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JUL 17 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM LAURENS COUNTY

William Jeffrey Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BENJAMIN M. RHODES,

APPELLANT

APPELLATE CASE # 2013-001429

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE’S EXHIBITS # 12 (CD OF JUNE 15, 2008),
EXHIBIT # 13 (PHOTOGRAPH) AND EXHIBIT # 14 (CD
OF BEN RHODES INTERVIEW)**

State of South Carolina)
 vs.) Transcript of Record
)
Benjamin Maurice Rhodes)
 DEFENDANT)

June 17, 2013
Laurens, South Carolina

B E F O R E:

Honorable W. Jeffrey Young, Judge.

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

Bethany B. Miles, Assistant Attorney General
Lloyd V. Flores, Jr., Assistant Attorney General
Attorneys for the State

Rauch Wise, Esq.
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

1

2

INDEX OF WITNESSES

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(DW) - Denotes Defense Witness

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(SW) - Denotes State's Witness

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**Laurens County Courthouse
RANDOM STRIKE SHEET**

5

JUDGE NAME :

TRIAL TYPE : Criminal

PANEL ID : JUNE 17, 2013

COURTROOM CTRM

Sorted by: Random Nbr

DESCRIPTION : STATE VS. BENJAMIN M. RHODES

Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	GRT	REMARKS
1 Losh, Lauarence A. <i>Benjamin</i>	91	W	M	(✓)	(✓)	()	(1)
2 James, Dianne	73	B	F	(X)	()	()	-
3 Satterfield, Randall Ernest	118	W	M	(✓)	(X)	()	(2)
4 Taylor, Monica L	132	W	F	(✓)	(X)	()	-
5 Chappell, Jennifer N	29	B	F	(✓)	(✓)	()	(3)
6 Haupfear-Payne, Lisa D	62	W	F	(✓)	(X)	()	-
7 Brown, Lucille T	22	W	F	(✓)	(X)	()	(4)
8 Wilson, Julian L	146	W	M	(✓)	(✓)	()	(3)
9 Taylor, Matthew H	131	W	M	(X)	()	()	-
10 Tate, James B	130	W	M	(✓)	(✓)	()	(6)
11 Smith, John T	126	W	M	(✓)	(X)	()	-
12 Hall, Ashley M	59	W	F	(✓)	(✓)	()	(7)
13 Scott, Rebecca S	120	W	F	(✓)	(✓)	()	(8)
14 Adkins, Cynthia W	3	W	F	(✓)	(X)	()	-
15 Holliday, Katie F	68	W	F	(✓)	(✓)	()	(9)
16 Puckett, Stephanie J	110	W	F	(✓)	(X)	()	-
17 Klink, Frances K	80	W	F	(✓)	(✓)	()	(10)
18 Foy-Sullivan, Teena M	45	W	F	(✓)	(✓)	()	(11)
19 Holmes, Heather	69	W	F	(✓)	(✓)	()	(12)
<i>20</i> 20 Link, Amy H	90	W	F	(✓)	(X)	()	-
21 Robinson, Delanda V	113	B	F	(✓)	(X)	()	-
22 Andrews, Tamera S	5	W	F	(X)	()	()	-
<i>23</i> 23 Savage, Lindsay L	119	W	F	(✓)	(✓)	()	ACT
24 Jenkins, Regina J	74	B	F	()	()	()	-

Laurens County Courthouse RANDOM STRIKE SHEET

JUDGE NAME :

Sorted by: Random Nbr

TRIAL TYPE : Criminal

PANEL ID : JUNE 17, 2013

DESCRIPTION : STATE VS. BENJAMIN M. RHODES

Trial

COURTROOM CTRM

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
25 Barrett, Tammie W	15	W	F	()	()	()	
26 Knight, Kenneth E	82	W	M	()	()	()	
27 Rodriguez, Toni M	114	W	F	()	()	()	
28 Miller, Elizabeth R	101	W	F	()	()	()	
29 Miles, Steven R	99	W	M	()	()	()	
30 Johnson-Wadsworth, Judith	77	W	F	()	()	()	
31 Carlisle, Kelli W	27	W	F	()	()	()	
32 Gambrell, Tyler M	49	W	M	()	()	()	
33 Hyatt, Johnny H	71	W	M	()	()	()	
34 McClintock, Erica R	95	B	F	()	()	()	
35 Smith, Amanda K	125	W	F	()	()	()	

Total Number of Jurors:

35

** END OF REPORT **

1 THE COURT: Is the State ready to call its first
2 case?

3 MR. FLORES: Yes, Your Honor. The State would call
4 the State versus Benjamin Maurice Rhodes. This is
5 indictment numbers 2009-GS-30-0126 and 2011-GS-30-0354.

6 THE COURT: If you could please pass up the
7 indictments.

8 MR. FLORES: Your Honor, I do have copies of the
9 indictments.

10 THE COURT: Copies are all right. All right, ladies
11 and gentlemen, it says we are getting ready to start the
12 case of the State versus Benjamin Maurice Rhodes. Mr.
13 Rhodes has been charged with two counts in the indictment.
14 The first is criminal solicitation of a minor which reads
15 as follows. That Benjamin M. Rhodes between the dates of
16 April 14th of 2008 and June 18th of 2008 did willfully and
17 knowingly commit the crime of criminal solicitation of a
18 minor. To wit: Benjamin M. Rhodes, a person 18 years of
19 age or older did knowingly through the internet contact
20 and communicate with a person located within the County of
21 Laurens, South Carolina whom he reasonably believed to be
22 a 13-year-old girl for the purpose of or with the intent
23 of persuading, inducing, enticing or coercing the person
24 to engage or participate in a sexual activity as defined
25 under section 16-15-357(5) or with the intent to perform a

1 sexual activity in the presence of the person reasonably
2 believed to be under the age of 18. This is in direct
3 violation of section 16-15-342 of the South Carolina Code
4 of Laws, 1976, as amended.

5 The second indictment is for attempting to
6 disseminate obscene material to a person under 18. And it
7 reads that Benjamin M. Rhodes on or about June the 15th of
8 2008 did willfully and knowingly commit the crime of
9 attempted dissemination, disseminating obscene material to
10 a person under age 18. To wit: Benjamin M. Rhodes, a
11 person 18 years of age or older did knowingly disseminate
12 or attempt to disseminate to a person located within the
13 County of Laurens, South Carolina, who he reasonably
14 believed to be under the age of 18, material which he knew
15 or should have known to be obscene within the meaning of
16 section 16-1-305. This is in direct violation of section
17 16-15-342 of the South Carolina Code of Laws, 1976, as
18 amended.

19 Ladies and gentlemen, let remind you that the fact
20 that the defendant was arrested, charged and indicted in
21 no way means that the defendant is guilty of the charges
22 contained in the indictment. Ladies and gentlemen, the
23 defendant has plead not guilty to these charges.
24 Therefore the State has the burden of proving each and
25 every allegation of this beyond a reasonable doubt.

1 Again, ladies and gentlemen, the defendant has to prove
2 nothing in this case, the burden is on the State. Now,
3 ladies and gentlemen, and these papers are filed, this is
4 what gets the case here in court. Now, ladies and
5 gentlemen, I do have some questions that I need to ask you
6 concerning this. And the reason I am asking these
7 questions and I will remind you that you are still under
8 oath. Just like a building must have a strong firm
9 foundation to protect those who will live in it so must
10 the jury be strong as a basis for a fair and impartial
11 trial for those who participate, the State and the
12 defendant who is on trial. Now, the answers to these
13 questions that I am getting ready to ask you will be the
14 foundation by which these attorneys will build a jury that
15 they believe will be fair and impartial and listen to the
16 evidence and deliver a fair verdict in this matter. And,
17 again, thank you for listening carefully to the questions
18 that I am getting ready to ask you and for your honest
19 answers. Now, first question is, has anyone in the jury
20 panel ever been related by blood or marriage or had a
21 close, personal relationship with the defendant, Benjamin
22 Maurice Rhodes who is sitting at the table on my left. If
23 so please stand. Mr. Rhodes, if you would turn around.

24 MR. WISE: Stand up and turn around.

25 THE COURT: Thank you.

1 (No response.)

2 THE COURT: Now, ladies and gentlemen, the following
3 is a list of possible witnesses in this case and I will go
4 through the whole list of witnesses and then I am going to
5 ask if you know any of them. The first one is Lieutenant
6 Crystal Roberts of the Clinton Department of Public
7 Safety; James Petty of Drive in Laurens,
8 South Carolina; Ether Price of Acres of
9 Clinton, South Carolina; Connie Abercrombie of
10 Broad Street, Apartment in Clinton, South Carolina;
11 Wayne Abercrombie of Street in Clinton, South
12 Carolina; John Young, Boulevard in Clinton,
13 South Carolina and Jennifer Price of Street in
14 Clinton, South Carolina. Now, has any member of the jury
15 panel ever been related by blood or marriage or had any
16 personal or business relationship with any of the people
17 that I have just named and may be possible witnesses. If
18 so, please stand.

19 Yes, sir. Come down for me. What is your name and
20 juror number, please.

21 JUROR: 141, Stephen Whiteford. I know Jennifer
22 Price, I work with her.

23 THE COURT: Would the fact that you know her can you
24 listen to the evidence and make a decision based upon the
25 evidence?

1 JUROR: When I work with her everyday?

2 THE COURT: Can you listen to the evidence in this
3 case and make a decision based on the evidence?

4 JUROR: I guess I can.

5 THE COURT: Thank you, sir. Yes, ma'am.

6 JUROR: 110, Stephanie Puckett. I know Officer
7 Roberts.

8 THE COURT: The fact that you know Officer Roberts,
9 can you listen to the evidence and make a decision?

10 JUROR: Yes, sir.

11 THE COURT: Yes, ma'am.

12 JUROR: 117, Jennifer Sasser. We have a substitute
13 teacher that works--

14 THE COURT: That is not her.

15 JUROR: Okay. That is not her.

16 THE COURT: The attorneys in this case are Mr. Lloyd
17 Flores for the Attorney General's office. And would you
18 like to introduce yourself and your associate?

19 MR. FLORES: Yes, Your Honor. My name is Lloyd
20 Flores, I am employed by the Office of the Attorney
21 General out of Columbia. Assisting me in this trial today
22 is Ms. Bethany Miles, she also works at the Office of the
23 Attorney General out of Columbia.

24 THE COURT: Mr. Wise, would you like to introduce
25 yourself and anyone else in your office.

1 MR. WISE: I am Rauch Wise and I am an attorney in
2 Greenwood, South Carolina.

3 THE COURT: Ladies and gentlemen, has any member of
4 the jury panel ever been represented by either of these
5 attorneys or the Attorney General's office or have you
6 been prosecuted by the or any of your family members been
7 prosecuted by the Attorney General's office or been
8 involved with any of these attorneys in any way. If so,
9 please stand.

10 (No response.)

11 THE COURT: Has any member of the jury panel formed
12 or expressed an opinion about any issue or matter that is
13 involved in this case. If so, please stand.

14 (No response.)

15 THE COURT: No one is standing. Is there any member
16 of the jury panel who is aware of any biased or prejudiced
17 towards either the State or the defendant in this case.
18 If so, please stand.

19 (No response.)

20 THE COURT: No one is standing. Is there any member
21 of the jury panel who is also a member of the grand jury
22 that indicted this case. If so, please stand.

23 (No response.)

24 THE COURT: No one is standing. And is there any
25 member of the jury panel who is a member of or a

1 contributor to any group which has as its primary concern
2 promotion of law enforcement or victims rights and these
3 groups would include but not be limited to Mothers Against
4 Drunk Drivers, Students Against Drunk Driving or Citizens
5 Against Violent Crimes. If so, please stand.

6 (No response.)

7 THE COURT: All right. Has any member of the jury
8 panel or any of your close, personal friends or relatives
9 been accused of a crime, whether or not there was a formal
10 complaint that were made or whether or not there was a
11 conviction. If so, please stand. Has any member of the
12 jury panel or any of your close friends, personal friends
13 or relatives ever been accused of a crime, whether or not
14 there was a formal complaint that were made or whether or
15 not there was a conviction. If so please stand. Come on
16 down.

17 JUROR: Number 5. I have a son that has got a felony
18 charge against him and he is serving time.

19 THE COURT: The fact that your son is serving time
20 make it so that you can't be fair and impartial in this
21 case?

22 JUROR: No, sir.

23 THE COURT: You can be?

24 JUROR: I can be.

25 THE COURT: Thank you, ma'am. Okay.

1 JUROR: Number 100, Brittany Miller.

2 THE COURT: Okay.

3 JUROR: I have family members that was charged in a
4 case for criminal sexual conduct with a minor.

5 THE COURT: Would that fact that it happened in that
6 situation make it so that you can't listen to the evidence
7 and make your decision based upon the evidence here in
8 court?

9 JUROR: I don't know.

10 THE COURT: You don't know. We can release her. You
11 are released. That is only for this trial. Stay here
12 until you are released. Okay.

13 JUROR: My brother spent a night in jail.

14 THE COURT: Does the fact that your brother spent a
15 night in jail make it so that you can't be fair and
16 impartial to the State or the defense in this case?

17 JUROR: No.

18 THE COURT: Thank you.

19 JUROR: Number 87, Monica Ledbetter. Did you ask if
20 we ever had a family member?

21 THE COURT: Who has been accused of a crime, whether
22 or not they were convicted?

23 JUROR: Yes.

24 THE COURT: Does that accused make it so that you
25 can't be fair and impartial and listen to the evidence in

1 this case and be fair?

2 JUROR: I guess not.

3 THE COURT: Okay. Thank you.

4 JUROR: Number 15, Tammie Barrett. The previous
5 question before this, we just wanted to make sure we
6 understood correctly.

7 THE COURT: Are you a contributor or do you give
8 money.

9 JUROR: I have in the past but I am not no longer.

10 THE COURT: Thank you. Have you or any of your
11 family members ever been prosecuted, this was a part of
12 the previous question, by the South Carolina Attorney
13 General's office. If so, please stand.

14 (No response.)

15 THE COURT: No one is standing. Have you or anyone
16 in your family ever been involved in a legal matter with
17 the South Carolina Attorney Generals Office. If so,
18 please stand.

19 (No response.)

20 THE COURT: Thank you. Do any of you have a biased
21 in favor or against law enforcement. If so, please stand.

22 (No response.)

23 THE COURT: Thank you. Any member of the jury panel
24 or any of your close, personal friends or relatives
25 employed by State Law Enforcement Agency. If so, please

1 stand.

2 (No response.)

3 MR. WISE: Does that include county?

4 THE COURT: That would include county. Yes, what is
5 your name and number?

6 JUROR: 113.

7 THE COURT: And who do you know in law enforcement?

8 JUROR: My nephew works with the Clinton Police.

9 THE COURT: Would the fact that your nephew works for
10 the Clinton Law Enforcement Agency make it so that you
11 can't be fair and impartial to the State or the defense in
12 this case?

13 JUROR: No.

14 THE COURT: Thank you, ma'am. Has any member of the
15 jury panel read any news article, internet coverage or
16 anything, have any information concerning the case of
17 State versus Maurice, Benjamin Maurice Rhodes. If so,
18 please stand.

19 (No response.)

20 THE COURT: Has anybody heard anything about this
21 case whatsoever. If so, please stand.

22 (No response.)

23 THE COURT: Does any member of the jury panel have
24 any religious or moral beliefs which would prevent you
25 from passing judgment on another person as a member of a

1 jury. If so, please stand.

2 (No response.)

3 THE COURT: Is there any member of the jury panel who
4 may, for any reason, believe that they may not be a fair
5 and impartial juror in the trial of this case. If so,
6 please stand.

7 (No response.)

8 THE COURT: Thank you. No one is standing. Do any
9 of you have such an opinion concerning sexually explicit
10 conversation or exhibitions on the internet that would
11 prevent you from being fair in this case which involves
12 sexually explicit conversations. If so, please stand.

13 (No response.)

14 THE COURT: Thank you. No one is standing. This
15 case will involve sexual explicit conversation and at
16 least one video of an alleged acts of masturbation.
17 Knowing this do any of you have such feelings or beliefs
18 about these subjects that would prevent you from listening
19 to the evidence and being fair and impartial as a juror in
20 this matter. If so, please stand.

21 (No response.)

22 THE COURT: Thank you. Does the State have any
23 additional questions?

24 MR. FLORES: No, Your Honor.

25 THE COURT: Does the defense have any additional

1 questions?

2 MR. WISE: No, Your Honor.

3 THE COURT: Ladies and gentlemen, what is going to
4 happen now is the computer will generate a list. Your
5 name will be, if your name is called please come up to
6 this table, turn around and face the exit sign and the
7 State will have an opportunity to strike you and the
8 defense will have an opportunity to strike you. Ladies
9 and gentlemen, they can strike you for any reason, an
10 exception, they cannot strike you based upon your race or
11 your gender. And please don't take it personally that
12 they have stricken you in this case. Each attorney has
13 some idea in their mind what they think a fair and
14 impartial juror, please don't take it personally. All
15 right. Is the State ready?

16 MR. FLORES: Yes, sir.

17 THE COURT: Is the defense ready?

18 MR. WISE: Yes, sir.

19 CLERK OF COURT: When I call your name if you will
20 bring up your belongings. Juror number 91, Lauarence A.
21 Losh. What says the State?

22 MR. FLORES: Please present this juror.

23 CLERK OF COURT: What says the defense?

24 MR. WISE: Swear the juror.

25

1 CLERK OF COURT: Juror number 73, Dianne James. What
2 says the State?

3 MR. FLORES: Please strike this juror.

4 CLERK OF COURT: Juror number 118, Randall Ernest
5 Satterfield. What says the State?

6 MR. FLORES: Please present this juror.

7 CLERK OF COURT: What says the defense?

8 MR. WISE: Swear the juror.

9 CLERK OF COURT: Juror number 132, Monica L. Taylor.
10 What says the State?

11 MR. FLORES: Please present this juror.

12 CLERK OF COURT: What says the defense?

13 MR. WISE: Excuse the juror from this trial.

14 CLERK OF COURT: Juror number 29, Jennifer N.
15 Chappell. What says the State?

16 MR. FLORES: Please present this juror.

17 CLERK OF COURT: What says the defense?

18 MR. WISE: Swear the juror.

19 CLERK OF COURT: Juror number 62, Lisa D.
20 Haupfear-Payne. What says the State?

21 MR. FLORES: Please present this juror.

22 CLERK OF COURT: What says the defense?

23 MR. WISE: Excuse the juror from this trial.

24 CLERK OF COURT: Juror number 22, Lucille T. Brown.
25 What says the State?

1 MR. FLORES: Please present this juror.

2 CLERK OF COURT: What says the defense?

3 MR. WISE: Swear the juror.

4 CLERK OF COURT: Juror number 146, Julian L. Wilson.

5 What says the State?

6 MR. FLORES: Please present this juror.

7 CLERK OF COURT: What says the defense?

8 MR. WISE: Swear the juror.

9 CLERK OF COURT: Juror number 131, Matthew H. Taylor.

10 What says the State?

11 MR. FLORES: Please excuse this juror.

12 CLERK OF COURT: Juror number 130, James B. Tate.

13 What says the State?

14 MR. FLORES: Please present this juror.

15 CLERK OF COURT: What says the defense?

16 MR. WISE: Swear the juror.

17 CLERK OF COURT: Juror number 126 John T. Smith.

18 What says the State?

19 MR. FLORES: Please present this juror.

20 CLERK OF COURT: What says the defense?

21 MR. WISE: Excuse this juror from this trial.

22 CLERK OF COURT: Juror number 59, Ashley M. Hall.

23 What says the State?

24 MR. FLORES: Please present this juror.

25 THE COURT: What says the defense?

1 MR. WISE: Swear the juror.

2 CLERK OF COURT: Juror number 120, Rebecca S. Scott.

3 What says the State?

4 MR. FLORES: Please present this juror.

5 CLERK OF COURT: What says the defense?

6 MR. WISE: Swear the juror.

7 CLERK OF COURT: Juror number 3, Cynthia W. Adkins.

8 What says the State?

9 MR. FLORES: Please present this juror.

10 CLERK OF COURT: What says the defense.

11 MR. WISE: Excuse the juror from this trial.

12 CLERK OF COURT: Juror number 68, Katie F. Holliday.

13 What says the State?

14 MR. FLORES: Please present this juror.

15 CLERK OF COURT: What says the defense?

16 MR. WISE: Swear the juror.

17 THE COURT: Juror number 110, Stephanie J. Puckett.

18 What says the State?

19 MR. FLORES: Please present this juror.

20 CLERK OF COURT: What says the defense?

21 MR. WISE: Excuse the juror from this trial.

22 CLERK OF COURT: Juror number 80, Frances K. Klink.

23 What says the State?

24 MR. FLORES: Please present this juror.

25 CLERK OF COURT: Will the defense challenge for

1 cause?

2 MR. WISE: I think her husband is employed at least
3 part-time by the City? Excuse me, wrong number. No
4 objection.

5 CLERK OF COURT: Juror number 45, Teena M.
6 Foy-Sullivan. What says the State?

7 MR. FLORES: Please present this juror.

8 CLERK OF COURT: Does the defense challenge for
9 cause?

10 MR. WISE: No cause.

11 CLERK OF COURT: Please be seated. Juror number 69,
12 Heather Holmes. What says the State?

13 MR. FLORES: Please present this juror.

14 CLERK OF COURT: Does the defense challenge for
15 cause?

16 MR. WISE: No challenge for cause.

17 THE COURT: One alternate?

18 MR. FLORES: Yes, Your Honor.

19 THE COURT: Mr. Wise, one alternate?

20 MR. WISE: One alternate.

21 CLERK OF COURT: Juror number 90, Amy H. Link. What
22 says the State?

23 MR. FLORES: Please present this juror.

24 CLERK OF COURT: What says the defense?

25 MR. WISE: This is the juror that the husband is

1 employed by the City of Clinton, City Judge part-time?

2 THE COURT: It would be up to you. You can strike
3 her if you want to.

4 MR. WISE: Excuse her from this trial.

5 CLERK OF COURT: Juror number 113, Delanda V.
6 Robinson. What says the State?

7 MR. FLORES: Please present this juror.

8 CLERK OF COURT: What says the defense?

9 MR. WISE: Excuse the juror from this trial.

10 CLERK OF COURT: Juror number 5, Tamera S. Andrews.
11 What says the State.

12 MR. FLORES: Please excuse this juror.

13 CLERK OF COURT: Juror number 119 Lindsay L. Savage.
14 Does the State challenge for cause?

15 MR. FLORES: No.

16 CLERK OF COURT: Does the defense?

17 MR. WISE: No.

18 CLERK OF COURT: Please be seated.

19 THE COURT: Please call out all the names of the
20 jury.

21 CLERK OF COURT: Lawrence A. Losh.

22 THE COURT: Just raise your hand.

23 CLERK OF COURT: Randall Ernest Satterfield, Jennifer
24 N. Chappell, Lucille T. Brown, Julian L. Wilson, James B.
25 Tate, Ashley M. Hall, Rebecca S. Scott, Katie F. Holliday,

1 Frances K. Klink, Teena M. Foy-Sullivan, Heather Holmes
2 and Lindsay L. Savage.

3 THE COURT: Ladies and gentlemen, y'all have been
4 selected as the jury who will hear this case. Now at this
5 time I am going to send you back to the jury room and then
6 I will bring you back out here. While you are back there
7 take a few minutes to discuss amongst yourselves who you
8 want to be the Foreperson of your jury. That person will
9 be the jury spokesman here in court and will be the kind
10 of person in charge in the jury room. Please discuss that
11 and when you come back the Foreman will sit in this seat
12 right here. And the Foreperson has to be of the twelve
13 primary jurors. You can't be the Foreperson. All right.
14 Thank you, ladies and gentlemen.

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

16 THE COURT: Are there any objections to the jury that
17 has been selected or the manner in which they have been
18 selected from the State?

19 MR. FLORES: None from the State, Your Honor.

20 THE COURT: From the defense?

21 MR. WISE: None from the defense.

22 THE COURT: Thank you. Ladies and gentlemen, those
23 of you who were not selected, I am going to release you
24 for the balance of today but I am going to ask that you
25 call back after 6:00 o'clock for further instructions.

1 Ladies and gentlemen, I hope you have a nice afternoon. I
2 won't tell anybody you are off so if it is a good day you
3 can do what you want to do. Have a nice afternoon and
4 call back after 6:00. Thank you.

5 (Whereupon, the jury panel was excused from open
6 court at approximately 12:17 p.m.)

7 THE COURT: What I intend to do at this point is I
8 will bring the jury back in and release them and then we
9 will do our motions. Bring the jury back in, please.

10 (Whereupon, the jury came into open court at
11 approximately 12:23 p.m.)

12 THE COURT: Ladies and gentlemen, Mr. Losh, you are
13 the Foreman. Now, ladies and gentlemen, we still have
14 some things that we need to take up before the case is
15 ready to start the trial. So I am going to release you
16 for lunch with instructions that you be back here just a
17 little bit before 2:30 so we can be ready to start right
18 at 2:30. Now, ladies and gentlemen, while you are out I
19 am going to ask that you don't discuss the case, don't
20 even mention the jury. I used to work for the National
21 Security for the Airforce and they used to say, you never
22 say anything. But just don't say anything, nobody is
23 going to ask you a question. But if you go out and tell
24 somebody you are getting ready to have a trial they always
25 want to give their two cents. So the best thing is just

1 have a nice lunch and don't talk to anybody about it or
2 amongst yourselves about it. Have a nice lunch and when
3 you come back you will be sworn in.

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

6 THE COURT: Are y'all in agreement on the exhibits?

7 MR. FLORES: Yes, Your Honor.

8 MR. WISE: Yes, Your Honor.

9 THE COURT: Are there any motions to be made?

10 MR. WISE: Yes, there are. First of all, the one we
11 discussed before jury selection. I would request that the
12 Court declare section 14-7-1110 unconstitutional in that
13 there is really, the classification of who gets ten
14 strikes and who gets five strikes is simply arbitrary and
15 capricious. For example, the crime of forgery which
16 carries less than the sentence that my client is looking
17 at you get ten strikes. Some grand larcenies and the more
18 end of the scale gets ten strikes. But my client is
19 looking at more time than both of those crimes only gets
20 five strikes. And there is simply no rhyme or reason, if
21 the legislature had said all class such and such felonies
22 and above get ten strikes and everybody else gets five
23 then there is some rhyme or reason to their decision. But
24 I think it violates equal protection to deprive my client
25 of ten strikes when the defendant is looking at less

1 severe charges obviously are entitled to more strikes.

2 THE COURT: Mr. Flores.

3 MR. FLORES: Your Honor, the legislature has listed
4 these specific offenses and they can list some and
5 excludes others.

6 THE COURT: Mr. Wise, I am going to let you take that
7 up with the higher court, they call some of them
8 misdemeanors and I am going to deny you.

9 MR. WISE: Okay. Also looking at the criminal
10 solicitation of a minor charge. First of all, I think
11 that is an equal protection argument in this sense. As a
12 practical matter, if you look at it, the crime is
13 soliciting someone under the age of 15 or younger because
14 16 has that consensual, it is pretty well eliminated.
15 What I would point out to the Court is, that a person 17
16 years of age who can be tried in this court, if they are
17 on line discussing issues with someone who is pretending
18 to be an officer, an officer who is pretending to be a
19 13-year-old or in fact a 13-year-old, they cannot be
20 prosecuted at all. It is not like they get a lessor
21 sentence. They cannot be prosecuted at all under this
22 statute and yet their conduct at age 17 where they can be
23 tried in General Sessions court for anything from
24 possession of drugs to a more serious offense would be
25 totally exempt for any punishment whatsoever under this

1 statute. There is no rhyme or reason why you punish
2 someone who is over 18 who is talking to a 13-year-old but
3 don't punish someone who is 17 talking to a 13-year-old.
4 Even the Romeo Law, that doesn't apply in those situations
5 because the child is so young. So I think it is equal
6 protection of those circumstances to deprive, to require
7 my client to answer to charges when someone who I think
8 would be very similar situated would not also be required
9 to answer those charges.

10 THE COURT: Mr. Flores.

11 MR. FLORES: I beg the Court's indulgence. Your
12 Honor, this statute is designed for adults preying on
13 minor children. And it states, it is seeking to punish
14 only that conduct against those minor, people who pray
15 upon those minors. The consent issue is on the regard of
16 16 or 17 years olds. An individual who is 16 or 17 can
17 still be charged under this statute. I am sorry, the
18 victim can still be 16 or 17 and regardless of the consent
19 issue. It is totally designed for minors.

20 THE COURT: I am going to deny the motion at this
21 point and time.

22 MR. WISE: And lastly on this statute. I realize
23 that in the State versus Green the argument was rejected
24 by the Court but I don't think the Court at that time
25 addressed the issue of what I consider a vague term in the

1 statute. A person reasonably believed to be under the age
2 of 18. The term, reasonably believed, is not defined and
3 I think it is unduly ambiguous to, even have a jury to
4 determine what is an unreasonable belief or what is a
5 reasonable belief. There is no criteria by which my
6 client at the time he is on the internet would have the
7 way of knowing what is a reasonable or unreasonable belief
8 to know whether or not he is violating the statute under
9 those circumstances. I would also point out to the Court
10 that, from a defendant's perspective, when they are on the
11 internet, what is punished of course is the solicitation.
12 But if you are talking to an adult who is pretending to be
13 a 13-year-old you cannot be punished under the statute
14 unless that adult is a law enforcement agent. It just
15 seems, from a defendant who is online trying to, his
16 conduct, and the simple answer may be, don't talk to
17 people who say they are 13 but that is still not a crime
18 because the legislature didn't say that. They really have
19 no way of knowing exactly when they are crossing the line
20 under that statute on that basis. That would make it
21 unduly vague under those circumstances.

22 THE COURT: Mr. Flores.

23 MR. FLORES: Your Honor, I think that this statute,
24 the reasonable belief it is not unduly vague. We are
25 talking ages, we are talking about concrete ages. When

1 they say 13, the conduct is, you know, if they don't
2 reasonably believe a 13-year-old is 13 then they should
3 stop talking. It is clearly designed for individuals to
4 not solicit sex with a minor, whether or not they be 30,
5 40, 50. They know they are 13, they say they are 13. It
6 is not vague at all.

7 THE COURT: I am going to let you argue that to the
8 jury if you would like to, Mr. Wise.

9 MR. WISE: We have got a jury charge on that. And
10 lastly, I would point out to the Court that in Green the
11 Court said that the legislature, and I think it is a
12 matter of correct interpretation there, the legislature
13 precluded the defense of impossibility. I would simply
14 raise the question, I don't know if the legislature can
15 constitutionally eliminate from a statute the defense of
16 impossibility. Of course, the facts in this case, it
17 would have been impossible for my client to actually
18 solicit a minor because there was not a minor involved. I
19 understand the Supreme Court has ruled that the
20 legislature put that in there, there is no question about
21 that ruling. But what was not addressed in that case was
22 the constitutionality of the legislature taking away the
23 defense of impossibility. I think that would be a denial
24 of due process under both State and Federal law on that
25 basis.

1 THE COURT: Mr. Flores.

2 MR. FLORES: Your Honor, I go back saying again that
3 the legislature which defenses are available and which are
4 not in these cases. And this is a law enforcement
5 exception to catch individuals who are out there preying
6 upon children. I think this is completely with the
7 purview of our legislature.

8 THE COURT: You know, there are some laws that are
9 strict liability, that you just do it and it happened.
10 And the legislature certainly has the authority to
11 determine which one, different levels of intent, deal with
12 different levels of knowledge. I am going to leave it
13 with the legislature at this point.

14 MR. WISE: I would point out that this is not a
15 strict liability.

16 THE COURT: I know that. I am just saying that they
17 determine that some things can be and this is not one.

18 MR. WISE: And lastly, the other issue we discussed
19 in-chambers. My client is also charged with attempt to
20 disseminate obscene material to a minor. I think the
21 State should be required to, I don't think a conviction on
22 both could stand in keeping with the double jeopardy
23 argument. And I point out and I apologize, I think the
24 case I am looking for is U.S. versus Rutledge. And in
25 that case and I can get your law clerk later the actual

1 cite on it. But in that case the Court said that a
2 violation of a law that comes under the continuing
3 criminal enterprise was double jeopardy when the same act
4 or the same crime was part of the general conspiracy. In
5 that case the defendant was convicted of both and appealed
6 a double jeopardy and the U.S. Supreme Court held it to be
7 unconstitutional. I think we are dealing with the same
8 thing here where a part of the evidence against my client
9 on the solicitation charge is going to be the video that
10 was downloaded in this case. And that same video is going
11 to be the basis for the charge dissemination of obscene
12 material. I think that is a double jeopardy argument. If
13 you go back and read Blockburger, what is interesting
14 about Blockburger although our court and some other courts
15 frequently say it deals with different elements. That is
16 really not sure. Blockburger talks about proving
17 different facts, not different elements. Here to prove
18 the dissemination, they are going to be proving he
19 downloaded a video and to prove the solicitation, they are
20 going to be proving he downloaded a video and it is going
21 to be the same proof in both cases, part of the proof is
22 going to be downloading a video.

23 MR. FLORES: Your Honor, we would address this, the
24 Supreme Court recently addressed double jeopardy in State
25 versus Brandt. The citation for that is 393 SC 526. It

1 addresses a lot about what Mr. Wise is raising, talking
2 about Blockburger, the Blockburger test with what kind of
3 elements we are looking at here. The Blockburger test,
4 what it boils down to, do these two offenses have
5 different elements. And these, both the criminal
6 solicitation and the attempted dissemination of obscene
7 material both require different facts to prove the
8 conduct. And these criminal solicitation cases, it could
9 be mere words, soliciting the sex from an individual. In
10 the obscene materials case we have to show that he
11 attempted to disseminate this obscene material and so I
12 believe that both of these have different elements, they
13 require different types of proof even though I would agree
14 with Mr. Wise that the video could be used to help convict
15 on a criminal solicitation side. There is more evidence
16 to that element that is present there.

17 THE COURT: Thank you.

18 MR. WISE: Your Honor, I am trying to find that
19 Supreme Court case now. I have read the one he is talking
20 about. Rutledge versus U.S., 517. That case is hard to
21 reconcile with the South Carolina Supreme Opinion to be
22 frank with you from what I have read on it. They talk
23 very strictly and relevantly about the same basically
24 facts being proven to prove the two charges. And I have
25 read the case, that is a fairly recent case with the South

1 Carolina Supreme Court.

2 MR. FLORES: That's correct. They issued that in
3 2011. I don't know when the Rutledge case--

4 THE COURT: That was in '96.

5 MR. WISE: There is one more recently.

6 MR. FLORES: There is.

7 THE COURT: Well, being a South Carolina State Judge
8 I think I am going to stick with the South Carolina
9 Supreme Court at this point and time so I am going to
10 respectfully deny your motion.

11 MR. WISE: Okay. And that is all I am going to have.

12 THE COURT: Did you want to put on the record
13 anything about your jury voir dire?

14 MR. WISE: My request, my two questions of voir dire
15 number one and number two, just make those a copy of the
16 Court's record, Court's exhibit and then note my objection
17 to ask those two questions.

18 THE COURT: There were two questions on the voir
19 dire. The first one, do you consider a picture of the
20 exposed male genitalia to be obscene. And question number
21 two, do you consider a video depicting a man rubbing his
22 genitalia to be obscene. You have requested that these be
23 a part of the voir dire questions. I denied that, I did
24 not feel that that was appropriate but I did charge, do
25 you have such an opinion concerning sexually explicit

1 conversations. Then I added or exhibitions on the
2 internet that would prevent you from being fair in this
3 case that involves sexually explicit conversations. I
4 just thought that was the better question on that. We had
5 a case in Sumter last week where somebody asked, do you
6 think it is morally objectionable to possess cocaine.
7 Which was against the law and I guess this would be, I
8 looked at it under similar situations. Also I did not
9 charge the second part of question four that says that
10 this case involves sexual explicit conversations and one
11 video and an alleged act of masturbation. I did charge,
12 knowing this do you, do any of you have such feelings or
13 believe that these subjects would prevent you from being a
14 fair and impartial juror in this matter. I did not charge
15 knowing this, do any of you have a moral objection to such
16 conduct that you feel too uncomfortable about these issues
17 to sit on a jury. But your objection is noted for the
18 record.

19 MR. WISE: Thank you. My reasoning behind my
20 question of one and two was the fact that I don't think
21 either of those by themselves would be classified as
22 obscene and if the jury believed that those two acts
23 occurred and they think it is obscene then obviously that
24 is not what the law is and they misunderstood.

25 THE COURT: Anything further before we recess?

1 MR. FLORES: Nothing from the State, Your Honor.

2 MR. WISE: Nothing.

3 THE COURT: Thank you. If you can be back a little
4 bit before 2:30 so we can be ready to start. The court is
5 in recess until 2:30.

6 (Whereupon, a lunch break was taken.)

7 THE COURT: Has exhibits been premarked?

8 MR. WISE: We did and we have agreed to admit all 1
9 through 14 is going to be admitted without objection.

10 THE COURT: All right.

11 (Whereupon, State's Exhibits 1 through 14 were
12 admitted into evidence.)

13 THE COURT: Let's bring our jury out.

14 (Whereupon, the jury came into open court at
15 approximately 2:35 p.m.)

16 THE COURT: Ladies and gentlemen, I hope you had a
17 nice lunch. Please swear the jury.

18 (WHEREUPON, the jury was sworn at 2:37 p.m.)

19 THE COURT: Ladies and gentlemen, before we begin
20 this trial I want to tell you this might be different than
21 what you might expect. Most people never have the
22 opportunity to participate in an actual trial as you are
23 today. And watching TV and movies and reading books is
24 full of high drama. Now while all of these things may be
25 true at times this trial is not for entertainment. This

1 is a real trial which is a fundamental part of our
2 democracy and it is a search for the truth to ensure that
3 justice is done. And searching for the truth and insuring
4 that justice is done is often slow, deliberate and
5 repetitive, the exact opposite of what you have seen on TV
6 and reading books. Now, ladies and gentlemen, this
7 courtroom that you have up here in Laurens, it is a
8 beautiful courtroom and it is dedicated to the
9 preservation and the protection of our citizens rights
10 through what has been called and what I truly believe to
11 be the greatest justice system that has ever been created
12 by mankind. The attorneys who are appearing before are
13 advocates for the parties that they represent. But first
14 and foremost they are officers of this court, they are
15 sworn to uphold the fairness of our judicial system and to
16 help you, as jurors, in your service for the truth.

