

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

---

APPEAL FROM YORK COUNTY

John C. Hayes, III, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

EDWARD MARTIN CLARKSON,

APPELLANT

Appellate Case No. 2012-206626

---

RECORD ON APPEAL

---

KATHRINE H. HUDGINS  
Appellate Defender

ALAN WILSON  
Attorney General

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General  
Office of the Attorney General  
PO Box 11549  
Columbia, SC 29211  
(803) 734-3727

Attorney for Appellant

Attorneys for Respondent

RECEIVED

FEB 07 2013

SC COURT OF APPEALS

## INDEX

|                                    |     |
|------------------------------------|-----|
| INDEX.....                         | i   |
| TRIAL TRANSCRIPT.....              | 1   |
| INDICTMENT AND SENTENCE SHEET..... | 170 |
| CERTIFICATE OF COUNSEL.....        | 173 |

State of South Carolina) In the General Sessions  
) Court of York  
)  
County of York ) Case No.: 2011-GS-46-02127

State of South Carolina., )  
)  
Plaintiff., )  
)  
-vs- ) Transcript of Record  
)  
Edward Clarkson., )  
)  
Defendant. )  

---

January 11-12, 2012  
York, South Carolina

B E F O R E:

Honorable John C. Hayes, III, Judge, and a jury.

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

Ms. Erin Joyner  
Assistant Solicitor  
Sixteenth Judicial Circuit  
Moss Justice Center  
1675-1A York Hwy.  
York, South Carolina 29745-7422  
803-628-3020  
For the Plaintiff

Ms. Melissa A. Inzerillo  
York County Public Defender's Office  
P.O. Box 691  
York, South Carolina 29745-0691  
803-628-3031  
For the Defendant

Wanda Nelson  
Circuit Court Reporter  
Sixteenth Judicial Circuit

**ORIGINAL**

I-N-D-E-X

|    | <u>WITNESS</u>                             | <u>BY</u>               | <u>PAGE NO.</u>   |
|----|--------------------------------------------|-------------------------|-------------------|
| 1  |                                            |                         |                   |
| 2  | Fred Moore                                 | Ms. Joyner . . . . .    | 21-31 (In camera) |
| 3  |                                            |                         | 35-42 (In Camera) |
| 4  |                                            |                         | 102-113           |
| 5  |                                            |                         | 122               |
| 6  |                                            |                         | 134               |
| 7  |                                            | Ms. Inzerillo. . . . .  | 31-35 (In Camera) |
| 8  |                                            |                         | 42                |
| 9  |                                            |                         | 114-121           |
| 10 | Alex Wallace                               | Ms. Joyner . . . . .    | 43-49 (In Camera) |
| 11 |                                            |                         | 124-128           |
| 12 |                                            | Ms. Inzerillo. . . . .  | 49-50 (In Camera) |
| 13 | Linda Gibson                               | Ms. Joyner. . . . .     | 66-73             |
| 14 |                                            | Ms. Inzerillo . . . . . | 63-65             |
| 15 | Minor                                      | Ms. Joyner. . . . .     | 76-96             |
| 16 |                                            | Ms. Inzerillo . . . . . | 96-101            |
| 17 | Closing                                    | Ms. Joyner. . . . .     | 135-147           |
| 18 |                                            | Ms. Inzerillo . . . . . | 147-154           |
| 19 | Charge to the jury . . . . .               |                         | 154-162           |
| 20 | Verdict. . . . .                           |                         | 164-165           |
| 21 | Sentencing . . . . .                       |                         | 165-168           |
| 22 | Court Reporter's Certificate Page. . . . . |                         | 169               |
| 23 | Jury Voir Dire/Batson Sheet. . . . .       |                         | 170               |
| 24 |                                            |                         |                   |
| 25 |                                            |                         |                   |

E-X-H-I-B-I-T-S

| <u>NO.</u> | <u>DESCRIPTION</u>          | <u>ID.</u> | <u>EVD.</u> |
|------------|-----------------------------|------------|-------------|
| CT.1       | Jury Note/Verdict . . . . . |            | P.168       |

Reporter's Note: All Exhibits were filed with the York  
County Clerk of Court's Office.

1 (COURT IN SESSION WEDNESDAY, JANUARY 11, 2012 AT 02:06  
2 PM.)

3 (DEFENDANT ENTERS COURTROOM.)

4 MS. INZERILLO: May I approach, Your Honor.

5 THE COURT: Yes.

6 MS. JOYNER: May I approach, Your Honor?

7 THE COURT: Yes.

8 Call the case.

9 MS. JOYNER: Thank you, Your Honor.

10 Your Honor, the State calls the case of the State of  
11 South Carolina versus Edward Martin Clarkson on Indictment  
12 2011-GS-46-2127 charging lewd act upon a child. The  
13 Defendant has indicated through his attorney he wished to  
14 have a trial and the State is ready to proceed.

15 THE COURT: Anything before we get the panel up? I've  
16 looked at the requested voir dire. I think the only one  
17 that I'm not going to ask is deposed by the Defense is  
18 Number 9. I don't know...

19 MS. INZERILLO: Your Honor, that request is sort of in  
20 tandem with one of the motions in limine. One of the  
21 Defense motions is to ask that Mr. Clarkson's status as a  
22 sex offender not, you know, to be discussed in front of the  
23 jury. And depending on the Court's ruling on that,  
24 certainly would determine whether that needed to be --

25 THE COURT: Well let's look at those motions first

-5-

1 then. What -- Does the State plan to go into his prior --

2 MS. JOYNER: We don't plan to go into it, Your Honor,  
3 in our case in chief, unless for some reason, in some way  
4 the door is opened by the Defendant in this case. I've  
5 deem that offering it in the case in chief would be the  
6 equivalent of offering his prior record in front of the  
7 jury before he's testified and I don't think that would be  
8 proper. I do have concerns that the door may be opened in  
9 front of the jury, which would lead the State to offer that  
10 evidence in its case in chief, but not -- we've not ---

11 THE COURT: I don't plan to ask the question then  
12 because that would interject it when it may never be  
13 brought up again.

14 MS. INZERILLO: Yes, Your Honor. Thank you.

15 THE COURT: All right. Well let's look at the voir  
16 dire -- I mean the in limine motions then and see if there  
17 are any other ones we need before the jury comes up.

18 Motion regarding discovery. Has the State complied  
19 with discovery?

20 MS. JOYNER: I believe we have fully complied, Your  
21 Honor. We provided to Ms. Inzerillo an incident report, an  
22 NCIC, a forensic interview, the transcript from that  
23 forensic interview. Numerous e-mails have gone back and  
24 forth regarding medical records and different things  
25 related to the date and information of the encounter, so I

1 believe we've fully complied with all, Your Honor.

2 THE COURT: Next, impeachment testimony? Impeachment?  
3 Do you have any impeachment matters?

4 MS. JOYNER: Any impeachment matters meaning as to his  
5 prior record, Your Honor?

6 THE COURT: Yes.

7 MS. JOYNER: He does have a prior record, Your Honor.  
8 We've already referred he's a convicted sex offender. He  
9 was convicted in May 18, '97 of criminal sexual conduct in  
10 the second degree. It was with a minor. He received a 20-  
11 year sentence, a concurrent sentence. The two counts under  
12 a CSC second with a minor. One count of assault and  
13 battery of a high and aggravated, five years concurrent.  
14 And 11 counts of contributing, two years each concurrent.

15 My information is that he became -- that he was  
16 released from custody in 2007. Ask Ms. Inzerillo to  
17 correct me if I'm wrong about that. So I believe, based  
18 off the sentences that he received that the sentences for  
19 criminal sexual conduct with a minor in the second degree,  
20 those two 20-year sentences, based on his release date  
21 within the 10 years.

22 THE COURT: They would, but how do you intend to ask  
23 those if he testifies, because of the nature of them being  
24 so parallel to what the charge is?

25 MS. JOYNER: I would defer to the Court on that

1 matter, Your Honor. I understand that there's an argument  
2 that it may be overly prejudicial. And again, unless  
3 there's something that he says opened the door to those  
4 offenses that it may be appropriate to ask him if he was  
5 convicted of two felonies in 1997, which carried sentences  
6 of up to 20 years.

7 THE COURT: Well I wouldn't ask about the sentencing.

8 MS. JOYNER: Okay.

9 THE COURT: But just ask whether he was convicted of  
10 two felonies.

11 MS. JOYNER: Yes, sir.

12 THE COURT: That's all on Number 2. Number 3,  
13 criminal histories of the non-law enforcement witnesses.

14 MS. JOYNER: I had for Ms. Inzerillo a copy of a NCIC  
15 for one of our civilian witnesses showed no prior record.  
16 We just served a subpoena today on Mr. Finnigan. I will  
17 have that prior to offering his testimony. I don't have  
18 that currently.

19 THE COURT: Okay. Sequestration will be granted,  
20 reciprocally on behalf of the Defense.

21 And Lyle testimony from the State?

22 MS. JOYNER: We do not intend to offer Lyle in our  
23 case in chief.

24 THE COURT: All right. We've done Number 6.

25 Number 7, is there any necessity for a Jackson versus

1 Denno?

2 MS. JOYNER: We do have a statement, Your Honor.

3 THE COURT: All right. We'll do that after we get the  
4 jury in and swear them.

5 Motion to redact any statement about not wanting to go  
6 back to jail. I guess we'll have to take care of that when  
7 we give -----

8 All right, then let's get the panel up, and strikes  
9 five and five?

10 MS. INZERILLO: Yes, Your Honor.

11 THE COURT: Let me know when you get the panel up.

12 (COURT IN RECESS AT 02:12 PM.)

13 (JURY ENTERS COURTROOM.)

14 (COURT BACK IN SESSION AT 02:20 PM.)

15 THE COURT: Thank you. Take your seats.

16 Members of the jury panel, let me introduce myself.  
17 It's been two days since I've seen you. Of course, I'm  
18 John Hayes. I'm the judge handling this term of Court. We  
19 are now going to try our second case. We've already  
20 finished one.

21 This is the case of the *State versus Edward Martin*  
22 *Clarkson*.

23 Mr. Clarkson, will you please stand?

24 (DEFENDANT EDWARD CLARKSON STOOD.)

25 THE COURT: This is Mr. Clarkson. He is represented

1 by Melissa Inzerillo. You may be seated.

2 (ATTORNEY INZERILLO AND DEFENDANT EDWARD CLARKSON NOW  
3 SEATED.)

4 THE COURT: The State is represented by Mr. Erin  
5 Joyner -- Ms. Erin Joyner -- Mrs. Erin Joyner. I'll get it  
6 right.

7 Mr. Martin -- Mr. Martin Clarkson -- Edward Martin  
8 Clarkson was charged with what's called lewd acts upon a  
9 child. It's alleged that on or about April 18th, 2011, he  
10 did commit a lewd or lascivious act on the body or a body  
11 part of a child under the age of 16. The victim is stated  
12 to be Mr. Minor And that this was done with the  
13 intent of arousing either the young man or himself lusts,  
14 passion, or sexual desires. He has entered a plea of not  
15 guilty to this charge.

16 First, are any of you related by blood or marriage or  
17 are you a close personal friend or acquaintance of Mr.  
18 Clarkson? If so, please stand. No one stands.

19 Have any of you heard anything about this case from  
20 any source whatsoever or have any of you formed or  
21 expressed any opinion about any matter or issue that would  
22 be involved in this case; if so, please stand? No one  
23 stands.

24 Are any of you members of the Grand Jury, which passed  
25 on this indictment at an earlier time; if so, please stand?

1 No one stands.

2 Are any of you members of or contributors to  
3 organizations such as Students Against Drunk Drivers,  
4 Mothers Against Drunk Drivers, Citizens Against Violence,  
5 Trooper's Association, Sheriff's Association or Fraternal  
6 Order of Police; if so, please stand. No one stands.

7 Are any of you or a member of your family involved in  
8 law enforcement at any level or prosecution of criminal  
9 cases at any level? Anything from the judge advocate  
10 general to D.A. or solicitor, sheriff, policeman, trooper,  
11 MP, anything like that, please stand.

12 All right, yes, sir? We'll work this way and -- your  
13 name and number?

14 A. James Ronald Jones. I got a cousin that's a  
15 magistrate in Hickory Grove.

16 THE COURT: All right, just remain standing, please.

17 Yes, ma'am?

18 A. Martha Warner, Number 170. My son is a JAG officer.

19 THE COURT: All right. Do either of you -- if either  
20 of you would be unable to be fair and impartial based on  
21 this, please raise your right hand. Neither does. You may  
22 be seated. Thank you.

23 Have -- This is a delicate question, so I'm not going  
24 to ask you to get into particulars. But have any of you or  
25 a member of your immediate family either been accused of or

-11-

1 felt that you or a member of your family have been a victim  
2 of any sort of sexual offense, sexual abuse offense; if so,  
3 please stand.

4 All right again, I'm not going to ask you for  
5 particulars, I'm just going to ask you to give your name  
6 and number, and then I'll follow up about fair and  
7 impartiality.

8 Yes, ma'am.

9 A. Christy Raines, Number 123.

10 THE COURT: All right. Yes, sir.

11 A. Tom Wells, 173.

12 THE COURT: All right. Would this in your past  
13 prevent you from being fair and impartial in the trial of  
14 this case; if so, please raise your right hand.

15 Those two. So both of you will be excused. Please  
16 have a seat. Don't leave, but have a seat.

17 Have any of you been represented by anyone from the  
18 Solicitor's office, either Mr. Kevin Brackett, or  
19 associated with that office in any way, the victim, the  
20 witness, or in any fashion whatsoever? Or are you a  
21 friend, or acquaintance, or a kin to anyone who works for  
22 Kevin Brackett, the solicitor here in the 16th Circuit; if  
23 so, please stand.

24 All right, yes, ma'am. Your name -- and I know who  
25 you are. You stood up the other day, but tell me again

1 because we got to make a record.

2 A. My name is Kristy Speed, Juror 153, a former employee  
3 of the 16th Circuit.

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

6 MS. SPEED: No, sir. It would not.

7 THE COURT: All right. Thank you. You may be seated.

8 Have any of you who have worked with or for Mr. Harry  
9 Dest in his office, the Public Defender's Office here in  
10 York County, in any fashion been a witness, or a client, or  
11 had a family member as a witness or a client for that  
12 office; if so, please stand. No one stands.

13 Anything further from the State?

14 MS. JOYNER: Nothing from the State, Your Honor.

15 THE COURT: Anything from the Defense?

16 MS. INZERILLO: No, Your Honor.

17 THE COURT: Finally, there are the following possible  
18 witnesses in this case. If you are related by blood or  
19 marriage or if you are a close, personal friend or  
20 acquaintance of any of these individuals, one is a doctor  
21 and if you are a patient or a family member is a patient of  
22 this doctor, please stand.

23 From the York County Sheriff's Office: Deputy Fred  
24 Moore and Deputy Ed Wallace.

25 Additionally, not associated with law enforcement:

-13-

1 Minor Linda Gibson; Ryan Finnigan, F-i-n-n-i-g-a-n;  
2 and Doctor Trunandue Dwidedi, I think, D-w-i-d-e-d-i,  
3 that's the doctor. Are any of you a patient of that  
4 doctor; or a close, personal friend, or acquaintance; or  
5 related to any of the individuals, including the doctor  
6 whose name I just introduced -- I just read to you; if so,  
7 please stand. No one stands.

8 All right, if you hear your name called, please come  
9 forward and stand next to the Bailiff. Turn and face the  
10 table where the Solicitor is seated. She will say either  
11 "Present the juror" or "Excuse the juror." If she says,  
12 "Excuse the juror," return to your seat. If she says,  
13 "Present the juror," turn and face the table where Mr.  
14 Clarkson and his attorney are seated. And she will say --  
15 Ms. Inzerillo will, either excuse the juror, which again  
16 means you may return to your seat or swear the juror, which  
17 means you can take a seat in the jury box. The strikes are  
18 five and five, and we'll draw one alternate.

19 All right.

20 MADAME CLERK: Number 177, Johnathan Wilson.

21 (WHITE MALE COMING FORWARD.)

22 MADAME CLERK: What say you for the State?

23 MS. JOYNER: Please present this juror.

24 MADAME CLERK: Defense?

25 MS. INZERILLO: Please excuse the juror.

1 MADAME CLERK: You are excused from this case.  
2 Number 142, Daniel Sippel.  
3 (WHITE MALE COMING FORWARD.)  
4 MADAME CLERK: What say you for the State?  
5 MS. JOYNER: Please present this juror.  
6 MADAME CLERK: Defense?  
7 MS. INZERILLO: Please swear the juror.  
8 MADAME CLERK: You may have a seat in the jury box.  
9 Number 148, Sharon Smith.  
10 (WHITE FEMALE COMING FORWARD.)  
11 MADAME CLERK: What say you for the State?  
12 MS. JOYNER: Please present this juror.  
13 MADAME CLERK: Defense?  
14 MS. INZERILLO: Please swear the juror.  
15 MADAME CLERK: You may have a seat in the jury box.  
16 Number 107, Michele Nestel.  
17 (WHITE FEMALE COMING FORWARD.)  
18 MADAME CLERK: What say you for the State?  
19 MS. JOYNER: Please present this juror.  
20 MADAME CLERK: Defense?  
21 MS. INZERILLO: Please swear the juror.  
22 MADAME CLERK: You may have a seat in the jury box.  
23 Number 44, Beverly Franklin.  
24 (BLACK FEMALE COMING FORWARD.)  
25 MADAME CLERK: What say you for the State?

-15-

1 MS. JOYNER: Please present this juror.

2 MADAME CLERK: Defense?

3 MS. INZERILLO: Please swear the juror.

4 MADAME CLERK: You may have a seat in the jury box.

5 Number 149, Thomas Smith.

6 (WHITE MALE COMING FORWARD.)

7 MADAME CLERK: What say you for the State?

8 MS. JOYNER: Please present this juror.

9 MADAME CLERK: Defense?

10 MS. INZERILLO: Please swear the juror.

11 MADAME CLERK: You may have a seat in the jury box.

12 Number 162, Lafe Thompson.

13 (WHITE MALE COMING FORWARD.)

14 MADAME CLERK: What say you for the State?

15 MS. JOYNER: Please present this juror.

16 MADAME CLERK: Defense?

17 MS. INZERILLO: Please swear the juror.

18 MADAME CLERK: You may have a seat in the jury box.

19 Number 117, Michael Patton.

20 (BLACK MALE COMING FORWARD.)

21 MADAME CLERK: What say you for the State?

22 MS. JOYNER: Please present this juror.

23 MADAME CLERK: Defense?

24 MS. INZERILLO: Please swear the juror.

25 MADAME CLERK: You may have a seat in the jury box.

1 Number 128 --

2 THE COURT: Just go up one. That's fine. You can sit  
3 there. From now on have them go up on the second row.

4 MADAME CLERK: Number 128, Marchelle Reed.

5 (WHITE FEMALE COMING FORWARD.)

6 MS. JOYNER: Please present ---

7 MADAME CLERK: What say you for the State?

8 MS. JOYNER: Sorry. Please present this juror.

9 MADAME CLERK: Defense?

10 MS. INZERILLO: Please swear the juror.

11 MADAME CLERK: You may have a seat in the jury box.

12 Number 160, Deborah Taylor.

13 (WHITE FEMALE COMING FORWARD.)

14 MADAME CLERK: What say you for the State?

15 MS. JOYNER: Please present this juror.

16 MADAME CLERK: Defense?

17 MS. INZERILLO: Please swear the juror.

18 MADAME CLERK: You may have a seat in the jury box.

19 Number 153, Kristine Speed.

20 (WHITE FEMALE COMING FORWARD.)

21 MADAME CLERK: What say you for the State?

22 MS. JOYNER: Please excuse this juror from service in  
23 this case.

24 MADAME CLERK: You are excused from this case.

25 Number 1, Paul Aiken.

1 (BLACK MALE COMING FORWARD.)

2 MADAME CLERK: What say you for the State?

3 MS. JOYNER: Please present this juror.

4 MADAME CLERK: Defense?

5 MS. INZERILLO: Please excuse this juror.

6 MADAME CLERK: You are excused from this case.

7 Number 23, Jeffrey Chmielinski.

8 (WHITE MALE COMING FORWARD.)

9 MADAME CLERK: What say you for the State?

10 MS. JOYNER: Please present this juror.

11 MADAME CLERK: Defense?

12 MS. INZERILLO: Please swear the juror.

13 MADAME CLERK: You may have a seat in the jury box.

14 Number 8, Derek Aniba.

15 (WHITE MALE COMING FORWARD.)

16 MADAME CLERK: What say you for the State?

17 MS. JOYNER: Please excuse this juror from service in  
18 this case.

19 MADAME CLERK: You are excused from this case.

20 Number 24, Heather Cicala.

21 (WHITE FEMALE COMING FORWARD.)

22 MADAME CLERK: What say you for the State?

23 MS. JOYNER: Please present this juror.

24 MADAME CLERK: Defense?

25 MS. INZERILLO: Please swear the juror.

1 MADAME CLERK: You may have a seat in the jury box.

2 Number 100, Tracy Miller.

3 (BLACK FEMALE COMING FORWARD.)

4 MADAME CLERK: What say you for the State?

5 MS. JOYNER: Please present this juror.

6 MADAME CLERK: Defense?

7 MS. INZERILLO: Please swear the juror.

8 MADAME CLERK: You may have a seat in the jury box.

9 THE COURT: Draw one alternate. Strikes will be one  
10 and two.

11 MADAME CLERK: Number 110, William Noonan.

12 (WHITE MALE COMING FORWARD.)

13 MADAME CLERK: What say you for the State?

14 MS. JOYNER: Please present this juror.

15 MADAME CLERK: Defense?

16 MS. INZERILLO: Please swear the juror.

17 MADAME CLERK: You may have a seat in the jury box.

18 THE COURT: Anything from the State involving the  
19 striking of the panel?

20 MS. JOYNER: Not from the State, Your Honor.

21 THE COURT: Anything from the Defense?

22 MS. INZERILLO: No, Your Honor.

23 THE COURT: Those of you who were not chosen, I will  
24 allow you to leave. Please call back tonight after 7:00.

25 Thank you.

-19-

1 (JURY DISMISSED AT 02:37 PM.)

2 THE COURT: Those of you who were chosen --

3 Those of you who were chosen, we're not going to start  
4 the trial -- the rest of the trial this afternoon. We're  
5 going to start it at 10:00 in the morning so I'm going to  
6 let you go in just a minute. When you return tomorrow, you  
7 will return to the jury room, not the jury assembly room,  
8 but the jury room -- well, I take it back. I think you do  
9 go to the jury assembly room now. They've changed the  
10 procedure. Anyway, the bailiffs will tell you how to get  
11 in and out while you're serving as a juror..

12 You won't be administered the oath until in the  
13 morning, but you are on this jury panel. So you cannot  
14 discuss the case among yourselves, nor can you try to make  
15 up your own mind until I instruct you to jointly  
16 deliberate, and return a unanimous verdict. Prior to that  
17 time, you're not equipped with all the tools you need to  
18 make a fair and reasonable decision.

19 Do not let yourself be exposed to any news coverage if  
20 there is any. Do not do any independent research. Don't  
21 go online. That would be inappropriate. Don't do anything  
22 as far as looking up -- not only online, but in the  
23 library, or calling friends, or tweeting, or anything.  
24 Don't -- you cannot receive information regarding this case  
25 outside of the courtroom in any fashion whatsoever. To do

1 so would be improper and also a violation of your oath. Do  
2 not let anyone discuss the case with you, you are on the  
3 panel even though you haven't been sworn in, so do not let  
4 anyone discuss the case with you. If anyone does try to  
5 discuss the case with you, tell them you cannot as you're  
6 serving as a juror. If anyone tries to discuss this case  
7 with you, report that back to me. I would have to take  
8 action against someone who has tried to talk to a seated  
9 juror.

10 Mr. Sippel, I'm going to ask you to be the foreman of  
11 the jury. You will take this end seat when you come in  
12 tomorrow, not right now.

13 And Mr. Noonan, you will always sit in that seat as  
14 the alternate. There are no other assigned seats, just the  
15 foreman and the alternate.

16 So I'm going to let you go in just one second, and the  
17 Bailiff will tell you how to get in and out while you're  
18 serving on the panel.

19 Anything else before this jury is dismissed for the  
20 evening?

21 MS. JOYNER: Not from the State, Your Honor.

22 MS. INZERILLO: No, Your Honor.

23 THE COURT: All right. Have a pleasant evening, and  
24 we will see you back at 10:00 in the morning.

25 (JURY PANEL EXITS COURTROOM AT 02:37 PM.)

