the -- his wife. I want her to be  
15 able to communicate with his family --

16 MS. FULLER: That's appropriate.

17 THE COURT: -- as best she can. And so, if we can  
18 prepare that after the fact, it'll be fine. And I'd like  
19 it to be for Mr. Davis, Jr., his wife and the three girls.  
20 And he will be restricted for GPS and register for sex  
21 offender. Good luck.

22 MS. FULLER: Thank you, Your Honor. And that's,  
23 central registry is checked as well?

24 THE COURT: Oh, yeah.

25 MS. FULLER: Thank you, Your Honor.

1 MR. CHEHOSKI: Thank you.

2 \*\*\* END OF REQUESTED TRANSCRIPT OF RECORD \*\*\*

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## CERTIFICATE OF REPORTER

State of South Carolina       )  
                                          )  
County of Newberry            )

I, Joy E. Holston, Official Court Reporter for the  
Eighth Judicial Circuit of the State of South Carolina, do  
hereby certify that the foregoing is a true, accurate and  
complete transcript of record of the proceedings had and  
evidence introduced in the trial of the captioned case,  
relative to appeal, in the County of Lexington, South  
Carolina on the 20th through 22nd of August, 2018.

I do further certify that I am neither of kin,  
counsel nor interest to any party hereto.

January 20, 2019

*Joy Holston*

Joy E. Holston, Court Reporter

My Commission expires: May 2, 2026

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WITNESSES

Lexington County Sheriffs Department

Hayli D Livingston

Law Enforcement Case #: 16014010

SF

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ARREST WARRANT NUMBER

2016A3210800603

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ACTION OF GRAND JURY

**TRUE BILL**

*Dum B Em 7-9-18*  
Foreperson of Grand Jury  
Date:

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VERDICT

*Guilty*

*Jamie L Mauer*  
Foreperson of Petit Jury  
Date: 8-22-18

DOCKET NO. 2018GS3202261

**The State of South Carolina**

**County of Lexington**

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COURT OF GENERAL SESSIONS

JULY TERM 2018

THE STATE

vs.

Edward Davis, Sr.,

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CDR #: 3661

Indictment for

Criminal Sexual Conduct with a Minor -  
Third Degree

§ 16-03-0655

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**S.R. Hubbard III, SOLICITOR**



A TRUE COPY

Lex. Co. C.C.C.P., G.S. &amp; F.C.

STATE OF SOUTH CAROLINA )

COUNTY OF LEXINGTON )

INDICTMENT FOR

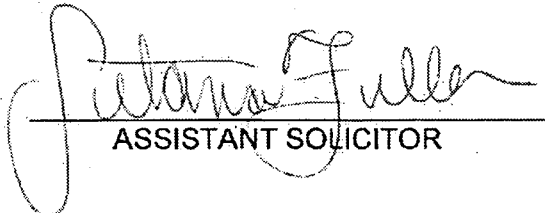
Criminal Sexual Conduct with a Minor - Third  
Degree

§ 16-03-0655

At a Court of General Sessions, convened on July 2018, the Grand Jurors of Lexington County present upon their oath:

That **Edward Davis, Sr.**, a person over the age of fourteen (14) years old, did, in Lexington County, South Carolina, on or about July 12, 2016, willfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body, or any part or member thereof, of a child under the age of sixteen (16) years, to wit: Minor, date of birth [REDACTED], with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of himself or of said child in violation of Section 16-03-655 of the Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
 ASSISTANT SOLICITOR

0-154

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

COUNTY OF Lexington  
STATE VS.

Edward Davis, Sr.,

AKA:

Race: Black Sex: M Age: 60

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Lexington, SC [REDACTED]

DL#: [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 ☐ PLEADS

TO: Sex / Criminal sexual conduct with minor, 3rd degree - Commit/Attempt Lewd act (victim under 16 yrs &amp; actor over 14 yrs)

in violation of § 16-03-0655(C) of the S.C. Code of Laws, bearing CDR Code # 3661

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

*K. A. [Signature]* 100730  
 Submitter SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
 for a determinate term of 7 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDOC.☒ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms:

☐ Set by SCDPPPS

Recipient:

|                                        |         |       |
|----------------------------------------|---------|-------|
| *Fine:                                 |         | \$    |
| § 14-1-206 (Assessments 107.5 %)       |         | \$    |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$100 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$    |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$    |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$    |
| Proviso (Public Def/Probation)         | \$500   | \$    |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$25  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$    |
| § 50-21-114 (BUI Breath Test Fee)      | \$50    | \$    |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$    |
| 3% to County (if paid in installments) |         | \$    |

TOTAL \$125

Clerk of Court/ Deputy Clerk *Sara Comer*Court Reporter: *J. Halston*

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2018GS3202261

A/W#: 2016A3210800603

Date of Offense: 7/12/2016

S.C. Code § : 16-03-0655(C)

CDR Code #: 3661

## SENTENCE SHEET

PTUP \_\_\_\_\_ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other:

*GPS**Sex Offender Registry*☒ Appointed PD or appointed other counsel,

§ Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge *J. Halston*

Judge Code: \_\_\_\_\_

Sentence Date: *8-22-18*

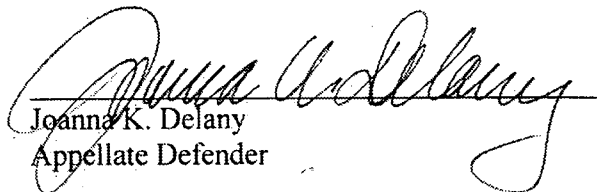
A TRUE COPY

Lex. Co. C.C.C.P., G.S. & F.C.

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Joanna K. Delany  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S.C. 29211-1589

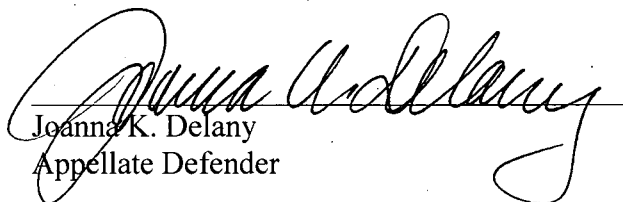
ATTORNEY FOR APPELLANT

This 16th day of July, 2019.

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

  
Joanna K. Delany  
Appellate Defender

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PO Box 11589  
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 16th day of July, 2019.

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