17 Ladies and gentlemen, you should expect them to be
18 professional, competent and ethical in the representation
19 of their clients interest. But remember you also just
20 took an oath to listen to the evidence in this case and to
21 reach a fair and just verdict and you are expected to be
22 professional, reasonable and ethical as well. And, again,
23 thank you for accepting this very important responsibility
24 of jury service and your contribution to our judicial
25 system. Now, ladies and gentlemen, what I am going to

1 tell you now is just intended to serve as an introduction
2 to the trial in this case. Any remarks that I am making
3 now are not a charge on the law. I will charge the
4 applicable law of this particular case at the end of
5 trial. This is merely an explanation of the procedures
6 that we will follow so you may better understand what is
7 happening. Now, ladies and gentlemen, let me say up front
8 that during this trial you will not be allowed to take
9 notes. Therefore it is very important that you listen
10 closely throughout this trial. Now, ladies and gentlemen,
11 the defendant is charged in this case with criminal
12 solicitation of a minor and attempted disseminating of
13 obscene material to a person under 18 years of age. The
14 specific elements of each of these crimes, as will be
15 explained to you later in further detail. And I will
16 remind you as I told you earlier, the indictment charging
17 the defendant are simply the documents by which this case
18 is brought into court are not in any sense evidence of any
19 of the allegations contained therein. The defendant has
20 plead not guilty to the charges contained in the
21 indictment so the State therefore has the burden of
22 proving all of the elements of each indictment or each
23 charge in the indictment beyond a reasonable doubt. And
24 it will be your duty, ladies and gentlemen, to decide
25 whether the State has met that burden. Now, ladies and

1 gentlemen, your purpose in this trial is determine the
2 facts of this case. You determine the facts from the
3 testimony that you will hear from this witness stand and
4 other evidence that is introduced here in court. It will
5 be up to you to determine the differences which you think
6 they would be reasonably and properly drawn from the
7 evidence that is presented. And, ladies and gentlemen, it
8 is especially important that you perform your duty
9 diligently and conscientiously. Ordinarily there is no
10 way to correct as an erroneous determinations of facts by
11 a jury. Now, ladies and gentlemen, on the other hand, but
12 with equal emphasis the same law that makes you the judges
13 of the facts makes me the Judge of the law. The law as
14 given to you by me is the only law that you may consider.
15 You must accept the law as I give it to you and follow
16 even though you might disagree. I cannot tell you what
17 the facts are and you cannot disagree with me about what
18 the law is or what the law should be. Your job is to take
19 the law as I give it to you, apply it to the facts as you
20 find them from the testimony that is presented or any
21 other evidence that is presented. And after hearing the
22 evidence you will deliberate and render a true and just
23 verdict from the solemn oath that you just took as jurors.
24 Until I advise to being your deliberations at the
25 conclusion of the case you must not discuss the case with

1 anyone including your fellow jurors. You may not use a
2 computer, cellular phone or other electronic devices,
3 communications capabilities while here in attendance at
4 the trial or during your deliberations. You may use these
5 devices when you break for lunch and overnight but even
6 then they can not be used to be used to obtain or disclose
7 information about a case when you are not in court. This
8 would include information about a party, a witness,
9 attorneys or another court officer, any news accounts that
10 may have been printed or may be printed in this case. Any
11 information collected through juror research or any topics
12 raised or testimony offered by any witness or information
13 collected through juror research or any other topic that
14 you might think would be helpful in deciding the case.
15 Ladies and gentlemen, after the case has been submitted to
16 you you must discuss it only in the jury room with your
17 fellow jurors. Now, the attorneys and parties in this
18 case are advised that they are not to speak with you at
19 all. So if you see somebody involved in this case on this
20 small court house square and they don't even say hello but
21 they are not being unfriendly, they are merely following
22 my instructions. Now, ladies and gentlemen, it is very
23 important that you keep an open mind and not decide any
24 issue in this case until all of the evidence has been
25 presented, the attorneys have made their closing arguments

1 and I have charged you on the law of this case. Ladies
2 and gentlemen, it is your solemn responsibility to
3 determine the guilt or the innocence of the defendant and
4 your verdict must be based solely on the evidence that is
5 presented in this trial and on the law as I instruct it to
6 you at the close of the case. All of the information and
7 the law that you will need to render a verdict will come
8 from the four walls of this courtroom, you should receive
9 no information outside of my presence. Now, ladies and
10 gentlemen, in just a moment the Solicitor and the Attorney
11 General will make what is called an opening statement in
12 which he will explain to you what he believes the issues
13 are in this case. The attorney for the defendant may also
14 make an opening statement, however he is not required to
15 do so. Let me remind you that what the attorneys tell you
16 during their opening statements is not evidence, it is
17 only their contention as to what they believe the issues
18 are in this matter. Now, from time to time during this
19 trial you may hear one of the lawyers say something like,
20 Your Honor, I believe we have a question or matter of law
21 to speak with you or may we approach the bench or
22 sometimes I may find it necessary to excuse you from the
23 courtroom for a short while while the attorneys and I
24 discuss a matter of law. The reason for this is because
25 you are the judges of the facts. And sometimes when I am

1 discussing matters of law with the attorneys it may be
2 necessary for me to make a comment, in making a ruling as
3 to some of the facts as to whether a particular law
4 applies. And as I said, I am not suppose to tell you what
5 the facts are so I will excuse you from the courtroom
6 while these discussions take place so that you in no way
7 will be influenced by anything that I might say or do in
8 connection with the facts. Also, during the trial you may
9 hear one of the attorney make an objection to certain
10 evidence that is about to be presented. Whether I sustain
11 the objection, which would be to grant the objection or
12 overrule the objection, which would be to deny it should
13 not be construed that I favor one side over the other. I
14 do not. Nor should you infer that the party making the
15 objection is trying to hide something from you. Ladies
16 and gentlemen, in this courtroom as in all situations in
17 life there are specific rules that must be followed. And
18 the attorney as officers of this court are merely to
19 follow the rules of evidence in making their objection and
20 I am only going on what I believe the law of South
21 Carolina concerning the evidence that will be presented.
22 Now, ladies and gentlemen, in determining what the true
23 facts are in this case you must decide whether or not the
24 testimony of a witness is believable. It will be my
25 responsibility to rule as a matter of law as to whether

1 certain testimony is admissible. However, once the
2 testimony is admitted, whether or not you as jurors decide
3 to believe it is solely for you to determine. In deciding
4 whether to believe a witness you have the right to
5 consider the interest of any witness, the biased of any
6 witness, the prejudice of any witness and the opportunity
7 for the witness to have actually observed the matters and
8 opinions about which the witness may testify. And, ladies
9 and gentlemen, you may consider the way a witness acts on
10 this witness stand. Ladies and gentlemen, you have a
11 right to consider anything that is in the record that will
12 help you evaluate the testimony of a witness. That means
13 that as jurors it is your responsibility to pay close
14 attention to the witness, to observe a witness, to listen
15 to the witness and to pay close attention to the attorneys
16 and to the Court. Ladies and gentlemen, please don't let
17 your thoughts wonder but give strict attention to the
18 testimony in this case so when all of the testimony and
19 arguments of counsel and the charge on the law by me you
20 will then be in a position to determine what the true
21 facts are and to apply those facts to the law as given by
22 me and thus a render a true and just verdict. Now, Mr.
23 Foreman, in addition you are charged to preside in the
24 jury room and be the jury spokesperson here in the court.
25 It will also be your responsibility to write down the

1 verdict on the verdict form that will be provided to you
2 then I will give you further instructions on that at the
3 appropriate time. Now, in order to preserve everyone's
4 right I will give the parties an opportunity to object to
5 anything that I have said. Does the State have any
6 objection?

7 MR. FLORES: No objection, Your Honor.

8 THE COURT: From the defendant?

9 MR. WISE: No, Your Honor.

10 THE COURT: All right, ladies and gentlemen, we will
11 now begin the trial. Mr. Attorney General, are you ready
12 to proceed with your opening statement?

13 MR. FLORES: Yes, Your Honor. Thank you. May it
14 please the Court.

15 THE COURT: Yes, sir.

16 MR. FLORES: Mr. Wise, Mr. Rhodes. Good afternoon.
17 My name is Lloyd Flores and as I mentioned earlier during
18 jury selection I am employed by the office of the Attorney
19 General out of Columbia, South Carolina. With me today
20 here is Bethany Miles. We are two of the three
21 prosecutors that who have been tasked to prosecute
22 internet crimes against children throughout the State. We
23 conduct trials and cases here and at the beach, the low
24 country and the upstate. And so we do this statewide.
25 This case is about crimes on the internet. And the

1 internet is what we believe is the wild west. In the old
2 days the wild west was a place where criminals could go
3 and do what they wanted to do, go out and rob a bank, kill
4 people, do things that they might not ordinarily do in a
5 city or a big city because there was no recourse against
6 those people in the wild west. The internet is modern
7 wild west territory. Individuals go out onto the internet
8 to Cyber space and they create personas, identities that
9 often times are different from who they are in real life.
10 These people go out and commit their crimes anonymously.
11 You hear about computer hackers who take peoples
12 information, stealing money. You hear about individual
13 who seek out others for sex on line. That is what this
14 case is about. In April of 2008 Mr. Benjamin Rhodes who
15 is seated at counsel table went to the internet to solicit
16 sex. I would say soliciting sex on line is not a crime
17 unless you solicit someone who is under age. In this case
18 Benjamin Rhodes approached a 14-year-old minor on line for
19 sex. Over the course of the next two to three days you
20 will hear the testimony of Lieutenant Crystal Roberts who
21 is seated here at counsel table. She is an investigator
22 with the Clinton Department of Public Safety. She works
23 on line undercover in what we call proactive criminal
24 investigations. Much as you would find in a drug case
25 police officers go out to find criminals and as the wild

1 west has law men and law women we do have law men and law
2 women looking for those criminals online. You will hear
3 her testimony concerning how she created this persona of a
4 14-year-old and went out to a chat room and sat and waited
5 because the internet is where people can go anonymously
6 and live out what they want to do. She was approached by
7 another online persona. You will learn more about that
8 persona and how it is Mr. Rhodes. You will hear testimony
9 about the chatting, the discussions that they had over the
10 course of two months. You will also hear testimony about
11 a web camera session. A web camera session is real life
12 pictures or video being streamed on line from one computer
13 to another. You will learn about what Mr. Rhodes did
14 during this session and you will decide whether or not
15 what he did during that computer session, that web cam
16 session is obscene based upon your community standards.
17 We ask that you remain open to all of the evidence, not to
18 just what the Attorney General's office will present to
19 you but anything that Mr. Rhodes will present to you in
20 the course of this case. In the end both of us will come
21 to you for a verdict. We believe that at the end of all
22 of the evidence presented in this case you will return
23 verdicts of guilty on criminal solicitation of a minor and
24 attempted dissemination of obscene material to a person
25 under the age of 18. Thank you.

1 THE COURT: Mr. Wise.

2 MR. WISE: Mr. Foreman and ladies and gentlemen of
3 the jury, one half of your job is going to be relatively
4 easy in this case because the basic facts of this case are
5 not in dispute. Most, ninety percent or maybe one-hundred
6 percent of what the State puts up, there is no dispute
7 about. Ben Rhodes was on the internet, he was talking to
8 this officer and those are the facts that are beyond
9 dispute and we all agree on. But it also in many respects
10 the other half of the equation of this case is probably
11 more difficult for not only you as jurors but any juror
12 because to find Ben Rhodes guilty you have to look at his
13 intent. The law is not such that if you go online and
14 someone represents they are 13 and you talk to them that
15 you have violated the law. The law is a little strange, a
16 little different, it has different parts to it. The key
17 element here in this case is, what did Ben Rhodes
18 reasonably believe when he was communicating, not what
19 someone told him, not what the conversation is all about
20 but what did he reasonably believe. And I think you will
21 find when you analyze that carefully in this case you will
22 find that he did not reasonably believe this was a
23 13-year-old girl. There are many factors. Mainly the
24 fact that the room he was in, the website tells you have
25 got to be 18 to enter it. Ben Rhodes was 18 so he had no

1 problem. You look at the language which is conducted in
2 that room, look at what all is said. It is an adult room
3 where one would expect to see adults. And is there role
4 playing in that room, sure. I think that State Farm has
5 all taught us that on the internet you can be a French
6 model. That is what this is about, this is fantasy when
7 you go into that room, when you go into a lot of stuff on
8 the internet. So the government has the burden of proving
9 that and that is where the crux of this case is going to
10 be. You are also going to learn that Ben Rhodes is a
11 young man, graduated from high school here. Got out of
12 high school at 18 years of age, went in the Army, stayed
13 in the Army about seven years. He left the Army, came
14 back and went to work and got a great job at Walmart
15 Distribution Center here in Laurens. He worked there up
16 until his arrest in August of 2008. And then after he got
17 out of the Army and he was back in Greenwood, yes, he
18 would spend too much time on the internet and he would get
19 in there and chat with people every where. And Mr. Flores
20 points out, people are on the internet anonymously trying
21 to find someone that is under age. There is no doubt
22 about that. But they do it anonymously. What you are
23 going to find in this case is that when Ben Rhodes was on
24 the internet with his profile he wasn't there anonymously.
25 He has his correct name, he has his correct city, he has

1 his correct age and his correct birthdate. So anybody
2 wants to, "find him", if he is out there intending to
3 commit a crime he basically says it is easy, here I am, go
4 look me up. I don't think they ask for a street address
5 in the Yahoo information but if they had asked for a
6 street address I am sure that would have been in there
7 too. So I think when you look at all of the evidence in
8 this case keep one principle in mind and it is this, the
9 sole function of a jury, the sole function of a jury is to
10 determine if the State has proven its case. And that is
11 it, that is the sole function. I think when you look at
12 the facts of this case and listen to all of the testimony
13 you will conclude that they have not proven their case,
14 that this was something that Ben Rhodes reasonably
15 believed and the proper verdict in the case would be not
16 guilty. Thank you.

17 THE COURT: Thank you, Mr. Wise. The State may call
18 its first witness.

19 MR. FLORES: Your Honor, before we call the first
20 witness can we go ahead and set up the equipment.

21 THE COURT: Ladies and gentlemen, I am going to send
22 you back to the jury room for five minutes or ten minutes.
23 Thank you.

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

1 THE COURT: The Court will be at ease.

2 (Whereupon, a short break was taken.)

3 THE COURT: Let's bring the jury, please.

4 (Whereupon, the jury came into open court at
5 approximately 3:15 p.m.)

6 THE COURT: Call your first witness.

7 MR. FLORES: The State calls Lieutenant Crystal
8 Roberts to the stand.

9 DIRECT EXAMINATION

10 By Mr. Flores:

11 Q Good afternoon, Lieutenant Roberts.

12 A Good afternoon.

13 Q State your name for the record.

14 A Crystal Roberts.

15 Q And where are you currently employed?

16 A I am employed at the Clinton Department of Public
17 Safety.

18 Q And how long have you been employed with the Clinton
19 Department of Public Safety?

20 A Going on 13 years.

21 Q And what is your job title there?

22 A I recently got a promotion, I am not the commander
23 over the department. So I supervise basically everybody
24 at the department in law enforcement capacity.

25 Q And those are your duties in that capacity, right?

1 A That's correct.

2 Q Where were you employed in 2008?

3 A 2008 I was still with Clinton Department of Public
4 Safety.

5 Q And what was your rank and your duties at that time?

6 A I was a Lieutenant at that time. I was on road
7 patrol but I did internet investigations on the side, a
8 small department. I do a little bit of everything.

9 Q Can you please describe for the jury your general law
10 enforcement training background?

11 A I started in law enforcement in 2000. I went to the
12 South Carolina Criminal Justice Academy where I got my law
13 enforcement certification. Throughout the years I have
14 obtained many certifications, classes and investigations,
15 child abuse. Joined the Attorney Generals task force and
16 focused on--

17 COURT REPORTER: Can you pull that microphone up so I
18 can hear you.

19 A I became a member of the internet crimes against
20 children task force. Through that task force they sent me
21 to more extensive training. I was trained in
22 investigative techniques dealing with computers and
23 internet crimes. Also they sent me to an undercover chat
24 class where I basically learned the techniques and what to
25 do to conduct undercover investigations on the internet.

1 Essentially those are my qualifications, I have numerous
2 investigations classes, things of that nature.

3 Q Could you describe a little bit for the jury what the
4 internet crimes against children task force is. You
5 mentioned you being a part of that. What is that
6 organization?

7 A The internet crimes against children task force is
8 basically, its a multi-agency task force. It is agencies
9 around the State of South Carolina that come together,
10 meet and train and their focus is on being proactive in
11 investigating internet crimes against children. Anything
12 from child pornography to solicitation of sex for minors,
13 things of that nature.

14 Q Can you tell the jury what it means to conduct an
15 undercover proactive investigation?

16 A It basically means instead of, in law enforcement a
17 lot of times we are reacting, if a crime happens we
18 respond and we investigate it from that point. But being
19 proactive is, we are putting ourselves in that position to
20 catch the offender before a crime actually happens or the
21 offender actually makes contact with a live victim. So
22 what we do is we go out on the internet, we create a
23 profile of a minor. We go into these chat rooms and just
24 sit there and wait to be approached. Once we are
25 approached, a suspect initiates a conversation, a lot of

1 times they will ask you your age. Some guys, once you
2 tell them you are under age they will quit talking to you.
3 If they continue to talk to you, basically, you know, we
4 keep that chat dialogue going on and see where the
5 conversation leads. We let them lead the conversation.
6 So basically we start our investigation from there
7 depending on what that person does and says.

8 Q You just discussed for the jury creating a profile.
9 What is a profile?

10 A A profile is, the way I can describe it, to get into
11 a chat room you have to create a profile. You come up
12 with a screen name and in that profile there is certain
13 descriptive items that they require you to enter such as
14 name, age, location, things of that nature. Once you put
15 those into the profile and save it that is your profile.
16 For instance if I am working an undercover case I am going
17 to be a 13-year-old female and I am going to make up a
18 name and I am going to put 13 and location, Clinton and
19 that is going to be my profile.

20 Q And what company did you use, did you conduct your
21 investigation?

22 A Majority of my undercover cases were on Yahoo. So I
23 was on the Yahoo chats mainly for the most part.

24 Q Now, the information you were just describing for the
25 jury, the age, location, screen name, is that type of.

1 information available to view in the public arena?

2 A It is.

3 Q Now after you have created a profile as you said for
4 the jury, what do you do next?

5 A The next thing, in my cases, before I even get
6 started will turn on this program called Camtasia and it
7 basically and it basically records my computer screen. So
8 everything I click on or everything I type or if anybody
9 types anything and sends to me it is recorded like a
10 video. It is like a video recording of what I am doing.
11 I turn that on, I will log on to my undercover profile and
12 then I will go and enter into a chat room. And basically
13 I will just pick a chat room, go in it and just sit there
14 and just wait for somebody to speak to me.

15 Q What exactly is a chat room?

16 A A chat room is just, it is a room people can log into
17 and say for instance, this room right here. All of us,
18 let's consider this as a chat room. Everybody in here can
19 hear what I am saying. It is just a room that individuals
20 log into is the best way I can describe it.

21 Q Lieutenant Roberts, I am going to hand you what has
22 been marked State's exhibit 10, it is in evidence. Are
23 you familiar with this?

24 A Yes sir, I am.

25 Q Could you describe for the jury what this form is.

1 A This form right here is my basic profile information.

2 It is essentially my profile.

3 Q And what was your profile's name?

4 A It is sc_kriscr8zygurl.

5 Q And how is that spelled?

6 A It is s-c_k-r-i-s-c-r-8-z-y-g-u-r-l.

7 Q And was this the online persona that you created to
8 conduct your investigation of this case?

9 A Yes, sir.

10 Q How often would you engage in undercover proactive
11 investigation for this profile?

12 A It varied. I would chat two or three times a week.
13 If I haven't really developed a suspect, you know, it
14 would vary, it would be less than that. But if I had
15 somebody actively conversating with me and I thought they
16 were going to potentially cross that line I would chat
17 more often.

18 Q And according to that profile how old are you?

19 A 13.

20 Q 13 years old. Did you include a location for
21 yourself in this profile?

22 A It is not on the profile page.

23 Q But there is a location, you could place a location
24 in this information. Is that correct?

25 A That's correct.

1 Q According to your profile what are your hobbies?

2 A Hobbies that I listed on my profile page were
3 shopping and, shopping and stuff and beautifying my nails.

4 Q Now, have you received any training or the type of
5 information you should include in these online profiles?

6 A Yes.

7 Q What have you learned?

8 A Well, we were taught to include our age, to be very
9 clear about the age that our profile was. Include stuff
10 that typical 13 or 14 year olds would put on a profile
11 page.

12 Q So shopping and stuff and beautying my nails might be
13 something that you would do at 13?

14 A Right.

15 Q Now, in describing your undercover proactive
16 investigations you mentioned crossing that line. Could
17 you tell the jury what that means to cross that line.
18 What is that concept?

19 A To me it is whenever the suspect says something
20 sexual in nature knowing that I am 13 years old. To me
21 they have crossed that line and they are flirting that
22 solicitation issue.

23 Q Were you conducting proactive investigations in 2008?

24 A Yes, I was.

25 Q Are you conducting them any longer?

1 A No, I am not.

2 Q Any reason why you are not?

3 A My promotion and time constraints.

4 Q Were you conducting an undercover proactive
5 investigation April the 14th of 2008?

6 A Yes sir, I was.

7 Q And where were you physically when you were
8 conducting these proactive investigations?

9 A I was at the Clinton Department of Public Safety.

10 Q And is that in Laurens County?

11 A That is in Laurens County.

12 Q And what were you using to conduct this
13 investigation?

14 A The internet crimes against children task force, they
15 provided me with a laptop computer. I call it my
16 undercover computer. They provided software to record the
17 chat sessions and the training and that is the computer
18 that I use to conduct the investigations.

19 Q And you mentioned before the computer program,
20 Camtasia?

21 A Yes.

22 Q That was on that computer?

23 A Yes.

24 Q When you conducted these investigations did you use
25 that program consistently?

1 A Yes, I did.

2 Q On April 14th of 2008 under what profile name did you
3 log into a Yahoo chat room?

4 A On that day I was working cases under sc_krazygurl.

5 Q And were you acting in your official capacity as a
6 law enforcement officer at that time?

7 A Yes.

8 Q Before we get into any chats or anything of that
9 nature on April 14th could you walk the jury through
10 exactly how you logged in and what you did to get to this
11 chat area?

12 A If I can remember the steps correctly. You first log
13 into Yahoo profile. From there you can go in and enter,
14 you can pick a chat room and I picked the South Carolina
15 chat rooms. Within that South Carolina block there are
16 various chat rooms that you can pick. I am not sure
17 exactly the number but it is usually like one through ten.
18 And you can just pick a room. And once you have entered
19 into that room you are in the chat room.

20 Q Now, once you are in that chat room did anyone
21 contact your South Carolina kriscr8zygurl profile?

22 A Yes.

23 Q And what was the profile that approached you?

24 A The profile is, I believe it was the game. It was
25 the_game9325.

- 1 Q Let me hand you what has been marked as exhibit 3.
- 2 Are you familiar with this exhibit?
- 3 A I am.
- 4 Q Does it help refresh your memory of that date?
- 5 A It does.
- 6 Q What was the profile that approached you on that day?
- 7 A The profile was big_ben29325.
- 8 Q It was big_ben29325. Are you familiar with the
- 9 numbers, 29325?
- 10 A Yes.
- 11 Q How are you familiar with those?
- 12 A That is the zip code for Clinton.
- 13 Q Now, the individual approached you in this chat room.
- 14 What happened next?
- 15 A He approached me. He said something like, hey, how
- 16 are you doing. I responded back and then we just kept
- 17 going on with the conversation.
- 18 Q In State's exhibit 3, is that a copy of the chat that
- 19 you had with big ben on that date?
- 20 A Yes, it is.
- 21 Q And how was this communication preserved?
- 22 A It is preserved on the Camtasia video and then also
- 23 copied and pasted it into a document form.
- 24 Q And is this that document?
- 25 A Yes.

1 Q So this is a fair and accurate representation of the
2 chat that took place on April the 14th of 2008. Is that
3 correct?

4 A That's correct.

5 MR. FLORES: Your Honor, if I may approach for a
6 moment.

7 THE COURT: You may.

8 (Whereupon, a bench conference was held in the
9 presence of the jury but out of the hearing of the
10 jury.)

11 Q All right, Lieutenant Roberts, we are going to use
12 this screen with the information included in this chat so
13 we can show the jury how this chat took place on the 14th.
14 This is April 14th of 2008, correct?

15 A That's correct.

16 Q If you would please begin the dialogue?

17 A Sure. Big_ben says, hi, how are you this evening.

18 Q And this took place at what time?

19 A Approximately 7:16 p.m. I responded hey.

20 He said, how are you this evening.

21 Responded, I am ok.

22 He said, that's cool.

23 Q Would you stop for just one moment.

24 A Sure.

25 Q You notice in this chat, some of the chat is not

1 grammatically correct. Is that typical in these
2 investigations to ignore punctuation and proper grammar?

3 A Absolutely.

4 Q Okay. Please proceed.

5 A He said that's cool. He asked me again, what are you
6 up to this evening.

7 I responded, nothing.

8 Stay warm.

9 Q Was it a particularly cold day?

10 A I believe it was. He responded, I hear ya, you need
11 any help and wrote lol.

12 Q What does lol mean?

13 A It is short for laughing out loud.

14 Q Laughing out loud.

15 A I responded, depends.

16 He said, depends on what.

17 Q Could you speak a little louder and clearer for the
18 court reporter, please. He says, depends on what.

19 A I responded, what are you talking about.

20 I would come there and cuddle with you and keep you
21 warm.

22 I responded, really, I would like that.

23 So he responded, so, where are you from.

24 And then I put in, what you call it, emoticon. It
25 was a smiley face winking. And that is what that is.

1 Q So when you cut and paste it from your program it did
2 not copy the emoticon. Is that what you are telling the
3 jury?

4 A That's correct.

5 Q And this was copied in its place?

6 A That's right.

7 Q And will this appear other places in your chats?

8 A Yes, it will. He asked where are you from.
9 I responded, Clinton.
10 He said, no way.
11 I said, yep.
12 He said, me too.
13 I said, no way.
14 He said, way. He asked, you have a pic or a cam.

15 Q What is a pic or a cam?

16 A He is asking for a picture of me or, if I have a web
17 camera.

18 Q Okay. So a pic is a picture, it is short, pic. And
19 cam is short for camera?

20 A That's right. I responded, you lying.
21 He said, I don't lie. I really am from Clinton.
22 I responded, that's cool.
23 He said, yes it is. So, how old are you.
24 I responded, I am 13.

25 Q So how many minutes has this conversation elapsed

1 since you began with big_ben.

2 A At this point it is 7:21 and the conversation started
3 at 7:16. So less than ten minutes.

4 Q And you said you were 13. Please continue.

5 A He responded, I am 30.

6 I responded, I knew too good to be true.

7 Q What does that mean?

8 A It means, I typed out I knew it was too good to be
9 true. But during my chats I misspell stuff on purpose to
10 kind of play along with that profile image that I am only
11 13.

12 Q Please continue.

13 A He said, tell me about it.

14 I said, bummer.

15 He said, only if you were older and I was younger.

16 But we can still chat if that is cool.

17 I responded, that's cool.

18 He asked, so what's your name.

19 I'm Kaplin, (phonetic), but friends call me kris.

20 He said, I'm Ben. Nice to meet you.

21 I responded, I'm glad I met you too.

22 He asked, what do you look like if I may ask.

23 I responded, ok. I got reddish hair, green eyes.

24 He responded cool.

25 I responded, not fat. Just regular.

1 He said, nice.

2 I asked him, how about you.

3 He responded, I'm about 6'4", 270 pounds, brown eyes
4 and hair, glasses and three tattoos.

5 I responded, cool. What kind.

6 He said, I have a tribal, wire and a biohazard sign.

7 I responded, lol, toxic.

8 Q What does that mean?

9 A Laughing out loud. Like the toxic symbol.

10 He responded, naw.

11 I asked him, did they hurt and what did it feel like.

12 He responded feels good.

13 I said, really.

14 He said, it hurts at first but it gets better.

15 I responded, I think they cool. I want one too.

16 He said, cool.

17 I told him, I want like a butterfly or something like
18 a flower.

19 He said, those are cool.

20 I responded, I am just, I just scared they hurt.

21 And he responded, they don't hurt too bad.

22 I asked him, how old you got to be.

23 And he said, 18.

24 I responded, long way to go.

25 He said, yes you do.

1 I said, oh well.

2 He said, anything that you want to know about me.

3 I responded, um, like what do you do for fun.

4 He responded, I play pool, bowl, hunt, fish and other
5 fun things.

6 I responded, well I like hanging out by the pool in
7 the summer. Chilling.

8 He said, cool.

9 I asked him, where you live at. And I told him I
10 stay at Westchase.

11 He responded, Lydia Mill.

12 Q Now, where is Lydia Mill?

13 A Lydia Mill is in an area in the City of Clinton that
14 is over by the old Lydia Mill factory and they call that
15 area Lydia Mill.

16 Q And that's in Laurens County, is that correct?

17 A That's correct. I asked him, is that over by Bell
18 Street.

19 He said, yeah.

20 I said, cool.

21 He asked, Westchase is right near Lydia Mill.

22 I said, no. I responded, it is like next to Family
23 Dollar.

24 He said, oh, ok.

25 I asked, you know where it is at.

1 He said, yes I do.

2 I responded, next to old folk home.

3 Q Is that true?

4 A That's true. Then I wrote, lol for laughing out
5 loud.

6 Big_ben then wrote, I know where that is. He asked,
7 you home alone and want me to come over, lol, just
8 kidding.

9 So I responded, lol, I wish.

10 So he responded again, lol.

11 I responded, a girl can dream.

12 He replied, yes. And a guy can dream too. And
13 responded, lol.

14 And I said, yep. And then I clicked on an emoticon,
15 smiley face with a wink.

16 He said, if you were older what would you like to do.

17 I responded, well, girl stuff for sure.

18 He said, like what.

19 I said, hanging out with guys and stuff.

20 Asked, what you like.

21 I like to party, have fun.

22 He said, I would love to party with you.

23 I responded, me too, would be fun.

24 I asked him, are you there.

25 He said, I am here.

1 Q Why would you have to ask him if was there.

2 A Because at that point he didn't respond back. It was
3 some time lapse, it wasn't I say something, he says
4 something. There was a stop in the conversation. So I
5 asked him if he was there.

6 Q Is that typical in these chats?

7 A People will get up and walk away from their computer
8 to get something to drink or whatever. It is pretty
9 typical.

10 He said, I'm here.

11 I replied, oh, ok.

12 He said, just thinking.

13 I asked him, of what.

14 He said stuff.

15 I said good or bad. I clicked on the emoticon of a
16 smiley face.

17 He replied, both.

18 I said, ok. Me too. And I clicked several other
19 emoticons. There were three, the smiley face winking, the
20 smiley face with horns and the smiley face with a halo.
21 That is what those three are.

22 Q That would be wink, devil and angel?

23 A Yes. He replied, mine are more bad than anything.

24 I replied, lol, mine too. I said, I know I am bad.

25 He said, what are you thinking.

1 I replied, can't say, too bad.

2 He replied, yes, you can. Tell me.

3 I said, you tell first then I will tell.

4 Just thinking that if you were older I would love to
5 meet you and get naked with you. And then he responded,
6 lol.

7 I responded, lol. You have got to be able to read my
8 mind because that same I'm thinking.

9 And he replied, really.

10 And I replied, yep. And, ok.

11 He said, what would you to do me if you were older
12 and that's cool.

13 And I replied, cool.

14 He again asked, what would you do to me if you were
15 older.

16 I responded, well, to be honest, I ain't got
17 experience like you do. So I am not sure. But know it be
18 fun.

19 He replied, yes, it would be fun.

20 I replied, yes, you would be my teacher. Lol.

21 He responded, yes I would.

22 I responded, that would be cool.

23 He said, I would love to teach you.

24 I said, I would be a good student and do my own work.

25 Lol.

1 He replied, I would love to meet you when you get
2 older. And he said, me too.

3 And then I clicked on the emoticon, smiley face with
4 the horns.

5 He said, he is getting worked up now.

6 I responded, that ok. Clicked on the smiley face
7 that was blushing, the emoticon.

8 He responded, me too. He said, I really with you,
9 wish that you were older.

10 I responded, me too. It's not fair. I know.

11 He responded, I know.

12 I asked him, so you ain't got a gf which stands for
13 girlfriend.

14 He said, no I am single.

15 I responded, me too.

16 He said, sweet.

17 I said, yep. Except for my bf, which is boyfriend
18 dumped me for another girl.

19 He said, that is cool.

20 I said, no it sucks.

21 He said, yes it does.

22 I replied, make me feel bad like I am no good.

23 He said, ah.

24 I said, I know.

25 He said, if you were older I would show you my naked

1 cam.
2 I said, you got one for real.
3 He said, yes, I have got a cam.
4 I responded, I ain't never seen, it is o in here but
5 I was typing one. And then next I just typed the number
6 one.
7 He said, oh.
8 And I said, yep.
9 He responded, when you get older I will show you and
10 lol.
11 And I responded, ok, promise.
12 He said, promise but by then you would have already
13 seen one.
14 I responded, you are probably right. So I asked him,
15 how much older I got to be.
16 He said, 15 to 16. And he wrote lol.
17 And I said, oh, ok. That long time.
18 He said, I know.
19 I said, you won't remember me.
20 He said, yes, I will. He said, I would love to show
21 it to you in person. Lol.
22 I replied, sounds good to me. I said I like you
23 lots. I see your pic, you look good.
24 And he responded, cool, thanks.
25 I responded, yw which is your welcome.

1 He asked, what would you do if someone showed you in
2 person.

3 I responded, lol, whatever you want.

4 He asked, what would you want to do. I will let you
5 do anything.

6 I responded, anything. I told him, you would have to
7 show me because, show me what to do because I ain't done
8 it all before. The next was, I do whatever, it would be
9 fun.

10 He replied, so when you want to meet then, lol.

11 I just put, um. I said, for real. I would sneak
12 out.

13 He said, I don't want you to sneak out and get in
14 trouble.

15 I replied, I done it before to go to friends house.
16 I told him, I got caught once. lol.

17 He asked, where would you meet me at.

18 I replied, I don't know. Then I said, car wash at
19 the top of the road.

20 He said, he tell me and I will meet you there one
21 night.

22 And I said, tonight?

23 He said, can't tonight.

24 I said, ok, whenever. You tell me.

25 And then he said, you tell me.

1 I said, tomorrow night.

2 He said, I just don't want to get into any trouble.

3 I asked him, like how.

4 He said, I ain't telling nothing. He said, saying
5 that I tried to rape you or anything like that.

6 I replied, no way. I am willing. Lol.

7 He said, really.

8 I said, yep.

9 He said, cool.

10 I said, cool. I typed in, I just hope you don't get
11 mad because I don't know everything.

12 He said, mad about what.

13 I replied, maybe not be good enough for you.

14 He said, you will.

15 I asked, what you are going to do when we see each
16 other because I don't want you to be crazy killer person
17 on here.

18 He said, I'm not like that.

19 I said, I might be a little scared at first.

20 He said, it's cool. We can wait until you are not
21 scared.

22 I said, ok, that's cool. I will live with that. I
23 asked him, so what you like.

24 And he replied, like as in what.

25 And I replied, person.

1 He said, I'm cool and laid back.

2 I think that next line was just a typo. And then the
3 next sentence, I wrote, can't type. And then I put, me
4 too. Lol.

5 He replied, it's cool.

6 I asked, what do you want to know about me.

7 He said, anything that you want to tell me. Then he
8 asked, you got a big ass. Lol.

9 I put, lol, no I ain't. And then asked, is that good
10 or bad.

11 He said, it's cool.

12 I told him, I got one, it ain't flat. Lol.

13 He said, sweet.

14 I replied, it should have been not, it's not bubble
15 butt. Not a lot of junk in the trunk. Just right.

16 He said, it's cool. He said, I might want to rub it.
17 Lol.

18 I said, sweet.

19 He asked, would you like that.

20 I responded, I know I would. Clicked on an emoticon
21 that had hearts on it.

22 I asked him, and.

23 And he said, I might want to kiss and lick it. He
24 said, that would be real fun for sure.

25 Or I said, that would be real fun for sure.

1 And he said, anything else you would like.

2 I responded, we will see.

3 He asked, what else would you like.

4 I said, I like it all because I ain't done it all
5 before.

6 He said, oh, ok.

7 I asked him, want hurt, suppose to be, won't hurt
8 will it.

9 Q Is that a question?

10 A Yes. And then be nice.

11 He said, no, promise. He said, yes and then awesome.

12 I told him, I will be a little scared though but I
13 know it will be ok. The first time anyways. Like how
14 many times you do it before?

15 He said, lots. Lol.

16 I am like, that's cool. I asked, what you doing.
17 Lol.

18 He responded, playing with myself. Lol.

19 I responded, now because of me and then hit the
20 emoticon with the horns.

21 He said, maybe.

22 I said, aw. I wrote on there, I bet you are.

23 He said, what if I said I want to put it in your ass.

24 lol.

25 I responded, oh my. I don't know. Then asked, you

1 done that before.

2 He said, yes.

3 I responded, is it ok. That what grownups do.

4 He responded, kind of hurts at first but it feels

5 good.

6 I responded, maybe. Maybe I let you, I'm not sure.

7 He said, cool.

8 I asked, are you mad because I don't know.

9 He responded, I'm not mad.

10 And then I responded, I will let you as long as you

11 don't get mad.

12 He responded again, I don't get mad.

13 And I responded, ok, good. That makes me feel

14 better.

15 He responded, how.

16 Because I know you won't get mad at me now and hurt

17 me.

18 He responded, I'm not going to hurt you.

19 I responded, ok, just making sure. Lot of crazies

20 out there.

21 He said, I know.

22 I said, ok.

23 He said, you got big boobs. Lol.

24 I said, they are ok. They are 32B, not huge. Lol.

25 He said, I would love to see them now.

1 I responded, lol, I would show you. I hit the smiley
2 face emoticon that was winking.
3 He said, really.
4 I said, you know I would.
5 He said, when we meet you can show me. Lol.
6 I said, ok. Quick peep.
7 He said, yeah.
8 I said, you laugh because they are small.
9 He said, no way.
10 And then I responded, you better not. I won't show
11 you again.
12 He said, I would love to come all over them.
13 I responded, that make you happy. Cool.
14 He said yes, well, I am about to head off to bed.
15 Been up since 2:00 this morning.
16 And I responded, so soon, it is like 8:30.
17 He responded, yes, I had to work this morning and I
18 had to get up at 2:00 this morning.
19 I said, ok. You are going to talk to me again.
20 He said, yes.
21 I said, ok. And I responded, nite, nite.
22 And that was the end of that conversation.
23 Q That was on April the 14th of 2008?
24 A That's correct.
25 Q That chat started around 7:16 and how long did it

1 last?

2 A Until 8:37 p.m. So a little over an hour.

3 Q Was this the only conversation that you had with
4 big_ben?

5 A No, it is not.

6 Q How many other communications did your persona, your
7 profile have with big_ben?

8 A After that first initial one I think a total, there
9 were 10 or 11 chats.

10 Q 10 or 11 total. Were they all similar to that?

11 A For the most part, yes. Some of the chats were just
12 idle chats where he wasn't very sexually explicit.

13 Q I am going to show you what has been premarked or has
14 been admitted as State's exhibit 4. Please take a look at
15 that for a moment. When was the next time you had a chat
16 communication with big_ben?

17 A If I am not mistaken it was on the 16th, April the
18 16th.

19 Q Would you need to look at your investigator's report
20 to refresh your memory as to the actual dates of these
21 chats?

22 A Yes. This case is back from 2008. The next chat, I
23 am sorry, was on the 15th, not the 16th, sorry.

24 Q And was this a long chat?

25 A No, a very short chat.

1 Q What I have handed you, is that a fair and accurate
2 copy of the chat for that evening?

3 A Yes, it is.

4 Q And did you also record it via the Camtasia program?

5 A I did.

6 Q I am going to place this here. If you would please
7 begin this chat?

8 A This chat starts off with, indicates on this word
9 document, it is wrote out as buzz. But in the actual chat
10 room, when you buzz somebody it is like ringing a doorbell
11 to your house. It is basically getting your attention.
12 So he buzzed my undercover profile. So when he did that I
13 responded, hey.

14 He responded, how are you.

15 I said, great now. Lol.

16 He responded, cool.

17 I asked, what you been doing today.

18 He said, nothing, just sleeping.

19 I responded, I took a nap after school too.

20 He responded, cool.

21 I responded, why you sign out, you still there. And
22 what had happened and you could see it in the Camtasia.
23 When somebody signs out of their chat room it shows, for
24 instance, big_ben29325 signed out. I asked him why he
25 signed out. And I didn't get a response back and then I

1 replied, I have got to go. I will be back around 7 or 8.

2 And that was the end of that conversation.

3 Q It was a very brief conversation?

4 A Very brief.

5 Q He did not contact you later that evening?

6 A No.

7 Q Lieutenant, you recall the next opportunity that you
8 had to communicate with big_ben?

9 A The next chat conversation happened on the 16th,
10 April the 16th.

11 Q I will hand you what has been admitted as State's
12 exhibit number 5. Just review that for a moment. Is this
13 the chat that occurred on that particular day?