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER - IN CAMERA

-21-

1 THE COURT: Do you want to proceed with the Jackson  
2 versus Denno matter?

3 MS. JOYNER: Yes, sir, Your Honor. But if I could  
4 have just one moment, Your Honor.

5 THE COURT: All right, you can.

6 (PAUSE.)

7 MS. JOYNER: Thank you, Your Honor. The State's  
8 ready.

9 THE COURT: All right.

10 MS. JOYNER: We call our first witness Detective  
11 Moore.

12 THE COURT: Please come up and be sworn.

13 MADAME CLERK: Raise your right hand, place your left  
14 hand on the Bible.

15 (WHEREUPON: DETECTIVE FRED MOORE,  
16 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

17 DIRECT EXAMINATION - IN CAMERA

18 DETECTIVE FRED MOORE BY MS. JOYNER:

19 Q. Detective Moore, could you please state your full name  
20 for the record?

21 A. Fred Wesley Moore, Jr.

22 Q. And how are you employed, sir?

23 A. Detective with the Violent Crimes Unit, York County  
24 Sheriff's Office.

25 Q. And at some point in April of 2011, were you assigned

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER - IN CAMERA

-22-

1 to follow up on a report made by Ms. Elizabeth Boggs in  
2 relation to her son Minor

3 A. Yes, I did.

4 Q. And at the time that you were assigned to follow up on  
5 those allegations, did you have the name of a suspect?

6 A. The name that was given was Eddie Carter.

7 Q. Ed Carter. And do you know how or -- did you have an  
8 address or a general area where Ed Carter was believed to  
9 have lived?

10 A. Ms. Boggs had said it was on -- near [REDACTED] [REDACTED] So  
11 I researched -- did some research and couldn't find an  
12 Eddie Carter there. Myself and Detective Wallace went out  
13 looking in the area and located a house that fit the  
14 description at the corner of [REDACTED] and Spring Hill. I was  
15 familiar with a sex offender who had lived there prior.

16 Q. And I understand that in front of the jury you would  
17 not reference that, but is that you were able to help  
18 locate the person in question?

19 A. Yes. And I recognized that Edward Clarkson lived at  
20 that address.

21 Q. And do you recall what day it was that you went out to  
22 the house to see Mr. Clarkson?

23 A. I think it was April the 28th.

24 Q. Was there anybody else with you?

25 A. Detective Alex Wallace.

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER - IN CAMERA

-23-

1 Q. And at the time that you went to that house, did you  
2 leave the office that day knowing that you were going to  
3 see Mr. Clarkson?

4 A. No.

5 Q. Did you just then stumble upon his house and make the  
6 connection?

7 A. Yes, ma'am.

8 Q. And did you have an opportunity to meet with Mr.  
9 Clarkson ---

10 A. I did.

11 Q. --- at his house?

12 A. Yes, he was in the front yard.

13 Q. Was that house located near the [REDACTED] area?

14 A. Yes.

15 Q. And when you met Mr. Clarkson, at that point in time,  
16 did you have a warrant for him?

17 A. No.

18 Q. Was he under arrest?

19 A. No.

20 Q. Was he taken into custody that day?

21 A. No, ma'am.

22 Q. When you approached Mr. Clarkson, did you go with him,  
23 with Detective Wallace?

24 A. Yes.

25 Q. And did you ask to speak with him?

1 A. Yes.

2 Q. Did you read him his *Miranda* warnings?

3 A. I did read him his rights.

4 Q. And what *Miranda* warnings did you read him?

5 A. Off of a *Miranda* sheet of paper that we have.

6 Q. And if you could just recite for the Court to the best  
7 of your memory, what those warnings were that you gave to  
8 Mr. Clarkson.

9 A. The right to remain silent. Anything he could say,  
10 would be used against him in court of law. If he wanted an  
11 attorney one would be --

12 THE COURT: Whoa, don't do it quite so fast and speak  
13 up. I can't keep up with you.

14 Q. If you could speak up a little bit.

15 A. Hopefully I can -- obviously -- if you cannot afford  
16 to hire an attorney, one will be appointed for him. He can  
17 seek to speak to us at anytime, and exercise his right and  
18 stop speaking with us.

19 Q. Did Mr. Clarkson appear to understand the warnings  
20 that you gave him?

21 A. Yes.

22 Q. And you said you read them off of a warnings form?

23 A. Yes.

24 Q. Is that the form you normally use in your office say  
25 during an interrogation?

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER - IN CAMERA

-25-

1 A. Yes.

2 Q. Did you have him sign anything in this case?

3 A. I did not. He -- we -- he wasn't under arrest or in  
4 custody, and technically we didn't have to advise him of  
5 his rights. But I went ahead and read him and advised him  
6 of his rights.

7 Q. And did he appear to understand those rights?

8 A. Yes.

9 Q. Did he appear to be under the influence of anything at  
10 all?

11 A. No, ma'am.

12 Q. Did he agree to speak with you?

13 A. Yes.

14 Q. Did at any point, did he ask to speak with a lawyer?

15 A. No.

16 Q. Did he ask to cease talking with you?

17 A. No.

18 Q. And was Detective Wallace present the whole time that  
19 you were talking with the defendant?

20 A. Yes.

21 Q. When you were obtaining -- talking with him, did you  
22 have your service revolver drawn, or in any way threaten  
23 him?

24 A. No.

25 Q. Did you promise him anything in order to have him talk

1 with you?

2 A. No.

3 Q. And in any other way, attempt to coerce him into  
4 speaking with you?

5 A. No, ma'am.

6 Q. And what was the format of your questioning of the  
7 defendant? Was it just a conversation? Or was it a  
8 question and answer session?

9 A. It was -- I mean, asking him questions. I started out  
10 asking him did he know Minor

11 Q. Did he say that he knew Minor

12 A. Yes.

13 Q. And how did he indicate to you that he knew Minor  
14 Minor

15 A. He said he was a friend of the family. I think Minor  
16 had been over at his house before. They would -- he had  
17 done some yard work or worked in his yard. They'd been out  
18 jet skiing, he had mentioned to me before.

19 Q. Did -- when he was mentioning jet skiing, did you  
20 understand whether that was a recent time, or it -- long  
21 time before?

22 A. I think it was from my understanding months before.

23 Q. Now did he -- did you ask him specifically whether  
24 Minor had spent the night at his house on April 17th of  
25 2011?

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER - IN CAMERA

-27-

1 A. I did.

2 Q. And what was his response?

3 A. He said, "Yes, he did."

4 Q. Did he indicate to you where Minor had spent the  
5 night inside the house?

6 A. In his bed.

7 Q. And did he indicate -- Did the defendant indicate  
8 where the defendant had spent the night that night?

9 A. He slept in bed also, with Minor

10 Q. Did you question the defendant as to what he wore to  
11 bed -- the defendant wore to bed that night?

12 A. I did. He -- he said that he wore what he normally  
13 wears to bed, which is just his underwear, no shirt.

14 Q. Did he specify what kind of underwear those were?  
15 Were they boxer shorts or...

16 A. I don't recall. I'm thinking it was boxers is what he  
17 told me.

18 Q. Did you ask him what Minor was wearing to bed?

19 A. I did. He said pajama bottoms and a t-shirt.

20 Q. Did he indicate whether those were long pajamas or  
21 shirt pajamas, the pants?

22 A. I don't know if he indicated.

23 Q. Would it help -- would it refresh your recollection to  
24 look at your summary?

25 A. Yes.

1 Q. I just want you to read through that really quickly.

2 A. Okay. Long pajama bottoms and a t-shirt.

3 Q. When you -- At any point in your conversation or your  
4 interview with the defendant, did you explain to him the  
5 reason why that you were there?

6 A. Yes, I told him that Minor said he had placed his  
7 hand on his penis.

8 Q. Did the -- What was the defendant's response to that  
9 claim?

10 A. He said he did not touch Minor penis.

11 Q. Did the defendant talk to you at all about whether he  
12 had touched Minor in any way while they were in bed  
13 together?

14 A. He told me that he reached over and touched Minor  
15 waist area or side area to make sure he hadn't gotten up  
16 during the -- during the night.

17 Q. Did he -- Did he elaborate on why he was concerned  
18 that Minor would get up during the night or what he was  
19 concerned would happen if Minor did get up during the  
20 night?

21 A. He told me that one concern was about the medication  
22 and him possibly sleepwalking. And the other one was about  
23 he didn't want Minor to get up and look -- there was some  
24 gay pornography on his computer, and he didn't want him  
25 looking at those sites.

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER - IN CAMERA

-29-

1 Q. Did Mr. Clarkson volunteer any additional information  
2 about individuals -- other individuals that come to his  
3 home?

4 A. He -- we got in a discussion. He had brought up the  
5 fact that he was gay. He told me he has guys 18, 19, 20  
6 years old coming to the house. So we talked about -- he  
7 said that he cards people. He doesn't buy them cigarettes  
8 and alcohol of that nature, and they come over. And I  
9 asked him did he know how old Minor was. And he said 12.  
10 And I asked him did he card Minor And he said his mother  
11 knows that -- knows who he is, that he, you know -- allowed  
12 him to come over to his house.

13 Q. Did the defendant indicate whether Minor had stayed  
14 at the residence in the past?

15 A. He had mentioned that Minor had stayed at his  
16 residence in the past.

17 Q. Did you inquire -- Do you recall whether you inquired  
18 where Minor slept on those occasions?

19 A. I don't recall.

20 Q. Did you ask any questions about the following day that  
21 he dropped Minor off after being at his mother's house?

22 A. I did. Minor had mentioned that there was someone in  
23 the car with him. And I asked him who else was with him  
24 when they dropped Minor off. And at first Mr. Clarkson  
25 was hesitant to talk to me. He said he believes it was a

1 friend of his named Ryan Finnigan.

2 Q. Was he -- Did Mr. Clarkson express certainty about  
3 whether -- or did you ask whether Mr. Finnigan had spent  
4 the night the night before?

5 A. I didn't ask.

6 Q. Did Mr. Clarkson volunteer any information or attempt  
7 your call for you whether Mr. Finnigan had spent the night  
8 the night before?

9 A. He said he was not sure.

10 Q. He was not sure. Okay.

11 And so -- Is there anything else you can recall  
12 discussing or any questioning that occurred with Mr.  
13 Clarkson that day?

14 A. No. I remember -- no, ma'am.

15 Q. And then again going to the issue, you don't recall  
16 whether you asked him whether Minor -- where Minor slept  
17 on previous occasions?

18 A. I don't recall asking.

19 Q. But do you -- and to answer in response to where  
20 Minor slept, on the night of April 17th again was?

21 A. In his bed.

22 Q. And did he admit to being in bed with Minor

23 A. Yes.

24 Q. Now, do you recall how long you and Detective Wallace  
25 were on the scene talking to him?

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER - IN CAMERA  
CROSS BY MS. INZERILLO - IN CAMERA

-31-

1 A. Somewhere in the -- 15 or 20 minutes, I believe we  
2 were talking to him.

3 Q. At any point, did you attempt to place the defendant  
4 under custody, in your custody, or attempt to take him to  
5 the police station?

6 A. No.

7 Q. At any point, did you threaten him or promise him  
8 anything or agree to anything in an attempt to coerce him,  
9 and did you continue to speak with him?

10 A. No.

11 Q. Was he arrested on the scene that day?

12 A. No.

13 Q. Thank you very much, Detective. Please answer any  
14 questions Ms. Inzerillo has.

15 MS. INZERILLO: May it please the Court, Your Honor.

16 THE COURT: Yes, ma'am.

17 CROSS EXAMINATION - IN CAMERA

18 DETECTIVE FRED MOORE BY MS. INZERILLO:

19 Q. Good afternoon, Detective.

20 A. Hi.

21 Q. On this day, you interviewed Mr. Clarkson on the 28th.  
22 Right?

23 A. Yes.

24 Q. And that was about 10 days after the report came in?

25 A. Correct.

1 Q. And when you went to his house, you initiated the  
2 conversation with Mr. Clarkson?

3 A. Yes.

4 Q. And you explained to him why you were there?

5 A. Yes, I told him we had an investigation.

6 Q. And had he -- Well at that point, you knew what the  
7 allegations were against him; is that right?

8 A. Yes, ma'am.

9 Q. So the purpose of your visit and talking with him is  
10 to talk with him about the specific facts of that case; is  
11 that right?

12 A. Yes.

13 Q. And had he not answered your questions or indicated he  
14 didn't want to speak, would you have put him under an  
15 arrest at that time?

16 A. No.

17 Q. Now you indicated that you were there about 15 or 20  
18 minutes; is that right?

19 A. Somewhere in that nature.

20 Q. And during that time that you initiated the  
21 questioning about the events of this night?

22 A. Excuse me?

23 Q. During the time that you were there, you initiated  
24 questioning about the events of this night?

25 A. Yes, yes.

DETECTIVE FRED MOORE: CROSS BY MS. INZERILLO

-33-

1 Q. So this wasn't a situation where Mr. Clarkson just  
2 said, "Let me tell you what's happened," and then started  
3 talking; is that right?

4 A. Yes, I would ask him questions.

5 Q. And I believe you indicated that you did read him his  
6 Miranda rights from a form or a card that you have on your  
7 person?

8 A. I did.

9 Q. Do you have that form or card with you today?

10 A. I have a form in the file. I mean, I don't have the  
11 -- a form. I have the card, I think, in my wallet.

12 Q. Were those the rights on the form that you had? Did  
13 he sign that form? Was that just a form you keep on you?

14 A. That was a form that I have in a binder that I keep  
15 with me. It's usually -- I have those forms and voluntary  
16 statement forms with me at all times when I'm out and  
17 about.

18 Q. And do you recall the rights that you read to Mr.  
19 Clarkson on this day? I had a little trouble hearing you  
20 when you said it initially.

21 A. I mean, I read them off the form.

22 Q. Do you recall what they were?

23 A. I mean I can't verbatim, but I can pull it off my card  
24 and read them off.

25 MS. INZERILLO: May I approach the witness, Your

1 Honor.

2 Q. I'm just going to hand you the file.

3 (WITNESS REVIEWED FILE/FOLDER.)

4 A. I don't have that form in here. It's the form that I  
5 keep, but we didn't -- we didn't have him sign it. I read  
6 them to him.

7 Q. The -- But you don't recall today exactly the rights  
8 were that you read him? Is that right?

9 A. Well, I mean, I read him the standard rights that were  
10 on the form that he had the right to remain silent and  
11 anything he say can and would be used against him in a  
12 court of law. He had the right to an attorney. If he  
13 could not afford an attorney one would be appointed for  
14 him. He can cease to exercise his rights at anytime and  
15 not speak with us.

16 Q. And then when you did that, you continued to ask him  
17 questions about the events of 10 days before; is that  
18 right?

19 A. Yes.

20 Q. Okay. Now in this conversation, I know you have gone  
21 over some of the conversation with Ms. Joyner. You  
22 transcribed the conversation in this incident interview  
23 report; is that right?

24 A. Yes.

25 Q. Is this the entirety of the conversation that you had

DETECTIVE FRED MOORE: CROSS BY MS. INZERILLO  
REDIRECT BY MS. JOYNER

-35-

1 with Mr. Clarkson?

2 A. Yes.

3 Q. Is there anything in this report that -- not in this  
4 report that you recall speaking with him about or having  
5 him convey to you?

6 A. Not that I recall.

7 Q. Did you talk to Mr. Clarkson anytime other than this  
8 day?

9 A. With this case, involving this case?

10 Q. Yes.

11 A. I mean, I had contact with him before because I'm used  
12 to supervise the sex offender registry. But I had known  
13 him before, but as far as this case, no.

14 Q. No, okay. So he had no other conversations with you  
15 about this case at any other time?

16 A. No.

17 Q. Before or, I guess, after this date.

18 MS. INZERILLO: I have no further questions, Your  
19 Honor.

20 THE COURT: Redirect?

21 MS. JOYNER: Yes, sir.

22 REDIRECT EXAMINATION

23 DETECTIVE FRED MOORE BY MS. JOYNER:

24 Q. Detective, if you -- just to clear up to where we're  
25 very clear on what rights were read to Mr. Clarkson. Are

1 the rights that are listed on the card that you have in  
2 your pocket the same rights that are listed on the  
3 Sheriff's Office, the one you are referring to?

4 A. The *Miranda* rights on the card.

5 Q. Could you take that -- is that the same rights? If  
6 you could take a look at that card and tell me whether  
7 those are the same rights that are listed on the form.

8 A. I'm having a hard time locating the card.

9 MS. JOYNER: Okay. Your Honor, can we just take about  
10 a five minute break. I'm asking him to go downstairs and  
11 get a form. If that's okay?

12 THE COURT: Yeah, we'll take five minutes.

13 (COURT IN RECESS AT 02:56 PM.)

14 (COURT BACK IN SESSION AT 03:00 PM.)

15 THE COURT: Get Ms. Inzerillo back.

16 (ATTORNEY INZERILLO ENTERS COURTROOM.)

17 MS. INZERILLO: I apologize, Your Honor.

18 You may proceed.

19 MS. JOYNER: Thank you, Your Honor. I apologize for  
20 that.

21 DETECTIVE FRED MOORE BY MS. JOYNER:

22 Q. Detective, I believe you accurately, you read the  
23 rights verbatim already. But if you could please just read  
24 for the record the rights listed on the form that you used.

25 A. Okay. "So before I ask you any questions, I want to

DETECTIVE FRED MOORE: REDIRECT BY MS. JOYNER

-37-

1. advise you of your rights.

2. You have the right to remain silent. Anything you say  
3. can and will be used against you in a court of law.

4. You have the right to talk to an attorney and have him  
5. present with you while being questioned. If you cannot  
6. afford to hire an attorney, one would be appointed to  
7. represent you before any questioning, if you wish.

8. You can decide at anytime to exercise these rights and  
9. not answer any questions or make any statements."

10. Q. Thank you.

11. And Ms. Inzerillo asked you if there's anything else,  
12. any other questions if you recall, or any other important  
13. conversations. I'd ask you to take a look at the notes  
14. from the file and take a moment to review those notes. And  
15. then tell the Court if there's any portion of those notes  
16. that is not included in the summary of your statement.

17. A. These were my notes?

18. Q. What's that?

19. A. These were my notes that --

20. Q. From your notes, yeah. Did you take a look those  
21. through? Is there anything not included in your  
22. recitation?

23. A. There was a dealing with a Ryan Finnigan, and I --  
24. trying to locate him. I asked him -- I think I asked Mr.  
25. Clarkson where he resided at. And he said somewhere

1 nearby, but he couldn't give me the exact address.

2 Q. I need to look at them too.

3 Oh, and I mean your actual notes, the actual notes  
4 that you took. Did you bring your notes with you?

5 A. The notes --

6 Q. Your handwritten notes from your interview?

7 A. No, ma'am.

8 Q. Okay, okay, well. Your notes, so are there any other  
9 points --

10 A. I typed up my notes.

11 Q. Huh?

12 A. I typed up the summary of notes.

13 Q. You typed up the summary. But you don't have your  
14 handwritten notes with you?

15 A. No.

16 Q. Okay. So you don't recall any other point of  
17 conversation between you and the defendant other than  
18 what's listed in this summary?

19 A. No, ma'am.

20 Q. All right. Thank you very much.

21 THE COURT: Recross?

22 MS. INZERILLO: No, Your Honor.

23 THE COURT: You can step down. Thank you.

24 (WITNESS LEAVING WITNESS STAND.)

25 THE COURT: Anything further on this issue?

DETECTIVE FRED MOORE: REDIRECT BY MS. JOYNER

-39-

1 MS. JOYNER: Your Honor, I don't know if Ms. Inzerillo  
2 has a motion or not. The State's position would be that he  
3 was not in -- the statement was freely and voluntary; ere  
4 is no indication. For purposes of the Jackson v. Denno,  
5 the statement was taken voluntary. He was not in custody  
6 technically. *Miranda* did not have to be read to him, but  
7 clearly it was. Clearly he understood those rights. We  
8 think there's nothing about the testimony that's been  
9 presented that would be to a inclusion that his statement  
10 was inadmissible.

11 MS. INZERILLO: Your Honor, I would ask the Court to  
12 make findings. My only concern is Assistant Detective  
13 Wallace does not have his notes and was unable to answer  
14 the question as to whether there was anything else out  
15 there. I will just ask the Court perhaps to hold its  
16 findings in abeyance until Detective Wallace can bring his  
17 notes to Court, perhaps in the morning, to give him a  
18 chance for him to review it, and any other parties to  
19 review it in the Court's discretion, and then based on the  
20 determination of that would make it's findings.

21 THE COURT: That's fine.

22 MS. JOYNER: Sir?

23 THE COURT: That would be fine.

24 MS. JOYNER: Your Honor, I think he could go  
25 downstairs. I'm sorry to make two trips.

DETECTIVE FRED MOORE: REDIRECT BY MS. JOYNER

-40-

1 THE COURT: I thought he already went downstairs.

2 MS. JOYNER: I know, Your Honor. I'm sorry. I  
3 thought the notes would have been in there, but can you...

4 DETECTIVE MOORE: Yeah.

5 MS. JOYNER: I apologize, Your Honor. I'm sorry.

6 THE COURT: After we finish this, if we finish  
7 this --

8 MS. JOYNER: I'm sorry.

9 THE COURT: I said, after we finish this, if we finish  
10 this, what -- do we have anything else on this case this  
11 afternoon?

12 MS. JOYNER: We -- I have a note that we have a pro se  
13 plea and an attorney --

14 THE COURT: No, I mean, anything in this case?

15 MS. JOYNER: Oh anything in this case. I don't  
16 believe there are any other motions, Your Honor.

17 THE COURT: Okay, all right.

18 MS. INZERILLO: I just have two supplemental motions  
19 based on what was testified.

20 MS. JOYNER: And if the Court, if the Court wishes we  
21 can present also the testimony of Detective Wallace. That  
22 was Detective Moore who was present --

23 THE COURT: Well, you know. I'm always intrigued when  
24 the Solicitor asked me what testimony I want. I don't  
25 care.

DETECTIVE FRED MOORE: REDIRECT BY MS. JOYNER

-41-

1 MS. JOYNER: Okay.

2 THE COURT: It's up to the State, and it's up to the  
3 lawyers to present who they want me to hear. Now  
4 occasionally I will ask a question if it's left hanging.  
5 That's very, very rare. But I appreciate your courtesy in  
6 asking.

7 MS. JOYNER: All right, in that case, Your Honor, I  
8 will -- I will present Detective Wallace just very briefly.

9 THE COURT: Okay.

10 MS. JOYNER: In just a moment.

11 (COURT AT EASE AT 02:56 PM.)

12 (COURT BACK ON THE RECORD AT 03:00 PM.)

13 (DETECTIVE MOORE REENTERS COURTROOM.)

14 THE COURT: Come on back up, and take the stand.

15 REDIRECT EXAMINATION - CONTINUED, IN CAMERA

16 DETECTIVE FRED MOORE BY MS. JOYNER:

17 Q. Have you had a chance to review the notes?

18 A. Yes.

19 Q. Is there anything not contained in the written  
20 statement?

21 A. It mentions that he makes -- Minor usually -- usually  
22 sleeps in the other bedroom. But we had discussed that  
23 earlier when -- when we said that he slept in the room with  
24 him. And I asked him the question about how many bedrooms  
25 does he have.

DETECTIVE FRED MOORE: REDIRECT BY MS. JOYNER  
RECROSS BY MS. INZERILLO

-42-

1 Q. Okay. So he usually sleeps -- he usually sleeps in  
2 the other bedroom. Okay. But that's not as specific to  
3 this night?

4 A. No.

5 Q. Is there anything else contained in those handwritten  
6 notes that is not included in the summary that you prepared  
7 for the General Sessions file?

8 A. No, ma'am. I checkmarked everything that I've typed  
9 in here.

10 Q. Okay, thank you. I have no more questions.

11 MS. INZERILLO: I just have one question on that.

12 RECROSS EXAMINATION - IN CAMERA

13 DETECTIVE FRED MOORE BY MS. INZERILLO:

14 Q. So when you said you checkmarked things that were in  
15 your notes that you put in your statement, does that mean  
16 there were other things in your notes that aren't in your  
17 statement?

18 A. There -- I go -- when -- usually I type -- I do type  
19 it shortly after I do the interview, and I'm trying to do  
20 the interview I make notes and mark down. That's how I go  
21 back and type my -- my statement -- my interview followup  
22 statement.

23 MS. INZERILLO: Your Honor, to sort of short circuit  
24 this a little bit, I'm just going to go ahead and ask to  
25 see a copy of the officer's notes since he also short

DETECTIVE ALEX WALLACE: DIRECT BY MS. JOYNER

-43-

1       circuited...

2             THE COURT: All right.

3             (ATTORNEY INZERILLO REVIEWING FILE OF OFFICER MOORE.)

4             MS. INZERILLO: Your Honor, after reviewing, I don't  
5 have any other questions in terms of this motion on that.  
6 But just for ease as well, I've reviewed by the clerk -- I  
7 have a couple of things with the detective, but I would  
8 just ask that to just have a copy made to refer back to IN  
9 the trial of the case.

10            THE COURT: All right, we'll do that.

11            You can step down. Thank you.

12            (WITNESS LEAVING WITNESS STAND.)

13            MS. JOYNER: Your Honor, just briefly, the testimony  
14 of Detective Wallace.

15            THE COURT: All right.

16            MADAME CLERK: Raise your right hand, place your left  
17 hand on the Bible.

18                               (WHEREUPON: DETECTIVE ALEX  
19 WALLACE, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS  
20 FOLLOWS:)

21                               DIRECT EXAMINATION

22            DETECTIVE ALEX WALLACE BY MS. JOYNER:

23            Q. Would you please state your name briefly for the  
24 record?

25            A. Alex Wallace.

DETECTIVE ALEX WALLACE: DIRECT BY MS. JOYNER

-44-

1 Q. On April 28th of this -- of last year, did you  
2 accompany Detective Moore to the home of Edward Clarkson?

3 A. Yes, I did.

4 Q. And were you present when Detective Moore had a  
5 conversation or asked questions of Mr. Clarkson regarding  
6 allegations by Minor

7 A. I was.

8 Q. Do you recall, were you present when *Miranda* warnings  
9 were read to Mr. Clarkson?

10 A. Yes, ma'am, I was.

11 Q. And do you recall how -- or who read those warning?

12 A. Detective Moore did.

13 Q. And then from -- Did he read those from a card, from a  
14 form, or from ---

15 A. From the form.

16 Q. Did you -- Did he have the defendant sign the form?

17 A. No, ma'am.

18 Q. Did you -- Were you able to observe Mr. Clarkson's  
19 demeanor when Detective Moore was reading those rights to  
20 him?

21 A. I was.

22 Q. Did he appear to understand the rights that were being  
23 read to him?

24 A. Yes, ma'am.

25 Q. In your opinion, was he under the influence of

DETECTIVE ALEX WALLACE: DIRECT BY MS. JOYNER

-45-

1 anything, perhaps seem to suffer from any kind of ailment  
2 that would affect him from understanding those rights?

3 A. No, ma'am.

4 Q. And during the time that Detective Moore asked  
5 questions of Mr. Clarkson, did you witness Detective Moore  
6 in any way threaten the defendant?

7 A. No, ma'am.

8 Q. Did he -- Did you witness him draw a service revolver?

9 A. No, ma'am.

10 Q. Otherwise, promise him anything or doing anything to  
11 coerce the defendant in --

12 A. No, ma'am.

13 Q. Okay. Did the defendant agree to speak with Detective  
14 Moore?

15 A. Yes, he did.

16 Q. Did he at any point ask to cease talking to Detective  
17 Moore or ask to speak with an attorney?

18 A. No, ma'am.

19 Q. And do you recall, did you personally ask any  
20 questions of the defendant?

21 A. I did not.

22 Q. Do you recall just from memory, what questions were  
23 asked of the defendant by Detective Moore?

24 A. I recall him asking him several questions, if he knew  
25 the victim.

1 Q. And did he indicate that he knew the victim?

2 A. Yes, he did.

3 Q. Was the question -- Detective Moore questioned him  
4 regarding whether the victim had spent the night at his  
5 resident on April 17th of 2011?

6 A. Yes.

7 Q. And do you recall what the defendant's response was?

8 A. He stated that the victim was -- that he had spent the  
9 night that night.

10 Q. Did -- Do you recall whether Detective Moore inquired  
11 as to where the victim had slept on that particular night?

12 A. Yes.

13 Q. What was the defendant's answer?

14 A. Slept in the master bedroom, same bed as the  
15 defendant.

16 Q. Did you recall whether Detective Moore inquired as to  
17 what was worn to bed by either the defendant or --

18 A. Yes.

19 Q. And what was the answer given?

20 A. The defendant stated that he wore underwear and  
21 that's -- because that's all he wears when he goes to bed.  
22 And the victim had on long pajama bottoms and a t-shirt.

23 Q. Was -- In your presence, was the defendant informed of  
24 the reason why you and Detective Moore were there?

25 A. Yes.

DETECTIVE ALEX WALLACE: DIRECT BY MS. JOYNER

-47-

1 Q. And how was it explained to the defendant?

2 A. That the victim was alleging that he was, while they  
3 were in the same bed, was touched by the defendant,  
4 grabbing his penis.

5 Q. Did the defendant admit or deny those allegations?

6 A. He denied that, yes.

7 Q. Did he at the beginning of your statement as to  
8 touching the victim?

9 A. He admitted to touching the victim on his side just to  
10 make sure he was still asleep and not sleepwalking.

11 Q. Did he express to Detective Moore why he would be  
12 concerned about sleepwalking?

13 A. He stated the victim had ADHD, I believe, and took  
14 medications for it, and also didn't want him to get on the  
15 computer.

16 Q. Were you present -- Or were you present the entire  
17 time that Detective Moore asked questions of the defendant?

18 A. Yes, I was.

19 Q. And do you recall any statements made by the defendant  
20 as to other house guests on this particular night?

21 A. I cannot recall.

22 Q. Do you recall in general whether there was a  
23 conversation about other people that come over to the  
24 house?

25 A. Yes.

DETECTIVE ALEX WALLACE: DIRECT BY MS. JOYNER

-48-

1 Q. And what was the nature of that conversation?

2 A. Basically stated that he had 18 and 19-year-old  
3 friends come over sometimes, but he also cards everybody  
4 that comes to his house.

5 Q. Did Detective Moore inquire as to whether the  
6 defendant knew how old the victim was?

7 A. Yes.

8 Q. And did the defendant indicate that he did know how  
9 old the --

10 A. Yes, he did.

11 Q. Again, and how -- Do you recall what his age -- What  
12 he stated the age to be?

13 A. I believe 12-years-old.

14 Q. Do you recall any other statements made by the  
15 defendant as to other activities that he and the victim had  
16 engaged in, in the past?

17 A. That the victim comes over there in the past and helps  
18 him with yard work and that they've also been on jet ski's  
19 together before at the lake.

20 Q. Do you recall any statement regarding a gentleman  
21 being Ryan Finnigan?

22 A. I cannot recall that.

23 Q. And again, do you recall how long you were at the  
24 scene that day?

25 A. Probably 15 minutes, 20 minutes at tops.

DETECTIVE ALEX WALLACE: DIRECT BY MS. JOYNER  
CROSS BY MS. INZERILLO

-49-

1 Q. At any point, was the defendant taken into custody?

2 A. No.

3 Q. Did you -- Was he arrested that day?

4 A. No, ma'am.

5 Q. Did he ever -- Did he ever try to leave? Was he ever  
6 denied the opportunity to leave?

7 A. No, ma'am.

8 Q. All right, thank you very much. Please answer any  
9 questions the defense has.

10 CROSS EXAMINATION

11 DETECTIVE ALEX WALLACE BY MS. INZERILLO:

12 Q. Good afternoon, Detective Wallace.

13 A. Good afternoon.

14 Q. Did you make any reports of the conversation that you  
15 heard between -- I mean, statements by Detective  
16 -- I mean, Mr. Clarkson?

17 A. No, no, ma'am.

18 Q. Did you make any notes or anything at the time?

19 A. No, ma'am.

20 Q. So you were just there observing conversation?

21 A. Yes, ma'am.

22 Q. Was this the only time that you spoke to Mr. Clarkson  
23 about this case?

24 A. Yes, it was.

25 Q. Okay so, you had no other conversations with him?

DETECTIVE ALEX WALLACE: CROSS BY MS. INZERILLO

-50-

1 A. No, ma'am.

2 Q. Other than what has been reviewed with you by Ms.  
3 Joyner, do you recall any other statements that Mr.  
4 Clarkson made in your presence about this case?

5 A. No, ma'am.

6 MS. INZERILLO: No further questions, Your Honor.

7 MS. JOYNER: Nothing further, Your Honor.

8 THE COURT: You can step down. Thank you.

9 (WITNESS LEAVING WITNESS STAND.)

10 THE COURT: Anything further from the State?

11 MS. JOYNER: No, sir, Your Honor.

12 THE COURT: Anything on this issue from the Defense?

13 MS. INZERILLO: No, Your Honor.

14 THE COURT: What's the defense's position?

15 MS. INZERILLO: Your Honor, at this time, we just ask  
16 the Court to make a finding.

17 THE COURT: Well I do find that Mr. Clarkson was not  
18 in custody, but in any event, he was advised of his rights,  
19 under *Miranda*, *Fifth and Sixth Amendments of the*  
20 *Constitution*, and that he freely and voluntarily knowing  
21 them intelligently waived them by talking to the officers.  
22 He was read -- that is, Mr. Clarkson was read the *Miranda*  
23 rights required by *Miranda*. The officer advised him, Mr.  
24 Clarkson, that he could remain and had the right to remain  
25 silent, that if he did not exercise that right and spoke,

-51-

1 that anything he said could be used against him in court.  
2 That he had the right to an attorney and if he could not  
3 afford one, that an attorney would be appointed to  
4 represent him. That he could ask questions -- answer  
5 questions if he wished, but he could stop and exercise any  
6 of his Constitutional rights at anytime.

7 I find that it's all about preponderance of the  
8 evidence, and this includes that there was no threat, no  
9 coercion, no promise, no intimidation of any type, no  
10 weapon drawn. That Mr. Clarkson was not under the  
11 influence or suffering from any ailment that would affect  
12 his ability to freely voluntarily and knowingly waive his  
13 rights and speak to the officer, which I find he did. The  
14 officers testified -- the officer, not the second one, but  
15 the first one, Mr. Moore testified that Mr. Clarkson  
16 appeared to understand the rights, and freely voluntarily  
17 and knowingly responded to questions. So I'll allow the  
18 statements into evidence.

19 All right. What else this afternoon?

20 MS. INZERILLO: Your Honor, just briefly. I have  
21 noted in the defenses motions in limine Number 8, some  
22 concerns about the defendant's comments about not wanting  
23 to go back to jail. During one of the breaks, I had  
24 discussed this with Ms. Joyner. She informed me that she  
25 does not intend to illicit his testimony and would be in

1 agreement with any redactions should any of the report come  
2 in. We don't foresee that happening, but just to cover all  
3 our bases. So I don't think we need to address that. We  
4 can work that out.

5 The only thing I would address at this time is the  
6 testimony that did come out through Detective Moore  
7 regarding my client having guys 18 to 20 coming over to the  
8 house and buying cigarettes and alcohol. I would ask that  
9 any testimony to that by him or any other witness be  
10 excluded. It is irrelevant, and there's no indication in  
11 anything that we've been provided that those same  
12 allegations extend to the 12-year-old in this case, and  
13 that the 12-year-old never indicated that Mr. Clarkson  
14 acted in that manner. And certainly, I think it does raise  
15 a spectrum of some other bad acts considering the age of  
16 these individuals and the, sort of, underlying allegation  
17 of criminal activity of buying alcohol for minors and that  
18 type of thing. And so we would ask that --

19 THE COURT: I must have misunderstood. I got the  
20 impression he testified he carded them and would not  
21 provide those. But anyway, I don't. --

22 MS. JOYNER: That's correct, Your Honor.

23 THE COURT: I don't -- I hope we can stay away from  
24 other visitors to the house.

25 MS. JOYNER: Your Honor, there will be testimony that

-53-

1 there was a visitor in the house. That might ---

2 THE COURT: Well other than Mr. Finnigan, but I'm  
3 talking about if he's 18 or 19 -- I don't know how old Mr.  
4 Finnigan is.

5 MS. JOYNER: Nineteen.

6 THE COURT: But the ---

7 MS. JOYNER: Yes, sir.

8 THE COURT: --- with the regularity. I don't know  
9 what kind of cards we're talking about, but that he has  
10 other male visitors. That's not relevant.

11 MS. JOYNER: Thank you, Your Honor. We will stay away  
12 from that. And I would want to clarify. We do not intend  
13 to illicit testimony that he does not want to go back to  
14 jail. But again, like the sex offender registry status, we  
15 do feel there is potential that the door could be opened in  
16 some way. So we're not suggesting that the door -- that  
17 there's not -- we're not suggesting that if the door is  
18 opened that we won't walk through it. We would, with the  
19 Court's permission, walk through it.

20 THE COURT: Anything else?

21 MS. INZERILLO: No, Your Honor.

22 THE COURT: I'm not going to require Mr. Clarkson to  
23 remain -- he's out on bond?

24 MS. INZERILLO: Yes, Your Honor.

25 THE COURT: He'll remain out on bond.

1 We'll start back -- let's try to convene at about  
2 9:30. The jury won't be back till 10:00. We'll see if  
3 there are any other matters that we need to take care of.

4 MS. JOYNER: Yes, sir. And I believe that Ms. Collins  
5 actually did try to schedule a bond hearing. And she was  
6 trying to not inconvenience the trial, so she asked the  
7 attorney to be here at 9:00, if that works for Your Honor.

8 THE COURT: You can be here at 7:00. That works for  
9 me. Yeah, we'll be here. I'll be here at around 9:00, and  
10 the court reporter will be here shortly thereafter, so...

11 MS. JOYNER: Thank you, Your Honor.

12 And I believe we have a few other matters.

13 THE COURT: All right. I see a congregation. Well a  
14 small congregation.

15 MS. JOYNER: What's that?

16 THE COURT: I said I -- I started to say I -- I said I  
17 saw a congregation, and then I said, a small congregation,  
18 a duo. All right.

19 (COURT IN RECESS AT 03:30 PM.)

20 (COURT IN SESSION ON THE MATTER OF STATE VERSUS EDWARD  
21 CLARKSON, THURSDAY, JANUARY 12, 2011 AT 09:48 AM.)

22 THE COURT: It's not quite Ten, are we ready to go?  
23 We don't have any issues?

24 MS. INZERILLO: No, Your Honor, no other issues.

25 THE COURT: Okay.

-55-

1 MS. JOYNER: And, Your Honor, I would like -

2 THE COURT: Wait. Wait just a second.

3 No, I'm trying to get information from the lawyers  
4 right now. Wait just a second.

5 MS. JOYNER: I was just going to inquire about, I  
6 don't believe Ms. Inzerillo is going to call the doctor.  
7 But if she did I just wanted it to state on the record that  
8 I wanted to proffer testimony before he testified.

9 THE COURT: So we're ready to start when we get the  
10 jury in at Ten.

11 THE BAILIFF: The jury's still downstairs. You want  
12 to get them up now?

13 THE COURT: Just as long as their here by Ten. We're  
14 gonna take a break.

15 (COURT IN RECESS AT 09:55 AM.)

16 (COURT BACK IN SESSION AT 10:12 AM.)

17 THE COURT: Take your seats.

18 Is the State ready?

19 MS. JOYNER: The State's ready, Your Honor.

20 THE COURT: Is the Defense ready?

21 MS. INZERILLO: Yes, Your Honor.

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

23 (JURY REENTERS COURTROOM AT 10:13 AM.)

24 THE COURT: Now that you all are comfortably seated, I  
25 am going to ask you to stand, the Clerk is going to

1 administer the oath.

2 MADAME CLERK: If you all would raise your right hand,  
3 please.

4 (WHEREUPON: THE JURY IS DULY  
5 SWORN AND ALL AFFIRMED.)

6 THE COURT: You may be seated.

7 First, I apologize for running a little bit late. We  
8 try to start on time, but I'm the only judge here this  
9 week, and so I have to handle certain administrative  
10 matters, and one popped up right at 10:00 o'clock that  
11 needed quick action, so I took care of that, and I  
12 apologize. It wasn't the lawyers fault or Mr. Clarkson's  
13 fault. It's one of those things that just happened. I  
14 apologize.

15 Now I'm not going to keep reminding you about not  
16 going online and not doing any research, not making up your  
17 own mind, not discussing the case, not being exposed to any  
18 news coverage, and not letting anyone talk to you about the  
19 case. But that does continue until I instruct you to  
20 jointly deliberate and returning a unanimous verdict.

21 To this charge, Mr. Clarkson's entered a plea of not  
22 guilty. This plea of not guilty places on the State the  
23 burden of proving Mr. Clarkson's guilt to the charge beyond  
24 a reasonable doubt. Mr. Clarkson is presumed innocent.  
25 Anyone charged with any offense in our system is presumed

-57-

1 innocent. The charge against them is up to the State to  
2 prove his guilt. It's not up to him to prove his  
3 innocence.

4 I have three primary jobs in this case. One is that I  
5 am the logistics person. I make sure we take breaks, that  
6 we start on time, that you can see and hear, the mechanical  
7 parts of the trial. My second job is that I rule on  
8 evidentiary matters. If one side believes certain evidence  
9 should be allowed into the record for your consideration  
10 and based on some law or rule of evidence the other side  
11 believes that evidence is not to be allowed into the  
12 record, it is up to me to make a legal determination on  
13 that. My third job is that I am the sole judge of the law  
14 in this case. You must take, accept, and apply the law as  
15 I charge it. This is true even if you think I charge the  
16 law in error or even if you think the law should be  
17 different. Your oath requires you to take, accept, and  
18 apply the law as I charge it.

19 I am giving you some legal principals now. Throughout  
20 the trial I may give you some. And at the end of the  
21 trial, I'll give you a concise and comprehensive charge on  
22 the law that you are to apply to the facts as you determine  
23 them to be.

24 You are not to infer from anything that I say or do at  
25 any time during this trial as indicating an opinion of mine

1 on the facts. It is solely your job to examine the  
2 evidence; to give to the evidence the effect, the value,  
3 the truth you believe it should have. In doing this, you  
4 may believe one witness as opposed to several, several  
5 witnesses as opposed to one. You may believe all, part, or  
6 none of a witnesses testimony. In analyzing the evidence,  
7 use your common sense, your sense of logic, your sense of  
8 reason. Use your experiences in life.

9 As judges of the facts you must determine the  
10 credibility, the believability of the witnesses who  
11 testify. In assessing believability, use the things I just  
12 mentioned. Use the things that you find in your day-to-day  
13 life as indicating to you truthfulness in a person. And  
14 you can use certain evaluators: a witness's demeanor, how  
15 the witness acts on the stand, are they hesitant or  
16 straightforward, is their testimony consistent or  
17 inconsistent, do they have any bias or prejudice, that is,  
18 is there any reason to help or hurt one side or the other?  
19 You can consider the opportunity a witness had to know  
20 those things about which they testify. All these things  
21 you consider, determine the true facts, and apply the law,  
22 and your verdict will speak the truth.

23 If you cannot see or you cannot hear, let me know.  
24 You don't need to take notes, but either cup your ear, a  
25 voice-raising gesture, a nudging gesture, and I'll try to

-59-

1 correct whatever the problem is. We take breaks about  
2 every hour and a half. I find that's a pretty good  
3 comfort-level time for everybody. But it's not necessarily  
4 for everybody. If any of you need a break at anytime,  
5 please raise your right hand and with no questions asked,  
6 we'll take a break.

7 And I extend that to counsel and Mr. Clarkson. We  
8 want to move the case along at a good pace, but we're not  
9 in such a hurry that we won't take a break if someone needs  
10 to take a break.

11 So the attorneys now have the opportunity to come  
12 before you and make what are called opening statements.  
13 They are not at this time arguing their case. That is,  
14 they are not telling you what the evidence has been. Of  
15 course, it hasn't been presented. And they're not trying  
16 to convince you of what your verdict should be. They are  
17 simply giving you an outline or a blueprint of the trial.  
18 At a later time, they will have the opportunity to come  
19 before you and summarize, argue what your verdict should be  
20 based on the evidence that you have heard and based on the  
21 law they know I will be charging you. At this point,  
22 they're simply outlining the trial for you. They are not  
23 witnesses, so what they say is not evidence. Again, they  
24 are simply summarizing their position as to what this case  
25 is about.

OPENING STATEMENT: BY MS. JOYNER

-60-

1 Counsel.

2 MS. JOYNER: May it please the Court, Your Honor?

3 THE COURT: Yes.

4 MS. JOYNER: During this trial, you're going to meet a  
5 young man named Minor. He's 13 years old. He lives  
6 here in York with his grandma, and his mom, and his sister,  
7 and his dog Jack. Minor is going to testify for you and  
8 tell you about something that occurred when he was 12 back  
9 in April 17th and April 18th of 2011.

10 It was on April the 17th of 2011 that the defendant  
11 Edward Clarkson stayed at Minor home. The defendant was  
12 a family friend of Minor. They had spent time together  
13 before in the past. They'd done other things together  
14 before. And on this particular day, the defendant, which  
15 Minor sometimes referred to as Big E or Uncle E, he came  
16 to the house and he said, "How about you do some work for  
17 me tomorrow around the house?" And Minor liked Uncle E.  
18 He was excited at the opportunity to do that, and make a  
19 little money, and spend some time with him. And so he said  
20 yes.

21 And somehow the plan evolved where Minor wouldn't  
22 just come over the next day to do some work, but that he  
23 would go ahead and pack a bag and spend the night, that  
24 night at the defendant's house. And so he did. And the  
25 defendant drove him back over to his house. Later picked

OPENING STATEMENT: BY MS. JOYNER

-61-

1 up another friend that came over to the house. And  
2 otherwise the evening was uneventful until it came time to  
3 go to bed. And at that point, this family friend who's no  
4 blood relation, no relation by marriage, a person, a 53-  
5 year-old man said to Minor "Come on Minor let's get in  
6 bed." And Minor did what a 12-year-old did. He got in  
7 the defendant's bed. Put his pajamas on, and went to  
8 sleep. And the defendant put his boxer shorts on, and  
9 climbed in the bed with Minor and went to sleep.

10 And at some point in the morning when Minor had  
11 shifted his position from laying on his side and facing one  
12 of the walls, lying on his back, and that's when he felt  
13 the hand of his friend slip underneath the waistband of his  
14 pajamas and into his pants. And he felt that hand grab his  
15 penis and masturbate him. And Minor will get on this  
16 stand to tell you about that night. And he'll tell you  
17 even that the next day, he stayed over there, and continued  
18 to do the work, and had to wait until that night when he  
19 got home when he was finally able to tell his mom what had  
20 happened.

21 The defendant stands trial today, and he is charged  
22 with a lewd act upon a child. And the judge -- this judge  
23 will explain to you in the close of the trial, he's going  
24 to give you a very lengthy instruction on the law that's  
25 going to apply to this case.

1           And just so that you have some context when you're  
2           listening to the evidence, I'm going to read the statute to  
3           you. And it provides that it is "unlawful for a person  
4           over the age of 14 years to willfully and lewdly commit or  
5           attempt to commit a lewd and lascivious act upon or with  
6           the body or its part of a child under the age of 16 years  
7           with the intent of arousing, appealing to, or gratifying  
8           the lust or passions or sexual desires of the person or of  
9           the child."

10           It's kind of convoluted language. They use the term  
11           "lewd" and "lascivious," which I don't think is the term  
12           that they use in your everyday life. And generally, those  
13           are understood in the law to be something that's obscene,  
14           lustful, or indecent. Basically something that's sort of  
15           indecent and sexual in nature. And so when you're  
16           listening to the evidence, ladies and gentlemen, I want you  
17           to remember that what the State is going to require to  
18           prove to you during the course of this trial beyond a  
19           reasonable doubt is basically four things: number one, the  
20           defendant is older than 14; that number two, Minor  
21           is under the age of 16; and number three, there was a  
22           deliberate, inappropriate act or touch; and that number  
23           four, the purpose was sexual. It was to arouse, appeal to,  
24           gratify lust or sexual desires of the defendant or Minor

25           As I said, you're going to hear from Minor

You're

OPENING STATEMENT: BY MS. JOYNER  
BY MS. INZERILLO

-63-

1 going to hear from other witnesses in this case. And after  
2 you've heard from all of the State's witnesses, I am going  
3 to stand back before you in my closing argument. And I'm  
4 going to ask you to reach the verdict that speaks the truth  
5 and find the defendant guilty.