14 A Yes, it is.

15 Q Did you also use the Camtasia program?

16 A Yes, I did.

17 Q Lieutenant Roberts, I am going to ask you to cue it
18 up. The 16th of April?

19 A Big_ben made contact with my undercover profile. He
20 said, hey there, how are you.

21 I responded, hey. Where you go the other day.

22 He responded, out for a little while.

23 I said, oh, ok. That's cool.

24 He asked, so, what are you up to tonight.

25 I said, nothing, just got finished washing dishes.

1 He said, cool.

2 I asked, what you been doing.

3 He said, nothing.

4 I said, not cool, I hate it. Asked, are you there,
5 because there was a short lapse.

6 He replied, I'm here. He asked, what are you up to
7 tonight.

8 I responded, nothing. Waiting for somebody to talk
9 to me, I am bored as heck.

10 He replied, same here. He said, what you been doing
11 today.

12 I responded, well, I went to school then come home,
13 did homework, been lazy laying around. Lol. Now I am on
14 here.

15 He responded, cool.

16 I asked, what you been doing.

17 He said, nothing, just sleeping all day.

18 I responded, aw, you miss me.

19 He said, yeah.

20 I said, cool. I responded, I miss you too. I typed,
21 you quiet, because there was another lapse.

22 He indicated, I am talking to other people.

23 I responded, you mean I ain't the only one and then
24 clicked on the sad little smiley face emoticon.

25 He replied, no.

1 I replied, well, I know, I just kid and you don't
2 really care, you just playing. And then I wrote, I am
3 sorry, just kidding. It come out, us kidding and that was
4 the end of that conversation.

5 Q Those three chats took place over a three day period?

6 A That's correct.

7 Q When was the next time that the big_ben persona
8 approached you?

9 A The next chat was on April the 28th.

10 Q I am going to hand you what has been admitted as
11 State's exhibit number 6. If you can review that for a
12 moment. Is this your chat from April the 28th of 2008?

13 A It is.

14 Q And did you also record this chat through the
15 Camtasia program?

16 A Yes, I did.

17 Q So it is a fair and accurate description of the chat
18 that occurred on that day?

19 A Yes.

20 Q If you would please read the contents of your
21 conversation?

22 A Big_ben said, hey there, what you doing.

23 I said, hey, nothing. Don't want to go to bed.

24 He said, don't go then.

25 I replied, I ain't. I replied, going to try and play

1 sick tomorrow.

2 He said, cool.

3 I asked, what you been doing.

4 He said, nothing.

5 I replied, I thought you was mad at me. You didn't
6 talk the other day.

7 He said, naw, just been busy.

8 I said, ok. I asked, I said, you been to the new
9 Sonic yet, meaning the Sonic restaurant.

10 Q Was there one that opened up in 2008?

11 A Yes. I said, it was good, got good ice cream.

12 He said, yes.

13 I asked, any new tattoos.

14 He said, naw.

15 I responded, I am glad you on here, cool talking to
16 somebody from Clinton.

17 That was the end of the conversation.

18 Q So the first four conversations you had with the
19 big_ben profile, how many would you consider crossed the
20 line?

21 A Just one.

22 Q Just one. And which one was that?

23 A The very first one.

24 Q In your conversations with big_ben did you ever, how
25 did you portray yourself?

1 A As a 13-year-old female.

2 Q And as you said in your chats, you talked about
3 school?

4 A Yes.

5 Q You talked about grownups too?

6 A Yes.

7 Q So it is always from a perspective, 13-year-old?

8 A Yes.

9 MR. FLORES: Your Honor, may we approach.

10 THE COURT: You may.

11 (Whereupon, a bench conference was held in the
12 presence of the jury but out of the hearing of the
13 jury.)

14 THE COURT: Ladies and gentlemen, we are going to go
15 ahead and stop the testimony today and I am going to
16 excuse you for the evening with strict instructions that
17 you not talk to anyone about the case. Do not read
18 anything in the news. I doubt if there is anything but if
19 there is anything don't read it. If you have a newspaper
20 don't look at anything in the newspaper. We will continue
21 with our testimony tomorrow morning. If you will be back
22 here just a little before 9:30 and we will start at 9:30.
23 Thank you, ladies and gentlemen, have a good evening.

24 (Whereupon, the jury was excused from open court for
25 the day.)

1 THE COURT: Is there anything we need to put on the
2 record before we break?

3 MR. FLORES: Nothing, Your Honor.

4 MR. WISE: No, Your Honor.

5 THE COURT: Court is adjourned until 9:30 tomorrow
6 morning. Thank you.

7 (Whereupon, court will resume the next day at 9:30
8 a.m.)

9 June 18, 2013.

10 THE COURT: Anything we need to bring up before we
11 bring our jury. From the State or the defense?

12 MR. FLORES: No, sir.

13 MR. WISE: Nothing from the defense, Your Honor.

14 THE COURT: Bring the jury in, please.

15 (Whereupon, the jury came into open court at
16 approximately 9:38 a.m.)

17 THE COURT: Hope y'all had a nice evening. Is the
18 State ready to proceed?

19 MR. FLORES: We are, Your Honor.

20 THE COURT: Is the defense ready to proceed?

21 MR. WISE: The defense is ready, Your Honor.

22 THE COURT: You may continue your direct examination.
23 Swear the witness again.

24 LIEUTENANT CRYSTAL ROBERTS, being
25 first duly sworn, testified as follows:

1 RESUME DIRECT EXAMINATION

2 By Mr. Flores:

3 Q Lieutenant, good morning.

4 A Good morning.

5 Q When we last discussed this yesterday afternoon, you
6 just described to us that you had engaged in some
7 communications with big_ben29325 and when was the last
8 communication that you discussed with us?

9 A The last communication we discussed was the chat
10 session on 4/28/2008.

11 Q According to your knowledge and your case report,
12 when was the next time that you had communication with
13 this online persona?

14 A The next chat session was on 6/15/2008.

15 Q About a month, just over a month of time had passed
16 between your chat sessions?

17 A That's correct.

18 Q Was there any reason for that?

19 A I believe it was a busy time of the month for me so I
20 didn't do a lot of online chatting.

21 Q I am going to hand you what has been admitted into
22 evidence as State's exhibit 7. If you would take a look
23 at that for a moment. Are you familiar with the set of
24 documents?

25 A Yes, sir.

1 Q What is that?

2 A This is my chat session from 6/15/2008.

3 Q Now during that time did you also commemorate this
4 chat session in another way?

5 A I did. I used my Camtasia video software and then
6 also after the chat was complete copied and pasted into a
7 word document.

8 Q I am going to hand you a CD which has been admitted
9 as State's exhibit 12. Are you familiar with this CD or
10 this?

11 A Yes, sir.

12 Q And could you describe what this disk is?

13 A This is a copy of my Camtasia video which recorded
14 the chat session from 6/15/2008 with big_ben.

15 Q With big_ben?

16 A Yes, sir.

17 Q If you would hand me that disk, please.

18 MR. FLORES: Your Honor, at this time we are going to
19 play this video of a chat session.

20 (Whereupon, a video was played for the jury starting
21 at approximately 9:45 a.m.)

22 Q Describe for the jury what they are seeing right now
23 on the screen?

24 A What you are seeing right now is an image of my
25 computer screen. So it was everything that I was saying,

1 everything that I was doing at the time.

2 Q Describe this little box on the lefthand side?

3 A That is an instant message box. I didn't clearly
4 describe what a chat room consist of yesterday. But once
5 you are in the chat room, instead of everybody talking to
6 everybody and seeing what everybody writes on the main
7 screen, if you want to say, for instance, pull somebody
8 off to the side and talk one on one so nobody can see you
9 they will instant message you. And that is basically just
10 communication between you and that person, nobody else can
11 see it.

12 Q Let me pause that for a moment. You just asked, you
13 are in Clinton, right. Why would you do that?

14 A I was making sure he remembered who he was talking
15 to.

16 Q Because how much time had passed since your last chat
17 session?

18 A About a month had passed since I had last talked to
19 him.

20 Q You had no communications with the big_ben profile
21 between April 18th and June 15th?

22 A No.

23 Q We will continue to show the video.

24 (Whereupon, the video continued.)

25 Q Let me pause this right now. What is this?

1 A Those are the emoticons that I was describing
2 yesterday, basically just various smiley faces and
3 different expressions.

4 Q So in the portions of the chat you discussed
5 yesterday which had the exclamation points and perhaps a
6 wink or a smile, these would be what you are discussing?

7 A That's correct.

8 (Whereupon, the video continued.)

9 Q Let me pause it for a moment. That box that popped
10 up there just then, what was that?

11 A The Yahoo instant messaging system, it archives the
12 chats. I have my settings set where it would save the
13 chats and it saves it by the profile name. So that is
14 what that is. All of those people down below there are
15 people that I have talked to and those are saved chats.

16 Q So is this part of the Yahoo system that records what
17 you have said during these chat sessions?

18 A That's correct.

19 (Whereupon, the video continued.)

20 Q Let me pause this for a second. What is about to
21 happen on this chat, during this chat session?

22 A Ben Rhodes had activated his web camera and the Yahoo
23 program is asking permission or asking if you want to view
24 this web camera.

25 (Whereupon, the video continued.)

1 (Whereupon, the video was completed at approximately
2 10:35 a.m.)

3 Q Lieutenant Roberts, was that your entire chat session
4 for June 15th of 2008?

5 A Yes, it was.

6 Q I am going to ask you a couple of questions about
7 that chat session so we can clear up some of the language
8 that was used. During the chat Mr. Rhodes asked you, he
9 says around 7:15, I wish that I could hear you play with
10 yourself. What did you understand the phrase--

11 MR. WISE: Your Honor, I would object to what she
12 understood.

13 THE COURT: Rephrase the question.

14 Q If you are told to play with yourself what does that
15 mean?

16 A I would interpret it to be as being sexual in nature
17 and playing with your genitalia.

18 Q Okay. And so when a person also says, I'm playing
19 with myself. To you that means?

20 A He is playing with his genitalia.

21 Q Was that the last communication with you had with the
22 big_ben profile?

23 A No, it was not.

24 Q What was the next session that you had big_ben?

25 A The next chat session was on 6/16/2008, the following

1 day.

2 Q Let me hand you what has been admitted as State's
3 exhibit 8. If you would review that for a moment, please.
4 During, June 16th did you have communication with big_ben?

5 A Yes, I did.

6 Q How many occasions did you have communication with
7 big_ben?

8 A It ended up being two separate chat sessions.

9 Q Let's talk about the first session. And as with
10 yesterday, if you would just read through, stating big_ben
11 and your self.

12 A At 6:54 p.m. big_ben said hey there, how are you.

13 I replied, yes, I am good. Glad you on tonight.

14 He asked, what are you up to tonight.

15 I replied, nothing, just hanging. Then I asked,
16 you?, asking him what he was doing.

17 Big_ben replied, nothing, just got out of the shower.

18 I got off early from work. A friend and I went out for
19 lunch.

20 I replied, cool. Then I said, I like when I get home
21 from school early too. Just goof off. I clicked on the
22 grinning emoticon.

23 He replied, cool.

24 I asked, you work hard today.

25 Big_ben said, naw.

1 I replied, lol. Did I tell you I went on a cruise
2 last weekend.

3 He said, nope.

4 And I replied, just three days.

5 He said, cool.

6 I replied, it was so fun. I replied, I got sunburned
7 though.

8 He said, I'm sorry. He replied, want me to come over
9 and rub some lotion on you. Lol.

10 I replied, I need some, I am peeling a little bit on
11 my shoulders. Gross, ain't it.

12 He said, naw.

13 I asked, so, where did you go eat today.

14 He replied, Senor Gracia in Laurens.

15 I replied, I like that place, I ain't been to the new
16 Mexican place in Clinton yet.

17 He replied, it is good too.

18 I replied, I want to go, maybe I get my mom to take
19 me this weekend.

20 He replied, cool.

21 I wrote, you quiet tonight, talking to other girls.

22 He replied, I had a little to drink tonight.

23 I replied, Clicked on the smiling emoticon. I wrote,
24 you pass out drunk. Lol.

25 Q Why did you write that at that time?

1 A To see how intoxicated he really was, to see if he
2 would elaborate on that. He replied, naw. When I get
3 drunk I get horny as hell. Lol.

4 And I responded, uhuh, I see. And then I clicked on
5 the smiley face that was winking.

6 Big_ben said so, when can we meet and have some fun.

7 I replied I will be home tomorrow all day or
8 whenever.

9 He replied, my mom has to take my aunt to
10 Simpsonville tomorrow at 2:00.

11 I replied, ok. What that mean. Then I asked, you
12 going too.

13 Big_ben replied, naw, I am going to stay at home.

14 I replied, ok, cool. Then I wrote, so after 2:00
15 then asking him a question. I also replied, or how about
16 we just talk some more first.

17 He replied, that's cool.

18 I replied, I just want to make sure you ok dude.

19 Clicked on the smiley face.

20 Q Is that the end--

21 A That is the end of the first chat session for the
22 16th.

23 Q About what time in the evening was the second chat
24 session?

25 A The second one started around 8:34 p.m.

1 Q And who began this session.

2 A Big_ben said, hey there, what are you doing.

3 I replied, hey, nothing, just surfing.

4 He replied, cool.

5 I replied, where did you go awhile ago and thought

6 you got mad at me.

7 Big_ben said, my record box tripped.

8 I replied, oh, ok. I replied, I am so bored.

9 Big_ben said, me too. He said wish that we could

10 meet and cure our boredom.

11 I replied, sounds like fun.

12 Big_ben said, yes, it would. He asked, what would we

13 do.

14 I replied, whatever we want.

15 He said, no, what do you want to do.

16 I replied, hang out and get to know each other, you

17 know.

18 He said, yeah.

19 So I replied, cool. And then I stated, you are just

20 kidding though.

21 He said, kidding about what.

22 And I replied, seeing each other for real.

23 Big_ben said I do want to meet.

24 I replied, don't lie.

25 He asked, will you get me in trouble. And then

1 wrote, I am not.

2 I replied, well, I don't want to get in trouble, I

3 don't want that. Terrified. Ok. I asked him, will you

4 tell on me.

5 He replied, no.

6 He asked, will you tell on me.

7 I replied, no way.

8 He said, cool. I am getting excited thinking about

9 it.

10 I responded, lol. Me too.

11 He said, really.

12 I replied, kind of scary at the same time though. I

13 responded, yep.

14 He asked, what's scary.

15 I responded, I don't know. Just is.

16 He said, can I call you tomorrow and let me listen to

17 you play with yourself. Lol.

18 I replied, you can call, not sure what you hear.

19 Lol.

20 He said, I want to hear you.

21 I said, ok, that's cool.

22 There was a time lapse, I asked him if he was there.

23 He responded, I am here.

24 I said, k.

25 Then he responded, playing with myself. Lol.

1 I responded, you are bad. Lol.

2 He said, you don't know how bad I can be.

3 I replied, I can imagine.

4 He asked, when can I come and be bad with you.

5 I replied, I guess I could sneak out tonight..

6 He said, I am about to go to b soon, which I assume
7 to be bed. He indicated, I have been up since 2:00 this
8 morning.

9 I replied, oh, you work tomorrow too.

10 He replied, no, I am off.

11 I replied, oh, ok. I asked him, you tell me.

12 He responded, when is good for you.

13 I replied, I can whenever.

14 He said, asked about this Wednesday.

15 I said, ok, just tell me what time and I will work it
16 out. Clicked on the smiley face emoticon.

17 He says, after your mom leaves.

18 I replied, yep.

19 Big_ben says, I want to come over as soon as your mom
20 leaves.

21 I responded, ok. That is real early like 7:30 or
22 8:00. I told him, I have to set my clock.

23 He asked, is that too early for you.

24 I responded, naw, just got to make sure I am awake.

25 Lol.

1 He asked, when I come over don't be wearing anything.
2 I replied, nothing???
3 He said, nothing. He said, I want you to be naked
4 when I get there.
5 I replied, how about like wrapped in a towel.
6 He said, ok.
7 I said, cool, ok, I will do it.
8 He said, so, where will I come in so I don't get
9 caught.
10 I replied, you won't come in backdoor or front.
11 He responded, so how will I get in.
12 I replied, I will let you in, to knock.
13 Big_ben said, what if someone sees me.
14 I responded, someone might, lots of people live here.
15 He asked, will they tell your mom on us.
16 I replied, I don't know, hope not.
17 He responded, me too. He said, that is why I want to
18 sneak in.
19 I replied, yeah but hard to sneak in unless it is
20 dark outside. And then I responded, but mom is still home
21 then.
22 He said, true. He said, do you think anybody will
23 tell your mom on us.
24 I replied, I don't think so.
25 He responded, good.

1 I said, I wouldn't let you come over then.

2 He said, you are really going to be in a towel when I
3 get there.

4 I responded, I will, promise. Cross my heart.

5 Big_ben said, just wish that you could answer the
6 door naked. Lol.

7 I responded, somebody might see for sure and tell.

8 He said, oh, ok. He said, when I come in the door
9 will you take your towel off.

10 I said, ok, yep.

11 He said, really.

12 I responded, yep.

13 He responded, cool.

14 I said, I would be scared a little bit though, never
15 done that in front of a guy before. Clicked on the smiley
16 face with the horns.

17 Big_ben said, you don't have to be scared.

18 I responded, promise.

19 He said, promise.

20 I responded, swear on your mama.

21 He said, I swear.

22 I said, ok, cool. I asked, what is the youngest you
23 been with before.

24 He said, 17.

25 I asked what is the oldest.

1 He said, 40.

2 I said, wow.. So it just depend on person, right.

3 He said, right.

4 I asked, so you like me?

5 He said, so far I like you.

6 I responded, cool.

7 He said, you really going to do this.

8 I replied, one-hundred percent, if you are.

9 Beg_ben said, I am cool.

10 I responded, awesome. This is so cool, you so cool.

11 He said, you are going to suck my cock and everything

12 lol.

13 I responded, yeah, I will.

14 He said, cool. He said, can I ask you something.

15 I said, ok.

16 He asked, are you shaved.

17 I responded, I shave my legs and underarms. Lol.

18 He responded, I mean are your private parts shaved.

19 I said, no, are they suppose to be?

20 He said, I would love it if you would shave your

21 privates for me.

22 I responded like now or when you come over.

23 He said, I mean shave them before I get there.

24 I responded, ok.

25 Big_ben said, I love it if you will do that for me.

1 I said, ok, I will.

2 He said, well, I am about to head off to bed. I will
3 talk to you tomorrow.

4 I responded, bye.

5 That was the end of that conversation.

6 THE COURT: Let me see the attorneys for a minute.

7 (Whereupon, a bench conference was held in the
8 presence of the jury but out of the hearing of the
9 jury.)

10 THE COURT: Ladies and gentlemen, we will take a
11 break. Go back to your jury room for about fifteen
12 minutes. Thank you, do not discuss anything about the
13 case.

14 (Whereupon, the jury was excused from open court for
15 a break.)

16 THE COURT: We will take about a fifteen minute
17 break.

18 (Whereupon, a short break was taken.)

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

20 (Whereupon, the jury came into open court at
21 approximately 11:15 a.m.)

22 THE COURT: We will continue with the testimony.

23 CONTINUE DIRECT EXAMINATION

24 By Mr. Flores:

25 Q Before we took our break you were finishing with the

1 June 16th, 2008 communication between your online profile
2 and big_ben. Was there any further communication with the
3 big_ben profile?

4 A Yes, there were, an additional chat on 6/18/2008.

5 Q And how many chat sessions on that day?

6 A I believe it is going to be approximately four.

7 Q Let me hand you what has been admitted into evidence
8 as State's exhibit number 9. Just review that for a
9 moment. Does this look like chats that you recorded on
10 June 18th?

11 A It does, that's correct.

12 Q When did the first chat take place?

13 A In my notes I am showing that that chat took place
14 from between 10:09 a.m. to 10:45 a.m. So it is a very
15 brief chat session, about 30 or 40 minutes long.

16 Q And if you would go through this chat session,
17 please, for the jury.

18 A At 10:09 a.m. on the 18th big_ben said, hey, there,
19 how are you.

20 I responded, hey, just woke up.

21 He responded, cool. He said, what are you up to
22 today.

23 I responded, nothing, being bored.

24 He asked, you still want to sneak out tonight and
25 meet me. Lol.

1 I responded, yeah, would be cool.

2 He said, really. He asked, you really going to sneak
3 out tonight and meet me. Lol. He responded, brb which is
4 short for be right back, going to eat.

5 So I responded, k.

6 Q That is the end of that short session?

7 A Yes.

8 Q When did the second portion of this chat take place?

9 A The first one ended about 10:12 and then the second
10 started back at 10:24.

11 Q If you will proceed with the chat.

12 A Big_ben said, I am back.

13 Said, ok, good.

14 Big_ben asked, what are you doing.

15 I responded, just sitting around doing nothing.

16 He said, what would you be doing if I was there.

17 I responded, um, whatever. Clicked on the smiley
18 face emoticon.

19 He said, did you do what I asked you to do.

20 I responded, what was that?

21 He responded, shave your privates for me. Lol.

22 I responded, oh, no, I ain't done it yet but I will
23 if you really want me to.

24 He responded, I would love that.

25 I responded, ok. I will then when I take a shower

1 today. I responded, I ain't had a bath yet.

2 He responded, oh, ok.

3 I responded, be a little weird though, won't it.

4 Would look funny.

5 Big_ben said, naw, it will look cool. He said, you
6 don't have to if you don't want to.

7 I responded, I will try it.

8 He responded, you don't have to.

9 I responded, I know. I responded, you are not
10 working today.

11 He said, I only work on the weekends.

12 I said, oh, that's cool, you ain't got all week off.

13 Then I corrected myself and I said, you do got all week
14 off I mean.

15 Big_ben said, I just work on Saturday, Sunday and
16 Monday.

17 I responded, cool. I said, I am going to get some
18 cereal, brb which means be right back.

19 He said, ok, take your time.

20 I was gone for approximately ten minutes and then we
21 started chatting again. Well, ten minutes I responded, I
22 am back. So that was at 10:45. I didn't get any
23 response. So that ended that chat session.

24 Q When was the third time you spoke with the big_ben
25 profile that day?

1 A The third time I logged on, big_ben spoke to me about
2 5:55 p.m. He said, hey there, how are you.
3 I responded, hey.
4 He asked, what are you up to.
5 I responded, getting ready to eat in a few. I asked,
6 what you doing.
7 Big_ben said, just got in from Greenwood.
8 I said, cool. You been shopping.
9 He said, naw, I went with my mom.
10 I responded, ok. I responded, I have been lazy
11 today, just laying around, watching TV and sleeping.
12 He said, wish that I could have joined you.
13 I responded, yeah, would have been nice.
14 He responded, yes, it would.
15 I clicked on the frowning, smiley face. I asked,
16 what did you do in Greenwood.
17 He responded, went to the super center and then to
18 eat.
19 I asked, where you eat.
20 He responded, IHOP.
21 I responded, I am eating steak tonight.
22 He responded, cool.
23 I said, you are quiet.
24 He said, just a little tired, I ate too much.
25 I responded, aw, tummy ache.

1 He said, naw.

2 And I clicked on the smiley face.

3 I told him I will be back in about an hour, that I
4 was going to go eat.

5 And that was it, 6:06 he responded, oh, ok, take your
6 time.

7 And that was at 6:07.

8 Q And that was the end of that session?

9 A That was the end of that session.

10 Q You spoke with the big_ben profile one more time on
11 June 18th?

12 A I did.

13 Q When did this chat session start?

14 A At 7:08 p.m., I messaged to him and said I was back.

15 He said, cool. He asked did you eat good.

16 I said, yes, I am full now. I responded, good.

17 He responded, cool. He asked, what you got planned
18 for tonight.

19 I responded, nothing really. You?, question mark,
20 asking him what he was doing.

21 He responded, nothing.

22 I responded, I need to clean my room but I ain't.

23 Lol. I asked, you chat anywhere else. Or this the only
24 place I know.

25 He responded, naw.

1 I responded, k.

2 And that was the end of that conversation.

3 Q Was that the last communication you had with big_ben
4 profile?

5 A That was the last communication.

6 Q So the first chat you had with big_ben was on April
7 the 15th of 2008 and the last was on June 18th of 2008?

8 A April the 14th.

9 Q I am sorry, April the 14th. Thank you?

10 A Yes.

11 Q Now, after this chat session with big_ben, how did
12 you identify the individual in Clinton who had the big_ben
13 profile?

14 A After those chats that had crossed the line I started
15 my investigative process. His screen name was Ben Rhodes,
16 he told me he lived in Clinton. So I did a South Carolina
17 DMV search for, to see if anybody by that name lived in
18 Clinton. It comes back with Benjamin Maurice Rhodes that
19 lives in Clinton. The photo on the DMV report matched the
20 web cam picture and also matched his profile picture.

21 Q I am going to hand you what has been marked and
22 admitted as State's exhibit 11. Take a look at that for a
23 moment. Have you seen this form before?

24 A Yes.

25 Q Could you describe to the jury what this form is?

1 A This is big_ben's29325 basic profile page. It shows
2 his Yahoo ID which is big_ben, big, underscore, ben29325.
3 It indicates his real name is Ben Rhodes. His nickname is
4 bigben and location Clinton, South Carolina. And age, 30.
5 Marital status, single and looking. Sex, male.
6 Occupation, Walmart Distribution Center. His hobbies
7 included playing pool, bowling, hunting, fishing and
8 anything that is fun.

9 Q As you describe for the jury, you retrieve what are
10 kept by the South Carolina Department of Motor Vehicles.
11 What did you do following getting that information?

12 A After that there is several other processes that we
13 do. I sent a preservation letter to Yahoo to save his
14 profile information and his IP addresses where he logs on,
15 his registration IP address. I subpoenaed, I found out
16 what the IP address was that he was using and it come back
17 to an internet service provider which was Charter
18 Communication. That is who they get their internet
19 through. Took that IP and subpoenaed Charter and got the,
20 I guess the account holders information that has that
21 account.

22 Q Did you discover the address of that account?

23 A Yes, I did.

24 Q Did that address match the Department of Motor
25 Vehicles address listed for Benjamin Maurice Rhodes?

1 A That's correct. Benjamin Rhodes, South Carolina DMV
2 information showed his residence being at
3 Street in Clinton. And then the Charter information came
4 back on the account holder the address was
5 Street in Clinton. The account holder was Helen Petty.

6 Q Based upon that information what did you do next with
7 your investigation?

8 A I did some surveillance of the location, rode by the
9 residence, took some pictures, ran some tags of some cars
10 in the yard of the residence. And if I am not mistaken
11 one of the cars come back to a Benjamin Rhodes, Benjamin
12 Maurice Rhodes. And from that point I went ahead and
13 obtained a search warrant to search that residence.

14 Q When you arrived at Mr. Rhodes residence or the
15 residence that you identified as being associated with Mr.
16 Rhodes what did you do? Did you encounter any individuals
17 at the residence that day?

18 A Yes, on the day that we executed the search warrant
19 Benjamin Maurice Rhodes was at that location along with
20 his mother, Helen Petty. At that time we executed the
21 search warrant. He signed a consent to search and he was
22 subsequently arrested on the arrest warrant.

23 Q Was the person that identified himself as Benjamin
24 Maurice Rhodes the same individual you identified earlier
25 on the web camera?

1 A Yes, one in the same.

2 Q Were any pictures taken of the residence during the
3 arrest of Mr. Rhodes in the search of his residence?

4 A That's correct. As part of the execution of the
5 search warrant we photographed several items in Mr.
6 Rhodes' room including his computer and some other
7 electronic equipment, the surroundings of the room as
8 well.

9 Q Lieutenant Roberts, I am going to hand you what has
10 been marked and entered into evidence as State's exhibit
11 13. Will you just look at this picture for a moment.
12 Could you describe what this picture is?

13 A This is a picture of Benjamin Rhodes' bedroom. If
14 you are looking at a computer screen it is turned around
15 and showing the back side. So, whenever he activated his
16 web cam I seen what was behind him and this picture
17 reflects what I saw on the web cam to be the same as what
18 is in this photograph, the same or similar.

19 Q Lieutenant Roberts, is the man that was in the web
20 cam or video, the one that you encountered at the
21 residence when you executed the search warrant, is he in
22 the courtroom today?

23 A Yes, he is.

24 Q Would you please identify him for the record?

25 A He is sitting at the defendant's table next to Mr.

1 Wise.

2 MR. FLORES: Your Honor, we would just ask that the
3 record reflect that Lieutenant Roberts identified Mr.
4 Rhodes.

5 THE COURT: The record will so reflect that
6 Lieutenant Roberts identified Mr. Rhodes in the courtroom
7 sitting next to his counsel.

8 Q Lieutenant Roberts, how old was Mr. Rhodes at the
9 time of his arrest and during the communications of April
10 the 14th to June 18th of 2008?

11 A He was 30 years old.

12 Q At the time of his arrest did you conduct an
13 interview of Mr. Rhodes?

14 A I did.

15 Q And did Mr. Rhodes provide you a statement?

16 A He provided an oral statement, yes.

17 Q Where was this statement taken?

18 A It was taken at the Department of Public Safety in
19 Clinton.

20 Q Are you familiar with Miranda warnings and the
21 defendant's constitutional rights?

22 A Yes.

23 Q And did you advise Mr. Rhodes of his constitutional
24 rights in his case?

25 A I did so.

1 Q And when did you do that?

2 A Prior to any questioning.

3 Q How did you advise him of his rights?

4 A I read off of our standard Miranda form, told him
5 what his rights were, allowed him to read it, he initialed
6 by each of these rights and then signed at the bottom.

7 Q I am going to hand you what has been marked and
8 admitted into evidence as State's exhibit 1. Please look
9 over that form for a moment, please. Can you tell us what
10 that form is?

11 A This is our Miranda form and waiver of rights.

12 Q Is this the form you used to advise Mr. Roberts of
13 his rights?

14 A It is.

15 Q Did Mr. Rhodes sign that form?

16 A He did.

17 Q And whose initials appear next to the constitutional
18 rights listed on that form?

19 A Benjamin Rhodes initialed by each one.

20 Q Was he read this before he signed it?

21 A Yes, he was.

22 Q And did he indicate he understood what you were
23 explaining to him?

24 A Yes, he did.

25 Q Did Mr. Rhodes respond to you when his rights were

1 read?

2 A Yes, he indicated that he understood.

3 Q Have you ever dealt with people in your line of work,
4 have you ever dealt with people who are under the
5 influence of drugs or alcohol?

6 A Yes.

7 Q And did Mr. Rhodes appear to be under any influence
8 of any drugs or alcohol at that time?

9 A No, none whatsoever.

10 Q Did you witness him signing this form?

11 A I did.

12 Q And did you sign the form as well?

13 A I did, as a witness.

14 Q At the time you were conducting your interview of Mr.
15 Rhodes, submitting this form for his, for him to read and
16 sign did you commemorate that particular interview?

17 A Yes, I did. I recorded it via web camera so it
18 contained the video and the audio of that whole
19 interaction.

20 Q Is that the standard protocol for what you do at the
21 Clinton Department of Public Safety when conducting
22 interviews of individuals?

23 A If at all possible we do that.

24 Q Let me hand you what has been marked as State's
25 exhibit 14 admitted into evidence. Could you identify

1 what this disk is?

2 A This is a copy of the web camera exchange between
3 myself and Benjamin Rhodes after his arrest which included
4 the Miranda and his oral statements to me.

5 Q Did you at any time coerce Mr. Rhodes as making any
6 statements or make any promises to him?

7 A No, I did not.

8 Q And to the best of your knowledge were Mr. Rhodes
9 statements freely and voluntarily given to you?

10 A Yes.

11 MR. FLORES: Your Honor, at this time we would like
12 to play State's exhibit 14 for the jury.

13 THE COURT: You may proceed to publish.

14 (Whereupon, a video was played for the jury starting
15 at 11:35 a.m. and ended at 12:10 p.m.)

16 Q Lieutenant Roberts, was that the entire session of
17 your interview with Mr. Rhodes when he was arrested?

18 A Yes, it was.

19 Q During that interview, you asked if he wanted to
20 write an apology letter. Do you have that apology letter?

21 A Yes, I do.

22 Q Let me hand you what has been marked and admitted as
23 State's exhibit 2. Are you familiar with this document?

24 A Yes, this is the apology letter written by Ben
25 Rhodes.

1 Q And as we saw in the video you watched him write
2 this?

3 A That's correct.

4 MR. FLORES: Your Honor, we ask that Lieutenant
5 Roberts publish that to the jury at this time.

6 THE COURT: Any objection?

7 MR. FLORES: No objection.

8 THE COURT: Without objection please publish it.

9 A It starts out to the parents of kriskasey. I am
10 writing this letter to apologize for the things that I
11 said to your daughter. I know it was wrong for me to say
12 the things that I did. If I caused you any harm or pain I
13 am truly sorry from the bottom of my heart. Please
14 forgive me for what I have done. You will not have to
15 worry about me talking to your daughter any more. When
16 this is all done I will never own another computer so I
17 will not commit and act like this again. Signed,
18 Sincerely Ben Rhodes.

19 Q Did you see him sign this letter?

20 A I did.

21 MR. FLORES: I beg the Court's indulgence. Your
22 Honor, we would just ask, just to be sure the record is
23 complete, exhibits 1 through 14 were admitted into
24 evidence.

25 THE COURT: That's correct. Exhibits 1 through 14

1 are admitted into evidence.

2 MR. FLORES: Thank you, Your Honor, that is all the
3 questions that I have of Lieutenant Roberts.

4 THE COURT: You may proceed with cross.

5 CROSS-EXAMINATION

6 By Mr. Wise:

7 Q In that video did you ever tell Mr. Rhodes that you
8 were the one that he was talking to?

9 A That's correct.

10 Q In fact you basically lead him to believe that there
11 really was a living girl named kris that was 13 years old?

12 A That's correct.

13 Q And that he had been talking to this person?

14 A That's correct.

15 Q So you kept, so during the entire interview he is
16 under the impression that he actually had been talking to
17 a 13-year-old?

18 A That's correct.

19 Q When did you tell him that it was you he was talking
20 to or did you ever?

21 A I can't recall but I don't think I ever told him.

22 Q You never told him?

23 A No.

24 Q Something he just found out later. So all the
25 statements we see him make in there are premised upon your

1 telling him that this was a real person?

2 A Correct.

3 Q And that is what you wanted him to believe?

4 A Correct.

5 Q Now, and of course the apology is to fictitious
6 parents?

7 A That's correct.

8 Q If we could, when you start this internet program did
9 you ever consider going into a chat room that is more age
10 appropriate for a 13-year-old and seeing if some adult in
11 there tries to lure a 13-year-old into something.

12 A Those were the chat rooms that we were taught to go
13 into.

14 Q So you never considered going into a chat room that
15 would be talking about teen and preteen stuff and seeing
16 if some adult is, trying to find somebody in that chat
17 room?

18 A I have in past investigations.

19 Q Excuse me?

20 A I have been in those types of rooms.

21 Q You didn't do it in this case?

22 A No.

23 Q Now, when you subpoenaed the records for Mr. Rhodes
24 from Yahoo, you got a pretty substantial stack of records?

25 A That's correct.

1 Q And they included virtually everything he had been
2 online from a period of several months?

3 A That's correct.

4 Q And you also got his Yahoo account management tool,
5 correct?

6 A Let me see what you are referring to. Yes, that's
7 correct.

8 Q And this was, obtained for you by Yahoo?

9 A That's correct.

10 MR. WISE: I would like to move to introduce this as
11 defendant's 1..

12 THE COURT: Any objection?

13 MR. FLORES: No, Your Honor.

14 (Whereupon, Defendant's Exhibit 1 was admitted into
15 evidence.)

16 Q And when you clicked on Mr. Rhodes profile, basically
17 the information contained on that account management tool
18 came up on his profile?

19 A Not all of this information but some of it.

20 Q Some of it?

21 A Yes.

22 Q His full name?

23 A Yes.

24 Q His town?

25 A Yes.

1 Q And his age?

2 A Yes.

3 Q Now when you click, and you talked to a lot of people
4 on these internet chats?

5 A That's correct.

6 Q And sometimes when you click on, when someone is
7 talking to you and you click on their profile the only
8 thing you see is a name?

9 A That's correct.

10 Q And that is not ever a true name, it is whatever
11 screen name they are using?

12 A That's correct.

13 Q I think one was jack frost. You know that is not his
14 real name?

15 A Correct.

16 Q And those people are trying to hide their identity,
17 aren't they?

18 A Quite possibly.

19 Q Well, it is good, you couldn't know for sure but here
20 is a possibility. And in fact would it be accurate to say
21 that the majority of the names that you click on, the only
22 thing you would find is their user name on the internet?

23 A I wouldn't say the majority. Because in past cases--

24 Q A good number?

25 A A good number.

1 Q But Mr. Rhodes didn't do that. He had all of the
2 information out there?

3 A That's correct.

4 Q And from which you clicked on you obviously could and
5 did find him?

6 A That's right.

7 Q Now, you went into, a chat room is where, it is like
8 a bunch of people sitting in a room talking?

9 A Right.

10 Q All though they are doing it on the internet,
11 correct?

12 A Correct.

13 Q And you went into the Yahoo chat room in South
14 Carolina under Romance?

15 A That's correct.

16 Q To click into that room in Yahoo you have to be 18 to
17 be in that room?

18 A That's correct.

19 Q Is that correct?

20 A Yes.

21 Q And some of the language in there gets rather
22 explicit?

23 A That's correct.

24 Q And so it is logical to assume that people in there
25 are adults?

- 1 A You can't assume it.
- 2 Q But Yahoo says you got to be 18 to check in?
- 3 A Kids don't always follow the rules and they create
- 4 Facebook pages, Myspace pages.
- 5 Q Did you create a Yahoo account management tool when
- 6 you opened up your account?
- 7 A I did.
- 8 Q You have your information?
- 9 A All I have is my basic profile page which--
- 10 Q You don't know what date of birth you put in there?
- 11 A I put 13.
- 12 Q I understand you put age 13.
- 13 A That's right.
- 14 Q You don't have with you to show us what you put in?
- 15 A Oh, no, I do not.
- 16 Q Now, I want you to look here under the first, let's
- 17 look here at this first one if you would. The time clock
- 18 that you have in there just verifies the date and time?
- 19 A That's correct.
- 20 Q Right here. That says basically toward the bottom,
- 21 Yahoo chat is now available to use to the age of 18 years
- 22 of age or older, correct?
- 23 A That's correct.
- 24 Q And then you have a variety of rooms?
- 25 A That's correct.

1 Q Romance, adult by location. And you went to the by
2 location?

3 A That's correct.

4 Q But that is what Yahoo tells the public?

5 A Yes.

6 Q That you have got to be 18 to get in there?

7 A Yes.

8 Q And many people can lie?

9 A Right.

10 Q But you have to assume people aren't lying but
11 occasionally people in the internet do?

12 A Yes.

13 Q Then when you check on that line and here you are
14 checking onto South Carolina and you are logging into a
15 big room, right?

16 A That's correct.

17 Q And you get someone that says, that is a 20-year-old
18 female board with pics and profile?

19 A Yes.

20 Q Something that you would not expect somebody 13 or 14
21 years old would be posting on that, a web site generally?

22 A Generally.

23 Q Then you get this one that says, I could use some
24 suggestions on how to warm up, hehe. That is kind of
25 suggestive, isn't it?

1 A Yes.

2 Q And that is typical what you get in a lot of these
3 rooms, suggestive comments like that?

4 A Yes.

5 Q A little batter goes back and forth if you watch
6 them?

7 A That's correct.

8 Q What I would call a double entendre, so to speak?

9 A So to speak.

10 Q And where people are just kind of feeling each other
11 out to see whether they are going to get into a sexual
12 conversation?

13 A Correct.

14 Q And then some of them get a little more explicit,
15 don't they?

16 A Yes.

17 Q And then when people joins the room, of course, it
18 shows up?

19 A That's correct.

20 Q And when you joined this room it showed up that you
21 are in the room?

22 A That's correct.

23 Q And this is somebody trying to instant message you?

24 A That is actually a spam instant message.

25 Q Now, and that one is a little bit beyond suggestive.

1 That message is beyond suggestive?

2 A Yes.

3 Q But that is not untypical for what you see in this
4 website?

5 A No.

6 Q That is certainly not untypical for someone who would
7 go in there and be online and see that?

8 A That's correct.

9 Q And you, when your name pops up people just
10 occasionally click into you and like this guy, what, nasty
11 guy is somebody else that you communicated with?

12 A That's correct.

13 Q And let's go to the, this is when you are checking
14 someone's profile?

15 A That's correct.

16 Q And this is what we call an anonymous profile?

17 A It does not have a lot of information on it.

18 Q If we didn't have the bar it would have his name and
19 that would be it?

20 A Yes.

21 Q And that is what you find several of them on here
22 with this?

23 A Several.

24 Q And moving forward to, that is another one where you
25 just don't have much information at all?

- 1 A That's correct.
- 2 Q And although he later gave you a phone number that
3 may or may not be real life. Now, when you use this
4 little emotions they can be used to kind of send some of
5 the double entendre?
- 6 A I suppose so.
- 7 Q Let's go back to, for example in this one, I believe
8 it is 7:46. And you are having a conversation with
9 several people including Ben Rhodes?
- 10 A That's correct.
- 11 Q And then, but when you put a big grin in there, he
12 showed you his picture, correct?
- 13 A I was able to click on it and it shows.
- 14 Q And he had the option of hiding that if he wanted to?
- 15 A That's correct.
- 16 Q So down here where we have the conversation, oh, ok.
17 And he says just thinking of what. And he says, stuff.
18 And then you put good or bad with a big grin, right?
- 19 A That's right.
- 20 Q And that kind of implies bad stuff, doesn't it?
- 21 A Not necessarily.
- 22 Q Not necessarily. So if someone is reading that they
23 wouldn't think that big grin is anything like that?
- 24 A It depends on the person.
- 25 Q Then he answered both, correct?

1 A That's correct.

2 Q And then you kind of played along pretending to be a
3 13-year-old and said, me too.

4 A That's correct.

5 Q You think that is typical for a 13-year-old?

6 A Yes.

7 Q To have said me too when he says good and bad stuff?

8 A Yes.

9 Q It is also typical for an adult?

10 A That's correct.

11 Q And then at 7:50, you have this conversation with him
12 where he says, what would you do to me if you were older.

13 Well, to be honest I ain't got experience like you do. So
14 I am not sure. But, no, it would be fun. That is kind of
15 suggestive, right?

16 A That's right. He has already directed that in a
17 sexual nature.

18 Q And he says, it would be fun. And then you say,
19 guess you be my teacher, laugh out loud, kind of playing
20 into it?

21 A That's right.

22 Q And you think that is something that a typical
23 13-year-old would say?

24 A Possibility, yes.

25 Q This is something also an adult would say when they

1 are playing on the internet?

2 A Could be.

3 Q As part of this sexual manner we are talking about?

4 A Could be.

5 Q Where they make a little suggestive remark like, you
6 could be my teacher, to see where it is going?

7 A Yes.

8 Q And then at 7:52 you have this conversation in which
9 he says, love to meet you when you get older. And you
10 say, me too. And then you put the devil face in there?

11 A Yes.

12 Q That is kind of a little suggestive too, isn't it.
13 You didn't put an angel face?

14 A It depends on the person.

15 Q You didn't put an angel face, did you?

16 A No.

17 Q And you could have just said, me too. But the devil
18 face is kind of indicating a little bit of mischievous
19 conduct?

20 A That's correct.

21 Q And you think that is something a 13-year-old would
22 do?

23 A Possibly.

24 Q And of course it is something an adult would do?

25 A Possibly.

1 Q And then he says I'm getting all worked up now. And
2 then you say, that ok and put a blush face on there like
3 you are being embarrassed?

4 A That's right.

5 Q And you think a 13-year-old would have responded that
6 way too?

7 A Possibly.

8 Q And adult also could respond that way in this sexual
9 manner we are talking about?

10 A Possibly.

11 Q And the times you met and the purpose of putting
12 those little things in there, the little devil and the
13 little face, the embarrassed face, it kind of creates kind
14 of an emotion on the other side or to show what you are
15 trying to feel?

16 A Correct.

17 Q And going to 8:16, you have a conversation with Mr.
18 Rhodes and you say, you put sweet in there when he talks
19 about rubbing you, correct?

20 A That's correct.

21 Q As if you would enjoy it?

22 A That's correct.

23 Q And you are playing the role of an alleged
24 13-year-old that has never had sex?

25 A That's correct.

1 Q And you think that a typical 13-year-old that has
2 never had sex would react with a sweet like that?

3 A Possibly.

4 Q And of course a lot of adult women would react
5 exactly that way?

6 A Possibly.

7 Q If they were looking forward to doing it they would
8 react sweet?

9 A They could respond in various ways, not necessarily
10 that way.

11 Q And then you said, and he said would you like that
12 and you said, I know I would and put a smiley face with a
13 tongue hanging out. What does that imply?

14 A That is actually a heart.

15 Q That is actually a heart?

16 A Yes. Basically I was expressing that I would like
17 that.

18 Q Okay. With a smiley face?

19 A Yes.

20 Q Okay. And then continuing this role as a 13-year-old
21 who has never had sex with anybody before, let's go to
22 8:26. He talks to you in there about actually having anal
23 sex?

24 A That's correct.

25 Q Which I would assume that bizarre for a 13-year-old?

1 A Yes.

2 Q And so you say this 13-year-old that you are playing
3 the role of said that maybe do that?

4 A Yes.

5 Q And you said I will let you and then you said, I'm
6 not sure. And you think that is the typical reaction to a
7 13-year-old would react in the event that there was a
8 request to have anal sex?

9 A Typical, probably not.

10 Q But it is typical for an adult?

11 A Not necessarily.

12 Q Well, an adult would be more inclined to say, well,
13 maybe, I haven't tried it before, I maybe will do it?

14 A Possibly.

15 Q But it would be something so far for a 13-year-old
16 that they generally wouldn't react to it or if they
17 reacted to it it would be in a disgusting matter such as
18 eww?

19 A Possibly.

20 Q And then toward the end of this conversation. And
21 then he talks to you as a 13-year-old who never been
22 involved in sex before. He says, I would love to come all
23 over them, referring to your breast, correct?

24 A Correct.

25 Q And your remark is, that make you happy, cool. And

1 you think that is a typical reaction for a 13-year-old who
2 has never had sex before?

3 A Typical.

4 Q What is typical?

5 A Yeah, what is typical.

6 Q But certainly an adult who was given the same
7 proposition engaging in a sexual manner with an individual
8 would be a pretty typical comment for them?

9 A Possibly.

10 Q Now, when you did these online chats, you say you did
11 them at the police station?

12 A That's correct.

13 Q And you were on duty?

14 A Yes.

15 Q You worked basically second shift?

16 A Back then it was first shift and then if I was
17 chatting with somebody I would stay over. My hours
18 varied, I am at a small department so I did those whenever
19 I could.

20 Q And you said you had some conversations with them in
21 April and then they dropped off into June?

22 A That's correct.

23 Q And you still were online during that period, just
24 not as much?

25 A That's correct.

- 1 Q And he never contacted you during that period of
2 time?
- 3 A No.
- 4 Q And then a couple of conversations in June?
- 5 A That's correct.
- 6 Q And then after that nothing happened, were you still
7 online after June?
- 8 A I believe that once I got all of his information and
9 determined who he was I just talking to him.
- 10 Q You quit talking to him, you are still online?
- 11 A Possibly, I can't remember.
- 12 Q But he never buzzed you though or you would have
13 reported that?
- 14 A That's right.
- 15 Q So we can say then from June 18th to the time of his
16 arrest in August?
- 17 A Yes.
- 18 Q Do you remember the date?
- 19 A I do not.
- 20 Q You have got in front of you real quick find it, if
21 not don't worry about it. Towards the first or middle of
22 August?
- 23 A Somewhere around there, yes.
- 24 Q He never buzzed you, never contacted you again?
- 25 A No.

1 Q And of course didn't leave town during that period of
2 time either as far as you know?

3 A Not that I am aware of.

4 Q And he was arrested in August of 2008?

5 A Yes, I believe so. Let me double check. August the
6 28th of 2008.

7 Q And in these conversations, when they started getting
8 slightly sexual you would put up the emotions or whatever,
9 claiming embarrassment or claiming pleasure or whatever?

10 A That's correct.

11 Q And that was basically to encourage him on or what?

12 A I was letting him interpret it whichever way he
13 wanted to interpret it.

14 Q All right. So, when you sit there and say, one of
15 these emotions, let me find a good example. When he
16 referred to, when you asked him what you doing. And he
17 says, playing with myself and everybody did an lol, laugh
18 out loud. And then you say, really. And he says, yeah.
19 You say, huh, and then you put up a flushing face.

20 A That's correct.

21 Q Not expressing displeasure of what he is doing?

22 A That's correct.

23 Q Just kind of urge him on?

24 A However he interprets it.

25 Q But it is easy to interpret that blushing face as a

1 come on?

2 A Possibly.

3 Q And when he shows you the web cam and he says in
4 there, as we saw earlier, he asked you, do you want to see
5 me naked and you said, for real. And then he says, yes,
6 if you want to see. And you say, yeah and I do. A
7 typical 13-year-old who has not been involved in sex
8 before would tell some 30-year-old on the internet that I
9 want to see you naked?

10 A Possibly.

11 Q Possibly?

12 A Yes.

13 Q Plenty of adults do?

14 A Yes.

15 Q Because that is one thing web cams do unfortunatley?

16 A Yes.

17 Q And then he says in a rather crude statement, after
18 he has shown you the web cam, would you let me slide it in
19 you. And you responded, maybe.

20 A That's correct.

21 Q Would you think that is a typical response for a
22 13-year-old?

23 A Would every 13-year-old say that, no.

24 Q How about the majority?

25 A I couldn't say.

1 Q Who had never been involved in any sexual activity?

2 A I couldn't say. I mean it is possible.

3 Q But of course a lot of adults would say that?

4 A Yes.

5 Q And then also in that same interview or same

6 conversation and this is the one from exhibit 7 of June

7 15th. He again talks to you about having anal sex in

8 which you said, don't know about that. Is that what you

9 are suppose to do. You would think that a 13-year-old who

10 has never been involved in sex would make a typical answer

11 like that?

12 A Possibly.

13 Q As opposed to saying, eww, that is gross. It is hard

14 to say?

15 A Yes, it is hard to say. Different 13-year-olds

16 answer different ways.

17 Q Certainly would not be unusual for adults to say

18 things like that?

19 A Possibly.

20 Q And then on the same exhibit 7 you have this

21 conversation with him in which he asked, what would you do

22 to me. And then you responded by saying, what you want me

23 to do. And then he answered rather crudely, play, lick

24 and suck and my dick. You responded by saying, I can do

25 that, no problem, be fun. Do you think that is a typical

1 response of a 13-year-old?

2 A Typical, no.

3 Q Majority even?

4 A Majority, no.

5 Q Certainly would be a response for an adult?

6 A Possibly.

7 Q So a lot of these conversations are what we would
8 clearly conclude are responded that adults would give as
9 opposed to children?

10 A Can you repeat that?

11 Q A lot of these responses that you have gone over and
12 discussed that you made to him are responses that adults
13 would be more likely to make than children?

14 A Adults would surely be more typical for them to make
15 those responses. However, there is also a possibility
16 that 13-year-olds making those same responses.

17 Q A possibility?

18 A Possibility.

19 Q But a probability of adults would, fair enough?

20 A Fair enough.

21 Q Okay. Now, people pretend to be things they are not
22 on the internet, don't they?

23 A Sometimes, yes sir.

24 Q Sometimes or a lot of times?

25 A It depends.

- 1 Q People pretended to be older than they are?
- 2 A Yes.
- 3 Q People pretend to be younger than they are?
- 4 A Yes.
- 5 Q People put up false pictures?
- 6 A Yes.
- 7 Q People don't put up any pictures?
- 8 A That's correct.
- 9 Q People lie about their age?
- 10 A Correct.
- 11 Q Lie about what they do for a living?
- 12 A Correct.
- 13 Q Lie about how much money they got?
- 14 A Correct.
- 15 Q So it is pretty much of a fantasy world in many
- 16 respects?
- 17 A You can say that.
- 18 Q Where you can go and live out your fantasy?
- 19 A It is more of a anonymous atmosphere.
- 20 Q How about anonymous fantasy world?
- 21 A I guess you could say that.
- 22 Q So if a person for whatever reason wanted to engage
- 23 in could just get online and engage in this fantasy, can't
- 24 they?
- 25 A Repeat that.

- 1 Q That was a bad question. It is not a real world,
2 correct, on the internet chat room?
- 3 A I mean it is real, it happens.
- 4 Q But it is not an honest world?
- 5 A Not all the time.
- 6 Q There are some that obviously are?
- 7 A That's correct.
- 8 Q But a lot of the conversations that you see on there
9 in that adult chat room are not real, I mean not really in
10 real life?
- 11 A They are real conversations.
- 12 Q They are real conversations but they may not be the
13 real truth?
- 14 A Correct.
- 15 Q Is that correct?
- 16 A Yes.
- 17 Q And that is what you discovered?
- 18 A Yes.
- 19 Q Now, at no time did Ben Rhodes ever set up a definite
20 time to go meet kris?
- 21 A No, he did not.
- 22 Q You talked about but it was always like tomorrow?
- 23 A Right.
- 24 Q We will do it tomorrow, we will do it tomorrow,
25 correct?

- 1 A Correct.
- 2 Q So there was no effort to set up a definite time to
- 3 sit down and meet?
- 4 A Other than just to continue to talk about it.
- 5 Q And when you did the interview with him you asked him
- 6 about child porn on the computer?
- 7 A That's correct.
- 8 Q And you sent his computer to SLED?
- 9 A Yes.
- 10 Q And I assume you sent the computer to SLED with his
- 11 passwords he gave you?
- 12 A They don't need them.
- 13 Q I am talking about getting on his online Yahoo
- 14 account?
- 15 A I did that.
- 16 Q And you went and caroused all of that?
- 17 A Yes.
- 18 Q And SLED never came back with the first picture of
- 19 child pornography on that computer at all?
- 20 A No, there was no child pornography. That's correct.
- 21 Q Thank you.
- 22 THE COURT: Mr. Flores.

23 REDIRECT EXAMINATION

24 By Mr. Flores:

- 25 Q In all of your chats with the big_ben profile did you

1 ever say you were not 13?

2 A No. I always indicated I was 13.

3 Q And during Mr. Wise's cross-examination you stated
4 that it was possible that a 13-year-old would respond in
5 the ways that you responded, correct?

6 A Correct.

7 Q Is it common?

8 A It is not very common but it happens.

9 Q Are there 13-year-old's in our community that are out
10 seeking sex?

11 A Yes.

12 Q They are out seeking sex with peers?

13 A Peers, yes.

14 Q On the internet?

15 A Yes.

16 Q Have you encountered 13-year-old's that were real who
17 had chatted online--

18 MR. WISE: Your Honor, I don't know, that is a little
19 beyond what is admissible.

20 THE COURT: I think it is based upon your
21 cross-examination. Overruled.

22 A Yes, I have come across live juveniles, 13, 14 years
23 of age.

24 Q So this fantasy world has consequences in the real
25 world?

1 A That's correct.

2 Q Now, Mr. Wise talked to you at the very beginning of
3 this session, this is the April 14th session that Yahoo
4 has a box which says you must be 18 to enter this room?

5 A That's correct.

6 Q And you clicked on that box?

7 A Yes.

8 Q How old were you?

9 A My profile?

10 Q On your profile.

11 A 13.

12 MR. WISE: Your Honor, I would object, she does not
13 have a profile with her date of birth on it like Mr.
14 Rhodes did.

15 THE COURT: You had asked the question whether you
16 could lie to get on. Overruled.

17 Q Did Yahoo do anything to verify that age?

18 A No, there is no verification process.

19 Q So after you click, yes, whether you are lying or not
20 it would allow you to go to the chat room?

21 A That's correct.

22 Q With your profile kriskasey, and we saw on this
23 particular screen that you have many conversations. Did
24 you talk to any of those individuals and say you were any
25 other age but 13?

1 A No, I did not.

2 Q As part of your training that you receive to conduct
3 these undercover proactive investigations, were you taught
4 to respond to an individual like big_ben in the way that
5 you responded?

6 A That's correct. We were taught, if they ask you a
7 question whether it be sexual in nature or not you can
8 respond and likewise or vice versa. However you chose to
9 as long as you didn't initiate that type of conversation.

10 Q And throughout all of your chats did you ever
11 initiate a conversation in a sexual manner with big_ben?

12 A No, I just responded to his conversation.

13 Q I am going to hand you again what was State's exhibit
14 7. Turn to the last page of the conversation you had on
15 that June 15th evening. Does big_ben ask you your age?

16 A Yes.

17 Q And what do you reply?

18 A I respond, 13, almost 14.

19 Q And what was big_ben's response?

20 A He said, cool.

21 Q And you had further conversations with big_ben after
22 that?

23 A Yes.

24 Q That is all I have.

25 THE COURT: Recross?

RECROSS-EXAMINATION

1

2 By Mr. Wise:

3 Q When you get online with the Yahoo account you have
4 to fill out a profile?

5 A That's correct.

6 Q Similar to this Yahoo account management took,
7 Defendant's exhibit 1?

8 A That's correct.

9 Q And you put in there also a date of birth?

10 A That's correct.

11 Q And you fill that out?

12 A That's correct.

13 Q And you put in the date of birth?

14 A That's correct.

15 Q You don't remember what date of birth you put down?

16 A I do not.

17 Q So it is your belief then that Yahoo lacks the
18 ability to determine if the person with that profile is 18
19 when they clicked into that chat room?

20 A No. That age has to be at least 18.

21 Q So someone has to put a birthdate in there that is
22 18?

23 A Right.

24 Q And of course when Mr. Rhodes asked you, how old you
25 are and you said 13, almost 14, of course that wasn't true

1 either, was it?

2 A That was the age of my profile.

3 Q You were not 13 or 14?

4 A My actual age, no.

5 Q Thank you.

6 THE COURT: Thank you and you may step down. Y'all
7 approach.

8 (Whereupon, a bench conference was held in the
9 presence of the jury but out of the hearing of the
10 jury.)

11 THE COURT: Does the State have one more ting?

12 MR. FLORES: Yes, Your Honor, the State would rest
13 its case.

14 THE COURT: Ladies and gentlemen, now is the time to
15 take a break and I am going to send you to lunch. It is
16 going to be a long lunch because I have got some other
17 things that I have got to do. Be back here at 3:00 and we
18 will finish up with testimony today and probably argue and
19 charge tomorrow morning. And then you will have it
20 probably by 11:00 or so tomorrow. Have a nice lunch and
21 talk about the case.

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

24 THE COURT: Any motions to be made?

25 MR. WISE: Your Honor, at this I would move for a

1 directed verdict on the grounds of taking the evidence in
2 the light most favorable to the State, I don't think there
3 has been sufficient, circumstantial evidence to establish
4 that Mr. Rhodes reasonably believed that the person in
5 the, he was corresponding with was under the age of 15,
6 that it is, in the case it is in fact 13. I think the
7 testimony of the officer is that this is something that a
8 13-year-old would possibly say, probably an adult would
9 say the same thing. Possibly versus probably is not to me
10 proof beyond a reasonable doubt.

11 THE COURT: Mr. Flores.

12 MR. FLORES: Your Honor, I believe that there is
13 evidence in the record that Mr. Rhodes did commit these
14 crimes. The conversations, clearly the officer stated at
15 all times that she was 13 years old. In fact, Mr. Rhodes
16 through his chats, through his apology letters, through
17 his confession all indicate that he believed that this
18 individual was a minor of 13 years of age. We think that
19 that withstands the burden at the directed verdict stage.

20 THE COURT: At this point the Court is more concerned
21 with, if there is any evidence, not the weight of the
22 evidence so I am going to respectfully deny your motion.
23 Thank you.

24 MR. WISE: You want to discuss with Mr. Rhodes about
25 his testimony?

1 THE COURT: Oh, yes. Please have Mr. Rhodes sworn.

2 BENJAMIN RHODES, being

3 first duly sworn, testified as follows:

4 THE COURT: Mr. Rhodes, I have got some questions I
5 need to go over with you concerning your right to testify.
6 Now, I am going to explain to you certain of your rights.
7 If you don't understand what I am saying to you please let
8 me know. If you want me to explain anything in greater
9 detail I will be happy to do so as well. Do you
10 understand?

11 MR. RHODES: Yes, sir.

12 THE COURT: As I have said, we have now reached the
13 stage of the trial where you may present your defense.
14 You have a right to claim protections of the Fifth
15 Amendment of the United State Constitution that says in
16 part, no person should be compelled in any criminal case
17 to be a witness against himself. This means that you
18 cannot be required to testify in this case. You certainly
19 have a right to testify on your behalf however no one can
20 make you testify. This is a personal right and no one can
21 waive it except for you. Now, if you decide to testify
22 you will be subjected to the same rules that govern any
23 other witness and you may be examined and cross-examined
24 on any relevant issue in this case. In addition, if you
25 have any convictions involved, dishonesty or false

1 statement or for any crimes for more than one year and I
2 determine the probative value outweighs the prejudicial
3 effect on you, then the Attorney General being able to
4 produce your record to attack your credibility. Is there
5 any record that the State can use if you were to testify?

6 MR. FLORES: No, Your Honor.

7 THE COURT: All right. Now, if you decide to testify
8 the decision on your part must be freely, voluntarily and
9 intelligently made with knowledge of the protections given
10 to you by the Fifth Amendment and the consequences of your
11 decision to testify. If you decide not to testify I would
12 instruct the jurors that they cannot give the fact that
13 you did not testify any consideration whatsoever and there
14 is to be absolutely no prejudice to you because you did
15 not testify. It is left entirely up to you whether or not
16 you want to testify. You may talk with you attorney, your
17 friends or anyone else. But the final decision will be up
18 to you. And I will remind that you if you decide to
19 testify, once you start to testify you cannot then invoke
20 the Fifth Amendment. You are on the stand and you will
21 have to answer any questions that are presented to you.
22 Now, do you understand what I have explained to you?

23 MR. RHODES: Yes, sir.

24 THE COURT: Do you have any questions about what I
25 have explained to you?

1 MR. RHODES: No, sir.

2 THE COURT: Have you discussed this with your lawyer?
3 I am going to allow you over the lunch period to discuss
4 it with your attorney or any family members. And right
5 before we start back I will ask you the ultimate question.
6 You will have about two hours to discuss with him before
7 you have to make that decision.

8 MR. RHODES: Yes, sir.

9 THE COURT: Court is adjourned until 3:00 o'clock.

10 (Whereupon, a lunch break was taken.)

11 THE COURT: We are back on the case of the State
12 versus Benjamin Rhodes. Prior to going to lunch I asked
13 Mr. Rhodes a series of questions concerning his right to
14 testify, the pitfalls of his testifying and the right to,
15 nothing will be said to the jury if he does not testify.
16 And he has had an opportunity to speak to his counsel and
17 his family members. Mr. Rhodes, have you decided whether
18 or not you want to testify?

19 MR. RHODES: Yes sir, I want to testify.

20 THE COURT: You want to testify?

21 MR. RHODES: Yes, sir.

22 THE COURT: All right, very well, thank you. Is
23 there anything else we need to take up before we bring our
24 jury back?

25 MR. FLORES: Nothing from the State at this time.

1 MR. WISE: No, sir.

2 THE COURT: Bring our jury in.

3 (Whereupon, the jury came into open court at
4 approximately 3:02 p.m.)

5 THE COURT: Ladies and gentlemen, I hope you had a
6 nice lunch and we will continue with the testimony of this
7 case. Mr. Wise, are you ready to proceed?

8 MR. WISE: Yes, Your Honor, we call Benjamin Rhodes.

9 BENJAMIN RHODES, being
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Wise:

13 Q Please give us your full name.

14 A My full name is Benjamin Maurice Rhodes.

15 Q And how old are you, Mr. Rhodes?

16 A I am 35 right now, sir.

17 Q Where do you live?

18 A I live at Street, Clinton, South
19 Carolina.

20 Q And how long have you been living there?

21 A Ever since 2002.

22 Q And who lives there with you?

23 A My disabled mother.

24 Q And does anybody else live there?

25 A No, sir.

1 Q Does anybody stay there a lot?

2 A I have a four-year-old cousin, he stays with me a
3 lot. He has been with me and mom since the day we brought
4 him home. He stays with us maybe, ever since he has been
5 brought home from the hospital, he has been with us maybe
6 two or three days a week. But around October he started
7 staying with me and my mom a whole lot.

8 Q Four or five days a week?

9 A Pretty much seven days a week.

10 Q You graduated high school from here?

11 A I graduated from Union High.

12 Q And what year?

13 A 1995.

14 Q What did you do after you graduated high school?

15 A I signed up for the Army while I was still in high
16 school. My mom didn't know about it so she had a surprise
17 when the Army recruiter came to the house saying, you
18 know, your son signed up for the Army.

19 Q He broke the news to her, not you?

20 A Well, I told my mom ever since Junior High, as soon
21 as I turn 18 I am joining the military.

22 Q And which branch did you join?

23 A I joined the United States Army, sir.

24 Q And what did you do in the Army?

25 A I was a 13 Brave, (phonetic), which is field

1 artillery.

2 Q And where did you serve?

3 A I first started off doing my basic training in Fort
4 Sill, Oklahoma and I got stationed at Fort Carson,
5 Colorado. While I was in Fort Carson, Colorado we got
6 deployed to Kuwait for three and a half months. Came
7 back, got assigned to Germany. When I was in Germany I
8 had to go to Bosnia, Kosovo and did about a year and a
9 half there. Then I got stationed at Fort Stewart, Georgia
10 which is a couple of minutes outside of Savannah.

11 Q How many years did you stay in the Army?

12 A Little over seven.

13 Q So you got out of the Army in what year?

14 A I got out in 2002.

15 Q What did you do when you got out of the Army?

16 A When I first got out of the Army I drew unemployment,
17 I was looking for a job and then I got a job at Walmart
18 Distribution Center.

19 Q What was your job there?

20 A When I first started off I was a replenishment driver
21 for about five and a half years and then got, you know,
22 then I put in for a transfer to another department and I
23 got that.

24 Q And what was the job there?

25 A I was an asset protection.

1 Q And you were working there when this incident arose?

2 A Yes sir, I was.

3 Q Tell us, if you would, what was your social life back
4 then in 2008?

5 A Social life back in 2008, pretty much it was a
6 Saturday night, Friday night, Saturday night and Sunday
7 night, I was in bed asleep. But Sunday night through
8 Thursday night I was out.

9 Q You worked what hours?

10 A I worked from, when I first started the job it was
11 midnight to 12:30 in the afternoon. And then they pushed
12 it back from 2:00 to 2:30 and then they pushed it back
13 from 4:00 to 4:30.

14 Q You worked three days a week?

15 A Yes, sir.

16 Q And other times you were pretty much free?

17 A Yes sir, I was.

18 Q Did you spend a lot of time on the internet?

19 A Yes sir, I did.

20 Q Going to chat rooms like we are talking about?

21 A Yes, sir.

22 Q Tell us about these chat rooms, what did you do in
23 there and so forth?

24 A A chat room, as you can hear, I stutter a little bit.
25 So, I would just go in there, I could be, like I said you

1 said, it is a fantasy world, somebody that didn't stutter.

2 Q And has your stuttering improved over the years?

3 A Yes sir, it has.

4 Q Who would you talk to in these chat rooms?

5 A I had friends, just anybody.

6 Q Did you meet strangers in there?

7 A Yes, sir.

8 Q What was the nature of the conversations you would
9 have with people in the chat room?

10 A I mean, like sometimes just like a normal chat and
11 sometimes it would get explicit.

12 Q And when you say get explicit, you mean get explicit
13 sexually?

14 A Yes, sir.

15 Q Was that frequent, infrequent, how would you classify
16 it?

17 A It was like eighty percent, maybe eighty to ninety
18 percent it was just normal chat and then maybe ten percent
19 it would be explicit in nature.

20 Q And did you have explicit conversations with several
21 people on the internet?

22 A Yes sir, I did.

23 Q And did you ever meet any of the women that you had
24 these conversations with?

25 A I met a few.

1 Q You remember, you have looked at all of the discovery
2 in this case?

3 A Yes sir, I have.

4 Q You remember going back and looking at when kris
5 logged on?

6 A Yes, sir.

7 Q When you saw that video of the log in session, when
8 Officer Roberts was on there and we say some pretty
9 graphic language, is that typical for those rooms?

10 A Yes sir, it is.

11 Q What did you know about the room from--

12 A When you first log into the room, rooms are for
13 individuals 18 years or over.

14 Q And you were over 18?

15 A Yes sir, I was.

16 Q And did you ever go out and meet somebody and found
17 out they weren't 18?

18 A No, sir.

19 Q So, all of the women you have met were 18 or older?

20 A Yes, sir.

21 Q So you get online with kris, this fictitious
22 character called kris?

23 A Yes sir, I did.

24 Q Start talking to her?

25 A Yes sir, I did.

1 Q And what happened?

2 A And started talking and then it got, I let it get out
3 of hand.

4 Q Did you, when kris came up did you discuss the age?

5 A Yes, sir.

6 Q Did you have any way to verify whether that is true?

7 A No, sir.

8 Q Has people misrepresented age to you before?

9 A Yes sir, they have.

10 Q So you talked to her?

11 A Yes, sir.

12 Q Your conversations obviously, from what we saw on
13 display got kind of sexual?

14 A Yes, sir.

15 Q How did that sexual conversation with that person
16 claiming to be a 13-year-old compare to sexual
17 conversations you had with other people you knew to be
18 adults on the internet?

19 A I mean it really didn't make a difference because if
20 you are 18 and you talk like that, it is like someone over
21 the age of 18 or older would come back with the same
22 comments and stuff like that.

23 Q Was there any substantial difference between Kris'
24 reaction or the Officer's reactions to your comments
25 compared to women over 18?

1 A No, sir.

2 Q Did you think some of those comments, what was your
3 opinion of some of those comments as to whether or not
4 they would reflect a 13-year-old?

5 A I mean it was some of the comments she would say, you
6 know, okay, that is what someone over the age of 18 would
7 say, not someone that would be 13 and under would say.

8 Q You never met this kris?

9 A No, sir.

10 Q Did you have any intent of meeting this kris?

11 A No, sir.

12 Q After you engaged in conversations with her and had
13 conversations on the internet with this persona known as
14 kris, did you have an opinion to whether or not she was 13
15 years of age?

16 A No, sir.

17 Q What was your opinion as to what she was?

18 A My opinion was, the way some of the conversations
19 went, she was someone over the age of 18.

20 Q And what factors entered into that?

21 A What factored into it is when I was in the interview,
22 that is when Lieutenant Roberts told me--

23 Q We will go back to that in a minute. But during the
24 course of the conversation, before you were arrested what
25 factors entered into your decision that this person was

1 probably over 18?

2 A Just the way of some of the comments that I would
3 make and the way they responded to the comments.

4 Q What about the chat room itself?

5 A The chat room itself, it is a very explicit, you see
6 some people saying, you know, would you like to get oral
7 sex, you know, we want oral sex from a guy. Such and such
8 give me IM, buzz me. Things like that.

9 Q Did you see the explicit statements of who can come
10 into that room on that page?

11 A Can you repeat that.

12 Q When you log in to a chat room can you see the
13 explicit statements as who is eligible to log into that
14 room?

15 A Yes sir, I mean it is 18 and above.

16 Q Now, once you log into a chat room and meet some
17 people do you have to log back into a chat room and talk
18 to them every time?

19 A I mean you can change, if they add you to their buddy
20 list or you add them, they add you to a buddy list you
21 have to accept their friend request. And if you just
22 start with the IM, start your IM up, if they own a line
23 you can just double click on them and type if they are on
24 your buddy list.

25 Q You had a couple of conversations I believe in April?

- 1 A Yes, sir.
- 2 Q And then none for all the month of May and into June,
3 is that right?
- 4 A Yes, sir.
- 5 Q Were on the internet during that period of time?
- 6 A During that month I wasn't talking to her.
- 7 Q Right.
- 8 A Yes sir, I was on the internet.
- 9 Q Daily, every other day?
- 10 A About pretty much seven days a week. When I get off
11 of work I get on it a little bit, go to bed, wake up and
12 get on it.
- 13 Q And then toward the middle of June, I believe the
14 18th of June is the last contact you had with this persona
15 known as kris?
- 16 A Yes, sir.
- 17 Q Did you try to contact her again?
- 18 A No sir, I didn't.
- 19 Q Never met with her?
- 20 A No, sir.
- 21 Q Never arranged to meet?
- 22 A No, sir. Like I said, it was just talk about, you
23 know, we can do it tomorrow but it was never, I never met
24 with her.
- 25 Q Now, when were you arrested on this?

1 A August 28th of 2002, I mean 2008.

2 Q So that was about two months after your last
3 conversation?

4 A Yes, sir.

5 Q And what did Officer Roberts tell you concerning this
6 kris when you were interviewed?

7 A When I was interviewed that is when she told me it
8 was an actual real live 13-year-old little girl.

9 Q Before that did you believe it was actually a live
10 13-year-old?

11 A No, sir.

12 Q What did you think when you heard that?

13 A Whenever I heard that it was a 13-year-old girl my
14 heart just dropped in my chest. I felt like the lowest of
15 lows.

16 Q And during the entire roughly 35 minute statement you
17 gave her did they ever correct that impression with you?

18 A No sir, they didn't.

19 Q And they asked you to write a letter of apology to
20 her parents?

21 A Yes sir, they did.

22 Q And you were willing to do that?

23 A Yes sir, I was.

24 Q And every question she asked you in that interview
25 what was your impression about who kris actually was?

1 A I honestly believed then that it was a 13-year-old
2 girl and I just kept thinking to myself, what have I done
3 because I didn't realize the gravity of the situation.

4 Q And that was, why did you have that belief at that
5 time that it was a 13-year-old girl?

6 A Because that is what Lieutenant Roberts told me it
7 was, it was a 13-year-old girl and I had to write a letter
8 to her parents.

9 Q And prior to that what did you think?

10 A I thought it was just someone over the age of 18
11 years old just trying to get their jollies.

12 Q On the internet?

13 A Yes, sir.

14 Q And then you gave that, when did you find out that it
15 was actually Officer Roberts?

16 A It was, after I found out and I think I talked to you
17 and that is when you told me it was an undercover officer
18 that did it.

19 Q And as a result of this arrest did you continue to
20 work?

21 A Yes sir, I did. I have a few other jobs.

22 Q And did you continue to work at Walmart Distribution?

23 A I worked there for a day because after I got arrested
24 I went in that day and worked and they, you know, they let
25 me go for 30 days and then I just told them I will just go

1 on and quit so I can still get all of my 401K, paycheck,
2 cash my vacation days in.

3 Q And finding a job has been difficult since then?

4 A Yes sir, it has. I have had three jobs since all of
5 this has happened.

6 Q In 2005?

7 A Since 2008 I have had three jobs.

8 Q 2008, excuse me. Mr. Rhodes, at any time when you
9 were on the internet, as opposed when you were in Officer
10 Roberts presence in that room, did you believe that the
11 person you were talking to was in fact a 13-year-old
12 child?

13 A No sir, I did not. I honestly believed it was
14 someone over the age of 18, just trying to get her
15 jollies.

16 Q Thank you. Answer any questions Mr. Flores may have.

17 THE COURT: Mr. Flores.

18 CROSS-EXAMINATION

19 By Mr. Flores:

20 Q Good afternoon.

21 A Good afternoon.

22 Q This says you were a member of the armed services, is
23 that correct?

24 A Yes sir, I was.

25 Q What was your rank at the time of your discharge?

1 A I was a specialist, an E4.

2 Q E4.

3 A Yes, sir.

4 Q And what were your responsibilities in the Army at
5 the time?

6 A I was responsible for, covers a wide variety,
7 sometimes I would serve as the gunner, number one man. At
8 times I would be in charge of the ammunition vehicle.
9 Being in charge of the ammunition, powders, primers,
10 having to keep an accurate account of that.

11 Q And your discharge was honorable?

12 A Yes sir, it was.

13 Q Did you have any disciplinary actions while you in
14 the military?

15 A I went up AWOL one time.

16 Q You went AWOL. But otherwise you followed the rules
17 that was required of you?

18 A Yes sir, I did.

19 Q You testified on direct that you met a few people?

20 A Yes sir, I have.

21 Q And of those people that you met on the internet, how
22 old were they?

23 A They were 18 and over.

24 Q They were 18 and over?

25 A Yes, sir.

1 Q Specific ages, what did they tell you their age was?

2 A One example, I met a girl, you know, girlfriend I
3 have years ago. She said she was 19, 20, I went and met
4 her she was 19, 20.

5 Q So in fact you had met people on line who gave you an
6 age, said they were 19 or 20 and they were 19 or 20, is
7 that correct?

8 A Yes, sir.

9 Q Mr. Rhodes, at any time during your conversation with
10 kriskasey did you ever stop chatting with her, say I am
11 never coming back to chat with you?

12 A No sir, I never did say that.

13 Q You never did say that?

14 A No, sir.

15 Q Did you ask her her age at one point?

16 A Yes sir, I did.

17 Q And what did she tell you it was?

18 A She said it was 13, about to be 14.

19 Q And your response?

20 A I was like, cool. Because at the time I thought it
21 was just playing along and like I said, it is a fantasy
22 world. I thought it was someone over the age of 18
23 wanting to get their jollies off.

24 Q But you never at any time stopped talking to her?

25 A No sir, I didn't.

- 1 Q I hand you what has been admitted into evidence as
2 State's exhibit 3. This is a chat, the original chat on
3 April the 14th between you and kriskasey?
- 4 A Yes, sir.
- 5 Q About midway down the page at 7:20:57 on that sheet
6 big_ben29325 and that is you, correct?
- 7 A Yes sir, it is.
- 8 Q What did you ask?
- 9 A I said, so, how old are you.
- 10 Q And she states?
- 11 A I am 13.
- 12 Q And you state?
- 13 A Oh, I am 30.
- 14 Q And she states?
- 15 A I knew too good to be true.
- 16 Q And you say?
- 17 A Tell me about it.
- 18 Q She says?
- 19 A Bummer.
- 20 Q And then you say?
- 21 A Only if you were older and I was younger but we can
22 still chat if that is cool.
- 23 Q You flipped the page. You have been discussing your
24 tattoos with her for a moment?
- 25 A Yes, sir.

1 Q You have got, there is a comment, she asked you if
2 they hurt. And she asked you how old you got to be to
3 have a tattoo and what does she say?

4 A I say, 18. And she says, long way to go.

5 Q Long way to go. Now, you were cool just to chat with
6 kris, is that correct?

7 A Yes sir, I was.

8 Q Just to chat with kris. Now, if you flip over to the
9 next page, this is around 7:46 you have been thinking
10 thoughts, good and bad?

11 A Yes, sir.

12 Q Now at 7:47:49, what do you say?

13 A I said, just think of that, if you were older I would
14 love to meet you and get naked with you.

15 Q Because how old does she say she is?

16 A 13.

17 Q Now, on the next page talking about your web cam?

18 A Yes, sir.

19 Q And she asked you at 8:00 o'clock, how much older I
20 got to be. And this is in response in discussions about
21 cameras, naked cameras. How older I got to be. How old?

22 A I said 15 to 16 but I meant to say 15 to 16 years
23 older. I forgot to put that in there on that.

24 Q 15 to 16 years older than what she is?

25 A Yes, sir.

1 Q To view a web cam?

2 A Yes, sir.

3 Q So you had established with kris that you just want
4 to chat?

5 A Yes, sir.

6 Q At 8:14 that evening, 8:14 and 25 seconds what did
7 kris say to you?

8 A She said, what you want to know about me.

9 Q What do you say?

10 A I said anything that you want to tell me.

11 Q What else did you say?

12 A Do I have to say it out loud because it is
13 embarrassing because my mom and my family and everybody
14 has had to hear it and read it so much here lately.

15 THE COURT: What did you say, sir?

16 A I said, do I really have to read it--

17 THE COURT: Yes sir, you have to. You are on the
18 stand.

19 A You got a big ass.

20 Q And you asked her that after, you asked her that
21 after you said, after she had said, what you want to know
22 about me?