6 Thank you.

7 MS. INZERILLO: May it please the Court, Your Honor?

8 THE COURT: Yes, ma'am.

9 MS. INZERILLO: Good morning.

10 As such a lot of things in life, this case comes down  
11 to essentially he said versus he said. It comes down to a  
12 set of events that happened where two people are giving  
13 very different views of those events. As you heard the  
14 State indicate, Minor is going to come in and tell  
15 you that Edward Clarkson inappropriately touched him that  
16 night. You will also hear testimony that when the officers  
17 were investigating this case, they went over and talked  
18 with Mr. Clarkson. Mr. Clarkson didn't run, but he spoke  
19 to the officers, and he explained the events of that  
20 evening. You are going to hear that Mr. Clarkson explained  
21 to the officers that Minor mom wanted Minor to come  
22 over to his house. He kept calling him because Minor --

23 MS. JOYNER: I object, Your Honor. That's not  
24 contained in the statement.

25 THE COURT: I --

OPENING STATEMENT: BY MS. INZERILLO

-64-

1 MS. INZERILLO: I believe it was testified to, Your  
2 Honor.

3 THE COURT: Well we haven't had testimony yet.  
4 I overrule your objection.

5 Just let's make sure we stick to what we anticipate it  
6 will be in the trial.

7 MS. INZERILLO: Yes, Your Honor.

8 But he came over to the house that evening. And Mr.  
9 Clarkson did explain that he did have Minor sleep in his  
10 bed that evening. And I bring that out to you now, one,  
11 because that will be the testimony that you'll hear.  
12 You'll hear Mr. Clarkson explain that to the officer. But  
13 you'll also hear that Mr. Clarkson explained to the officer  
14 why that was. It wasn't sexual in nature. That he  
15 explained to the officer about the nature of some  
16 medication that Minor was taking, that he had concerns  
17 about Minor running around his house.

18 But I also bring this out to you for another reason.  
19 As unseemly as that fact is, and I think we can all agree  
20 on that, as unseemly as that fact is, it's not lewd act.  
21 The State explained what lewd act is. It's sexual  
22 touching. It's not merely sleeping in a bed with a minor  
23 child.

24 Now Mr. Clarkson is here today because he's pled not  
25 guilty to this charge. And on this day, he explained to

OPENING STATEMENT: BY MS. INZERILLO

-65-

1 the detective. He did not touch Minor That's the  
2 issue in this case, ladies and gentlemen, that allegation  
3 of inappropriate touching.

4 In this courtroom, ladies and gentlemen, the burden is  
5 on the State to prove Mr. Clarkson guilty. The evidence  
6 that will be presented, presented through the State,  
7 testimony, any exhibits, because the burden solely falls on  
8 her shoulders to prove Mr. Clarkson guilty. So I ask you,  
9 as you would in your everyday life, when faced with a  
10 situation of a he said, he said, a war of words for  
11 example, to look for anything else in the case that may  
12 tend to prove or disprove the allegation. Look for example  
13 for any forensic evidence. Any other independent evidence  
14 may be brought in that help support Mr. Minor testimony  
15 because the burden is on the State, ladies and gentlemen.

16 And as the judge indicated, at the end of the case, he  
17 will explain to you again what the law is. He will define  
18 all these terms as lewd, lascivious. He will tell you that  
19 in order to be a lewd act, the act has to be willful. It  
20 has to be intentional. It can't be accidental.

21 Keep in mind, ladies and gentlemen, as unseemly as it  
22 may be to you that Mr. Clarkson may elect to sleep in a bed  
23 with a 12-year-old child, that is not lewd act. And I ask  
24 you to listen to the evidence that is presented and find  
25 Mr. Clarkson not guilty.

LINDA GIBSON: DIRECT BY MS. JOYNER

-66-

1 THE COURT: Call your first witness.

2 MS. JOYNER: Thank you, Your Honor.

3 The State calls Linda Gibson.

4 Could you please go to the outer door and Ms. Gibson  
5 to come in the courtroom?

6 MADAME CLERK: Please raise your right hand, place  
7 your left hand on the Bible.

8 (WHEREUPON: LINDA GIBSON, BEING  
9 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

10 MADAME CLERK: Thank you. Have a seat right over  
11 there.

12 DIRECT EXAMINATION

13 LINDA GIBSON BY MS. JOYNER:

14 Q. Can you please state your full name for the record?

15 A. Linda Gibson.

16 Q. Ms. Gibson, where do you live?

17 A. I live at 7082 [REDACTED] York, South Carolina.

18 Q. And who do you live with?

19 A. I live with my daughter and my two grand kids.

20 Q. And what are the names of your grandchildren?

21 A. Minor and Shelly.

22 Q. How long have you lived at [REDACTED]

23 A. Nine years.

24 Q. And have you always lived there with Elizabeth and  
25 Minor and Shelly?

LINDA GIBSON: DIRECT BY MS. JOYNER

-67-

1 A. No.

2 Q. How long have they lived there with you?

3 A. I moved in with them when Shelly was two months old,  
4 and she's nine.

5 Q. And how old is your grandson Minor

6 A. Thirteen.

7 Q. Now do you know the defendant in this case Edward  
8 Clarkson?

9 A. Yes.

10 Q. How is it that you became acquainted with him?

11 A. My daughter and his nephew Lance were friends.

12 Q. What is Lance's last name?

13 A. Carter.

14 Q. How long have you known the defendant?

15 A. Three or four years, I guess.

16 Q. And how would you term what your relationship -- your  
17 family's relationship was to the defendant?

18 A. Friends.

19 Q. And what types of things -- what type of interaction  
20 would you personally have with the defendant?

21 A. He would come to the house and talk to us. And he'd  
22 done some odd jobs for me. He was cutting our grass for  
23 me. And, you know, I told -- he lost his job, and I was  
24 paying him, helping him a little bit with some money when  
25 he would do things for us.

LINDA GIBSON: DIRECT BY MS. JOYNER

-68-

1 Q. Okay. Now, so other than Minor did you have a man  
2 around the house to do those odd jobs?

3 A. No.

4 Q. How frequently would you see the defendant? Would it  
5 be on a consistent basis or would it vary?

6 A. It would vary because I work, and he would come  
7 sometimes when I wouldn't be at home.

8 Q. What was his -- To the best of your knowledge, what  
9 was his relationship like with Minor?

10 A. Friends.

11 Q. Did they sometimes do activities together?

12 A. Yes.

13 Q. What types of things might Minor and the defendant  
14 do?

15 A. I'm pretty sure he took Minor fishing one time. And  
16 he took Minor out on his jet skis. And as far as I know,  
17 that's the only two things I know.

18 Q. Do you recall a day back in April of last year when  
19 the Defendant came to your home?

20 A. Yes.

21 Q. What was the reason that he came to your home?

22 A. He wanted -- he wanted -- mostly I think he come to  
23 visit for a few minutes. And the -- He said he was putting  
24 up a building, and he asked Minor if Minor might want to  
25 help him, maybe pull some limbs, you know, and take off

LINDA GIBSON: DIRECT BY MS. JOYNER

-69-

1 some trash. And you know, stuff like that for him.

2 Q. Did -- To the best of your knowledge, did anybody call  
3 and ask the defendant to come over?

4 A. Not that I know of.

5 Q. Do you recall -- Did you personally witness the  
6 conversation about doing work -- Minor doing work for him?

7 A. Yes.

8 Q. And did Minor agree to go and help him out?

9 A. Yes.

10 Q. And did Minor mom say that was okay?

11 A. Yes.

12 Q. At some point, did the plan evolve to include Minor  
13 spending the night with the defendant. Did someone decide  
14 that Minor was going to spend the night there?

15 A. I don't remember.

16 Q. Do you recall Minor leaving to go to --

17 A. Oh yes, I remember Minor leaving -- he -- he got his  
18 clothes ready, and yes he did go spend the night.

19 Q. So do you -- do you -- do you recall then whose idea  
20 it was?

21 A. No, I don't.

22 Q. And do you remember what time that was approximately  
23 that Minor left to go to his house?

24 A. Getting kind of late in the afternoon.

25 Q. Were you present when Minor was brought home by the

LINDA GIBSON: DIRECT BY MS. JOYNER

-70-

1 defendant the next day?

2 A. Yes.

3 Q. Do you recall what time of day or night that was?

4 A. It was getting late.

5 Q. How are you able to remember that it was late?

6 A. Because we -- We kept waiting, you know, wanting to --  
7 trying to figure out, you know, how long it was going to  
8 be. And Beth called him and asked him, you know, how much  
9 longer. And I don't know what he told Beth on the phone,  
10 but it wasn't but just a little bit later till he brought  
11 Minor home.

12 Q. Was there anybody -- do you remember -- Were you able  
13 to tell if there was anybody with him?

14 A. I do not know.

15 Q. When he dropped Minor off, what did Minor do?

16 A. Minor come through the house, went straight to the  
17 shower, took a shower.

18 Q. Did you hear Minor say goodbye to the defendant?

19 A. No.

20 Q. Did you interact at all with the defendant?

21 A. Yes, I -- He walked up to the door, kind of half --  
22 put half of his body in the door, and I asked him a couple  
23 of questions. I think it was something like, "Did you all  
24 do a good, you know, did Minor help you do a good job?"  
25 You know, or "Did you get finished?" Something on that

LINDA GIBSON: DIRECT BY MS. JOYNER

-71-

1 line. And he answered me kind of, you know, just one-word  
2 answers. And he kind of kept his head down to the ground  
3 and didn't want to look at me.

4 Q. Was that unusual demeanor for the defendant?

5 A. Yes, because usually he would come, and he would come  
6 in, and he would pick, you know, and with my granddaughter.  
7 And he would talk, you know, a few minutes, and just, you  
8 know. And then he'd say, "Well I got to go." And he'd  
9 always tell them bye, and he'd always tell Shelly bye.

10 Q. On this particular day, did he tell Minor goodbye?

11 A. Yes, he hollered through the house, "Bye, Minor

12 Q. Now this night in April, were the police called to  
13 your house?

14 A. Yes.

15 Q. At the time that they were called, did you know why?

16 A. No.

17 Q. What sort of led up -- for your observation, what led  
18 up to the police being called?

19 A. Okay. When Minor got out of the shower, he called  
20 his momma in there, and he shut the door. And -- give me  
21 just a minute. And he -- they stayed in there pretty --  
22 just a few minutes.

23 (WITNESS CRYING - TISSUE HANDED TO WITNESS.)

24 A. Thank you.

25 Q. Just take your time. Just take as much time as you

LINDA GIBSON: DIRECT BY MS. JOYNER

-72-

1 need.

2 A. And they stayed in there a few minutes. And Minor  
3 come -- he opened the door, and he come back through the  
4 living room. And he said, "Maw Maw, where's the  
5 phonebook?" And I showed him where it was at. So he got  
6 the phonebook. He went back into the bedroom and shut the  
7 door back. No, excuse me. Let me back up just a minute.  
8 He got the phonebook. And I asked him, I said, "Minor I  
9 said, "Are you all right?" He said, "Yes, Maw Maw, I'm all  
10 right, but somebody's in trouble." So he goes back in the  
11 bedroom, and I -- they stayed in there, I don't know, maybe  
12 10 or 15 more minutes. And Minor opened the door back up,  
13 and I went in there, and Minor was crying.

14 Q. Was it unusual to see Minor cry?

15 A. Yes, yes.

16 And I hugged him. And I told him, I said, "Whatever,  
17 it will be okay." And I went back in the living room. And  
18 I don't know, it was maybe 30, 45 minutes later. I seen a  
19 police car pull up. So I told my granddaughter, I said,  
20 "Shelly," I said, "You come with me, and we're going to go  
21 in my room and sit for a little while." So we stayed in  
22 there for I don't know how long. And my bedroom is right  
23 at the den. So I told Shelly, I said, "You stay right here  
24 just a few minutes. I'm going to go in this way and see,"  
25 you know. So I come through the dining -- through the den,

LINDA GIBSON: DIRECT BY MS. JOYNER  
CROSS BY MS. INZERILLO

-73-

1 and at the dining room table, there sat Minor and an  
2 officer, and Minor was crying. And over here on the couch  
3 in the living room, Beth and the other officer was sitting.  
4 So I just went back in the bedroom, and me and Shelly  
5 stayed in there until the officers left.

6 Q. Thank you very much, Ms. Gibson. Please answer any  
7 questions that Ms. Inzerillo has for you.

8 MS. INZERILLO: May it please the Court, Your Honor?

9 THE COURT: Yes, ma'am.

10 CROSS EXAMINATION

11 LINDA GIBSON BY MS. INZERILLO:

12 Q. Good morning.

13 A. Good morning.

14 Q. At any time prior to when your daughter called Mr.  
15 Clarkson, did you guys -- you guys never received a call  
16 from Minor asking to be picked up or brought back home?

17 A. No, ma'am, not to my knowledge we didn't.

18 Q. And at no point during that time did -- to your  
19 knowledge -- did Minor call the police before his mom?

20 A. I don't think so, no.

21 Q. And I believe your recollection was that Mr. Clarkson  
22 had come by the house because he wanted Minor to do some  
23 -- help him with the shed? Or build a building or  
24 something like that; is that correct?

25 A. I'm not -- I'm not exactly sure because he's friends

LINDA GIBSON: CROSS BY MS. INZERILLO

-74-

1 with the people next door to us too. I don't know if he  
2 was over there with them and just happened to drop by or  
3 not. I don't know.

4 Q. But I believe your testimony was that your  
5 recollection was he had wanted Minor to come over because  
6 he was building a building?

7 A. Well when he come in the door, he was telling us about  
8 he was going to build -- he was putting him up a building.  
9 And he asked Minor if, you know, Minor might want to help  
10 him. And Minor told him yes.

11 Q. And do you recall that night that, I believe, I guess,  
12 Shelly was going to have a sleep over or a party with some  
13 friends that evening?

14 A. Yeah, but that didn't go through so...

15 Q. Do you recall if that was the reason why Minor mom  
16 arranged for Minor to spend the night with Mr. Clarkson?

17 A. I don't know. I don't know.

18 Q. Now as his -- I believe you testified as his  
19 grandmother, you live in the same house as Minor is that  
20 right?

21 A. Yes, I do.

22 Q. And so you're aware of the fact that Minor has to  
23 take medication at certain times of the day?

24 A. Yes, yes.

25 Q. And that he has to take that medication about every 12

LINDA GIBSON: CROSS BY MS. INZERILLO

-75-

1 hours, for example, like at 6:00 p.m., 6:00 a.m., like  
2 that?

3 A. He takes of the morning and of the evening.

4 Q. And there are several pills that he has to take that  
5 essentially an adult has to give him?

6 A. His mother gives them to him.

7 Q. Now the next day, you were describing Mr. Clarkson's  
8 demeanor at the door.

9 A. Uh-huh.

10 Q. And you indicated he was acting a little bit strange,  
11 had his head down. And that, that seemed a little bit odd  
12 to you; is that right?

13 A. Yes, ma'am. It did.

14 Q. And you don't know essentially if he was acting that  
15 way because he had been building a shed all day, and he was  
16 tired?

17 A. I don't know. I don't know.

18 Q. It just -- that sort of stuck out with you?

19 A. It just kind of stuck in my mind.

20 Q. Okay.

21 MS. INZERILLO: No further questions, Your Honor.

22 THE COURT: Any redirect?

23 MS. JOYNER: No redirect, Your Honor.

24 THE COURT: You can step down and be excused. We  
25 appreciate your time. Thank you.

Minor DIRECT BY MS. JOYNER

-76-

1 THE WITNESS: Thank you.

2 (WITNESS LEAVING WITNESS STAND.)

3 THE COURT: Call your next witness.

4 MS. JOYNER: The State calls Minor

5 Will you please ask Minor to come from the  
6 witness room?

7 Daniel, please step up, and be sworn by the Clerk.

8 MADAME CLERK: If you'll raise your right hand, place  
9 your left hand on the Bible.

10 (WHEREUPON: Minor BEING  
11 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

12 MADAME CLERK: Thank you. If you'll take a seat right  
13 there.

14 DIRECT EXAMINATION

15 Minor BY MS. JOYNER:

16 Q. Minor can you please state your full name for the  
17 record?

18 A. Minor

19 Q. And Minor how old are you today?

20 A. Thirteen.

21 Q. What's your date of birth, Minor

22 A. [REDACTED]

23 Q. Where do you live?

24 A. 7-0-8-2 [REDACTED]

25 Q. Who do you live with?

Minor DIRECT BY MS. JOYNER

-77-

1 A. My mom, my grandma, my little sister, and my dog Jack.

2 Q. How long have you lived at [REDACTED] that  
3 [REDACTED] address?

4 A. I don't know.

5 Q. A long time or a short time?

6 A. Long.

7 Q. Where do you go to school, Minor

8 A. [REDACTED]

9 Q. What grade are you in?

10 A. Eighth.

11 Q. And, Minor I'm going to ask you to think back to  
12 April of last year when you were -- Were you still 12 years  
13 old in April of last year?

14 A. Yes.

15 Q. What grade were you back in April of last year?

16 A. Seventh.

17 Q. Before -- Well actually, before I ask you about that  
18 day, I'm going to ask you, do you know the defendant in  
19 this case, Edward Clarkson?

20 A. Yes.

21 Q. Have you been in a room with him or seen him?

22 A. Yes.

23 Q. Before today, since that time back in April?

24 A. No.

25 Q. How do you know -- just tell the jury really briefly

Minor

DIRECT BY MS. JOYNER

-78-

1 -- how do know the defendant?

2 A. Mom -- Mom used to -- Lance ---

3 Q. I'm going to have ask you to speak up a little bit.  
4 I'm having a little trouble.

5 A. My mom used to date Lance Carter, and that is his  
6 uncle.

7 Q. The defendant is his uncle?

8 A. Yes.

9 Q. Do you know how long it is that you've known the  
10 defendant?

11 A. Three years.

12 Q. Is it -- did you say, "three years"?

13 A. Yes.

14 Q. Make sure you keep you voice up nice and loud. I know  
15 it's hard. Okay?

16 Now what do you call -- What did you call the  
17 defendant? What was your name for him?

18 A. Uncle E.

19 Q. Did you have any other nicknames for him, or did your  
20 sister Shelly have any other nicknames for him?

21 A. E'man.

22 Q. E'man. Okay.

23 And how did you all come up with those nicknames?

24 A. I really don't know.

25 Q. How often would you see the defendant?

Minor

DIRECT BY MS. JOYNER

-79-

1 A. Every once in a while.

2 Q. And when you would see the defendant, would you have  
3 nice, pleasant conversations with him?

4 A. Yes.

5 Q. And did you ever do anything, like have any activities  
6 with the defendant?

7 A. What types of activities might you -- would you have  
8 done with the defendant?

9 A. Jet skiing, and we'd go places.

10 Q. I'm sorry. I'm going to ask you to speak up. Jet  
11 skiing and what?

12 A. Jet skiing, and we would go other places.

13 Q. Go other places. Would you -- When you went jet  
14 skiing, did you jet skiing with him by yourself?

15 A. Yes.

16 Q. When you went other places, did you sometimes go by  
17 yourself as well?

18 A. Yes.

19 Q. Yes. Okay.

20 In the time that you had known -- I'm sorry. Were you  
21 saying something?

22 A. Huh-uh.

23 Q. I apologize.

24 In the time that you've known the defendant, have you  
25 ever gone to his house?

Minor

DIRECT BY MS. JOYNER

-80-

1 A. Yes.

2 Q. I want you to explain to the jury if you can, kind of  
3 how his house is laid out. I'm going to ask you a few  
4 questions about it. Do you know how many bedrooms are in  
5 the house?

6 A. Three.

7 Q. Are they all set up as bedrooms?

8 A. No.

9 Q. How many of them are set up as an actual bedroom?

10 A. One.

11 Q. The other two rooms that you would think of as  
12 bedrooms, what are they used for?

13 A. I think one, he has put stuff in, and the other one, I  
14 know has a computer in it.

15 Q. Okay. And is there a living room?

16 A. Yes.

17 Q. Is there a formal dining area?

18 A. Yes.

19 Q. Is it connected to the -- Is it a separate room or is  
20 it connected to the kitchen?

21 A. It is actually in the kitchen.

22 Q. It's actually -- It's like it's a table in the  
23 kitchen?

24 A. Yes.

25 Q. Okay. The one bedroom that is set up as a bedroom, is

Minor

DIRECT BY MS. JOYNER

-81-

1 that the master bedroom in the house?

2 A. Yes.

3 Q. And is there -- How many bathrooms are in the house?

4 A. Two.

5 Q. Is one of those bathrooms connected to the master  
6 bathroom?

7 A. Yes.

8 Q. Where is the other bathroom?

9 A. In the hallway.

10 Q. Are all the bedrooms -- where's the -- If you walk in  
11 the front door, which room do you walk into?

12 A. The living room.

13 Q. Now if you walk into the living room, which side of  
14 the house is the master bedroom on?

15 A. Left.

16 Q. Are the other bedrooms on the same side as the master  
17 bedroom?

18 A. No.

19 Q. So they're on the opposite side?

20 A. Yes.

21 Q. Is that other bathroom closest to those other two  
22 bedrooms or closest to the master bedroom?

23 A. I'm sorry.

24 Q. There's one bathroom attached to the master bath -- to  
25 the master bedroom. Where's the other bathroom?

Minor

DIRECT BY MS. JOYNER

-82-

1 A. Nearest to the other what should be bedrooms.

2 Q. Near to -- okay, near to the other bedrooms. Okay.

3 Now have you had an occasion before April, or  
4 actually, have you ever spent the night at the defendant's  
5 house by yourself with just -- without a parent or other  
6 family member?

7 A. Yes.

8 Q. How many times?

9 A. Two.

10 Q. Now the time in April that we're going to talk about  
11 in a minute, was that the first time you spent the night at  
12 the defendant's house or the second time?

13 A. Second.

14 Q. The first thing I want to ask you about is, the first  
15 time that you spent the night there. What was the reason  
16 why you spent the night with the defendant the first time?

17 A. I had work for a project.

18 Q. And what was it about working on a project that you  
19 needed to be at the defendant's house?

20 A. I needed to use his computer.

21 Q. Do you have a computer at home?

22 A. Yes.

23 Q. Did -- Do you have Internet at home?

24 A. No.

25 Q. So were you using the Internet at his house?

Minor

DIRECT BY MS. JOYNER

-83-

1 A. Yes.

2 Q. Do you remember when that was that you went to his  
3 house to use the computer for your project?

4 A. No.

5 Q. And was it planned for you to spend the night there  
6 that first time, or did it just happen that you ended up  
7 spending the night there?

8 A. It just happened.

9 Q. That night, that first night, was there any other  
10 adult in the house?

11 A. No.

12 Q. Did the defendant have any roommates or anything like  
13 that?

14 A. No.

15 Q. That night -- And I forgot to ask you something. Are  
16 there couches in the living room?

17 A. Yes.

18 Q. How many couches?

19 A. Two.

20 Q. Two. Are they both long, or is one short? Are they  
21 both one size?

22 A. One -- one's long and the other one's short.

23 Q. That first night, where did you sleep at the  
24 defendant's house?

25 A. With him.

Minor

DIRECT BY MS. JOYNER

-84-

1 Q. With him. Where with him?

2 A. In his bed.

3 Q. Do you remember that first time, what the defendant  
4 wore to sleep?

5 A. His boxers.

6 Q. Did he wear anything else?

7 A. No.

8 Q. Minor did you think that was a strange thing to do?

9 A. Yes.

10 Q. Did you tell anybody about it?

11 A. No.

12 Q. Other than sleeping with him in the bed that night,  
13 did anything inappropriate happen?

14 A. No.

15 Q. And the times -- That time when you were using his  
16 computer or any other time that you may use his computer,  
17 did you ever become aware -- did you ever find out about  
18 any pornographic web sites that were marked on his  
19 computer?

20 A. No.

21 Q. The second time that you spent the night at the  
22 defendant's house, do you remember when that was?

23 A. No.

24 Q. Was that the night before you called the police?

25 A. Yes.

Minor

DIRECT BY MS. JOYNER

-85-

1 Q. I want to talk to you about why it was that night that  
2 you went over to the defendant's house. So I want to kind  
3 of start asking you questions starting with when the  
4 defendant came over to your mom's house. Do you remember  
5 him coming to your mom's house?

6 A. Yes.

7 Q. And did you and he discuss -- or did he talk with your  
8 mom in your presence about you coming over and helping out?