23 A Yes, sir.

24 Q Mr. Rhodes, do you know a lot of 13-year-old's?

25 A I mean I have cousins that are that age.

1 Q You have got cousins that are that age?

2 A Yes, sir.

3 Q You know a lot of other 13-year-old's?

4 A No sir, I don't.

5 Q You talk to a lot of 13-year-old's outside of
6 kriskasey?

7 A No, sir.

8 Q So when you are saying to the jury I am not sure how
9 a 13-year-old will respond, it sounds like 18. You really
10 don't know what a 13-year-old would say, would you?

11 A I mean, a typical 13-year-old, I have asked family
12 members that was 13 at one time, I said if someone was to
13 be on line, if you were 13 and asked that what would you
14 way. They said, eww that is gross, bye, leave me alone.
15 That is what a typical 13-year-old would say.

16 Q That is what your family would say, correct. That is
17 who you asked?

18 A I said if a guy or someone come on line and asked you
19 that what would you say. They said, it is just nasty,
20 bye, leave me alone.

21 Q But you never stopped chatting with kris?

22 A No sir, I did not.

23 Q I am going to hand you what has been admitted into
24 evidence as State's exhibit 7. It is a chat that took
25 place between you and kriskasey on June 15th of 2008?

1 A Yes, sir.

2 Q Now, prior to this chat you hadn't had any contact
3 with kriskasey since April 28th, is that correct?

4 A Yes, sir.

5 Q No interaction whatsoever, correct?

6 A Yes, sir.

7 Q About mid way down the page, 6:44:38, kriskasey asked
8 you, what you doing. And you stated that you just wanted
9 to chat with kriskasey. What did you tell her you are
10 doing?

11 A I said, I am playing with myself.

12 Q What does that mean to you?

13 A I mean, part of masturbation, sir.

14 Q It is part of masturbation, could you please describe
15 that for me?

16 A I mean, you know, just masturbation, playing with a
17 penis, you know, stuff like that.

18 Q So we are clear that playing with yourself, playing
19 with myself in this sense is manipulating your penis?

20 A Yes, sir.

21 Q In a sexual manner?

22 A Yes, sir.

23 Q During your testimony just a few moments ago you
24 stated that you didn't always have to chat inside a chat
25 room?

1 A Sir?

2 Q That you did not always have to chat inside a chat
3 room, sir. You can also send a private message. You said
4 private message, which is what these are?

5 A Yes, sir.

6 Q You had to request somebody to be on your buddy list?

7 A Yes, sir.

8 Q Now, if an individual request you to be on their
9 buddy list you just accept?

10 A No sir, you do not.

11 Q Did you send a request to kriskasey or did kriskasey
12 send one to you?

13 A I believe I sent one to her, sir.

14 Q Did she accept it?

15 A Yes sir, she did.

16 Q Did you ever delete her as a friend on your buddy
17 list?

18 A I cannot remember.

19 Q Would you be able to send instant messages with her
20 if you had deleted her?

21 A No, I would not. Once you delete it you have to go
22 in there, find them, un-delete them and send another
23 request back to them.

24 Q Have you ever in your experience in chat rooms, have
25 you ever previously been approached by someone who was 13

1 years old?

2 A I can't remember, probably not.

3 Q During your interrogation for your interview,
4 interrogation or interview with Lieutenant Roberts you
5 mentioned you had another screen name, isn't that correct?

6 A Yes sir, it was.

7 Q And what was that screen name?

8 A It was, the_game29325.

9 Q And she showed you a series of chats?

10 A Yes, sir.

11 Q One being on January the 28th of 2008. Did that
12 involve the game?

13 A I believe it did, sir.

14 Q Are you the only one that has the profile name,
15 the_game29325?

16 A Yes, sir.

17 Q Mr. Rhodes, did kriscasey ever tell you she was any
18 other age but 13?

19 A No sir, she never did.

20 Q Did you ever tell her, did you ever approach her and
21 say, I think you are law enforcement, never going to talk
22 to again?

23 A No sir, I didn't. From the chats what was saying and
24 read today and yesterday I never did say nothing.

25 Q To your knowledge then these chats did take place?

- 1 A Yes, sir.
- 2 Q And the video that we saw, did that take place?
- 3 A Yes, sir.
- 4 Q And that was you in the video?
- 5 A Yes, sir.
- 6 Q Were you manipulating yourself in the video?
- 7 A Yes sir, I was.
- 8 Q During these chats with kriscasey, I believe on that
- 9 same day, this was on the fourth page, about 7:15:09.
- 10 A Yes, sir.
- 11 Q After asking her if she was naked did she tell you
- 12 that she had her clothes on, what did you say to her?
- 13 A I said, I wish that I could hear you play with
- 14 yourself.
- 15 Q And you go on to say that you wish you could hear her
- 16 on the telephone, is that correct?
- 17 A Yes, sir.
- 18 Q So you wanted this 13-year-old, kriscasey to be on
- 19 the phone with you and masturbate, isn't that correct?
- 20 A I mean at the time it was just talk, I never did want
- 21 to call her, it was just talk, it was just talk. I really
- 22 never did say, can I have your number so I can listen to
- 23 you. I said, I wish I could hear. I mean I never did ask
- 24 for her phone number. It was just a talk, I never did
- 25 have any intention, even if she did send the telephone I

1 would have never called.

2 Q You understand that it is illegal to solicit minors,
3 isn't that correct?

4 A Yes, sir.

5 Q And during your interview with Lieutenant Roberts you
6 even said, I did it. Isn't that correct, you did it?

7 A Yes, sir.

8 Q You did it, you said you talked to this minor and you
9 did these things to her?

10 A Yes, sir.

11 Q Even before Lieutenant Roberts told you about her
12 parents, isn't that correct?

13 A Yes, sir.

14 Q Within the first three minutes of your interview with
15 her you said, I did it?

16 A Yes, sir.

17 Q I did it?

18 A Yes, sir.

19 Q If you believed kriscasey wasn't real why did you
20 write this letter?

21 A Because Lieutenant Roberts told me she was real.

22 Because at the time I thought it was someone over the age
23 of 18 looking at getting her jollies off. I really never
24 did realize that it was someone, an actual 13-year-old
25 girl until Lieutenant Roberts told me it was.

1 Q Mr. Rhodes, what were you arrested for?

2 A Criminal solicitation of a minor.

3 Q And did she tell you that before or after the
4 interrogation?

5 A I think it was during the investigation or during,
6 when I, when they come to the house on the arrest warrant,
7 that is what was wrote on it.

8 Q And you wrote this letter to her parents?

9 A Yes sir, I did.

10 Q And you knew when they came to your house what they
11 were there for?

12 A At the time I didn't know until they told me. I
13 didn't know what they was there for.

14 Q They didn't know, you did not know until they told
15 you that they were there to arrest you for criminal
16 solicitation of a minor?

17 A Yes, sir.

18 Q So you knew that?

19 A Yes.

20 Q At the time of your arrest?

21 A Yes, sir.

22 Q At the time of the search warrant?

23 A Yes, sir.

24 Q You are telling this jury you did not believe you had
25 solicitation of a minor until Lieutenant Roberts told you?

1 A Yes, sir.

2 Q During the interrogation?

3 A Yes, sir.

4 Q You have not solicited or masturbated in front of any
5 other 13-year-old, is that correct?

6 A No sir, I haven't.

7 Q Who else could it have been than kriscasey. If they
8 came to your door and said, you are under arrest for
9 criminal solicitation of a minor, who came to mind. Was
10 it somebody else?

11 A I mean that is the only thing I could think of at the
12 time, it was her. Like I said, when they called it
13 solicitation of a minor, I said, oh crap. I said, I've
14 messed my life up.

15 Q Because she really was 13?

16 A Because at the time--

17 Q Because you believed she was 13 in your chats, that
18 is what she told me?

19 A No, I did not believe it in the chats. I believed
20 that was 18. The only time that I believe, when they came
21 in there and told me criminal solicitation of a minor, I
22 was like what did I do. The severity of it, when she
23 thought, when I thought she was an actual 13-year-old
24 young girl is when Lieutenant Roberts told me.

25 Q So you didn't believe her at all because she told you

1 on multiple occasions she was 13?

2 A Yes, sir. That is how the conversation went, like I
3 say, a typical, a typical 13-year-old with some of this
4 stuff wouldn't respond with stuff like that.

5 Q But you have said already you don't hang out with
6 13-year-old's, you don't talk to 13-year-old's. The only
7 13-year-old's you stated you talk to are your family. And
8 that is understandable. But you didn't talk to any of the
9 13-year-old's?

10 A Yes, sir.

11 Q You don't know any other 13-year-old's?

12 A Yes, sir.

13 Q You are telling this jury, because of these words in
14 here made you think she was 18 even though she was telling
15 you she was 13?

16 A Because if you look at the chat room, it says you
17 have to be 18 years of age or older to enter that type of
18 chat room, a regular chat room like that.

19 Q Does that chat room have a verification of age? Do
20 you have to verify your age?

21 A I mean, I had to because I put my true age down.

22 Q Did you click on the button to let you in that chat
23 room?

24 A Yes sir, I did.

25 Q Did it let you in?

- 1 A Yes sir, I did.
- 2 Q Did it ask you any other questions?
- 3 A No sir, it didn't.
- 4 Q So you could have lied as well and said you were 30
- 5 when you have been in that chat room?
- 6 A Yes sir, but I never would have lied about my age.
- 7 like I said, before I even started to chat, before I even
- 8 entered the chat room you have to make a profile so I and
- 9 made my profile and I put everything truthful on me about
- 10 it, my age, my birthdate, where I was from.
- 11 Q So, Mr. Rhodes, when you get in those chat rooms do
- 12 you only believe the people who are above age?
- 13 A I don't believe nobody on there.
- 14 Q You don't believe in anybody?
- 15 A No, sir.
- 16 Q But you have been in encounters with individuals who
- 17 have told you the truth?
- 18 A Like I said, they said they was that age and then I
- 19 was like, okay, let's, after they would send me a picture
- 20 to verify that who they was and then asked, when I would
- 21 make the next step to go, hey, what you are doing. You
- 22 want to try to meet for a drink or something.
- 23 Q And then you find out that they actually are their
- 24 age?
- 25 A From that picture, yes. And I say, can you meet me

1 and I would go to this bar and they would meet me there.
2 And that would be the person that I would see from the
3 picture.

4 Q Thank you, Mr. Rhodes.

5 THE COURT: Any redirect?

6 MR. WISE: No redirect, Your Honor.

7 THE COURT: You may step down. Call your next
8 witness.

9 MR. WISE: We call James Petty.

10 JAMES PETTY, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Wise:

14 Q Please give up your full name?

15 A James Petty.

16 Q And where do you work?

17 A Church of God, I am Senior Pastor.

18 Q And how long have you been there?

19 A Been there just a little over three years.

20 Q While you were there had you had occasion to meet
21 Daniel, (sic), Rhodes?

22 A Yes, sir.

23 Q Have you had the occasion to discuss with different
24 people in the church his reputation?

25 A Yes, sir.

1 Q Based upon those conversations were you able to form
2 an opinion concerning his truth and veracity?

3 A Yes, sir.

4 Q Truthfulness?

5 A Yes, sir.

6 Q And what is his reputation for truthfulness and
7 veracity?

8 A That as far as the individuals, they were pleased
9 with him, they felt that he was a good young man.

10 Q Thank you.

11 THE COURT: Mr. Flores.

12 CROSS-EXAMINATION

13 By Mr. Flores:

14 Q I just have one question. Mr. Wise asked you about
15 Daniel Rhodes, we are talking about Benjamin Rhodes?

16 A Yes, I was a little confused, I was thrown off by
17 that one.

18 Q I just want to clarify Benjamin Rhodes.

19 A Yes, sir.

20 Q That's all I have.

21 MR. WISE: Call John Young.

22 JOHN YOUNG, being
23 first duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 By Mr. Wise:

- 1 Q State your full name.
- 2 A John William Young.
- 3 Q And, Mr. Young, where do you live presently?
- 4 A Clinton, South Carolina.
- 5 Q And what have you done in your life?
- 6 A At 18 years old I went into the military. I retired
- 7 from the United States Air-force and I moved to Florida.
- 8 And for ten and a half years I worked for the Department
- 9 of Corrections for the State of Florida.
- 10 Q And how long have you been back in this area?
- 11 A I moved back to South Carolina in 2006.
- 12 Q And since you have moved back have you had occasion
- 13 to meet Benjamin Rhodes?
- 14 A Yes, sir.
- 15 Q And have you had occasion to meet people that know
- 16 Benjamin Rhodes?
- 17 A Yes, sir.
- 18 Q And have you had a chance to discuss with people his
- 19 reputation for truthfulness and veracity which means
- 20 basically honesty?
- 21 A Yes, sir.
- 22 Q And do you know what his reputation is?
- 23 A He is a straightforward person.
- 24 Q Do you know what his reputation is, yes or no?
- 25 A Yes, sir.

1 Q And what is that reputation?

2 A He is a straightforward person.

3 Q Good or bad?

4 A Good.

5 Q Thank you.

6 THE COURT: Mr. Flores.

7 MR. FLORES: Your Honor, I have no questions for this
8 witness.

9 THE COURT: You may step down.

10 MR. WISE: Call Connie Abercrombie.

11 CONNIE ABERCROMBIE, being

12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 By Mr. Wise:

15 Q Give us your full name.

16 A Connie Roach Abercrombie.

17 Q What kin are you to Benjamin Rhodes?

18 A I am his aunt.

19 Q And obviously you have known him a long time?

20 A Yes.

21 Q And his mother is what relation to you?

22 A That is my oldest sister.

23 Q And I believe you have a grandchild that stays where?

24 A With his Aunt Helen and Ben.

25 Q Notwithstanding the fact that you are kin to him,

1 have you had occasion over the years through discussing
2 with people Ben Rhodes' reputation for truthfulness and
3 veracity which means basically honesty?

4 A Yes, sir.

5 Q Have you had occasion to discuss that with people?

6 A Yes, sir.

7 Q And based upon that have you formed an opinion upon
8 his reputation for truth and veracity?

9 A Yes, sir.

10 Q And what is that reputation?

11 A He has always been a good young man.

12 Q Thank you.

13 A And nothing but a good young man.

14 Q Thank you.

15 THE COURT: Mr. Flores.

16 MR. FLORES: Your Honor, I don't have any questions.

17 THE COURT: Thank you. You may step down.

18 MR. WISE: With that the defense rest, Your Honor.

19 THE COURT: The State, do you wish to have any reply
20 testimony?

21 MR. FLORES: No, Your honor.

22 THE COURT: All right, ladies and gentlemen, that is
23 all the evidence that you are going to hear in this case.
24 I am going to dismiss you for the evening because I don't
25 want to charge you and make you stay here for a long time.

1 Be back here at 10:00 and we will get started. Don't talk
2 about the case and have a good evening.

3 (Whereupon, the jury was excused from open court for
4 the day at approximately 3:45 p.m.)

5 THE COURT: Are there any motions to be made at this
6 time.

7 MR. WISE: Your Honor, I would make my motion for a
8 directed verdict on the grounds of taking the evidence in
9 the light most favorable to the State, I don't think there
10 has been showing that he had a reasonable belief that the
11 person he was talking to was under the age of 16 nor was
12 there proof of any intent of persuading, inducing,
13 enticing or coercing a person to engage or participate in
14 a sexual activity.

15 THE COURT: Mr. Flores.

16 MR. FLORES: Your Honor, there is evidence of all the
17 elements we had to reach for both the solicitation and the
18 attempted dissemination. I would ask that it be denied.

19 THE COURT: I find that there is sufficient evidence
20 for it to go to the jury. I am respectfully denying your
21 motion. Have y'all received an electronic copy. Y'all
22 want to look over it tonight.

23 MR. WISE: If I can look at it over night.

24 THE COURT: Why don't we have a charge meeting at
25 9:15 in-chambers. And then whatever I rule upon then

1 y'all can put on the record. I'll see y'all in the
2 morning at 9:30. Court is adjourned until 10:00 tomorrow
3 morning, except for y'all meet in my office at 9:15.

4 (Whereupon, court will resume at 9:15 the next
5 morning.)

6 June 19, 2013

7 THE COURT: Mr. Wise, any objection to the charge
8 that you want to put on the record at this point and time?

9 MR. WISE: Yes, sir. Failure to charge my request
10 number one which is circumstantial evidence charge. My
11 request to charge number three which helps the jury
12 understand the phrase, reasonably believed as used in the
13 statute. Number four which is no longer an issue. Number
14 five, which tells the jury they can consider the lack of
15 evidence of any expert testimony. And while your charge
16 of character evidence, you did not charge that character
17 evidence alone would be sufficient to convict.

18 THE COURT: You mean to acquit.

19 MR. WISE: Excuse me, acquit, excuse me, yes. And
20 number two, my request on willful violation because the
21 indictment alleges willful.

22 THE COURT: And I listened to your argument and I am
23 going to respectfully deny but you are protected on the
24 record.

25 MR. WISE: One thing I was thinking about too. I

1 don't know, I have no position.

2 THE COURT: If you don't have a position there is no
3 reason to bring it up. I only want to hear things you
4 have a real position on.

5 MR. WISE: The statute as, consent, it has exceptions
6 and consent is not a defense. And you didn't put that in
7 your charge.

8 THE COURT: There is no reason to put it because this
9 child is under or the alleged child was under 15. 16 you
10 can have consent. It would never be a, for somebody who
11 is 13 consent would never be a possible defense.

12 MR. WISE: It is a possible defense if the person is
13 over 18.

14 THE COURT: This all revolves around the, whether
15 they believe that he thought that he was 13 or not. So
16 therefore, on that line consent would not be a defense.
17 That is what my reading of the law was yesterday. If they
18 were a little older then consent could be a defense but we
19 are talking about the age of 13 and therefore consent is
20 not available.

21 MR. WISE: It says, it gives, well what one paragraph
22 gives then the other takes away. It says in paragraph,
23 consent is a defense. If a person under the age of 18 or
24 the person reasonably believed to be under the age of 18
25 is at least 16 years old. Well, the person in this case

1 was at least 16 years of age because it was Officer
2 Roberts. Then they go on to say, but if it is a police
3 officer then it doesn't apply.

4 THE COURT: I think the statute is pretty clear. You
5 may get an opportunity to argue this in front of the South
6 Carolina Supreme Court. But you have done well.

7 MR. WISE: That is not my goal. I think the bottom
8 line is, 51 percent of it tells it probably should be
9 charged and 49 percent says it shouldn't.

10 THE COURT: All it takes is 3 to 2 and you win or 2
11 to 1 on the Court of Appeals and 3 to 2 in the Supreme
12 Court. Anything further from the State?

13 MR. FLORES: Nothing from the State, Your Honor.

14 THE COURT: Bring our jurors in.

15 (Whereupon, the jury came into open court at
16 approximately 10:10 a.m.)

17 THE COURT: All right, ladies and gentlemen, good
18 morning. Hope you had a nice evening. As I told you
19 yesterday all of the evidence in this case has now been
20 heard. Now the attorneys will give you their closing
21 arguments and then after that I will charge you the law
22 that is applicable in this case and then you may begin
23 your deliberations. Is the State ready to proceed?

24 MR. FLORES: The State is ready, Your Honor.

25 THE COURT: Defense?

1 MR. WISE: The defense is ready, Your Honor. Can we
2 approach on one little matter?

3 THE COURT: Yes.

4 (Whereupon, a bench conference was held in the
5 presence of the jury but out of the hearing of the
6 jury.)

7 THE COURT: Mr. Flores.

8 MR. FLORES: Yes, Your Honor, may it please the
9 Court.

10 THE COURT: Yes, sir.

11 MR. FLORES: Mr. Wise, Mr. Rhodes. Good morning,
12 ladies and gentlemen of the jury. There are only a few
13 times in a trial when an attorney actually gets to speak
14 to the jury. They get to say hi and introduce ourselves
15 during jury selection, get to give you an overview of the
16 facts as we see things in the case during our opening
17 statements and then we get to speak to you at this point,
18 closing argument. If I say something wrong with regard to
19 the law, I don't intend to intentionally, the Judge is the
20 judge of the law. He will tell you what the law is. If I
21 say something different ignore what I say. Before I start
22 my argument I do want to thank you. As Judge Young said
23 at the beginning of this trial jury service is one of the
24 most important things that a person can do, outside of
25 military service, you twelve people will decide what

1 happened in this case. Did Mr. Rhodes commit criminal
2 acts with which he is charged. And we will live with
3 whatever verdict you come down with. But it is important
4 for our way of life and our democracy that you make these
5 determinations for us. From my employer, Alan Wilson, and
6 myself, Ms. Miles, Lieutenant Roberts we thank you for
7 your service this week. I must apologize as well because
8 at the beginning of this trial I did make a few
9 misstatements. I said this was going to be about a
10 14-year-old person, it is actually about a 13-year-old
11 person. And at times I have misspoken and called her
12 krischirsty, her name is really kriscasey. Mr. Rhodes has
13 been charged with two criminal acts. First criminal
14 solicitation of a minor, second, attempted dissemination
15 of obscene materials to a person under the age of 18.
16 Over the past three days you have heard the testimony of
17 Lieutenant Roberts and what she has done in this case,
18 what she has been trained to do. You have heard testimony
19 from Lieutenant Roberts that there are individuals on the
20 internet who seek out minors, who seek out minors for sex.
21 She has met victims, live victims, 13, 14-year-olds in
22 your community who have gone out on the internet, maybe
23 just to chat, maybe to meet some friends as they perhaps
24 can't meet friends in the real world. They go out to the
25 internet, the wild west where you are anonymous. You

1 don't get to, you don't have to have this persona, maybe
2 this face, this body. And you can meet people. We live
3 in a harsh world. So they go online. Now Lieutenant
4 Roberts went on line as a 13-year-old girl, name is
5 kriscasey. She did what is called a proactive criminal
6 investigation. In law enforcement there are two types of
7 investigation. Reactive and proactive. Reactive has, we
8 react to something that has already happened. Someone has
9 been killed, we have to find who did it. That is a
10 reactive investigation. Somebody has stolen property, it
11 is a reactive investigation. However, some criminals will
12 continue to make crimes especially in places like the
13 internet because they believe they are anonymous, they
14 believe they are above the law. And the police officers
15 have to go out and find those criminals. And that is a
16 proactive investigation. And you heard what Lieutenant
17 Roberts said about how these investigations work. A
18 persona is created. In this case, sc_kriscrazygurl or
19 sc_crazygurl, kriscasey, 13 years old. Does she exist in
20 our world. Does she exist on the internet, yes. She is
21 13 years old. She is single, she enjoys to go shopping
22 and stuff and beautifying her nails. She is 13. As you
23 heard Lieutenant Roberts testify, she was always, always.
24 When Mr. Wise showed you the first night of chats that Mr.
25 Rhodes and Lieutenant Roberts were involved in, you saw

1 the kind of screen that Lieutenant Roberts would have.
2 She had five different chats open at one time with
3 individuals who were approaching her 13-year-old persona.
4 And that was through the instant message program where
5 they had to request you as a friend. You can't
6 communicate privately unless you are friends. And that
7 can be severed at any time, can be deleted. You can
8 request it again but you can't, you can't have that
9 communication unless the approval is there. So she begins
10 the chat April 14th of 2008. And I will not go through
11 all of these lines. Another thing, before I continue, one
12 thing that lawyers have to do in court, we have to do a
13 lot of talking with our witnesses and we have to make sure
14 we lay the proper foundation of things. You have to sit
15 through the entire chat and video. These things are long,
16 they are necessary for us to abide by the laws that we
17 practice. And so while it is tedious and long it has been
18 two days. I apologize for the length of time but it is
19 necessary for us to cover these issues. You will have
20 these chats, they are all admitted into evidence and you
21 can look through them, read through them if you like. You
22 have heard them all. And quite frankly said, Mr. Rhodes
23 says he has done all of this. He says, yes, I chatted.
24 Yes, I was on the video. Yes, I did all of this. The
25 real sticky point is that he did not reasonably believe

1 that kriscasey was 13. When I asked him why didn't you
2 just stop chatting with her. He said he just didn't, he
3 believed she was 18. Big_ben, so how old are you.
4 Scrazygurl, I'm 13. Pretty clear. Now, Mr. Rhodes told
5 you he has met people from the internet. They tell him
6 they are 19 or 20 and when he went to meet them they are
7 19 or 20. He has also said, I don't believe anybody on
8 there. Contradictions. He believes everybody but he
9 doesn't believe anybody. Or he believes you if you are
10 over 18 and you are not, if you are not over 18 I don't
11 believe you. But I continue to chat with you anyways,
12 which is what they were going to do. He says, we can
13 still chat if that is cool. That's fine, you can chat all
14 the time. Talk about getting tattoos. How old do you
15 have to be to get a tattoo. 18. Kriscasey says, long way
16 to go. That's right. Five years, she is 13 years old.
17 Then he is thinking good and bad thoughts, good and bad
18 thoughts. Why go down that road. You know she is 13.
19 You know she is 13. Just thinking that if you were older
20 I would love to meet you and get naked with you. What
21 part of 18 is that in his mind. I think she is 18. Just
22 thinking if you were older I would love to meet you and
23 get naked with you. She is 18, it is fine. Lieutenant
24 Roberts says it is fine. It is okay for 18 year olds to
25 get together with older people and do whatever they are

1 going to do. Why say that if you don't think she is 13.
2 Mr. Rhodes thought she was 13, thought she was 13 the
3 entire time. He says it is a fantasy land, it is just
4 words, it is just talk. Just talk with a 13-year-old.
5 Just graphic, sexual talk with a 13-year-old. It is
6 fantasy, it doesn't exist. When somebody hacks into your
7 bank account and steals your real money, is that fake, is
8 that fantasy land. No. The internet is real. It is
9 controlled by criminals, they want to take advantage of
10 you, they want to take advantage of 13-year-old's like
11 big_ben. I have a naked cam, you have a naked cam and
12 just wanted to chat. Now when I asked Mr. Rhodes about
13 this yesterday he said something that was very
14 interesting, something that you need to think about. The
15 dialogue goes as this. If you were older I would show you
16 my naked cam. Kris says, you got one for real. Ben, yes,
17 I have got a cam. Kris says, I ain't never seen one. He
18 says, oh. Kris says, yeap. Ben says, when you get older
19 I will show you. When you get older I will show you. But
20 I think she is 18 is what he told you. When you get
21 older. It makes sense. Lol. Kris says, okay, promise.
22 Ben says, promise but by then you will have already seen
23 one. Kris, you probably right. Like how much older I got
24 to be to see a naked cam. She didn't say see a naked cam.
25 How much older do I got to be. Here it says 15 to 16.

1 Mr. Rhodes made sure to correct me really well from the
2 stand. He says, I didn't finish that line. What I meant
3 to say was 15 to 16 years older. Not 15 to 16 years old
4 but 15 to 16 years older. He made it a point to tell me
5 that that was how old she had to be so you do the math.
6 If she is 13 she has got to be 15 or 16 years older. That
7 puts her at 28 or 29. If he believed she was 18 and it
8 has got to be 15 or 16 years older that is 33 or 34.
9 Neither of those make sense. Consent is at 16 years of
10 age. Even so he believes she is 18. That is only five or
11 six years from now. He said 15 or 16 years older. Does
12 that make sense. Because ultimately in this case and the
13 Judge will charge you on this, you will be asked to judge
14 the credibility of the witnesses. Who was honest, who was
15 dishonest, who do you believe, would you believe a lot, do
16 you believe not so much. That is all within your purview.
17 You get to do that. And Mr. Rhodes, they said he is a
18 honest guy. I don't lie, in fact in his chats he says I
19 don't lie, I don't lie, don't lie. He has brought
20 witnesses, character witnesses that say he has a
21 reputation in his community to being an honest person.
22 Something is not right about that honesty. When is he
23 lying. He is lying now or is he lying then. In the
24 interview with Lieutenant Roberts, he said I did it, I did
25 it, I did these things. He said on the stand, I did all

1 of these things. I had all of these chats. I masturbated
2 in front of this 13-year-old girl. I wrote a letter. He
3 wrote a letter and it says to the parents of kriskasey, to
4 the parents of kriskasey. I am writing this letter to
5 apologize to the things that I said to your daughter. I
6 know that it was wrong for me to say the things that I
7 did. If I caused you any harm or pain I am truly sorry
8 from the bottom of my heart. Please forgive me for what I
9 have done. You will not have to worry about me talking to
10 your daughter any more. When this is all over I will
11 never own another computer, I will not commit an act like
12 this again. Sincerely, Ben Rhodes. He said he has done
13 it. But he says to you, on the stand, no way a
14 13-year-old talks like that. There is no way a
15 13-year-old in our community would speak in a sexual way
16 like that or ask those questions or question whether or
17 not anal sex is appropriate. Anal sex is reprehensive.
18 Will a 13-year-old answer that way. Possibly. As
19 Lieutenant Roberts said, a 13-year-old might answer that
20 way possibly. An adult might answer that way possibly
21 speaks in a sexual way. For most people it might be
22 reprehensive. But it is all possible. But in this case
23 the 13-year-old kriskasey wanted to please Mr. Rhodes. If
24 that would make you happy I will do it. Time and time
25 again to the chat, she was more than willing to do

1 whatever Mr. Rhodes wanted to do to make him happy. In
2 turn that would make her happy. Perhaps that we are
3 reading into kriskasey's character on line. She comes
4 from a single mother home, her mom works during the day,
5 she watches kids, takes care of family, goes shopping.
6 She is looking for some acceptance. Maybe she is looking
7 for some love. She just wants to be happy so that is why
8 she is out on the internet looking for friends. And if
9 this is what it is going to take to keep a friend on the
10 internet to make her feel good about herself she will do
11 it. Mr. Rhodes continues, continues, continues. 13 or
12 18. Mr. Rhodes, when I talked to him, discussed what he
13 wanted Kris Kasey to do on the phone for him. He said, if
14 she would give me her number I would never call, never
15 call. Why. He has told you he has met people on the
16 internet before. There is no problem setting up dates,
17 going to a bar and buy a 19 or 20 year old a drink. He
18 has done it. he knows what he is doing. He said he would
19 never do that with her. Why not. Because Ben Rhodes
20 believes she was 13. I would never, never call her, never
21 go meet her. Why. You have had conversations like this.
22 Why not. Because he knew she was 13. He might tell you,
23 as he did on the stand, that he really believed she was 18
24 all that time. It is just not true. If this is fantasy
25 land and it was okay for Mr. Rhodes to talk to this person

1 you have to wonder if maybe Mr. Rhodes' fantasy is really
2 having sex with a 13-year-old because he continued to talk
3 in that way. You tell me you are 13 but I will pretend
4 you are 18, but I am really thinking about you at 13. Did
5 he solicit kriskasey to have sex with him, did he use the
6 words to entice her, to instruct her, to perform sexual
7 acts. Yes, he did. Attempted dissemination of obscene
8 material. You saw the video. Mr. Rhodes got on line June
9 15th of 2008 and as he said, masturbated on that video in
10 front of kriskasey. You will get to decide whether or not
11 what Mr. Rhodes did on that video is obscene in your
12 community. The Judge will instruct you on the law as to
13 how to judge whether or not that video is obscene in
14 Laurens County. He attempted to disseminate that to a
15 13-year-old. Ladies and gentlemen, if what I have said
16 you don't believe beyond a reasonable doubt by all means
17 find Mr. Rhodes not guilty. There is nothing that he said
18 from this stand that should convince you to believe
19 anything but this individual was 13 years old age. He is
20 not a stupid man, in fact in some ways he needs to be
21 admired for having served in the military for our country
22 and to protect our rights so that you can be the judges of
23 this case. He is not a stupid man, he knew what he was
24 doing, he knew it was wrong, he admitted his guilt and now
25 he is trying to find a way for you to think that he didn't

1 do it. Ladies and gentlemen, when you go back to the jury
2 room please consider everything you have heard. Look at
3 all of the evidence. When you reach your conclusion we
4 believe you will find him guilty of criminal solicitation
5 of a minor and attempted dissemination of obscene material
6 to a person under the age of 18. Thank you.

7 THE COURT: Mr. Wise.

8 MR. WISE: Mr. Foreman, ladies and gentlemen, you go
9 into the jury room and think to yourself and you talk
10 among yourselves, you know, Ben Rhodes probably knew,
11 probably believed that that girl was 13. He probably
12 believed it. What should your verdict be. Your verdict
13 should be not guilty because in this courtroom we don't
14 talk about what probably happened, what might have
15 happened or what possibly happened. We talk about the
16 standard of proof beyond a reasonable doubt which is the
17 highest standard known to man short of an absolute
18 certainty. It is the one thing that we talk to people
19 about when they brag about our judicial system. Quite
20 literally we are proud of the fact that the standard is
21 high because liberty is important for us. And that is
22 what it is. Someone has said what is reasonable doubt,
23 the Judge will give you a definition. A friend of mine
24 who is a lawyer ways it is a doubt that you give a close
25 friend or relative. If a close friend or relative came to

1 you and said this, would you believe it. That is what we
2 are talking about when we are talking about reasonable
3 doubt. And this is the standard by which we need to waive
4 this evidence. I told you in the beginning the facts are
5 not in dispute and they really aren't. The only thing
6 that is in dispute is the intent. And the intent the
7 State is trying to prove in this case is what we call
8 circumstantial evidence which means from this fact, to
9 this fact, to this fact, to this fact you can infer the
10 ultimate conclusion or the State's version that Ben Rhodes
11 believed this person he was talking to was 13. Here is
12 the problem with circumstantial evidence in this case, in
13 any case, not just in this case but any case.
14 Circumstantial evidence case is the only case that we
15 tried in our criminal justice system where everybody can
16 tell the truth and an innocent person will go to jail
17 because you misinterpreted the facts, you misinterpret the
18 inferences from those facts. And that's a true statement
19 and that is why circumstantial evidence, while they all
20 count the same, that needs to be remembered as you
21 deliberate this case. From listening to Mr. Flores
22 opening I almost feel compelled to tell you there is no
23 13-year-old, there never was a 13-year-old, he was talking
24 to an adult because Mr. Flores talks like that is a
25 13-year-old out there who has all of this family problems

1 and whatever and it is a social misfit. Well, you know,
2 that 13-year-old was not in this courtroom. That
3 13-year-old does not exist. So, the State, what has the
4 State got to prove in this case and you got to remember
5 this. The State has got to prove more than the fact that
6 someone represented to Ben Rhodes that they are 13. If
7 that were the only thing required the statute would be
8 worded differently and this case would have been over a
9 long time ago. That is, the State has got to prove more
10 than that. It is not sufficient that you think that Ben
11 Rhodes should have believed. It is not sufficient that if
12 you believe, well, I would have thought she was 13. That
13 isn't sufficient in this court under this case. You have
14 got to come down to the conclusion of what did in fact Ben
15 Rhodes believe or what did he reasonably believe in this
16 case. It is not illegal to talk to a person that
17 represents that they are 13 when they are not. The point
18 is, what did Ben Rhodes believe. And let's look at the
19 facts of this case as to what the State has proven, can
20 bolster their burden of proof to show beyond any and all
21 reasonable doubt that Ben Rhodes believed, in fact,
22 believed, not should have, might have or could have, in
23 fact believed that this person he was talking to was under
24 the age of, was 13 years of age. There is one thing that
25 I have noticed, Ben testified that he had met people on

1 the internet that were 19 and went out with them. Well,
2 what did he testify about going out with them. I got
3 their picture, looked at the picture, see that they are 19
4 or approximately or at least thought they were 19 from the
5 picture and went out with them. Did Officer Roberts ever
6 post a picture of her person that she was pretending to be
7 so that Ben Rhodes could look at and say, whoops, that is
8 not an 19 year old or an 18 year old. No, she didn't.
9 There is absolutely no picture ever posted and sent to Ben
10 Rhodes. How easy would it be when the conversation first
11 begins, yes I am 13. Oh, you are 13. Yes. Ask, you got
12 a picture. Yes, I got a picture. And can you send me a
13 picture. And the normal response is, yes, send me a
14 picture. Then you send one early on in the conversation
15 of somebody who is 13, 14, 12 years old and then how does
16 the conversation go after that. That is when you will
17 know or at least have some idea. Granted, that picture
18 could be a pretend picture too but it is some additional
19 evidence. Now, look at the fact, the language that was
20 used. Officer Roberts testified that much of that
21 language was possibly used by a 13-year-old and probably
22 used by an adult. So here is someone who is supposed to
23 be, who gets language that is very consistent with other
24 adult conversations that he has had and yet now they are
25 suppose to believe, because it possibly could be used by a

1 person 13 years of age, that they would in fact now know
2 it. That is just possibly isn't beyond a reasonable
3 doubt. Look at the language that was used in this
4 particular case. And if you go early on to exhibit 3
5 which was the first conversation. Big_ben says, you home
6 alone and want me to come over. And he says, lol, laugh
7 out loud, just kidding. Kris says, laugh out loud, I
8 wish. And Ben says, lol afterwards. and then the complete
9 decorousness, kris says, a girl can dream. And Ben says,
10 yes, I guy can dream. She says, lough out loud. Ben
11 says, yeap. And then puts in a wink, a wink. The
12 decorousness of an adult, not the decorousness of a
13 13-year-old unless I am naive about 13-year-old's. Look
14 at the website he went to. He went to a website where you
15 have to be 18 to get on. I think Officer Roberts finally
16 admitted that she had to put an age in her profile that
17 would be above 18, to allow her to get, to get access to
18 that particular chat room. So when he starts out, when he
19 starts out on this, on the internet he is in a big chat
20 room where a lot of people are, as he has done many times.
21 The language as you saw was very graphic, not a place you
22 would expect to find a 13-year-old. And as Mr. Flores has
23 argued in his opening, out to take advantage of a
24 13-year-old. Why would someone go into a room where you
25 have got to be 18 to get in, if he is trying to take

1 advantage of a 13-year-old. That makes no sense. All
2 right. So, he starts out in a room where there is an age
3 requirement. He didn't start out in a room where more
4 likely to find young kids. That is the person that is out
5 there seeking a young person to seduce or to have sex
6 with. You go into those places where you would expect to
7 find children, not Ben Rhodes. Also, Mr. Flores talked
8 about how people do this and all, how disturbed they are.
9 His computer went to SLED, you saw the interview. He told
10 them upfront and at the beginning, you will not find any
11 child porn on that computer. Now, they went and searched
12 it with the best technology available in the State of
13 South Carolina. And it is true, there was no child porn
14 on that computer, none, none. This from someone who they
15 say, trying to take advantage of children. Not likely.
16 The State basically has really never offered any evidence
17 of what Ben Rhodes believed. They offered evidence of
18 what he said, they have offered evidence of his
19 conversations. But they never offered any evidence of
20 what he believed and they had a chance to. When they
21 arrested him, they told him he was being arrested for
22 solicitation of a minor. He eventually figures out this
23 is this kris girl because that is a minor, she said he was
24 a minor. I didn't believe it but, oh boy. They tell him
25 or have him believe that she is a real person, a real live

1 13-year-old. And he is sitting there with the officer who
2 has him believing this, continuing this sham and basically
3 says, Mr. Rhodes, you been talking to a 13-year-old like
4 this. And he says, I did, I talked to her. He believed
5 Officer Roberts that he has actually talked to a
6 13-year-old and to continue this shame what do they do.
7 They have him write an apology to the parents of kriskasey
8 that you have, State's exhibit number 2. Let me tell you
9 what this says. This is an apology to no one and a
10 confession to nothing. Because he was told incorrectly
11 that kriskasey's parents wanted an apology basically, you
12 need to apologize to them. Well, they don't exist. They
13 don't exist any more than kriskasey existed. But they
14 tell him and play on his good heart that you really have
15 been talking to a 13-year-old and you need to make amends.
16 He believed them and he wrote an apology. but it is not a
17 confession to anything. What could the State have done.
18 There is a very, very simple question they needed to ask
19 then when they first brought him in and they never did.
20 They should have sat him down and said, Ben, you have some
21 text here with kris. Yes Ma'am, I do. Well, Ben, did you
22 believe that girl was 13. He said, no ma'am, not until
23 you just told me she really exist. And they would not
24 have prosecuted the case. Because he would have told them
25 right off the bat what he told you on the stand but they

1 never asked that question. They lead him to believe that
2 the person exist, lead him to believe that he has been
3 talking to a 13-year-old and he in his heart does what he
4 thinks is the right thing and writes this apology to no
5 one. Mr. Flores told you in opening comment that people
6 get on the internet and do this anonymously. They know it
7 is illegal, they know it is a crime to talk to
8 13-year-old's and even without knowing the code section I
9 am sure everybody on this panel knows that and Ben does
10 too. So when you do this anonymously you are
11 intentionally breaking the law, knowingly breaking the
12 law, knowing that you are talking to a 13-year-old. You
13 post a profile that would enable anyone with a little bit
14 of work find you, where you put down your true date of
15 birth, you put down where you really live and you put down
16 your real name. That is not anonymous and that is not
17 someone done by someone who is knowingly violating the
18 law. You saw some examples of people on there as we
19 pointed out that did it anonymously where everything is
20 blank except for one name. Those people are harder to
21 find. Those people are trying to be sneaky, those people
22 are trying to be devious about what they are doing, trying
23 to hide what they are doing. He is not hiding, he is not
24 hiding, he is talking to you, telling you upfront. Ben
25 never hid his identity in this matter at all. The State

1 has the burden of proving not just some evidence but
2 evidence that is sufficient beyond a reasonable doubt to
3 show that he in fact believed that the person he was
4 talking to was 13 years of age. If that is not proven the
5 verdict is not guilty on both counts. Now, I feel
6 compelled to talk to you briefly about obscenity. He
7 says, Mr. Flores talks about, why did Ben say, well, when
8 you get older. If someone is role playing you role play
9 with them. Out there in an adult room, adult chat room 18
10 years of age saying they are 13 when you know being there
11 they have got to be 18 and they are talking about they are
12 young. It is just a role play game, it is a fantasy
13 world. It is world of fantasy and you don't go to jail
14 for fantasy world, you are not punished for fantasy world.
15 You are punished when you have a criminal intent in your
16 mind, not when you are in some fantasy world. Let me talk
17 briefly about obscenity. If you get to the issue of
18 whether or not the material was obscene. In this day and
19 age the Judge will charge you basically that it is the
20 twelve of you apply some community standard as to what is
21 obscene and what is not obscene. And this day and age I
22 don't know if that can be done. Because you basically
23 have to know from talking to who knows how many people
24 over the past years, each of you, you have to know what
25 people do, what is acceptable to people in the privacy of

1 their home. What is acceptable to people when they are in
2 front of the internet or whatever. People may tell you
3 one thing on the street and go home and do something else.
4 That is the community standard you have to apply, it is
5 not only what people what told you on the street but what
6 you think they do in the privacy of their home. If
7 everybody on the street says, oh, this is horrible but in
8 the privacy of their home go down and download it it
9 doesn't violate the community standard, it really doesn't.
10 Now, the State has offered no proof of a community
11 standard. They have their burden of proving this. I
12 think you can consider that in determining whether--

13 MR. FLORES: Your Honor, if we may approach on that?

14 THE COURT: You may.

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

18 THE COURT: Ladies and gentlemen of the jury, you
19 were just told by Mr. Wise, the State had to offer proof
20 of a community standard. It does not have to offer proof
21 of a community standard. Thank you.

22 MR. WISE: As I mentioned, you are the conscious of
23 the community as far as what the community standard is and
24 you have to make that determination based upon as what
25 people told you and what you think people really do. This

1 is a serious case to Ben Rhodes. You have to decide, has
2 the State established beyond any and all reasonable doubt
3 that he in fact reasonably believed that kris was a
4 13-year-old girl. If the State has not met that burden
5 the proper verdict is not guilty. It doesn't matter how
6 horrible you think some of the things he said were, it
7 doesn't matter how bad you think some of the conversations
8 were. If he did not believe that kris was a 13-year-old
9 girl then the verdict is not guilty. It just seems to me
10 that a member of the community does not need to be labeled
11 sex offender based upon this type of evidence when the
12 State had the opportunity to produce some evidence and
13 didn't. All they had to do was do some picture, asked him
14 really good questions when they were interviewing about
15 what did you believe and so forth but they did none of
16 that. That interview was not a reluctant interview by Ben
17 Rhodes. You saw it. He sat there and answered their
18 questions under the belief at that time that it was a
19 13-year-old girl. But the key thing in this case is what
20 he believed when he was communicating, not what the
21 officers told him two months later in that interview room.
22 If he believed it then it is not a crime. He believed it
23 because that is what they told him even though it wasn't
24 true. I think when you analyze all of this evidence you
25 will find that the State has not proven its case beyond

1 any and all reasonable doubt and the proper verdict will
2 be not guilty. Thank you.

3 THE COURT: Mr. Flores, reply.

4 MR. FLORES: Thank you, Your Honor. Ladies and
5 gentlemen, I just have a couple of things I want to
6 address that Mr. Wise discussed with you. As I was
7 sitting listening to his closing argument to you it seemed
8 to me, she didn't send a picture, you shouldn't have been
9 there. She is not even real, she is not. It is a
10 proactive investigation. If this were a reactive
11 investigation, except for Lieutenant Roberts sitting in
12 that seat there would be a 13-year-old girl, probably 14
13 at this point because of the legal process as we go
14 through to get you trials, she would be sitting here
15 telling you that that man did these things on the internet
16 to me. But since she is not real, Mr. Wise says, it
17 doesn't matter, it doesn't matter. How many victims need
18 to be lined up before a law enforcement officer is
19 involved in proactive investigation to get someone like
20 Mr. Rhodes. Mr. Rhodes knew kriskasey was 13. You can
21 call her any other name, you know a 13-year-old. That
22 name is, 13 years old. She should have just sent a
23 picture. Mr. Rhodes should have just stopped talking to
24 her. Who is the adult in this relationship. The
25 30-year-old or the 13-year-old. Let's blame the

1 13-year-old. What Mr. Rhodes did was fine. He talked to
2 me in a sexual explicit manner to a 13-year-old, because
3 she is not real it is fine. Mr. Rhodes is not charged
4 with possession of child pornography, there is no question
5 he was not interested in child pornography. He was
6 interested in having sex with somebody who was mature, who
7 had developed already. Child pornography is not an issue
8 in this case. You saw the interview of Lieutenant
9 Roberts. At no point during that interview, now Mr. Wise
10 says, one simple question and this would not even be
11 before you. But would it. If Lieutenant Roberts had
12 asked Mr. Rhodes, what did you believe the age was. Would
13 this case not be before you. Look at all of those chats.
14 There is somebody who doesn't believe he is talking to a
15 13-year-old talk like that. Saying, he is older, it is
16 role play. Defendant's exhibit 1. Age, name. You know,
17 this information that Lieutenant Roberts go and testified
18 to was obtained as she explained, after she obtained legal
19 process from Yahoo. This is not on the internet. Date of
20 birth, you think Yahoo can put your date of birth on line.
21 That is real personal information. This is private
22 information. Now, did Ben Rhodes put his personal
23 information out there, sure. His real age, his real
24 location but you know what, people on the internet like
25 the wild west don't think they are going to get caught.

1 When they commit acts on the internet, they don't think
2 anybody is going to do anything about it. And he did not,
3 if you look at those chats the 13-year-old didn't want to
4 get in trouble either. So if you don't tell I want to
5 tell. Never going to happen, what are you talking about.
6 So it is not uncommon for someone to leave their personal
7 information out there. You just never expected to get
8 caught. But he knew he got caught. And I had him on the
9 stand and he talked to you, what happened. When they
10 showed up at his door with the search warrant and said
11 criminal solicitation of a minor, he said he knew his life
12 was over because he knew he had been caught. Not because
13 he believed she was 18 and she was actually 13, because he
14 knew he had been caught. Ladies and gentlemen, you have
15 all of the evidence in this case. Think hard about this,
16 it is about what he believed, what was in his mind. We
17 would like to believe that everyone speaks honestly to us.
18 My wife wants me to be honest with her all the time. We
19 want that to be what we really experience. That is not
20 true. Mr. Rhodes was not honest in this case at this
21 time. He honestly believed she was 13. He honestly
22 believed she was a 13-year-old girl and while she might
23 not really exist there are other 13-year-old's out in this
24 world. Mr. Rhodes is guilt of these two charges. Thank
25 you for your time.

1 THE COURT: Thank you, Mr. Flores. Will the bailiffs
2 please secure the courtroom. Ladies and gentlemen, all of
3 the testimony and other evidence in this case has now been
4 presented to you. Now is the time of this trial where I
5 will charge you the law that is applicable to this case.

6 I remind you that during this trial you and I have
7 certain duties to perform. As the trial Judge it is my
8 responsibility to preside over the trial of this case.
9 And I also have the duty to rule on the admissibility of
10 the evidence that is offered during this trial. You are
11 to consider only the competent evidence that has been
12 presented before you. If there was any testimony ordered
13 stricken from the record in this case during this trial
14 you must disregard that testimony. You are to consider
15 only the testimony which has been presented from this
16 witness stand and any exhibits which have been made a part
17 of this record in this case and any stipulations of
18 counsel.

19 Ladies and gentlemen, I have the additional duty to
20 charge you the law that is applicable to this case. As
21 the presiding Judge I am the sole Judge of the law of this
22 case and it is your duty as jurors to accept and apply the
23 law exactly as I now state it to you. If you already have
24 some idea as to what the law is or what the law ought to
25 be and it does not agree with what I tell you the law is

1 you must disregard and abandon that idea because you are
2 sworn to accept and apply the law as I now state it to
3 you.

4 Now, ladies and gentlemen, in every case tried before
5 jury's, the jury becomes the sole and the exclusive judges
6 of the facts in a trial. As a trial Judge I cannot
7 intimate, state, comment or make any statement to a trial
8 jury about the facts in a case. Since you are the trial
9 jury, you are the sole judges of the facts and you are not
10 to infer by anything that I have said during the progress
11 of this trial in ruling upon the admissibility of
12 evidence, or otherwise that I have any say now during the,
13 or anything that I may say during the course of these
14 closing arguments, that I have any opinions about the
15 facts in this case. The law simply does not allow me to
16 have an opinion about the facts in this case. It is
17 solely a matter of review as the jury to determine. And
18 as jurors it is your duty to determine the effect, the
19 value, the weight and the truth of the evidence that has
20 been presented during this trial.

21 Now, ladies and gentlemen, as I told you earlier, the
22 indictment in this case alleges that the defendant,
23 Benjamin Rhodes, committed criminal solicitation of a
24 minor between the dates of April 14th, 2008 and June 18th,
25 2008. And under the other indictment, which would be

1 2011-GS-30-0354 alleges that the defendant attempted
2 dissemination of obscene material to a person under age 18
3 on or about June 15th, 2008.

4 Now, ladies and gentlemen, I remind you that the fact
5 the defendant was arrested, charged and indicted is not
6 evidence in this case and cannot be considered by you as
7 evidence of guilt nor does it create any presumption or
8 inference of guilt. The indictments are simply the formal
9 written documents by which the charges are made against
10 the defendant. And they are the formal documents which
11 brings this case into court.

12 Now, ladies and gentlemen, the defendant has pled not
13 guilty to the charges in the indictments and that plea
14 puts the burden on the State to prove the defendant
15 guilty. A person charged with committing a criminal
16 offense in South Carolina is never required to prove his
17 innocence.

18 I charge you that it is an important rule of the law
19 that the defendant in a criminal trial no matter how
20 serious the charge may be will always be presumed to be
21 innocent of the crime for which the indictments were
22 issued unless guilt has been proven by evidence satisfying
23 you, the jury, of that guilt beyond a reasonable doubt.
24 Ladies and gentlemen, the presumption of innocence does
25 not end when you begin your deliberations but it

1 accompanies the defendant throughout this trial until you
2 reach a verdict of guilt on evidence satisfying you of
3 that guilt beyond a reasonable doubt. The presumption of
4 innocence is like a robe of righteousness placed about the
5 shoulders of the defendant which remains with the
6 defendant until it has been stripped away from the
7 defendant by evidence satisfying you of that guilt beyond
8 a reasonable doubt. The presumption of innocence is not a
9 mere legal theory. It is not just a legal phrase that we
10 use but it is a substantial right to which every defendant
11 is entitled unless you, the jury, are satisfied from the
12 evidence presented of the defendant's guilt beyond a
13 reasonable doubt.

14 Now, ladies and gentlemen, there are two types of
15 evidence which are generally presented during a trial,
16 there is direct evidence and there is circumstantial
17 evidence. Direct evidence is the testimony of a person
18 who claims to have actual knowledge of a fact such as an
19 eyewitness. It is evidence which immediately establishes
20 the main fact to be proved. Circumstantial evidence is
21 proof of a chain of facts and circumstances indicating the
22 existence of a fact. It is evidence which immediately
23 establishes collateral facts from which the main fact may
24 be inferred. Circumstantial evidence is based on
25 inference and not on personal knowledge or observation.

1 The law makes absolutely no distinction between the weight
2 or value to be given to either direct or circumstantial
3 evidence nor is a greater degree of certainty required of
4 circumstantial evidence than of direct evidence. Ladies
5 and gentlemen, as jurors you should weigh all of the
6 evidence in this case. After weighing all the evidence if
7 you are not convinced of the guilt of the defendant beyond
8 a reasonable doubt you must find the defendant not guilty.

9 Ladies and gentlemen, necessarily you must determine
10 the credibility of witnesses who have testified in this
11 case. Credibility simply means believability. It becomes
12 your duty as jurors to analyze and to evaluate the
13 evidence and determine which evidence convinces you of its
14 truth. In determining the believability of a witness,
15 witnesses who have testified in this case, you may believe
16 one witness over several witnesses or several witnesses
17 over one witness. You may believe a part of the testimony
18 of a witness and reject the remaining parts of the
19 testimony of that same witness. You may believe the
20 testimony of a witness in its entirety or reject the
21 testimony of a witness in its entirety. Ladies and
22 gentlemen, you may consider whether any witness has
23 exhibited to you any interest, bias, prejudice or other
24 motive in this case. You may also consider the appearance
25 and manner of a witness while on this witness stand.

1 Now, ladies and gentlemen, the defendant has
2 presented evidence of his good reputation and character to
3 show that it would be inconsistent with the defendant
4 committing the crime. The weight you give to that
5 testimony, like all other testimony in this case is for
6 you to decide in your good judgment. You may consider
7 testimony of the defendants good character along with all
8 the other evidence in deciding whether or not the
9 defendant committed the crime.

10 Ladies and gentlemen, as we have discussed reasonable
11 doubt throughout this trial. This begs the question, what
12 is reasonable doubt in the law. A reasonable doubt is the
13 kind of doubt that would cause a reasonable person to
14 hesitate to act. The State has the burden of proving the
15 defendant guilty beyond a reasonable doubt. Some of you
16 may have served as jurors in civil cases, where you were
17 told that it is only necessary to prove that a fact is
18 more likely true than not true, such as by the greater
19 weight or preponderance of the evidence. In criminal
20 cases, however, the State's proof must be more powerful
21 than that. It must be beyond a reasonable doubt. Proof
22 beyond a reasonable doubt leaves you firmly convinced of
23 the defendant's guilt. Ladies and gentlemen, there are
24 very few things in this world that we know with absolute
25 certainty. And in criminal cases the law does not require

1 proof that overcomes every possible doubt. If based on
2 your consideration of the evidence you are firmly
3 convinced of the defendant's guilt or the defendant is
4 guilty of the crimes charged you must find the defendant
5 guilty. If on the other hand you think there is a real
6 possibility that the defendant is not guilty you must give
7 the defendant the benefit of the doubt and find him not
8 guilty.

9 Now, ladies and gentlemen, a person 18 years of age
10 or older commits the offense of criminal solicitation of a
11 minor if he knowingly contacts or communicates with or
12 attempts to contact or communicate with a person
13 reasonably believed to be under the age of 18, for the
14 purpose of or with the intent of persuading, inducing,
15 enticing or coercing the person to engage or participate
16 in a sexual activity or with the intent to perform sexual
17 activity in the presence of the person reasonably believed
18 to be under the age of 18.

19 Under the statute, sexual activity includes any of
20 the following acts or simulations thereof: Masturbation,
21 whether done alone or with another human or animal;
22 vaginal, anal or oral intercourse, whether done with
23 another human or an animal; touching in an act of apparent
24 sexual stimulation or sexual abuse of the clothed or
25 unclothed genitals; pubic area or buttocks of another

1 person or the clothed or unclothed breasts of a human
2 female; the insertion of any part of a person's body other
3 than the male sexual organ or of any object into another
4 person's anus or vagina except when done as part of a
5 recognized medical procedure. Or with the intent to
6 perform a sexual activity in the presence of the person
7 reasonably believed to be under the age of 18.

8 Ladies and gentlemen, the defendant is also charged
9 with attempting to disseminate obscene material to a
10 person under age 18. And an attempt is an effort to
11 accomplish a crime which does not succeed. An attempt
12 includes a specific intent to do a particular criminal act
13 along with the act falling short of the act intended. The
14 State must show more than mere preparation and intent,
15 there must be some overt act committed in the effort to
16 commit the crime. Intent means intending the result which
17 actually occurs, not accidentally or involuntarily. And
18 intent may be shown by acts or conduct of the defendant
19 and other circumstances from which you may naturally and
20 reasonably infer intent. The State must prove beyond a
21 reasonable doubt that the defendant knowingly attempted to
22 exhibit, present, rent, sell, deliver, provide, offer or
23 agree to exhibit, present, rent or provide any motion
24 picture, film, filmstrip, projection slide, sound
25 recording, sound tape, sound track, video tape or

1 recording or any material which is a representation,
2 description, performance or publication of the obscene.
3 The State must further prove beyond a reasonable doubt
4 that the defendant's intent was to disseminate the obscene
5 material to a person under eighteen years of age. For
6 purposes of this section it is not necessary that the
7 recipient actually be under the age of eighteen, only that
8 the defendant believed the intended recipient to be a
9 minor. Knowingly means having general knowledge of the
10 content of the material or performance or failing after
11 reasonable opportunity to exercise reasonable inspection
12 which would have shown the content of the material or
13 performance. Material is considered obscene if to the
14 average person applying contemporary community standards,
15 the material shows or describes sexual conduct in a
16 patently offensive way. Two, the average person applying
17 contemporary community standards relating to the showing
18 or description of sexual conduct would find that the
19 material taken as a whole appeals to the prurient interest
20 in sex. Three, to a reasonable person the material taken
21 as a whole, lacks serious literary, artistic, political or
22 scientific value and the material as used is not otherwise
23 protected or privileged under the constitution of the
24 United States or of this State. Many of the terms I have
25 just used in describing obscene material have special

1 definitions for purposes of this crime. Under this
2 statute, sexual conduct means, vaginal, anal or oral
3 intercourse whether actual or simulated, normal or
4 perverted, whether between human beings, animals or a
5 combination thereof. B. Masturbation, excretory functions
6 or lewd exhibition, actual or simulated of the genitals,
7 pubic hair or anus, including male or female genitals in a
8 state of sexual stimulation or arousal or covered male
9 genitals in a discernibly turgid state. C, An act or
10 condition that depicts actual or simulated touching,
11 caressing or fondling of or other similar physical
12 contact with the covered or exposed genitals, pubic or
13 anal regions, whether alone or between humans, animals, or
14 a human and an animal of the same or opposite sex, in an
15 act of actual or apparent sexual stimulation or
16 gratification. Patently offensive means obviously and
17 clear, disagreeable, objectionable, repugnant,
18 displeasing, distasteful or obnoxious to contemporary
19 standards of decency and propriety within the community.
20 Prurient interest means a shameful or morbid interest in
21 nudity, sex or excretions; it shows an arousal of lewd and
22 lascivious desires and thoughts. Person means any
23 individual, corporation, partnership, association, firm,
24 club or other legal or commercial entity. Nudity in and
25 of itself is not obscene. Materials showing or depicting

1 nude men and/or women may be provocative without being
2 obscene. Also the candid display of male or female
3 genitals is not, in and of itself, obscene. In other
4 words, sex and obscenity are not synonymous. Contemporary
5 community standards means the current modern standard
6 within Laurens County, South Carolina. In deciding
7 whether the materials in this case are obscene you are not
8 to base your decision on your personal tastes or personal
9 standards to which you think is obscene. Instead you must
10 decide whether the ordinary adult in this county would
11 find the materials to be obscene as I have defined that
12 term to you. The materials must be judged as a whole in
13 their entire context and you are not to consider separate
14 positions of the materials in reaching a conclusion as to
15 whether they are obscene.

16 Ladies and gentlemen, there are two possible verdicts
17 which you may find on the charge of indictment number
18 2009-GS-30-0126, count one, criminal solicitation of a
19 minor. Not guilty or guilty.

20 Once you have reached a verdict as to this charge you
21 must consider the charge under indictment number
22 2011-GS-30-354, attempted dissemination of obscene
23 material to a person under the age eighteen. On this
24 offense there are also two possible verdicts. Not guilty
25 and guilty.

1 There is no significance whatsoever in the order in
2 which I state the possible verdicts. It is simply that
3 one must be stated first. Ladies and gentlemen, your
4 verdict must be unanimous. All twelve of you must agree
5 on the verdict. Your decision must not be based on
6 sympathy, passion, prejudice or any other consideration
7 that is not in evidence in this case. Mr. Foreman, when
8 the jury reaches their verdict then you will write it on
9 this verdict form, number one, as to the solicitation of a
10 minor, not guilty or guilty. And number two, charge of
11 attempting dissemination of obscene material, not guilty
12 or guilty. And you will check which box you believe
13 applies after your deliberation. Then please knock on the
14 jury room door and inform the bailiff that you have
15 reached a verdict and you will then be received back here
16 in the courtroom for the publication of your verdict. I
17 ask that you go to your jury room but do not begin
18 deliberations as we still have some matters to take up
19 here in court. Thank you, ladies and gentlemen. If you
20 can take the alternate and pull her aside.

21 (Whereupon, the jury was excused from open court at
22 approximately 11:20 a.m.)

23 THE COURT: Are there any objections that have not
24 already been stated to the charge that was given to the
25 jury. From the State?

1 MR. FLORES: None from the State, Your Honor.

2 THE COURT: From the defense?

3 MR. WISE: Renew my objections and I am going to add
4 my number four after all, after I listed to the charge. I
5 think it is the nature of this case, it is important for
6 the jury to know that it is adult standard as to what is
7 obscene and not just the community. And secondly, I am
8 now up to about 65 or 75 percent of the exceptions under
9 the solicitation of a minor statute read, a, b d which we
10 discussed earlier. After listening to it I think it is
11 some confusion as to the, what the jury, how the jury
12 understands the statute and I think those three exceptions
13 have to be clarified.

14 THE COURT: I think the charge is sufficient and I am
15 going to respectfully deny your motion. Anything else we
16 need at this point?

17 MR. FLORES: No, sir.

18 THE COURT: If y'all could gather the information,
19 all the exhibits, make sure they are all there. Here is
20 the verdict form. Court will stand at ease pending the
21 call of the jury.

22 (Whereupon, the jury starts deliberations at
23 approximately 11:21 a.m.)

24 (Whereupon, the alternate was excused from the trial
25 of the case at approximately 11:22 a.m.)

1 THE COURT: I understand the jury has reached a
2 verdict. Please bring them in for publication.

3 (Whereupon, the jury came into open court with the
4 verdict at approximately 12:22 p.m.)

5 THE COURT: Mr. Foreman, has the jury reached a
6 verdict?

7 MR. FOREMAN: Yes, Your Honor.

8 THE COURT: Is it unanimous?

9 MR. FOREMAN: Yes, sir.

10 THE COURT: Please pass it up. Will the defendant
11 please stand. The verdict can be read.

12 CLERK OF COURT: Your Honor, in the case of State of
13 South Carolina versus Benjamin Maurice Rhodes, case number
14 2009-GS-30-126 and 2011-GS-30-354, as to the charge of the
15 solicitation of a minor, we, the jury, unanimously find
16 the defendant guilty.

17 As to the charge of attempted dissemination of
18 obscene material to a person under age eighteen. We, they
19 jury, unanimously find the defendant guilty. Dated this
20 19th day of June, 2013 signed by the Foreperson, Lauarence
21 A. Losh. Ladies and gentlemen, if that be your verdict
22 please indicate by raising your right hands.

23 (Whereupon, all jurors raised their hand.)

24 THE COURT: Thank you. Does the defense request
25 polling of the jury?

1 MR. WISE: We do, Your Honor.

2 THE COURT: Please poll the jury.

3 CLERK OF COURT: Ladies and gentlemen, the verdict
4 that I have just published was the verdict, the verdict
5 that I have just published was the verdict you reached in
6 the jury room. I ask you, was it your verdict then and is
7 it your verdict now. As I call your name please answer
8 yes or no..

9 THE CLERK: Lauarence A. Losh?

10 JUROR: Yes.

11 THE CLERK: Randall Ernest Satterfield?

12 JUROR: Yes.

13 THE CLERK: Jennifer N. Chappell?

14 JUROR: Yes.

15 THE CLERK: Lucille T. Brown?

16 JUROR: Yes.

17 THE CLERK: Julian L. Wilson?

18 JUROR: Yes.

19 THE CLERK: James B. Tate?

20 Juror: Ashley M. Hall?

21 JUROR: Yes.

22 THE CLERK: Rebecca S. Scott?

23 JUROR: Yes.

24 THE CLERK: Katie F. Holliday?

25 JUROR: Yes.

1 THE CLERK: Frances K. Klink?

2 JUROR: Yes.

3 THE CLERK: Teena M. Foy-Sullivan?

4 JUROR: Yes.

5 THE CLERK: Heather Holmes?

6 JUROR: Yes.

7 THE COURT: Thank you. Then the verdict stands.

8 Ladies and gentlemen, let me take this opportunity to
9 thank you for taking time to deliberate. A lot of
10 important things were going on in Laurens County over the
11 last three days but I can assure you nothing was more
12 important than making sure that justice is done and done
13 properly in this Court House. But, ladies and gentlemen,
14 I tell you no matter what your verdict was because I
15 appreciate what you have done by taking this case, listen
16 to it and I know that it is never, ever easy holding the
17 life of one your fellow citizens in your hands. This is
18 something that is often very difficult for people to do
19 but you did it. But again, if it had been the other way,
20 it is hard to get, my wife and I have a hard time agreeing
21 on things. So it is hard to get twelve people to agree on
22 anything. But y'all have took the time, you looked at the
23 evidence and as the Judge I appreciate you doing that
24 because you had your responsibility and I had mine. I
25 thought I did mine and now you have done yours. Ladies

1 and gentlemen, let me remind you that this counts as your
2 service on a jury so you can't serve for the next year and
3 you don't have to serve for the next three years if you
4 don't want to. Ladies and gentlemen, there is a lot of
5 speculation as to what makes America a great Country. The
6 one thing that most people believe makes it great is
7 people like y'all who took time out of whatever you had to
8 do in Laurens County and came in here, listened to the
9 evidence and came up with a verdict. They are going to
10 pay you \$20.00 dollars a day which is nothing compared to
11 what you have done for your community. So you should go
12 out of here with a sense of pride knowing that on the day
13 that you were called on to do your public service you did
14 it and you did it well. Now, ladies and gentlemen, you
15 found the defendant guilty and in about twenty minutes I
16 am going to sentence this defendant in accordance with
17 your verdict. You have been here for three days, if you
18 would like to sit out in the audience you are certainly
19 welcome to do that to see this to an end. If you would
20 like to go home and do whatever you want to do you are
21 welcome to do that too. But, ladies and gentlemen, before
22 you go I would like to have the opportunity to thank you
23 for your time and your efforts in this case. You are now
24 dismissed to do what you would like to do. If you need
25 work releases or excuse they will be glad to provide that

1 to you. Thank you, very much.

2 (Whereupon, the jury was excused from open court at
3 approximately 12:28 p.m.)

4 THE COURT: Are there any posttrial motions?

5 MR. WISE: Yes, I would move for a judgment
6 notwithstanding of the verdict of actually a new trial on
7 the grounds set forth during the course of the trial
8 including the failure to charge, my request to charge.

9 THE COURT: Mr. Flores?

10 MR. FLORES: Your Honor, I think there was ample
11 evidence to go the jury. This was clearly a jury question
12 and I think your rulings were proper throughout the course
13 of this trial.

14 THE COURT: I will respectfully deny your motion. I
15 will sentence him a quarter to 2:00 if you want some time
16 to talk to some family members.

17 MR. FLORES: Quarter to 2:00 or 1:00.

18 THE COURT: I am sorry, quarter to 1:00. Court will
19 be in recess until 12:45.

20 (Whereupon, a short break was taken.)

21 MR. FLORES: If I may approach, Your Honor?

22 THE COURT: You may.

23 MR. FLORES: The sentencing sheet.

24 THE COURT: Thank you. Anything from the Attorney
25 Generals' office?

1 MR. FLORES: No, Your Honor.

2 THE COURT: Mr. Wise.

3 MR. WISE: Your Honor, as I am sure you are aware,
4 the stringent requirements of probation for sex offender
5 is just really tough. And will probably have a bigger
6 impact on him than some other people. And, of course, now
7 he is going to have to register as a sex offender,
8 unfortunantley, for life which is probably going to get me
9 off of my duff and write my legislators and tell them they
10 need to have some procedure for getting people off. I
11 would like to kind of tell the Court a little bit about my
12 experience with Ben Rhodes. I first met him right after
13 he was arrested years ago, roughly, four and a half years
14 ago. We met and had a couple of court appearances early
15 on and then the case, I think, the Attorney General's
16 office was handling it and nothing happened for a couple
17 of years so I didn't see him. Maybe two years ago I got a
18 letter from Attorney General's office that they were
19 getting ready to try him so I wrote him and told him to
20 come by. Ben Rhodes showed up in my office then, was not
21 the Ben Rhodes that I first met. Just a different person,
22 more open person, more talkative. He showed up with
23 Reverend Petty when he came by the office and Reverend
24 Petty unfortunately had a commitment in Pageland today.
25 But he simply was not the same person and this is a theme,

1 as I told Reverend Petty in my office that day, this man
2 has grown up ten years in the last four. And that is
3 about the truth. He really seemed to mature an awful lot.
4 He lives with his mother, as his mother testified, has
5 been living with her basically since 2002. He is married
6 but separated from his wife at the present time. His
7 mother is disabled with rheumatoid arthritis and has been
8 for close to 20 years. He is the caretaker for her which
9 is one of the reasons he is living there. To his surprise
10 several years ago, well about two years ago, his nephew
11 came to live with him who is now four, cousin, excuse me.
12 But it is his cousin. His mother is a drug addict and
13 just been involved with drugs and was not taking care of
14 the child and over a period of time the child slowly came
15 to live with Ben and his mother virtually five to six
16 nights out of the week. The child has become very
17 attached to Ben. His name is Baron. Baron calls him
18 Bubba. Ben tells me that he never realized the affect a
19 young child can have on someone's life but with his
20 mother's disability he is primary the person that takes
21 Baron to the doctor and he does have some medical issues
22 that require going to the doctor a good bit living there
23 with his mother. We have here his mother, Ethel Price who
24 is his aunt who would like to talk. And then Mr. John
25 Young here in the back would like to say some words too.

1 We will start with Ms. Price. And, Ms. Price, you can
2 just tell His Honor how long you have known him and what
3 capacity and his association with other family members.

4 MS. PRICE: I had known Ben ever since he has been
5 born and he has always been a fine and outstanding around
6 me, not curse words, nothing. I have five children, two
7 boys and a girl. He was raised up with them and he was
8 always nice and caring with them. I have five
9 granddaughters and he has been with them and held them as
10 infants and done activities and different things with
11 them, around them. And he has never done any type of
12 things like that. And Ben is not the same person he was
13 when he committed this crime, he has changed.

14 MR. WISE: Mr. Young has known Ben only since a year
15 or two after this incident occurring. He has done
16 activities in the church, he testified on his behalf but
17 he did not testify about what Ben has been doing in the
18 church over the years and his belief as to the sincerity
19 of what Ben has done in the church. If you would, Mr.
20 Young.

21 MR. YOUNG: Yes, sir. In 2006 I came to South
22 Carolina from Florida. Somewhere around, I am sure the
23 exact years but Ben came to the church where I attend. He
24 came there, he came and accepted God. He has been active
25 in the church in all activities. I want to be careful

1 what I say because there is a crime that he committed, he
2 committed it before time he came to church. He did not
3 come to church, I do not believe, as a way to escape this
4 crime. But rather I believe he was sincere in what he
5 did. We also know there is a price to pay for everything
6 that we all do. I just like to say that I believe that he
7 is sincere with his commitment to Christ. He has had some
8 ups and downs with it and we have tried to help him. This
9 is a terrible thing that he has been committed, has been
10 committed but I believe that he has really tried to take
11 this child and raise this child. He has been there for
12 him.

13 THE COURT: You are talking about the four-year-old
14 cousin?

15 MR. YOUNG: Yes sir, for this four-year-old. He has
16 been there for this little four-year-old and he almost,
17 every church service he has been there and almost every
18 activity that we have at church. Again, you know, take
19 those things into consideration.

20 MR. WISE: Tell Your Honor some of the things he has
21 done in the church as far as helping out with the church.

22 MR. YOUNG: Well, we have had things, we have had
23 hotdog sales, various things like that to raise money.
24 When we need some muscle power, you know, to erect tents
25 and things for events he has been there to help to put

1 those up, take them down. He has always volunteered his
2 time just to help in everything that we have done. He has
3 been there as some of the muscle power and we appreciate
4 him for that.

5 MR. WISE: Has the church been aware of these pending
6 charges.

7 MR. YOUNG: Yes, sir.

8 MR. WISE: And how has the church accepted him even
9 knowing these charges were pending?

10 MR. YOUNG: It has been accepted. We took it and
11 have been very careful in having been made aware of what
12 he was facing on his charges. It was brought forward,
13 people knew it was, we took precautions as Reverend Petty
14 had talked about he was a bus driver. We made sure we put
15 measures there that everything would be safe and anyone,
16 all the children would be safe in the church. We never
17 saw any inappropriate from him while he was there.

18 THE COURT: Thank you.

19 MR. WISE: This is his mother who suffers from
20 rheumatoid arthritis.

21 THE COURT: Yes, ma'am.

22 MOTHER: I know what he did was wrong and I know that
23 he has got to pay for it. I am not dumb, he did it and he
24 was wrong. But Ben is a good person, he is not a bad
25 person, he don't try to hurt anybody. He doesn't try to

1 hurt children, he loves kids, he does anything he can for
2 our kids in the family. We take them together to the
3 park, we take them on picnics. We do anything we can for
4 the kids. He helps them with their homework when they
5 need it if they have questions. He has even started going
6 to Piedmont Tech trying to better himself. People down
7 there ask him for help with their homework and he does.
8 And he is not a bad person, he is a good person. He gives
9 where it is needed. I don't know where I would be if it
10 wasn't for Ben. And he has to come in the bathroom and
11 pick me up off of the toilet because I couldn't stand up
12 by myself. He has to pick up a fork and feed me because I
13 couldn't even lift a fork with my hands because of
14 fibromyalgia. People just don't know what he does to help
15 other people. And, Your Honor, I just pray to God that
16 you will take all of this into consideration. Thank you.

17 MR. WISE: Your Honor, with this conviction, he was
18 going to school at Piedmont Tech in radiology and when we
19 got notice when the trial was going to be in June he did
20 not sign up for the summer course because he knew with the
21 trial coming up there was no way he was going to be able
22 to study for school anyway. The idea of going into
23 radiology now is obviously probably not going to happen.
24 While he was out he worked for a year in the Boys Home.
25 He told them up front he had these charges pending. And

1 people there liked him, let him work there for roughly a
2 year and, somebody in the home office said, we need to
3 think better about this and we don't think he should work
4 there any more. And they let him go. He tells me that
5 that experience, working at the boys home, when you are
6 dealing with 12, 13, 14 year old boys, really has a
7 tremendous impact on him as far as that being something he
8 wanted to do for a living. And that is not going to
9 happen now. One of the tragedies that happen to him in
10 that is that he knew one young man from Spartanburg that
11 he got to know in the boys home and he tried to counsel
12 him by staying away from the bad elements he did. And
13 this kid was 16?

14 MR. RHODES: I believe he was 17, he was murdered
15 Thanksgiving Day and they found his remains just a few
16 months ago.

17 MR. WISE: This boy was murdered. I guess basically
18 kind of maybe this is something he could do but that is
19 not going to happen now. No one can predict the future
20 obviously. But from knowing him and talking to his family
21 and talking to people who have known him longer than I
22 have and what I have seen in him over the years
23 reoffending on this is so far down the list of things I
24 can see Ben Rhodes doing that it is just not on the radar.
25 I don't see ever, I never saw any indication that he was

1 in the least bit a danger to any young child. And
2 obviously showing from the fact that he has virtually no
3 criminal record, was out for four years and ten months
4 approximately and they didn't even pick up anything of any
5 significance. I don't know if he even got a speeding
6 ticket in that period of time. And that says something to
7 his ability to conform his actions to the requirements of
8 society. In trying to fathom a sentence in this case I
9 wish the Court would consider a type of home
10 incarceration. That would certainly enable him to
11 continue to care for his mother that needs that care. It
12 certainly would be a punishment for him if he had home
13 incarceration for a period of time, he would certainly
14 restrict his activities. And considering the fact that he
15 has no record, I think that would be a reasonable solution
16 to, what I consider a very unfortunate case. I don't know
17 what Your Honor's feelings on these type cases are but
18 there are just not many of them that I see where the
19 person really is a danger to another. Some people clearly
20 are but a lot of these cases they are a danger to
21 themselves, being just idiotic I guess is the only way to
22 put it. But I really think the chances of his reoffending
23 just is not--

24 THE COURT: It would certainly be of his peril.

25 MR. WISE: Peril is putting it kindly. What little

1 chance he has of doing things in life, obviously if he
2 reoffended would be totally gone on that.

3 THE COURT: Would you like to say anything to the
4 Court?

5 MR. RHODES: Yes sir, I am just sorry for everything
6 that I have done. I said back then, I was a bad drinker.
7 It is just, I made a mistake, this is a mistake I am
8 having to pay for for the rest of my life. Like I said, I
9 told family and friends at church, this is my thoughts, I
10 am going to have to bear it, guilty or innocence. I am
11 going to have to bear for the rest of my life.

12 THE COURT: And I understand that. And we all have
13 christian faith and believe there is total forgiveness in
14 our Lord. That is eternally. We live on the earth and I
15 am only a earthly Judge and I have to take into
16 consideration the charges that you were facing. There is
17 a sign on a friend of mine's house, it is so true. I just
18 wish kids would adhere to it more. The choices we make
19 today we will have an affect on the choices we get to make
20 tomorrow.

21 MR. RHODES: That is one of my main things that I
22 told the kids when I worked with the boys here in Laurens
23 County. I said, I am going to court for a crime that I
24 committed. I said, don't let your past dictate your
25 future. What you did in the past is in the past. I said

1 when you get out here go to school. There are
2 scholarships that are offered to kids that want to better
3 themselves. They had a GED program where the kids could
4 go there and a lot of times when I would go in like on
5 Sunday, like on the weekends they didn't have to be in bed
6 until a certain time. If they had any work to do or help
7 study toward a GED test and they always come to me. At
8 the time I was there I helped them out. I believe eight
9 to nine kids have gotten their GED from since I started to
10 then, sir.