9 A. Yes.

10 Q. And what was your understanding of what he needed help  
11 with?

12 A. He needed help moving stuff and painting stuff.

13 Q. What -- do you remember what stuff it was going to be?

14 A. Box and two-by-fours.

15 Q. Two-by-fours, okay. And did your mom agree to let you  
16 go over there and help him out with that?

17 A. Yes.

18 Q. To the best of your knowledge, had anybody called to  
19 invite the defendant to come over?

20 A. No.

21 Q. When he showed up, was he welcomed to come into your  
22 house? Were you glad to see him?

23 A. Yes.

24 Q. And did you want to go help him out?

25 A. Yes.

Minor

DIRECT BY MS. JOYNER

-86-

1 Q. Now do you remember how the idea came up for you to  
2 spend the night at his house?

3 A. No.

4 Q. But did you want -- Did you agree to go spend the  
5 night at his house?

6 A. Yes.

7 Q. Who drove you to his house?

8 A. He did.

9 Q. Do you recall was it -- what time it was?

10 A. No.

11 Q. Was it early in the day or late in the day?

12 A. Late.

13 Q. Now when you got to his house, was there anybody else  
14 there?

15 A. No.

16 Q. At that time, did he have any roommates or anybody  
17 else that lived with him?

18 A. No.

19 Q. Did -- At some point did it come up that somebody else  
20 came over to the house?

21 A. Yes.

22 Q. How is it that, that happened? Do you remember?

23 A. No.

24 Q. Okay. Did -- That other person that came over the  
25 house, do you know that person's name?

Minor

DIRECT BY MS. JOYNER

-87-

1 A. No.

2 Q. Was it a male or a female?

3 A. Male.

4 Q. Was it -- Was he younger or older?

5 A. Younger.

6 Q. So younger than the defendant?

7 A. Yes.

8 Q. Do you know about how old? Can you guess about how  
9 old he was?

10 A. Twenties, maybe.

11 Q. And did that person drive over to the house? Or how  
12 did he get to the house?

13 A. We went and picked him up.

14 Q. Now once y'all got back to the house, did that person  
15 leave at some point, or did that person stay?

16 A. Stayed.

17 Q. Did he stay the whole night?

18 A. Yes.

19 Q. When you got back to Mr. Clarkson's house, what did  
20 you do?

21 A. I watched a movie

22 Q. What movie? Do you remember the movie's name?

23 A. "The Chaperone"

24 Q. Did the defendant and his friend watch the movie with  
25 you?

Minor

DIRECT BY MS. JOYNER

-88-

1 A. No.

2 Q. What did they do?

3 A. They went and got on the computer.

4 Q. And do you know how long they were on the computer?

5 A. No.

6 Q. Was it as long as you were watching the movie?

7 A. I think.

8 Q. Now at some point did -- Do you remember what time you  
9 went to bed that night?

10 A. No.

11 Q. Did you decide it was time to go to bed, or did the  
12 defendant decide it was time to go to bed?

13 A. The defendant.

14 Q. And how did he communicate to you that it was time to  
15 go to bed?

16 A. "Come on, it's time to go to bed."

17 Q. And did he communicate to you where you were supposed  
18 to go to bed? Or, did you understand where you were  
19 supposed to sleep?

20 A. Yes.

21 Q. And what was your understanding of where you should  
22 sleep?

23 A. With him.

24 Q. Where did the other -- the friend, the 20-year-old  
25 friend sleep?

Minor

DIRECT BY MS. JOYNER

-89-

1 A. The couch.

2 Q. Did you bring pajamas with you?

3 A. Yes.

4 Q. And did you change into those pajamas?

5 A. Yes.

6 Q. Where did you change into your pajamas?

7 A. Guest bathroom.

8 Q. And did the defendant wear pajamas to bed that night?

9 A. Yes.

10 Q. What did he wear to sleep?

11 A. His boxers.

12 Q. Did he wear a t-shirt with his boxers?

13 A. No.

14 Q. Did he wear any bottoms ---

15 A. No.

16 Q. --- like a long-sleeve or long pants or short pant  
17 bottoms?

18 A. No.

19 Q. How big is the defendant's bed?

20 A. Full.

21 Q. A full-size bed. When you got into the bed, did you  
22 guys talk or anything? Or did you just go to sleep?

23 A. We just went to sleep.

24 Q. Where did you -- When you laid down on the bed, do you  
25 remember what position you were sleep -- what position you

Minor

DIRECT BY MS. JOYNER

-90-

1       slept in?

2       A.   Facing the wall.

3       Q.   Was that on your side?

4       A.   Yes.

5       Q.   Was the bed pushed up to a wall on the long side?

6       A.   No.

7       Q.   So is it then that you were facing away from the  
8       defendant?

9       A.   Yes.

10      Q.   And did you fall asleep that night? Did you have a  
11      good nights sleep?

12      A.   Yes.

13      Q.   At some point during the night or in the early  
14      morning, did something happen?

15      A.   Yes.

16      Q.   And what was it that happened?

17      A.   He touched my penis.

18      Q.   Do you remember what time of the night it was, or what  
19      time of the morning it was that happened?

20      A.   No.

21      Q.   Was it getting close to time to get up, or was it  
22      still nighttime?

23      A.   Getting close to time to get up.

24      Q.   And what position were you laying in when you became  
25      aware of the defendant touching your penis?

Minor

DIRECT BY MS. JOYNER

-91-

1 A. On my back.

2 Q. Were your eyes opened or closed when you felt the  
3 touch?

4 A. Closed.

5 Q. And were you asleep when he first touched you or were  
6 you awake?

7 A. Awake.

8 Q. Okay. And when he touched you, did he touch you --  
9 was it on the outside or the inside of your underwear and  
10 pajama pants?

11 A. Inside.

12 Q. Do you remember which hand he used to touch you?

13 A. No.

14 Q. These are kind of embarrassing questions. You're  
15 doing really good.

16 When he first touched your penis, was your penis soft,  
17 was it regular, or was it different than that? Was it the  
18 way it normally is? Should I ask that question again?

19 A. It was soft.

20 Q. Okay. When he touched it, how did he touch it?

21 A. He grabbed it.

22 Q. He grabbed it. Did he grab it and hold it, or did he  
23 grab it and do something else with it?

24 A. He grabbed it and moved it around.

25 Q. Moved it around. How did he move it around? Like did

Minor

DIRECT BY MS. JOYNER

-92-

1 he move it in one particular direction or one particular  
2 movement?

3 A. No.

4 Q. Did he touch it with one hand or two hands?

5 A. Both.

6 Q. Did he touch it with both hands at the same time?

7 A. No.

8 Q. How long -- While he was touching your penis, did it -  
9 - did your penis change or did it ---

10 A. Yes.

11 Q. What?

12 A. Yes.

13 Q. How did it change?

14 A. It got hard.

15 Q. When he was touching it, how long was he touching it  
16 and moving it around?

17 A. I don't know.

18 Q. Was it more than a minute or less than a minute?

19 A. More.

20 Q. At any point when he was doing this, did you open your  
21 eyes, or look at him, or let him know that you were awake?

22 A. No.

23 Q. Why not?

24 A. I was scared.

25 Q. Did something happen that made him stop touching your

Minor

DIRECT BY MS. JOYNER

-93-

1 penis?

2 A. Yes.

3 Q. What was that, that happened?

4 A. I spermed.

5 Q. And by "spermed," what does that mean? Explain to the  
6 jury what you mean by that.

7 A. Something came out of my penis.

8 Q. After that happened, did -- what happened then?

9 A. He stopped and went to the bathroom.

10 Q. And did he go to the bathroom that's attached to the  
11 master bath?

12 A. Yes.

13 Q. To the master bedroom?

14 A. Yes.

15 Q. Did he leave the door opened or did he close the door?

16 A. Closed, I think.

17 Q. And do you know how long he was in the bathroom?

18 A. No.

19 Q. When he came out of the bathroom, what did he do?

20 A. He came back to bed.

21 Q. And at any point up until this point, had you turned  
22 and looked at him?

23 A. No.

24 Q. When did you -- At some point, did you look at him?

25 A. No.

Minor

DIRECT BY MS. JOYNER

-94-

1 Q. How do you know that it was the defendant that was  
2 touching you?

3 A. I really don't know, but I just knew.

4 Q. You just do.

5 Did you ever hear anybody else come into the room that  
6 night?

7 A. No.

8 Q. Did you feel anybody else get into the bed that night?

9 A. No.

10 Q. At any point, did you turn and look to see who was  
11 laying next to you?

12 A. No.

13 Q. When you woke -- Did you at some point open your eyes,

14 Minor

15 A. Whenever I got up.

16 Q. And who was laying next to you when you got up?

17 A. He was.

18 Q. And, Minor I haven't asked you this yet, but and  
19 I've asked you all about whether you know him, but do you  
20 see the person in this room that touched your penis?

21 A. Yes.

22 Q. And I'm going to have to ask you to point him out.  
23 Can you point him out for me?

24 Let the record that he's pointed to the defendant.

25 (WHEREUPON: THE WITNESS IDENTIFIES THE DEFENDANT.)

Minor

DIRECT BY MS. JOYNER

-95-

1 Q. Minor after this happened during that morning, did  
2 the defendant say anything to you?

3 A. No.

4 Q. Did you say anything to him?

5 A. No.

6 Q. Did you stay over at his house and do the work for  
7 him?

8 A. Yes.

9 Q. What was that like, Minor

10 A. I didn't like it.

11 Q. Did you tell somebody what happened?

12 A. Not until I got home.

13 Q. Why did you wait until you got home?

14 A. I just felt like it was the right thing to do to wait  
15 till I got home.

16 Q. Who did you tell when you got home?

17 A. My mom.

18 Q. And did your mom call the police?

19 A. Yes.

20 MS. JOYNER: I beg the Court's indulgence.

21 (PAUSE.)

22 Q. Minor I'm just going to run back through a few  
23 things with you just to be clear. The first time that you  
24 spent the night at his house, nothing bad happened; is that  
25 right?

Minor

DIRECT BY MS. JOYNER  
CROSS BY MS. INZERILLO

-96-

1 A. Yes.

2 Q. The second time you spent the night is when the bad  
3 thing happened; ---

4 A. Yes.

5 Q. --- is that right? When after the defendant touched  
6 you and made you sperm, at any point you needed to take a  
7 shower, did you change your underpants?

8 A. No.

9 Q. Are those the ones you wore home that night?

10 A. Yes.

11 Q. And you didn't -- Do you remember whether the  
12 defendant's friend was there during the day? That friend  
13 from the night before.

14 A. Yes.

15 Q. Do you -- Was he there?

16 A. Yes.

17 Q. Thank you very much, Minor Please answer any  
18 questions Ms. Inzerillo has.

19 MS. INZERILLO: May it please the Court, Your Honor?

20 THE COURT: Yes, ma'am.

21 CROSS EXAMINATION

22 Minor BY MS. INZERILLO:

23 Q. Minor you remember Eddie coming by your house asking  
24 you to come over and help him with the shed?

25 A. Yes.

Minor

CROSS BY MS. INZERILLO

-97-

1 Q. And he talked to your mom?

2 A. Yes.

3 Q. And do you remember that your sister was going to have  
4 a slumber party that night, and that's why you were going  
5 to spend the night with Eddie?

6 A. No.

7 Q. You don't remember that? Okay. But you ended up  
8 spending the night with Eddie. Right?

9 A. Yes.

10 Q. And you said that when you spent the night with Eddie  
11 the first time, you thought it was weird that he slept in  
12 his underwear in his bed. Right?

13 A. Yes.

14 Q. And on the day that he came over on this day in April,  
15 you didn't tell your mom, "I don't want to go over there.  
16 He sleeps in his underwear."

17 A. No.

18 Q. No. You agreed to go over there and spend the night  
19 with him; is that right?

20 A. Yes.

21 Q. And when you go over to Eddie's house, you like to  
22 play on his computer?

23 A. Yes.

24 Q. And I know you said one time you had gone over there  
25 for school, but you also like to go on his computer and

Minor

CROSS BY MS. INZERILLO

-98-

1 play. Right?

2 A. Yes.

3 Q. And on this night, Eddie wouldn't let you play on the  
4 computer. He had you watch a movie. Right?

5 A. Yes.

6 Q. And it was Eddie and his friend Ryan that were on the  
7 computer. Right?

8 A. Yes.

9 Q. And that kind of made you mad because you wanted to  
10 play on the computer. Right?

11 A. Not really.

12 Q. Not really? Okay.

13 Now you had to take some medications. Right?

14 A. Yes.

15 Q. And you mom sent your medicine over to Eddie's house  
16 with you; is that right?

17 A. Yes.

18 Q. And Eddie gave you those medicines that night. Right?

19 A. Yes.

20 Q. And you have to take a lot of medicines. Right?

21 A. Just three.

22 Q. Just three. And they sometimes make you really  
23 groggy? Really sleepy?

24 A. Yes.

25 Q. And so when you got ready to go to bed this night, you

Minor

CROSS BY MS. INZERILLO

-99-

1 didn't tell Eddie, "I don't want to sleep in the bed. I'd  
2 rather sleep on the couch." Is that right?

3 A. No.

4 Q. Okay. And when you woke up -- and I won't make you  
5 explain everything again, okay. But the next morning when  
6 you say that you felt Eddie touching you, you didn't push  
7 his hand away. Did you?

8 A. No.

9 Q. You didn't get up out of the bed. Did you?

10 A. No.

11 Q. You didn't go into the other room and tell the guy,  
12 "Take me home."

13 A. No.

14 Q. And when you talked to the police -- Do you remember  
15 talking to the police in the case?

16 A. Yes.

17 Q. And you remember writing out a statement for them  
18 about what happened?

19 A. Yes.

20 Q. And you never told the police that Eddie got up and  
21 used the bathroom afterwards. Did you?

22 A. No.

23 Q. And the next day, you stayed at his house. Right?

24 A. Yes.

25 Q. And you never called your mom to come pick you up?

Minor

CROSS BY MS. INZERILLO

-100-

1 A. No.

2 Q. You never called the police?

3 A. No.

4 Q. You worked with Eddie and his friend to try to pick up  
5 the limbs and the two-by-fours and build the shed. Right?

6 A. Yes.

7 Q. Now sometimes -- Minor sometimes you don't tell the  
8 truth; is that right?

9 A. Every once in a while.

10 Q. Do you remember getting in trouble with your mom about  
11 when you -- or at school when you broke a lightbulb and  
12 lied about it?

13 A. No.

14 Q. You don't remember doing that? Do you remember lying  
15 to your mom about that?

16 A. No.

17 Q. Do you remember stealing money from your mom and lying  
18 to her about that?

19 A. No.

20 Q. You don't remember that either? That's a no?

21 A. Yes.

22 Q. So you sometimes lie; is that right? You just don't  
23 remember doing it at that time?

24 A. Yes.

25 Q. Sometimes when -- Well let me ask you. You're on some

Minor

CROSS BY MS. INZERILLO

-101-

1 medications sometimes because you get really angry at  
2 things; is that right?

3 A. Yes.

4 MS. JOYNER: Your Honor, I'm going to object. I don't  
5 think his anger is relevant to his --

6 THE COURT: Well it's cross. I'm going to let it.

7 MS. INZERILLO: Thank you, Your Honor.

8 THE COURT: I overrule the objection.

9 Q. And do you remember on this day when you were helping  
10 Eddie and his friend Ryan build a shed, do you remember  
11 asking Ryan to go get your monster drink?

12 A. Yes.

13 Q. And you remember that Ryan told you no. He wasn't  
14 going to do that.

15 A. No.

16 Q. You don't remember him telling you no, and you getting  
17 really, really mad about that?

18 A. I think he actually did go get one.

19 Q. You think he did, even though he didn't have a car,  
20 you think he went and got you one?

21 A. I think he went on Eddie's moped.

22 Q. Okay. And so you didn't get mad on that day?

23 A. No.

24 Q. Okay. And you didn't use bad language with him?

25 A. No.

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER

-102-

1 MS. INZERILLO: No further questions, Your Honor.

2 THE COURT: Redirect?

3 MS. JOYNER: I beg the Court's indulgence.

4 (PAUSE.)

5 MS. JOYNER: We have no further questions for Mr.

6 Minor

7 THE COURT: You can step down. Thank you. We  
8 appreciate your time, Mr. Minor

9 (WITNESS LEAVING WITNESS STAND.)

10 THE COURT: Call your next witness.

11 MS. JOYNER: Your Honor, the State calls Detective  
12 Fred Moore.

13 MADAME CLERK: Raise your right hand, place your left  
14 hand on the Bible.

15 (WHEREUPON: DETECTIVE FRED MOORE,  
16 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

17 MADAME CLERK: Thank you. Please have a seat.

18 DIRECT EXAMINATION

19 DETECTIVE FRED MOORE BY MS. JOYNER:

20 Q. Will you please state your full name for the record?

21 A. Fred Wesley Moore, Jr.

22 Q. What's your occupation?

23 A. Detective with York County Sheriff's Office, assigned  
24 to the Violent Crimes Unit.

25 Q. How long have you been a detective?

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER

-103-

1 A. Four years.

2 Q. And prior to that, do you have any law enforcement  
3 experience?

4 A. Eight years here at the Sheriff's Office. I have a  
5 total of seventeen years in law enforcement.

6 Q. And back in 2011, April 2011, did you become involved  
7 in the investigation of Edward Clarkson?

8 A. Yes, I was assigned the case.

9 Q. At that time, did you have the name, the actual name  
10 Edward Clarkson?

11 A. The name that was given was Eddie Carter. That's who  
12 we were looking for at the time.

13 Q. And were those -- Was the name Eddie Carter given in  
14 relation to allegations by Minor

15 A. Yes.

16 Q. And who provided the name Eddie Carter?

17 A. Ms. Boggs' mother.

18 Q. And were you -- When you were first assigned the case,  
19 did you have any luck locating the person that Ms. Boggs  
20 called Eddie Carter?

21 A. She said that he was in the area of [REDACTED] [REDACTED] So  
22 we tried to locate some Carters or Eddie Carter in that  
23 nature. It was unsuccessful to find anything in the  
24 computer. So that's when myself and Detective Wallace were  
25 given the description of the residence -- vehicles and the

1 way the driveway was. And we went out looking and located  
2 a residence that matched that description. It was at the  
3 corner of [REDACTED] and Spring Hill Court, but I think it has  
4 a Spring Hill Court address.

5 Q. And was that the home of Edward Clarkson?

6 A. Yes.

7 Q. And in just a moment, I'll get to questions about your  
8 interactions with Mr. Clarkson. But first, prior to  
9 locating Mr. Clarkson, did you at any point ever interview  
10 the victim, Minor

11 A. No.

12 Q. And why not?

13 A. We prefer to have a forensic interview done.

14 Q. And was a forensic interview done for Minor

15 A. Forensic interviews are a nationally accepted thing.

16 Q. I know, I'm sorry. Was a forensic interview done for  
17 Minor

18 A. Yes, it was.

19 Q. Now if you could tell the jury just briefly what a  
20 forensic interview is.

21 A. It's a nationally accepted type of interviewing style  
22 that is used on children. It's -- a person's trained to  
23 interview children. They go through classes and train how  
24 to do it. They try to build a rapport with the child, get  
25 on their level, and speak to them. They interact and try

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER

-105-

1 to develop their communication skills and comfort level.  
2 The most beneficial part of forensic is it's videotaped and  
3 I did view the video from another room. It's used -- DSS  
4 can also view it. And another important purpose, it only  
5 allows the child to tell their story one time. It can be  
6 used and viewed by therapists, DSS, also the State and the  
7 Defense, and that nature.

8 Q. And did you -- Did you say you personally viewed Mr.  
9 Minor interview as it was being conducted?

10 A. I did, that was on April the 26th.

11 Q. And following that interview, then did you then  
12 attempt to locate Eddie Carter?

13 A. I did on April the 28th was the day that we went  
14 looking for the resident.

15 Q. And did you -- you say, "we." Who was with you?

16 A. Detective Alex Wallace.

17 Q. Is he also a detective of the Sheriff's Office?

18 A. He is.

19 Q. And as you were -- While you were out and located the  
20 house matching the description, were -- did you encounter  
21 the defendant in this case?

22 A. Yes, he was in the front yard.

23 Q. And did you approach him?

24 A. Yes.

25 Q. And do you recall what his address is? Or actually

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER

-106-

1 should I say is the address on --

2 A. It's on -- it's on [REDACTED] It's the corner  
3 of [REDACTED] and [REDACTED] but I think the actual [REDACTED]  
4 Court is the address -- the road name.

5 Q. Is that home located within York County, South  
6 Carolina?

7 A. Yes, it is.

8 Q. Within the Sheriff's Office jurisdiction?

9 A. Yes, ma'am.

10 Q. And you said that you located him on April the 28th;  
11 is that correct?

12 A. Yes.

13 Q. And where was he located again when you --

14 A. He was in the -- either the porch front yard area of  
15 the house.

16 Q. And did you and Detective Wallace approach him?

17 A. We did.

18 Q. And did you -- And did you identify yourselves as law  
19 enforcement officers?

20 A. Yes.

21 Q. And did you ask to speak with him?

22 A. Yes.

23 Q. Did you Mirandize him prior to speaking with him?

24 A. I read him his rights.

25 Q. Could you please tell the jury what those rights were,

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER.

-107-

1 if you could recite those rights that you read to him that  
2 day?

3 A. "You have the right to remain silent. Anything you  
4 can will be used against you in the court of law.

5 You do not -- you have the right to talk to an  
6 attorney and have him present with you while you are being  
7 questioned. If you cannot afford to hire an attorney, one  
8 will be appointed to represent you before any question.  
9 You can decide at anytime to exercise these rights and not  
10 answer any questions or make any statements."

11 MS. INZERILLO: Your Honor, at this time I will just  
12 renew the previous motion regarding this line of  
13 questioning.

14 THE COURT: My ruling's the same.

15 MS. INZERILLO: Yes, Your Honor.

16 Q. Now the -- You were reading from a form, this now.  
17 What form were you reading from?

18 A. The *Miranda* form that we use at the Sheriff's Office.

19 Q. And did you have him sign or initial a form indicating  
20 that he'd received those rights?

21 A. I did not. He was not under arrest, and he was not in  
22 custody, but I went ahead and read him his rights to make  
23 sure he was advised of those.

24 Q. Was Detective Wallace present when you read him those  
25 rights?

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER

-108-

1 A. He was.

2 Q. Did Mr. Clarkson appear to understand those rights?

3 A. He did.

4 Q. Did he appear to be under the influence of anything  
5 that would interfere with his ability to understand what  
6 you were saying to him?

7 A. No, ma'am.

8 Q. Did he appear to be of average intelligence, capable  
9 of understanding rights?

10 A. Yes.

11 Q. And did he agree to waive those rights and speak with  
12 you?

13 A. Yes.

14 Q. At any point -- How long total did you speak with the  
15 defendant?

16 A. Probably 15 or 20 minutes.

17 Q. At any point during that 15 or 20 minutes, did he tell  
18 you, "I don't want to talk to you anymore"?

19 A. No.

20 Q. Did he ever ask for a lawyer?

21 A. No.

22 Q. Did you ever place him in custody or tell him he  
23 wasn't free to leave?

24 A. No.

25 Q. Did he ever try to walk away from you when you stopped

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER

-109-

1 him?

2 A. No.

3 Q. And when you began speaking with him, was it in a  
4 format of question and answer or was it a kind of  
5 conversation format?

6 A. I asked him questions. I started off with asking him  
7 does he know Minor

8 Q. Did he indicate that he knew Minor

9 A. He said yes, he had been a friend and the next -- they  
10 had done things together. He stayed at his house. And  
11 that's when I asked him did he stay at his house the night  
12 of April the 17th, and he responded yes.

13 Q. And is that date of April the 17th, is that based off  
14 of the report date of April 18th, when the mother called  
15 the police?

16 A. Yes.

17 Q. Now did you ask him why Minor had stayed at his  
18 house? Was that part of the questioning of him?

19 A. I did. He mentioned that Minor wanted -- that they  
20 were going to come over and work in the yard, and do yard  
21 work, and that nature, and work on a building or something  
22 is the reason he came over.

23 Q. And did you ever inquire of him where Minor had slept  
24 that evening the house?

25 A. I did. I asked him where Minor slept, and he told me

1 in his bed in the master bedroom.

2 Q. Did the defendant indicate to you where the defendant  
3 himself had slept?

4 A. He said he slept in bed also.

5 Q. Did you inquire of him what he had -- what he the  
6 defendant had worn to bed?

7 A. I did.

8 Q. And what was his answer?

9 A. He said that he only -- usually only wears boxer  
10 shorts, and that was what he was wearing that night.

11 Q. Did you ask him what Minor had worn to sleep?

12 A. I did.

13 Q. And what was his response?

14 A. Long pajama bottoms and a t-shirt.

15 Q. At some point did you advise him of the reason why you  
16 were there to interview him?

17 A. I did. I told him that Minor had informed us that he  
18 had touched his penis.

19 Q. And what was his response?

20 A. He denied and said he did not touch Minor penis.

21 Q. Did he admit to touching Minor at all?

22 A. He did. He admitted to myself and Detective Wallace  
23 that he reached over and felt Minor waist and side to  
24 make sure when he felt movement in the bed he put his hand  
25 over there to make sure Minor was still in the bed.

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER

-111-

1 Q. Did he elaborate on why he felt the need to touch  
2 Minor to make sure that Minor was still in bed?

3 A. He did. He gave us two reasons: one, he said he was  
4 afraid he might get up and sleepwalk; and the second  
5 reason, he didn't want him getting up and viewing  
6 pornographic materials that may be on his computer.