11 THE COURT: And that is good. But I listened to the
12 testimony and certainly you have every right to try your
13 case. But I heard the testimony, I was just highly
14 offended. And apparently the jurors didn't buy that you
15 thought you were talking to someone else. They firmly
16 were convinced that you thought you were talking to a
17 13-year-old. The things that you were saying to someone
18 you thought was a 13-year-old troubles me greatly. Again,
19 that is when you have the trial and you get to hear all of
20 the evidence and I was shocked at some of the things that
21 I would think that you would say to a 13-year-old which,
22 again, it troubles me greatly. And I don't know what you
23 were going through in your life at that point and time.
24 But I am almost firmly convinced that the opportunity
25 might have presented itself, I don't know whether y'all

1 would have met or not. That wasn't part of the charge.
2 But certainly when given an opportunity to put a camera on
3 yourself you did not hesitate to do that. And, again, you
4 thought you were showing that to a 13-year-old. I mean, I
5 am not, there is going to be some time involved in this
6 and you are going, I think you may be on the right track
7 and each one carries up to ten years in jail. I don't
8 intend to give you a maximum sentence since this was your
9 first offense. But it was a serious first offense. So, I
10 will craft, just in a few minutes I am going to craft a
11 sentence that I believe serves the community, sends a
12 message to other people out there and takes into
13 consideration this is the only crime that you have
14 appeared to have committed. But, again, on those dates,
15 this wasn't a one day affair, this was over a period of
16 time and that gives me trouble as well. This isn't like
17 somebody who goes out and has a DUI one night and never
18 gets drunk again. This was over a long period of time.
19 And there was some grooming involved there, making her,
20 actually the Deputy, it was attempting grooming on your
21 part who you thought was a 13-year-old, conduces to the
22 things you wanted to have happen. So you made a bad
23 choice on those dates and now I am going to have to make a
24 choice at this point and time. Anything further from the
25 State?

1 MR. FLORES: No, Your Honor.

2 THE COURT: Anything further?

3 MR. WISE: Nothing further.

4 THE COURT: All right, Benjamin Maurice Rhodes, under
5 indictment 2009-GS-30-126 on the charge of criminal
6 solicitation of a minor. The sentence is that you be
7 committed to the State Department of Corrections for a
8 period of seven years and this is suspended upon your
9 serving two years active sentence followed by five years
10 of probation. And during that period you must attend
11 sexual offender counseling during your probationary
12 period.

13 Under indictment 2011-GS-30-354, attempted
14 dissemination of obscene material to a person under the
15 age eighteen. The sentence is you be committed to the
16 State Department of Corrections for a period of seven
17 years. This is suspended upon your active service of two
18 years followed by five years of probation. Because these
19 offenses happened in the same general time period I will
20 run them concurrently. Good luck, sir.

21 THE COURT: We have an exhibit that was made a Court
22 exhibit on behalf of Mr. Rauch Wise. Thank you.

23 (Whereupon, Court's Exhibit No. 1 was marked for
24 identification only.)

Co:

25 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

1 CERTIFICATE OF REPORTER

2

3

4 State of South Carolina)

5 County of Newberry)

6

7

8 I, Joy E. Holston, Official Court Reporter for the
9 Eighth Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete transcript of record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the County Laurens, South Carolina
14 on the day of June 17th, 2013.

15 I do further certify that I am neither of kin,
16 counsel nor interest to any party hereto.

17

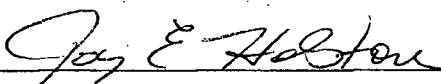
18

January 18, 2014

19

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21



22

Joy E. Holston, Court Reporter

23

My Commission expires: March 13, 2016

24

25



City of Clinton
Department of Public Safety
JOHN C. THOMAS
Director



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Clinton, South Carolina 29325 • Phone: (864) 833-7512 • Fax: (864) 833-7502 • Direct: (864) 833-7510



DATE: 7/22/08

TIME: 9:06 am

BR Before we ask you any questions, you must understand your rights.

BR You have the right to remain silent.

BR Anything you say can be used against you in court.

BR You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.

BR If you have no money to pay a lawyer's fee, the court will appoint one to represent you without cost if you wish.

BR If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

WAIVER OF RIGHTS

BR I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signed Benjamin Rhoads

Witnesses Capt. R. H.

Time _____

#2 ECD
DD

To the parents of Kris Kasey.

I'm writing this letter to apologize for the things that I've said to your daughter. I know that it was wrong for me to say the things that I did. If I caused you any harm or pain, I'm truly sorry from the bottom of my heart. Please forgive me for what I have done. You will not have to worry about me talking to your daughter any more. When this is all done, I will never own another computer, so I will not commit an act like this again.

Sincerely,
Ben Rhodes

STATE'S
EXHIBIT#3 E00
30

big_ben29325 (07:16:14 PM): hi, how are you this evening
sc_kriscr8zygurl (07:16:23 PM): hey
big_ben29325 (07:16:35 PM): how are you this evening
sc_kriscr8zygurl (07:16:38 PM): im ok
big_ben29325 (07:16:45 PM): thats cool
big_ben29325 (07:16:48 PM): what are you up to this evening
sc_kriscr8zygurl (07:17:02 PM): nothing stay warm
big_ben29325 (07:17:21 PM): i hear ya, you need any help
big_ben29325 (07:17:21 PM): lol
sc_kriscr8zygurl (07:17:49 PM): depends
big_ben29325 (07:18:20 PM): depends on what
sc_kriscr8zygurl (07:18:42 PM): whatch talkin bout
big_ben29325 (07:18:54 PM): id come there and cuddle with you and keep you warm
sc_kriscr8zygurl (07:19:13 PM): really i dlike that
big_ben29325 (07:19:19 PM): so, where are you from
sc_kriscr8zygurl (07:19:22 PM): IWink!
big_ben29325 (07:19:47 PM): where are you from
sc_kriscr8zygurl (07:19:57 PM): clinton
big_ben29325 (07:20:00 PM): no way
sc_kriscr8zygurl (07:20:03 PM): yup
big_ben29325 (07:20:06 PM): me too
sc_kriscr8zygurl (07:20:10 PM): no way
big_ben29325 (07:20:12 PM): way
big_ben29325 (07:20:17 PM): you have a pic or a cam
sc_kriscr8zygurl (07:20:17 PM): u liein
big_ben29325 (07:20:27 PM): i dont lie
big_ben29325 (07:20:31 PM): i really am from clinton
sc_kriscr8zygurl (07:20:47 PM): that so cool
big_ben29325 (07:20:53 PM): yes it is
big_ben29325 (07:20:57 PM): so, how old are ya
sc_kriscr8zygurl (07:21:02 PM): im 13
big_ben29325 (07:21:09 PM): ah, im 30
sc_kriscr8zygurl (07:21:21 PM): i new to good be true
big_ben29325 (07:21:30 PM): tell me about it
sc_kriscr8zygurl (07:21:45 PM): bummer
big_ben29325 (07:21:50 PM): only if you were older and i was younger
big_ben29325 (07:21:56 PM): but we can still chat, if thats cool
sc_kriscr8zygurl (07:22:01 PM): that cool
big_ben29325 (07:22:20 PM): so, whats your name
sc_kriscr8zygurl (07:22:33 PM): i catherine but frined call me kris
big_ben29325 (07:22:42 PM): im ben, nice to meet you
sc_kriscr8zygurl (07:22:55 PM): i glad i met u 2
big_ben29325 (07:23:07 PM): what do you look like if i may ask
sc_kriscr8zygurl (07:23:28 PM): ok i got reddish hair grn eye
big_ben29325 (07:23:33 PM): cool
sc_kriscr8zygurl (07:23:36 PM): not fat
sc_kriscr8zygurl (07:23:39 PM): jus regular
big_ben29325 (07:23:45 PM): nice
sc_kriscr8zygurl (07:23:48 PM): how bout u
big_ben29325 (07:24:07 PM): im about 6'4", 270 lbs, brown eyes and hair, glasses and 3 tattoos
sc_kriscr8zygurl (07:24:17 PM): cool wat kind
big_ben29325 (07:24:46 PM): i have a tribal, barbed wire and a biohazard sign
sc_kriscr8zygurl (07:25:03 PM): lol toxic
big_ben29325 (07:25:26 PM): nah
sc_kriscr8zygurl (07:25:45 PM): did they hurt
sc_kriscr8zygurl (07:25:51 PM): wat it feel llike

big_ben29325 (07:26:02 PM): feels good
 sc_kriscr8zygurl (07:26:08 PM): really
 big_ben29325 (07:26:22 PM): it hurts at first, then it gets better
 sc_kriscr8zygurl (07:26:33 PM): i think they cool
 sc_kriscr8zygurl (07:26:39 PM): i want 1 2
 big_ben29325 (07:26:45 PM): cool
 sc_kriscr8zygurl (07:27:26 PM): i want like buttrfly or sumthing like flower
 big_ben29325 (07:27:40 PM): those are cool
 sc_kriscr8zygurl (07:28:35 PM): i jus scared they hurt
 big_ben29325 (07:29:00 PM): they dont hurt too bad
 sc_kriscr8zygurl (07:29:10 PM): how old u gotta b
 big_ben29325 (07:29:18 PM): 18
 sc_kriscr8zygurl (07:30:46 PM): long way go
 big_ben29325 (07:30:52 PM): yes you do
 sc_kriscr8zygurl (07:31:50 PM): oh well
 big_ben29325 (07:32:15 PM): anything that you wanna know about me
 sc_kriscr8zygurl (07:33:11 PM): hum like wat u do for fun
 big_ben29325 (07:33:25 PM): play pool, bowl, hunt, fish, and other fun things
 sc_kriscr8zygurl (07:34:11 PM): well i like hangin out by pool in sumer
 sc_kriscr8zygurl (07:34:16 PM): chillin
 big_ben29325 (07:34:25 PM): cool
 sc_kriscr8zygurl (07:35:37 PM): where u live at
 sc_kriscr8zygurl (07:35:45 PM): i stay at westchase
 big_ben29325 (07:35:46 PM): lydia mill
 sc_kriscr8zygurl (07:35:58 PM): that over by bell street
 big_ben29325 (07:36:01 PM): yeah
 sc_kriscr8zygurl (07:36:05 PM): cool
 big_ben29325 (07:36:43 PM): westchase is right near lydia mill
 sc_kriscr8zygurl (07:37:06 PM): no
 sc_kriscr8zygurl (07:37:22 PM): it like next family dollar
 big_ben29325 (07:37:25 PM): oh ok
 sc_kriscr8zygurl (07:37:48 PM): u no wher it at
 big_ben29325 (07:37:54 PM): yes i do
 sc_kriscr8zygurl (07:38:00 PM): next old folk home
 sc_kriscr8zygurl (07:38:01 PM): lol
 big_ben29325 (07:38:05 PM): i know where that is
 big_ben29325 (07:38:14 PM): you home alone and want me to come over
 big_ben29325 (07:38:17 PM): lol, just kidding
 sc_kriscr8zygurl (07:38:44 PM): lol i wish
 big_ben29325 (07:39:24 PM): lol
 sc_kriscr8zygurl (07:40:05 PM): a gurl can dream
 big_ben29325 (07:40:14 PM): yes and i guy can dream too
 big_ben29325 (07:40:15 PM): lol
 sc_kriscr8zygurl (07:40:35 PM): yup
 sc_kriscr8zygurl (07:40:42 PM): IWink!
 big_ben29325 (07:40:48 PM): if you were older, what would you like to do
 sc_kriscr8zygurl (07:41:47 PM): well gurl stuff 4 sure
 big_ben29325 (07:41:58 PM): like what
 sc_kriscr8zygurl (07:42:37 PM): hanging out wid guys
 sc_kriscr8zygurl (07:42:40 PM): and stuff
 sc_kriscr8zygurl (07:43:30 PM): what u like
 sc_kriscr8zygurl (07:43:56 PM): i like party
 sc_kriscr8zygurl (07:43:58 PM): have fun
 big_ben29325 (07:44:06 PM): id love to party with you
 sc_kriscr8zygurl (07:44:11 PM): me 2
 sc_kriscr8zygurl (07:44:18 PM): be fun

sc_kriscr8zygurl (07:45:26 PM): u ther
big_ben29325 (07:45:31 PM): im here
sc_kriscr8zygurl (07:45:35 PM): oh ok
big_ben29325 (07:45:42 PM): just thinking
sc_kriscr8zygurl (07:45:49 PM): of wat
big_ben29325 (07:46:01 PM): stuff
sc_kriscr8zygurl (07:46:07 PM): good or bad
sc_kriscr8zygurl (07:46:12 PM): !Big Grin!
big_ben29325 (07:46:13 PM): both
sc_kriscr8zygurl (07:46:16 PM): k
sc_kriscr8zygurl (07:46:18 PM): me 2
big_ben29325 (07:46:24 PM): !Wink! !Devill! !Angell
big_ben29325 (07:46:33 PM): mine are more bad than anything
sc_kriscr8zygurl (07:46:43 PM): lol mine 2
sc_kriscr8zygurl (07:46:48 PM): i no im bad
big_ben29325 (07:46:58 PM): what are you thinking
sc_kriscr8zygurl (07:47:06 PM): cant say
sc_kriscr8zygurl (07:47:10 PM): to bad
big_ben29325 (07:47:13 PM): yes you can, tell me
sc_kriscr8zygurl (07:47:20 PM): u tell first
sc_kriscr8zygurl (07:47:26 PM): then i tell
big_ben29325 (07:47:49 PM): just thinking that if you were older, id love to meet you and get naked with you
big_ben29325 (07:47:49 PM): lol
sc_kriscr8zygurl (07:48:10 PM): lol u got b readin my mind
sc_kriscr8zygurl (07:48:19 PM): cuz that same i thinkin
big_ben29325 (07:48:29 PM): really
sc_kriscr8zygurl (07:48:31 PM): yup
sc_kriscr8zygurl (07:49:07 PM): that ok
big_ben29325 (07:49:08 PM): what would you do to me, if you were older
big_ben29325 (07:49:11 PM): thats cool
sc_kriscr8zygurl (07:49:14 PM): cool
big_ben29325 (07:49:20 PM): what would you do to me, if you were older
sc_kriscr8zygurl (07:49:35 PM): well be honest i aint got eperience like u do
sc_kriscr8zygurl (07:49:43 PM): so i not sure
sc_kriscr8zygurl (07:49:49 PM): but no it be fun
big_ben29325 (07:50:00 PM): yes it would be fun
sc_kriscr8zygurl (07:50:21 PM): guess ud be my teacher lol
big_ben29325 (07:50:30 PM): yes i would
sc_kriscr8zygurl (07:50:36 PM): that be cool
big_ben29325 (07:50:51 PM): id love to teach you
sc_kriscr8zygurl (07:51:07 PM): i be good studnet
sc_kriscr8zygurl (07:51:26 PM): and do my homewerk
sc_kriscr8zygurl (07:51:28 PM): lol
big_ben29325 (07:51:48 PM): id love to meet you when you get older
sc_kriscr8zygurl (07:52:10 PM): me 2
sc_kriscr8zygurl (07:52:26 PM): !Devill
big_ben29325 (07:52:51 PM): im getting worked up now
sc_kriscr8zygurl (07:53:04 PM): that ok
sc_kriscr8zygurl (07:53:11 PM): !Blushing!
sc_kriscr8zygurl (07:53:14 PM): me 2
big_ben29325 (07:53:26 PM): i really with that you were older
sc_kriscr8zygurl (07:53:46 PM): me 2
sc_kriscr8zygurl (07:53:52 PM): it not fair
big_ben29325 (07:53:58 PM): i know
sc_kriscr8zygurl (07:54:07 PM): so u aint got gf

big_ben29325 (07:54:15 PM): nope, im single
sc_kriscr8zygurl (07:54:18 PM): me 2
big_ben29325 (07:54:23 PM): sweet
sc_kriscr8zygurl (07:54:28 PM): yup
sc_kriscr8zygurl (07:54:41 PM): except my bf dump me 4 nother gurl
big_ben29325 (07:55:17 PM): thats not cool
sc_kriscr8zygurl (07:55:30 PM): nope sucks
big_ben29325 (07:55:48 PM): yes it does
sc_kriscr8zygurl (07:56:06 PM): make me feel bad like i no good
big_ben29325 (07:57:20 PM): ah
sc_kriscr8zygurl (07:57:54 PM): i no
sc_kriscr8zygurl (07:57:58 PM): bummer
big_ben29325 (07:58:15 PM): if you were older, id show you my naked cam
sc_kriscr8zygurl (07:58:24 PM): u got 1 for reel
big_ben29325 (07:58:35 PM): yes i got a cam
sc_kriscr8zygurl (07:58:48 PM): i aint never seen o
sc_kriscr8zygurl (07:58:50 PM): 1
big_ben29325 (07:58:54 PM): oh
sc_kriscr8zygurl (07:58:56 PM): yup
big_ben29325 (07:59:06 PM): when you get older, ill show you
big_ben29325 (07:59:06 PM): lol
sc_kriscr8zygurl (07:59:13 PM): ok promise
big_ben29325 (07:59:34 PM): promise, but by then, you will have already seen one
sc_kriscr8zygurl (07:59:42 PM): u prob right
sc_kriscr8zygurl (08:00:01 PM): like how much older i gotta b
big_ben29325 (08:00:09 PM): 15 to 16
big_ben29325 (08:00:10 PM): lol
sc_kriscr8zygurl (08:00:18 PM): oh ok
sc_kriscr8zygurl (08:00:24 PM): that long time
big_ben29325 (08:00:29 PM): i know
sc_kriscr8zygurl (08:00:31 PM): u wont memer me
big_ben29325 (08:00:52 PM): yes i will
big_ben29325 (08:01:00 PM): id love to show it to you in person
big_ben29325 (08:01:01 PM): lol
sc_kriscr8zygurl (08:01:14 PM): sound good 2 me
sc_kriscr8zygurl (08:01:28 PM): i like u lots
sc_kriscr8zygurl (08:01:44 PM): i see ur pic u look good
big_ben29325 (08:01:44 PM): cool
big_ben29325 (08:01:48 PM): thanks
sc_kriscr8zygurl (08:01:55 PM): yw
big_ben29325 (08:03:12 PM): what would you do if i showed you in person
sc_kriscr8zygurl (08:03:25 PM): lol wat ever u wanted
big_ben29325 (08:03:39 PM): what would you wanna do
big_ben29325 (08:03:44 PM): ill let you do anything
sc_kriscr8zygurl (08:04:16 PM): anythin
sc_kriscr8zygurl (08:04:36 PM): well ud have show me wat do cuz i aint dun it all b4
sc_kriscr8zygurl (08:04:49 PM): i do whatever be fun
big_ben29325 (08:05:01 PM): so, when you wanna meet then
big_ben29325 (08:05:02 PM): lol
sc_kriscr8zygurl (08:04:51 PM): hum
sc_kriscr8zygurl (08:05:04 PM): for real i d sneak out
big_ben29325 (08:05:31 PM): i dont want you to sneak out and get in trouble
sc_kriscr8zygurl (08:05:46 PM): i dun it b4 to go friend house
sc_kriscr8zygurl (08:05:52 PM): got caught once
sc_kriscr8zygurl (08:05:55 PM): lol
big_ben29325 (08:05:59 PM): where would you meet me at

sc_kriscr8zygurl (08:06:03 PM): i dunno
sc_kriscr8zygurl (08:06:12 PM): car wash
sc_kriscr8zygurl (08:06:16 PM): at top road
big_ben29325 (08:06:32 PM): you tell me and ill meet you there one night
sc_kriscr8zygurl (08:06:41 PM): tonight
sc_kriscr8zygurl (08:06:44 PM): ?
big_ben29325 (08:06:52 PM): cant tonight
sc_kriscr8zygurl (08:06:57 PM): ok
sc_kriscr8zygurl (08:06:59 PM): when ever
sc_kriscr8zygurl (08:07:04 PM): u tell me
big_ben29325 (08:07:04 PM): you tell me
sc_kriscr8zygurl (08:07:15 PM): morrow night
big_ben29325 (08:07:22 PM): i just dont wanna get into any trouble
sc_kriscr8zygurl (08:07:29 PM): like how
sc_kriscr8zygurl (08:07:35 PM): i aint tellin nuthin
big_ben29325 (08:07:57 PM): saying that i tried to rape you or anything like that
sc_kriscr8zygurl (08:08:03 PM): no way
sc_kriscr8zygurl (08:08:15 PM): i willin
sc_kriscr8zygurl (08:08:16 PM): lol
big_ben29325 (08:08:23 PM): really
sc_kriscr8zygurl (08:08:29 PM): yup
big_ben29325 (08:08:44 PM): cool
sc_kriscr8zygurl (08:09:01 PM): coo
sc_kriscr8zygurl (08:09:12 PM): i jus hope u dont get mad
sc_kriscr8zygurl (08:09:19 PM): cuz i dont no everthin
big_ben29325 (08:09:20 PM): mad about what
sc_kriscr8zygurl (08:09:59 PM): maybe not be good enuff 4 u
big_ben29325 (08:10:08 PM): you will
sc_kriscr8zygurl (08:10:30 PM): like wat u gonna do when we c each other
sc_kriscr8zygurl (08:10:57 PM): cuz i dont want u to be crazy killer person on here
big_ben29325 (08:11:05 PM): im not like that
sc_kriscr8zygurl (08:11:07 PM): i might be lil scared at first
big_ben29325 (08:11:12 PM): its cool
big_ben29325 (08:11:33 PM): we can wait until you are not scared
sc_kriscr8zygurl (08:11:36 PM): ok
sc_kriscr8zygurl (08:11:42 PM): that cool
sc_kriscr8zygurl (08:11:56 PM): i live wid that
sc_kriscr8zygurl (08:12:18 PM): so wat u like
big_ben29325 (08:12:27 PM): like as in what
sc_kriscr8zygurl (08:12:35 PM): person
big_ben29325 (08:12:57 PM): im cool, and laid back
sc_kriscr8zygurl (08:13:15 PM): c\me 3
sc_kriscr8zygurl (08:13:24 PM): cant type
sc_kriscr8zygurl (08:13:26 PM): me 2
sc_kriscr8zygurl (08:13:30 PM): lol
big_ben29325 (08:13:56 PM): its cool
sc_kriscr8zygurl (08:14:25 PM): wat u wanna no bout me
big_ben29325 (08:14:58 PM): anything that you wanna tell me
big_ben29325 (08:15:22 PM): you got a big ass
big_ben29325 (08:15:22 PM): lol
sc_kriscr8zygurl (08:15:32 PM): lol no i aint
sc_kriscr8zygurl (08:15:38 PM): that good or bad
big_ben29325 (08:15:41 PM): its cool
sc_kriscr8zygurl (08:15:55 PM): i got one it aint flat lol
big_ben29325 (08:16:04 PM): sweet
sc_kriscr8zygurl (08:16:14 PM): it nit bubble but tho

sc_kriscr8zygurl (08:16:33 PM): not lot junk in trunk
sc_kriscr8zygurl (08:16:37 PM): jus right
big_ben29325 (08:16:39 PM): its cool
big_ben29325 (08:16:47 PM): i might wanna rub it
big_ben29325 (08:16:47 PM): lol
sc_kriscr8zygurl (08:16:58 PM): sweeeeeeeeeeeet
big_ben29325 (08:17:31 PM): you would like that
sc_kriscr8zygurl (08:17:38 PM): i no i would
sc_kriscr8zygurl (08:17:45 PM): !Love!
sc_kriscr8zygurl (08:18:31 PM): and
big_ben29325 (08:19:16 PM): i might wanna kiss and lick it
sc_kriscr8zygurl (08:19:35 PM): that be reel fun 4 sure
sc_kriscr8zygurl (08:20:16 PM): and
big_ben29325 (08:20:35 PM): anything else you would like
sc_kriscr8zygurl (08:21:17 PM): well see
big_ben29325 (08:21:40 PM): what else would you like
sc_kriscr8zygurl (08:21:53 PM): like it all
sc_kriscr8zygurl (08:22:06 PM): cuz i aint dun it all b4
big_ben29325 (08:22:16 PM): oh ok
sc_kriscr8zygurl (08:22:26 PM): wont hurt wil it
sc_kriscr8zygurl (08:22:32 PM): be nice
big_ben29325 (08:22:40 PM): no
sc_kriscr8zygurl (08:22:46 PM): promise
big_ben29325 (08:22:57 PM): yes
sc_kriscr8zygurl (08:23:08 PM): awesome
sc_kriscr8zygurl (08:23:39 PM): i be lil scared tho but i no it be ok
sc_kriscr8zygurl (08:23:51 PM): first time anyways
sc_kriscr8zygurl (08:24:05 PM): like how many time u do it b4
big_ben29325 (08:24:12 PM): lots
big_ben29325 (08:24:13 PM): lol
sc_kriscr8zygurl (08:24:20 PM): that cool
sc_kriscr8zygurl (08:24:26 PM): no wat u doing
sc_kriscr8zygurl (08:24:30 PM): lol
big_ben29325 (08:24:43 PM): playing with myself
big_ben29325 (08:24:43 PM): lol
sc_kriscr8zygurl (08:24:47 PM): now
sc_kriscr8zygurl (08:24:55 PM): cuz of me
sc_kriscr8zygurl (08:25:02 PM): !Devill
big_ben29325 (08:25:27 PM): maybe
sc_kriscr8zygurl (08:25:48 PM): awwwwwwwww
sc_kriscr8zygurl (08:26:01 PM): i bet ur
big_ben29325 (08:26:25 PM): what if i said, i wanna put it in your ass
big_ben29325 (08:26:26 PM): lol
sc_kriscr8zygurl (08:26:42 PM): oh my i dunno
sc_kriscr8zygurl (08:26:45 PM): u dun that b4
big_ben29325 (08:26:49 PM): yes
sc_kriscr8zygurl (08:26:52 PM): is it ok
sc_kriscr8zygurl (08:27:01 PM): that wat grown up dp
sc_kriscr8zygurl (08:27:02 PM): do
big_ben29325 (08:27:10 PM): kinda hurts at first but it feels good
sc_kriscr8zygurl (08:27:20 PM): maybe
sc_kriscr8zygurl (08:27:25 PM): i let u
sc_kriscr8zygurl (08:27:28 PM): i not sure
big_ben29325 (08:28:06 PM): cool
sc_kriscr8zygurl (08:28:09 PM): u mad
sc_kriscr8zygurl (08:28:13 PM): cuz i dont no

big_ben29325 (08:28:19 PM): im not mad
sc_kriscr8zygurl (08:28:30 PM): ill let u long as u dont get mad
big_ben29325 (08:28:39 PM): i dont get mad
sc_kriscr8zygurl (08:28:47 PM): ok good
sc_kriscr8zygurl (08:28:56 PM): make me feel better
big_ben29325 (08:29:10 PM): how
sc_kriscr8zygurl (08:29:33 PM): cuz i no u wont get mad at me now and hurt me
big_ben29325 (08:29:45 PM): im not gonna hurt ya
sc_kriscr8zygurl (08:29:53 PM): ok jus makin sure
sc_kriscr8zygurl (08:29:58 PM): lot crazys out here
big_ben29325 (08:30:55 PM): i know
sc_kriscr8zygurl (08:31:09 PM): k
big_ben29325 (08:31:38 PM): you got big boobs
big_ben29325 (08:31:39 PM): lol
sc_kriscr8zygurl (08:31:53 PM): they ok 32b
sc_kriscr8zygurl (08:32:01 PM): not huge
sc_kriscr8zygurl (08:32:01 PM): lol
big_ben29325 (08:32:06 PM): id love to see them now
sc_kriscr8zygurl (08:32:27 PM): lol id show ya
sc_kriscr8zygurl (08:32:41 PM): lWinkl
big_ben29325 (08:32:55 PM): really
sc_kriscr8zygurl (08:33:01 PM): u no i would
big_ben29325 (08:33:03 PM): when we meet, you can show me
big_ben29325 (08:33:04 PM): lol
sc_kriscr8zygurl (08:33:09 PM): ok
sc_kriscr8zygurl (08:33:48 PM): quick peek
big_ben29325 (08:33:53 PM): yeah
sc_kriscr8zygurl (08:34:08 PM): u laugh cuz they small
big_ben29325 (08:34:13 PM): no way
sc_kriscr8zygurl (08:34:27 PM): u beter not i wont show u again
big_ben29325 (08:35:08 PM): id love to cum all over them
sc_kriscr8zygurl (08:35:42 PM): that make u happy cool
big_ben29325 (08:35:47 PM): yes
big_ben29325 (08:36:14 PM): well, im about to head off to bed been up since 2 this morning
sc_kriscr8zygurl (08:36:33 PM): so soon it like 830
big_ben29325 (08:36:52 PM): yes., i had to work this morning and i had to get up at 2 this morning
sc_kriscr8zygurl (08:37:08 PM): ok u gonna tlk me agian
big_ben29325 (08:37:20 PM): yes
sc_kriscr8zygurl (08:37:26 PM): ok
sc_kriscr8zygurl (08:37:35 PM): then night night



BUZZ!!!

sc_kriscr8zygurl (05:30:09 PM): hey

big_ben29325 (05:30:14 PM): how are you

sc_kriscr8zygurl (05:30:39 PM): great now

sc_kriscr8zygurl (05:30:40 PM): lol

big_ben29325 (05:30:49 PM): cool

sc_kriscr8zygurl (05:31:10 PM): wat u been doin today

big_ben29325 (05:31:18 PM): nothing, just sleeping

sc_kriscr8zygurl (05:31:33 PM): i took nap after school to

big_ben29325 (05:32:14 PM): cool

sc_kriscr8zygurl (05:32:31 PM): y u sign out u still ther

sc_kriscr8zygurl (05:34:07 PM): i gotta go ill be back round 7 or 8 ok

STATE'S
EXHIBIT

big_ben29325 (08:30:05 PM): hey there, how are you
sc_kriscr8zygurl (08:32:06 PM): hey wher u go other day
big_ben29325 (08:32:19 PM): out for a little while
sc_kriscr8zygurl (08:32:41 PM): oh ok
sc_kriscr8zygurl (08:32:44 PM): that cool
big_ben29325 (08:33:04 PM): so, what are you up to tonight
sc_kriscr8zygurl (08:33:26 PM): nuthin jus got finish washing dishes
big_ben29325 (08:33:33 PM): cool
sc_kriscr8zygurl (08:33:37 PM): wat u been doin
big_ben29325 (08:33:42 PM): nothing
sc_kriscr8zygurl (08:33:43 PM): not cool i hate it
sc_kriscr8zygurl (08:35:17 PM): u there
big_ben29325 (08:35:20 PM): im here
big_ben29325 (08:35:23 PM): what are you up to tonight
sc_kriscr8zygurl (08:36:12 PM): nuthin waitin for sumbody talk to me im bored as heck
big_ben29325 (08:36:20 PM): same here
big_ben29325 (08:36:25 PM): what you been doing today
sc_kriscr8zygurl (08:36:44 PM): well i went school then come home
sc_kriscr8zygurl (08:36:49 PM): did homework
sc_kriscr8zygurl (08:37:01 PM): been lazy laying round
sc_kriscr8zygurl (08:37:11 PM): lol now im on here
big_ben29325 (08:37:22 PM): cool
sc_kriscr8zygurl (08:37:32 PM): wat u been doin
big_ben29325 (08:37:42 PM): nothing, just sleeping all day
sc_kriscr8zygurl (08:37:56 PM): aw u miss me
big_ben29325 (08:38:14 PM): yeah
sc_kriscr8zygurl (08:38:28 PM): cool
sc_kriscr8zygurl (08:38:32 PM): i miss u 2
sc_kriscr8zygurl (08:40:16 PM): u quiet
big_ben29325 (08:40:33 PM): im talking to other people
sc_kriscr8zygurl (08:40:54 PM): u mean i aint the only 1 !Sad!
big_ben29325 (08:41:00 PM): no
sc_kriscr8zygurl (08:41:51 PM): well
sc_kriscr8zygurl (08:42:25 PM): i no i just kid and u dont really care u just playin
sc_kriscr8zygurl (08:44:55 PM): i sry us kiddin



big_ben29325 (10:26:39 PM): hey there, what you doing
sc_kriscr8zygurl (10:26:52 PM): hey nuthin
sc_kriscr8zygurl (10:26:58 PM): dont want go bed
big_ben29325 (10:27:05 PM): dont go then
sc_kriscr8zygurl (10:27:28 PM): i aint
sc_kriscr8zygurl (10:27:43 PM): gona try play sick morrow
big_ben29325 (10:27:49 PM): cool
sc_kriscr8zygurl (10:28:24 PM): wat ya been doin
big_ben29325 (10:28:33 PM): nothing
sc_kriscr8zygurl (10:29:07 PM): i thoug u wuz mad at me
sc_kriscr8zygurl (10:29:20 PM): u didnt talk the other day
big_ben29325 (10:29:20 PM): nah
big_ben29325 (10:29:30 PM): just been busy
sc_kriscr8zygurl (10:29:46 PM): oh ok
sc_kriscr8zygurl (10:30:37 PM): u been new sonic yet
sc_kriscr8zygurl (10:30:44 PM): it good got good ice cream
big_ben29325 (10:30:48 PM): yes
sc_kriscr8zygurl (10:32:48 PM): any new tatto
big_ben29325 (10:32:53 PM): nah
sc_kriscr8zygurl (10:33:44 PM): i glad u on here cool talkin sumbody from clinton

STATE'S
EXHIBIT

big_ben29325 (06:38:55 PM): hi, how are you
 sc_krischr8zygurl (06:39:14 PM): hey
 big_ben29325 (06:39:21 PM): what are you up to
 sc_krischr8zygurl (06:39:31 PM): nuthin bored
 sc_krischr8zygurl (06:39:39 PM): what bout u
 big_ben29325 (06:39:48 PM): nothing about to go to bed soon
 sc_krischr8zygurl (06:39:57 PM): wow u go bed' early
 big_ben29325 (06:40:16 PM): i have to be at work 345 in the morning
 sc_krischr8zygurl (06:40:22 PM): oh yeah i member now
 sc_krischr8zygurl (06:40:41 PM): 2 early!!!!!!
 big_ben29325 (06:40:45 PM): i know
 sc_krischr8zygurl (06:41:19 PM): u in clinotn right
 big_ben29325 (06:41:32 PM): yeah
 sc_krischr8zygurl (06:41:46 PM): ok i member talkin 2 ya'
 sc_krischr8zygurl (06:41:51 PM): been long time tho
 big_ben29325 (06:41:56 PM): i know
 sc_krischr8zygurl (06:42:08 PM): !Sad!
 big_ben29325 (06:42:20 PM): what you doing
 sc_krischr8zygurl (06:42:38 PM): watching litle people
 big_ben29325 (06:42:43 PM): cool
 sc_krischr8zygurl (06:43:01 PM): killin time
 big_ben29325 (06:43:13 PM): cool
 big_ben29325 (06:44:04 PM): wanna know what im doing
 sc_krischr8zygurl (06:44:31 PM): whatch doin
 big_ben29325 (06:44:38 PM): playing with myself
 big_ben29325 (06:44:39 PM): lol
 sc_krischr8zygurl (06:44:44 PM): lol
 sc_krischr8zygurl (06:44:48 PM): really
 big_ben29325 (06:44:52 PM): yeah
 sc_krischr8zygurl (06:44:55 PM): huh
 sc_krischr8zygurl (06:45:11 PM): !Blushing!
 big_ben29325 (06:45:30 PM): wanna join me
 big_ben29325 (06:45:32 PM): lol, just kidding
 sc_krischr8zygurl (06:45:41 PM): well . . .
 sc_krischr8zygurl (06:45:53 PM): maybe
 big_ben29325 (06:45:57 PM): really
 sc_krischr8zygurl (06:46:05 PM): be fun
 big_ben29325 (06:46:22 PM): yes it would, but i dont wanna get in trouble
 sc_krischr8zygurl (06:46:30 PM): like how
 big_ben29325 (06:46:58 PM): i dont want you to tell on me or your parents find out
 sc_krischr8zygurl (06:47:19 PM): lol i want tell then id get in trouble
 sc_krischr8zygurl (06:47:30 PM): !Big Grin!
 big_ben29325 (06:47:35 PM): true
 big_ben29325 (06:47:48 PM): say i do want you to join me, what would you do
 big_ben29325 (06:47:49 PM): lol
 sc_krischr8zygurl (06:48:13 PM): whatever u wanted
 sc_krischr8zygurl (06:48:15 PM): lol
 big_ben29325 (06:48:28 PM): really now
 sc_krischr8zygurl (06:48:36 PM): yup
 big_ben29325 (06:48:43 PM): no one can see what im writing can they
 sc_krischr8zygurl (06:48:50 PM): no im in my room
 sc_krischr8zygurl (06:48:55 PM): byself
 big_ben29325 (06:48:56 PM): really
 sc_krischr8zygurl (06:48:59 PM): yup
 big_ben29325 (06:49:15 PM): wish that i could join ya
 sc_krischr8zygurl (06:49:27 PM): lol be fun 4 sure

big_ben29325 (06:49:45 PM): id eat your pussy then fuck you
sc_kriscr8zygurl (06:49:55 PM): really
big_ben29325 (06:49:58 PM): yes
sc_kriscr8zygurl (06:50:00 PM): u really like me like that
sc_kriscr8zygurl (06:50:03 PM): awesome
big_ben29325 (06:50:05 PM): yes
big_ben29325 (06:50:17 PM): you know that you would like that
sc_kriscr8zygurl (06:50:22 PM): i would yes
sc_kriscr8zygurl (06:50:42 PM): but i aint dun it all way b4
sc_kriscr8zygurl (06:50:49 PM): so i prop no good
big_ben29325 (06:50:58 PM): so, how far have you gone
sc_kriscr8zygurl (06:51:09 PM): kissing and lil touchin
big_ben29325 (06:51:22 PM): oh ok
big_ben29325 (06:51:27 PM): how much touching
sc_kriscr8zygurl (06:52:11 PM): jus lil bit like one time underclothes
big_ben29325 (06:52:22 PM): oh ok
big_ben29325 (06:52:27 PM): id love to touch you all over
sc_kriscr8zygurl (06:52:43 PM): id like that 2
big_ben29325 (06:53:02 PM): you got little tits
sc_kriscr8zygurl (06:53:13 PM): they not huge lol
sc_kriscr8zygurl (06:53:19 PM): b
big_ben29325 (06:53:20 PM): how big are they
sc_kriscr8zygurl (06:53:33 PM): i wear b cup
sc_kriscr8zygurl (06:53:36 PM): bra
big_ben29325 (06:53:39 PM): nice
big_ben29325 (06:53:54 PM): when can we meet and you let me see them
sc_kriscr8zygurl (06:54:18 PM): well i say 2night but u gotta werk
big_ben29325 (06:54:25 PM): yeah
sc_kriscr8zygurl (06:54:32 PM): bummer
sc_kriscr8zygurl (06:54:40 PM): u tell me then
big_ben29325 (06:54:43 PM): can we meet anytime this week
sc_kriscr8zygurl (06:54:51 PM): yup no school
big_ben29325 (06:54:57 PM): cool
big_ben29325 (06:55:10 PM): what time can we meet, i dont want us to get in any trouble
sc_kriscr8zygurl (06:55:16 PM): me either
sc_kriscr8zygurl (06:55:23 PM): dont matter what time
sc_kriscr8zygurl (06:55:32 PM): jus tell me and i get out house
big_ben29325 (06:55:43 PM): when can you get out of your house
sc_kriscr8zygurl (06:56:07 PM): anytime really during day
sc_kriscr8zygurl (06:56:16 PM): if at night i could sneak out lol
big_ben29325 (06:56:33 PM): are your parents at home during the day
sc_kriscr8zygurl (06:56:45 PM): well super time not good time unless i stayin at frineds
sc_kriscr8zygurl (06:56:57 PM): i jus live wid mom she aint here in day
big_ben29325 (06:57:13 PM): would it be better to meet in the day or night
sc_kriscr8zygurl (06:57:21 PM): dont matter
sc_kriscr8zygurl (06:57:25 PM): day prop
sc_kriscr8zygurl (06:57:29 PM): probly
big_ben29325 (06:58:00 PM): i
big_ben29325 (06:58:13 PM): coolk
sc_kriscr8zygurl (06:58:25 PM): i do sleep late
sc_kriscr8zygurl (06:58:33 PM): like dont get up till 12
big_ben29325 (06:58:43 PM): what time your mom get home
sc_kriscr8zygurl (06:58:56 PM): she gethome bout 530
sc_kriscr8zygurl (06:59:02 PM): or 6
big_ben29325 (06:59:12 PM): what time she go to work
sc_kriscr8zygurl (06:59:26 PM): 7 or 8 i aint sure im still sleep