7 Q. Did Mr. Clarkson indicate whether Minor had  
8 previously stayed at his residence?

9 A. Yes.

10 Q. And did he say that he had previously stayed at his  
11 residence?

12 A. Yes.

13 Q. Did you ask Mr. Clarkson anything regarding whether he  
14 had a friend with him?

15 A. I asked him who was with him when he dropped Minor  
16 off. And Mr. Clarkson was hesitant at first to speak with  
17 him. And he said, "Well I believe it was a friend of mine  
18 named 'Ryan Finnigan.'" But I'm not -- He told me he  
19 wasn't sure if he stayed the night is what he told me.

20 Q. Now did at some point -- or actually at any point  
21 during this conversation, did you threaten Mr. Clarkson in  
22 any way?

23 A. No.

24 Q. Or promise him anything?

25 A. No.

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER

-112-

1 Q. And try to coerce him in any way into speaking with  
2 you?

3 A. No, ma'am.

4 Q. Was Detective Wallace present the whole time?

5 A. He was.

6 Q. Now I asked you, and I just wanted to make sure I  
7 understand the specifics then and everything that was  
8 discussed. Did you ask him about any prior activities that  
9 he had had with Minor

10 A. He had mentioned they've done things in the past.  
11 They had went jet skiing I remember, maybe the summer  
12 before.

13 Q.. Now you said previously that he had mentioned spending  
14 the night at the house before. And just to elaborate a  
15 little bit, his explanation for touching Minor was what  
16 again?

17 A. He said that he'd feel movement. He would put his arm  
18 over and check his waist or side and make sure he hasn't  
19 gotten out of bed because of -- he was afraid he may  
20 sleepwalk or get on his computer to review pornographic  
21 materials that may have been on there.

22 Q. Did he elaborate in any way about why he was concerned  
23 about sleepwalking?

24 A. His medication. He had mentioned medication that he  
25 administered to Minor

DETECTIVE FRED MOORE: DIRECT BY MS. JOYNER  
CROSS BY MS. INZERILLO

-113-

1 Q. Did he elaborate for you how many times he touched  
2 Minor waist during the night according to him?

3 A. Not nothing specific. He said he reached over when  
4 he'd feel movement in the bed.

5 Q. At any point did you attempt to locate the friend that  
6 had been identified as Ryan Finnigan?

7 A. I did. I looked up in our computer system at the  
8 Sheriff's Office and located an address that -- for Ryan  
9 Finnigan. He had a sister named, "Michelle." It listed  
10 the same address as [REDACTED] in York. I went by  
11 the residence, located some individuals in there, and they  
12 said they didn't have any knowledge of who Ryan Finnigan  
13 was at that time.

14 Q. So you were not able then to locate him ---

15 A. I was not.

16 Q. --- prior to trial? Do you know how far away the  
17 defendant's house is from the victim's house?

18 A. I'd say a few miles.

19 Q. Thank you very much. Please answer any questions Ms.  
20 Inzerillo has.

21 MS. INZERILLO: May it please the Court, Your Honor.

22 THE COURT: Yes, ma'am.

23 CROSS EXAMINATION

24 DETECTIVE FRED MOORE BY MS. INZERILLO:

25 Q. Detective Moore, you are one of the investigators on

1 this case; is that right?

2 A. Yes, ma'am.

3 Q. And is it fair to say you are sort of the equivalent  
4 of a lead investigator in the case?

5 A. Yes.

6 Q. So as lead investigator, your job is to try to get as  
7 much information about the allegation as possible; is that  
8 fair?

9 A. Yeah, yes,

10 Q. So essentially as part of your investigation, you look  
11 for any sort of physical evidence that may factor into your  
12 case; is that right?

13 A. Yes.

14 Q. Because as the detective on this case, you know the  
15 information that you have is, you have one person making an  
16 allegation. And then pursuant to your investigation, you  
17 know that, that person denied it. Mr. Clarkson denied the  
18 allegation; is that right?

19 A. Yes.

20 Q. Okay. So from an investigative point of view, your  
21 next stop is to sort of try to find any other evidence that  
22 might let you know which direction to go in. Is that fair?

23 A. Yes.

24 Q. Okay. So in your investigation of this case, you  
25 learned that the allegation was that there was ejaculation

DETECTIVE FRED MOORE: CROSS BY MS. INZERILLO

-115-

1 as a result of touching; is that right?

2 A. Yes.

3 Q. Okay. And not to dumb things done too much, but  
4 certainly ejaculation is physical response. Right?

5 A. Yes.

6 Q. And as an officer, that tells you that there could be  
7 physical things left behind like DNA, anything like that;  
8 is that right?

9 A. Yes.

10 Q. And in your investigation, you were aware that Minor  
11 was clothed at the time that this ejaculation allegedly  
12 occurred; is that right?

13 A. Yes.

14 Q. So that would have given you clothing to test or  
15 anything like that; is that right?

16 A. Yes.

17 Q. And as the lead investigator, you're aware that his  
18 underwear was in fact taken into evidence.

19 A. It was.

20 Q. Okay. And as an investigator, again, that's the kind  
21 of things you're looking for; is that right?

22 A. Yes, we -- we -- we had it -- it was in evidence. We  
23 consulted with the Solicitor's Office, and we didn't test  
24 the underwear. We ---

25 Q. Okay. And that was going to be my next question.

1 A. It was -- It was Minor DNA. He's one -- we never  
2 alleged that the defendant Mr. Clarkson's DNA would be in  
3 those underwear.

4 Q. Okay.

5 A. We knew if any DNA was in the underwear, it belonged  
6 to Minor Those were his underwear that he wore.

7 Q. Well let me back up, because you say you know that DNA  
8 is going to be in the underwear, but it was never tested;  
9 is that right?

10 A. It was not tested.

11 Q. And the only way to know if DNA is in underwear is to  
12 test it; is that right?

13 A. That's correct. It would be --

14 Q. In fact the Sheriff's Office --

15 A. It would also be no knowledge of that would be the  
16 date -- at that point, that was the date that the DNA was  
17 deposited in the underwear also.

18 Q. There would be -- I'm sorry. Say that again.

19 A. There's no way to -- when we look at it, no way to  
20 pinpoint that was the date that the DNA was deposited in  
21 Minor because it belonged to Minor

22 Q. Okay. So what you're saying is, you took the stuff  
23 into evidence, but because you couldn't pinpoint that, that  
24 evidence would have connected to this date, you elected not  
25 to test it. Is that what I'm hearing?

DETECTIVE FRED MOORE: CROSS BY MS. INZERILLO

-117-

1 A. Yes.

2 Q. Okay. But -- and I just want to make sure we're  
3 clear, on the same page on this. Even with that  
4 understanding that you just explained, the underwear was  
5 never tested. Right?

6 A. Correct.

7 Q. So -- because I want to make sure because I'm not a  
8 forensic expert. I know you're not a forensic expert. So  
9 just to make sure we're talking the same language, when we  
10 say -- when you say you know DNA would be there, you don't  
11 know DNA would be there; is that right?

12 A. Correct.

13 Q. Okay. Because --

14 A. His -- he -- it was his -- he -- it was off of him  
15 that DNA would be in Minor underwear, his own.

16 Q. Well that's what you're assuming. Right? You're  
17 assuming that if he's wearing his underwear, and he  
18 ejaculates, his DNA would be in that ejaculation. That's  
19 what you're assuming.

20 A. You're talking about -- you're talking about sperm or  
21 ejaculation? Yes.

22 Q. But in actuality, you can't know that for certain  
23 because it would have to be tested; is that right?

24 A. That's correct.

25 Q. Okay. And as an investigator, forensic testing also

1 can give you other types of DNA, for example, skin cells or  
2 anything like that, that might tell you if in fact someone  
3 touched a part of a body that was in that underwear; is  
4 that right?

5 A. There's -- there are tests. I'm not -- I'm not a  
6 forensic person, so I don't know the specific test.

7 Q. But you're aware, being a detective with the Sheriff's  
8 Office that, that is the type of testing that can be done?

9 A. Yes.

10 Q. Okay. So, I guess, long story, short, underwear was  
11 still in evidence had not been tested; is that right?

12 A. Correct.

13 Q. Okay. So now we want to sort of fast-forward to the  
14 28th, which is the day that you went out to Mr. Clarkson's  
15 house; is that right?

16 A. Yes.

17 Q. And you approached Mr. Clarkson at his house just to  
18 sort of converse with him about the allegation that you're  
19 investigating; is that right?

20 A. Yes.

21 Q. And I know you went through with Ms. Joyner the rights  
22 that you read and all that. But essentially, he didn't run  
23 from you; he agreed to talk to you; is that right?

24 A. That's correct.

25 Q. And he answered all of your questions. Right?

DETECTIVE FRED MOORE: CROSS BY MS. INZERILLO

-119-

1 A. Yes, ma'am.

2 Q. And in fact, he was forthright with you to the point  
3 that he even admitted sleeping in the same bed with Minor  
4 is that right?

5 A. He did.

6 Q. And he explained to you that Minor was on some  
7 medication. He had concerns about Minor going around the  
8 house?

9 A. Yes, that was his explanation, yes.

10 Q. Okay. And he explained to you that he had actually  
11 given Minor his medicine I think at 6:00 p.m. and 6:00  
12 a.m. while Minor was at the house?

13 A. Correct.

14 Q. Now when you sort of addressed the substance of the  
15 allegation with him, Mr. Clarkson did deny that allegation;  
16 is that right? Denied touching Minor

17 A. He did.

18 Q. And you learned as well that there may have been  
19 someone else in the house, this Ryan Finnigan; is that  
20 right?

21 A. Yes.

22 Q. Okay.

23 A. But I don't know if -- when I asked him, he -- Mr.  
24 Clarkson told me he doesn't remember if he stayed the  
25 night. When I asked the question, it was who was with you

1 when you dropped off Minor

2 Q. Right, okay. And of course this was about 10 or 11  
3 days after this allegedly happened; is that right?

4 A. Yes.

5 Q. Okay. And certainly, at least registered enough for  
6 you to try to find Ryan Finnigan; is that right?

7 A. Yes.

8 Q. To continue your investigation. Right?

9 A. Yes.

10 Q. Because in pursuing this other witness, you could have  
11 learned if there was any conversation about what happened,  
12 anything Ryan might know about the case; is that right?

13 A. Yes.

14 Q. Okay. And --

15 A. And Mr. Clarkson was hesitant to provide information  
16 of his whereabouts, where he lived. He gave me a generic  
17 -- I think his family lives down on 61 is what I was given  
18 from Mr. Clarkson. That's why I went back to the office,  
19 looked in the computer system, checked DMV, checked that  
20 nature, and looked at the last address I found was on  
21 McAfee, and that's where I went.

22 Q. So you did follow up on and at least trying to find  
23 Mr. Finnigan; is that right?

24 A. Yes.

25 Q. All right. Now while you were at the house, you

DETECTIVE FRED MOORE: CROSS BY MS. INZERILLO

-121-

1 didn't take any items from the house?

2 A. No.

3 Q. No sheets, no bedspread, anything like that?

4 A. No.

5 Q. You never went back and got a search warrant for the  
6 house?

7 A. No.

8 Q. Okay. At no point in your investigation did Minor  
9 ever relay to you that after the alleged incident, Mr.  
10 Clarkson got up and used the restroom; is that right?

11 A. I think at the forensic interview...

12 Q. Did he relate to you?

13 A. To me? No.

14 Q. At any point in your investigation, did you come  
15 across any 911 calls that Minor made from Mr. Clarkson's  
16 house?

17 A. No.

18 Q. And from your investigation, are you aware of any  
19 phone calls that Minor made to his mom asking him to be  
20 picked up that day?

21 A. No.

22 MS. INZERILLO: No further questions, Your Honor.

23 THE COURT: All right.

24 Redirect?

25 MS. JOYNER: Just briefly.

DETECTIVE FRED MOORE: REDIRECT BY MS. JOYNER

-122-

REDIRECT EXAMINATION

DETECTIVE FRED MOORE BY MS. JOYNER:

Q. Again, how many days was it following the night Minor spent the night that you were actually able to locate Mr. Clarkson?

A. The -- from the -- it occurred on the 18th, and we located him on the 28th.

Q. About 10 days later?

A. Yes. And the name Carter is what delayed looking for him. But we -- once the forensic was performed on the 26th, that's when we went out looking -- searching for the residence.

Q. And again, you said Mr. Clarkson provided you some information that this Ryan Finnigan lived down 161; is that correct?

A. Yes.

Q. Did he provide anything more specific than that on how to locate Mr. Finnigan?

A. No.

Q. Thank you very much.

THE COURT: Recross?

MS. INZERILLO: No, Your Honor.

THE COURT: You can step down, and be excused.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: Members of the jury panel, we'll take our

-123-

1 morning break. We'll take about 10 to 12 minutes, so a  
2 refresher break. Follow the Bailiff to the jury room.

3 We'll be at ease just a few minutes.

4 (JURY EXITS COURTROOM AT 11:32 AM.)

5 (COURT IN RECESS AT 11:33 AM.)

6 (COURT BACK IN SESSION AT 11:45 AM.)

7 THE COURT: Thank you. Take your seats.

8 Is the State ready?

9 MS. JOYNER: The State's ready, Your Honor.

10 THE COURT: Is the Defense ready?

11 MS. INZERILLO: Yes, Your Honor.

12 THE COURT: Bring in the jury.

13 (JURY REENTERS COURTROOM AT 11:47 AM.)

14 THE COURT: Is the court reporter ready?

15 MADAME COURT REPORTER: Yes, sir.

16 THE COURT: Is the clerk ready?

17 MADAME CLERK: As we gonna be.

18 THE COURT: All right.

19 (JURY REENTERS COURTROOM AT 11:47 AM.)

20 THE COURT: Call your next witness.

21 MS. JOYNER: Thank you, Your Honor.

22 The State calls Detective Alex Wallace.

23 (WHEREUPON: DETECTIVE ALEX

24 WALLACE, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS  
25 FOLLOWS:)

DETECTIVE ALEX WALLACE: DIRECT BY MS. JOYNER

-124-

1 MADAME CLERK: Thank you. You may have a seat.

2 DIRECT EXAMINATION

3 DETECTIVE ALEX WALLACE BY MS. JOYNER:

4 Q. Detective, can you please state your full name for the  
5 record?

6 A. It's Alexander Wallace.

7 Q. Where are you employed?

8 A. York County Sheriff's Office.

9 Q. In what capacity?

10 A. I work in the Criminal Investigations Division.

11 Q. Are you a detective?

12 A. Yes.

13 Q. And how long have you been with the Sheriff's Office?

14 A. A little over 12 years now.

15 Q. How long have you been a detective?

16 A. Four years.

17 Q. But do you recall back in April of this year, it was  
18 April 28th of this year -- of last year, you accompanied  
19 Detective Moore to locate a suspect?

20 A. Yes, ma'am.

21 Q. And do recall locating the defendant Edward Clarkson  
22 at his residence on [REDACTED]

23 A. Yes, ma'am.

24 Q. Do you -- Can you tell the jury a little bit. Were  
25 you present when Detective Moore read to Mr. Clarkson his

DETECTIVE ALEX WALLACE: DIRECT BY MS. JOYNER

-125-

1        *Miranda* warnings?

2        A.     I was.

3        Q.     And where did he read those warnings from?

4        A.     From the *Miranda* form.

5        Q.     And did Mr. Clarkson appear to understand those  
6        warnings as they had been given?

7        A.     Yes, he did.

8        Q.     And did he appear to be under the influence of  
9        anything that would prevent him from understanding what was  
10       going on?

11       A.     No, ma'am.

12       Q.     And did he agree to speak with Detective Moore?

13       A.     Excuse me?

14       Q.     Did he agree to speak with Detective Moore?

15       A.     Yes, he did.

16       Q.     At any point, did you interject any questions or were  
17       you simply there observing what was going on?

18       A.     I just observed.

19       Q.     And at any point, did you observe Detective Moore or  
20       did you personally threaten him, promise him anything, do  
21       anything to try to coerce him to speak with you?

22       A.     No, ma'am.

23       Q.     And do you recall how long you were out there total?

24       A.     Fifteen, twenty minutes.

25       Q.     At any point, did the defendant say, "I don't want to

DETECTIVE ALEX WALLACE: DIRECT BY MS. JOYNER

-126-

1 talk to you," or "I want a lawyer," or "You need to leave,"  
2 or anything like that?

3 A. No, ma'am.

4 Q. Do you recall Detective Moore asking him whether he  
5 knew the victim Minor

6 A. Yes, I did.

7 Q. And what was the response?

8 A. He admitted that he knew the victim.

9 Q. Did -- Were you present or did you hear Detective  
10 Moore ask the defendant whether Minor had spent the  
11 night on April 17th of 2011?

12 A. Yes, he stated that he did spend the night.

13 Q. And did the defendant indicate in any way where Minor  
14 Minor had slept that night?

15 A. Yes, he did. In the --

16 Q. Where was that location?

17 A. In the master bedroom with the defendant.

18 Q. Did the defendant indicate what he wore to bed that  
19 night?

20 A. He stated that he wore underwear and no other clothing  
21 on.

22 Q. Did he indicate what Minor wore to bed that night?

23 A. Long pajama bottoms and a t-shirt.

24 Q. At some point during Detective Moore's conversation  
25 with him, did either you or Detective Moore advise the

DETECTIVE ALEX WALLACE: DIRECT BY MS. JOYNER

-127-

1 defendant of why you were there speaking with him?

2 A. Yes, Detective Moore did.

3 Q. And what did Detective Moore state as the reason for  
4 being there?

5 A. He told him that the allegations were that he touched  
6 the victim's penis, and grabbed his penis.

7 Q. What was the defendant's response to that allegation?

8 A. He denied touching the penis, but did admit that he  
9 touched the victim on his side to make sure he was still  
10 there sleeping.

11 Q. Did he indicate why he felt the need to touch the  
12 defendant on the side?

13 A. Because the victim was on medication. He takes ADHD  
14 and is afraid he might get up and sleepwalk.

15 Q. Did he expand any further on any other reasons that he  
16 would be concerned about the child walking around his  
17 house?

18 A. He was worried that the victim might get up, and get  
19 on his computer, and look at pornography.

20 Q. Did he indicate that whether cites were marked or if  
21 he was just in general concerned about --

22 A. Marked.

23 Q. Marked. Did he indicate whether -- Was there ever at  
24 any point a question asked about who was possibly there  
25 that night, or whether there was somebody that accompanied

DETECTIVE ALEX WALLACE: DIRECT BY MS. JOYNER

-128-

1 the defendant when he brought Minor home?

2 A. I believe he said that he had another gentleman that  
3 might have rode with him to take the victim home.

4 Q. Did he identify that person by name?

5 A. I believe, Ryan -- yes, he did.

6 Q. Now other than being a witness to the statement, did  
7 you have any other role in this investigation?

8 A. No, ma'am.

9 Q. And the residence that you and Detective Moore went  
10 to, was that a residence that's located in York County,  
11 South Carolina?

12 A. Yes, it is.

13 Q. Thank you very much. Please answer any questions Ms.  
14 Inzerillo has.

15 MS. INZERILLO: No questions, Your Honor.

16 THE COURT: All right, you can step down. Appreciate  
17 your time. Thank you.

18 (WITNESS LEAVING WITNESS STAND.)

19 THE COURT: Call your next witness.

20 MS. JOYNER: Your Honor, the State rests.

21 THE COURT: Members of the jury panel, the State is  
22 resting. That tells us they have presented their evidence.  
23 So we've reached a point in the trial where we have to take  
24 up some legal matters outside of your presence. It's a  
25 little early for us to go to lunch, but we're going to do

-129-

1 it anyway. I'm going to -- it's 10 to 12:00. I'm going to  
2 ask you to be back at 1:30, and we'll proceed at that time.

3 You're not yet, even though the State says it's  
4 through with its case, you're not in a position yet to  
5 discuss the case or try to make up your own mind or do any  
6 of those things that I told you not to do because you still  
7 hadn't reached that point. So have a pleasant lunch, and  
8 we'll see you back at 1:30.

9 (JURY EXITS COURTROOM FOR LUNCH RECESS AT 11:53 AM.)

10 THE COURT: Anything from the State?

11 MS. JOYNER: Nothing from the State.

12 THE COURT: Anything from the Defense?

13 MS. INZERILLO: Your Honor, at this time for the  
14 record, we move for a directed verdict as well as renew all  
15 previous motions.

16 THE COURT: Motions are denied. I find that there is  
17 ample evidence from which the jury could reach the  
18 conclusion that the State's case has been proven. It's up  
19 to the jury, of course, to determine whether or not it has  
20 been proven beyond a reasonable doubt, but there is  
21 sufficient evidence from which a jury could reach that  
22 conclusion.

23 Mr. Clarkson, can you hear me?

24 MR. CLARKSON: Yes, sir.

25 THE COURT: We've reached a point in the trial where

1 you have a right to present a defense if you wish, but  
2 you're not required to present a defense because you are  
3 presumed innocent, and the State must prove your guilt  
4 beyond a reasonable doubt. You do not have to prove your  
5 innocence.

6 But you have a right to call witnesses if you wish to  
7 testify on your behalf.

8 You have a right to testify. If you testify, you will  
9 be under oath and will be asked questions, and be cross  
10 examined by the State and the State can ask you about a  
11 prior offense. They cannot ask you about the nature of it,  
12 whether or not you in fact were either found or pled -- and  
13 I can't remember which, but that you have a record for a  
14 felony in your past. If they ask you -- If you testify and  
15 they ask you that, I'll tell the jury that they cannot  
16 consider that as evidence concerning whether or not you  
17 committed this offense. I will tell them that, that type  
18 of evidence is allowed only into the record for the jury to  
19 consider whether to believe you or not, that is as to your  
20 credibility since you have a prior record.

21 You have an absolute right to remain silent. If you  
22 exercise that right, I will tell the jury that is what  
23 you've done.

24 I will remind them that you are presumed innocent, and  
25 need not prove your innocence. I will remind them that the

-131-

1 State must prove your guilt beyond a reasonable doubt. And  
2 I will tell them they cannot use it against you in any  
3 fashion whatsoever your exercise of your Constitutional  
4 right to remain silent. I will tell them they cannot  
5 discuss it. They cannot use it in determining in their own  
6 mind whether the State has carried the burden of proof.

7 Do you understand all of that?

8 MR. CLARKSON: Yes, sir.

9 THE COURT: Do you have any questions about that?

10 MR. CLARKSON: No, sir.

11 THE COURT: This decision to testify or not is yours.  
12 It's not your attorney's of course, or a friend's, or  
13 family's. But you can get whatever advice you deem  
14 appropriate as to whether to testify or not. Have you  
15 reached a decision at this point?

16 MR. CLARKSON: Yes, sir. I don't want to testify.

17 THE COURT: You're going to exercise your right to  
18 remain silent?

19 MR. CLARKSON: Yes, sir.

20 THE COURT: Then Ms. Inzerillo, do you have any  
21 witnesses? I know the Doctor you said was not going to  
22 testify.

23 MS. INZERILLO: We have no witnesses, Your Honor.

24 THE COURT: So then when we come back from lunch,  
25 we'll be doing arguments and charge.

1           If you're not too busy, could I meet with the  
2 attorneys real quick?

3           You can have a seat, Mr. Clarkson.

4           What I have to do with the attorneys is go over the  
5 charge I'm going to charge, and see if they have any  
6 request to charge. We call it the charge conference.  
7 We'll have that in my chambers, and I'll just take a few  
8 minutes, and of course whatever occurs there if there's  
9 anything that needs to be, we'll put it on the record when  
10 we come back in.

11          Do you understand that?

12          MR. CLARKSON: Yes, sir.

13          THE COURT: Come around. He can stay out. If you  
14 understand, we're not making you stay in jail.

15          MR. CLARKSON: Yes, sir.

16          THE COURT: But, if you fail to come back after lunch,  
17 this case will go forward. The case can continue to be  
18 tried. The case will go to the jury, and the jury will  
19 return a verdict. Of course, if the verdict is not guilty,  
20 the case will be over. If the jury returns a verdict of  
21 guilt, and you're not here, I will sentence you, and we'll  
22 start a sealed sentence. That is, the only person in the  
23 world who will know what the sentence is me, and a bench  
24 warrant will be issued for your arrest. At such time you  
25 are found and arrested, you will be brought before a judge.

-133-

1 It could be me; it could be another judge. That judge will  
2 unseal the sentence, and impose it at that time.

3 Do you understand all of that?

4 MR. CLARKSON: Yes, sir.

5 THE COURT: Thank you.

6 MR. CLARKSON: Thank you.

7 (COURT IN LUNCH RECESS AT 11:58 AM.)

8 (COURT BACK IN SESSION AT 01:37 PM.)

9 THE COURT: Thank you. Have a seat.

10 Is the State ready?

11 MS. JOYNER: The State's ready, Your Honor.

12 THE COURT: Defense ready?

13 MS. INZERILLO: Yes, Your Honor.

14 Can we take up a matter before the jury comes back in?

15 THE COURT: All right.

16 MS. INZERILLO: On the Denno motion prior, I neglected  
17 to make the motion under -- or request for a directed  
18 verdict for the lack of testimony as to the element of the  
19 defendant's age, being over the age of 14. So with the  
20 Court's permission, I would incorporate that into the  
21 directed verdict.

22 THE COURT: All right.

23 MS. JOYNER: The State would take the motion to reopen  
24 its case just based on that fact alone.

25 THE COURT: Well I'll allow the State to reopen,

DETECTIVE FRED MOORE: REDIRECT BY MS. JOYNER

-134-

1 limited to the age question.

2 Now to keep the jury from coming back in and out, why  
3 don't we bring the jury in and allow you to do that, and  
4 you can rest, and we can just go straight into arguments  
5 and charge because your motion is protected.

6 All right, bring in the jury.

7 (JURY REENTERS COURTROOM AT 01:40 PM.)

8 THE COURT: Members of the jury panel, I told you when  
9 you left that the State had presented its case. They are  
10 going to recall a witness with my permission on one,  
11 isolated matter.

12 So call your witness.

13 MS. JOYNER: Thank you, Your Honor.

14 The State would call Detective Fred Moore.

15 THE COURT: You're still under oath, Mr. Moore.

16 DIRECT EXAMINATION

17 DETECTIVE FRED MOORE BY MS. JOYNER:

18 Q. Detective Moore, just briefly. If you could tell the  
19 jury whether your investigation yielded information  
20 regarding the defendant's date of birth and age at the time  
21 this incident occurred?

22 A. Yes, the defendant Clarkson's date of birth is May the  
23 29th, 1957. He's 54 years old.

24 Q. And would he have been 54 at the time or 53?

25 A. Fifty-three at the time.

CLOSING ARGUMENT: BY MS. JOYNER

-135-

1 Q. Thank you very much.

2 THE COURT: Cross?

3 MS. INZERILLO: No, Your Honor.

4 THE COURT: You can step down. Thank you.

5 (WITNESS LEAVES WITNESS STAND.)

6 THE COURT: Ms. Inzerillo, any defendants -- witnesses  
7 on behalf of the defendant?

8 MS. INZERILLO: No, Your Honor. The Defense rests.

9 THE COURT: Members of the jury panel, the Defense has  
10 rested also. So now we're at the point in the trial where  
11 you'll hear the closing arguments of the attorneys, then my  
12 charge on the law, then we'll have the case in your hands  
13 for your consideration.

14 Now the State is required to close.

15 MS. JOYNER: Yes, sir, Your Honor. Thank you. May it  
16 please the Court.

17 MS. JOYNER: On April 17th, the defendant came to the  
18 victim's home and asked him to come over to his house the  
19 next day, and do some work around the house. And Minor

20 was happy to do that. He liked the defendant. You  
21 heard grandma testify. There's no guy around the house  
22 doing chores. There's no man of the house. But the  
23 defendant, who Minor sometimes calls "Uncle E" or "Big E,"  
24 he comes over and helps out sometimes. He's nice to  
25 Minor He takes him jet ski riding, does things with him.

CLOSING ARGUMENT: BY MS. JOYNER

-136-

1 He was glad to go. He was glad to go. And somehow the  
2 idea came up that he was going to spend the night. He  
3 packs his bags still glad to go, glad to go over to the  
4 defendant's house.

5 And they have an uneventful evening. I mean maybe a  
6 little bit of a strange evening. They go pick up somebody  
7 else who comes over to the house, and the defendant and  
8 that friend go up into a computer room, play on the  
9 computer, while Minor watches a movie. But, you know,  
10 uneventful, until bedtime when the defendant comes and says  
11 -- this 53-year-old man comes to this 12-year-old boy and  
12 he says, "Come on Minor it's time to go to bed. Let's go  
13 to my room." And this 53-year-old man puts only his boxer  
14 shorts on to sleep in bed with this 12-year-old child who's  
15 not a son, not a blood relation, not even a relation by  
16 marriage. And he's going to get in bed with him, and he's  
17 going to go to sleep. Except he doesn't go to sleep -- or  
18 he doesn't stay asleep. Sometime in those early morning  
19 hours, sometime before, it was time for Minor to get up,  
20 he felt the hand, the hand of his friend. The hand of a  
21 man that he trusted, that he trusted enough to get in bed  
22 with. And he felt that hand slip into his -- through his  
23 waistband, and under his clothes, and grab on to his penis,  
24 and start messing with him. He was masturbating him. And  
25 Minor lays there with his eyes closed. He's pretending to

CLOSING ARGUMENT: BY MS. JOYNER

-137-

1 be asleep. He's afraid. He's 12-years-old. And a 12-  
2 year-old boy alone in a house with the defendant and the  
3 defendant's friend, a man he trusted. This is happening to  
4 him. And he keeps his eyes closed, and he pretends to be  
5 asleep.

6 And then he has to go through that next horrible day  
7 at the house. He's, he -- he's 12. He doesn't know what  
8 to do. There's no rule book on what to do when something  
9 like this happens when you're 12 years old, and you don't  
10 know what to do. And he stays, but he waits until he gets  
11 home. He waits till he gets home, and he finally is able  
12 to tell. And he tells the person that he can trust. And  
13 the person that he can really trust. He tells his mom.

14 Now in cross examination, Ms. Inzerillo asked some  
15 questions of Minor like, "Minor you never said to your  
16 mom, 'I don't want to go to his house because last time he  
17 slept in his underwear.' And Minor you never said to the  
18 defendant, 'I don't want to sleep in bed with you.' And  
19 Minor you didn't push his hand away; did you?" But  
20 ladies and gentlemen, in that bed that night, and we're  
21 talking about two people. One of them is a child, and one  
22 of them, an adult. And the 12-year-old boy, and Ms.  
23 Inzerillo asked him, "Well you didn't call the police?"  
24 Ask the detective that. You didn't call 911? You didn't  
25 call the police from the defendant's house? And then even

CLOSING ARGUMENT: BY MS. JOYNER

-138-

1 asks -- asks Minor "You didn't tell the defendant's  
2 friend? You didn't tell the friend?" The defendant's  
3 friend. And I want you to think about that because Ms.  
4 Inzerillo used that term, "the defendant's friend." Would  
5 that be the same friend that saw a 12-year-old boy marched  
6 into a bedroom with a 53-year-old man? That would be the  
7 same friend. So no, he didn't. He didn't tell while he  
8 was at the house where he had been sexually abused. He  
9 waited until he got home. And he waited until he was safe.  
10 And you remember how grandma described it. He marched  
11 straight in, and he went and got a shower and cleaned it  
12 off.

13 He waited for the defendant to be gone, and then told,  
14 and he cried. And remember grandma said, "He never cries."  
15 But he cried. He wept. And then he began this odyssey of  
16 being interviewed by the police. A 12-year-old boy being  
17 interviewed by the police about something embarrassing,  
18 horrific. And being interviewed by a forensic interviewer  
19 while a police officer watched him in the next room. And  
20 then, ultimately culminating in him walking into this  
21 courtroom in front of a bunch of strangers, and sitting on  
22 that witness stand, and being in the same room with that  
23 man, and telling his story again.

24 Now at the start of the trial, Ms. Inzerillo in her  
25 opening, she made a concession. It is unseemly for a grown

CLOSING ARGUMENT: BY MS. JOYNER

-139-

1 man to be in bed with a small child, to be in bed with a  
2 12-year-old boy. But she said it's not illegal. And I  
3 agree. Being in bed with a child is not illegal. But  
4 touching a child in a sexual way is illegal. The defendant  
5 is charged with a lewd act. And I read the statute to you  
6 at the beginning of the trial, and it's a very convoluted  
7 statute. And the judge is going to give you an  
8 instruction. But basically, we have to show, the  
9 defendant's over the age of 14, the victim's under the age  
10 of 16. And you know those things. The defendant was 53 at  
11 the time. The victim was 12. And that basically, however  
12 you would use different words to describe it, but  
13 basically, there is a deliberate, inappropriate touch that  
14 is sexual in nature. It's designed to arouse, appeal, or  
15 gratify the lusts or sexual desires of either the defendant  
16 or the victim. So really all you're left with trying to  
17 figure out in this trial, ladies and gentlemen, is -- the  
18 question that remains is, did the defendant touch Minor  
19 penis in a sexual way? That's the only question that you  
20 have to really answer in this trial.

21 And I agree with Ms. Inzerillo that it comes -- it's  
22 going to come down to who you believe. It comes down to  
23 credibility. You're the judge of the facts. As a judge of  
24 the facts, and the judges of credibility, the judge is  
25 going to give you an instruction. He alluded to it in his

CLOSING ARGUMENT: BY MS. JOYNER

-140-

1 preliminary instruction that you judge the credibility, and  
2 you use things like common sense, your everyday  
3 experiences. The tools you use in everyday life, you bring  
4 into this courtroom to help you decide the truth and help  
5 you decide who to believe. In certain things backward you  
6 can look at, a person's ability to know what they testify  
7 about, whether their testimony is corroborated, is  
8 consistent. Do they have a motive to fabricate or some  
9 sort of bias? And those are all things that you can  
10 consider.

11 Now from cross examination, Ms. Inzerillo suggested a  
12 few things. And she said - you know she asked Detective  
13 Moore, "Well you could have gotten the underwear tested.  
14 That would have shown DNA. Right?" Yeah, it would have --  
15 you would expect to find the victim's DNA in some shape or  
16 form inside his underpants. You would expect to find that.  
17 But what did he tell you? How it was left or when it was  
18 left? You would still come back, ladies and gentlemen, to  
19 the question: Do you believe the defendant touched  
20 Minor penis in a sexual way? Do you believe Minor

21  
22 And she suggested something about skin particles,  
23 which I think was a little CSI. And I don't really know  
24 what else to say about it. She suggested that there could  
25 have been a search warrant done 10 days later. 10 days

CLOSING ARGUMENT: BY MS. JOYNER

-141-

1 later. We know why it took 10 days. It took 10 days to  
2 learn the suspect's true name and address. 10 days later,  
3 is there going to be anything there? I don't think so.  
4 But she suggested those things because she wants to  
5 distract you. She wants you to be distracted, and she  
6 doesn't want you to think, and she doesn't want you to do  
7 that comparison between Minor story and the defendant's  
8 story to the police.

9 When you go back in the jury room, I want you to lay  
10 those stories side by side. What do you know? You know  
11 that Minor was there. And Minor tells you that. The  
12 defendant tells that to the police. Minor slept in the  
13 same bed with the defendant, and Minor told them that.  
14 The defendant says that to the police, even down to what  
15 the defendant wore and Minor wore. But Minor  
16 testimony, the defendant wore nothing but boxer shorts, and  
17 he wore pajamas and a t-shirt. Well that's what the  
18 defendant told the police. And that Minor was in fact  
19 touched while he was in bed with the defendant that night.  
20 The only thing that -- Everything is the same until it  
21 comes down to what kind of touch. Until it comes down to  
22 what kind of touch the defendant gave to Minor

23 Now when you think about the defendant's version to  
24 the police, I don't want you to just think about what he  
25 says to the police, but I want you to think about what

CLOSING ARGUMENT: BY MS. JOYNER

-142-

1       those things really mean. Think about what they really  
2       mean. Minor       slept at the defendant's house that night.  
3       Minor       had slept at the defendant's house before. The  
4       defendant said that. Minor       said that.

5               Now when the defendant is allowed back to sleep --  
6       when Minor       is allowed back to sleep at the house again on  
7       April 17th. Now apparently if you want to believe the  
8       defendant's statement, there are these big concerns about  
9       Minor       sleepwalking. There are his concerns about Minor  
10       looking at Internet pornography. Yet despite these  
11       concerns, he's back in the house. Does that really make a  
12       lot of sense to you that those are real and true reasons?  
13       Huh-huh.

14              And now we'll talk about the defendant is a 53-year-  
15       old man, and he chooses to get in bed with a 12-year-old  
16       boy. And Minor       is not his son, Minor       is not his nephew,  
17       Minor       is not a blood-relation to him. And he chooses to  
18       get in bed with him. Now the defendant could have slept on  
19       the second couch. He could have put Minor       on the second  
20       couch. He could have made himself a palette anywhere else  
21       in the house. Couldn't he? Slept on the floor. He could  
22       have even said to the other adult in the house, "Hey, this  
23       is inappropriate for me to be in bed with this small child.  
24       Do you mind bunking in my full-size bed with me so he can  
25       sleep on the couch." There were all kinds of options,

CLOSING ARGUMENT: BY MS. JOYNER

-143-

1 ladies and gentlemen. Even if for one minute, you want to  
2 entertain the ridiculous idea that he was somehow concerned  
3 about his sleepwalking, or the Internet, or anything of the  
4 kind, there were all kinds of options for how the sleeping  
5 arrangement could have come down and could have taken  
6 place. And the defendant chose to wear, in bed, with a 12-  
7 year-old boy nothing but his boxer shorts. Now what has he  
8 tell the detective? I always wear nothing but boxer shorts  
9 to sleep. But ladies and gentlemen, he's in his own home.  
10 Presumably he had other clothes that he could open a drawer  
11 and pull out. Maybe he doesn't own pajamas per se, but  
12 what about a pair of sweat pants? What about a pair of  
13 athletic shorts and a t-shirt. But no, he sleeps only in  
14 his boxer shorts.

15 And then, he admits he touched Minor. He touches  
16 this 12-year-old boy several times during the night to make  
17 sure he's not wandering around the house. Again, he didn't  
18 want him to sleepwalk. Why is he there? He's been there  
19 before. Is this a big problem? If it is, why is he there?  
20 Or because he didn't want him to look at pornography sites  
21 on the computer. Well Minor testified, ladies and  
22 gentlemen, he doesn't know anything about the pornography  
23 sites that are marked on his computer. If this is such a  
24 big problem, if Minor is predisposed to do this because  
25 it's such a big concern, why isn't the computer locked, or

CLOSING ARGUMENT: BY MS. JOYNER

-144-

1 why isn't -- why is Minor there if you caught him looking  
2 at pornography on your computer. The stories just don't  
3 make sense.

4 And if you really felt like you needed to make sure  
5 that a child wasn't up and moving around your house, well  
6 you've got other senses besides your sense of touch. Don't  
7 you? Don't you have your eyes? Isn't it easier to turn  
8 and look at the child? Doesn't it make just as much sense  
9 to speak out in the night? "Minor are you there?" Can  
10 he not get up and look and see that he's there? Of course  
11 you can. The story just doesn't ring true. It doesn't  
12 make sense. He told the police what he thought they  
13 already knew, which is that Minor was there, and Minor  
14 spent the night, and Minor spent the night in his room  
15 because Minor had already said it, there were other  
16 witnesses to it. There was grandma, there was mom, there  
17 was Ryan Finnigan. The police already knew that. And then  
18 he tried to give them a plausible, innocent explanation for  
19 what was not an innocent touch.

20 Now in cross, the defense counsel asked some questions  
21 of Minor and the other witnesses, asked about medication.  
22 I guess maybe suggesting that medication would interfere  
23 with Minor ability and knowing what was going on. Well  
24 when she asked Minor if the medication made him loopy I  
25 think he said no.

CLOSING ARGUMENT: BY MS. JOYNER

-145-

1           Ladies and gentlemen, medication or not, we're talking  
2           about whether a person knows they're being touched and  
3           masturbating. Minor       had the ability to know what he was  
4           testifying about and had the ability to perceive what was  
5           going on. And she asked him some questions about being  
6           angry. Being angry -- "Weren't you angry because you  
7           couldn't play on the computer? Weren't you angry because  
8           Ryan Finnigan wouldn't go buy you a big, giant drink at the  
9           store? Well if the second reason is the motive to make up  
10          a story, well then he should be mad at Ryan Finnigan and  
11          not at the defendant. But if that's the reason to make up  
12          the story, then Ryan Finnigan would be in that chair and  
13          not the defendant.

14          And then she asked him something about, "Don't you lie  
15          sometimes about breaking a lightbulb at school, about  
16          stealing money?" Ladies and gentlemen, a far cry for  
17          making up a lie for no apparent reason about your friend of  
18          three years. It's a far cry from putting yourself through  
19          something where you have to talk about intimate and  
20          embarrassing, sad things to total strangers, to the police,  
21          an interviewer, the prosecutor, to the jury in front of a  
22          judge you never met before. There's absolutely no reason  
23          for Minor                   to make this story up. Minor                had  
24          something horrible, horrible happen to him, and he's brave  
25          enough to tell his mom and to tell the police.

CLOSING ARGUMENT: BY MS. JOYNER

-146-

1           Now at the end of the day of this trial, the burden  
2           rests with the State to prove this case to you beyond a  
3           reasonable doubt. And the judge is going to define for you  
4           what reasonable doubt is. And I want you to remember --  
5           listen to the instruction. But I want you to remember  
6           something about reasonable doubt. Don't lose sight of the  
7           fact that reasonable doubt is the standard. It's the  
8           burden of proof. This criminal trial is not about a search  
9           for doubt. It's about the search for truth. Your job is  
10          to find the truth.

11           And the reasonable doubt instruction, like a lot of  
12          things you've probably heard in this courtroom, when we  
13          come to legalese, can be somewhat confusing sounding. And  
14          maybe you might find it difficult to apply. But when  
15          you're thinking about how to find and determine whether the  
16          State has met its burden, think about it this way. Go back  
17          in the jury room, and you're supposed to deliberate.  
18          You're supposed to sit down, and you're supposed to talk.  
19          And the fact that you have to talk to each other to come to  
20          an agreement, that's called deliberation. That does not  
21          mean the State has not met its burden. You're supposed to  
22          go back there. You're supposed to sit down, that's why you  
23          have chairs back there. And I want you to sit down, and I  
24          want you to think about every what if, every maybe, every  
25          could be. And if at the end of it, you in your heart and

CLOSING ARGUMENT: BY MS. INZERILLO

-147-

1 in your mind believe Minor you still believe him  
2 after all those what if's, and those maybe's, and those  
3 could be's, then the State has met its burden.

4 I ask you to fulfill your oath as jurors to reach the  
5 verdict that speaks the truth. And I ask you to find the  
6 defendant guilty.

7 MS. INZERILLO: May it please the Court, Your Honor.

8 Like I told you at the beginning of this case, this  
9 case is essentially a "He said, he said" situation. And  
10 now you've heard the evidence. And you have heard one of  
11 the "he's," Minor come in and take the stand. And  
12 you heard him accuse Mr. Clarkson, the other he in this  
13 case with inappropriately touching him. That's one version  
14 of events. You heard from testimony in this case, that  
15 when he was questioned by the officers, he explained his  
16 version of events, his "he" side. And he admitted to  
17 things that we brought out initially because we wanted you  
18 to know. We wanted you to know that a 53-year-old man  
19 admitted to the police that he got in bed with a 12-year-  
20 old boy. We don't want to hide that from you. You should  
21 know that. You're the jury. You should know as much  
22 information as presented. We didn't hide that. And  
23 neither did Mr. Clarkson. When the police came to his  
24 house, the State wants you to believe that he made these  
25 statements because he thought he knew what the police

CLOSING ARGUMENT: BY MS. INZERILLO

-148-

1 already knew. But you heard Detective Moore, and probably  
2 to a lesser extent, Detective Wallace explain to you the  
3 questions that were asked. Detective Moore asked questions  
4 about it, but he didn't go into a long exposition about  
5 this is everything that we know. He asked questions like,  
6 "Did Minor spend the night." That question doesn't  
7 illicit any special knowledge by Mr. Clarkson that  
8 Detective Moore knows all these facts about the case.

9 Well what does Mr. Clarkson do? He is honest. He's  
10 honest to a fault. He says, "Yes, the boy spent the night.  
11 Yes, he slept in the bed with me. And, yes, I only wore  
12 boxer shorts to bed."

13 Now I'm starting with Mr. Clarkson's recitation of  
14 events because throughout the evidence in this case, you  
15 heard other witnesses come in and corroborate the facts  
16 that he told Detective Moore. He says he always sleeps in  
17 his boxer shorts. Is that unseemly? Yes. Is there  
18 anybody in this room who doesn't squiggle their eyebrows at  
19 that decision? Probably not. I think we can all agree on  
20 that. That is unseemly. He was honest about it. And what  
21 was the testimony that we heard from the victim? "Well the  
22 last time I slept at his house, the same thing happened, in  
23 the bed, in his underwear." Does that excuse it? No. But  
24 what does that tell us?

25 When Mr. Clarkson told the detective that every time

CLOSING ARGUMENT: BY MS. INZERILLO

-149-

1 he sleeps in his underwear, we have proof that the victim  
2 came in and said, "Yes, this happened before." This is not  
3 a case where prior to this he was snuggled up like a bug  
4 with long long pants and sweatshirts. He's maintained the  
5 same behavior each time. Mr. Clarkson explained to the  
6 officer, "I had concerns about Minor getting up and  
7 walking around my house because the child is on  
8 medication." We heard other testimony. He is in fact on  
9 medication. It has to be given to him twice a day, usually  
10 around 6:00 p.m. and 6:00 a.m., that fact as well is  
11 corroborated. And as much as the State wants to imply some  
12 doubt in all of that, he is explaining to the officers, "I  
13 have this concern because he is in fact on medication. He  
14 may get up and run around my house. And I don't want that.  
15 I have things in my house this 12-year-old child should not  
16 see."

17 Now step back and look at the situation. He's the  
18 oldest person in this house. He's the adult. You know  
19 there are kids in the house are 19 and 20, something like  
20 that, and 12. Wouldn't we all expect in this room that the  
21 53-year-old man in that house would protect the minors from  
22 things on his computer? Is that so unreasonable as to make  
23 it implausible? No. And this is what he explains to the  
24 officers.

25 As I told you initially when you're assessing this

CLOSING ARGUMENT: BY MS. INZERILLO

-150-

1 case, you don't leave your senses at the door. You treat  
2 this case as you would any situation in your everyday life  
3 when you're given two versions of events, and you need to  
4 determine which one rings true. So what do you do? You  
5 listen to one side, in this case, Minor And you listen  
6 to the other side, in this case, Mr. Clarkson's. And as  
7 the State told you in her closing, there's a lot of overlap  
8 between those stories. In fact, they're almost lock-in-  
9 step to the point of the touching. So in our everyday  
10 lives, what do we do to figure out when all things are  
11 equal, how to distinguish them? We look at other facts,  
12 other things about the case that might give us a clue as to  
13 who we need to look at more closely.

14 What do we know in this case? One, as I've indicated  
15 to some of the facts, the facts that Mr. Clarkson told the  
16 detective, other witnesses have come in, they've told you.  
17 Two, when Minor takes the stand today, he testifies after  
18 this touching happened, Mr. Clarkson got up and used the  
19 men's room. It's a pretty big fact to come out. Detective  
20 Moore also testified that Minor never told him that  
21 before. Now why is that a very big fact to come out?  
22 Because in the charge in this case, you have to find that  
23 the State has proved beyond a reasonable doubt, a willful  
24 touching. And what do we know prior to the inclusion of  
25 this additional fact? That they are laying in bed, Minor

CLOSING ARGUMENT: BY MS. INZERILLO

-151-

1 says he was inappropriately touched. Knowing that it's a  
2 willfulness, do we know for a fact that Minor would take  
3 the stand and say, "I know for a fact he was awake. He  
4 knew what he was doing." He made any comments, that there  
5 was any reaction, physical reaction on behalf of Mr.  
6 Clarkson. No. Until today when he comes in, and he adds  
7 this fact to bolster that a little bit.

8 What else do we know about the events of this day?  
9 What other facts can we extrapolate from this case? After  
10 this alleged, awful event, the child stays in the same area  
11 as Mr. Clarkson. And I don't mean just stays in the house.  
12 We've heard ample testimony he didn't call his mom, he  
13 didn't call the police. But what else did we hear? He  
14 continued with the chores. So presumably, he's around the  
15 area where Mr. Clarkson is. He's not hiding in the house,  
16 he's not changing his behavior in any way to indicate  
17 anything unseemly to happen.

18 I would also point your attention to this other person  
19 that's in the house. Where is he in the course of this  
20 case? Wouldn't you want to know if he heard Mr. Clarkson  
21 get up and use the men's room at the time Minor today says  
22 that happened? Wouldn't you want to know if he saw any  
23 change in behavior in Minor or if there were any comments  
24 made or if Minor acted oddly around Mr. Clarkson? This  
25 presumably, by all the evidence that we have, this other

CLOSING ARGUMENT: BY MS. INZERILLO

-152-

1 person in the house where -- while the State calls the  
2 defendant's friend, we don't know that he would be neutral,  
3 that he wouldn't take the stand and say, "Yes, this is what  
4 I saw or heard." Wouldn't you want to know that?