big_ben29325 (06:59:29 PM): maybe i can sneak in
sc_kriscr8zygurl (06:59:35 PM): lol ok
big_ben29325 (06:59:37 PM): maybe i can sneak in when she leaves for work
sc_kriscr8zygurl (06:59:42 PM): ok cool
big_ben29325 (06:59:56 PM): you really alone in your room
sc_kriscr8zygurl (07:00:00 PM): yup
big_ben29325 (07:00:12 PM): wanna see me naked
sc_kriscr8zygurl (07:00:22 PM): 4 real?
big_ben29325 (07:00:30 PM): yes, if you wanna see
sc_kriscr8zygurl (07:00:35 PM): yeah
sc_kriscr8zygurl (07:00:46 PM): i do
sc_kriscr8zygurl (07:01:34 PM): i c
big_ben29325 (07:01:56 PM): would you let me slide it in you
sc_kriscr8zygurl (07:02:15 PM): maybe
sc_kriscr8zygurl (07:02:25 PM): prob would if u cool lookin
sc_kriscr8zygurl (07:02:28 PM): lol
sc_kriscr8zygurl (07:02:56 PM): yeah nice
sc_kriscr8zygurl (07:03:01 PM): definately
big_ben29325 (07:03:08 PM): really now
sc_kriscr8zygurl (07:03:18 PM): sure
big_ben29325 (07:03:31 PM): so, when you want me to come and sneak in
big_ben29325 (07:03:32 PM): lol
sc_kriscr8zygurl (07:04:01 PM): anytime ok
big_ben29325 (07:04:13 PM): wish that i could tonight
sc_kriscr8zygurl (07:04:18 PM): me 2
big_ben29325 (07:04:26 PM): can i ask you something
sc_kriscr8zygurl (07:04:28 PM): sure
big_ben29325 (07:04:40 PM): are you still a virgin
sc_kriscr8zygurl (07:04:43 PM): yes
big_ben29325 (07:04:57 PM): guess that ill have to be gentle
sc_kriscr8zygurl (07:05:04 PM): yes please
sc_kriscr8zygurl (07:05:23 PM): cool web cam
big_ben29325 (07:05:33 PM): thanks
sc_kriscr8zygurl (07:05:43 PM): yw
sc_kriscr8zygurl (07:05:49 PM): wish i had one 2
big_ben29325 (07:05:53 PM): me roo
sc_kriscr8zygurl (07:05:57 PM): lol
big_ben29325 (07:05:58 PM): me too
big_ben29325 (07:06:25 PM): so, you really wanna meet
sc_kriscr8zygurl (07:06:43 PM): long as u dont care i aint never dun it b4
sc_kriscr8zygurl (07:06:48 PM): might not be no good
big_ben29325 (07:06:58 PM): youll be ok baby
sc_kriscr8zygurl (07:07:20 PM): and u ok wid me being young
big_ben29325 (07:07:25 PM): yes
sc_kriscr8zygurl (07:07:27 PM): good i now i will
big_ben29325 (07:08:05 PM): can i ask you something else
sc_kriscr8zygurl (07:08:12 PM): anythin
big_ben29325 (07:08:18 PM): really
sc_kriscr8zygurl (07:08:21 PM): yup
big_ben29325 (07:08:36 PM): what if i wanna fuck you in the ass
sc_kriscr8zygurl (07:08:58 PM): i dont now bout that
sc_kriscr8zygurl (07:09:06 PM): is that wat u suppose to do
big_ben29325 (07:09:24 PM): nope, but it will feel good
sc_kriscr8zygurl (07:09:30 PM): u promise
big_ben29325 (07:09:43 PM): i promise
sc_kriscr8zygurl (07:10:04 PM): only if u stop if i say so

big_ben29325 (07:10:10 PM): yes
sc_kriscr8zygurl (07:10:14 PM): ok then
big_ben29325 (07:10:20 PM): i will not do anything that you dont wanna do
sc_kriscr8zygurl (07:10:25 PM): cool
big_ben29325 (07:11:02 PM): when you say stop, ill stop
sc_kriscr8zygurl (07:11:14 PM): good cuz i dont wanna get hurt
sc_kriscr8zygurl (07:11:29 PM): u not a crazy killar r u
big_ben29325 (07:11:33 PM): nope
sc_kriscr8zygurl (07:11:43 PM): u gotta be good guy if u live in clinton
sc_kriscr8zygurl (07:11:45 PM): lol
sc_kriscr8zygurl (07:12:39 PM): so wat are sum things u like
big_ben29325 (07:12:53 PM): playoing pool, bowloing
sc_kriscr8zygurl (07:13:09 PM): i like bowling 2 but i aint no good
sc_kriscr8zygurl (07:13:13 PM): gutter all tim
big_ben29325 (07:13:56 PM): when i fuck you, im gonna wear a condom ok
sc_kriscr8zygurl (07:14:14 PM): thats good then no way get preg right
big_ben29325 (07:14:21 PM): right
sc_kriscr8zygurl (07:14:32 PM): good
big_ben29325 (07:14:43 PM): are you naked
sc_kriscr8zygurl (07:14:55 PM): nope i got my clothes on
big_ben29325 (07:15:09 PM): i wish that i could hear you play with yourself
sc_kriscr8zygurl (07:15:21 PM): i bet
sc_kriscr8zygurl (07:15:25 PM): lol
big_ben29325 (07:16:03 PM): maybe when your mom leaves for work i can call and listen to you
sc_kriscr8zygurl (07:16:19 PM): in tha morinin
sc_kriscr8zygurl (07:16:22 PM): ?
big_ben29325 (07:16:28 PM): i mean tuesday morning
sc_kriscr8zygurl (07:16:40 PM): ok
sc_kriscr8zygurl (07:16:45 PM): be wierd tho
big_ben29325 (07:16:48 PM): cool
big_ben29325 (07:17:08 PM): maybe i can come over tuesday morning and see the real deal
sc_kriscr8zygurl (07:17:20 PM): yeah that be awesome
big_ben29325 (07:17:56 PM): yes it would
sc_kriscr8zygurl (07:18:04 PM): id like that
big_ben29325 (07:18:26 PM): me too
big_ben29325 (07:18:29 PM): what would you do to me
sc_kriscr8zygurl (07:18:45 PM): what u wann me 2
sc_kriscr8zygurl (07:18:51 PM): i do it
big_ben29325 (07:19:11 PM): play, lick and suck my dick
sc_kriscr8zygurl (07:19:22 PM): i can do that no prob
sc_kriscr8zygurl (07:19:25 PM): be fun
big_ben29325 (07:19:44 PM): cool
sc_kriscr8zygurl (07:19:49 PM): way cool
sc_kriscr8zygurl (07:20:36 PM): u there
big_ben29325 (07:20:40 PM): im here
sc_kriscr8zygurl (07:20:47 PM): ok
big_ben29325 (07:20:55 PM): about to go to bed here soon
sc_kriscr8zygurl (07:20:59 PM): oh ok
sc_kriscr8zygurl (07:21:23 PM): u gonna be on here tomrrow
big_ben29325 (07:21:33 PM): yeah, when i get off work
sc_kriscr8zygurl (07:21:46 PM): like wat time i try be on 2
big_ben29325 (07:22:07 PM): about the same time now
sc_kriscr8zygurl (07:22:11 PM): ok
big_ben29325 (07:22:13 PM): describe your body to me
sc_kriscr8zygurl (07:22:31 PM): well i got dark red hair
sc_kriscr8zygurl (07:22:34 PM): grn eyes

sc_kriscr8zygurl (07:22:47 PM): bout 95pounds
sc_kriscr8zygurl (07:22:57 PM): not tall kinda short
big_ben29325 (07:23:09 PM): bet that you got a nice ass
sc_kriscr8zygurl (07:23:17 PM): it ok
big_ben29325 (07:24:17 PM): can i spank it and make it nice and red
sc_kriscr8zygurl (07:24:30 PM): lol long as it dont hurt
sc_kriscr8zygurl (07:24:36 PM): i really dont like sapnkins
big_ben29325 (07:24:38 PM): it wont
sc_kriscr8zygurl (07:24:56 PM): i usually getem when i been bad
sc_kriscr8zygurl (07:25:08 PM): and i cry
big_ben29325 (07:25:16 PM): i like spanking while fucking
big_ben29325 (07:25:19 PM): how old are you again
sc_kriscr8zygurl (07:25:26 PM): 13 almost 14
big_ben29325 (07:25:40 PM): cool
sc_kriscr8zygurl (07:25:45 PM): that cool long as it aint hard spakin
big_ben29325 (07:26:03 PM): ok
sc_kriscr8zygurl (07:26:17 PM): !Love!
sc_kriscr8zygurl (07:27:47 PM): u still there?
sc_kriscr8zygurl (07:28:44 PM): u mus gone bed ttyl

STATE'S
EXHIBIT

big_ben29325 (06:54:47 PM): hey there, how are you
sc_kriscr8zygurl (06:55:12 PM): hey im good
sc_kriscr8zygurl (06:55:18 PM): glad u on night
big_ben29325 (06:55:38 PM): what are you up to tonight
sc_kriscr8zygurl (06:55:52 PM): nuthin jus hangin
sc_kriscr8zygurl (06:56:01 PM): u?
big_ben29325 (06:56:23 PM): nothing, just got out of the shower
big_ben29325 (06:56:36 PM): i got off early from work, a friend and i went out for lunch
sc_kriscr8zygurl (06:56:40 PM): cool
sc_kriscr8zygurl (06:57:00 PM): i like when i get home from school early.2
sc_kriscr8zygurl (06:57:09 PM): jus goof off
sc_kriscr8zygurl (06:57:16 PM): !Big Grin!
big_ben29325 (06:57:43 PM): cool
sc_kriscr8zygurl (06:58:19 PM): u werk hard today?
big_ben29325 (06:58:23 PM): nah
sc_kriscr8zygurl (06:58:31 PM): lol
sc_kriscr8zygurl (06:59:08 PM): did i tell u i went on cruise las weeken
big_ben29325 (06:59:15 PM): nope
sc_kriscr8zygurl (06:59:21 PM): jus 3 days
big_ben29325 (06:59:25 PM): cool
sc_kriscr8zygurl (06:59:26 PM): it wuz so fun
sc_kriscr8zygurl (06:59:42 PM): i got sunburn tho
big_ben29325 (06:59:47 PM): im sorry
big_ben29325 (06:59:57 PM): want me to come over and rub some lotion on you
big_ben29325 (06:59:58 PM): lol
sc_kriscr8zygurl (07:00:13 PM): i need some im peelin lil bit on shoulders
sc_kriscr8zygurl (07:00:32 PM): gross aint it
big_ben29325 (07:00:40 PM): nah
sc_kriscr8zygurl (07:01:45 PM): so where dyou go eat today
big_ben29325 (07:02:11 PM): senior garcia in laurens
sc_kriscr8zygurl (07:02:27 PM): i like that place
sc_kriscr8zygurl (07:02:40 PM): i aint been 2 new mex place in clinton yet
big_ben29325 (07:02:51 PM): its good too
sc_kriscr8zygurl (07:03:12 PM): i wanna go maybe i get mom take me this weekend
big_ben29325 (07:03:18 PM): cool
sc_kriscr8zygurl (07:04:03 PM): u quiet 2night
sc_kriscr8zygurl (07:04:11 PM): talkin other gurl
big_ben29325 (07:04:13 PM): i had a little to drink tonight
sc_kriscr8zygurl (07:04:19 PM): wheeeeeee
sc_kriscr8zygurl (07:04:25 PM): !Big Grin!
sc_kriscr8zygurl (07:05:33 PM): u pass out drunk lol??
big_ben29325 (07:05:38 PM): nah
big_ben29325 (07:05:45 PM): when i get drunk, i get horny as hell
big_ben29325 (07:05:45 PM): lol
sc_kriscr8zygurl (07:05:55 PM): uh huh
sc_kriscr8zygurl (07:05:59 PM): i c
sc_kriscr8zygurl (07:06:15 PM): !Wink!
big_ben29325 (07:07:10 PM): so, when can we meet and have some fun
sc_kriscr8zygurl (07:07:27 PM): i be home morrow all day
sc_kriscr8zygurl (07:08:06 PM): or whenever
big_ben29325 (07:08:30 PM): my mom has to take my aunt to simpsonville tomorrow at 2
sc_kriscr8zygurl (07:08:46 PM): ok wat that mean
sc_kriscr8zygurl (07:08:55 PM): u going 2
big_ben29325 (07:09:01 PM): nah, im gonna stay at home
sc_kriscr8zygurl (07:09:11 PM): ok cool
sc_kriscr8zygurl (07:09:33 PM): so after 2 then?

sc_kriscr8zygurl (07:10:15 PM): or how bout we jus talk sum more 1st
big_ben29325 (07:11:00 PM): thats cool
sc_kriscr8zygurl (07:12:09 PM): i jus wanna make sure u ok dude
sc_kriscr8zygurl (07:12:13 PM): !Big Grin!
big_ben29325 (08:34:46 PM): hey there, what are you doing
sc_kriscr8zygurl (08:35:08 PM): hey nuthin jus surfin
big_ben29325 (08:35:13 PM): cool
sc_kriscr8zygurl (08:35:34 PM): where u go whil go
sc_kriscr8zygurl (08:35:50 PM): thoght u got mad at me
big_ben29325 (08:36:00 PM): my breaker box tripped
sc_kriscr8zygurl (08:36:12 PM): oh
sc_kriscr8zygurl (08:36:14 PM): ok
sc_kriscr8zygurl (08:37:04 PM): im so bored
big_ben29325 (08:37:35 PM): me too
big_ben29325 (08:37:45 PM): wish that we could meet and cure our boredom
sc_kriscr8zygurl (08:38:00 PM): sounds like fun
big_ben29325 (08:38:08 PM): ys it would
big_ben29325 (08:38:12 PM): what would we do
sc_kriscr8zygurl (08:38:20 PM): whatever we want
big_ben29325 (08:38:51 PM): no, what do you wanna do
sc_kriscr8zygurl (08:39:15 PM): hang out get no each other
sc_kriscr8zygurl (08:39:16 PM): u no
big_ben29325 (08:39:20 PM): yeah
sc_kriscr8zygurl (08:39:23 PM): cool
sc_kriscr8zygurl (08:40:56 PM): u jus kiddin tho
big_ben29325 (08:41:12 PM): kidding about what
sc_kriscr8zygurl (08:41:23 PM): seein each other 4 reaal
big_ben29325 (08:41:30 PM): i do wanna meet
sc_kriscr8zygurl (08:41:37 PM): dont lie
big_ben29325 (08:41:38 PM): will you get me in trouble
big_ben29325 (08:41:40 PM): im not
sc_kriscr8zygurl (08:41:58 PM): well i dont wont get u in trouble
sc_kriscr8zygurl (08:42:09 PM): i don wont that
big_ben29325 (08:42:21 PM): o k
sc_kriscr8zygurl (08:42:32 PM): will u tell on me?
big_ben29325 (08:42:45 PM): nopew
big_ben29325 (08:43:09 PM): will you tell on me
sc_kriscr8zygurl (08:43:13 PM): no way
big_ben29325 (08:43:19 PM): cool
big_ben29325 (08:43:56 PM): im getting excited thinking about it
sc_kriscr8zygurl (08:44:11 PM): lol me 2
big_ben29325 (08:44:19 PM): really
sc_kriscr8zygurl (08:44:19 PM): kinda scary at same time tho
sc_kriscr8zygurl (08:44:24 PM): yup
big_ben29325 (08:44:29 PM): what scary
sc_kriscr8zygurl (08:44:45 PM): i dunno jus is
big_ben29325 (08:45:21 PM): can i call you tomorrow, and let me listen to you play with yourself
big_ben29325 (08:45:21 PM): lol
sc_kriscr8zygurl (08:45:59 PM): u can call not sure wat ud here lol
big_ben29325 (08:46:33 PM): i wanna hear you
sc_kriscr8zygurl (08:46:39 PM): ok that cool
sc_kriscr8zygurl (08:48:04 PM): u there?
big_ben29325 (08:48:08 PM): im here
sc_kriscr8zygurl (08:48:12 PM): k
big_ben29325 (08:48:20 PM): playing with myself
big_ben29325 (08:48:21 PM): lol

sc_kriscr8zygurl (08:48:36 PM): u bad
 sc_kriscr8zygurl (08:48:40 PM): lol
 big_ben29325 (08:48:58 PM): you dont know how bad i can be
 sc_kriscr8zygurl (08:49:10 PM): i can imagin
 big_ben29325 (08:49:50 PM): when can i come and be bad with you
 sc_kriscr8zygurl (08:50:24 PM): i guess i could sneak out 2night
 big_ben29325 (08:50:34 PM): im about to go to be soon
 big_ben29325 (08:50:40 PM): ive been up since 200 this morning
 sc_kriscr8zygurl (08:50:52 PM): oh u werk morrow 2?
 big_ben29325 (08:51:05 PM): nope, im off
 sc_kriscr8zygurl (08:51:24 PM): oh ok
 sc_kriscr8zygurl (08:51:31 PM): then u tell me
 big_ben29325 (08:51:39 PM): when is good for you
 sc_kriscr8zygurl (08:52:18 PM): i can whenever
 big_ben29325 (08:52:39 PM): what about this wednesday
 sc_kriscr8zygurl (08:53:04 PM): ok jus tell me wat time and ill werk it out
 sc_kriscr8zygurl (08:53:09 PM): IBig Grin!
 big_ben29325 (08:53:16 PM): after your mom leaves
 sc_kriscr8zygurl (08:53:22 PM): yep
 big_ben29325 (08:53:40 PM): i wanna come over as soon as your mom leaves
 sc_kriscr8zygurl (08:53:57 PM): ok that real early
 sc_kriscr8zygurl (08:54:06 PM): like 730 or 8
 sc_kriscr8zygurl (08:54:19 PM): i have set my clock
 big_ben29325 (08:54:21 PM): that too early for ya
 sc_kriscr8zygurl (08:54:43 PM): nah jus got make sure i wake up lol
 big_ben29325 (08:54:59 PM): when i come over, dont be wearing anything
 sc_kriscr8zygurl (08:55:15 PM): nuthin??
 big_ben29325 (08:55:25 PM): nothing
 big_ben29325 (08:55:31 PM): i want you to be naked when i get there
 sc_kriscr8zygurl (08:55:44 PM): how bout like i wrapped in towel
 big_ben29325 (08:55:51 PM): ok
 sc_kriscr8zygurl (08:55:58 PM): cool ok i do it
 big_ben29325 (08:56:18 PM): so, where will i come in at so i dont get caught
 sc_kriscr8zygurl (08:56:42 PM): u wont come in back door or front
 big_ben29325 (08:56:54 PM): so, how will i get in
 sc_kriscr8zygurl (08:57:00 PM): i let u in
 sc_kriscr8zygurl (08:57:03 PM): knock
 sc_kriscr8zygurl (08:57:05 PM): silly
 big_ben29325 (08:57:20 PM): what if someone sees me
 sc_kriscr8zygurl (08:57:51 PM): sumbody might lots people live here
 big_ben29325 (08:58:10 PM): will they tell your mom on us
 sc_kriscr8zygurl (08:58:20 PM): i dunno hope not
 big_ben29325 (08:58:30 PM): me 2
 big_ben29325 (08:59:18 PM): thats why i wanna sneak in
 sc_kriscr8zygurl (08:59:48 PM): yeah but hard sneak in unless dark outside
 sc_kriscr8zygurl (08:59:53 PM): but mom still home thne
 big_ben29325 (08:59:57 PM): true
 big_ben29325 (09:00:48 PM): do you think anybody will tell your mom on us
 sc_kriscr8zygurl (09:01:07 PM): i dont think so
 big_ben29325 (09:01:14 PM): good
 sc_kriscr8zygurl (09:01:34 PM): i wouldnt let u come over then
 big_ben29325 (09:01:46 PM): you really gonna be in a towel when i get there
 sc_kriscr8zygurl (09:01:55 PM): i will promise
 sc_kriscr8zygurl (09:02:02 PM): cross my heart
 big_ben29325 (09:02:10 PM): just wish that you could answer the door naked
 big_ben29325 (09:02:10 PM): lol

sc_kriscr8zygurl (09:02:46 PM): sumbody might c 4 sure and tell
big_ben29325 (09:02:52 PM): oh ok
big_ben29325 (09:03:13 PM): when i come in the door, will you take your towel off
sc_kriscr8zygurl (09:03:30 PM): ok yup
big_ben29325 (09:03:36 PM): really
sc_kriscr8zygurl (09:03:46 PM): yup
big_ben29325 (09:04:11 PM): cool
sc_kriscr8zygurl (09:04:33 PM): id be scared lil bit tho
sc_kriscr8zygurl (09:04:41 PM): never dun that in front guy b4
sc_kriscr8zygurl (09:04:45 PM): IDevill
big_ben29325 (09:04:52 PM): you dont have to be scared
sc_kriscr8zygurl (09:04:59 PM): promise
big_ben29325 (09:05:04 PM): promise
sc_kriscr8zygurl (09:05:10 PM): swear on your mama
big_ben29325 (09:05:16 PM): i swear
sc_kriscr8zygurl (09:05:21 PM): ok cool
sc_kriscr8zygurl (09:06:19 PM): wat youngest u been wid b4
big_ben29325 (09:06:26 PM): 17
sc_kriscr8zygurl (09:06:26 PM): wat oldest
big_ben29325 (09:06:39 PM): 40
sc_kriscr8zygurl (09:07:03 PM): wow so it jus depend on person right
big_ben29325 (09:07:13 PM): right
sc_kriscr8zygurl (09:07:40 PM): so u like me?
big_ben29325 (09:07:51 PM): so far i like ya
sc_kriscr8zygurl (09:08:02 PM): cool
big_ben29325 (09:08:47 PM): you really gonna do this
sc_kriscr8zygurl (09:09:00 PM): 100%
sc_kriscr8zygurl (09:09:03 PM): if u r
big_ben29325 (09:09:09 PM): im cool
sc_kriscr8zygurl (09:09:44 PM): awesome
sc_kriscr8zygurl (09:09:48 PM): this is so cool
sc_kriscr8zygurl (09:09:53 PM): u so cool
big_ben29325 (09:11:38 PM): you gonna suck my cock and everythihgn
big_ben29325 (09:11:38 PM): lol
sc_kriscr8zygurl (09:12:00 PM): yeah i will
big_ben29325 (09:12:24 PM): cool
big_ben29325 (09:13:04 PM): can i ask you something
sc_kriscr8zygurl (09:13:06 PM): ok
big_ben29325 (09:13:11 PM): are you shaved
sc_kriscr8zygurl (09:13:25 PM): i shave my legs
sc_kriscr8zygurl (09:13:29 PM): underarms lol
big_ben29325 (09:13:48 PM): i mean are your private parts shaved
sc_kriscr8zygurl (09:14:01 PM): no they suppose be?
big_ben29325 (09:14:22 PM): i would love it if you would shave your privates for me
sc_kriscr8zygurl (09:14:47 PM): like now or when u come over
big_ben29325 (09:15:00 PM): i mean shave them before i get there
sc_kriscr8zygurl (09:15:40 PM): ok
big_ben29325 (09:15:43 PM): id love it if you would do that for me
sc_kriscr8zygurl (09:16:14 PM): ok i will
big_ben29325 (09:16:31 PM): will im about to head off to bed
big_ben29325 (09:16:36 PM): ill talk to you tomorrow
sc_kriscr8zygurl (09:17:30 PM): bye

#9 EUD
JED

big_ben29325 (10:09:15 AM): hey there, how are you
 sc_kriscr8zygurl (10:09:51 AM): hey
 sc_kriscr8zygurl (10:09:55 AM): jus woke up
 big_ben29325 (10:09:59 AM): cool
 big_ben29325 (10:10:02 AM): what are you up to today
 sc_kriscr8zygurl (10:10:23 AM): nuthin being bored prob
 big_ben29325 (10:10:38 AM): still wanna sneak out tonight and meet me
 big_ben29325 (10:10:39 AM): lol
 sc_kriscr8zygurl (10:10:50 AM): yeah be cool
 big_ben29325 (10:12:26 AM): really
 big_ben29325 (10:12:27 AM): you really gonna sneak out tonight and meet me
 big_ben29325 (10:12:27 AM): lol
 big_ben29325 (10:12:27 AM): brb, gonna eat
 sc_kriscr8zygurl (10:12:31 AM): k
 big_ben29325 (10:24:33 AM): im back
 sc_kriscr8zygurl (10:24:56 AM): ok good
 big_ben29325 (10:25:26 AM): what are you doing
 sc_kriscr8zygurl (10:25:44 AM): jus sitting round doin nuthin
 big_ben29325 (10:26:11 AM): what would you be doing if i was there
 sc_kriscr8zygurl (10:26:49 AM): hummmmm whatever IBig Grin!
 big_ben29325 (10:27:15 AM): did you do what i asked you to do
 sc_kriscr8zygurl (10:27:27 AM): wat wus that?
 big_ben29325 (10:27:45 AM): shave your privates for me
 big_ben29325 (10:27:45 AM): lol
 sc_kriscr8zygurl (10:28:07 AM): ohh no I aint dun it yet but I will if u really want me 2
 big_ben29325 (10:28:34 AM): id love that
 sc_kriscr8zygurl (10:28:48 AM): ok i will then when i take shower 2day
 sc_kriscr8zygurl (10:28:53 AM): i aint had bath yet
 big_ben29325 (10:29:07 AM): oh ok
 sc_kriscr8zygurl (10:29:53 AM): be lil wierd tho wont it
 sc_kriscr8zygurl (10:29:56 AM): look funny
 big_ben29325 (10:30:05 AM): nah, it will look cool
 big_ben29325 (10:30:13 AM): you dont have to if you dont want too
 sc_kriscr8zygurl (10:30:25 AM): i try it
 big_ben29325 (10:30:35 AM): you dont have to
 sc_kriscr8zygurl (10:30:41 AM): i no
 sc_kriscr8zygurl (10:31:13 AM): u not werking 2day
 big_ben29325 (10:31:50 AM): i only work on the weekends
 sc_kriscr8zygurl (10:32:11 AM): oh that cool u aint got all week off
 sc_kriscr8zygurl (10:32:24 AM): u do got all week off i mean
 big_ben29325 (10:32:57 AM): i just work on sat, sun and mondays
 sc_kriscr8zygurl (10:33:06 AM): cool
 sc_kriscr8zygurl (10:34:55 AM): im gonna go get some cerel brb
 big_ben29325 (10:35:04 AM): ok, take your time
 sc_kriscr8zygurl (10:45:22 AM): im back
 big_ben29325 (05:55:54 PM): hey there, how are you
 sc_kriscr8zygurl (05:57:02 PM): hey
 big_ben29325 (05:57:13 PM): what are you up to
 sc_kriscr8zygurl (05:57:27 PM): gettin ready eat in few
 sc_kriscr8zygurl (05:57:43 PM): wat u doing
 big_ben29325 (05:57:51 PM): just got in from greenwood
 sc_kriscr8zygurl (05:58:07 PM): cool u been shopin
 big_ben29325 (05:58:32 PM): nah, i went with my mom
 sc_kriscr8zygurl (05:59:10 PM): ok
 sc_kriscr8zygurl (05:59:23 PM): i been lazt 2day
 sc_kriscr8zygurl (05:59:26 PM): jus layin round

sc_kriscr8zygurl (05:59:28 PM): watchin tv
sc_kriscr8zygurl (05:59:31 PM): sleep on
big_ben29325 (05:59:35 PM): wish that i could have joined ya
sc_kriscr8zygurl (05:59:40 PM): yeah
sc_kriscr8zygurl (06:00:03 PM): wouldda been nice
big_ben29325 (06:00:30 PM): yes it would
sc_kriscr8zygurl (06:00:54 PM): !Sad!
sc_kriscr8zygurl (06:01:47 PM): wat u do in greenwood
big_ben29325 (06:02:26 PM): went to the supercenter and then to eat
sc_kriscr8zygurl (06:02:52 PM): wher u eat?
big_ben29325 (06:02:57 PM): ihop
sc_kriscr8zygurl (06:03:14 PM): im eatin steak 2night
big_ben29325 (06:03:21 PM): cool
sc_kriscr8zygurl (06:03:51 PM): u quiet
big_ben29325 (06:04:01 PM): just a little tired, i ate too much
sc_kriscr8zygurl (06:04:12 PM): aw tummy ach
big_ben29325 (06:04:18 PM): nah
sc_kriscr8zygurl (06:04:24 PM): !Big Grin!
sc_kriscr8zygurl (06:06:49 PM): ill be back bout 1hr gonna eat
big_ben29325 (06:07:09 PM): oh ok, take your time
~~sc_kriscr8zygurl (07:08:25 PM): im back~~
big_ben29325 (07:08:38 PM): cool
big_ben29325 (07:12:16 PM): did you eat good
sc_kriscr8zygurl (07:12:37 PM): yes im full now
sc_kriscr8zygurl (07:12:41 PM): good
big_ben29325 (07:12:54 PM): cool
big_ben29325 (07:13:00 PM): what you got planned for tonight
sc_kriscr8zygurl (07:13:11 PM): nuthin realy
sc_kriscr8zygurl (07:13:15 PM): u?
big_ben29325 (07:13:20 PM): nothing
sc_kriscr8zygurl (07:14:20 PM): i need clean my room but i aint
sc_kriscr8zygurl (07:14:22 PM): lol
sc_kriscr8zygurl (07:17:06 PM): u chat anywhere else
sc_kriscr8zygurl (07:17:10 PM): this only place i no
big_ben29325 (07:18:36 PM): nah
sc_kriscr8zygurl (07:18:59 PM): k

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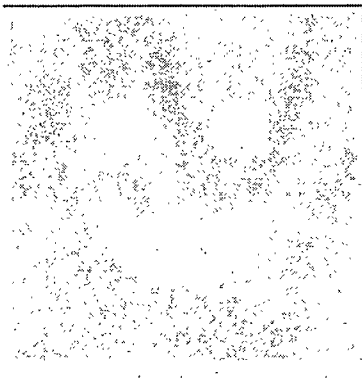
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sc_kriser8zygurl



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Yahoo! ID:

sc_kriser8zygurl

Real Name:

Nickname:

Kris

Location:

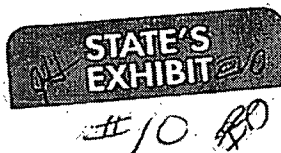
Age:

13

Marital Status:

Single

Sex:



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Female

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Occupation:

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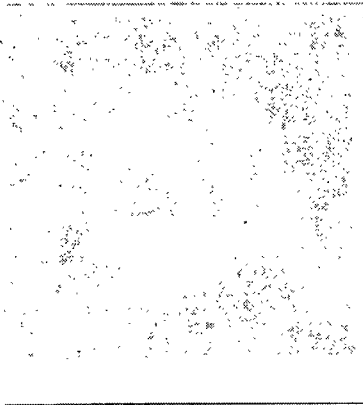
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EXHIBIT
#11 EDD
BIA

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Search

ben rhodes



Last Update: 03/13/2008

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Basics

Yahoo! ID:

big_ben29325

Real Name:

ben rhodes

Nickname:

BIG BEN

Location:

Clinton, sc

ADVERTISEMENT

Age:

30

Marital Status:

Single And Looking

Sex:

Male

Occupation:

wal-mart distribution center



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Hobbies:

playing pool, bowling, hunting, fishing, anything that is fun

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YAHOO! ACCOUNT MANAGEMENT TOOL

Login Name: **big_ben29325**

Properties Used: **Flickr**
Mail

Yahoo Mail Name: **big_ben29325@yahoo.com**

(Alternate) Email Address:

Registration IP address: **66.169.29.187**

Account Created (reg): **Fri Mar 14 05:19:20 2008 GMT**

Other Identities: **big_ben29325 (Last Modified: Fri Mar 14 05:23:19 2008 GMT 66.169.29.187) (Yahoo! Mail)**

Full Name **Mr ben rhodes**

Address1:

Address2:

City: **Clinton**

State, territory or province: **SC**

Country: **United States**

Zip/Postal Code: **29325**

Phone:

Time Zone: **et**

Birthday:

Gender: **Male**

Occupation:

Business Name:

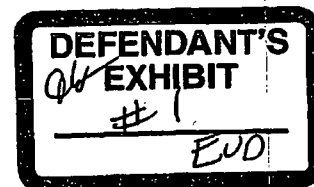
Business Address:

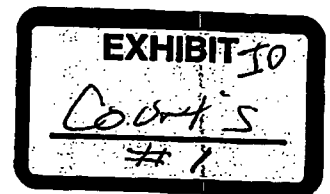
Business City:

Business State:

Business Country: **us**

Business Zip:





Defendant's Request to Charge № 1

Every circumstance relied upon by the State must be proven beyond a reasonable doubt; and ... all of the circumstances so proven must be consistent with each other and taken together, point conclusively to the guilt of the accused to the exclusion of every other reasonable hypothesis. It is not sufficient that they create a probability, though a strong one and if, assuming them to be true they may be accounted for upon any reasonable hypothesis which does not include the guilt of the accused, the proof has failed.

State v. Edwards, 298 S.C. 272, 379 S.E.2d 888 (1989)

Defendant's Request to Charge № 2

"Willful" as used in the indictment means that the defendant acted voluntarily and intentionally to violate a known legal duty, not merely that defendant was conscious of his activities and acts.

United States v. George, 386 F.3d 383, 394 (2d Cir. 2004).

Defendant's Request to Charge № 3

The statute requires that the defendant be communicating with a person he reasonably believed to be under the age of eighteen. This does not mean what you as a juror would reasonably believe or what a reasonable person might believe. If you find the state has failed to prove beyond a reasonable doubt that the defendant himself reasonably believed that the person to whom he was communicating was under the age of 18, then you are to find the defendant not guilty.

Defendant's Request to Charge № 4

In making a determination as to whether the defendant attempted dissemination of obscene material to a person under the age of 18, you are not to determine if the material was obscene as it relates to a person under the age of 18. The same standard applies if the material were intended for an adult over the age of 18. To determine if the material is in fact obscene, you must make a determination if the material is obscene under the standards applicable to the community within which you live.

Defendant's Request to Charge № 5

As the government has the burden to prove each and every element of the offense charged, if the government has failed to produce evidence on what the community standards were in Laurens County, you may consider that lack of evidence as reason to acquit the defendant. If your own experience has given you a basis for gauging community standards, you may utilize it; however, if you are unaware of the standards of Laurens County, and if the government has provided no evidence to assist you in determining these standards, you may use this lack of evidence as a basis to find the defendant not guilty.

United States v. Various Articles of Merchandise, 750 F.2d 596, 599 (7th Cir. 1984); *United States v. 2,200 Paperback Books*, 565 F.2d 566, 569, 570-71 (9th Cir. 1977); *Commonwealth v. Dane Entertainment Services, Inc.*, 490 N.E.2d 785 (Ma. 1986).

Defendant's Request to Charge № 6

Evidence of good character and good reputation may in and of itself create a doubt as to guilt and should be considered by the [you], along with all the other evidence, in determining the guilt or innocence of the defendant.

State v. Lee-Grigg, 387 S.C. 310, 317, 692 S.E.2d 895, 898 (2010)

WITNESSES

Lt. Crystal Roberts-Clinton PD

ARREST WARRANT NUMBER

Direct Presentment

ACTION OF GRAND JURY

true Bill

[Signature]
Foreperson of Grand Jury
Date: *2/18/11*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011-GS-30-0354

The State of South Carolina

County of Laurens

COURT OF GENERAL SESSIONS

JULY TERM 2009

THE STATE

vs.

BENJAMIN M. RHODES
D.O.B.

Indictment for

**ATTEMPTED DISSEMINATING
OBSCENE MATERIAL TO PERSON
UNDER AGE EIGHTEEN**

SC Code: 16-15-345

CDR Code: 0375

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)

INDICTMENT

COUNTY OF LAURENS)

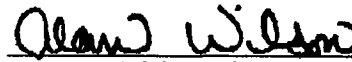
ATTEMPTED DISSEMINATING
OBSCENE MATERIAL TO PERSON
UNDER AGE EIGHTEEN

At a Court of General Sessions, convened on February 18, 2011, the Grand Jurors of Laurens County present upon their oath:

That Benjamin M. Rhodes, on or about June 15, 2008, did willfully and knowingly commit the crime of Attempted Disseminating Obscene Material to Person Under Age Eighteen. To wit: Benjamin M. Rhodes, a person eighteen years of age or older, did knowingly disseminate or attempt to disseminate to a person, located within the County of Laurens, South Carolina, whom he reasonably believed to be under the age of eighteen, material which he knew or should have known to be obscene within the meaning of Section 16-15-305. This is in direct violation of Section 16-15-0342, of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

OFFICE OF THE ATTORNEY GENERAL

ALAN WILSON (JSA)
ATTORNEY GENERAL

The State of South Carolina

County of Laurens

COURT OF GENERAL SESSIONS

February, 2011 TERM

THE STATE

vs.

**BENJAMIN M. RHODES
D.O.B.**

Indictment for

**CRIMINAL SOLICITATION
OF A MINOR**

**SC Code: 16-15-0342
CDR Code: 2999**

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.

WITNESSES

Lt. Crystal Roberts - Clinton PD

ARREST WARRANT NUMBER

Direct Presentment

ACTION OF GRAND JURY

true bill

[Signature]
Foreperson of Grand Jury
Date: *2/18/11*

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF LAURENS)

CRIMINAL SOLICITATION OF A MINOR

At a Court of General Sessions, convened on January 12, 2009, the
Grand Jurors of Laurens County present upon their oath:

That Benjamin M. Rhodes, between the dates of April 14, 2008 and June 18, 2008, did willfully and knowingly commit the crime of Criminal Solicitation of a Minor. To wit: Benjamin M. Rhodes, a person eighteen years of age or older, did knowingly through the internet contact and communicate with a person located within the County of Laurens, South Carolina, whom he reasonably believed to be thirteen year-old girl, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5), or with the intent to perform a sexual activity in the presence of the person reasonably believed to be under the age of eighteen. This is in direct violation of Section 16-15-0342, of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

OFFICE OF THE ATTORNEY GENERAL



HENRY McMASTER (MBW)
ATTORNEY GENERAL

WITNESSES

Lt. Crystal Roberts – Clinton PD

ARREST WARRANT NUMBER

I-643449

True Bill

ACTION OF GRAND JURY

Susan L. Brown
Foreperson of Grand Jury

Date: *1-12-09*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2008-GS-30-

The State of South Carolina

County of Laurens

09-65-30-0126

COURT OF GENERAL SESSIONS

January, 200*9* TERM

THE STATE

vs.

BENJAMIN M. RHODES
D.O.B.

Indictment for

**CRIMINAL SOLICITATION
OF A MINOR**

SC Code: 16-15-0342

CDR Code: 2999

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)

INDICTMENT

COUNTY OF LAURENS)

CRIMINAL SOLICITATION OF A MINOR

At a Court of General Sessions, convened on February 18, 2011, the Grand Jurors of Laurens County present upon their oath:

That Benjamin M. Rhodes, between the dates of April 14, 2008 and June 18, 2008, did willfully and knowingly commit the crime of Criminal Solicitation of a Minor. To wit: Benjamin M. Rhodes, a person eighteen years of age or older, did knowingly through the internet contact and communicate with a person located within the County of Laurens, South Carolina, whom he reasonably believed to be thirteen year-old girl, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5), or with the intent to perform a sexual activity in the presence of the person reasonably believed to be under the age of eighteen. This is in direct violation of Section 16-15-0342, of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

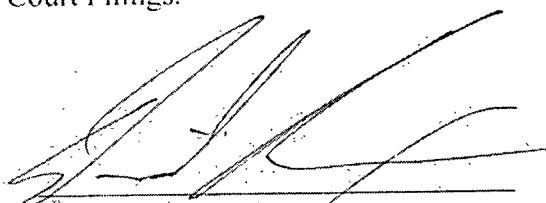
OFFICE OF THE ATTORNEY GENERAL


ALAN WILSON (JSA)
ATTORNEY GENERAL

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

July 17th, 2014



David Alexander
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

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

July 17th, 2014



David Alexander
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

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Laurens County

William Jeffrey Young, Circuit Court Judge

THE STATE,

V.

BENJAMIN M. RHODES,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Deborah R.J. Shupe, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 17th day of July, 2014.

Brandon Hall
Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 17th day of July, 2014.

Mark Hendrix (L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.

ORIGINAL

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JUL 17 2014

SC Court of Appeals

RESPONDENT,