5 Now the State is right. I did cross examine the  
6 detective about the underwear. And there were a lot of  
7 assumptions made in regards to that underwear. The biggest  
8 assumption was that Minor DNA would have been found in  
9 the underwear. That's the biggest assumption that was made  
10 because, ladies and gentlemen, we don't have the underwear.  
11 What if the underwear was brought in, and there was nothing  
12 in it? It was as clean as the day that it came out of the  
13 bag. Would that tend to prove or disprove Minor  
14 statement that he did in fact ejaculate into his underwear?  
15 Wouldn't you want to see the underwear to see if that very  
16 physical response is present? That's a fact that could  
17 corroborate or not corroborate Minor side of the story.  
18 But the evidence is not brought in. In fact, the evidence  
19 wasn't even brought up by the State. And the detective was  
20 quick to say, "Well we would find his DNA." We don't know  
21 that. We don't know that. It was never, ever tested.

22 And let's look at a second fact. An allegation in  
23 this case is that Mr. Clarkson reached his hands down this  
24 child's underwear and touched him. And the detective  
25 explained, "Yes, through forensic testing, we could see if

CLOSING ARGUMENT: BY MS. INZERILLO

-153-

1 that happened, if there's other DNA in there." So maybe it  
2 is CSI. But it's also an additional fact that would help  
3 you determine which one of these events is -- recitation of  
4 events is right. Detective Moore admitted it was taken  
5 into evidence. And I believe he indicated that as of his  
6 understanding, it's still in evidence. Wouldn't you want  
7 to know? That underwear would tell you. What the forensic  
8 of that would tell you. Because certainly if it doesn't  
9 play out the ejaculation part of Minor story, wouldn't  
10 that affect the way you see his story?

11 This case comes down to credibility, ladies and  
12 gentlemen. And you did hear me ask Minor has he ever lied  
13 before. And he said yes. It comes down to credibility.  
14 He came in today with the additional fact about Mr.  
15 Clarkson getting up and going into the men's room.  
16 Something he never told the detective before. A change in  
17 his story. That is something you should take into  
18 consideration when judging his credibility.

19 Now the burden is on the State to prove Mr. Clarkson  
20 guilty beyond a reasonable doubt. And I agree with the way  
21 she explained it to you. Go back there and discuss the  
22 case. One of my colleagues always says there's chairs in  
23 the jury room for a reason and I agree with that. But I  
24 ask you, don't stop at the fact that this man got into a  
25 bed with a 12-year-old child. That's not a lewd act.

CLOSING ARGUMENT: BY MS. INZERILLO  
CHARGE TO THE JURY

-154-

1 Don't stop at the fact that when he got in the bed with  
2 this 12-year-old child he was only wearing underwear. That  
3 is not lewd act. Look further into the case.

4 The crux of this case is, did Mr. Clarkson touch the  
5 child in an inappropriate, sexual manner? Other than the  
6 child's word, the story that has changed, or been added  
7 onto, there's no other evidence that proves that. Even in  
8 light of them having evidence was not brought in to prove  
9 or disprove it. These are the discussions, the facts that  
10 I ask you to look at because the burden is on the State to  
11 prove him guilty. Every single element of every single  
12 part of this charge.

13 And you may go back there, and you may think, "I don't  
14 really like Edward Clarkson. I wouldn't want my kid around  
15 him." And that's fine. That's absolutely fine because  
16 this is not a popularity contest. We're not judging him on  
17 his personality. You are judging the evidence that has  
18 been presented against him in this case. Did he in fact  
19 touch Minor inappropriately, sexually, willfully do  
20 that, with the intent to arouse himself or Minor And I  
21 submit to you, ladies and gentlemen, the evidence is not  
22 there. And I ask that you find Mr. Clarkson not guilty.

23 THE COURT: Members of the jury panel, I appreciate  
24 the attention you've given to the attorneys, and to myself,  
25 and to the witnesses. I am now going to ask you to give me

## CHARGE TO THE JURY

-155-

1 your attention for a few more minutes while I charge you  
2 the law, which you are to apply to the facts as you  
3 determine them to be in this case.

4 The fact that Mr. Clarkson is charged, the fact that  
5 he is on trial, the fact that there is an indictment  
6 alleging that he committed this offense is not any  
7 indication that he did. That's just the way our system  
8 works. When someone is thought to have committed an  
9 offense, they are arrested, the case is processed through  
10 our court system, and they come to trial. But that is not  
11 any indication that they committed the offense. The burden  
12 is on the State to prove to this jury beyond a reasonable  
13 doubt that he, Mr. Clarkson, did in fact commit this  
14 offense before you can convict him.

15 The indictment which you will have in the jury room  
16 with you is the paperwork, the formal paperwork, by way of  
17 which this case is processed through our court system.

18 And it will be where you, Mr. Foreman, and I'll show  
19 you this later, ultimately enroll the jury's unanimous  
20 verdict. Mr. Clarkson, like anyone charged with anyone in  
21 our system, is presumed innocent of this charge. He does  
22 not need to prove his innocence. This presumption of  
23 innocence is a substantial right. It's a right that inures  
24 to someone's benefit at the time they are arrested. It  
25 remains with them as their case is process through our

1 court system. The presumption of innocence in Mr.  
2 Clarkson's favor exists at this moment. It exists as you  
3 deliberate. The presumption of innocence in his favor is  
4 removed if and when, and only if and when you determine  
5 that the State has proven his guilt beyond a reasonable  
6 doubt. This presumption of innocence is a substantial  
7 right. It's not a mere legal theory or a mere legal  
8 phrase.

9 Now the State must prove his guilt beyond a reasonable  
10 doubt. The State does not need to prove Mr. Clarkson's  
11 guilt beyond all or every doubt. We know that, that is not  
12 possible, and that is not required by our law. Our courts  
13 have defined a reasonable doubt as the kind of doubt that  
14 would cause a reasonable person to hesitate to act. Proof  
15 beyond a reasonable doubt is proof that leaves you firmly  
16 convinced of an individual's guilt. As I said, there are  
17 very few things in our world that we know with absolute  
18 certainty, and that is not required. If, based on your  
19 consideration of the evidence, you are firmly convinced  
20 that Mr. Clarkson is guilty of the offense with which he is  
21 charged, you would find him guilty.

22 On the other hand, if you think there is a real  
23 possibility that he is not guilty, you will give him the  
24 benefit of that reasonable doubt and find him not guilty.  
25 He is entitled to all reasonable doubt you have as to any

## CHARGE TO THE JURY

-157-

1 element as charged.

2 I'll remind you that I am the sole judge of the law in  
3 this case, and you must take, accept, and apply the law as  
4 I charge it. I'll remind you that this is true even if you  
5 think I charge the law in error, or even if you think the  
6 law should be different. Your oath requires you to take,  
7 accept, and apply the law as I charge it.

8 I'll remind you that you are not to infer from  
9 anything I have said or done or now say or do as being an  
10 opinion of mine on the facts. Our law does not allow a  
11 trial judge to formulate or express to a jury any opinion  
12 on the facts. It is solely your job as the trial jury in  
13 this case to examine the evidence. Give to the evidence  
14 the effect, the value, the weight, and the truth you  
15 believe it should have.

16 In doing this, you may believe one witness as opposed  
17 to several, several witnesses as opposed to one. You may  
18 believe all, part, or none of the witnesses' testimony. In  
19 assessing the true facts and determining the true facts,  
20 you necessity must judge the credibility, that is the  
21 believability of the witnesses who have testified. In  
22 assessing believability, use those things I've already  
23 talked about, and use those things that you find in your  
24 day-to-day life as indicating to you truthfulness in an  
25 individual.

1           You can also use certain evaluators. How a witness  
2 acts on the stand, are they hesitant, straightforward. Is  
3 their testimony consistent or inconsistent? Do they have  
4 any bias or prejudice, that is whether they would wish to  
5 help or hurt one side or the other. You can consider the  
6 opportunity a witness had to actually know those things  
7 about which the witness testified. All of these things you  
8 consider, determine the true facts, apply the law, and your  
9 verdict will speak the truth.

10           There are usually two types of evidence presented in  
11 cases such as this: direct and circumstantial evidence.  
12 Direct evidence is the testimony of someone who claims to  
13 have actual knowledge of a fact. It is evidence which  
14 immediately establishes the main facts sought to be proven,  
15 such as an eyewitness.

16           Circumstantial evidence is proof of a chain of facts  
17 and circumstances indicating the existence of a fact.  
18 Circumstantial evidence is evidence which establishes  
19 collateral facts from which the facts sought to be -- the  
20 main facts sought to be proven may be inferred.  
21 Circumstantial evidence is based on inference and not on  
22 personal knowledge or personal observation. Our law makes  
23 absolutely no distinction between the weight or value to be  
24 given direct as opposed to circumstantial evidence. What  
25 you should do is weigh all of the evidence in this case.

## CHARGE TO THE JURY

-159-

1 If after weighing all of the evidence, you are not  
2 convinced of Mr. Clarkson's guilt, you would find him not  
3 guilty.

4 Now Mr. Clarkson has exercised his Constitutional  
5 right to remain silent. The fact that he chose to exercise  
6 that right cannot be discussed by you and cannot be  
7 factored into your own deliberations. Anyone charged with  
8 an offense in our system has the right to remain silent.  
9 And the exercise by that person, here Mr. Clarkson, is not  
10 to be used against him in any fashion whatsoever. You are  
11 to draw no conclusion whatsoever, from the fact that he  
12 exercised that Constitutional right.

13 I remind you, the burden is on the State to prove Mr.  
14 Clarkson guilty beyond a reasonable doubt. He need not  
15 prove his innocence. He is presumed innocent, and as I  
16 told you, that is a substantial right and can be overcome  
17 only when the State has convinced you of his guilt beyond a  
18 reasonable doubt.

19 Mr. Clarkson is charged with a statutory offense.  
20 That is, our legislature made this -- enacted this into  
21 law. He is charged with committing a lewd act on a minor.  
22 A minor is a person under the age of 18. The State must  
23 prove beyond a reasonable doubt that the defendant, Mr.  
24 Clarkson, was at the time in question, over the age of 14.

25 Next the State must prove that Mr. Clarkson willfully

## CHARGE TO THE JURY

-160-

1 and lewdly committed or attempted a lewd or lascivious act  
2 on or with the body or its parts of a child under the age  
3 of 16 years of age, with the intent to arouse, appeal, or  
4 gratify the lust, passions, or sexual desires of himself or  
5 of the child. "Willfully" means voluntarily and  
6 intentionally, with specific intent to do something the law  
7 forbids. "Lewd" means obscene, lustful, indecent, or  
8 lecherous. "Lascivious" means tending to incite lust,  
9 lewd, indecent, obscene or tending to deprave the morals in  
10 respect to sexual relationships. The term imports -- Lewd  
11 imports a lascivious intent. It signifies that form of  
12 immorality, which has relation to moral impurity.  
13 Lascivious means tending to excite lust, lewd, obscene,  
14 sexual impurity. As I said, tending to deprave the morals  
15 in respect to sexual relations. The term "indecent" means  
16 offensive to common propriety. Offending against modesty  
17 and delicacy, grossly vulgar, obscene, lewd, or unseemly.

18 Now the State must prove that charge, that is,  
19 committing a lewd act on a minor, beyond a reasonable  
20 doubt.

21 Your verdict must be unanimous. All 12 jurors must  
22 agree on a verdict. You are not to be swayed by sympathy,  
23 passion, prejudice, or matters outside the record.

24 While you're deliberating, if you have any questions,  
25 Mr. Foreman, write them down, and knock on the door, and

CHARGE TO THE JURY

-161-

1 give them to the Bailiff. The Bailiff will bring that note  
2 to me. After conferring with the attorneys, I will  
3 respond. It may be that I can write an answer on the note.  
4 If I do send a note back, keep it, and return it at the end  
5 of your deliberations. It may be that I will have to bring  
6 you back here in open court and answer your question.

7 In South Carolina, we do not send in with the jury a  
8 written charge on the law. If you wish me to go over any  
9 part or all of my charge on the law, let me know, and I  
10 will bring you back in here in open court I will recharge  
11 you any part or all of the law. We do not have any way to  
12 transcribe testimony, but if you wish to have testimony  
13 replayed, we can certainly do that. So if you wish to  
14 rehear any of the testimony, let us know, and we'll bring  
15 you back here in open court, and allow you to listen to  
16 that testimony.

17 When you've reached a verdict, knock on the door, tell  
18 the Bailiff. The Bailiff will come and get us. I may be  
19 doing some other work, but I will send for you as promptly  
20 as I can. When you first go into the jury room, do not  
21 start deliberating yet. I must go over my charge with the  
22 attorneys. If I have made an error, I'll have to bring you  
23 back in and correct it. If not, I will send in the verdict  
24 form -- I'm sorry -- I'll send in the indictment, and I'll  
25 go over that in just a moment, and the Bailiff will tell

## CHARGE TO THE JURY

-162-

1 you to start deliberating. Like I say, when you've reached  
2 a verdict, knock on the door and tell the Bailiff.

3 Mr. Noonan, as the alternate, you will remain here in  
4 the courtroom when the jury exits this time since your  
5 participation will not be necessary since we have the jury  
6 in tact. Now the indictment, I remind you, is not  
7 evidence. It is the charge by way of which this case is  
8 processed through our court system. So don't consider it  
9 as anything other than the allegations against Mr.  
10 Clarkson.

11 Mr. Foreman, on the backside, in the bottom lefthand  
12 corner, you will see the word "verdict" and four lines  
13 beneath it. On the bottom line, you will write your name  
14 -- or you will sign your name, and below that is a place  
15 for the date. Today is the 12th. On one of the three  
16 lines above where you sign, you will write the jury's  
17 unanimous verdict. If the State has failed to prove Mr.  
18 Clarkson's guilty beyond a reasonable doubt the charge  
19 contained in the indictment, you would write on one of  
20 those lines the two words, "Not guilty." If on the other  
21 hand, you are convinced unanimously as the jury, beyond a  
22 reasonable doubt of Mr. Clarkson's guilt of this charge,  
23 you would on one of those lines just simply write the one  
24 word, "Guilty."

25 Now I'm going to let you go to the jury room, but do

-163-

1 not start deliberating yet.

2 (JURY EXITS COURTROOM TO DELIBERATE AT 02:28 PM.)

3 THE COURT: Mr. Noonan, I'll be with you in just a  
4 moment. You can have a seat.

5 MR. NOONAN: Yes, sir.

6 THE COURT: Anything from the State?

7 MS. JOYNER: Nothing from the State, Your Honor.

8 THE COURT: Defense?

9 MS. INZERILLO: No, Your Honor.

10 THE COURT: All right, well here is the indictment.  
11 Look at it before it goes back. See if you have any  
12 questions. There are no exhibits. So you can take the  
13 indictment back and tell the jury to start deliberating.

14 And Mr. Noonan, we're through for the week with the  
15 jury. We're not going to start another trial, of course  
16 it's Thursday afternoon. We've got other work to do that  
17 does not require a jury, so you can feel free to leave.  
18 You can stay around if you wish to see what the verdict is.  
19 But you can feel free to leave, and you'll be mailed a  
20 check. If you need something to take to work or somewhere  
21 to show that you in fact have been here, you can stop by  
22 the Clerk's Office, and they'll give you a statement to  
23 confirm this is where you have been. Thank you for your  
24 help.

25 (ALTERNATE JUROR DISMISSED AT 02:29 PM.)

VERDICT

-164-

1 THE COURT: We'll be at ease until the Solicitor tells  
2 me what we can be working on.

3 (COURT IN RECESS AT 02:30 PM.)

4 (COURT BACK IN SESSION AT 03:17 PM.)

5 THE COURT: Okay, we've got a verdict in Mr.  
6 Clarkson's case.

7 Back on the record in the Clarkson matter. The  
8 State's present, Mr. Clarkson's and his counsel are  
9 present. I received a note from the jury that they reached  
10 a verdict.

11 Anything before the jury comes in from the State?

12 MS. JOYNER: Not from the State, Your Honor.

13 THE COURT: Defense?

14 MS. INZERILLO: No, Your Honor.

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

16 (JURY REENTERS COURTROOM AT 03:20 PM.)

17 THE COURT: Mr. Foreman, and members of the jury  
18 panel, I understand the jury's reached a verdict.

19 MR. FOREMAN: Yes, Your Honor.

20 THE COURT: If you'll had it to the Bailiff, he'll  
21 hand it up to me.

22 (VERDICT RECEIVED UP BY THE COURT.)

23 MADAME CLERK: *The State of South Carolina versus*  
24 *Edward Martin Clarkson*, under Indictment 2011-GS-46-02127,  
25 indicted for lewd act upon a child. The verdict is guilty,

SENTENCING

-165-

1 signed by the foreperson this day.

2 If this be your verdict, so say you all by raising  
3 your right hand.

4 Let the record show, all the jurors confirm this  
5 verdict.

6 (WHEREUPON: ALL TWELVE JURORS UNANIMOUSLY RAISED  
7 THEIR HANDS AFFIRMING THEIR VERDICT.)

8 THE COURT: Anything from the State before the jury's  
9 dismissed?

10 MS. JOYNER: Nothing from the State.

11 THE COURT: Anything from the Defense?

12 MS. INZERILLO: No, Your Honor.

13 THE COURT: Members of the jury panel, thank you so  
14 much for your assistance this week. We of course -- it's  
15 Thursday afternoon, we are not going to start another  
16 trial, so you're free from jury duty for the week. You'll  
17 be mailed a check. Thank you an awful lot. If you need a  
18 statement to take to anybody to show that this is in fact  
19 where you've been this week, you can go by the Clerk's  
20 Office, and they'll give it to you. Thank you.

21 (JURY DISMISSED AT 03:22 PM.)

22 THE COURT: All right. Anything from the State?

23 MS. JOYNER: Nothing from the State.

24 THE COURT: Defense?

25 MS. INZERILLO: Your Honor, at this time, we would

## SENTENCING

-166-

1 move for a new trial and renew all previous motions.

2 THE COURT: Those motions are denied. I think the  
3 jury's verdict is well supported by the evidence.

4 Now if you will bring Mr. Clarkson around for  
5 sentencing.

6 The State -- Does the victim's family wish to say  
7 anything regarding the sentencing?

8 MS. JOYNER: I beg the Court's indulgence one moment.

9 (PAUSE.)

10 (PERSON COMING FORWARD.)

11 THE COURT: You can stand right there. Your name?

12 A. Elizabeth Boggs.

13 THE COURT: Are you Minor mother?

14 MS. BOGGS: Yes, sir, I am.

15 THE COURT: All right. What would you like to say?

16 MS. BOGGS: I know Mr. Clarkson real well. I trusted  
17 him very much with my son. I know that what happened was  
18 wrong. And this might sound really stupid, but I wish the  
19 Court would go lenient on him because I have respect for  
20 him, and I feel like he made the wrong judgment from what  
21 he did. And that's -- that's all I have to say. Thank  
22 you.

23 THE COURT: Thank you.

24 Tell me his prior record. I think I know he's got one  
25 for criminal domestic violence and he's on the sex offender

SENTENCING

-167-

1 registry so tell me --

2 MS. JOYNER: Yes, Your Honor. All of his criminal  
3 offenses were sentenced the same day of January 9th of '97.  
4 The two CSC with a minor second degree, as Your Honor is  
5 aware of; also an assault and battery of a high and  
6 aggravated; and 11 counts of contributing to delinquency of  
7 a minor.

8 THE COURT: Ms. Inzerillo.

9 MS. INZERILLO: Thank you, Your Honor. May it please  
10 the Court.

11 Your Honor, as you heard through testimony, Mr.  
12 Clarkson is 53-years-old. He does reside around York.  
13 Prior to bonding out, he was only incarcerated for a day.  
14 I will tell you, Your Honor, as I've explained to Mr.  
15 Clarkson, as well as the Court is aware of the conviction  
16 of a lewd act. This conviction carries with it a review  
17 for SVP as well as a monitoring. And I just point that out  
18 to the Court to ask the Court to take into consideration  
19 that just by the nature of this conviction, that he will be  
20 monitored by the State far more closely than he has --  
21 being under -- just registered as a sex offender, we would  
22 ask the Court to take Ms. Bogg's comments into  
23 consideration and sentence Mr. Clarkson accordingly.

24 THE COURT: Mr. Clarkson, anything you want to say?

25 THE DEFENDANT: No, sir.

## SENTENCING

-168-

1 THE COURT: I will take Ms. Bogg's comments into  
2 consideration, but I cannot do what she asked, not with  
3 this man's record. Mr. Clarkson's sentence is 15 years.

4 Thank you.

5 MS. INZERILLO: Thank you, Your Honor.

6 MS. JOYNER: Thank you, Your Honor.

7 (WHEREUPON: COURT'S EXHIBIT NUMBER ONE IDENTIFIED AND  
8 MARKED, RECEIVED INTO EVIDENCE.)

9 (COURT ADJOURNED IN THE MATTER OF THE STATE OF SOUTH  
10 CAROLINA VERSUS EDWARD MARTIN CLARKSON AT 03:45 PM.)

11 -- END OF TRANSCRIPT OF HEARING --  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE OF REPORTER

State of South Carolina    )  
                                      )  
County of York                )

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 11th and 12th days of January, 2012.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Wanda Nelson  
Wanda Nelson, CVR - Master  
Certified Verbatim Reporter,  
Official Court Reporter,  
Notary Public, in and for  
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: 2-25 / 2012

WITNESSES

YCSO\Moore

jwg

ARREST WARRANT NUMBER

J156765

ACTION OF GRAND JURY

TRUE BILL

*George Roberts*  
Person of Grand Jury

7/21/11

VERDICT

*Guilty*

*Daniel Feil*  
son of Petit Jury

1/12/12  
01

DOCKET NO. 2011-GS-46- 02127

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

July 21, Term 2011

THE STATE

vs.

EDWARD MARTIN CLARKSON

Indictment for

LEWD ACT UPON A CHILD

SC Code: 16-15-140  
CDR Code: 2468

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

INDICTMENT

17

CERTIFIED TRUE COPY

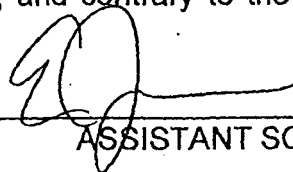
At a Court of General Sessions, convened on July 21, 2011, the Grand Jurors of York County present upon their oath:

2012 JAN 13 AM 11:27  
DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

**LEWD ACT UPON A CHILD**

That the defendant, Edward Martin Clarkson, a person over the age of fourteen (14) years, (Date of birth of defendant is May 29, 1957) did in York County, South Carolina, on or about April 18, 2011, willfully and lewdly commit or attempt to commit a lewd or lascivious act upon the body, or any part or member thereof, of a child under the age of sixteen (16) years, Minor (Date of birth of victim is July 3, 1998), with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of himself or of said child, Minor all in violation of Section 16-15-140, South Carolina Code of Laws (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA  
COUNTY OF YORK  
STATE VS.  
Edward Clarkson  
AKA:

INDICTMENT/CASE#: 2011GS4602127  
A/W#: J156765  
Date of Offense: 4/18/2011  
S.C. Code §: 16-15-0140  
CDR Code #: 2468

Race: W Sex: M Age: 34  
DOB: SS#: 10  
Address: 2012 JAN 13  
City, State, Zip: 10  
DL#: SID#: DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

SENTENCE SHEET

\*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 / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1

in violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468  
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)  
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.  
ATTEST: Joyner, Erin M. 69419 SC Bar# Defendant 69416 SC Bar# Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years  
and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment  
of \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:  
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.  
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal  
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered  
Total: \$ plus 20% fee: \$  
Payment Terms:  
☐ Set by SCDPPPS

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

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 47.9 (Public Def/Prob)         | \$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 | \$        |
| Proviso 90.5 (SCCA Surcharge)          | \$5     | \$ 5      |
| 3% to County (if paid in installments) |         | \$        |
| TOTAL                                  |         | \$ 130.00 |

Other: Sex Offender Registry

☐ Appointed PD or appointed other counsel,  
§ 47.12 requires \$500 be paid to Clerk  
during probation

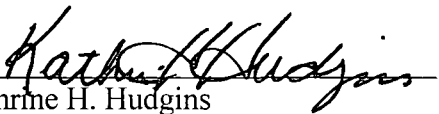
Clerk of Court/ Deputy Clerk David Hamilton  
Court Reporter: Wanda Nelson  
SCCA/217 (03/2011)

Presiding Judge: John H. Hagan  
Judge Code: 2049  
Sentence Date: 01-12-2012

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

This 7<sup>th</sup> day of February, 2013

  
Kathrine H. Hudgins  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT