

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM BEAUFORT COUNTY  
Court of General Sessions  
Alex Kinlaw, Jr., Circuit Court Judge

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**RECEIVED**  
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SC Court of Appeals

Appellate Case No. 2018-001257

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The State,..... Respondent,

v.

Charles Dent,..... Appellant.

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**APPENDIX VOLUME II OF II**

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**State's Exhibits 1-22 will be transported to the Court.**

1 THE BAILIFF: Would you like a cup of water, sir?

2 THE WITNESS: I'm good.

3 Thank you.

4 BY MS. JOSEPH:

5 Q How was your drive?

6 A It was long.

7 Q I'm sorry.

8 And you and I just met for the very first time?

9 A Right.

10 Q But we have texted?

11 A Right.

12 Q And talked on the phone?

13 A That's correct.

14 Q A lot?

15 A Yes.

16 Q And what is your job title?

17 A I'm a digital forensic examiner. I work on the  
18 electronic crimes task force as part of the Secret Service  
19 there in Hoover, Birmingham area in Alabama.

20 Q And this is a little bit complicated. But you are a  
21 Hoover police officer?

22 A Hoover detective.

23 Q Hoover detective?

24 A Right.

25 Q In fact, what's your rank?

1 A Right. It's detective.

2 Q But you are on the task force?

3 A Correct.

4 Q So you sort of are loaned out to the task force?

5 A Correct.

6 Q What county cases do you work on?

7 A As far as what type of county cases?

8 Q No. I guess I'm asking what type of cases come to  
9 you, like, from where?

10 A They come from all over the state.

11 Q So you're not just handling Hoover cases, you're  
12 handling cases anywhere in the state?

13 A Correct.

14 Q And you know Detective Justin Cole?

15 A I do.

16 Q And did you work with him?

17 A Not in my current role. But, you know, previously,  
18 we worked in passing at the department.

19 Q Right. So you joined the task force as he was  
20 leaving?

21 A Correct.

22 Q You were asked to independently review the evidence  
23 in this case; is that correct?

24 A Right.

25 Q By me?

1 A Right.

2 Q Because Justin Cole is no longer with the Secret  
3 Service Electronic Task Force?

4 A Right.

5 Q Is that the right name of the task force?

6 A Electronic Crimes Task Force.

7 Q Thank you.

8 And he wasn't fired, he just is a consultant now?

9 A Well, he resigned to take a different type of  
10 employment.

11 Q Right. So he didn't leave under any bad  
12 circumstances?

13 A No.

14 Q And -- okay. So as part of this case, you examined  
15 two items. We're going to talk a little bit about the  
16 process by which you did that. But, first, I'm going to  
17 hand you State's Exhibit Nos. 19 and 20. So what does  
18 State's Exhibit No. 20 depict? What is that a photograph  
19 of?

20 A State's Exhibit No. 19 is a Fuji film camera with a  
21 32 gigabyte SD card memory that was inside the camera.

22 Q Okay. Did you say what both of them were? I'm  
23 sorry.

24 A No, I didn't. State's Exhibit No. 20 is a JVC  
25 camcorder with a separate 32 gigabyte SD card that was

1       inside that one, also.

2       Q       And then you independently examined the contents of  
3       these devices. But can you tell me, did you, actually,  
4       physically go and look at those devices?

5       A       No. The devices are no longer physically in our lab.  
6       Typically, when we get a case in, we make an exact  
7       duplicate of any electronic media that comes in there and  
8       we work from that copy. The copy was still on storage  
9       devices in the lab. And I took that copy, hashed and  
10      verified that it was the same copy that Detective Cole  
11      worked with. And I worked from that copy.

12     Q       Okay. So who made -- we're going to call it a copy.  
13     Do you mind if I call it a mirror copy just to make it  
14     easier for me? What's a better term?

15     A       Forensic image is the proper term.

16     Q       Who made the forensic image?

17     A       Detective Cole.

18     Q       And Detective Cole wrote a report?

19     A       Correct.

20     Q       And you reviewed his report?

21     A       Right.

22     Q       When he wrote that report, was he relying -- did he  
23     go to the devices, or did he go to the forensic image?

24     A       Initially, he went to the devices and made a forensic  
25     image of the devices. And from there, he worked off of

1 the forensic image.

2 Q Okay.

3 A We don't want to alter any original evidence. And  
4 that's the reason for that.

5 Q Oh, that makes complete sense. If -- so I know -- I  
6 work a lot with drug cases. In drug cases, I know that,  
7 frequently, they do blind testing. If someone was going  
8 to check up on your work, or Detective Cole's work, or any  
9 of the other people that work in your department, would  
10 they go to the original devices, or would they always work  
11 off of the mirror -- forensic copy?

12 A It's our practice that if the Defense expert or  
13 anyone that, you know, has authority to view those -- that  
14 evidence, they always work from that forensic image.

15 Q That's the policy?

16 A Correct. Never the original evidence.

17 Q And what's the reason behind that policy?

18 A Just to make sure the original evidence is not  
19 altered.

20 Q And the answer may be you just don't know. But if  
21 someone -- let's say someone was fired from the electronic  
22 crimes task force, or someone was deployed overseas, or in  
23 some way very unreachable and someone had to duplicate  
24 their work, I assume -- first of all, my first question,  
25 has that situation ever arisen where someone is truly

1 unreachable?

2 A Not to my knowledge.

3 Q Okay. If that situation arose --

4 MR. GROSE: Objection to the hypothetical.

5 THE COURT: I'll allow it.

6 MS. JOSEPH: Okay.

7 BY MS. JOSEPH:

8 Q If that situation arose, would the person -- and you  
9 can say, I don't know. Would the person -- and by  
10 "person," I mean detective on the electronic crimes task  
11 force that was tasked with going back and recreating that  
12 work, would they go to the forensic copy, or would they go  
13 to the original devices?

14 A In that hypothetical situation, it would be they  
15 would work from the forensic image.

16 Q So -- okay. I'm going to hand you State's Exhibit  
17 No. 22. Do you know what State's Exhibit No. 22 is?

18 A It looks like a submission form or service request  
19 for our task force.

20 Q And do you fill that out?

21 A No -- well, it's a joint process between the case  
22 agent and the -- the detective in the lab. They go  
23 through and fill out the service request together.

24 Q So someone, not law enforcement, would request you to  
25 look at items. And that's what this form is?

1 A Correct.

2 Q It's a request to look at items?

3 A Correct.

4 Q Is there a way for you to tell if Item 22 is about  
5 this case?

6 A Yes. There's a case number from the Calhoun County  
7 Sheriff's Office. It matches. And then the paperwork in  
8 here, the case ID and the Secret Service case number,  
9 they, also, match.

10 Q So it's this case?

11 A Correct.

12 Q I'm now handing you State's Exhibit Nos. 6 through  
13 15. And I know you reviewed this, like, three seconds  
14 ago. You looked at State's Exhibit Nos. 6 through 15  
15 prior to testifying here in court today; is that correct?

16 A That's correct.

17 Q So my question to you is, were State's Exhibit Nos. 6  
18 through 15 recovered from State's Exhibit Nos. 19 and 20?  
19 So State's Exhibit Nos. 19 and 20 are a camera and  
20 camcorder. And were those images on that camera and  
21 camcorder?

22 And if you need time to review your report before you  
23 answer that question, please, take your time.

24 A That's correct. These were -- was it 6 through --

25 Q 15.

1 A 15. They were recovered from items -- I'm sorry,  
2 State's Exhibit Nos. 19 and 20.

3 MS. JOSEPH: Okay. That's it.

4 THE COURT: Mr. Grose.

5 CROSS-EXAMINATION

6 BY MR. GROSE:

7 Q You said that -- and I'm going to use items one and  
8 two because items one and two are what's in your report;  
9 is that right?

10 A That's not my report. It's Detective Cole's report.

11 Q Right. Detective Cole's report.

12 A Right.

13 Q You said that those two items, one and two, are no  
14 longer at the task force?

15 A That's correct.

16 Q When they left the task force, where did they go?

17 A I don't have that information with me right now.

18 Q Okay. Where would they normally go?

19 A Typically, they go back to the submitting agency,  
20 which in this case would be the Calhoun County Sheriff's  
21 Office.

22 Q The same place Mr. Stone works?

23 A That's correct.

24 Q Now, the Solicitor asked you about the situation  
25 where somebody is unavailable. And it sounds like you've

1 never encountered that situation where somebody is truly  
2 unavailable?

3 A That's correct.

4 Q And you said the importance of working off an image  
5 is because you don't want the evidence to be altered?

6 A That's correct.

7 Q And so if somebody was truly unavailable, wouldn't it  
8 be possible to go to the arresting agency, in this case,  
9 the Calhoun County Sheriff's Office, and get those devices  
10 and make another image of them?

11 A I mean, it's possible. But, typically, since those  
12 images were already created and acquired, we'd just work  
13 from those images.

14 Q I'm saying, typically, but if you wanted -- the  
15 purpose of keeping the evidence so that it cannot be  
16 altered -- it seems like part of the reason to do that is  
17 that, under certain circumstances, you could go back to  
18 that evidence in the form that it was in and get another  
19 image of it?

20 A Correct.

21 Q Okay. And when you're -- when we're dealing with  
22 doing -- dealing with the sort of -- this digital  
23 information, is that the right way to say it?

24 A Yes, sir.

25 Q Okay. The -- there are times where it could be

1 altered from collection before it comes to you, aren't  
2 there?

3 A We have no -- you know, we don't assume any  
4 responsibility for anything that happens in transit  
5 between the time it is recovered from wherever and between  
6 the time we get it. The time we get it in the lab --

7 Q Right.

8 A -- nothing is altered at all when it comes to the  
9 lab.

10 Q So when it comes to the lab -- you're not responsible  
11 for the condition before it comes to the lab?

12 A That's correct.

13 Q You're responsible for the condition after it gets to  
14 the lab?

15 A That's correct.

16 Q Now, she asked you about State's Exhibit Nos. 5  
17 through -- I mean, State's Exhibit Nos. 6 through 15, I  
18 think. Do you know if State's Exhibit No. 6 was -- based  
19 on the image that Detective Cole did, was that a deleted  
20 photograph or, actually, taken off the camera?

21 A That was recovered from -- from item number one.

22 Q Right. But was it a carved image?

23 A That's correct.

24 Q And "carved" means it had been deleted?

25 A Correct.

1 Q State's Exhibit No. 7, was that a carved image?

2 A I don't recall.

3 Q How would you find out?

4 A I'd have to go back and look at the forensic image.

5 Q Okay. Do you have that here with you?

6 A I do not.

7 Q So there's no way whether you can tell us if that was  
8 a deleted item or not?

9 A No.

10 Q And that's State's Exhibit No. 7 that I was just  
11 asking about the follow-up question.

12 State's Exhibit No. 8, do you know if that was a  
13 deleted item or an item that's never been deleted?

14 A I don't recall.

15 Q And you don't have that information here with you?

16 A No.

17 Q And State's Exhibit No. 9, do you know if that was a  
18 deleted image?

19 A I don't recall.

20 Q All right. And you don't have that information with  
21 you?

22 A No.

23 Q State's Exhibit No. 10, do you know if that was a  
24 deleted image?

25 A I don't recall.

1 Q And you don't have that information with you; is that  
2 right?

3 A That's correct.

4 Q State's Exhibit No. 11, was that a deleted image or  
5 not?

6 A I don't recall.

7 Q And you don't have that information with you?

8 A No.

9 Q State's Exhibit No. 12, do you know if that was a  
10 deleted image or not?

11 A That's correct. It was a deleted image.

12 Q It was a deleted image?

13 A Yes.

14 Q So out of that, we've got two that were deleted so  
15 far?

16 A That's correct.

17 Q State's Exhibit No. 13, was that a deleted image?

18 A That was a deleted image.

19 Q So that's three that were deleted. State's Exhibit  
20 No. 14, was that a deleted image?

21 A That was a deleted image.

22 Q State's Exhibit No. 15, was that a deleted image?

23 A I don't recall.

24 Q And you don't have that information with you?

25 A No.

1 MR. GROSE: Okay. Is State's Exhibit Nos. 1 through  
2 5 up here, or is that somewhere else?

3 MS. JOSEPH: No. It's right here. It's on the corner.

4 BY MR. GROSE:

5 Q Do you know if State's Exhibit No. 1 was something  
6 that came off the forensic image that Detective Cole made?

7 A I don't recall.

8 Q So you don't know one way or the other?

9 A No.

10 Q All right. State's Exhibit No. 2, do you know if  
11 that was a photograph that came off of the forensic image  
12 that Detective Cole made?

13 A I don't recall.

14 Q And you don't have that information here with you?

15 A No.

16 Q State's Exhibit No. 3, do you know if that was an  
17 item that came off Detective Cole's image?

18 A I don't recall.

19 Q And you don't have that information with you?

20 A No.

21 Q State's Exhibit No. 4, do you know if that came off  
22 of Detective Cole's forensic image?

23 A It did.

24 Q Okay. Do you know if it was deleted or undeleted?

25 A I don't know if it was deleted or undeleted.

1 Q And you don't have that information here with you?

2 A No.

3 Q And I take it, State's Exhibit Nos. 1 through 3,  
4 since you don't know if that came from Detective Cole's  
5 image, you don't know whether those were deleted or  
6 undeleted?

7 A That's correct.

8 Q And State's Exhibit No. 5, do you know whether or not  
9 that came off Detective Cole's image?

10 A It did.

11 Q All right. And do you know if it was deleted or  
12 undeleted?

13 A I don't recall.

14 Q And you don't have that information with you?

15 A No.

16 MR. GROSE: I beg the Court's indulgence just for a  
17 moment.

18 (Pause.)

19 BY MR. GROSE:

20 Q I think you already answered this question. You know  
21 Detective Cole and you had worked with him in the past?

22 A Correct.

23 Q But your tenure at the task force did not overlap  
24 with his tenure at the task force?

25 A It overlapped exactly two weeks.

1 Q Exactly two weeks?

2 A Correct.

3 Q And that was not during the time where he would have  
4 made this forensic image?

5 A No.

6 Q And during that time, I'm sure this case probably  
7 never came up?

8 A No, it didn't.

9 Q And Detective Cole is still around in the Birmingham  
10 area, isn't he?

11 A He travels a lot for his new assignment.

12 Q Oh --

13 A But more or less, he's in the Birmingham area.

14 Q Well, he still works from there and it sounds like he  
15 travels?

16 A Correct.

17 Q But for his job?

18 A Correct.

19 MR. GROSE: Okay. That's all.

20 MS. JOSEPH: Briefly.

21 THE COURT: Yes, ma'am.

22 REDIRECT EXAMINATION

23 BY MS. JOSEPH:

24 Q Does the process used to make a forensic image alter  
25 the original digital files in any way?

1 A No.

2 Q How were the forensic copies identified in the lab  
3 when conducting a review -- making your report? I think  
4 what I'm looking for, what is a hash?

5 A A hash value is -- basically, it's a digital  
6 fingerprint of an entire file or an entire hard drive.  
7 Basically, it's, you know -- it's a, you know,  
8 mathematical algorithm assigned to a particular file  
9 saying this is, you know, what it says it is.

10 Q Right. So in this case, each item has a hash?

11 A That's correct.

12 Q So, like, what I'm calling State's Exhibit No. 19,  
13 what he's calling item, I think, one, that is a hash to  
14 you?

15 A That's correct.

16 MS. JOSEPH: No other questions.

17 THE COURT: Anything else, Mr. Grose?

18 MR. GROSE: No, sir.

19 THE COURT: Thank you, sir.

20 You can step down.

21 MS. JOSEPH: Thank you.

22 Don't go too far.

23 THE COURT: Anything else by way of proffer,

24 Ms. Joseph?

25 MS. JOSEPH: Nothing by way of proffer. I think

1 we're ready for argument, Your Honor.

2 THE COURT: Okay. Let me hear from you.

3 MR. GROSE: You know, Judge, there's -- I guess  
4 there's several issues here. We -- with regard to the two  
5 cameras, item one and two, as they were identified in  
6 evidence, we have, virtually, no chain of custody on those  
7 items. And I understand that there's case law talking  
8 about establishing the chain of custody as near as  
9 practical as possible. But I think that analysis is a far  
10 stretch to get to that.

11 For example, I'm familiar with drug cases where an  
12 officer gets drugs from an informant, the informant might  
13 not testify, but they've watched him go in and come out  
14 with drugs. And then they have everything else in the  
15 chain.

16 I'm, also, familiar with the cases where, for  
17 example, once you put it in the SLED drop box until the  
18 time it gets to the examiner that they don't necessarily  
19 have to have every one of those people. But I don't think  
20 that any of our case law allows them to authenticate a  
21 chain of custody when there are so many steps missing.

22 And in this case, while Detective Stone, you know,  
23 went to obtain the search warrant and went to the  
24 residence, he was only there for about 10 minutes. They  
25 were still photographing things when he left. He did not

1 collect any of those items. They appeared -- I forget who  
2 he named. But there was a person who had signed it in and  
3 out of the evidence locker, Mr. Thompson maybe, his name  
4 appeared on that three times.

5 I understand that Detective Stone prepared the  
6 request for Alabama. But I don't think -- for the task  
7 force in Alabama. But I don't think he was the one that,  
8 actually, transported it there.

9 And so, really, we have -- and, certainly, we don't  
10 have anything with regards to what Detective Cole did  
11 after he received them until when the image was made, or  
12 any testimony about whether that image had been altered in  
13 the period of time when Detective Cole made it up through  
14 when Mr. -- Detective Agee looked at it.

15 And I understand that, you know, if there's a gun  
16 with a serial number on it that you don't necessarily have  
17 to have the chain of custody to identify it. But if you  
18 have a gun and you want to testify whether there's gunshot  
19 residue on it, you better be able to establish that  
20 nothing has happened to alter that gun, or that gun to  
21 have been fired between the time it was collected and when  
22 they did that gunshot residue test.

23 And when we're dealing with, you know, this digital  
24 data, I mean, it's one thing for somebody to break in my  
25 office and steal my computer and me be able to identify my

1 computer. But when you start getting into the material  
2 that's contained on it, that becomes a whole lot more  
3 fungible. That becomes something that can be altered  
4 easily.

5 And so I think that they have to account for that  
6 chain of custody more than what they did today. And they,  
7 certainly, had -- I believe it was Mr. Becker who was on  
8 their witness list that was involved in collecting it, but  
9 he's not here. And we could have heard from him. We  
10 could have heard from their evidence custodian. It  
11 wouldn't have been hard to get those people here.

12 But I, also, have the confrontation clause issue.  
13 The confrontation clause issue, even though, you know, you  
14 might not have every step in that chain of drugs between  
15 the time it goes from the -- being collected to the time  
16 that it is examined, you do have to have the person who  
17 conducted the examination in court so that that person can  
18 be cross-examined about running the analysis.

19 And so in this case, it would be us cross-examining  
20 Detective Cole about, you know, making the -- the forensic  
21 images and what he did or didn't do with it. And he's  
22 just not here to be questioned. And, you know, he's not  
23 truly unavailable as we talked about before lunch. He  
24 doesn't work in the same place, but he's still around. It  
25 sounds like he travels for work. He may be very busy.

1 But they could have gotten him here to do that.

2 And then I have questions, also, about the evidence  
3 that was brought in here out of all -- State's Exhibit  
4 Nos. 1 through 16 that we went through -- it's State's  
5 Exhibit Nos. 1 through 15 --

6 MS. JOSEPH: It's 1 through 15.

7 MR. GROSE: State's Exhibit Nos. 1 through 15 that we  
8 went through, none of those were, you know, images that  
9 were, actually, still on the camera -- or none of them  
10 were testified to -- to that. There's, at least, three or  
11 four that he can't say whether or not they came from  
12 Detective Cole's image or not.

13 And there's a number of them that they can't say  
14 whether they had been deleted or not. The ones that they  
15 could say have all been deleted. And so -- and none of  
16 them really -- I mean, none of them are per se illegal.  
17 None of them are child pornography. And, you know, I  
18 think that, you know, we need to be able to cross-examine  
19 Detective Cole.

20 I, also, have, you know -- and we eluded to it  
21 earlier. I think it was State's Exhibit Nos. 13 and 15,  
22 the identification of those by Lori Mayo. Certainly,  
23 State's Exhibit No. 15, I think, is out because she can't  
24 say who that was. And Mr. Agee couldn't offer much  
25 additional testimony about that image here today. And

1 State's Exhibit No. 13, I think, is also -- should be  
2 excluded. And I think that pretty much summarizes it.

3 Thank you.

4 THE COURT: Ms. Joseph, are you going to argue?

5 MS. JOSEPH: Thank you, Your Honor.

6 I have four points to make.

7 THE COURT: Yes, ma'am.

8 MS. JOSEPH: First -- and let me go in order. First,  
9 Defense provided with you with Melendez-Diaz v.  
10 Massachusetts. The State argues that that case is not  
11 applicable here because it's a drug case, and it involves  
12 fungible evidence.

13 The second point is that what we're dealing with here  
14 is non-fungible evidence. Rule 901 of evidence governs  
15 non-fungible evidence. The State provided a case, State  
16 v. Pope. In that case, a TV was used as an example of  
17 non-fungible evidence. And the Court went on to say that  
18 anything with a serial number is non-fungible evidence.  
19 And I have another copy of --

20 THE COURT: Go ahead. I'm listening.

21 MS. JOSEPH: And then I want to read you this direct  
22 quote from State v. Pope, but it's State v. Pope,  
23 actually, quoting State v. Freiburger. And I, also,  
24 provided the Court a copy of State v. Freiburger.

25 The quote is, While the chain of custody requirement

1 is strict where fungible evidence is involved, where the  
2 issue is the admissibility of non-fungible evidence, that  
3 is evidence that is unique and identifiable, the --

4 THE COURT: Which page of the case are you reading?

5 MS. JOSEPH: Oh, I apologize, Your Honor.

6 THE COURT: Are you reading from Pope?

7 MS. JOSEPH: Actually, I am reading from Pope, that's  
8 quoting Freiburger.

9 THE COURT: Got you.

10 MS. JOSEPH: And it's on Page 5 of 6, Your Honor.

11 And it's the top of column two.

12 THE COURT: Okay.

13 MS. JOSEPH: So I'm going to start over.

14 While the chain of custody requirement is strict  
15 where fungible evidence is involved, where the issue is  
16 the admissibility of non-fungible evidence, that is  
17 evidence that is unique and identifiable, the  
18 establishment of a strict chain of custody is not  
19 required.

20 And, Your Honor, the use of TV is in the middle of  
21 column two on Page 5. They say a shotgun, or a  
22 television, or a pistol. They're giving examples. And,  
23 Your Honor, this case was, actually, about a scale. And  
24 if this scale, actually, had a serial number. And that's  
25 why they're saying anything with a serial number applies.

1           And then my third point is -- and this quote, also,  
2 comes from the Pope case. This quote is talking about  
3 fungible evidence, but we still think it applies here.  
4 They're saying that if you want to challenge the chain,  
5 the -- if the identity of each person handling the  
6 evidence is established and the manner handling is  
7 reasonably demonstrated, no abuse of discretion by the  
8 trial court is shown in admitting the evidence absent  
9 proof of tampering, bad faith, or ill motive.

10           So in this case, the Court wants to make it clear we  
11 identified every member of the chain. Arthur Agee, the  
12 last witness, was able to speak to the manner of handling,  
13 as was Investigator Stone. And there was no proof of  
14 tampering, bad faith, or ill motive. In fact, Arthur Agee  
15 testified the reason they go off of a forensic copy is to  
16 avoid damaging the evidence. So the policy is there for a  
17 reason. That is to, in fact, avoid any tampering.

18           So without a showing of tampering, bad faith, or ill  
19 motive, we feel that Defense cannot challenge the chain  
20 and cannot challenge the use of forensic -- the use of  
21 copying, mirroring, or making of a forensic copy.

22           Because if Your Honor agrees this is a non-fungible  
23 item and, therefore, we do not need to establish strict  
24 chain, then the State believes the only question on the  
25 table is the issue of the forensic mirroring of the items,

1 which means the copying of the items. And Arthur Agee  
2 testified to that process, why that process was done. And  
3 he testified that in any sort of independent review  
4 situation, they always go back to the forensic copy. And  
5 Detective Cole's report was based off of that forensic  
6 copy. And even the forensic copy is unique and has a hash  
7 value that identifies each item and where it comes from.

8 Finally, Your Honor -- well, sorry. I have two more  
9 points. There's no confrontation clause. The problem  
10 with this issue -- there's no confrontation clause issue  
11 here because Arthur Agee conducted an independent review.  
12 So they're able to confront the person who will be  
13 testifying about his own independent knowledge.

14 Defense Counsel brought up that several of these  
15 items had been deleted, or Arthur Agee could not testify  
16 to whether or not they had been deleted. We believe that  
17 goes to weight, not admissibility.

18 And then, finally, number 15, where Lori Mayo was  
19 able to say that she believes that those are her  
20 daughter's legs. She believes that is a dance costume her  
21 daughter wore. Arthur Agee can testify that that item was  
22 found on the camcorder and the camera. He cannot testify  
23 about whether or not it was deleted. Whether or not that  
24 is the victim goes to weight, not admissibility.

25 MR. GROSE: Whether or not it's the victim goes to

1 relevance. And I disagree with some of that.

2 First of all, they've not established the entire  
3 chain of custody as far as identity is concerned because  
4 we don't know who collected those two items. And so  
5 without that being in the record, they haven't established  
6 all of that.

7 Secondly, she's relying on serial numbers. But one  
8 of them, they don't have a serial number for, they just  
9 have a model number. So even under her own argument,  
10 anything that came off of that device, she hasn't --  
11 because we're dealing with images off of two devices.  
12 Anything that came off that device, she hasn't even  
13 established that.

14 And we're not talking about identifying a stolen TV,  
15 or identifying a stolen gun, or a gun that was picked up  
16 at a crime scene. We're talking about, you know, what  
17 the -- we're talking about the digital data on the  
18 computer, which I would argue is much more like a fungible  
19 item than a non-fungible item. Even drugs, for example,  
20 can be made more like a non-fungible item. That's the  
21 whole reason for putting them in those SLED vest packs and  
22 sending them up the chain.

23 And this is important because they're conflating the  
24 chain of custody with the confrontation clause argument.  
25 The chain of custody wasn't the real issue in

1 Melendez-Diaz. The real issue in that was the Sixth  
2 Amendment confrontation right of the person who, actually,  
3 did the examination.

4 And this is also -- and they didn't do it for the  
5 purposes of the proffer. And I'm not objecting to that.  
6 But they're going to have to qualify Detective Agee as an  
7 expert, which means they would, also, have to qualify  
8 Detective Cole as an expert. And we would get an  
9 opportunity to cross-examine him about those  
10 qualifications. And we can't do that if he's not here.

11 So, you know, it's -- the confrontation clause is a  
12 lot more complicated than that. And we may need to get  
13 somebody back up here to see if they can tell us, if it  
14 becomes important in the analogy, which -- of the  
15 analysis, which one of the items came off of the one with  
16 the serial number versus the one without the serial  
17 number. And, in fact, I'd like to recall Detective Agee  
18 for that limited purpose.

19 THE COURT: Any objection to that?

20 MS. JOSEPH: So he's calling him -- he's -- what is  
21 the limited purpose he's calling him --

22 MR. GROSE: The limited purpose is whether or not he  
23 can tell whether these images came -- which device they  
24 came off of.

25 MS. JOSEPH: Okay. That's fair. Yeah, that's --

1 THE COURT: Come on back up.

2 You're still under oath.

3 THE WITNESS: Yes, sir.

4 DIRECT EXAMINATION

5 BY MR. GROSE:

6 Q And I'll try to go through this fast. State's  
7 Exhibit No. 1, do you know if that came off of your  
8 evidence item one or two?

9 A I don't recall.

10 Q State's Exhibit No. 2, your item one or two?

11 A I don't recall.

12 Q State's Exhibit No. 3, your item one or two?

13 A I don't recall.

14 Q State's Exhibit No. 4, your item one or two?

15 A I don't recall.

16 Q State's Exhibit No. 5, your item one or two?

17 A That came off of item number one.

18 Q And that's the one with no serial number?

19 A It looks like there's a serial number listed on the  
20 report.

21 Q On the request form that we have, there's no serial  
22 number for item one.

23 A There's a serial number in the forensic report.

24 Q Okay. And State's Exhibit No. 6, do you know if that  
25 was one or two?

1 A That was item one.

2 Q State's Exhibit No. 7?

3 A That was item two.

4 Q Okay. State's Exhibit No. 8?

5 A Item two.

6 Q State's Exhibit No. 9?

7 A Item two.

8 Q State's Exhibit No. 10?

9 A Item two.

10 Q State's Exhibit No. 11?

11 A Item two.

12 Q State's Exhibit No. 12?

13 A Item one.

14 Q State's Exhibit No. 13?

15 A Item one.

16 Q State's Exhibit No. 14?

17 A Item one.

18 Q And State's Exhibit No. 15?

19 A Item two.

20 Q And as far as the several that you don't know which

21 item they came from, you don't have that information here

22 today, do you?

23 A No, I don't.

24 Q I'm sorry.

25 A No, I don't.

1 MR. GROSE: Thank you.

2 That's all.

3 MS. JOSEPH: Your Honor, just for clarification --

4 THE COURT: I've just got one question.

5 MS. JOSEPH: Of course.

6 EXAMINATION

7 BY THE COURT:

8 Q You're working off of Mr. Cole's report?

9 A I worked -- for items one and two, I worked off of  
10 the forensic image.

11 Q Of Mr. Cole --

12 A Right, that he recreated. Right.

13 Q Not a report that you did?

14 A No. I did not do a report.

15 MR. GROSE: And just as follow-up for that.

16 REDIRECT EXAMINATION

17 BY MR. GROSE:

18 Q The report that you looked at while I was asking you  
19 those questions is Detective Cole's report?

20 A Yes. The report right here, yes. That's correct.

21 Q And so the serial number from item one came from  
22 Detective Cole's report. You've never seen, actually,  
23 item one?

24 A That's correct.

25 MR. GROSE: Thank you.

1 MS. JOSEPH: Judge, if I may.

2 CROSS-EXAMINATION

3 BY MS. JOSEPH:

4 Q I know we're just re-clarifying over and over again.  
5 The Judge asked you if you had worked off of Detective  
6 Cole's report. You -- Detective Cole created a forensic  
7 copy?

8 A Forensic image.

9 Q Forensic image. And that means that he took -- let's  
10 say the camera, he took the contents of the camera, which  
11 are digital files, nothing physical?

12 A Correct.

13 Q And he copied it?

14 A Correct.

15 Q So you didn't do that copy?

16 A I did not.

17 Q And that copy lives in your office?

18 A That's correct.

19 Q And every single device that comes in -- I'm sure  
20 hundreds of devices a year come into the electronic crimes  
21 task force?

22 A Right.

23 Q And that's the process that's done every single time?

24 A That's correct.

25 Q And you do that process yourself?

1 A Right.

2 Q And it's -- what does it entail? So, for a camera,  
3 what does that mean?

4 A So, in this instance, there was an SD card inside.  
5 You remove the SD card and put that SD card inside a write  
6 blocker. What the write blocker does, it does not -- it  
7 allows our tools to -- to read evidence, but it cannot  
8 write. It kind of acts as a one-way valve. Information  
9 can come in, but it can't go back out. It can't be  
10 altered.

11 So it can read that data from the SD card and copy  
12 it, but no information can be written back to that SD  
13 card.

14 Q Okay. And then you take the SD card out of that  
15 device?

16 A The write blocker.

17 Q The write blocker.

18 A And it's put back in our evidence locker until the  
19 case is done with.

20 Q And then the forensic image --

21 A Right.

22 Q -- lives at your office?

23 A That's correct.

24 Q And that's what you went back and looked at for this  
25 case?

1 A That's correct.

2 Q So you -- if you had been asked to do an  
3 independent -- at this -- I could give you a case number  
4 for any case in your office and you could go look at a  
5 forensic case -- I'm sorry, forensic image?

6 A That's correct.

7 Q And that's how you -- that's how anyone in your  
8 office, in fact, does review evidence for court, for  
9 example. So if you had done the original report and you  
10 wanted to review it for court, you would never go to the  
11 original devices. You would always go to the forensic  
12 copy?

13 A That's correct. That's our standard practice.

14 Q Okay. You're not relying solely on Detective Cole's  
15 report?

16 A For items one and two, no.

17 Q For items one and two. And items one and two are the  
18 camera and the camcorder?

19 A That's correct.

20 Q You're relying on your own independent review of the  
21 forensic image?

22 A That's correct. Verify the report.

23 MS. JOSEPH: Is it item two that we're having an  
24 issue with the serial number?

25 MR. GROSE: Item one.

1 BY MS. JOSEPH:

2 Q What is item one again?

3 A It's a JVC camcorder.

4 Q And you may not be able to answer this. I may need  
5 to recall Detective Cole [sic]. But do you -- there's a  
6 serial number here that's listed?

7 A That's correct.

8 Q Do you know if that's an internal serial number?

9 A It should be -- I don't know.

10 Q You don't know. That's okay.

11 MS. JOSEPH: Can we recall Detective Cole [sic] for  
12 that limited question?

13 MR. GROSE: Detective Cole is the one that's not  
14 here.

15 MS. JOSEPH: Right, Sergeant Stone. All of these men  
16 have like four letters in their last name. Agee, Cole,  
17 Stone, that's five. I'm sorry. That was wrong.

18 THE COURT: Okay. You can step down.

19 Let's move this along.

20 Come on up, sir.

21 DIRECT EXAMINATION

22 BY MS. JOSEPH:

23 Q Lieutenant Stone --

24 A Yes, ma'am.

25 Q -- item one, which is State's Exhibit No. 19 -- is

1 State's Exhibit No. 19 up there?

2 A No, ma'am.

3 Q We'll find State's Exhibit No. 19.

4 I'm handing you State's Exhibit Nos. 18 and 19. And  
5 State's Exhibit -- I'm handing you State's Exhibit  
6 Nos. 18, 19, and 20. And was it the camcorder?

7 A Yes, item number one.

8 Q Item number one, the camcorder, you don't have a  
9 serial number listed; is that correct?

10 A That's correct.

11 Q Why don't you have a serial number listed?

12 A There's not a serial number on the model tag on the  
13 camcorder.

14 Q And where is the serial number located?

15 A I'm assuming --

16 MR. GROSE: Objection. Speculation.

17 THE WITNESS: It's not on the camera -- on the  
18 external of the camera.

19 BY MS. JOSEPH:

20 Q You've collected several electronic devices in your  
21 career?

22 A Yes.

23 Q And do some devices have internal serial numbers?

24 MR. GROSE: Objection. Relevance. We're talking  
25 about this one item.

1 THE COURT: All right. I'm going to sustain that.  
2 Go ahead.

3 We're just talking about one item.

4 MS. JOSEPH: I'm just asking him -- no further  
5 questions.

6 MR. GROSE: I have no questions.

7 THE COURT: You can step down.

8 MS. JOSEPH: I think that's it, Your Honor.

9 THE COURT: Anything further before I rule?

10 MR. GROSE: Not from me.

11 MS. JOSEPH: No, Your Honor.

12 THE COURT: All right. I made reference prior to  
13 lunch of the witness list. And one of the reasons that I  
14 asked Counsel about the witness list was because I was  
15 concerned about one of the witnesses in the case.

16 And I think Counsel, at the beginning of the week,  
17 when I made inquiry about -- or the Court made inquiry  
18 about the witnesses that would be appearing, I think  
19 Counsel -- the State's Counsel made reference to some  
20 folks from Alabama. I didn't know who they were.

21 I looked at the witness list and I went through them.  
22 And I saw there were three individuals from the Alabama  
23 Sheriff's Department -- or detectives listed there. I  
24 think because of the seriousness of the case, I wanted to  
25 make sure that both sides had the opportunity to know who

1 the witnesses were on both sides.

2 My concern was then and is still now -- and I had an  
3 opportunity and I read this Melendez-Diaz case. And I  
4 read some other cases, too, that talked about the Court's  
5 obligation to weigh the probative value of the evidence  
6 presented versus the prejudicial effect. And there are a  
7 whole line of cases that talk about that. And there's a  
8 whole line of cases that talk about the Court's  
9 requirement to look at 404(b) and reconcile that with 403.  
10 There are a whole line of cases there.

11 And then there are a whole line of cases that talk  
12 about res gestae and the Lyle case we talked about  
13 earlier. All of those cases were there. And I read all  
14 those cases. I read all of those cases.

15 Because Counsel filed these motions and I was reading  
16 the cases because, obviously, I needed to get in my  
17 mind -- based upon what I heard, I needed to be prepared  
18 to rule based on what I heard. And those were all the  
19 cases I was reading. I read all of them, every single one  
20 of them.

21 And there's just a bunch of them that says I, as the  
22 trial judge, must -- must perform, for lack of a better  
23 word, a balancing test on the record to determine the  
24 admissibility of the evidence, whether the probative value  
25 of the evidence is outweighed by the prejudicial and vice

1       versa. I'm required to do that.

2               But what I'm hearing today is you've got a witness --  
3       a critical witness, in this Court's estimation, Detective  
4       Cole. He is the gentleman -- I mean, he went out there.  
5       He is the one that -- that determined whatever images that  
6       were collected. I mean, he was -- he's critical in this  
7       case.

8               And I think in Melendez-Diaz -- even though the  
9       Melendez-Diaz case --

10              And Madam Court Reporter, I'm going to cite that case  
11       for you. It was given to me by Counsel. It's the  
12       Melendez, M-E-L-E-N-D-E-Z, Diaz, D-I-A-Z v. Massachusetts.

13              And this is a case -- even though it's a drug case,  
14       the critical thing is the whole confrontation clause.  
15       That's critical. That is very critical. And the reason I  
16       say it's critical is every Defendant has the absolute  
17       Constitutional right to confront any witnesses on his  
18       behalf, unless he waives it.

19              And Mr. Agee didn't do an independent examination.  
20       He -- I mean, he relied -- whether he relied somewhat on  
21       the report of Detective Cole as to some of it, none of it,  
22       he didn't do it all.

23              And I am not satisfied that the State has afforded  
24       this Defendant an opportunity to confront -- and when I  
25       say "confront," Mr. Cole needed to be here. Defense

1 Counsel needed to have the opportunity to cross-examine  
2 him, to ask him some specific questions.

3 And so even though I read all these cases about Lyle  
4 and 403 and Rule 404(b) and all that, my ruling as to the  
5 exclusion of the evidence is not based on any of that.  
6 It's just based on the fundamental Constitutional right of  
7 confrontation, the ability to have the right to confront  
8 any witnesses.

9 So based on that solely, that Constitutional right, I  
10 am excluding that.

11 Anything else?

12 MR. GROSE: And does that go from State's Exhibit  
13 Nos. 1 to 5? Because we had talked about the limited --

14 THE COURT: Yes.

15 MR. GROSE: Thank you.

16 THE COURT: Anything from the State?

17 MS. JOSEPH: Your Honor, the State would just say as  
18 to items one through five that those -- there's no  
19 testimony from the mother that those came from the  
20 devices. She is clear that she does not know the origins  
21 of those.

22 And, once again, if we were to show her a photo of  
23 her house, even if she had no idea who took the photo, she  
24 can say, yes, that's my house. That's an accurate  
25 depiction of my house. In the same way, she's going to

1 say items one through five are photos of her daughter,  
2 accurate photos of her daughter at approximately this age  
3 in a house where she lived.

4 So we would argue that one through five do come in  
5 and their origins will not be mentioned at trial.

6 THE COURT: As to which devices and as to which  
7 location?

8 MS. JOSEPH: Right. The devices won't come in, the  
9 location won't come in. We will not be recalling  
10 Lieutenant Stone. We will not be recalling Arthur Agee.  
11 Just the mother will get on the stand and will testify  
12 items one through five, they depict her daughter at  
13 approximately this age in her house in Beaufort.

14 THE COURT: I've already pretty much ruled on that.

15 MR. GROSE: I don't have anything to add.

16 THE COURT: I'm not going to change it.

17 All right. Anything further before we bring the jury  
18 in? Anything else?

19 MR. GROSE: We need a restroom break.

20 THE COURT: All right. Let's take a 10-minute  
21 restroom break and then we'll be ready.

22 (WHEREUPON, a break was taken.)

23 THE COURT: You're standing. So have you got a  
24 matter you want to take up before we bring the jury in?

25 MS. JOSEPH: Briefly, Your Honor.

1 THE COURT: Yes, ma'am.

2 MS. JOSEPH: Your Honor, it's not the State's  
3 intention -- we would like to avoid this because putting  
4 children on the stand is always difficult. Now, it's the  
5 State's intention to try to get these photos in through  
6 J.M. . I just want to make the Court aware. But we  
7 will be recalling Lori first.

8 MR. GROSE: I mean, she can't testify to the  
9 authenticity of these photos. And given -- I mean, I  
10 think they would need to proffer that, if that's what  
11 their intention is now.

12 MS. JOSEPH: It's the State's contention that we do  
13 not need to proffer. She's the subject matter of those  
14 photographs.

15 In Defense's earlier motion, he used the example of  
16 if I were trying to use a photo where the person  
17 testifying had not taken the photo. He said that he would  
18 be agree -- he would agree that someone standing over the  
19 shoulder of the person taking the photo could testify.

20 So in this case, J.M. was, clearly, present when  
21 the photos were taken, because she is the subject matter.  
22 However, Defense can, obviously, object as we go forward.  
23 We don't think --

24 MR. GROSE: I'm moving to exclude the admission of  
25 the photographs based on the Court's previous ruling. I'm

1 moving that if they're going to try to admit them through  
2 J.M. that that needs to be, first, taken up outside the  
3 Court's [sic] presence given the number of times that she  
4 testified yesterday that she couldn't remember. I think  
5 it would be extremely prejudicial for them to parade  
6 photos in front of the jurors that, ultimately, can't be  
7 authenticated.

8 MS. JOSEPH: Obviously, we would not show these  
9 photos to the jury prior to them being admitted. I mean,  
10 we would be very careful about that. You watched me in  
11 court. I'm very careful to warn witnesses, don't show  
12 these to the jury. I mean, I really take that very  
13 seriously, Your Honor.

14 THE COURT: All right. So what I'm hearing is that  
15 the mother of the child -- obviously, there's some  
16 question about authenticating the pictures. You're not  
17 going to use her. You want to try to put the child back  
18 up by way of proffer and let me hear --

19 MS. JOSEPH: Sure, sure. We can do that, Your Honor.

20 MR. GROSE: And remembering that the ones that can be  
21 identified whether they were deleted or undeleted. They  
22 were all deleted. The rest is unknown.

23 MS. JOSEPH: I mean, she won't be testifying about  
24 that. These are just images of her. She was there when  
25 they were taken. And she's going to testify about the

1 circumstances surrounding the photographs.

2 THE COURT: Is she going to be able to testify when  
3 they were taken?

4 MS. JOSEPH: I mean, you can -- we're proffering it.  
5 So you can --

6 THE COURT: I mean, I got it, but that's a question.

7 MS. JOSEPH: That's fair.

8 THE COURT: That's a fair question.

9 MS. JOSEPH: You're the Judge.

10 MR. GROSE: And in my crime scene example, we weren't  
11 talking about photographs that had been deleted. I mean,  
12 there is an authentication issue to these photographs.  
13 And I don't think -- I don't think they can do anything  
14 with this particular witness to change that.

15 THE COURT: All right. Well, we'll -- I'll let you  
16 do it by way of proffer.

17 MS. JOSEPH: Thank you, Your Honor.

18 THE COURT: Anything else before we bring the jury  
19 back? They've been sitting back there for a while.

20 Anything else?

21 MS. JOSEPH: No, sir.

22 We are going to put Lori on the stand first in front  
23 of the jury and then proffer J.M. .

24 THE COURT: If that's what you want to do.

25 MR. GROSE: And none of the photographs are with

1       Lori. That's just --

2           MS. JOSEPH: Right. Just the text messages.

3           MR. GROSE: I just wanted to --

4           THE COURT: Well, let me just ask you this just so  
5 the jury won't be back and forth. Do you want to do the  
6 proffer with the child now? Because after that, everybody  
7 else is going to be fact witnesses.

8           MS. JOSEPH: After J.M.       , Your Honor, the State  
9 will, actually, be resting. So it might make more sense  
10 to do J.M.       's proffer now.

11          THE COURT: That's what I was suggesting.

12          MS. JOSEPH: Yes, Your Honor. And I'm agreeing with  
13 your suggestion.

14          MR. GROSE: Can I make another suggestion?

15          THE COURT: What's that?

16          MR. GROSE: That we call Lori. By the time that's  
17 done, it's already 4:00, that we excuse the jurors for  
18 today. And you can determine whether or not -- you know,  
19 during the proffer whether J.M.       is going to testify.  
20 We could do that first thing in the morning, if that's  
21 their last witness. We'd be prepared to present our case.

22          THE COURT: How many witnesses have you got?

23          MR. GROSE: Right now, I'm anticipating calling five.  
24 But I, also, anticipate, you know, that I could be done by  
25 midday. And we could be, you know, arguing and charging

1 tomorrow afternoon.

2 THE COURT: Well, my intention was to go until about  
3 6:00, or whatever. I don't want to -- I don't want to let  
4 the jury go and then I've got five witnesses tomorrow that  
5 we can't get through because we've got all kinds of legal  
6 matters, you know. The way this has gone -- I'm not  
7 complaining, I mean, you just don't know what's going to  
8 come up.

9 MR. GROSE: Well, my first witness is the longest  
10 witness. And I have to call that witness first before I  
11 call the other witnesses.

12 THE COURT: Have you got any -- any of your witnesses  
13 here today?

14 MR. GROSE: They're all here today.

15 THE COURT: So how long is your longest witness going  
16 to take? An hour, hour and a half?

17 MR. GROSE: It's going to be Mr. Dent. I imagine  
18 it's going to take an hour, hour and a half, or more. The  
19 rest of them will be short.

20 THE COURT: An hour, hour and a half on direct?

21 MR. GROSE: Maybe.

22 THE COURT: Or cross?

23 MR. GROSE: Between an hour, hour and a half on  
24 direct would be my estimation. I don't know how long  
25 their cross would take. The rest of them would be short.

1 THE COURT: I'm not going to do that. What we're  
2 going to do today is we are going to do the proffer on  
3 J.M. . We're going to put Lori up for the limited  
4 purpose you're talking about.

5 MS. JOSEPH: Yes.

6 THE COURT: The State is going to rest after that?

7 MS. JOSEPH: After Lori and J.M. , the State will  
8 rest.

9 THE COURT: We're going to take a 10-minute break.  
10 And then I'm going to let you put your first witness up.  
11 We're going to cover Mr. Dent today.

12 MR. GROSE: We might be here longer than 6:00, but  
13 that's -- I mean, it's your call. But I just think  
14 that -- by the time we get done with the proffer and do  
15 all that, we're going to be pushing 5:00.

16 THE COURT: What's your position, Ms. Joseph?

17 MS. JOSEPH: We leave it in the Court's discretion,  
18 Your Honor.

19 MR. GROSE: I really do feel like my case is all  
20 within a half day. I mean, I know lawyers --

21 THE COURT: Instead of -- I'll change that. Instead  
22 of starting at 9:30 in the morning, we'll start at 9:00.

23 MR. GROSE: That makes sense.

24 THE COURT: We'll start at 9:00. We'll get these  
25 two, the proffer and this witness. And then I'll excuse

1 the jury and we'll start at 9:00.

2 And you're going to rest before we leave here today?

3 MS. JOSEPH: Yes, Your Honor.

4 THE COURT: The State is going to rest.

5 And then tomorrow morning sharp at 9:00, we'll start  
6 with your first witness.

7 MR. GROSE: Yes, sir.

8 THE COURT: Fair enough?

9 MR. GROSE: Fair enough.

10 THE COURT: Okay. Let's do that.

11 Where's my bailiff at?

12 THE BAILIFF: Right here, sir.

13 THE COURT: Well, now, let's bring J.M. in here.  
14 We've got to do that first.

15 She's outside -- is she here?

16 MS. JOSEPH: Bring J.M. in.

17 (WHEREUPON, J.M. entered the courtroom.)

18 EXAMINATION

19 BY THE COURT:

20 Q Yes, ma'am. Could you come forward and stand right  
21 there for me?

22 I know you've been in here before; right?

23 A Yes.

24 Q And the last time you were in here, you said you knew  
25 the difference between telling the truth and telling a

1 lie; is that right?

2 A Yes, sir.

3 Q Are you willing to tell me the truth today?

4 A Yes, sir.

5 Q Are you okay?

6 A Sort of.

7 THE COURT: The best you can.

8 Okay. Come on around and have a seat here for me in  
9 this little box. We're not going to keep you long. We've  
10 just got a few questions to ask you.

11 MS. JOSEPH: Did you have any other questions for  
12 her, Your Honor?

13 THE COURT: No. Go ahead.

14 DIRECT EXAMINATION

15 BY MS. JOSEPH:

16 Q Hi, J.M. . You were here yesterday; right?

17 A Yes, I was.

18 Q You were in this room?

19 A Yes.

20 Q And you testified right there?

21 A Yes, ma'am.

22 Q Do you remember that?

23 A Yes.

24 Q You talked to me. And you know why we're here this  
25 week; right?

1 A Yes.

2 Q It's because of some stuff with your grandfather?

3 A Yes, ma'am.

4 Q When you lived in Beaufort County, which is here in  
5 this area, I think you lived in Bluffton; is that right?

6 A I'm not sure.

7 Q But when you lived -- you remember living in this  
8 area?

9 A Yes.

10 Q And how long did you live there -- or here?

11 A I think four years. I'm not sure.

12 Q Do you remember around what age you were?

13 A I think it was seven to nine.

14 Q Seven to nine. You said yesterday that your  
15 grandfather would come visit; right?

16 A Yes.

17 Q Okay. When he would come visit, would he take  
18 photographs of you?

19 A I don't remember, but I think he would.

20 Q Okay. So I'm going to show you some photographs.

21 And I want you to look at them. And then I'm going to ask  
22 you some questions about them. Okay. But I want you to  
23 look at them first. Okay.

24 A Okay.

25 Q You need to be careful. You do have to look at them.

1 A Yes.

2 Q You have to be careful -- you can look at them, but  
3 you can't show them to anyone else. So just be careful  
4 and look at them.

5 A (Witness complied.)

6 Q All right. How many photographs did I hand you?

7 A Four.

8 Q The one that's on top of the stack, what number does  
9 it have? There's like a red sticker, and it has a number.

10 A 15.

11 Q 15. Okay. Can you put that on the bottom of the  
12 stack.

13 A (Witness complied.)

14 Q All right. What's the number that's on the top now?

15 A 13.

16 Q All right. 13. What is that a photo of?

17 A Me.

18 Q You. And do you know how old you were when that  
19 photograph was taken?

20 A I don't remember.

21 Q Do you know where that photograph was taken?

22 A I don't know which house it was in.

23 Q Okay. But was it in a house in Beaufort?

24 A Yes.

25 Q And how many houses did you live at in Beaufort?

1 A Two.

2 Q And how do you know that it was a house in Beaufort?

3 A Again, I'm not sure where I lived. I just know I  
4 lived in two houses.

5 Q No, no. When you look at the photograph --

6 A Oh, I see a blue couch. And we had a blue couch back  
7 then.

8 Q So you see a blue couch?

9 A In the background.

10 Q So you're in the photograph. It's in Beaufort. Who  
11 took that photograph?

12 A I'm not sure, but I think it was my grandfather.

13 Q You're not sure, but you think it was your  
14 grandfather?

15 A Yes.

16 Q Put that photo upside down on top in front of you on  
17 the rail.

18 A Like, this way, like, facing me?

19 Q Let me see.

20 A I'm sorry.

21 Q It's okay. You're doing great. Like bam. What's  
22 the next photo?

23 A It's a picture of me.

24 Q It's a picture of you. What's the number on it?

25 A Six.

1 Q All right. So it's a picture of you. And how old  
2 were you in that photograph?

3 A I'm not sure.

4 Q Okay. Can you tell where the photograph was taken?

5 A I think the picture was taken in one of the houses.

6 Q And why do you think that?

7 A It has the same blue couch as the last one.

8 Q And do you know who took that photograph?

9 A I'm not sure, again, but it looks the same as the  
10 last one.

11 Q So it looks the same as the last one?

12 A Yes.

13 Q Why do you say it looks the same?

14 A I'm wearing the same outfit. It has the same  
15 background. And it looks like the same place.

16 Q All right. And you think you know who took the last  
17 one. So do you think you know who took this one?

18 A I think it was him again since it looks like the same  
19 one.

20 Q So put that photo upside down on top of that one.  
21 Perfect.

22 All right. What's the next photo?

23 A It's 11.

24 Q Good. And what is that a photo of?

25 A Me.

1 Q And how old are you in that photo?

2 A I'm not sure.

3 Q And where was that photo taken?

4 A In one of the houses.

5 Q And why do you say that?

6 A It's the same wall background. And I remember what  
7 the first house looked like. And it looks like the first  
8 one.

9 Q Okay. And who took that photograph?

10 A I'm not sure.

11 Q Okay. Can you put that one in a separate stack?

12 A (Witness complied.)

13 Q What's the number for the next one?

14 A 15.

15 Q What is that a photo of?

16 A Someone in shorts, but I think it's me.

17 Q You think it's you?

18 A Yes. Because these are my shorts from a dance  
19 recital that I had.

20 Q And was that -- was that uniform -- was that a  
21 uniform that everyone wore?

22 A It wasn't a uniform. It was just a requirement. You  
23 had to wear some type of, like, dance shorts.

24 Q So you recognize those shorts?

25 A I do.

1 Q And where was that photo taken?

2 A I'm not sure.

3 Q And why are you not sure?

4 A It has a plain background and it's zoomed in.

5 Q And who took that photograph?

6 A I think it was him.

7 Q Okay. When you say you think it's him with this  
8 photo only, how sure are you?

9 A From one to 10?

10 Q Yeah.

11 A I think it's a six.

12 MS. JOSEPH: Okay. Thank you.

13 No further questions.

14 THE COURT: Mr. Grose.

15 MR. GROSE: Yes. Just very briefly.

16 CROSS-EXAMINATION

17 BY MR. GROSE:

18 Q You don't know who took any of those photographs, do  
19 you?

20 A Some of them, I don't. Some of them, I think I do.

21 Q Okay. But they've just asked you about four; right?

22 A Four, yes.

23 Q And so -- in one of them, I think you said you're not  
24 sure?

25 A Yes, sir.

1 Q And in three of them, you said that you think it was  
2 your grandfather?

3 A Three of them, yes.

4 Q Okay. But you just say you think that, you're not  
5 sure of that?

6 A Yes, sir.

7 Q Okay. And when he would come to your house, he  
8 wasn't the only one that used the cameras, was he?

9 A Again, I'm not sure. I don't remember.

10 Q I'm just going to show you a picture, if that's all  
11 right. And it's in black and white. Does that look like  
12 you in that picture?

13 A Yes, it does.

14 Q And that's you taking a selfie in the mirror?

15 A Yes, sir.

16 Q Okay. So in addition to your grandfather, your  
17 brother, also, lived in the house; right?

18 A Yes, he did.

19 Q And your mother lived in the house; right?

20 A Yes, sir.

21 Q And there was a time when a lady named Dee was  
22 staying there; right?

23 A Yes, sir.

24 Q Was there any other people that stayed there, other  
25 than John Camelo?

1 A No. I think that's all the people that stayed in  
2 that house.

3 Q All right. And the blue couch, that's how you  
4 recognized it as the place that you lived; right?

5 A Yes, sir.

6 Q You had the blue couch -- do you remember that blue  
7 couch being in Florida when you lived there?

8 A I do. But it had a sheet over it and that's how it  
9 was blue. But when we were in Florida, it was white.

10 MR. GROSE: All right. I beg the Court's indulgence  
11 for a moment.

12 THE COURT: Yes, sir.

13 (Pause.)

14 BY MR. GROSE:

15 Q And you don't have any idea where any of those four  
16 photos came from before today, do you?

17 A I think it came from an SD card, but I'm not sure.

18 Q But that's just speculation?

19 A I don't know what that means.

20 Q It's kind of like --

21 MS. JOSEPH: Objection, Your Honor. She said, "I  
22 think." I mean, this is --

23 BY MR. GROSE:

24 Q It's kind of like an educated guess.

25 A I mean, I'm saying I think so.

1 Q But you don't know?

2 A But I don't know.

3 MR. GROSE: Thank you.

4 THE COURT: Any other questions?

5 MS. JOSEPH: Yes, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. JOSEPH:

8 Q J.M. , I'm handing you five more photos. Can you  
9 look at those?

10 A Do you want me to flip this one over?

11 Q Yeah. Give it to me.

12 Thanks.

13 Five more photos. Do you recognize those photos?

14 A Some of them, yes.

15 Q Okay. So what's on top of the stack? What number?

16 A One.

17 Q And do you recognize that photo?

18 A I do.

19 Q Okay. And what does that photo show?

20 A Me on my birthday.

21 Q You on your birthday. And do you remember that day?

22 A Yes.

23 Q Do you know where that photo was taken?

24 A It was taken in the second house.

25 Q And do you remember who took that photo?

1 A No. I think it was my mom.

2 Q And were you -- was that a special day?

3 A For me, yes.

4 Q What date -- what was that day?

5 A What do you mean by what day?

6 Q Like, why was it special?

7 A Because it was my birthday.

8 Q Did lots of people take your photo on that day?

9 A I'm not sure. I think just my mom because it was my  
10 birthday.

11 Q So why don't you put that upside down in front of you  
12 like we did the last ones.

13 A (Witness complied.)

14 Q Good job.

15 Okay. What's the next photo?

16 A It's a picture of me. It's number two.

17 Q Okay. So number two is a picture of you. Do you  
18 recognize that photo?

19 A No.

20 Q Can you put that -- well, actually, really quickly,  
21 do you know where that photo was taken?

22 A I'm not sure what house it was.

23 Q Do you know whose room it was?

24 A No.

25 Q Okay. Can you put that upside down and make a

1 separate stack?

2 A (Witness complied.)

3 Q Perfect.

4 What's the next photo?

5 A It's a picture of me and my grandfather. It's number  
6 three.

7 Q So it's number three. It's you and your grandfather.  
8 And do you know where that was taken?

9 A In -- I think it was taken in the first house.

10 Q Okay. Do you know if it was taken in Beaufort  
11 County?

12 A Yes.

13 Q And how do you know that?

14 A Just the layout of the house, and there's a door.  
15 And we had a door that was connected to a bathroom.

16 Q Do you know how old you were in that photo?

17 A No. I'm not sure.

18 Q Okay. Can you put that photo on this stack?

19 A This side?

20 Q Good job.

21 What's the next photo?

22 A It's a picture of me. It's number four.

23 Q Do you recognize that photo?

24 A I do.

25 Q And where was that photo taken?

1 A I think it was taken in the second house.

2 Q And where in the second house?

3 A In the guest bedroom.

4 Q And who slept in the guest bedroom?

5 A Sometimes my grandfather. And if someone else came  
6 to stay over, but that was like after --

7 Q Okay.

8 A -- like, a couple of months. So I think that was  
9 where my grandfather stayed.

10 Q Okay. You think that's where your grandfather  
11 stayed. Do you think it was the guest bedroom, or do you  
12 know?

13 A I know. The bed was in the corner next to the door.

14 Q Okay. And how old were you in that photo?

15 A I'm not sure.

16 Q And was it -- was it house number one or two?

17 A House number two.

18 Q Okay. If you would put that in this stack. And  
19 what's the next photo?

20 A It's a picture of me. It's number five.

21 Q And do you recognize that photo?

22 A No. But it looks like some of other photos that you  
23 showed me.

24 Q Okay. Can you put that photo in that stack?

25 A (Witness complied.)

1 MS. JOSEPH: So, Your Honor, based on that, we would  
2 move to admit -- and I'll do this with Defense. State's  
3 Exhibit No. 1, that's the birthday party photo. State's  
4 Exhibit No. 3, that's the cooking photo. And State's  
5 Exhibit No. 4, that's the photo of the Defendant --  
6 J.M. and the Defendant's bed.

7 MR. GROSE: Just briefly.

8 RE CROSS-EXAMINATION

9 BY MR. GROSE:

10 Q I think State's Exhibit No. 1, you said you thought  
11 that your mother took that; right?

12 A Yes. Because it was my birthday.

13 Q Okay. And number four, do you know who took that?

14 A I'm not sure. But because it was in the guest  
15 bedroom, I believe it was my grandfather. Again, I'm not  
16 sure.

17 Q But you're not sure; right?

18 A (Witness nodded.)

19 Q And number three, do you know who took that?

20 A No. Because my grandfather is in the photo.

21 Q So it, certainly, wasn't him?

22 A No.

23 Q Okay. It couldn't have been him. Oops, I'm sorry.

24 A That's all right.

25 MS. JOSEPH: And those are my questions for

1 J.M. -- actually, those are your questions for J.M. ?

2 MR. GROSE: They're my questions for J.M. for this  
3 hearing.

4 THE COURT: All right. I'm going to excuse her while  
5 I hear argument from Counsel.

6 J.M. , you can leave.

7 THE WITNESS: Thank you.

8 THE COURT: All right.

9 MS. JOSEPH: J.M. , walk this way.

10 (WHEREUPON, J.M. exited the courtroom.)

11 THE COURT: All right. Before I rule on  
12 admissibility, I'll be glad to hear any arguments from  
13 Counsel.

14 MS. JOSEPH: Just really briefly, Your Honor. We're  
15 not seeking to get in these sets of photos -- merely that  
16 these are -- well, it's two sets of photos. So for the  
17 second set of photos, which is the kitchen photo, her in a  
18 bed --

19 MR. GROSE: Can we reference the numbers?

20 MS. JOSEPH: Absolutely.

21 And her at the birthday party. So State's Exhibit  
22 Nos. 1 is the birthday party. State's Exhibit No. 4 is  
23 the bed. State's Exhibit No. 3 is the kitchen. We're  
24 seeking to get those in.

25 We're not going to be asking her who took the photos.

1       Instead, we're going to be asking where were they taken.  
2       Because the point is that this is where the alleged  
3       incident happened.

4               And, actually, she talks about the kitchen in her  
5       Hope Haven interview. And then she talks about the bed --  
6       the bed would be one of the scenes where things occurred.  
7       So that's why we want to get into these.

8               There are no crime scene photos in this case.  
9       Investigator LaVan testified he did not take crime scene  
10      photos. This is sort of what we're left with. And the  
11      jury has a right, the State would argue, to see where the  
12      alleged incidents occurred. So that is the basis for  
13      State's Exhibit Nos. 1, 3 and 4.

14              And then for State's Exhibit Nos. 13, 6, 15, and 11,  
15      as Your Honor heard, she's going to testify that it's her,  
16      at what age it is. And then she's going to testify, I  
17      think my grandfather took it -- took these photos.

18              And, Your Honor, whether or not the Defendant took  
19      it -- they can argue he didn't take it. He can take the  
20      stand, if he wants, and say he didn't. He doesn't have  
21      to, obviously. And that would go to weight, not  
22      admissibility.

23              MR. GROSE: With regards -- can I see them?

24              Because I can't remember the number of the first set.

25              MS. JOSEPH: And just really quickly, the second set

1 was State's Exhibit Nos. 13, 6, 15, and 11.

2 MR. GROSE: With regard to State's Exhibit No. 4,  
3 which is what she referred to as the bedroom photo, the  
4 testimony was that was the guest bedroom. I don't know  
5 that we have any evidence that anything happened as far  
6 as -- well, from the interview as far as any photographs  
7 being taken, I don't think there was any testimony about  
8 the guest bedroom.

9 But again -- and I can get you the cite. But there's  
10 a case where they introduced -- in a murder case where  
11 they introduced a picture of a guy in a band uniform and  
12 said his nickname was Bunny, I believe. And that case got  
13 overturned on appeal. And I think that's -- number four  
14 is getting into that category.

15 With regards to State's Exhibit Nos. 6, 11, 13, and  
16 15, one of those four -- and we'd have to go back and see  
17 which one. But one of those four, she just said, I wasn't  
18 sure. She said with regards to three of them that she  
19 thought that her grandfather took them, but she couldn't  
20 say for certain.

21 And with regards to State's Exhibit No. 15, she  
22 didn't even say that that was her. She was equivocal on  
23 whether that was her or not.

24 And so, you know, this is the point where, I guess,  
25 looking at a lot of those 403 cases comes back into play,

1 you know. You get into the danger of unfair prejudice  
2 outweighing any probative value for her to be able to  
3 testify, oh, I think my grandfather took those pictures,  
4 but no -- no certainty on that.

5 And, again, all of these -- none of these are actual  
6 photographs. These are -- or there's been no testimony to  
7 establish that. All of these are -- are carved or  
8 couldn't be excluded as being carved, meaning that they  
9 had been deleted.

10 So, you know, I don't think that she could even  
11 testify that those were fair and accurate pictures from  
12 what was taken of her, assuming they all are her, because  
13 she's not sure about one. I don't think she would be able  
14 to testify to that because of what we know about those  
15 photographs from the rest of the hearing that we've  
16 already had.

17 THE COURT: All right. Let me tell you what we're  
18 going to do as to the first set.

19 I think -- the question, Counsel, Ms. Joseph, I think  
20 is time, place, and age; is that correct?

21 MS. JOSEPH: Time, place, and age.

22 MR. GROSE: And by first set -- because we've kind of  
23 talked about them as first set and then flipped them.

24 MS. JOSEPH: My understanding is bedroom, kitchen,  
25 birthday party, State's Exhibit Nos. 1, 3, and 4.

1           THE COURT: Right. What I'm going to do as to the  
2 first set -- and that was the ones you just mentioned --  
3 I'm going to allow those to be admitted. As to the  
4 others, I'm going to allow them to be admitted and let the  
5 jury attach whatever weight they deem necessary. So it  
6 goes to weight as to the other set.

7           MS. JOSEPH: Thank you, Your Honor.

8           So we're going to call Lori for the text messages and  
9 J.M. for these photos. And then we're going to rest,  
10 Your Honor.

11          THE COURT: Anything else before we bring the jury  
12 back?

13          MS. JOSEPH: Nothing.

14          MR. GROSE: Well, can I have just a moment?

15          THE COURT: Yes, sir.

16          (Pause.)

17          THE COURT: All right. Anything further before we  
18 bring the jury back?

19          MS. JOSEPH: No, Your Honor.

20          MR. GROSE: I'm looking for a case to give you, but I  
21 think -- I'm looking for the case with the photographs.  
22 And I could just put that on --

23          THE COURT: Well, if you find it, you can give it to  
24 me before we leave.

25          MR. GROSE: Yes, sir.

1 THE COURT: Just give me the cite.

2 MR. GROSE: And I have that cite, Your Honor. It  
3 helps if you look in the right database.

4 THE COURT: Just write it down. Do you want to put  
5 it on the record?

6 MR. GROSE: I can just call it out real quick.

7 THE COURT: What is it?

8 MR. GROSE: It's State v. Langley, 334 S.C. 643, 515  
9 S.E.2d 98 from 1999. And it's -- had the admission of  
10 testimony about the nickname Bunny and the picture in the  
11 band uniform. It required reversal.

12 THE COURT: All right. I'm ready.

13 (WHEREUPON, the jury came into open court at  
14 approximately 4:19 p.m.)

15 MS. JOSEPH: Your Honor, the State calls Lori Mayo.

16 THE COURT: Hold on.

17 MS. JOSEPH: I'm jumping the gun a little --

18 THE COURT: Hold on.

19 Ladies and gentlemen of the jury, I always try to be  
20 a man of my word. And I apologize to you. I told you I'd  
21 get you back in here at 2:30, and I didn't do it. So I  
22 want to apologize to you for that.

23 But the good news is that we've got a couple of  
24 witnesses and, hopefully, we won't be too long. So you  
25 won't be here for so long. So I apologize I didn't get

1 you back in here at 2:30. But you had an opportunity to  
2 have a good lunch. So that's a good thing.

3 All right. Yes, ma'am.

4 MS. JOSEPH: Thank you, Your Honor.

5 The State calls Lori Mayo to the stand.

6 THE COURT: All right. Ms. Mayo, come forward.

7 Swear her again.

8 THE CLERK: Good afternoon.

9 Place your left hand on the Bible and raise your  
10 right hand.

11 WHEREUPON,

12 LORI MAYO,

13 after first having been duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 DIRECT EXAMINATION

16 BY MS. JOSEPH:

17 Q Hi, Lori.

18 I'm going to hand you what's been marked as State's  
19 Exhibit No. 21. Without showing it to the jury, can you  
20 just briefly look over State's Exhibit No. 21?

21 A (Witness complied.)

22 Q What is State's Exhibit No. 21?

23 A These are images of a -- text messages on a cell  
24 phone.

25 Q So they're photographs of a cell phone screen?

1 A Yes.

2 Q And then the cell phone screen has text messages on  
3 it?

4 A Yes.

5 Q Do you see your name on the text messages?

6 A Yes, I do.

7 Q And then do you see your cell phone number?

8 A Yes, I do.

9 Q And these are text messages between you and who else?

10 A And Charles Dent.

11 Q And you testified yesterday?

12 A Yes.

13 Q And you read out loud some text messages?

14 A Correct.

15 Q Are these the same text messages that you read out  
16 loud?

17 A Yes.

18 Q And is this a true and accurate copy of those text  
19 messages, to the best of your recollection?

20 A Yes.

21 MS. JOSEPH: At this time, the State moves to enter  
22 State's Exhibit No. 21 into evidence.

23 MR. GROSE: No objection.

24 THE COURT: Without objection, State's Exhibit No. 21  
25 is in evidence.

1 (WHEREUPON, State's Exhibit No. 21 was admitted into  
2 evidence.)

3 MS. JOSEPH: And we'd ask that this witness be  
4 excused.

5 THE COURT: Any objection to this witness being  
6 excused?

7 MR. GROSE: Well, I'd like to ask her a couple of  
8 questions.

9 THE COURT: Yes, sir.

10 MR. GROSE: And this will be real quick.

11 CROSS-EXAMINATION

12 BY MR. GROSE:

13 Q You just testified that these were the same ones we  
14 went over yesterday; right?

15 A Yes.

16 Q I think they're, actually, slightly different from  
17 yesterday, aren't they, in the sense that yesterday's were  
18 summaries, and these are the actual messages?

19 A Correct. But everything that was in these was in  
20 that.

21 Q But these are a little bit more complete?

22 A Yes.

23 MR. GROSE: Okay. Thank you.

24 That's all.

25 THE COURT: Thank you, ma'am.

1           You can step down. You can be excused.

2           Call your next witness.

3           MS. JOSEPH: Your Honor, the State recalls J.M.

4

5           THE COURT: All right.

6           THE CLERK: Just put your left hand on the Bible and  
7 raise your right.

8           WHEREUPON,

9

J.M.

10          after first having been duly sworn, testified as follows:

11          THE CLERK: Thank you.

12

DIRECT EXAMINATION

13          BY MS. JOSEPH:

14          Q     Hi, J.M.

15                How are you?

16          A     I'm good.

17                How are you?

18          Q     I'm good.

19                Thank you for asking.

20                I'm going to hand you some photographs. Okay.

21          A     Okay.

22          Q     So being very careful and not showing them to the  
23 jury, can you look through those photographs?

24          A     Okay.

25          Q     How many photographs did I hand you?

1 A Let me count them. You handed me three.

2 Q Three photographs. And do those photographs -- do  
3 they have anything on them that has a number?

4 A They do.

5 Q And what color is that thing?

6 A Orange.

7 Q Okay. And so that sticker is orange. And what  
8 numbers do you have in front of you?

9 A Number one.

10 Q And do you have any other ones -- what other numbers?

11 A I have number three and number four.

12 Q Okay. So State's Exhibit Nos. 1, 3, and 4. Okay.  
13 Before we talk about those photographs, did you ever live  
14 in Beaufort County?

15 A I'm not sure. But I do remember living somewhere in  
16 South Carolina.

17 Q Okay. So you lived somewhere in South Carolina?

18 A I did.

19 Q That was kind of near here?

20 A I believe so.

21 Q And do you know how old you were when you lived in  
22 this area?

23 A It was from seven to nine, I think.

24 Q So seventh through ninth grade?

25 A No. Seven to nine years old.

1 Q Seven to nine years old. Okay.

2 Now, looking at the photographs, do you recognize  
3 photograph one?

4 A I do.

5 Q And how do you recognize it?

6 A It was my birthday. And it's a picture of me.

7 Q It's a picture of you. And it's your birthday. And  
8 how old were you turning?

9 A I'm not sure.

10 Q Okay. And where was this photograph taken?

11 A It was taken in one of the houses I lived in.

12 Q And do you know if it was taken in house one or two?

13 A House number two.

14 Q So it was taken in house number two. And you said it  
15 was one of the houses that you lived in. Do you mean in  
16 South Carolina?

17 A Yes, in South Carolina.

18 Q Going to the next photo. Do you remember how -- can  
19 you do that thing we did last time where you did it upside  
20 down?

21 A (Witness complied.)

22 Q Perfect.

23 Going to the next photo, what number is that one?

24 A Number three.

25 Q What is that a photo of?

1 A Me and my grandfather.

2 Q You and your grandfather. And where are you?

3 A In one of the houses.

4 Q Do you know if it's house one or house two?

5 A I think it's house number one.

6 Q Okay. And how do you know that that was your house  
7 in South Carolina?

8 A We had a door that was next to the kitchen in house  
9 number one, I believe. And so that's how I think it is.

10 Q Could you see the door in the --

11 A I do see the door in the picture.

12 Q Do you know how old you were?

13 A No. I'm not sure.

14 Q Can you turn that photo over, too?

15 A On a separate side?

16 Q No. On the same -- let's stack them.

17 Perfect.

18 And what is -- who is photograph number four of?

19 A Of me.

20 Q And do you know how old you were in that photograph?

21 A No. I'm not sure.

22 Q And do you know where you were in that photograph?

23 A I was in the guest bedroom in house number two.

24 Q And who stayed in the guest bedroom in house number  
25 two?

1 A My grandfather and someone named Dee. But that was  
2 after he would visit, like, that was when he was done  
3 visiting.

4 Q So do you think this photograph was taken before or  
5 after he visited?

6 A Before.

7 Q Okay. So after that photo was taken, he stopped  
8 visiting?

9 A Not after the photo. But there's a bunny in the  
10 photo. And my grandfather did have a bunny that he  
11 visited with and brought with us.

12 Q So did that bunny only come when he was around?

13 A I'm not sure. But I do remember the bunny staying  
14 with us for -- as -- like, a couple of months, or  
15 something.

16 MS. JOSEPH: Okay. So if you would put that photo on  
17 top of the other ones.

18 Okay. At this time, Your Honor, the State moves to  
19 enter State's Exhibit Nos. 1, 3, and 4 into evidence.

20 MR. GROSE: Subject to our previous hearing.

21 THE COURT: All right. So entered. Subject to the  
22 objection lodged at the previous hearing by the Defense.

23 (WHEREUPON, State's Exhibit Nos. 1, 3, and 4 were  
24 admitted into evidence.)

25 MS. JOSEPH: I beg a moment of the Court's

1 indulgence.

2 THE COURT: Yes, ma'am.

3 (Pause.)

4 BY MS. JOSEPH:

5 Q All right. J.M. , I've just handed you some more  
6 photos. Take a second and look at those. And be careful  
7 that you don't show them to the jury. Okay.

8 A Yes, ma'am.

9 Q You're doing a very good job answering out loud.  
10 That's good.

11 Thank you.

12 A I've looked through them.

13 Q Thank you.

14 How many photographs are there?

15 A Four.

16 Q Okay. Let's talk about the one on top. What number  
17 is it?

18 A Number 11.

19 Q Okay. And who's in that photo?

20 A Me.

21 Q And where is that photo taken?

22 A One of the houses.

23 Q And when you say "one of the houses," do you mean  
24 here in South Carolina?

25 A Yes, here in South Carolina.

1 Q And how do you know that?

2 A Because on Christmas Eve, we got these bean bag  
3 chairs in one of the houses. And I'm laying on one of  
4 them.

5 Q And do you know how old you were?

6 A I'm not sure.

7 Q Okay. So do what we did before where you flip it  
8 over and put it in front of you, please.

9 A (Witness complied.)

10 Q Good job.

11 Okay. What's the next number?

12 A Number 13.

13 Q What does number 13 show?

14 A Me and someone standing in front of the photo.

15 Q Oh, like someone's arm is in front of the photo?

16 A Yes.

17 Q So it's you. And where was that photo taken?

18 A In one of the houses in South Carolina.

19 Q And how do you know that?

20 A We had a blue couch -- well, we had a white couch and  
21 we covered it in a blue sheet.

22 Q And you see that couch in the photo?

23 A I do.

24 Q And how old were you in that photo?

25 A I'm not sure.

1 Q And do you know who took that photo?

2 A I believe it was my grandfather.

3 Q All right. And can you pull the photo that was right  
4 in front of you, the one that you flipped over --

5 A Right here?

6 Q No, no. Pull it back in front of you. Look at it  
7 again. Do you know who took that photo?

8 A I'm not sure.

9 Q Do you have a guess about who took it?

10 A I am guessing it was him.

11 Q Okay. And when you say "him," do you mean your  
12 grandfather?

13 A Yes.

14 Q Okay. So can you put -- let's see. I can help.  
15 I've made it confusing. I'm sorry.

16 So going to the next photo, what number is that?

17 A Number six.

18 Q And what is that a photo of?

19 A Of me.

20 Q And how old were you in that photo?

21 A I'm not sure. But it looks similar to the last  
22 photo.

23 Q So it looks similar to the last photo. And what  
24 makes it similar?

25 A I'm wearing the same outfit. The couch is in the

1 background. And, again, someone is standing in the front.

2 Q And where was that photo taken?

3 A One of the houses in South Carolina.

4 Q And who took that photo?

5 A I'm guessing, because it looks similar to the last  
6 photo, it was my grandfather.

7 Q Okay. So flip that one over, too.

8 All right. And then what's the next photo?

9 A It's a picture of someone in shorts, which I believe  
10 is me.

11 Q And why do you think it's you?

12 A I had neon shorts that I used for a dance recital.

13 Q And were the neon shorts a uniform?

14 A No. It's just something we were required to wear to  
15 dance rehearsals.

16 Q So you remember those shorts pretty well?

17 A I do.

18 Q And where was that photo taken?

19 A I'm not sure, because it's a plain background. But  
20 in South Carolina, I did take dance classes.

21 Q And who took that photo?

22 A I'm assuming it's my grandfather, because it's just  
23 me. My legs are showing and some shorts.

24 Q Okay. So you think it was your grandfather?

25 A I'm thinking it's my grandfather, yes.

1 MR. GROSE: I'm going to object to the leading, Your  
2 Honor.

3 THE COURT: All right. Sustained.  
4 Don't lead her.

5 MR. GROSE: Move to strike.

6 THE COURT: All right.

7 BY MS. JOSEPH:

8 Q J.M. , can you put all the photos back in front of  
9 you?

10 A (Witness complied.)

11 Q And then what were the numbers of the photographs?

12 A Do you want me to read all of them?

13 Q Yes, please.

14 A 11, 13, 6, and 15.

15 MS. JOSEPH: Your Honor, at this time, the State  
16 moves to enter State's Exhibit Nos. 11, 13, 6, and 15 into  
17 evidence.

18 MR. GROSE: Subject to our hearing -- and, again,  
19 she's not testified as to who took the photographs. And  
20 with State's Exhibit No. 15, she's not certain that it was  
21 her.

22 THE COURT: And I will allow them to be admitted, and  
23 for the jury to give such weight they deem appropriate.

24 (WHEREUPON, State's Exhibit Nos. 6, 11, 13, and 15 were  
25 admitted into evidence.)

1 MS. JOSEPH: Thank you, Your Honor.

2 And we ask for permission to publish them at this  
3 time?

4 THE COURT: Any objection to that?

5 MR. GROSE: Just subject to our earlier objection.

6 THE COURT: All right. Subject to your earlier  
7 objection. Both sets.

8 MS. JOSEPH: Are you done?

9 MR. GROSE: I haven't started yet.  
10 I'll let them look at them, and then I'll ask her  
11 some questions.

12 THE COURT: All right.

13 (Pause.)

14 THE COURT: All right. Mr. Grose.

15 MR. GROSE: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. GROSE:

18 Q Okay. J.M. , I'm going to show you State's Exhibit  
19 No. 1. That's one of the photographs we were just talking  
20 about?

21 A Yes, it was.

22 Q And do you remember that photograph?

23 A I do.

24 Q And I believe you said a little bit earlier when the  
25 jurors weren't here that you thought your mother took this

1 photograph?

2 A I do think it was taken by my mother. But, again,  
3 I'm not sure.

4 Q Okay. So that's State's Exhibit No. 1. And you  
5 thought that was by your mother because you -- you  
6 remember that's a dress you wore during your birthday  
7 party; right?

8 A It was, yes.

9 Q Now, State's Exhibit No. 3, you don't know who took  
10 that picture, do you?

11 A I don't.

12 Q All right. But your grandfather is in that picture;  
13 right?

14 A He is.

15 Q So we know he didn't take that picture?

16 A We do.

17 Q And that's State's Exhibit No. 3.

18 State's Exhibit No. 4, you don't know who took that  
19 photograph, do you?

20 A I'm thinking that it was him because it was in the  
21 guest bedroom that he stayed in.

22 Q All right. But when you testified a little earlier  
23 when the jurors weren't here, you didn't know who took it,  
24 did you?

25 A I said I don't know, but I'm thinking.

1 Q Okay. You're thinking. And, in fact, with these  
2 others, State's Exhibit Nos. 6, 11, 13, and 15, you really  
3 don't know who took those pictures, do you?

4 A I don't remember being in those photos.

5 Q I'm sorry?

6 A I don't remember being in most of those photos. I  
7 don't remember who took them, but I'm guessing.

8 Q So you don't remember when these were taken?

9 A I don't. But I do know they were in one of the  
10 houses.

11 Q Okay. And you don't -- you're just guessing who  
12 might have taken them?

13 A Yes.

14 Q Okay. In State's Exhibit No. 6, there's somebody  
15 else's feet?

16 A Those are my brother's.

17 Q That's your brother?

18 A Yes.

19 Q And when your grandfather was there visiting, other  
20 people in the house used the camera, didn't they?

21 A Yes.

22 Q In fact, I showed you -- I showed you this picture  
23 earlier, which is, actually, you with one of his cameras  
24 taking a selfie; is that right?

25 A It is.

1 Q And so -- and, again, the people that were living  
2 there were you, your brother, A.M., and your mother;  
3 right?

4 A Yes, sir.

5 Q And Dee would stay there sometimes, too?

6 A After my grandfather was done visiting.

7 Q Okay. But she would visit while he was there?

8 A No. I don't remember her ever visiting when he was  
9 there.

10 Q Okay. And you don't remember her coming over with  
11 some of her friends sometimes?

12 A There was one night where I think some -- my mom -- I  
13 don't know if it was her birthday or it was Dee's. But it  
14 was one night where Dee and my mom's friend, they came  
15 over. And me and my friend were sleeping over in my room.  
16 And we did go down for most of that part. No one was  
17 drinking. But Dee wasn't living there.

18 Q Okay. And you would have some of your friends come  
19 over sometimes, too?

20 A My friend, yes.

21 Q Okay. And, again, you're just guessing at who took  
22 those pictures?

23 A Yes, sir.

24 THE COURT: Ms. Joseph.

25 MS. JOSEPH: Just very briefly.

REDIRECT EXAMINATION

1

2 BY MS. JOSEPH:

3

Q How old are you now?

4

A I'm 13.

5

Q How old were you when you lived back in Beaufort?

6

A What year?

7

Q Let's -- well, you lived -- how long did you live in  
8 South Carolina?

9

A Almost four years.

10

Q And what were the ages again?

11

A Seven to nine.

12

Q But you're now 13?

13

A I am.

14

Q Do you have a cell phone?

15

A I do.

16

Q Do you know what a selfie is?

17

A Yes, I do.

18

Q Is this a selfie?

19

A No.

20

Q Would you take this photo of yourself?

21

A No, I wouldn't.

22

Q Do you like this photo?

23

A No.

24

Q Is this a selfie?

25

A No.

1 Q Did you take this photo of yourself?

2 A No.

3 Q Did you take this photo of yourself?

4 A No, I didn't.

5 Q Okay. What about this one?

6 A No.

7 Q These are not selfies?

8 A They're not.

9 MS. JOSEPH: No further questions.

10 THE COURT: Anything on recross?

11 MR. GROSE: Just to follow-up.

12 RE CROSS-EXAMINATION

13 BY MR. GROSE:

14 Q The people in the house used the camera, other than  
15 your grandfather; isn't that right?

16 A I'm not sure. I did from that photo you showed me.  
17 I'm not sure if anyone else did, because my mom had her  
18 own phone and my brother didn't.

19 Q So all of those, though, that she was just showing  
20 you, you're guessing as to who took them?

21 A I am. But I'm certain that one of those photos --  
22 now that I'm assuming after she did that, when she was  
23 going over the photos that weren't selfies, number 15 that  
24 was about the green shorts, I -- I'm not guessing. I  
25 think I'm saying that it was him that took that photo.

1 Q Okay. But up until now, you've just been guessing?

2 A I have.

3 Q And her questions are prompting you to change your  
4 mind?

5 A No. They're just -- I'm just going along as I can.

6 MR. GROSE: Okay. Thank you.

7 FURTHER EXAMINATION

8 BY MS. JOSEPH:

9 Q J.M. , you and I talked on the phone before trial;  
10 right?

11 A We did.

12 Q But you only met me on Monday?

13 A Yes.

14 Q And today is Wednesday?

15 A Yes.

16 Q And you only saw these photographs today?

17 A Yes, I did.

18 Q In fact, I showed you these photographs for the very  
19 first --

20 MR. GROSE: Objection to the leading, Your Honor.

21 MS. JOSEPH: You're right. I'll rephrase.

22 BY MS. JOSEPH:

23 Q When did I show you these photographs?

24 A You showed me a few minutes ago before the jury  
25 walked in -- no. Actually, let me say that again. You

1       showed me before I came into this courtroom.

2       Q     Today?

3       A     Yes, today.

4       Q     Okay.  So I showed them to you a few minutes ago?

5       A     Yes.

6       Q     For the first time?

7       A     Not for the first time.  You and her --

8       Q     Rebecca?

9       A     Yes.  And your boss came into one of the offices and  
10       showed me the photos, and asked me if I remembered who  
11       took them.

12       Q     Okay.  And that was only a few moments ago -- or it  
13       was today?

14       A     It was today.

15       MS. JOSEPH:  No further questions.

16       MR. GROSE:  Nothing further.

17       THE COURT:  All right.

18       MS. JOSEPH:  We ask that she be excused.

19       THE COURT:  Any objection to her being excused?

20       MR. GROSE:  No, sir.

21       THE COURT:  All right.  Thank you, J.M.       , for  
22       coming.

23       MS. JOSEPH:  Your Honor, at this time, the State  
24       rests.

25       THE COURT:  All right.  Ladies and gentlemen of the

1 jury, what we're going to do now is -- it's about 4:45.  
2 And I'm going to let you go home for the evening.

3 Please, ma'am, please, sir, do not talk about the  
4 case with anyone, including persons in your household. Do  
5 not pick up any newspapers, or watch any television that  
6 has anything to do with this case.

7 If anybody approaches you and wants to find out  
8 information about the case, you report that person to me.  
9 And I'll deal with him or her accordingly.

10 Now, we're going to start tomorrow morning -- instead  
11 of 9:30 as we've been starting the last couple of days,  
12 we're going to start tomorrow morning at 9:00. So I need  
13 you in your jury room at 9:00 sharp. Because we're going  
14 to start very promptly at 9:00.

15 Okay. Have a good night. And I'll see you in the  
16 morning.

17 (WHEREUPON, the jury was excused from open court at  
18 approximately 4:43 p.m.)

19 THE COURT: Anything else before we retire for the  
20 evening?

21 MR. GROSE: Do you want us to do motions now, or do  
22 you want us to do them later?

23 THE COURT: Well, I guess -- do you want to go ahead  
24 and do them now?

25 MR. GROSE: Yes, sir.

1 THE COURT: All right.

2 MR. GROSE: And I'll start with the two criminal  
3 sexual conduct with minor charges.

4 THE COURT: All right.

5 MOTIONS

6 MR. GROSE: The State is relying on, you know,  
7 these -- the videotaped interviews that we watched this  
8 morning. And the -- I beg the Court's indulgence one  
9 moment.

10 (Pause.)

11 MR. GROSE: In the second interview, the July 15th  
12 interview, of course, there was nothing about fellatio  
13 that was stated in the first interview. In the second  
14 interview, there was a question that was asked, was it in  
15 the first house, both houses, or something else? And the  
16 answer was that it happened in the old house.

17 And the way the indictments are structured, there's a  
18 period from April of 2013 to August of 2013, and then  
19 that's an indictment that ends in 01674.

20 And then in the indictment that ends 01673 --

21 THE COURT: And you're reading from the amended  
22 indictments; right?

23 MR. GROSE: Right. I don't think these were ever  
24 amended.

25 MS. JOSEPH: The CSC ones were not amended.

1           MR. GROSE: That time frame is from August of 2013 to  
2 April of 2014. And that would have been the period of  
3 time they were in the second unit.

4           So with regards to the indictment that ends in 01673,  
5 our position is that there's not been any testimony of  
6 criminal sexual conduct with a minor in the first degree  
7 happening at the second location. And so we would move to  
8 dismiss that indictment for that reason.

9           THE COURT: All right. Ms. Joseph.

10          MS. JOSEPH: Thank you, Your Honor.

11          The State has a three-tier argument. The first tier  
12 is that the indictments are notice documents. And that  
13 all that they're meant to do is put the Defendant on  
14 notice for what he was charged with. And all that we must  
15 prove is that a sexual battery, as defined by the statute,  
16 was committed. So she, in her second interview, testified  
17 that the Defendant put his mouth on her privates, which  
18 would be a sexual battery at the second location.

19          If Your Honor feels that these are not notice  
20 documents and that we must prove fellatio at both  
21 locations, then the State would say that in her second  
22 interview, she talked about fellatio occurring at the  
23 first house. And then on the statement, she testified  
24 about fellatio occurring at the second house. So that  
25 would satisfy both indictments.

1           Finally, Your Honor, the victim at the time of this  
2           alleged incident was nine years old. She was, actually,  
3           eight and nine, very young. And the State feels that it  
4           is fair, and we feel like we should be allowed to argue  
5           that there was some confusion about where it took place,  
6           especially because the two houses were so near each other.  
7           They were on the same street in Beaufort County.

8           And it's the same offender and the same type of  
9           conduct. And, therefore, there may be some confusion.  
10          And did she testify it happened more than once. So it's  
11          possible it happened at both locations. There was just  
12          some confusion.

13          Based on that, we feel like at the directed verdict  
14          stage, there is enough evidence to go to the jury if you  
15          view the evidence in the light most favorable to the  
16          State.

17          Thank you, Your Honor.

18          MR. GROSE: And I don't recall the testimony in the  
19          trial about both houses. And the other -- the other issue  
20          that I had -- and, remember, we started, you know, with  
21          issues about the indictment. And I'm telling you that I  
22          thought it was very important for the jurors to have the  
23          indictments in this case so that they would know exactly  
24          what the charges were.

25          And, in fact, I talked about the indictments in my

1 opening statement. Because in the indictments, they said  
2 that the sexual battery that they were going to prove was  
3 fellatio on the Defendant by J.M. . It gives her  
4 date of birth and the violation of the Code of Laws.  
5 That's the element that they picked.

6 That's -- yes, there's that Gentry case out there  
7 that talks about indictments being a notice document. But  
8 they could write that down on a cocktail napkin and give  
9 it to us and it would give us notice.

10 There -- and I realize that a lot of prosecutors  
11 treat the Grand Jury like a rubber stamp. But there is  
12 still something to the State Constitutional right to have  
13 a presentment to the Grand Jury. And they've said that  
14 the element that they were going to prove is fellatio.

15 So whatever arguments that they make about another  
16 sexual battery, that would be a variance from the  
17 indictment. And I can give you a case. It has to do  
18 with -- and I can look it up now, but it would probably be  
19 easier to give you in the morning. There's a case  
20 involving a homicide by child abuse statute where the  
21 State elected their theory in the indictment. And on  
22 appeal, they said that that was a variance when they --  
23 when the State asked the Judge to charge a different  
24 section of the homicide by child abuse statute, that was a  
25 variance.

1           And to the extent that it's a notice document and  
2           only a notice document, this puts us on notice that they  
3           were going to prove fellatio. And I brought that up in my  
4           opening. And they didn't raise anything then that they  
5           were going to change, you know, midstream as to what their  
6           theory was in the indictment. And, now, they've rested.

7           So I don't think -- with regards to the second house,  
8           I don't -- I don't see -- I don't see any proof that's  
9           been presented for that to go to the jury.

10          THE COURT: All right. Anything else before I rule?

11          MS. JOSEPH: Nothing else from the State, Your Honor.

12          THE COURT: All right. I'm going to respectfully  
13          deny your motions. I think there's sufficient evidence  
14          for the matter to be submitted to the jury on all  
15          offenses.

16          MS. JOSEPH: Thank you, Your Honor.

17          MR. GROSE: Well, I haven't even addressed the other  
18          three indictments yet.

19          THE COURT: I thought you were addressing all of  
20          them.

21          MR. GROSE: No. I said wanted to start with the two  
22          CSC indictments. And I've only asked for one of them to  
23          be dismissed.

24          THE COURT: All right.

25          MR. GROSE: But if that's your ruling, I'm not going

1 to argue with you.

2 THE COURT: That's as to those two that you talked  
3 about. I'll listen to the others. I'll be open minded.  
4 Go to the other two.

5 MS. JOSEPH: Just for clarification, these are the  
6 amended indictments, Your Honor?

7 THE COURT: Right.

8 MR. GROSE: With regard to the second CSC indictment  
9 in the older house, I would just argue that the evidence  
10 is insufficient for any reasonable juror to convict.

11 With regards to the two indictments for disseminating  
12 obscene material, again, you know, at the directed verdict  
13 stage, they still haven't proven compliance with the  
14 statute for getting those warrants. I think Your Honor  
15 can consider that again.

16 But, also, they have to show that the materials  
17 violated 16-15-305. And we don't think there's been any  
18 testimony that satisfies that requirement. And we would  
19 move to dismiss for failure to establish the elements of  
20 the crime.

21 THE COURT: All right. As to both of the criminal  
22 sexual conduct indictments, I'll respectfully deny your  
23 motion for directed verdict as to those indictments.

24 As to both of the amended indictments regarding the  
25 dissemination of obscene material, as to both of those

1 indictments, I'll respectfully deny your motion for a  
2 directed verdict as to those two as well.

3 Anything else before we retire for the afternoon --  
4 evening?

5 MS. JOSEPH: Nothing else from the State.

6 THE COURT: All right. We'll reconvene back at 9:00  
7 in the morning.

8 (WHEREUPON, the proceedings were concluded at  
9 approximately 4:54 p.m., to be reconvened on  
10 Thursday, May 24, 2018.)

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1                                    THURSDAY, MAY 24, 2018

2                    THE COURT: Anything before we bring out the jury?

3                                    MOTIONS

4                    MS. JOSEPH: Yes, Your Honor, briefly.

5                    The State has passed up a motion. Although I have  
6 spoken with the Defense subsequently, and I think that  
7 maybe our motion was premature.

8                    Yesterday, as we were leaving, we saw Defense Counsel  
9 queuing up a video to practice -- you know, we all  
10 practice before we put up a display. In addition, as Your  
11 Honor is aware, in his motion he filed pre-trial, he  
12 included a page from a polygraph examination.

13                    Do you remember that, Your Honor?

14                    THE COURT: Yes.

15                    MS. JOSEPH: The only videos the State is aware of in  
16 this case are the Defendant's statements that he gave to  
17 law enforcement. And all polygraph examinations are  
18 required to be filmed in the State of South Carolina now.  
19 So we had reason to be concerned that they were seeking to  
20 enter through the Defendant either his statements or his  
21 polygraph examination.

22                    When I say his "polygraph examination," I want to be  
23 clear. I'm talking both about the actual examination and  
24 merely the results, being that he passed. And the State's  
25 brief -- which, again, I put in front of Your Honor, and

1 I, also, provided a copy to Seth. As it makes clear, the  
2 Defendant cannot get into his own statement. Because it  
3 does not satisfy an exception to the hearsay rule, Rule  
4 801.

5 If Your Honor were to allow in his statements -- so  
6 let's say, you found it did satisfy an exception to the  
7 hearsay rule, in his statement, there are several mentions  
8 where the -- and I'm paraphrasing here, where the  
9 investigator is saying you should take a polygraph  
10 examination, you should take a polygraph examination. And  
11 there are case law -- there's case law that says if the  
12 jury is left with the impression that the Defendant  
13 refused a polygraph when, in fact, he did take one, the  
14 Defense can satisfy that.

15 But it's the State's contention that they cannot  
16 satisfy that polygraph -- they cannot rebut the inference  
17 that he did not take a polygraph. They themselves are the  
18 one creating that inference.

19 And, also, it's the State's position that a polygraph  
20 examination really goes into what the jury's role here --  
21 it's the jury's duty -- it's their sole responsibility to  
22 determine credibility of witnesses. There's not a per se  
23 rule against polygraphs in this state. But they are  
24 highly disfavored because a polygraph is a machine that  
25 purports to say whether or not a witness is credible. And

1 that's solely within the jury's purview.

2 So for that reason, Your Honor, we would seek to keep  
3 out the Defendant's statement and his polygraph.

4 And then we have one other issue after we discuss  
5 that.

6 THE COURT: So there's --

7 Mr. Grose, there's a video of some sort?

8 MR. GROSE: She said we discussed it. And it was,  
9 basically, I was asking her what she got at. And she  
10 said, I suggest you read my three-page motion. I could  
11 have answered a lot of this.

12 Yesterday -- this is not my first time in this  
13 courthouse, but it's my first time trying a case in this  
14 courthouse. And I am not as familiar with the audio  
15 system here as I am in the more backwards places where I  
16 practice.

17 And so with the assistance of the clerk, we ran a  
18 test so I could, you know, know how to do it. And I  
19 queued up a video of one of my client's interrogations  
20 from another case that I tried.

21 THE COURT: Fast-forward, Mr. Grose. My question is,  
22 is there going to be a video in this case?

23 MR. GROSE: I'm not presenting a video. And I was  
24 just trying to explain what I was doing is I was -- the  
25 video that they saw is from another case. And it was just

1 for the purpose of me testing my integration with --

2 THE COURT: So there's no polygraph?

3 MR. GROSE: No, there's not. Because I'm not seeking  
4 to admit the polygraph.

5 Now, I do have a concern, you know -- and I believe  
6 we're trying to head things off -- problems before they  
7 happen. I would refer you back to Page 2 of my pre-trial  
8 motion. Because her motion is -- is not only limited to  
9 me not introducing Mr. Dent's statement, but even any  
10 mention that he gave a statement.

11 And on Page 2 of that pre-trial brief, I cited State  
12 v. Blurton, the Court of Appeals version. Mr. Blurton,  
13 actually, won in both venues. But the State v. Blurton  
14 case was, actually, a case I tried 20 years ago. So it  
15 makes me feel kind of old now.

16 But in that case, Mr. Blurton testified. And there  
17 was some evidence that we wanted to get in that was  
18 excluded, and including the fact that he had told certain  
19 things to law enforcement at the beginning of the case.  
20 And then the assistant solicitor gets up and argues in the  
21 closing that Mr. Blurton had 16 months, or whatever it  
22 was, to sit in the county jail and make up this story.

23 And so, you know, if they either in cross-examination  
24 or in closing, you know, want to do something like that --  
25 this case is much older, you know. I think we're, at

1       least, allowed, if the right things develop, to say, you  
2       know, Mr. Dent, did you give a statement? Did you talk to  
3       law enforcement? Did you deny these allegations? Was  
4       that right away? Yes. But that may not become a problem.  
5       But I'm concerned that, you know, they're going to try to,  
6       you know, make use of that. And I just want to head off  
7       anything before it happens, so.

8               THE COURT: All right. Very briefly, so we can move  
9       along.

10              MS. JOSEPH: In my motion, Your Honor, I have a  
11       sentence that says that we recognize that Defense has the  
12       right to ask his client, you know, did you cooperate with  
13       law enforcement. So we understand that. We just cannot  
14       play the video. And he can't just sit here and say, I  
15       told law enforcement this, I told law enforcement that.  
16       He's on the stand to give testimony today.

17              MR. GROSE: And I'm not planning on doing that today.

18              THE COURT: All right. Anything else?

19              MS. JOSEPH: Yes, Your Honor.

20              I apologize, but one more matter. We have reviewed  
21       the Defense's witness list, which they helpfully provided.  
22       The first witness --

23              Do you have that list, Your Honor?

24              THE COURT: I do.

25              MS. JOSEPH: The first name on that list is their

1 electronics expert.

2 MR. GROSE: I'm not calling him.

3 MS. JOSEPH: Right. Which is not being called.

4 And then two through eight are family members,  
5 neighbors, community members, things like that. So we  
6 think that there's a high likelihood that the Defense is  
7 going to seek to get in character evidence.

8 And we just wanted to ask again -- first, we want to  
9 make Your Honor aware that technically you did not rule on  
10 the 404(b) child porn evidence. We think if they're going  
11 to enter character evidence about -- I want to be very  
12 specific here, about the Defendant's reputation with  
13 children -- so they want to say he's around my kids all  
14 the time. He has no issue with children. That we  
15 would -- in fact, would be allowed to talk about -- or  
16 potentially introduce the child porn evidence.

17 So we wanted to flag that for Your Honor and  
18 potentially get a ruling on that now.

19 THE COURT: All right. Mr. Grose, first of all, let  
20 me ask you this. Of these eight witnesses on this list --  
21 and I think yesterday, you alluded to the fact that your  
22 Defendant is going to be one of your witnesses.

23 How many of these witnesses are you going to call?  
24 Give me their names.

25 MR. GROSE: I'm going to call four witnesses. This

1 is David Dent sitting right here. And this is his mother,  
2 Ms. Leffler. I apologize for not remembering her last  
3 name. This is Terri Fife and Mitch Fife, who are close  
4 friends of Mr. Dent.

5 I do not plan on asking character-type questions.  
6 All of these people have something to say that's relevant.

7 THE COURT: To the facts of the case?

8 MR. GROSE: To the facts of this case and,  
9 potentially, the specific child that's involved in this  
10 case. I'm not going to ask -- I'm not going to ask about  
11 any children, other than the interaction between Mr. Dent  
12 and his two grandchildren, J.M. and her brother, A.M. .

13 THE COURT: Right. But I want to be very, very  
14 clear.

15 MR. GROSE: Yeah.

16 THE COURT: Very, very clear. If these witnesses --  
17 if any of their testimony goes down the path that Counsel  
18 just asserted -- I'm telling you on the front end so  
19 you'll be aware. You can jump up all you want. But you  
20 open up that door, I'm going to let them run in with that  
21 stuff.

22 MR. GROSE: I'm not planning on doing that.

23 THE COURT: So I'm telling you that right now. So if  
24 you hadn't talked to your witnesses and if they go down  
25 that path -- even if they go down one inch of that path,

1 I'm going to allow the State to do that. I mean, so I  
2 just want to be -- I want to be clear as to where we're  
3 going with this.

4 MR. GROSE: All right.

5 THE COURT: Now, the other thing is, I called some  
6 witnesses, at least, in the arena that I was recently in,  
7 feel-good witnesses. And feel-good witnesses are  
8 witnesses who are just going to get up here and say the  
9 same thing over and over about -- and I won't say  
10 character. I don't know what they'll say.

11 But what you're telling me is none of these witnesses  
12 are going to go to the issue of character. All these  
13 witnesses are going to touch upon something that has some  
14 factual basis, at least, some parallel with the facts in  
15 this case?

16 MR. GROSE: Yes, sir.

17 THE COURT: Is that what I'm hearing from you?

18 MR. GROSE: Yes, sir.

19 THE COURT: All right.

20 MR. GROSE: And that's part of why I told you that  
21 the four witnesses, in addition to Mr. Dent, would be  
22 quick.

23 THE COURT: All right.

24 MR. GROSE: Now, I have a concern about opening  
25 doors, too.

1 THE COURT: Okay.

2 MR. GROSE: And, you know, we've only had certain  
3 photographs come into evidence. And if they're going to  
4 try to cross-examine him about those or if they're going  
5 to try to bring in other photographs through him, they're  
6 going to open the door to the fact that I wouldn't go into  
7 otherwise that we had a hearing where those photographs  
8 got excluded.

9 THE COURT: You know, I don't want to anticipate  
10 what's going to happen. Let's just cross these bridges  
11 once we get to it.

12 But do you want to oppose at a point.

13 MS. JOSEPH: Well, Defense is correct. I mean, this  
14 is -- he's right to sort of see down the road. I was  
15 going to ask Your Honor if I can ask about the child porn  
16 on his computer. I would do so -- it would be one  
17 question. The Defendant is free to give whatever answer  
18 he wants. And then I would move on.

19 I recognize that I'm incredibly limited. But I think  
20 that because the Defendant is taking the stand -- and I'm  
21 presuming, he, obviously, has the absolute right not to  
22 take the stand. But I could ask one or two questions  
23 about that and then move on.

24 MR. GROSE: I -- you know, the --

25 MS. JOSEPH: Without -- I'm sorry. Just to clarify a

1 hundred percent. Without going into the Alabama  
2 investigation.

3 MR. GROSE: I don't think that they get to get into  
4 that because it's not been established that there was  
5 child porn on the computer. And if they get into that, I  
6 mean, you know, the testimony was that all the child porn  
7 was recovered files. That gets right back into needing to  
8 be able to confront the person who, actually, examined the  
9 computer.

10 THE COURT: What if they asked him, do you have  
11 child -- number one, do you own a computer? Number two  
12 is -- I mean, foundation, do you own a computer? What  
13 kind of computer it is? How long have you had the  
14 computer? And is child pornography on your computer? And  
15 that's a yes or no answer.

16 MR. GROSE: I don't think that that's relevant. I  
17 think that gets into other bad acts. That gets to the  
18 404. And they withdrew that motion yesterday, so.

19 THE COURT: Well, based upon what the indictments  
20 are, I mean, I don't see anything wrong -- I mean, if  
21 his -- obviously, he's come into court and he's pled not  
22 guilty to all four indictments. I mean, that's his  
23 premise that he came into court with.

24 So the State is asking based on the language in the  
25 indictment, which it, obviously, talks about pornography,

1 do you have pornography on your computer? He came in here  
2 and says he's not guilty of any of this.

3 MR. GROSE: Now, that might be a different question,  
4 Judge. Because the -- the indictment says that -- I have  
5 it in a folder. But the indictment says he showed her  
6 pornography.

7 And the information on the videos that we've watched  
8 is that it was of adults kissing each other. And the  
9 testimony in the courtroom was of people implying adults  
10 having sex.

11 So if they ask him about pornography, that's one  
12 thing. If they ask him about child pornography, that's  
13 implying a bad act. That's implying a crime. That's what  
14 404(b) is exactly intended to exclude.

15 THE COURT: Well, let me just say this, Mr. Grose.  
16 Since we're having that discussion, so you'll know, if  
17 that -- if he were -- if that question came up, I'm going  
18 to allow that question.

19 MR. GROSE: Okay.

20 THE COURT: In the format that I just -- I mean,  
21 obviously, you could object to it. But since we're having  
22 that discussion, I would allow the State to ask that  
23 question.

24 MR. GROSE: And then here's the thing, Judge.  
25 Because I'm a little confused. Because a minute ago, they

1 were trying to keep me from opening the door about  
2 character evidence. Because if I opened the door, you  
3 were going to let them rush through it with the child  
4 pornography stuff. And, now, they're saying they're going  
5 to ask him about that. All these witnesses are aware of  
6 that allegation.

7 So if they do that, then I might have to ask them --  
8 knowing these allegations, I might have -- my intent was  
9 not to get into character evidence. And they were wanting  
10 me not to do that. But, now, they're saying oh, yeah,  
11 we're going to get into this, but we're going to exclude  
12 your good stuff. I mean, you're letting them go through  
13 that door before we pushed it open even a millimeter.

14 THE COURT: Well, no door has been opened right now.  
15 All the doors are closed, as far as I can see, right now.

16 MR. GROSE: Well, but you've said you're going to  
17 allow that question.

18 THE COURT: I'll just have to see. I don't know  
19 where the witnesses testimony is going to go, either your  
20 witnesses or -- I mean, the witnesses in the back for the  
21 Defendant.

22 And I think it's good we're having this discussion  
23 now. Because, obviously, I don't want to continue to let  
24 the jury go in and out on these legal issues. And we need  
25 this train to move as quickly as we can.

1           So let's -- let's resolve this issue right now.  
2           Because I don't want to send the jury out. We're going to  
3           be bogged down talking about the same thing then that  
4           we're talking about now, so.

5           MR. GROSE: Well, I think that's a good idea, Judge.  
6           So if -- if they're going to ask about -- I'm going to  
7           tell you right now.

8           THE COURT: Right.

9           MR. GROSE: If they ask a question about child  
10          pornography, I am moving for a mistrial. Because that  
11          would be, in my opinion, a violation of 404(b), and what  
12          we briefed, and what we knew was going to be an issue  
13          coming into court this week. And I've got to do that to  
14          protect the record.

15          And once those words child pornography go through  
16          this courtroom, you can't unring that bell. That is --  
17          that is a loud bell that's going to reverberate through  
18          this courtroom and is not going to go away. So if that is  
19          asked, I'm going to move for a mistrial. And it may be  
20          granted, it may not be granted. But it's going to insert  
21          a huge issue for appeal in this case that is not here  
22          right now.

23          THE COURT: Anything?

24          MS. JOSEPH: Your Honor, you articulated the question  
25          the State wants to ask. We will ask it in the way you

1 articulated it, you know. You gave a foundational  
2 question and then you asked the question. The State is  
3 aware, as Your Honor said, that it is a yes or no  
4 question. And we are not seeking to enter extrinsic  
5 evidence about that.

6 The Defendant has an absolute right to take the  
7 stand. He has an absolute right to not take the stand.  
8 When he takes the stand, he does open himself up to  
9 questions.

10 And, Your Honor, I understand Mr. Grose's point that  
11 the accusations here are about Mr. Dent showing the victim  
12 child porn. The State has been arguing consistently that  
13 the Defendant taking photos of the victim were part of  
14 grooming. And these were -- him taking sexualized photos  
15 of his granddaughter and they were escalating, you know,  
16 in order to culminate any sexual abuse --

17 THE COURT: Well --

18 MS. JOSEPH: Yes, sir.

19 THE COURT: I didn't mean to cut you off.

20 But what I was saying earlier was if that question  
21 was asked as I articulated it a minute ago, that's a yes  
22 or no answer. The State moves on.

23 MS. JOSEPH: Exactly.

24 THE COURT: And if Mr. Dent -- I don't know what he's  
25 going to say. But if Mr. Dent says, no, the State moves

1 on.

2 MS. JOSEPH: Yes, sir.

3 THE COURT: If Mr. Dent says, yes, the State moves  
4 on.

5 Based upon that colloquy between the questioner and  
6 the person that's answering the question, I see -- it's  
7 hard for me to anticipate, Mr. Grose, that that would be  
8 in any way prejudicial to the Defendant. There's no  
9 elaboration. There's just that specific question, a yes  
10 or no answer. And the State moves on.

11 MR. GROSE: And is -- am I understanding -- and this  
12 is more of a question for opposing Counsel than you. But  
13 am I understanding that she's going to ask the question  
14 limited to pornography and not say child pornography?

15 MS. JOSEPH: No. I'm going to say child pornography.

16 MR. GROSE: Then I'm moving for a mistrial when she  
17 does that.

18 THE COURT: I mean, you have every right to do that.  
19 And I'll address it at the appropriate time. But it's  
20 either a yes or no answer and --

21 MS. JOSEPH: And the State moves on.

22 THE COURT: The State moves on. But based upon these  
23 discussions from both sides, following that path, the  
24 Court does not envision that that would exhibit any  
25 prejudice towards Mr. Dent. And, certainly, the Court is

1 cognizant about that. The Court is aware of that.

2 So that's the path that will be followed if, in fact,  
3 we get to that particular juncture and that's the way the  
4 question is going. I don't know which way the question is  
5 going to go. But, certainly, any --

6 And, Mr. Grose, obviously, we're going back through  
7 this duplication of testimony. Obviously, we don't --  
8 just try to be as succinct as you possibly can so  
9 witnesses don't duplicate testimony about -- or anything.

10 MR. GROSE: And, Judge, I need five minutes to confer  
11 with Mr. Dent.

12 THE COURT: All right. It's 25 until 10:00. I'll  
13 give you 20 to 10:00. I'll sit right here and give you  
14 five minutes.

15 Do you want to take him outside?

16 MR. GROSE: I would like to take him in one of these  
17 private rooms. They might be occupied.

18 (WHEREUPON, a break was taken.)

19 THE COURT: Anything else before we bring the jury  
20 out?

21 MR. GROSE: Yes, just very briefly. I've got some  
22 requests to charge I'd like to hand up, which they're  
23 pretty standard. But I do want to know, at some point  
24 later before closing, what definition of reasonable doubt  
25 Your Honor is going to use.

1           And the other thing is, it was brought to my  
2 attention this morning by some of the people in the  
3 courtroom that sometimes when I'm up questioning  
4 witnesses, the Prosecutors have been up and walking around  
5 or making faces in response to some of the questions. And  
6 I would just ask that that not occur anymore.

7           THE COURT: All right. Don't make any faces, y'all.

8           MS. JOSEPH: Thank you, Your Honor.

9           THE COURT: Anything else?

10          MR. GROSE: No, sir, not at this time.

11          THE COURT: All right. Where's my bailiff?

12          All right. Let's go get them.

13          THE BAILIFF: Yes, sir, Judge.

14          MS. JOSEPH: Your Honor, don't we need to do this --  
15 I don't know what it's called, but the little talk to the  
16 Defendant about his right to testify?

17          THE COURT: Yes.

18          MS. JOSEPH: Sorry. I forgot all about that.

19          MR. GROSE: And I think that can be satisfied through  
20 a colloquy between the Judge and Counsel. I've informed  
21 Mr. Dent that he has the right to testify or not testify.  
22 And it's his decision either way. And he's chosen to  
23 testify.

24          THE COURT: All right. And, Mr. Dent, would you  
25 stand up for me?

1           Raise your right hand.

2   WHEREUPON,

3                               CHARLES DENT,

4   after first having been duly sworn, testified as follows:

5           THE COURT:   Hold on one second.

6           THE BAILIFF:   Okay.

7           THE COURT:   All right.   You can put your hand down.

8           Your lawyer, Mr. Grose, indicates that you -- that he  
9   advised you of your right to testify or not testify.

10          DEFENDANT DENT:   Yes, sir.

11          THE COURT:   You fully understood those rights?

12          DEFENDANT DENT:   Yes, sir.

13          THE COURT:   And you're not under the influence today  
14   of anything that would impact your judgment?

15          DEFENDANT DENT:   Absolutely not.

16          THE COURT:   You're clear minded and you understand  
17   what you're doing?

18          DEFENDANT DENT:   Absolutely.

19          THE COURT:   And you're satisfied with the discussions  
20   that you've had with Mr. Grose regarding that right to  
21   testify or not testify?

22          DEFENDANT DENT:   Yes, sir.

23          THE COURT:   Any questions of me?

24          DEFENDANT DENT:   No, sir.

25          THE COURT:   Any questions of your lawyer?

1 DEFENDANT DENT: No, sir.

2 THE COURT: All right.

3 MR. GROSE: Thank you, Judge.

4 THE COURT: Bring them in.

5 Thank you, Ms. Joseph.

6 MS. JOSEPH: Thank you, Your Honor.

7 (WHEREUPON, the jury came into open court at  
8 approximately 9:42 a.m.)

9 THE COURT: All right. Good morning.

10 Mr. Grose, are you ready to proceed?

11 MR. GROSE: I am, Your Honor.

12 At this time, I would call Charles Dent.

13 THE COURT: All right. Mr. Dent, come forward.

14 THE CLERK: Good morning.

15 If you would, place your left hand on the Bible and  
16 raise your right hand.

17 WHEREUPON,

18 CHARLES DENT,

19 after first having been duly sworn, testified as follows:

20 THE CLERK: Thank you.

21 THE BAILIFF: Right this way, sir.

22 THE COURT: Yes, sir.

23 DIRECT EXAMINATION

24 BY MR. GROSE:

25 Q Charles, you are the Defendant in this case?

1 A Yes.

2 Q And one of the allegations is that you took pictures  
3 of your penis and showed them to your granddaughter,  
4 J.M. . Did you do that?

5 A No, I did not.

6 Q Another allegation is that you showed your  
7 granddaughter, J.M. , pornography. Did you do that?

8 A No, I did not.

9 Q One of the allegations is that you forced J.M. to  
10 commit fellatio on you, oral sex on you at the first  
11 townhouse that they lived at here in the Beaufort County  
12 area. Did you do that?

13 A No, I did not.

14 Q And the final allegation is that you had J.M.  
15 perform oral sex on you at the second townhouse that they  
16 lived in here in Beaufort County. Did you do that?

17 A No, I did not.

18 Q And did you ever do anything, touch J.M. , or have  
19 her do anything in a sexually inappropriate manner?

20 A Absolutely not.

21 Q Charles, what I want to do is go back and ask you a  
22 little bit about your background so the jury can know a  
23 little bit about you. Where were you born?

24 A In Tampa, Florida.

25 Q I'm sorry. Can you speak into that microphone?

1 A In Tampa, Florida.

2 Q And, just generally, where did you grow up?

3 A In Florida in my early years, and in Tennessee in my  
4 later years in school.

5 Q All right. And what kind of schooling did you have?

6 A I have a twelfth-grade education. And in my military  
7 career, I went to several schools, probably a second year  
8 college level.

9 Q So you said you had a military career. What branch  
10 were you in?

11 A I was in the United States Navy.

12 Q And what year did you enter the United States Navy?

13 A In 1985.

14 Q And how long did you spend in the Navy?

15 A 20 years.

16 Q And while you were in the Navy, were you stationed in  
17 various places around the country?

18 A Yes.

19 Q And where were those places?

20 A I started my career in Great Lakes, Illinois. I was  
21 stationed at a naval air station in Atlanta. I was in a  
22 squadron in Point Loma, California. I returned to  
23 Atlanta. And then my last duty station was staff  
24 headquarters in New Orleans, Louisiana.

25 Q And what types of positions did you hold in the Navy?

1       A       I started out as a very young recruit.  And I  
2 progressed up to the level of first class petit officer by  
3 my retirement.

4       Q       And as part of that, did you have a security  
5 clearance?

6       A       Absolutely.

7       Q       And did you have responsibilities regarding security  
8 and homeland security?

9       A       Yes.  I was, actually, an instructor for  
10 anti-terrorism training.  And that required a confidential  
11 clearance.

12      Q       Okay.  Now, we've been introduced to Lori Mayo, your  
13 daughter, this week.  Her mother, is her name, also, Lori?

14      A       Yes, it is.

15      Q       Okay.  And were you married to the older Lori?

16      A       Yes, I was.

17      Q       Okay.  And how many times were y'all married?

18      A       We, actually, were married twice.  We divorced for a  
19 little over a year, and then we got remarried.

20      Q       Okay.  And so when was the first time that you got  
21 married, just approximately?

22      A       1985, I believe.

23      Q       And how long were you married before the divorce?

24      A       We were married until 1993, I believe.  And we were  
25 remarried in 1994.

1 Q Okay. When -- when you were divorced for that year,  
2 where were you stationed at that time?

3 A Excuse me. Could you ask me --

4 Q Yes, sir. Charles --

5 MS. JOSEPH: Your Honor, objection to 401, 402  
6 relevance. I've let him go into his background. But at  
7 this point, we've gone far beyond that.

8 THE COURT: I'm going to sustain the objection.

9 MR. GROSE: Okay.

10 THE COURT: Streamline.

11 BY MR. GROSE:

12 Q So you and Lori, your wife -- ex-wife, did y'all have  
13 any children together?

14 A Yes, we did.

15 Q Okay. And how many children did you have?

16 A We had three.

17 Q All right. And who were those children?

18 A Michael, the oldest, was my stepson.

19 Q Okay.

20 A And Michelle, my daughter, and my son, Matthew.

21 Q Okay. So Michelle -- when you say "Michelle," that's  
22 how you distinguish between Lori, the mother, and Lori,  
23 the daughter?

24 A Yes.

25 Q Okay. So Michelle and Matthew were your biological

1 children; right?

2 A Yes.

3 Q And we've heard mention of an Uncle Michael this  
4 week. That was your stepson?

5 A That is my stepson, yes, sir.

6 Q Okay. Now, when -- when you divorced the second  
7 time, were the children still young?

8 A Yes, they were.

9 MS. JOSEPH: Your Honor, again, under 401 and 402,  
10 we're going to object to relevance.

11 MR. GROSE: I'm getting into who lived with who.

12 THE COURT: I'm going to sustain the objection.

13 Mr. Grose, move on.

14 MR. GROSE: Okay.

15 BY MR. GROSE:

16 Q Let me jump forward to 2012. In 2012, where were you  
17 living?

18 A I was living in Alabama. I own a farm there.

19 Q And was anybody living with you in Alabama?

20 A My son, Matthew.

21 Q And at that time, do you know where your daughter and  
22 her two children were living?

23 A Yes. They were living in Jacksonville, Florida.

24 Q Okay. And prior to 2012, was Matthew living with  
25 you?

1 A Yes, he was.

2 Q And would he travel to Florida?

3 A Yes. He would travel every year.

4 Q And how long would he --

5 MR. GROSE: Judge, we had testimony about this.

6 THE COURT: Let me hear the objection first.

7 MS. JOSEPH: Again, it's relevance. We're in  
8 Florida. All the allegations are in Beaufort. And Lori  
9 Mayo testified, Your Honor, that she had no contact with  
10 the Defendant prior to Matthew's death. So anything prior  
11 to Matthew's death is not relevant.

12 MR. GROSE: Well, it's -- there was testimony about  
13 Matthew.

14 THE COURT: I'm going to sustain the objection.

15 Let's just move on.

16 MR. GROSE: Okay.

17 BY MR. GROSE:

18 Q In 2012, did something happen to Matthew?

19 A Yes.

20 Q And what happened?

21 A He committed suicide.

22 Q Okay. Was that hard on you?

23 A Very, very hard.

24 Q And when he committed suicide, were -- where was --  
25 where were the services for him?

1 A We had a memorial service in Jacksonville, Florida.

2 Q Okay. And at that point, did you begin having  
3 contact with Michelle and the children?

4 A Yes.

5 Q Okay. And how did that contact begin?

6 A What do you mean by --

7 Q Well, how did you first kind of get back in touch  
8 with Michelle?

9 A After the memorial service, all -- all -- Michael and  
10 Michelle were down there for the memorial service. And I  
11 just got to know them during that short period of time a  
12 little better. I, certainly, was down there several times  
13 before that.

14 Q And when you were down there for the memorial  
15 service, did you have a chance to observe where they were  
16 living?

17 A Yes.

18 Q And what were the conditions of where they were  
19 living?

20 A It was very poor. It was what I would call a crappy  
21 neighborhood.

22 Q And when you were down there for Matthew's memorial  
23 service, was anybody else from your family there with you?

24 MS. JOSEPH: And, Your Honor, again, we're going to  
25 object to relevance. Now, we're talking about a funeral

1 and --

2 MR. GROSE: Well, I have to -- this is relevant to  
3 the decision for them to move to South Carolina.

4 THE COURT: All right. Mr. Grose, I've been pretty  
5 lenient. I'm going to sustain the objection on --

6 The relevancy objection, Counsel, that's what it was?

7 MS. JOSEPH: Yes, Your Honor.

8 THE COURT: I'm going to sustain that.

9 So let's move on.

10 MR. GROSE: Okay. Thank you.

11 BY MR. GROSE:

12 Q Were there ever any discussions about Michelle and  
13 the children moving to South Carolina?

14 A Yes, there were.

15 Q And were you part of those discussions?

16 A Yes.

17 Q And who else was part of those discussions?

18 A My brother.

19 Q Who's your brother?

20 A David Dent.

21 Q And as a result of those discussions, what was  
22 decided?

23 A I wanted to get them away from the conditions the  
24 children were living in. It was very frightening where  
25 they were at. And I thought a better location, better

1 schools would improve their quality of life.

2 Q And so how was the Beaufort area selected?

3 A My brother, at the time, leased property on Hilton  
4 Head. And he was telling us how beautiful it was, how --  
5 what a great community it was.

6 Q So in what month did Matthew pass away?

7 A In June of 2012.

8 Q Okay. And so how soon after that did Lori and your  
9 grandchildren move to the Beaufort area?

10 A In mid-August.

11 Q Of the same year?

12 A Yes.

13 Q Now, when they lived here, what was the -- did they  
14 live in more than one townhouse when they lived here?

15 A Yes.

16 Q And were those townhouses in the same complex?

17 A Yes, they were.

18 Q Can you describe the first townhouse they lived in?

19 A The first townhouse I leased was a two-bedroom, two  
20 and a half bath. It was very small, perhaps, 900 square  
21 feet.

22 Q Okay. And what was the arrangement for paying the  
23 bills for that townhouse?

24 A I -- I paid for everything, the lease, the cable, the  
25 water, the electricity. And Michelle was unemployed. She

1       couldn't afford to pay for anything.

2       Q     Okay.  So were you paying the entire rent?

3       A     Absolutely.

4       Q     Okay.  And did you and Michelle have some  
5       expectations as far as what was going to happen with  
6       regard to responsibility for the bills?

7       A     Yes.  Michelle's credit was very poor.  And we put  
8       her name on, perhaps, everything, the electric, cable, the  
9       lease in an attempt to improve her credit.  And I would  
10      give her the money.  I would deposit the money into her  
11      account and she would be able to write the check.

12      Q     And was there going to be a point where she was going  
13      to take over the bills?

14      A     Absolutely.  She was very independent.  And she  
15      wanted to be able to support herself and her children.

16      Q     And what was the plan for when that was going to  
17      happen?

18      A     The original plan was one year.  We felt like by the  
19      end of the first -- of the lease, then she would be able  
20      to be independent.

21      Q     Okay.  And did that happen at that stage?

22      A     No, it did not.

23      Q     Okay.  Now, you described the size of the townhouse.  
24      Do you remember how much you were paying in rent for the  
25      first townhouse?

1 A Yes. It was \$900 per month.

2 Q Okay. So at the end of the year, did you agree to  
3 continue paying the bills?

4 A I did. There was no way they could survive or live  
5 here without that.

6 Q Okay. Now, what -- at what point did they move into  
7 the second townhouse?

8 A At the end of the lease, we -- I decided they needed  
9 a much larger place. I didn't have anywhere to stay when  
10 I was there in the original thing. So I had to sleep in a  
11 recliner downstairs in the living room. And I wanted a  
12 place where I could, at least, have a place to stay when I  
13 was over visiting.

14 Q And we're going to come back to that in a second.  
15 But how much bigger was the new townhouse?

16 A The new townhouse was a four-bedroom, three and a  
17 half bath townhome with a garage.

18 Q Okay. And do you recall what the cost -- or the  
19 lease amount was for that townhouse?

20 A Yes. It was \$1,100 per month.

21 Q Okay. So that was \$200 more than the first one?

22 A Yes.

23 Q Okay. And do you remember the date that they moved  
24 into the second townhouse?

25 A Yes. The lease was up on August 30th. And we moved

1 that weekend.

2 Q Okay. So August 31st, September 1st is when that  
3 started?

4 A Yes.

5 Q Okay. Now, you talked about when you would visit.  
6 Did you reside there the entire time?

7 A No, I did not.

8 Q And you have -- still have property in Alabama?

9 A Yes. I own a small hobby farm in Alabama.

10 Q And just where in Alabama is that?

11 A It's 60 miles from Birmingham.

12 Q So if you're going to come from Alabama to Beaufort,  
13 how long does that take?

14 A It's a six-hour drive, at least.

15 Q And when you would come, would you, also, include  
16 other visits in your trip?

17 A Yes.

18 Q And who else would you visit?

19 A I would visit my friends, Terri and Mitch. They  
20 lived in Charleston at the time. And my mother lived in  
21 Mooresville, as did my brother. And I would travel there  
22 before I came here, or I would travel there after I left  
23 here.

24 Q Now, would you -- did you ever buy presents for the  
25 children?

1 A Absolutely.

2 Q And did you buy them for just one, or did you buy  
3 them for both?

4 A No. I bought them for both, equally.

5 Q Okay. And when you say that, how did you go about  
6 deciding what type of presents to buy?

7 A They were two very different children. A.M. was a  
8 video gamer from the age of three. And he was obsessed  
9 with that. So I would try and buy him a video game or,  
10 perhaps, some accessories for his gaming system. And then  
11 I would buy J.M. something equally priced.

12 Q Okay. So -- and would you try to tailor what you  
13 bought J.M. to her interests?

14 A Yes. She was very much into dolls and girly stuff.  
15 I would buy her doll houses, and things like that.

16 Q And did anybody else ever shop with you when you were  
17 buying your grandchildren presents?

18 A Yes. I would travel and see my mother in Charlotte  
19 before I came down. And we would go to thrift stores and  
20 different places looking for gifts for both of them.

21 Q Now, when you were visiting in South Carolina, how  
22 much would you come?

23 A When we [sic] first moved here, I couldn't come very  
24 often. I was very busy with my farm. Perhaps, once a  
25 month, maybe every five weeks or so.

1 Q And, typically, how long would you stay?

2 A Sometimes just for the weekend. Perhaps, on  
3 holidays, I would stay a little bit longer.

4 Q And when you would come here, would you take  
5 photographs?

6 A Of course.

7 Q All right. And would you take photographs of your  
8 grandchildren?

9 A Yes.

10 Q The first townhouse they moved into in August of  
11 2012, do you remember the holidays from that year?

12 A I do. I wasn't able to come to every holiday.

13 Q All right. Did you make Thanksgiving?

14 A I think I did.

15 Q Okay. Were you able to make them both that year?

16 A Both?

17 Q Thanksgiving and Christmas. I'm sorry.

18 A No, I was not.

19 Q And when you -- for the holidays that you were there,  
20 was there any other of your family that visited as well?

21 A Yes. My brother and my mom both stayed in Hilton  
22 Head during the holidays -- those holidays.

23 Q Now, during that first year -- during the time they  
24 were in the first townhome, did any issues start to arise  
25 between you and Michelle?

1 A Yes. There was some financial issues.

2 Q And can you tell us about that?

3 A The original plan was for Michelle to become  
4 independent and be able to live on her own with her  
5 children at the end of the year. And she was unemployed  
6 the majority of that year.

7 Q Okay. And did y'all begin to have any discussions or  
8 issues about the finances?

9 A Yes.

10 Q Okay. And can you tell us about that?

11 A Yes. J.M. expressed a desire to -- to be in a  
12 dance class, a dance school, acrobatics. And I signed her  
13 up for that. And A.M. was interested in Boy Scouts and  
14 fishing. And we did that on a regular basis. I paid for  
15 all of that.

16 Michelle, being unemployed, she -- she had food  
17 stamps and -- but she didn't have money for other things.  
18 I had to help her with her car payment, and insurance, et  
19 cetera.

20 Q All right. And so after the move into the second  
21 townhome, did -- was there any escalation in any of those  
22 concerns?

23 A Yes. Michelle didn't want to move there because the  
24 cost had increased. And she could not afford the first  
25 apartment at a cheaper price. She, certainly, could not

1 afford the more expensive one. However, I was paying for  
2 everything.

3 So I insisted that if I were going to come over and  
4 visit and help support them, I would have to have a place  
5 I could stay, also.

6 MR. GROSE: I beg the Court's indulgence for a  
7 moment.

8 (Pause.)

9 BY MR. GROSE:

10 Q I want to show you some documents. If you could look  
11 at those first, please.

12 A (Witness complied.)

13 Q And what are those?

14 A Those are screen shots of Facebook messages.

15 Q And who are those between?

16 A Me and my daughter, Michelle.

17 Q And what timeframe were those messages?

18 A This is -- I didn't bring my glasses. I'm sorry. I  
19 apologize. I'm sorry.

20 Q No problem.

21 A They appear to be in September of 2013.

22 Q Okay. And what was the subject matter of those  
23 messages?

24 A They were concern -- they were conversations about  
25 the finances.

1 Q What issue was discussed in some of those?

2 A In one of them, Michelle tells me that the kids are  
3 home alone with no phone and this makes me want to quit my  
4 job. The kids are, also, starving. We have no food, no  
5 food stamps, no money.

6 Q So was she wanting you to send more money?

7 A Absolutely.

8 Q And were you, also, sending Michelle an allotment?

9 A Yes. When I was in the military, I set up an  
10 allotment to come out of my pay for the children. And  
11 that continued after I retired from the military.

12 Q Okay.

13 A That allotment was increased several times.

14 Q And did that allotment, eventually, go to Michelle?

15 A Yes, it did. It went to her and to my son, Matthew.

16 Q I want to show you State's Exhibit No. 21, which is a  
17 multiple-page document. And I want you to look at this  
18 particular message right there.

19 A Okay.

20 Q Can you tell the date of that by looking at it?

21 A July 3rd, 2014.

22 Q Okay. And does that text message refer to the  
23 allotment?

24 A Yes, it does.

25 Q And what does it say?

1 A It is from Michelle to me. And it says, I'll be  
2 expecting the rent money and my allotment in my account by  
3 Friday, unless you want your mom and brother to find out,  
4 too.

5 Q Now, in 2014, were you making any decisions about the  
6 arrangement that you and Michelle had?

7 A In 2014?

8 Q In 2014.

9 A Yes, I was.

10 Q And what were you considering?

11 A I was considering ending the lease and trying to find  
12 them a much cheaper place where she could possibly live  
13 independently with her children.

14 Q And were you thinking about whether or not you were  
15 going to continue sending --

16 A I had already decided I was not going to continue to  
17 be on the lease. It would be her own.

18 Q And at what point did you make that decision?

19 A Perhaps, as early as March or April of 2014.

20 Q And when you were going through the process of trying  
21 to make that decision, would you talk to anybody else  
22 about it?

23 A Yes, I did. I discussed it a lot. I lived at home  
24 alone since Matthew passed away. And I would call my  
25 friends and my brother. He is very intelligent with

1 finances. And I would discuss it with him.

2 Q So your brother, David, that you mentioned earlier?

3 A Yes, David.

4 Q And your friends, who are you referring to?

5 A Mitch and Terri, particularly Mitch. I didn't talk  
6 as much to Terri.

7 Q And Mitch and Terri, where do they live?

8 A They live in Charleston.

9 Q Moving back to the holiday season in 2013, did you  
10 visit South Carolina around the holidays?

11 A Yes, I did.

12 Q Did you stay in the apartment?

13 A Yes.

14 Q Was there a time where you visited, but you stayed  
15 with your brother?

16 A Yes. My brother and mother stayed on Hilton Head  
17 during the holidays, Thanksgiving and Christmas. And we  
18 would go over there and have the family meals. And I was  
19 with them.

20 Q Did Michelle and the children come over for those  
21 meals?

22 A Yeah.

23 Q In 2013?

24 A Yes.

25 Q Okay. Was there a time that you and your brother

1 delivered presents?

2 A Yes, we did at Christmastime. At Christmastime, I  
3 didn't stay at the apartment. I stayed with my brother on  
4 Hilton Head.

5 Q Okay. So you stayed there at Thanksgiving, but not  
6 at Christmas?

7 A Correct.

8 Q So at Christmas, even though you weren't staying  
9 there, were there presents for the grandchildren?

10 A Absolutely, large box.

11 Q And who helped you deliver them?

12 A My brother. It was such a large container with the  
13 gifts inside, we both had to carry it inside.

14 Q Okay. And did you buy gifts for everyone?

15 A Absolutely.

16 Q Now, at some point -- at some point, did you learn  
17 about somebody named John Camelo?

18 A Yes, in mid-2014.

19 Q Okay. And how did you find -- well, did you ever  
20 meet him?

21 A I was introduced to him. But we were sitting in a  
22 truck and he was in a van.

23 Q And did you have time to have any lengthy  
24 conversation with him?

25 A No, not at all.

1 Q And were you ever told anything about his background?

2 A I was. I was told...

3 Q All right. And what were you told?

4 A I was told that he -- excuse me -- that he worked for  
5 the pool company as a maintenance man. And he was living  
6 in an extended-stay motel.

7 Q Were you told anything else, other than that?

8 MS. JOSEPH: Your Honor, objection. Hearsay.

9 THE WITNESS: No.

10 THE COURT: Sustained.

11 BY MR. GROSE:

12 Q Were you -- in 2014, up to the time that you were  
13 arrested, were you ever aware that John Camelo had an  
14 experience -- or history in law enforcement?

15 A No, I was not.

16 Q Before you were arrested in 2014, were you aware that  
17 John Camelo had been a private investigator?

18 A No, I did not.

19 Q Okay. Did you ever learn that John Camelo was going  
20 to be moving into the townhouse?

21 A I found out after the fact. He moved in sometime in  
22 June or early July. And I was not aware of that. I was  
23 told that.

24 Q Okay. And who told you that?

25 A My granddaughter, J.M. .

1 Q Okay. And what did you think about John Camelo  
2 moving into the townhouse?

3 A I was very concerned. I didn't know the man at all.  
4 I thought it was really strange that Michelle and him had  
5 only been dating, perhaps, less than a month and he moved  
6 in. And he moved into the part of the townhome that I  
7 lived in when I was there.

8 Q Okay. And did you express those concerns?

9 A Yes, I did.

10 Q And was that the source of more tension between you  
11 and Michelle?

12 A It was -- it was very concerning, mainly, because of  
13 the grandchildren, a stranger moving in and living there,  
14 taking care of the kids, and watching them when Michelle  
15 wasn't there.

16 Q All right. And I asked you in the beginning whether  
17 or not you had ever done anything sexually inappropriate  
18 with J.M. . Did you ever make any threats to J.M. ?

19 A No, I did not.

20 Q And just so we're clear. Did you ever show J.M.  
21 pictures of your penis?

22 A No, I did not.

23 Q And did you ever show J.M. pornography?

24 A No, I did not.

25 Q And did you ever have J.M. perform oral sex on

1 you?

2 A No, I did not.

3 Q At any location?

4 A No.

5 MS. JOSEPH: Your Honor, at this point, we'd object,  
6 asked and answered. He's not allowed to just ask the same  
7 questions he asked at the beginning.

8 THE COURT: I'm going to sustain that.

9 Counsel, that was already asked earlier.

10 MR. GROSE: Thank you, Your Honor.

11 At this time, I don't have any other questions.

12 THE COURT: Cross-examination.

13 MS. JOSEPH: Thank you.

14 CROSS-EXAMINATION

15 BY MS. JOSEPH:

16 Q Do you have State's Exhibit No. 21 in front of you  
17 still?

18 A I do.

19 Q Do you have those Facebook messages as well?

20 A I do.

21 Q Will you hand those to me?

22 A Sure.

23 Q I'm handing these back to you.

24 A Thank you.

25 Q How do you recognize those Facebook messages?

1 A I don't understand. What do you mean?

2 Q Let me rephrase the question. That's a Facebook  
3 conversation?

4 A Yes. It's Facebook messages.

5 Q Right. And it's between you and your daughter?

6 A Yes.

7 Q So you recognize the conversation, because it's a  
8 conversation between you and your daughter?

9 A Yes.

10 Q Okay. On your Facebook app?

11 A Yes.

12 Q Okay. And there's a date on it?

13 A (There was no response.)

14 Q It might be really small.

15 A I'll put my glasses on. Do you want to know the  
16 date?

17 Q No. Just is there a date on it?

18 A There is one on it.

19 Q And is that a true and accurate depiction of that  
20 conversation? And if you need to take a moment to review  
21 it, I understand. So what I'm asking is, has that  
22 conversation been altered? Is it an accurate picture of  
23 that conversation?

24 A Yes, it appears to be.

25 MS. JOSEPH: Your Honor, at this time, we move to

1 enter this as State's Exhibit No. 23.

2 MR. GROSE: No objection.

3 THE COURT: Without objection, State's Exhibit No.  
4 23.

5 (WHEREUPON, State's Exhibit No. 23 was marked for  
6 identification and admitted into evidence.)

7 BY MS. JOSEPH:

8 Q You are J.M. 's grandfather?

9 A Yes, I am.

10 Q And you just testified that you visited J.M. , and  
11 Lori, and A.M. in Beaufort?

12 A Yes.

13 Q And you visited frequently?

14 A Perhaps, every four to five weeks.

15 Q And you stayed for about a week at a time?

16 A No. I stayed on weekends mainly. And on holidays, I  
17 would stay longer.

18 Q And -- sorry. In the second house, you had a bedroom  
19 that was a guest bedroom, and it was on the first floor?

20 A Yes.

21 Q And that was your room?

22 A Yes.

23 Q And what years did Lori live in Beaufort? What years  
24 did Lori --

25 A What years?

1 Q Yes, sir.

2 A We [sic] moved here in 2012. And I have no idea how  
3 long she lived here after 2014.

4 Q So you're aware that she lived here from 2012 to  
5 2014?

6 A Yes.

7 Q And J.M. was between the ages of seven and nine  
8 during 2012 to 2014?

9 A Yes.

10 Q And prior to Matthew's death in 2012, you did not  
11 have much of a relationship with Lori?

12 A That is not correct.

13 Q Okay. You were on the lease in Beaufort?

14 A Yes.

15 Q And you just testified that you paid the rent for the  
16 two Beaufort houses?

17 A Yes.

18 Q And you paid for their cable?

19 A Yes.

20 Q And you paid for Lori's phone?

21 A In 2014 only.

22 Q And you gave J.M. a phone?

23 A No. That is not correct. I gave the children a  
24 phone so they could call 911.

25 Q So you gave A.M. and J.M. a phone?

1 A Yes.

2 Q And how old was A.M. ?

3 A Two years older than J.M. the whole time.

4 Q So approximately 11 years old?

5 A In 2014 -- he was nine years old in 2012.

6 Q So you gave a seven and nine-year-old a phone?

7 A No, I did not. I gave them a phone in 2014.

8 Q A nine and 11-year-old?

9 A Nine and 11-year-old, correct.

10 Q You paid for J.M. to go to dance lessons?

11 A I did.

12 Q And you did, in fact, buy J.M. toys?

13 A Yes, I did.

14 Q And gift cards?

15 A Once, I believe.

16 Q And you gave her money?

17 A On occasion.

18 Q You just testified that you made Lori move into a  
19 bigger house that she told you she couldn't afford because  
20 you wanted a place to stay?

21 A Yes. I was already paying for the other place.

22 There was only a \$200 difference to move to the new place.

23 Q But she told you she couldn't afford it?

24 A She wasn't paying for it, I was.

25 Q But you, also, said that you wanted her to be

1 independent?

2 A Originally, that was the plan.

3 Q But you made it harder for her to be independent?

4 A I did not. She was unemployed the whole time.

5 Q So she was unemployed the whole time. But in this  
6 Facebook message, it says that her kids are at home  
7 because she's at work?

8 A Yes. She did work occasionally.

9 Q Okay.

10 A Briefly.

11 Q And then you have a -- do you have State's Exhibit  
12 No. 21 in front of you?

13 A I do.

14 Q Turning to the second to last page, your text message  
15 to her is, You didn't take care of the cable -- Internet  
16 cable bill yet.

17 A Can I look at it?

18 Q Of course. Second to last page --

19 A Which page?

20 Q Second to last. And then it's the right bottom  
21 square. And I'll give you a moment to review.

22 A Thank you.

23 You said the bottom right square?

24 Q Yes. And it's blue because it's a text from you.  
25 And it starts with "Michelle," because it's clearly to

1 Michelle.

2 A Yes.

3 Q So it says, You didn't take care of the cable  
4 Internet bill yet. On Tuesday, it will be \$325. Also,  
5 you agreed to pay \$30 a month on your phone. So she was,  
6 in fact, financially contributing?

7 A This was July 31st after I had been removed from the  
8 property.

9 Q You made Lori move into a bigger apartment so you  
10 would have a place to stay?

11 A I didn't make her do anything.

12 Q Even though you just testified that your brother had  
13 a place in the area. You could have stayed with your  
14 brother?

15 A Absolutely not. He was leasing a place on holidays  
16 in the wintertime only.

17 Q You would agree that Lori was desperate for money?

18 A Yes, I would agree.

19 Q And you would agree that she was a single mom?

20 A I agree.

21 Q And your attorney had you read out a text -- and it's  
22 on the same page. It's, actually, the square right above.  
23 It says, I'll be expecting the rent money and my allotment  
24 in my account by Friday, unless you want your mom and  
25 brother to find out, too.

1 A Yes. This was July 3rd.

2 Q So here she is saying I want my money?

3 A Yes.

4 Q I want my money?

5 A Yes.

6 Q And she is threatening to tell your mom and your  
7 brother; right?

8 A Yes.

9 Q Okay. And this text -- and you have to turn the page  
10 back -- was sent on July 3rd?

11 A Yes.

12 Q Or July 2nd, I apologize. July 2nd.

13 A Mine says July 3rd.

14 Q So that's, actually, the next text. So you have to  
15 go back one page back. And that's July 2nd of 2014 that  
16 that was shown?

17 A Yes. These texts were not sent on the same day.

18 Q So on July 2nd, 2014, she sent a text threatening you  
19 for money -- threatening you, wanting money?

20 A Yes.

21 Q And saying that she was going to tell your mom and  
22 your brother?

23 A Yes.

24 Q But she had already told law enforcement. She had  
25 already started the investigation?

1 A I have no idea.

2 Q So you've been sitting in here during the whole  
3 trial?

4 A Yes.

5 Q And you heard Lori read these text messages out loud  
6 to the jury?

7 A Some of them.

8 Q Okay. Because she was reading a summary when she  
9 testified. And you, obviously, have the text messages --  
10 or photographs of the text messages in front of you?

11 A I am not sure these are the same text messages. I'm  
12 sorry.

13 Q Oh, do you need a moment to review them?

14 A No. I don't remember exactly what she read. And I'm  
15 not sure if these are the ones she read.

16 Q It sounds like you need a moment to review them.

17 A No. I just don't remember what she read.

18 MR. GROSE: And, Your Honor --

19 THE COURT: Stand up. Stand up.

20 MR. GROSE: I'm just going to object --

21 THE COURT: What's your objection?

22 MR. GROSE: Pitting.

23 THE COURT: Overruled.

24 BY MS. JOSEPH:

25 Q In those texts, she says -- she texts you that you

1 touched her daughter?

2 A In which text, ma'am?

3 Q It's on Page 2. It's the top right square. It's  
4 yellow. I didn't know you were touching my daughter.

5 A Yes. I see that text.

6 Q You do see that?

7 A Yes.

8 Q And in these same text messages at a later date, she  
9 says that you showed pictures of your penis to her  
10 daughter?

11 A What page is that on?

12 Q That's the third to the last page. And it's the  
13 bottom right square. You showed J.M. pictures of your  
14 penis. Are you fucking serious? You are sick.

15 A I don't see that on the last page.

16 Q No, it's the third to last. Third to last.

17 A Third to last. Okay. I'm backwards.

18 Q Yeah. Start at the back.

19 A Okay.

20 Q So she did text you that?

21 A Text me what?

22 Q Okay. So this is July 2nd of 2014. Do you see it?  
23 You showed J.M. pictures of your penis. Are you  
24 fucking serious? You are sick.

25 A Yes.

1 Q And you texted -- this is about you I'm talking  
2 about. You texted, I haven't done anything to hurt  
3 J.M. .

4 A And that is after her text?

5 Q No. It's, actually, one of the first you sent.

6 A I'm getting very confused. And which page is that  
7 on?

8 Q That's on, actually, the very first page. So this is  
9 before she texted you, You touched my daughter. Before  
10 she texted you, You showed photos of your penis to my  
11 daughter. This is at the beginning of the conversation.  
12 It says, I haven't done anything to hurt you or J.M. .

13 A It does not say that. It says, I haven't ever done  
14 anything to hurt you or J.M. , and you know it.

15 Q Okay. And then you, also, texted later on, I would  
16 never hurt the children.

17 A And what page is that on?

18 Q That's on the next page, the bottom right square top  
19 text. I would never hurt the children and you know that,  
20 exclamation mark.

21 A Yes, I texted that.

22 Q But in these text messages, you never denied sexually  
23 touching J.M. ?

24 A I was never asked.

25 Q You never explicitly denied showing photos of your

1 penis to your granddaughter?

2 A In the text only?

3 Q Yes.

4 A Yes. It was ridiculous.

5 Q In fact, in these text messages, she confronts you  
6 with these allegations. And your next text is about rent  
7 money?

8 A Next text meaning?

9 Q Meaning, she says that you showed her daughter a  
10 photo of your penis and your next text --

11 A Please give me a minute. Okay. I do see that text  
12 dated July 2nd.

13 Q So she confronts you with these allegations and your  
14 next text is about rent money?

15 A 30 days later.

16 Q Do you own a computer?

17 A I do.

18 Q And what type of computer do you own?

19 A I currently own an HP laptop.

20 Q How long have you owned that computer?

21 A About two years.

22 Q Do you own any other devices?

23 A I do not -- I do have an Apple iPad. I apologize.

24 Q And you have photos of your granddaughter on these  
25 devices?

1 A I do not.

2 Q Is there child pornography on these devices?

3 A Absolutely not.

4 MR. GROSE: Your Honor, at this time, I move for a  
5 mistrial pursuant to Rule 404(b) and Rule 403.

6 THE COURT: All right. Denied.

7 MS. JOSEPH: I beg a moment of the Court's  
8 indulgence, Your Honor.

9 (Pause.)

10 MS. JOSEPH: No further questions.

11 THE COURT: Anything on redirect, Mr. Grose?

12 MR. GROSE: Just very briefly.

13 REDIRECT EXAMINATION

14 BY MR. GROSE:

15 Q She asked you about whether you denied touching  
16 J.M. . And you denied showing J.M. pictures of your  
17 penis?

18 A Yes.

19 Q After you were arrested, did law enforcement  
20 interview you?

21 A They did.

22 Q And did you cooperate with that?

23 A Absolutely.

24 Q And did you deny those allegations at that time?

25 A If I were asked -- I don't recall if I was asked

1 that.

2 Q And did you answer every question that they asked  
3 you?

4 A Yes, I did.

5 MR. GROSE: That's all I have.

6 Thank you.

7 THE COURT: Recross?

8 MS. JOSEPH: Nothing, Your Honor.

9 THE COURT: Thank you, sir.

10 You may step down.

11 Next witness.

12 MR. GROSE: Your Honor, I call Sue Leffler.

13 THE CLERK: If you would, place your left hand on the  
14 Bible and raise your right hand.

15 WHEREUPON,

16 AUDREY SUE LEFFLER,

17 after first having been duly sworn, testified as follows:

18 THE CLERK: Thank you.

19 THE BAILIFF: Right this way.

20 THE COURT: Yes, sir.

21 DIRECT EXAMINATION

22 BY MR. GROSE:

23 Q Can you state your full name, and spell your last  
24 name?

25 A Audrey Sue Leffler, L-E-F-F-L-E-R.

1 Q And do you know Charles Dent?

2 A Yes.

3 Q And how do you know him?

4 A He's my son.

5 Q And where do you live?

6 A Just north of Charlotte.

7 Q Okay. And I want to focus your time -- direct your  
8 attention to the time beginning around 2012 -- the summer  
9 of 2012. At some point after that, did you ever meet Lori  
10 Michelle Mayo and her children?

11 A Yes.

12 Q And when was that?

13 A It was the Thanksgiving holidays. And my daughter  
14 and I had come over to stay at David's place. And I  
15 invited Michelle and the children to come up and eat with  
16 us.

17 Q Okay. And was Charles there for that particular  
18 gathering?

19 A No, he wasn't.

20 Q Okay. Now, were you aware that Charles was making  
21 trips back and forth between Alabama --

22 A Yes.

23 Q -- and South Carolina?

24 A Yes.

25 Q Okay. And on some of those trips, would he stop and

1 see you on the way to South Carolina?

2 A Yes.

3 Q All right. And did you ever go shopping with  
4 Charles?

5 A Always.

6 Q And what did you go shopping for?

7 A The children.

8 MS. JOSEPH: Objection. Relevance.

9 THE COURT: Sustained.

10 MR. GROSE: Your Honor, I have a matter of law to  
11 take up.

12 THE COURT: All right. Send the jury out.

13 (WHEREUPON, the jury was excused from open court at  
14 approximately 10:33 a.m.)

15 THE COURT: Yes, sir.

16 MR. GROSE: Your Honor, before we get into that, I  
17 would just note, for the record, that my mistrial motion I  
18 understood would incorporate all of our prior discussions  
19 into it. So that's preserved for appellate review.

20 THE COURT: All the discussions that we had prior to  
21 the jury coming in today?

22 MR. GROSE: Well, the whole -- everything we've had  
23 this week about 404(b), and 403, and Lyle, including my  
24 specification objection based on all of that, that they  
25 not be allowed to ask a question about child pornography.

1 THE COURT: Well, that's not my understanding of  
2 that, Counsel. And let me tell you why. The 403 -- the  
3 404 and 403, I addressed that yesterday when we were  
4 talking about the Alabama proffer. I didn't -- as a  
5 matter of fact, the reason that the Court ruled the way it  
6 did had nothing to do with the 404 argument or 403  
7 argument. It had nothing to do with that.

8 MR. GROSE: Okay.

9 THE COURT: So what I'm saying is I don't want you to  
10 stand and make a motion for a mistrial and try to use the  
11 umbrella of all of that when you, specifically, indicated  
12 prior to the jury coming in that -- your statement was  
13 that if the word pornography -- child pornography was  
14 used, that would be the basis of your motion for a  
15 mistrial.

16 So I'm not going -- and I'm not going to allow you to  
17 now put your -- under an umbrella of a mistrial and  
18 include everything that happened all week. Because that  
19 was not the specific language that you alluded to before  
20 the jury came in today.

21 So in that regard, I'll listen to you. But I'm not  
22 going to allow you to do that. I'm going to let the basis  
23 of your mistrial -- your motion for a mistrial be based on  
24 what you said that you would do.

25 MR. GROSE: And when --

1 THE COURT: And I'm going to let you respond to that.

2 MR. GROSE: When I objected and said 404(b) and 403,  
3 did you not understand that was prior bad acts?

4 THE COURT: I understood --

5 MR. GROSE: The analysis?

6 THE COURT: I understood precisely, Counsel. I  
7 understood precisely. I'm very familiar with both of  
8 those rules.

9 MR. GROSE: Okay.

10 THE COURT: I know them as well as you do, probably  
11 better.

12 MR. GROSE: I'm sure you probably do.

13 THE COURT: So I know exactly what they are. But I'm  
14 not going to allow you to do that. Now, I'm going to let  
15 them respond to your motion.

16 Counsel, do you want to respond?

17 MS. LUTTRELL: No, Your Honor.

18 THE COURT: But that's -- is that -- that was my  
19 understanding of the basis for the motion for mistrial  
20 and --

21 MR. GROSE: Well, as long as you understand that I've  
22 been trying to keep the child pornography questions out  
23 all week. And I, specifically, this morning talked about  
24 that motion and referenced you again to the pretrial brief  
25 and said that if they went into that that I was going to

1 object to that as bad character evidence, which is 404(b)  
2 and --

3 THE COURT: So I've already ruled on that. So the  
4 matter of law you're alluding to is the ruling that I made  
5 in reference to a mistrial. Is that what we're talking  
6 about?

7 MR. GROSE: That was the first thing. I wanted to  
8 get that on the record because I -- I didn't -- I  
9 understood you didn't want us to do what we just had to  
10 do, which was send the jury out this morning.

11 THE COURT: Well, I think everything is on the  
12 record, Counsel.

13 MR. GROSE: Okay.

14 THE COURT: I spent -- I was very patient with both  
15 of you before this jury came out to eliminate this kind of  
16 argument --

17 MR. GROSE: Okay.

18 THE COURT: -- to continue to prolong this matter.  
19 And I understood what the arguments were going to be. I  
20 did not rule pre-trial -- I indicated on the record that I  
21 wanted to hear some testimony. I did that. You made your  
22 motion. It's based upon what you previously said. And I  
23 ruled on it.

24 So to take this jury out for us to rehash what was  
25 discussed before the jury came out, I think, just prolongs

1 this matter unnecessarily.

2 MR. GROSE: Well, I have to protect the record.

3 THE COURT: The record is protected. And I  
4 understand that.

5 MR. GROSE: And I understand you're saying you  
6 considered, at least, what we did this morning. And I'm  
7 good with that.

8 THE COURT: All right. But here again -- here again,  
9 you know, I was patient this morning with both lawyers to  
10 allow you to get into any of these matters so we wouldn't  
11 consistently have the jury come back and forth. And if  
12 that's the reason you did this --

13 MR. GROSE: No. But I have to --

14 THE COURT: What's your second reason?

15 MR. GROSE: Well, the reason I did this was that I  
16 wanted to talk about -- I want to make a proffer on the  
17 objection that you just sustained. I have to make this  
18 proffer to be able to appeal this issue.

19 THE COURT: Okay. Go ahead and make the proffer on  
20 the objection. Go ahead.

21 DIRECT EXAMINATION

22 BY MR. GROSE:

23 Q When Charles would visit you on his way to South  
24 Carolina, did you and he ever go shopping?

25 A Yes.

1 Q And what did you go shopping for?

2 A Always both children.

3 Q And when you say "always both children," what does  
4 that mean?

5 A We bought for J.M. and A.M. . He would not be sure  
6 what was proper for their age. And I would help him pick  
7 it out. And we always made sure that it was the same cost  
8 for both of them.

9 Q And --

10 A Different things, but the same.

11 Q All right. Did he try -- in your observations, did  
12 he try to buy things that they were interested in?

13 A Yes.

14 Q And did he try to be even in what he bought the  
15 grandchildren?

16 A Yes.

17 MR. GROSE: Okay. And that would be my proffer. And  
18 I think that's relevant to respond to their grooming  
19 argument. And it's relevant because it corroborates the  
20 testimony of the Defendant, which is always relevant.

21 THE COURT: Let me hear from you. Anything on that  
22 point?

23 MS. LUTTRELL: No, Your Honor. That's fine.

24 THE COURT: All right.

25 MR. GROSE: When they say "that's fine," do they mean

1 they're withdrawing their objection?

2 THE COURT: I can't speak for them.

3 MR. GROSE: Well, I'm asking because -- I'm asking to  
4 be able to ask her those questions.

5 MS. LUTTRELL: That's fine, Your Honor. We withdraw  
6 our objection.

7 Thank you.

8 THE COURT: Anything else?

9 MR. GROSE: No, sir.

10 THE COURT: Bailiff, bring the jury back.

11 THE BAILIFF: Yes, Your Honor.

12 (Pause.)

13 THE BAILIFF: It's going to be a minute, Judge.

14 MR. GROSE: While we're waiting on that, can we talk  
15 about scheduling just really quick?

16 THE COURT: On the record or off the record?

17 MR. GROSE: It's up to you.

18 THE COURT: Let's put everything on the record.

19 What do you want to chat about?

20 MR. GROSE: I anticipate being done by noon. And I  
21 would like to have -- since we seem to be on a good  
22 timetable, have a little bit of time. I don't know if  
23 they have any reply. But between -- just to get ready for  
24 closing, just what time you would want us back for lunch,  
25 assuming we're done by noon.

1 THE COURT: We're going to take a short lunch break.  
2 The lunch break will last no longer than an hour.

3 MR. GROSE: Okay.

4 THE COURT: And we're going to -- since you asked  
5 that question, we're going to go as long as it takes to  
6 get this matter to the jury today.

7 MR. GROSE: All right. I appreciate that.

8 THE COURT: So the lawyers need to be aware of that.  
9 Because that's going to be the movement of the Court.  
10 We're going to do this today.

11 MR. GROSE: Well, and my anticipation was to do it  
12 today.

13 THE COURT: All right. I'm glad we're on the same  
14 page.

15 MS. JOSEPH: Your Honor, I'm just -- I'm looking  
16 ahead. I'm looking at the requests to charge. Is there a  
17 standard testimony of children, standard charge  
18 instruction, Your Honor?

19 THE COURT: I haven't looked at what he gave me.  
20 Do you want to deal with that now or later?

21 MS. JOSEPH: We can deal with that later. I just  
22 didn't know if you knew if there was a standard one.

23 MR. GROSE: There, at least, used to be one in the  
24 charge book. I don't know if it's still there. It was in  
25 there as recently as 2015.

1 THE COURT: You can confer with each other with -- to  
2 save time, you can confer with each other on that.  
3 Everything else looks like a standard charge. But, at  
4 least, on that issue, if y'all confer, whatever you can  
5 agree upon between now and then will be fine.

6 MS. JOSEPH: Okay.

7 (Pause.)

8 THE BAILIFF: Are you ready for the jury?

9 THE COURT: Anything before the jury comes out?

10 MR. GROSE: No, sir.

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

12 (WHEREUPON, the jury came into open court at  
13 approximately 10:48 a.m.)

14 THE COURT: All right. Mr. Grose, go ahead.

15 MR. GROSE: May it please the Court.

16 THE COURT: Yes, sir.

17 CONTINUED DIRECT EXAMINATION

18 BY MR. GROSE:

19 Q Ms. Leffler, when we left, I was asking you about  
20 whether or not you went shopping with Charles. Do you  
21 recall that question?

22 A Yes.

23 Q All right. And what was -- did you all go shopping?

24 A Yes.

25 Q And what was the purpose of going shopping?

1 A We shopped for the children and their mother. And we  
2 would always make sure that the cost for each was the  
3 same, or very close. But we shopped for what the children  
4 were interested in.

5 Q And when you say "the children," who are you  
6 referring to?

7 A A.M. and J.M. .

8 Q And from your observation, did Charles try to buy  
9 presents for them that catered to their various interests?

10 A Yes.

11 Q And from your observation, did he try to be fair and  
12 balanced in his selection of gifts?

13 A He was very careful with that, that they each had the  
14 same value.

15 MR. GROSE: Thank you.

16 That's all the questions I have. I don't know if  
17 they have any for you.

18 THE COURT: Cross, Ms. Luttrell.

19 MS. LUTTRELL: Very briefly, Your Honor.

20 CROSS-EXAMINATION

21 BY MS. LUTTRELL:

22 Q Ms. Lef -- Leffler --

23 A Leffler.

24 Q Ms. Leffler, you just testified to this jury that you  
25 met Lori in 2012; is that right?

1 A No.

2 Q No. Was that the first time you met her in South  
3 Carolina?

4 A I had not -- right. That's right.

5 Q Okay. And that was the first time you met the kids,  
6 A.M. and J.M. ?

7 A Yes.

8 Q And the Defendant, he wasn't there for that meeting?

9 A No.

10 Q And when your -- your son, the Defendant, when he  
11 would come visit in South Carolina, you didn't come down  
12 here with him; right?

13 A Not always, no.

14 Q You didn't stay at Lori's house when he stayed there?

15 A Oh, no. I stayed at David's.

16 Q You always stayed at your other son's house?

17 A Yes.

18 Q You never stayed at the apartment or the townhome  
19 with your son?

20 A No.

21 Q So you were never there when he was staying the night  
22 at the townhome with J.M. ?

23 A No.

24 Q This is your son; right?

25 A Yes.

1 Q You love your son?

2 A I do.

3 Q You care about your son?

4 A I do.

5 Q You'd do anything for your son; right?

6 A Not anything, no.

7 Q You don't want to see your son get in trouble for  
8 this; right?

9 A No. But, at the same time, I don't want him accused  
10 of something I don't believe happened.

11 Q But you weren't there; right?

12 A I wasn't there.

13 Q And you've been sitting here the entire trial; right?

14 A Correct.

15 Q You've been listening to all of the other witnesses  
16 testify before you got up here?

17 A That's right.

18 MS. LUTTRELL: No further questions, Your Honor.

19 MR. GROSE: Nothing further.

20 THE COURT: All right. Thank you, ma'am.  
21 You can step down.

22 MR. GROSE: My next witness will be Mitch Fife.

23 THE CLERK: Good morning.

24 Will you place your left hand on the Bible and raise  
25 your right hand?

1 WHEREUPON,

2 MITCHELL DWAYNE FIFE,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 THE BAILIFF: Right this way, sir.

6 DIRECT EXAMINATION

7 BY MR. GROSE:

8 Q I'm going to start off asking you to state your full  
9 name for the record, and spell your last name.

10 A Okay. My name is Mitchell Dwayne Fife, last name is  
11 F, as in Frank, I, as in India, F, as in Frank, E, as in  
12 echo.

13 Q All right. And you go by Mitch?

14 A I do go by Mitch.

15 Q Okay. Mitch, where do you live?

16 A I live in Charleston, South Carolina.

17 Q And do you work?

18 A I do work.

19 Q Where do you work?

20 A I work at the Boeing Company.

21 Q That's the -- where they make the planes?

22 A That is an airplane manufacturing company, yes.

23 Q And do you know Charles Dent?

24 A I do know Charles Dent.

25 Q And how long have you known Charles Dent?

1 A Approximately 30 years, I've known him.

2 Q And how did you and Mr. Dent meet?

3 A We were stationed together in our military careers  
4 twice.

5 Q And what locations were y'all stationed together?

6 A We were stationed in Atlanta --

7 MS. JOSEPH: Objection, Your Honor. Relevance.

8 THE COURT: I'm going to overrule. I'll let you ask  
9 that question.

10 MR. GROSE: All right.

11 BY MR. GROSE:

12 Q Which places?

13 A Atlanta twice. Actually, both times we were  
14 stationed there. We were both stationed there twice.

15 Q Okay. Now, focusing on 2012 to 2014, were you aware  
16 that Charles was making trips from Alabama to South  
17 Carolina?

18 A Yes, I was.

19 Q And would he visit you during those trips?

20 A Yes, he would.

21 Q Would he, also, visit your wife?

22 A Absolutely.

23 Q Obviously, you live together; right?

24 A Absolutely.

25 Q And who is your wife?

1 A My wife is Terri Fife, who's sitting in the white  
2 sweater.

3 Q And I'm not going to ask you to go into any details  
4 of the conversations. But did Charles ever have  
5 conversations with you about issues involving the  
6 arrangement between him and his daughter, Lori Michelle  
7 Mayo?

8 A Yes, he did. He did.

9 Q And when did those conversations take place?

10 A I believe they started around 2012 -- late 2012,  
11 early 2013.

12 Q All right. And then, did they continue all the way  
13 through his arrest in 2014?

14 A They did.

15 MR. GROSE: Okay. Thank you.

16 That's all the questions I have.

17 THE COURT: Cross.

18 MS. LUTTRELL: Very briefly, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. LUTTRELL:

21 Q Mr. Fife?

22 A Yes, ma'am.

23 Q Have you ever met Lori?

24 A Yes, I have.

25 Q Did you ever --

1 A Lori, the wife, or Lori, the daughter?

2 Q Lori Michelle Mayo, the daughter?

3 A The daughter, yes, I have.

4 Q Did you ever visit with Charles when he would stay at  
5 her townhome?

6 A Yes.

7 Q You would stay the night at Lori's townhome?

8 A I did not. No, ma'am, I did not.

9 Q So you've never -- you were never there when the  
10 Defendant was staying in the townhome at the same time as  
11 J.M. ?

12 A Well, we visited -- he stayed -- yeah. He stayed  
13 there, but we didn't.

14 Q So you would go stay somewhere else during that short  
15 visit?

16 A No. I only live two hours away. So I would drive  
17 home. We visited for a couple -- few hours and we drove  
18 back home.

19 Q But he would stay there and you would not be there at  
20 the same time?

21 A Well, when we were visiting, we were there at the  
22 same time.

23 Q But not overnight is what I'm asking?

24 A Not overnight, correct.

25 Q You never stayed --

1 A I never stayed overnight --

2 Q -- in the apartment?

3 A -- in the apartment, no, I did not.

4 Q And you said Charles, the Defendant, he's your friend  
5 of 30 years?

6 A He's my best friend.

7 Q Your best friend?

8 A Yes.

9 Q You don't want to see him get into any trouble?

10 A Of course not.

11 Q And you've been sitting in this trial the entire time  
12 it's been going on?

13 A I have.

14 Q And you got to listen to all the other witnesses  
15 testimony?

16 A I have.

17 MS. LUTTRELL: Thank you, Your Honor.

18 No further questions.

19 MR. GROSE: Just a couple follow-up.

20 THE COURT: Redirect.

21 REDIRECT EXAMINATION

22 BY MR. GROSE:

23 Q You said that you were stationed with Charles in  
24 Atlanta; right?

25 A Correct. We were both stationed in Atlanta.

1 MS. LUTTRELL: Objection. Outside the scope.

2 MR. GROSE: Well --

3 THE COURT: Hold on. Hold on, Mr. Grose.

4 I'm going to sustain that objection. It's outside  
5 the scope of redirect. You've got to go back in cross.

6 MR. GROSE: Yes, sir.

7 THE COURT: Outside the scope.

8 BY MR. GROSE:

9 Q So did -- she asked you if you had ever met Lori  
10 Michelle Mayo?

11 A Correct.

12 Q All right. When was the first time you met her?

13 A When we were stationed together in Atlanta the first  
14 time.

15 Q Was that when she was a child?

16 A She was about probably seven to nine years old.

17 Q Okay. And then you, also, met -- or saw her again  
18 and met J.M. and A.M. . Where did that happen?

19 A That happened at the place in Beaufort -- or Bluffton  
20 where they lived.

21 Q All right. And do you remember the time frame that  
22 happened?

23 A Yes, I do. It was -- it was around the time frame of  
24 the Heritage Classic, which my wife, Terri, and I were  
25 down visiting -- or we went for the golf tournament.

1 Q And what year was that?

2 A That was 2014, I believe.

3 MR. GROSE: Thank you.

4 That's all the questions I have.

5 THE COURT: Anything further?

6 MS. LUTTRELL: Nothing further.

7 THE COURT: Thank you, sir.

8 You can step down.

9 All right. Next witness.

10 MR. GROSE: Terri Fife.

11 THE CLERK: Good morning.

12 If you would, place your left hand on the Bible and  
13 raise your right hand.

14 WHEREUPON,

15 TERRI LYNN FIFE,

16 after first having been duly sworn, testified as follows:

17 THE CLERK: Thank you.

18 THE COURT: Mr. Grose.

19 DIRECT EXAMINATION

20 BY MR. GROSE:

21 Q Terri, I'm going to ask you to state your full name  
22 for the record. Since I assume your husband and you spell  
23 your last the same, I'm going to ask you to spell your  
24 first name. Because there's different spellings of that.

25 A Yes. My name is Terri Lynn Fife. My first name is

1 spelled T-E-R-R-I.

2 Q Okay. And are you married to Mitch?

3 A Yes.

4 Q And how long have you and Mitch been married?

5 A 10 years.

6 Q And where do you live?

7 A We, actually, live in Summerville, but people say  
8 Charleston. But it's South Carolina.

9 Q And how long have -- well, do you know Charles Dent?

10 A Yes.

11 Q And how long have you known Charles Dent?

12 A Since before Mitch and I got married. I met him  
13 through Mitch, of course. I guess about 12 years or so.

14 Q Okay. And were you aware that -- in the 2012 to 2014  
15 period of time, were you aware that Charles was making  
16 trips from Alabama to South Carolina?

17 A Yes.

18 Q And would he ever visit your house in Summerville?

19 A Yes, he would.

20 Q Okay. And did you ever meet Lori Michelle Mayo and  
21 her children?

22 A Yes, I did.

23 Q And when did you meet them?

24 A It was at the time of the Heritage Golf Classic. We  
25 had came down and were invited over to meet them and the

1 children.

2 Q Okay. And, again, I don't want to go into any  
3 conversations. But were you aware that your husband and  
4 Charles were having conversations?

5 A Yes, absolutely.

6 Q And you were -- were you aware whether that included  
7 issues that had developed between Lori and -- Lori  
8 Michelle and Charles?

9 A Yes.

10 Q Okay. And do you remember the time frame when those  
11 conversations were going on?

12 A Yes, I do.

13 Q And what was that time frame?

14 A It was in the springtime of 2014 before -- I think it  
15 was before and after we went to visit.

16 MR. GROSE: Thank you.

17 That's all the questions I have.

18 THE COURT: Any questions?

19 MS. LUTTRELL: No questions, Your Honor.

20 THE COURT: All right. Thank you, ma'am.

21 You can step down.

22 MR. GROSE: At this time, Your Honor, I would call  
23 David Dent.

24 THE COURT: All right.

25 THE CLERK: Good morning.

1           Place your left hand on the Bible and raise your  
2 right hand.

3 WHEREUPON,

4                           DAVID LAMAR DENT,

5 after first having been duly sworn, testified as follows:

6           THE CLERK: Thank you.

7                           DIRECT EXAMINATION

8 BY MR. GROSE:

9           Q     Would you, please, state your full name for the  
10 record?

11          A     David Lamar Dent.

12          Q     Okay. And are you related to Charles?

13          A     I am his younger brother.

14          Q     His younger brother. How many years separate you and  
15 him?

16          A     I think just under two.

17          Q     And where do you live?

18          A     I live in Troutman, North Carolina, which is just  
19 north of Charlotte.

20          Q     Okay. And are you employed?

21          A     Technically not. I just retired Friday.

22          Q     Okay.

23          A     From the IT industry.

24          Q     Well, congratulations. What did you retire from on  
25 Friday?

1 A Hewlett Packard.

2 Q And you said you did IT internet technology?

3 A I do -- or I did, yes.

4 Q All right. I want to focus you on the 2012 to 2014  
5 period of time. Do you -- did you know Matthew?

6 A I did.

7 Q And were you aware of when Matthew committed suicide?

8 A I was.

9 Q Okay. And were there any services for Matthew?

10 A There were. I went to Alabama and picked up Charles,  
11 helped to facilitate by transporting them down to Florida  
12 for the services.

13 Q And you attended those services?

14 A I did.

15 Q All right. And did you have any interaction with  
16 Michelle Mayo and her children when you were in Florida?

17 A Yes, I did.

18 Q And did you have an opportunity to observe where they  
19 lived?

20 A I did.

21 Q And can you tell us what kind of conditions they were  
22 living in?

23 A It was a very poor neighborhood, a large community  
24 complex.

25 Q And were there discussions that took place about

1 whether or not Michelle and the children might move to  
2 another location?

3 A Yes, there were.

4 Q And were you involved in any of those discussions?

5 A Yes, I was.

6 Q Okay. And can you tell us how that decision was  
7 made?

8 A My brother and I had discussions about the conditions  
9 of Michelle and the children. And it was a suggestion  
10 that he consider putting them in a safer environment to  
11 give them a chance to recover from where they were at.

12 Q Okay. And, ultimately, they moved to South Carolina?

13 A Yes, they did.

14 Q And do you know how the Beaufort area was selected?

15 A I have had property down here for several years  
16 and/or leased property. And so I had recommended this  
17 area.

18 Q And in that summer of 2012, did you have any  
19 interaction with Michelle and the children?

20 A I --

21 Q After Florida?

22 A No, I did not. They moved here and I was still  
23 working and living in the Charlotte area.

24 Q Did you have any interactions with them around the  
25 holidays of 2012?

1 A I did. I, actually, invited Michelle and the  
2 children, along with Michael and his family, to our house  
3 at Hilton Head.

4 Q And Michael is Charles' stepson and Lori's sister --  
5 I mean brother?

6 A Her brother, yes.

7 Q Okay. And so did they come to your place at Hilton  
8 Head?

9 A They did. Michael and his family, actually, stayed  
10 with us. And then Michelle and the children came and  
11 visited.

12 Q And did you have any interaction with them again in  
13 the holidays later that year?

14 A We did. They came back for Christmas as we were  
15 there for the holidays.

16 Q And was Charles there for both of those events?

17 A No. I don't recall Charles being there for  
18 Thanksgiving. He was there for Christmas.

19 Q Did you have any interaction with Michelle and the  
20 children during 2013?

21 A Limited.

22 Q Okay. And when you say "limited," what do you  
23 recall?

24 A Well, I, typically, was not able to come into the  
25 Hilton Head area until the fall and winter of 2013. And

1 during that period of time, I had gone over with him to  
2 deliver some presents to the family.

3 Q And was that at one of the holidays?

4 A That was Christmas.

5 Q Okay. And you said when you had gone over with  
6 "him," who did you go over with?

7 A With Charles.

8 Q And when you say "presents," who were the presents  
9 for?

10 A The family.

11 Q And did he buy everybody presents?

12 A To my knowledge, yes.

13 Q During this time period in 2012 to 2014, did you and  
14 Charles have any conversations about how the arrangement  
15 was going between him and Michelle?

16 A Yes.

17 Q And did he express any concerns to you?

18 A Yes.

19 Q Okay. What time frame?

20 MS. JOSEPH: Objection, Your Honor. This series of  
21 questions has been leading.

22 BY MR. GROSE:

23 Q What time frame --

24 THE COURT: Hold on. Let me rule on the objection,  
25 Mr. Grose. Rephrase your question.

1 BY MR. GROSE:

2 Q What did you and Charles have conversations about?

3 A One of the topics --

4 MS. JOSEPH: Objection, Your Honor. Hearsay.

5 THE COURT: Sustained.

6 MR. GROSE: Well, the topic is not hearsay.

7 THE COURT: I'm going to sustain the objection. You  
8 can rephrase the question.

9 MR. GROSE: All right.

10 BY MR. GROSE:

11 Q Did you and Charles have conversations?

12 A Yes, we did.

13 Q And what period of time were these conversations  
14 going on in?

15 A We spoke on a pretty regular basis. So I would say  
16 from 2012 through 2014.

17 Q Okay. And during this time -- when you say "regular  
18 basis," how often?

19 A Every couple of weeks, maybe once a month.

20 Q And during this period of time in 2012 to 2014, did  
21 you start giving Charles some advice?

22 A I did.

23 Q And what advice did you give him?

24 A There -- there were conversations regarding  
25 financials with he and Lori -- or Michelle. And my

1 suggestion, at that time, was he needed to remove himself  
2 from that environment and let them move on and, you know,  
3 take back -- and go back into their own lives.

4 Q All right. And did you -- were you giving him that  
5 advice in the early months of 2014?

6 A Yes.

7 MR. GROSE: Thank you.

8 That's all the questions I have.

9 THE COURT: Anything on cross-examination?

10 MS. JOSEPH: Yes.

11 Thank you, Your Honor.

12 THE COURT: All right.

13 CROSS-EXAMINATION

14 BY MS. JOSEPH:

15 Q So you're the Defendant's brother?

16 A Yes.

17 Q And we keep talking about Lori, and J.M. , and  
18 A.M. , but that's actually -- they're related to you, too.

19 That's your niece?

20 A Yes, and nephew.

21 Q Niece and nephew; right? And Lori is related to you,  
22 too?

23 A She, technically, I would think to be my niece.

24 Q Right.

25 A And they're my grandnieces. I'm not sure exactly how

1 genealogy works for that.

2 Q Right. And then your mom testified earlier; right?

3 A Yes, she did.

4 Q Right. And she kept saying Lori, J.M. , but  
5 that's, actually, her granddaughter, great granddaughter?

6 A Yes.

7 Q This is a family affair --

8 MR. GROSE: Objection to comments.

9 THE COURT: All right. Sustained.

10 MR. GROSE: Move to strike.

11 THE COURT: Strike that, Madam Court Reporter.

12 BY MS. JOSEPH:

13 Q So you testified you had property in Hilton Head  
14 around 2012, 2014?

15 A Yes.

16 Q Yes. And you would sometimes come down and stay?

17 A Yes.

18 Q Was that a one-bedroom apartment?

19 A No. I, actually, had a three-bedroom house at the  
20 time.

21 Q Okay. In Hilton Head?

22 A Yes.

23 Q Did people ever stay over?

24 A Yes.

25 Q Frequently?

1 A I'm not sure what you mean by "frequently."

2 Q Let me ask a more fair question. Some people --  
3 maybe me -- don't like having guests at their house. It  
4 stresses me out. But you're not that type of person?

5 A No, I would say I am. That's why I come to Hilton  
6 Head because I do like my quiet time. And this is a  
7 period of time at the end of the year where I do that.

8 Q But you did have some guests sometimes?

9 A I did, yes.

10 Q So, as you just said, the Defendant is your brother  
11 and you love him very much?

12 A Yes.

13 Q And you would do anything for him?

14 A I think that's a leading question, but --

15 Q I'm, actually, allowed to ask leading question.

16 A Oh, so I would say no.

17 Q Okay. And you've been sitting in here for the past  
18 three days, and you've been watching all the evidence?

19 A Yes.

20 Q And you had conversations with your brother about  
21 money and Lori?

22 A Yes.

23 Q Okay. And speaking about money, you have helped your  
24 brother out financially?

25 A I have.

1 Q When he, actually, got arrested for these charges,  
2 you're the one that posted bail?

3 A I am.

4 MS. JOSEPH: No further questions.

5 THE COURT: Anything on redirect, Mr. Grose?

6 MR. GROSE: No, sir.

7 THE COURT: Thank you, sir.

8 You can step down.

9 MR. GROSE: And that would be our last witness.

10 So, at this time, we would rest.

11 THE COURT: All right. Could I have a sidebar with  
12 the lawyers?

13 MS. JOSEPH: Of course, Your Honor.

14 (WHEREUPON, a bench conference was held.)

15 THE COURT: All right. Ladies and gentlemen of the  
16 jury, what we're going to do at this juncture, I'm going  
17 to send you back to your jury room for approximately about  
18 20, 25 minutes. And I'll bring you back. And, at that  
19 time, we will have opening -- I mean closing arguments  
20 from both sides.

21 So -- and I think you've already -- those of you who  
22 didn't get to have a bathroom break a few minutes ago, you  
23 can have that at this time. Please, ma'am, please, sir,  
24 do not discuss the case with each other or anything of  
25 that nature while you're waiting. And I'll be back with



1 to do with the second house where we had comments in the  
2 interview that was played that nothing happened there.  
3 And I think she testified that fellatio only happened  
4 once.

5 So I don't see how both -- I think the second  
6 indictment still should be dismissed. And I'll leave it  
7 at that.

8 THE COURT: Ms. Joseph.

9 MS. JOSEPH: In the interview, she talks about  
10 fellatio happening more than once at the first house. On  
11 the stand, she testified about the fellatio happening at  
12 the second location.

13 The State would, also, briefly say that we view  
14 indictments as notice documents. She talked about oral  
15 sex, cunnilingus being performed on her at the second  
16 house.

17 With Your Honor viewing the evidence in the light  
18 most favorable to the State, we ask that this motion be  
19 denied.

20 Thank you, Your Honor.

21 MR. GROSE: And I understand the standard is in the  
22 light most favorable to the State. But, again, I'm trying  
23 to prevent problems before they happen. I imagine that  
24 they're going to argue that they can prove something other  
25 than fellatio. And if they do that, that's -- that just

1 gives us a free shot at doing this again another day, if  
2 they get a conviction, because of the Bailey case.

3 THE COURT: All right. Anything further from the  
4 State?

5 MS. JOSEPH: Nothing further.

6 THE COURT: All right. Motion is denied.

7 Anything else -- we want to go over the -- I think  
8 reasonable doubt.

9 MS. JOSEPH: Yes, Your Honor.

10 The State has looked over the reasonable doubt  
11 language given to Your Honor. We would object to the  
12 second paragraph, which talks about civil cases. We just  
13 don't think it's necessary. So if you cross off that  
14 paragraph, we would agree with everything else.

15 THE COURT: Let me just tell you what I've got --

16 MS. JOSEPH: Yes, Your Honor.

17 THE COURT: -- what I intend to present. So what is  
18 reasonable doubt? A reasonable doubt is defined as the  
19 kind of doubt that would cause a reasonable, sincere,  
20 honest, and conscientious person to hesitate to act in an  
21 important matter in their own affairs. Proof beyond a  
22 reasonable doubt is proof that leaves you firmly convinced  
23 of the Defendant's guilt. The law does not require proof  
24 that overcomes every possible doubt.

25 MR. GROSE: Well, I would request that additional

1 language that they don't object to, if based on your  
2 consideration of the evidence, you are firmly convinced  
3 that the Defendant --

4 THE COURT: Excuse me a second. Let me get that.

5 MR. GROSE: Okay.

6 THE COURT: Let me get to that page. Are you in the  
7 third paragraph?

8 MR. GROSE: I'm in the third paragraph.

9 THE COURT: Okay.

10 MR. GROSE: I understand they object to the second  
11 paragraph. I would like the second paragraph, but I'm not  
12 going to argue that that hard. I liked what you used in  
13 the first paragraph. So I have no problem with that. But  
14 I would like that entire second -- or I mean entire final  
15 paragraph.

16 THE COURT: That starting with proof beyond a  
17 reasonable doubt is proof that leaves you firmly  
18 convinced?

19 MR. GROSE: Right. And going through -- yes, sir.  
20 And going through the end of that paragraph.

21 THE COURT: All right. What's the State's position  
22 on that language?

23 MS. JOSEPH: That's fine, Your Honor.

24 Can you, if possible, read back exactly what you're  
25 going to say now? Can you just reread it?

1 THE COURT: Incorporating --

2 MS. JOSEPH: Yes. So I know what the final product  
3 is.

4 THE COURT: All right. So what is reasonable doubt?  
5 A reasonable doubt is the kind of doubt that would cause a  
6 reasonable, sincere, honest, and conscientious person to  
7 hesitate to act in an important matter in their own  
8 affairs. Proof beyond a reasonable doubt is proof that  
9 leaves you firmly convinced of the Defendant's guilt.

10 The law does not require proof that overcomes every  
11 possible doubt. There are few things in this world that  
12 we know with absolute certainty. And in criminal cases,  
13 the law does not require proof that overcomes every  
14 possible doubt.

15 If based on your consideration of the evidence, you  
16 are firmly convinced that the Defendant is guilty of the  
17 crimes charged, you should find the Defendant guilty. If,  
18 on the other hand, you think there's a real possibility  
19 that the Defendant is not guilty, you should give the  
20 Defendant the benefit of the doubt and find him not  
21 guilty.

22 The only thing that I excluded from the third  
23 paragraph, Mr. Grose, was that first sentence since I had  
24 said that in the charge that I just went through.

25 MR. GROSE: It's all covered. So, yeah, we're good

1 with that.

2 THE COURT: Okay.

3 So, Ms. Joseph, you're okay --

4 MS. JOSEPH: Yes, Your Honor. No objection.

5 THE COURT: All right. So just so we're clear, on  
6 this document, Mr. Grose, that you've given me, I'm going  
7 to cross out the first paragraph and cross out -- the  
8 first two paragraphs and cross out the first sentence in  
9 the third paragraph, and incorporate the other language in  
10 addition to my standard.

11 MR. GROSE: Perfect.

12 Thank you, Judge.

13 THE COURT: All right. Now, let's -- I think the  
14 circumstantial evidence and direct evidence part is pretty  
15 standard. I think you guys have seen that before.

16 MS. JOSEPH: It is. No objection.

17 THE COURT: I'll be glad to go over it with you. And  
18 I've looked at this. And it's in line with what you've  
19 given me.

20 MR. GROSE: Yeah. And I think that under the way the  
21 Logan case was decided, I have to request that. But I  
22 know that's the standard charge in the book.

23 THE COURT: Right.

24 And on the -- the charge regarding children, what I  
25 wanted both of you to do is maybe -- I think you've got

1 a -- in your standard -- in your book downstairs, you've  
2 probably got a charge that goes, specifically, to that.

3 And I guess you and Mr. Grose can maybe in the last  
4 five minutes of your lunch or something, just take a look  
5 at it and see what you can agree on. And we'll discuss it  
6 again before we bring the jury back -- before we charge  
7 the jury to see if we can come to some consensus on that  
8 particular charge.

9 MR. GROSE: And I think this is probably -- don't  
10 hold me to this. I think this is probably verbatim from  
11 the 2015 charge.

12 THE COURT: From the 2015 charge?

13 MR. GROSE: Which is what I have. I don't have any  
14 more recent version. I created this charge. I don't  
15 know.

16 THE COURT: I've looked at it in that 2015 book. And  
17 it looks real similar. I don't think -- but I'll let  
18 Ms. Joseph take a look at it.

19 MR. GROSE: And, just for the record, I'm fine with  
20 whatever is in the charge book.

21 THE COURT: All right.

22 MR. GROSE: If it's not verbatim, it's pretty close.

23 THE COURT: And as far as the indictments are  
24 concerned, when I get to that part, I'm going to be  
25 reading the -- I've got two indictments on criminal sexual

1       conduct first degree. Those indictments are not the  
2       amended indictments.

3             MS. JOSEPH: Right. They have never been amended.

4             THE COURT: But on the disseminating obscene material  
5       indictments, both of those are amended indictments?

6             MS. JOSEPH: Yes, Your Honor.

7             THE COURT: And I have those. So these are the four  
8       that I'll be reading when I get to that portion of the  
9       charge.

10            MS. JOSEPH: Yes, Your Honor.

11            MR. GROSE: And we're going to send those to the  
12       jury, too, I believe.

13            THE COURT: Yeah. I think -- was it agreed upon?

14            MS. JOSEPH: Yes, yes.

15            MR. GROSE: It was. But I think she's about to  
16       change that.

17            MS. JOSEPH: No, I'm not.

18            MR. GROSE: Okay.

19            MS. JOSEPH: I'm about to change something.

20            Your Honor, after consulting with my co-counsel,  
21       we're concerned that if we close right now that we're  
22       going to close, and then they're going to get lunch. And  
23       I think that both Mr. Grose and I think that we're good  
24       enough and stern enough lawyers that our words will move  
25       them.

1           So I'm concerned about them getting lunch immediately  
2 after us closing. So I would prefer they get lunch, hear  
3 our closing, and then immediately start deliberating.

4           MR. GROSE: That's what I wanted to talk about  
5 earlier. That would have been my suggestion. But I'm  
6 good with whatever you do Judge, so.

7           MS. JOSEPH: I had to think about it. I'm sorry,  
8 Your Honor.

9           THE COURT: It's the old --  
10 Let's go off the record.

11          (Pause.)

12          THE COURT: Okay. Bring the jury back in.

13          (WHEREUPON, the jury came into open court at  
14 approximately 11:27 a.m.)

15          THE COURT: All right. A little slight change in  
16 plans. And let me tell you what it is. I've got some  
17 good news for you. The good news is I'm going to let you  
18 go to lunch a little earlier today. Normally, lunchtime  
19 is around 12:00, 12:30. So I'm going to let you go  
20 earlier. Also, the good news is you don't have to come  
21 back until 1:00. All right. So that's the good part  
22 about it. So you can enjoy your lunch.

23                 I also -- when you come back at 1:00 and you report  
24 to your jury room, I need you to collectively decide only  
25 this, not to discuss the case. Don't talk about the case

1 at all. But I need you to decide among yourselves who's  
2 going to be the jury foreman.

3 And then when you decide who that's going to be, you  
4 let me know when I bring you back in after lunch. And  
5 then I'll just -- I'll ask who is the foreman. And  
6 whoever the person is designated as the foreman will let  
7 me know that he or she has been designated as the jury  
8 foreperson.

9 We'll go to lunch. Here again, same admonition. Do  
10 not discuss the case with each other. Do not do any  
11 research. Do not do any discussions with anybody in any  
12 restaurants or any place you may go eat lunch.

13 And I will see you back promptly at 1:00. Enjoy your  
14 lunch.

15 (WHEREUPON, the jury was excused from open court at  
16 approximately 11:29 a.m.)

17 THE COURT: Anything before we break? Any loose  
18 ends?

19 MS. JOSEPH: Nothing.

20 THE COURT: Nothing?

21 MS. JOSEPH: Nothing.

22 THE COURT: We'll break for lunch.

23 (WHEREUPON, a lunch break was taken.)

24 THE COURT: Two things.

25 MS. JOSEPH: Yes, Your Honor.

1 THE COURT: That will probably mushroom into three  
2 things, and maybe four things. The first is Madam Court  
3 Reporter has given me an exhibit, State's Exhibit No. 23.  
4 And I think there was some question whether or not this  
5 particular exhibit is in evidence.

6 Is everybody in agreement that it is in evidence?

7 MR. GROSE: We are.

8 MS. JOSEPH: Yes.

9 THE COURT: Okay. That clarifies that.

10 Now, the second thing is, everybody is clear on the  
11 whole reasonable doubt charge; correct?

12 MS. JOSEPH: Yes.

13 THE COURT: Mr. Grose, are you good on that?

14 MR. GROSE: Yes, sir.

15 THE COURT: All right. And I think everybody is  
16 clear on the charge regarding circumstantial evidence  
17 versus direct. Because it mirrors the same exact standard  
18 charge that I normally give.

19 MS. JOSEPH: Yes, Your Honor. No objection.

20 MR. GROSE: Yes, sir.

21 THE COURT: So did the two of you have an opportunity  
22 to look at the charge regarding children?

23 MS. JOSEPH: Yes, sir.

24 It is from the desk book. But the State would still  
25 object to the second to the last sentence, Your Honor.

1 Just because something is the standard charge doesn't mean  
2 the State can't object.

3 THE COURT: The second to the last sentence.  
4 Beginning with -- it's a long sentence, but beginning with  
5 because? Have you got it in front of you?

6 MS. JOSEPH: I, of course, don't, Your Honor -- oh,  
7 here it is.

8 THE COURT: The second to the last sentence is a  
9 pretty long sentence. As a matter of fact --

10 MS. JOSEPH: I have, In addition, young children may  
11 be influenced.

12 THE COURT: Oh, okay. That's the last sentence --  
13 that's the second to the last sentence. I see it now. In  
14 addition, young children may be influenced by the way  
15 questions are asked. It is up to you to decide whether  
16 the child understood the questions asked.

17 And that's directly out of the charge book; right?

18 MS. JOSEPH: Right. Yes, Your Honor.

19 THE COURT: Well, you can object, but I'm going to go  
20 ahead and charge it.

21 MS. JOSEPH: Thank you, Your Honor.

22 THE COURT: Okay. Anything else? Is everybody --  
23 Mr. Grose, are you ready with your technology?

24 MR. GROSE: Yeah. We're good on that. We both had a  
25 chance to test.

1           During the lunch break, I got an e-mail that they  
2 were requesting Your Honor charge 16-3-657. And, of  
3 course, that's addressed -- why you can't do that is  
4 addressed in my pre-trial brief. And I don't know where  
5 we stand on that.

6           THE COURT: Let me get that.

7           MS. JOSEPH: And, actually, Your Honor, that request  
8 is withdrawn.

9           THE COURT: Okay.

10          MR. GROSE: The only other request that I would make  
11 is when you're defining criminal sexual conduct and you're  
12 defining sexual battery that you limit it to fellatio,  
13 which is what's in the indictments.

14          THE COURT: All right.

15          MS. JOSEPH: And the State would object to that, Your  
16 Honor. We would just ask that you read everything in  
17 full.

18          THE COURT: Let me get that. Let me just read this  
19 sentence. And I think -- let me ask this question. My  
20 able clerk and I was talking about this. I think on  
21 the -- there's -- on the verdict form, there has -- does  
22 the jury -- there has to be some notation regarding sexual  
23 intercourse either by the person or the object --

24           (Pause.)

25          THE COURT: While he's doing that, let me just tell

1 you what I'm defining as sexual battery. A sexual battery  
2 is sexual intercourse, cunnilingus, fellatio, anal  
3 intercourse, or any intrusion, however slight, of any part  
4 of a person's body or any object into the genital or anal  
5 openings of another person's body, except when the  
6 intrusion is accomplished for medically recognized  
7 treatment or diagnostic purposes.

8 MS. JOSEPH: That's correct.

9 Thank you, Your Honor.

10 THE COURT: And your objection would be?

11 MR. GROSE: My objection is that the State has  
12 limited themselves to fellatio under the indictment. And  
13 I cited the -- I believe it was the Bailey case and  
14 provided a copy earlier regarding variance or going  
15 outside and changing the elements.

16 And I would also -- we mentioned the Court of Appeals  
17 case in Blurton earlier.

18 THE COURT: Right.

19 MR. GROSE: The Supreme Court case at 352 S.C. 235,  
20 573 S.E.2d 802. And that citation is in my brief. While  
21 I didn't cite to the Supreme Court case, the jury charge  
22 issue that the Supreme Court took up in Blurton dealt with  
23 the Judge giving an instruction to the jury that was a  
24 correct statement of the law, but was confusing and  
25 misleading under the facts of that case.

1           And, of course, by the time it got to the Supreme  
2 Court, Mr. Blurton already had a new trial. But the  
3 Supreme Court addressed that issue because when he had his  
4 retrial, they wanted to make certain that the jury was  
5 instructed properly. And what -- the summary of what  
6 Justice Pleicones said in that opinion was --

7           THE COURT: Do you -- what's the cite on the Blurton  
8 case?

9           MR. GROSE: It's the Supreme Court 352 S.C. 203, 573  
10 S.E.2d 802 from 2002.

11          THE COURT: Okay.

12          MR. GROSE: And, basically, Justice Pleicones said  
13 the charge has to be tailored to the facts of the case.

14          THE COURT: Did that case cite Bailey?

15          MR. GROSE: Well, Bailey hadn't been decided then.  
16 Bailey is a more recent case.

17          THE COURT: Okay.

18          MR. GROSE: And Bailey, specifically, deals with the  
19 variance between what the indictment says and the  
20 evidence, and what the jury's asked to consider for a  
21 conviction.

22          THE COURT: Let me read this. I'm just reading the  
23 footnote in Bailey. It says, Variance between the  
24 allegations and the proof. While a conviction may be  
25 sustained under an indictment, which is defective because

1       it omits essential elements of the offense, such is not  
2       true when the indictment facially charges a complete  
3       offense and the State presents evidence which convicts  
4       under a different theory than alleged.

5             Is that where --

6             MR. GROSE: Right. That's what I'm looking at. And  
7       in their indictment, they, specifically -- they identify  
8       the specific sexual battery. And it gets back to the  
9       concept of the presentment to the Grand Jury.

10            THE COURT: Right.

11            MR. GROSE: We -- in the State system, unless you're  
12       charged by the State Grand Jury where they do have  
13       transcripts of the Grand Jury, we don't have any way of  
14       knowing what the Grand Jury was presented, other than  
15       what's in the indictment. And there's no evidence in the  
16       indictment that the Grand Jury considered anything other  
17       than fellatio.

18            THE COURT: So what you're saying is that definition  
19       of sexual battery is okay with you with the omission of  
20       everything else other than fellatio?

21            MR. GROSE: Yes, sir.

22            THE COURT: What's the State's position regarding  
23       that?

24            MS. JOSEPH: Thank you, Your Honor.

25            I've had this issue come up in many of my trials --

1 trials of this nature.

2 THE COURT: Yes, ma'am.

3 MS. JOSEPH: The indictment is a notice document. We  
4 are not contesting that it goes back to the jury. But  
5 it's important to note it is not evidence, Your Honor.

6 They were put on notice that he committed criminal  
7 sexual conduct in the first degree with a minor, which is  
8 committing a sexual battery with a child under 11. And  
9 that's what we are going to argue to the jury.

10 In addition -- but, I mean, I think we're splitting  
11 the baby here. Because we are asking for the full  
12 definition of sexual battery to be read into the record.  
13 We're asking to argue that a sexual battery was committed.  
14 The Defense can point to the indictment -- and the  
15 indictment is going back with them. So he gets to make  
16 that point. So I think that every side is satisfied.

17 But as far as why it's not an error and why you won't  
18 be overturned is because the indictment is a notice  
19 document. Yes, it says to wit, fellatio. But,  
20 fundamentally, sexual battery is the element that's  
21 required to be proven.

22 MR. GROSE: But they limited it to one sexual  
23 battery. And I think that if you go with my approach and  
24 you just define fellatio as being a sexual battery and  
25 explain what that means, if your charge does that, and

1 send back a verdict form that says guilty or not guilty,  
2 we'll know if they found beyond a reasonable doubt whether  
3 fellatio was committed.

4 The reason -- I think there's two reasons probably  
5 for putting the particular sexual battery in the -- on the  
6 verdict form, two reasons why the code did that. That  
7 wasn't there until South Carolina decided to make criminal  
8 sexual conduct with a minor a death penalty eligible case.  
9 That's already -- while our statute hasn't been to the  
10 U.S. Court, the Supreme Court has decided that issue. So  
11 that's no longer the case, because a finding of a  
12 particular sexual battery was an aggravating circumstance  
13 for a capital case.

14 The second is probably so that there's an assurance  
15 that there was a unanimous jury on which sexual battery  
16 was, actually, committed, which is, also, going to, you  
17 know, whether or not the verdict was unanimous to that  
18 level. And since we only have one at issue here, it's  
19 either -- in my opinion, it's either guilty or not guilty.  
20 They either have proven fellatio beyond a reasonable doubt  
21 or they haven't.

22 And we keep coming back to this concept of an  
23 indictment being a notice indictment. That is true. That  
24 is not the only purpose of an indictment. But to the  
25 extent that it's notice, it says this is what we're going

1 to prove. And, now, they're trying to change that, you  
2 know. I mean, I've seen indictments where multiple, you  
3 know, potential batteries were listed. They could have  
4 drawn the indictment that way.

5 THE COURT: All right. Let me just ask you this,  
6 Mr. Grose. This is piggybacking on what Ms. Joseph said.  
7 You could cure that in -- when you're -- well, I guess you  
8 can cure it in your closing argument, that particular  
9 discrepancy.

10 MR. GROSE: Well, I mean, I plan on referencing the  
11 indictments in my closing argument. I don't think that  
12 cures the due process violation of allowing her to argue  
13 something different than the indictment and allowing the  
14 jurors to consider something different than the  
15 indictment. That coming from me is not the same as it is  
16 coming from Your Honor.

17 THE COURT: Well, you know, I think what I can do is  
18 I could say sexual battery is defined as, and -- and let  
19 you decide -- in your closing, you could reference  
20 whatever you want to. But I feel comfortable defining  
21 sexual battery as I just said a minute ago. I feel  
22 comfortable doing that.

23 MR. GROSE: And is that the way you, initially, read  
24 it, the broader definition?

25 THE COURT: Yes.

1 MR. GROSE: Just note our objection.

2 THE COURT: I will. I will.

3 Are you -- are the two of you going to submit  
4 proposed verdict forms?

5 MS. JOSEPH: We can, Your Honor.

6 THE COURT: Can you do that?

7 MS. JOSEPH: Yes, sir.

8 THE COURT: And just be working on that.

9 MS. JOSEPH: Yes, sir.

10 THE COURT: Okay. Anything else?

11 (Pause.)

12 THE COURT: 16-3-655, Subsection D(1), I'm reading  
13 about -- maybe about the first four -- maybe four  
14 sentences down. I'll just read it into the record. It  
15 says, In the case of a person convicted at trial for a  
16 violation of Subsection A(1), the Judge or jury, whichever  
17 is applicable -- here, being the jury applicable -- must  
18 designate as part of the verdict whether the conduct  
19 constituted a sexual battery involved sexual or anal  
20 intercourse by a person or intrusion by an object.

21 My reading of this is that the verdict form has to  
22 have some language. That's what I'm reading. And we read  
23 that the other day. And that's what -- the discussion  
24 that I had with the clerk.

25 MS. LUTTRELL: And, Your Honor, I can tell you that

1 this same issue just came up last month, I believe, in a  
2 very similar case. And there was a lot of discussion back  
3 and forth. And, actually, the Defense and our office both  
4 agreed that that finding is -- it's in there. And if you  
5 look further down in that same paragraph -- it's kind of  
6 hard to direct you.

7 THE COURT: Well, you start reading it.

8 MS. LUTTRELL: But later on, it says, In order to be  
9 eligible for the death penalty pursuant to this section,  
10 the sexual battery constituting the current events and any  
11 prior events must have involved sexual or anal intercourse  
12 by a person or intrusion by an object.

13 THE COURT: All right.

14 MS. LUTTRELL: It goes on to talk that about if the  
15 prior offense was committed prior to when this -- the  
16 effective date of this section, then the Judge would hold  
17 a hearing to determine, at that point, if the offense was  
18 committed or involved sexual or anal intercourse by a  
19 person or intrusion.

20 It's our position that that finding is only necessary  
21 if the State were seeking the death penalty in a future  
22 case. Here in this case, if there were a conviction,  
23 which is a minimum 25-year offense, based on the  
24 Defendant's age -- we're not seeking that additional  
25 finding.

1 THE COURT: So your position is that should not be  
2 placed on any form -- verdict form?

3 MS. LUTTRELL: It's only required in a future  
4 proceeding if the State were -- if this same offense came  
5 up again and the State were seeking the death penalty in  
6 that case.

7 THE COURT: And I'm assuming that -- that question  
8 came up in a prior case and the Court --

9 MS. LUTTRELL: And in that case, it was a first  
10 offense of this type as well. It was very similar to what  
11 we're dealing with here.

12 THE COURT: And the Court at that time adopted your  
13 rationale?

14 MS. LUTTRELL: Yes, Your Honor.

15 THE COURT: Or the State's rationale in that regard?

16 MS. LUTTRELL: Yes, Your Honor.

17 MR. GROSE: And my rationale is identical, except it  
18 goes a step further. That the State would never seek the  
19 death penalty in one of these cases because they know it  
20 has already been held unconstitutional by the United  
21 States Supreme Court without a murder being involved.

22 THE COURT: All right. I'm satisfied that we would  
23 not include that language.

24 MR. GROSE: And, Judge, I'm not going to be able to  
25 do a proposed verdict form since it's just me. And my

1 request would be for the verdict form, guilty or not  
2 guilty on each of the four indictments.

3 MS. JOSEPH: We'll, obviously, show it and have it  
4 approved. And I understand he's saying alternate guilty,  
5 not guilty.

6 THE COURT: Yes. Just prepare one and show it to  
7 him.

8 MS. JOSEPH: We'll take care of that, Your Honor.

9 THE COURT: Please, ma'am.

10 All right. Anything else before we bring the jury  
11 back?

12 When we bring the jury back, what we're going to do  
13 is -- we're ready to close; right?

14 MS. JOSEPH: Right. So I'm going to open -- close in  
15 full, Your Honor. And then I will rebut whatever Defense  
16 says at the end. That's my understanding.

17 MR. GROSE: Mine as well.

18 THE COURT: Okay. So you're going to open, he's  
19 going to come, and then you're back again?

20 MS. JOSEPH: Briefly, yes, Your Honor.

21 THE COURT: We're ready.

22 (WHEREUPON, the jury came into open court at  
23 approximately 1:15 p.m.)

24 THE COURT: All right. Good afternoon.

25 All right. Juror #309. All right. Ma'am, would you

1 exchange seats with this juror.

2 Juror #309 will serve as foreman [sic] of the jury.

3 All right. We are now going to go into closing  
4 arguments on both sides.

5 Are both sides ready to proceed?

6 MS. JOSEPH: Yes, Your Honor.

7 MR. GROSE: Yes, sir.

8 THE COURT: All right. Ms. Joseph.

9 CLOSING ARGUMENTS

10 MS. JOSEPH: Thank you.

11 May it please the Court.

12 Opposing Counsel.

13 Members of the jury, the Defendant admitted on the  
14 stand that Lori was desperate for money. She was a single  
15 mom. And, yes, sometimes, even frequently, she asked the  
16 Defendant for money. But the difference between what  
17 we're arguing and what they're arguing is they want you to  
18 believe the Defendant entered Lori's life in 2012 and  
19 saved her. He rescued her and her children. He was her  
20 guardian angel.

21 But if you look at the Defendant's testimony, his own  
22 statements on the stand, and if you remember Lori's  
23 testimony, the Defendant admitted that Lori, J.M. 's  
24 mother, was strong and independent. Lori said she was  
25 doing just fine in Florida before Mr. Dent reentered their

1 lives.

2 He wasn't saving them. He was trapping them with  
3 money. He agreed to pay the rent, the cable, their phone.  
4 He wanted to buy them a car. Because he was doing  
5 something that all predators, all manipulators do. He was  
6 getting the upper hand.

7 And now, I'm going to go through the evidence piece  
8 by piece and explain why he wanted the upper hand, what  
9 his ultimate goal was.

10 Now, what I say to you right now and what Defense  
11 says to you, this isn't evidence. This is me, as a  
12 lawyer, arguing to you. The things that are evidence, the  
13 things that when you go back there and have to think  
14 about, that's the -- the testimony that you heard right  
15 here when the people came and talked to you, and it's the  
16 photos, and it's videos. So let's together look back on  
17 that.

18 The first thing and the most important thing that you  
19 have to consider is the statement, the two videos made by  
20 J.M. in this case. So you saw J.M. testify.  
21 And she's now 13. But back when this video was made, she  
22 was nine years old. And this video was made approximately  
23 a month after she had made a disclosure about what had  
24 happened to her. This is the closest in time account  
25 about what she remembers about the abuse.

1           So let's look at this -- let's remember this video  
2 and sort of thing -- big picture, big picture. What are  
3 your impressions? I want you, the jury, to remember how  
4 detailed she was. How she corrects herself over and over  
5 again. No, that's not right. That's not how it happened.

6           The Defense is going to want to say she's confused,  
7 that she's lying. But what I see is a child trying her  
8 hardest to get it right. And when she doesn't know, she  
9 says, I don't know. When she's not sure, she says, I'm  
10 not sure. Over and over again, she corrects herself. She  
11 corrects the interviewer, even though it makes her  
12 uncomfortable. She admits when she doesn't know things.

13           And overwhelmingly, I think the thing that we all  
14 agree on is that these videos are long. They are long,  
15 long videos. And they are full of details, small little  
16 details.

17           There are two types of details that I want to talk  
18 about. There are details about the abuse. And then there  
19 are other details.

20           So for the details about the abuse, I want you all to  
21 recall how she described urine. That's what she called  
22 it. She was, obviously, talking about the Defendant's  
23 ejaculation. How she when asked what color it was, she  
24 said without hesitation white. And then, members of the  
25 jury, maybe you don't remember this, maybe you need to

1 re-watch the video, which we can allow you to do. She  
2 said it looks like flour, if you mixed it with something.  
3 That is a weird, and vivid, and detailed description.

4 In addition to talking about the Defendant's semen,  
5 she talked about how he -- the ejaculation never went into  
6 her mouth. How it would come close and the Defendant  
7 would run off into the bathroom. She's describing  
8 behavior that would be normal in this type of situation  
9 that is, in fact, how the Defendant would behave.

10 She, also, described his penis as sometimes soft and  
11 sometimes hard. She talked about -- not even talking  
12 about fellatio, but just talking about the other sexual  
13 acts, she's asked did he ever try to put his tongue in  
14 your mouth? And she looked horrified by the question.  
15 But she says, Yes. I knew you were going to ask that.  
16 Yes, he did. And I kept my mouth closed. And she shows  
17 the interviewer, I kept my mouth closed.

18 She, also, doesn't want to answer when she's asked  
19 about pornography. Did he show you nasty videos? Did he  
20 show you videos? I didn't want to tell you this, but,  
21 yes, yes, he did. It was adults. They were kissing.  
22 They were in a bed. I saw private parts. That's why I  
23 didn't want to look. I said eww.

24 She's very vivid in her descriptions. She's very  
25 vivid as she -- each time the interviewer asked over your

1 clothes, under your clothes. She can say, well, that was  
2 over my clothes, that was under my clothes, that was under  
3 his clothes. The level of detail is so high.

4 But looking at the interview as a whole, it's not  
5 just the abuse. Her descriptions of the abuse are very  
6 vivid. But maybe you don't believe the descriptions of  
7 abuse. So ignore the abuse. Ignore the abuse.

8 Look at the other details. The conversation that  
9 really caught my eye was the conversation about the sports  
10 bra. Because she -- she describes an entire conversation  
11 she has with her grandfather, the Defendant, about the  
12 sports bra.

13 He asked her, Why are you wearing a sports bra?

14 And she says, Because I am.

15 And then she talks about how much it covers her. And  
16 how she had to go upstairs and put it on because he was  
17 touching her chest. If she is making something up, she is  
18 making up an entire conversation. And I would argue that  
19 nine-year-old kids simply don't do that.

20 And the other vivid details she describes that have  
21 nothing to do with sexual abuse, she talks about that  
22 turkey over and over again, how he's big, and she's afraid  
23 of it. She, actually -- if you listen, if you re-watch  
24 the interview, which I encourage you to do, she describes  
25 where each adult is in the house when he's visiting. She,

1 also, describes how everyone else is out on the Gator,  
2 which is that small golf cart type thing, and she was  
3 alone. There's just detail upon detail upon detail. So  
4 that's the video. And the video is the biggest piece of  
5 evidence in this case.

6 And before I move on to talking about other things, I  
7 do want to show you one brief clip from this video.

8 Jennifer, can you try turning it on and off?

9 I think we may just have audio.

10 (WHEREUPON, a portion of State's Exhibit No. 17 was  
11 played in open court.)

12 MS. JOSEPH: Before we move on from the video, I  
13 would be remiss if I didn't talk about other things that  
14 J.M. said, not about the abuse, not about the details  
15 of her life.

16 She talks extensively about how the Defendant  
17 threatened her. And the threats are very specific because  
18 the threats that maybe a normal nine-year-old girl -- this  
19 wouldn't be a concern in her life. He said he's going to  
20 kick us out of his house -- or our house if I tell. And  
21 Lori said and the text messages show that they -- and the  
22 Defendant said that he was paying the rent. They are  
23 completely dependent on him. And he's using that  
24 dependency. He's threatening this child with that  
25 control.

1           In addition, she talks about bribes so, so, so, so  
2 much. And that is not surprising. If any of you have  
3 kids, kids talk about the things they get, the toys, their  
4 possessions. And here she is, jewelry, gifts, gift cards,  
5 money. He had money in his room all the time, she says.

6           Now, the Defendant put up witnesses, his brother, his  
7 mom. And I say his brother, his mom because these people  
8 are not claiming Lori and J.M.           as their kin. They're  
9 not doing that.

10           He put up his witnesses and they talked about  
11 Christmas gifts, how the Defendant would show up with  
12 Christmas gifts, some for A.M. , some for J.M.       . And  
13 maybe that's true. Maybe on Christmas, he did give gifts.  
14 And he gave them to both children.

15           But J.M.           isn't talking about gifts. J.M.       is  
16 talking about bribes. She even uses the words bribe. She  
17 thinks it's a bribe. And the interviewer has to correct  
18 her, but she knows -- she knows what word to use. And she  
19 gives an example, you know, A.M. got a smaller gift. I  
20 got a bigger gift. He loved me more. Why? Because he  
21 was trying to control her more.

22           Now, in this case, J.M.           gave two interviews. And  
23 you, obviously, have seen both of them. You just saw a  
24 clip of one of them. In the first interview, J.M.  
25 primarily talks about the Defendant touching her, rubbing

1 her, making her feel uncomfortable. She talks about  
2 trying to get away from him kissing her on the mouth. It  
3 is in the second interview where she says he made me lick  
4 his penis. He put his own mouth on my private parts --

5 MR. GROSE: Objection. Variance to the indictment.

6 THE COURT: I'll let you proceed.

7 Objection noted for the record.

8 MS. JOSEPH: He talked about penetrating her vagina.

9 He talked about --

10 MR. GROSE: Objection. Variance to the indictment.

11 THE COURT: Subject to your objection.

12 You may proceed.

13 MS. JOSEPH: She talked about him touching her  
14 private parts under her clothes. Over and over again,  
15 she's making these disclosures in the second interview.

16 The Defense is going to talk extensively about how  
17 because she made two statements, she's lying. You know,  
18 she said -- and it's true, she told the interviewer in the  
19 first interview, I told you everything. I told you  
20 everything.

21 And, members of the jury, this is my chance to talk  
22 to you. And this is my version. And I'm basing my  
23 version off of these videos, off of what I watched, off of  
24 the evidence, and off of what J.M. says at the very  
25 beginning of the second statement over what John Camelo,

1 the first witness, if you remember that, said, she was  
2 afraid. She was afraid she was going to get in trouble.  
3 She was afraid that her mom would hate her. She was  
4 embarrassed. This is a little girl just wearing  
5 sunglasses. She's trying to hide. She's embarrassed.

6 We had Tessa Trask come and testify. That was the  
7 expert from Hope Haven. And she said a lot of really  
8 important things. But one of the things that she said,  
9 and I want you to remember in the context of this case, is  
10 that disclosure is a process. It's a conversation.

11 J.M. has been abused by someone she trusted. It  
12 took her a while to find someone she trusted to tell. It  
13 took her a while to tell the entire truth. Do not blame  
14 J.M. for having her trust erased. It was the Defendant  
15 that erased that trust.

16 So, now, we're going to talk about the evidence,  
17 other than the videos. So other than this interview where  
18 she tells the interviewer what happened to her, I want you  
19 to remember she, also, told her mom and she, also, told  
20 John. And she told you in court what happened to her.

21 Why did she tell John? I want you to remember back  
22 to John's testimony. John no longer dates Lori. He has  
23 no contact with J.M. . He is a neutral third party. He  
24 has no dog in this fight. I believe that J.M. told  
25 John because she viewed him as law enforcement. She

1 viewed him as a safe person to tell. I, also, think she  
2 told him because when she told him, the Defendant was far  
3 away. He was no longer visiting. He couldn't hurt her  
4 anymore.

5 Now, J.M. told John. She told her mom. And, as I  
6 mentioned, she came here and told you. Once again,  
7 Defense is going to argue that her statement here is so  
8 different than the videos. And this is just a different  
9 opinion. He's going to see differences. He's going to  
10 argue for differences.

11 I saw so many similarities. Four years have passed.  
12 She's now 13 years old. Like most survivors, she's trying  
13 to put this behind her. But she remembered having been  
14 forced to lick his penis. She remembered him kissing her  
15 all the time, making her feel uncomfortable, being touched  
16 all over. She remembers being shown porn and him taking  
17 inappropriate photos of her. She remembers the bulk of  
18 what happened to her.

19 So I want you to compare her testimony that you've  
20 heard here and then compare the tapes. And I think you'll  
21 be overwhelmed with how much she, actually, really does  
22 remember.

23 In addition to looking at her video statement and her  
24 statement from the stand, I want you to look at the  
25 behavior described by her here and then in the videos.

1 And I want you to remember Tessa Trask's testimony.

2 So Tessa was the expert from Hope Haven. And she  
3 defined grooming. And I have a definition of grooming,  
4 but I'm going to read it out loud, too. It's giving  
5 gifts, things of value, treats or privileges, developing a  
6 trusting relationship with a child and her family to gain  
7 access to the child, and normalizing sexual touch through  
8 exposure. It can include exposure to pornography or other  
9 acts. It is safe to say that J.M. had never seen this  
10 definition of grooming when she went into that Hope Haven  
11 interview when she was nine years old.

12 And, frankly, even if you showed a nine-year-old that  
13 definition, I don't think that they would really  
14 understand it or be able to shape their story to fit that  
15 definition. So it should shock and amaze you how much her  
16 description of the conduct matches that description,  
17 giving gifts, things of value, treats, or privileges.

18 She describes over and over again the bribes she was  
19 given. He would pull up the American Girl Doll website,  
20 which American Girl dolls, that's a big one, pull up that  
21 website in front of her and say, Do you want one of these  
22 dolls? These expensive, expensive dolls. He would give  
23 her gifts, gift cards, money. He was consistently bribing  
24 her.

25 Developing a trusting relationship with a child and

1 her family to gain access to the child. He inserted  
2 himself. He pushed himself into their lives. He paid  
3 their rent, their cable, their phone bill. He wanted --  
4 he said on the stand that he wanted Lori to be  
5 independent. But he encouraged, pushed Lori to get a  
6 bigger house, a house she couldn't afford so that he could  
7 have a private space in that house, a room all of his own.

8 He made a big point on the stand that he thought it  
9 was weird, it made him uncomfortable that John moved into  
10 the house so quickly. That was practically a stranger, he  
11 said, living in the house. But he was practically a  
12 stranger. He had no relationship with J.M. prior to  
13 2012. And suddenly, he was there. Suddenly, he had a  
14 room. Suddenly, he was visiting all the time. Even when  
15 he had other places to stay in the area. He could have  
16 stayed with his brother. He could have stayed with his  
17 best friend who lived in Charleston.

18 And, finally, and most importantly, the last prong of  
19 grooming is his normalized sexual touch through exposure.  
20 Yes, J.M. talked about fellatio, which is when she was  
21 forced to lick his penis. But that's the culmination,  
22 members of the jury. That's the final act. There's so  
23 much ground work.

24 He was touching her, her back -- interestingly, if  
25 you watch the video, she is so uncomfortable with the

1 touching. Because I do think, deep down, kids know. And  
2 he's touching her inner thighs, her back. He's warming  
3 her up. He's grooming her. He's showing her photos of  
4 his penis. He's showing her porn. He's taking photos of  
5 her. All of this, it's building, it's building. That's  
6 what grooming is. He's trying to get to a point when he,  
7 finally, culminates, he does what he wants, she won't tell  
8 anyone. It's called grooming. It's a long process.

9 And, frankly, the grooming in this case mostly  
10 worked. She didn't really want to tell. Even when she  
11 told, she tried not to tell the whole truth because it was  
12 embarrassing and she knew there would be consequences if  
13 she told.

14 The other thing that Tessa Trask, the expert, talked  
15 about was that sexual abuse is trauma. And that trauma  
16 has certain symptoms. John, our very first witness,  
17 testified that he saw red flags.

18 Now, he's not an expert in sexual abuse. This is  
19 just a boyfriend whose girlfriend's daughter is acting  
20 weird. She is hugging him all the time, kissing him,  
21 calling him dad, sitting on his lap, trying to touch his  
22 groin. This is someone who no longer talks to Lori, no  
23 longer has a relationship with J.M. , years later  
24 saying, yeah, I remember some troublesome behavior.

25 And Lori testified and talked about nightmares.

1 These are ways -- outward signs of abuse. All trauma  
2 victims, all sexual abuse victims do not exhibit these  
3 signs, just to be clear. But in this case, the State  
4 argues that these actions that John and Lori described  
5 were symptoms of a sexual abuse.

6 Now, J.M. was recalled to the stand and talked  
7 about some photos. And I want to sort of talk about these  
8 photos as well. So, really, you can consider the photos  
9 in two sets. This photo of J.M. at her birthday, this  
10 photo of J.M. and her grandfather, the Defendant,  
11 cooking, and this photo of J.M. in the Defendant's  
12 bedroom with a bunny that the Defendant would bring with  
13 him. Those photos are to provide context.

14 Investigator LaVan testified that given the nature of  
15 the allegations, given the time that had passed, he did  
16 not take crime scene photos. But if you listen in her  
17 interview, she says that she was cooking with her  
18 grandfather the first time he ran his hand up her legs.  
19 In case you need a visual of what this house looked like.

20 Now, the second group of photos, J.M. testified to  
21 most of them she wasn't sure, but she thought the  
22 Defendant took them. So this photo -- for example, this  
23 photo of her bending down in front of the camera, the  
24 camera almost going down her shirt, she's not sure, but  
25 she thinks the Defendant took it. It's not her brother

1 because her brother is behind her; right? She thinks the  
2 Defendant took this one. When she was asked again, she  
3 was almost positive that the Defendant took this one.  
4 This is her dance uniform, it's her legs.

5 After you've looked at the video and you remember  
6 J.M. 's own statements, I want you to remember the  
7 Defendant's statements, which should be fresh in your mind  
8 because you heard them today. He admitted that Lori was a  
9 strong, independent woman and he forced her to move from  
10 Florida. He forced her to move into a bigger house, a  
11 house she couldn't afford. On one hand, he's saying I  
12 want her to be independent. Why is she so dependent on me  
13 for bills? But each step, he's making her more and more  
14 and more dependent.

15 I want you to review the text messages. I want you  
16 to review the Facebook messages. First of all, in the  
17 Facebook messages -- he said she doesn't have a job.  
18 Those Facebook messages, which he testified were his  
19 Facebook messages, the first thing she says is the kids  
20 are at home because I'm at work.

21 And, yes, her next sentence is, I want money for  
22 J.M. 's dance recital. That's because J.M. was  
23 taking dance because the Defendant was paying for it. And  
24 he was paying for it because he wanted the whole family  
25 dependent on him.

1           And in those text messages, they do talk about rent.  
2           She wants that rent paid because she wants a roof over the  
3           head of her kids. But read those text messages closely.  
4           Because the last text message -- in fact, I'm not going to  
5           quote it. Let me find it.

6           Do you have State's Exhibit No. 21?

7           Here, I have it.

8           And you'll have a chance to read all of these. You  
9           know what, keep your money. We don't need shit from you.  
10          I don't care if the rent gets paid or not. This isn't  
11          about money. It's about you being a pedophile and  
12          molesting children. I hope you get what you deserve.

13          The Defendant, when he got on the stand wanted to  
14          argue -- wanted you to believe that Lori was after the  
15          money. Money, money, money, money, money. But when Lori  
16          confronted him, you did this to my daughter, you did this  
17          with my daughter, he didn't stop communicating with them,  
18          freak out. He didn't deny the allegations outright.  
19          Instead, it was him that came back talking about the rent  
20          again.

21          And, also, there was no financial gain in this case.  
22          And I'm going to say this at the end as well. There's no  
23          financial gain because they told -- they could no longer  
24          afford to live where they lived and they ended up in a  
25          long-term hotel. I mean, what was the gain?

1           So after you've considered the testimony, and after  
2 you've reviewed the evidence, and -- the evidence in this  
3 case, it's the videos, the photos of J.M.       , the text  
4 messages, Facebook messages, you will be asked to decide  
5 guilt or innocence in this case. And I'm with the State.  
6 And the State in this case, me, this table, Investigator  
7 LaVan, we have the burden.

8           So the burden is written up here. And you can take a  
9 moment to read it. The Judge is going to read it to you.  
10 But, simply put, we have the burden. We must prove beyond  
11 a reasonable doubt that the Defendant did what he's  
12 accused of doing.

13           Reasonable doubt is a doubt which makes an honest,  
14 sincere, conscientious juror in search of the truth  
15 hesitate to act. And the example that's frequently used,  
16 you're making other big decisions in your life, buying a  
17 home, who to marry, the type of uneasiness that would  
18 cause you to hesitate when making those type of big  
19 decisions.

20           Can you go back to the second slide?

21           Members of the jury, the State has met that burden.  
22 We have proved beyond a reasonable doubt based on the  
23 videos, based on the testimony, based on all the things  
24 that you will review that the Defendant, Charles Dent,  
25 made J.M.       , his granddaughter, lick his penis, look at

1 pornography, look at photos of his penis.

2 The Defense is about to speak to you. They're going  
3 to try to confuse you. They're going to try to tell you  
4 what they think this case is about.

5 This case is not about money. Because Lori and  
6 J.M. and A.M. , J.M. 's brother, got nothing from  
7 telling the truth. They were kicked out of their house.  
8 They weren't allowed to keep paying rent there. They  
9 couldn't afford it. And they ended up in a long-term  
10 motel.

11 This case is, also, not, by the way, about other  
12 traumas in J.M. 's life. Yes, J.M. 's Uncle Matt  
13 killed himself. But you do not act out in a sexual way  
14 the way that John Camelo described because you're going  
15 through trauma related to suicide. J.M. was acting  
16 like a sexual assault victim.

17 This case is, also, by the way, and, perhaps, most  
18 importantly, not about J.M. not knowing her dad, which  
19 was a question Defense asked J.M. when she was on the  
20 stand. It's, also, not about Lori's dating history.

21 Over and over again, J.M. was asked, who did this  
22 to you? Did anyone else do this to you? She consistently  
23 said, my grandfather, my grandfather, Charles Dent did  
24 this to me. He's guilty.

25 Thank you.

1 THE COURT: Mr. Grose.

2 MR. GROSE: I beg the Court's indulgence for just a  
3 moment.

4 THE COURT: Yes, sir.

5 MR. GROSE: I want to, I guess, start today where we  
6 started on Tuesday morning. But before I go into it, I  
7 want to just comment on something. I know that this  
8 process can be kind of frustrating sometimes. And it can  
9 be kind of burdensome with all the getting up and going  
10 out and the schedule is changing. And while we always do  
11 our best to apologize for the inconvenience, one of the  
12 things that we never apologize for is the process itself.

13 It's like Judge Kinlaw talked about on Tuesday  
14 morning when he first started addressing you and has sort  
15 of been your guide through this trial in telling you how  
16 everything works. That the right to a jury trial is so  
17 important that John Adams and the other founding fathers  
18 put it into our Constitution because it was that  
19 important. That when the Government decides to take an  
20 allegation and put somebody on trial for life and liberty  
21 that a jury gets to decide, gets to hear what the evidence  
22 is and what the allegations are.

23 Now, on Monday when we started, one of the things we  
24 talked about was the presumption of innocence and the  
25 burden of proof. We're going to talk about that again in

1 a minute.

2 I'll, also, review the indictments with you. The  
3 indictments are very important. While the Judge told you  
4 that's not evidence, an indictment is the way that the  
5 State tells a person what they're charged with and what  
6 they have to come to court and defend.

7 I, also, ask that you pay attention to three things,  
8 the timeline, opportunity for coaching, and motive. And  
9 we're going to talk about all of these in a little bit  
10 more detail. This is more my words, just sort of a  
11 summary, of reasonable doubt and a way to begin to explain  
12 it.

13 We talked a little bit on Tuesday about the different  
14 levels of burden of proof that we follow in our courts.  
15 If it's an automobile accident case, the burden of proof  
16 is by a preponderance of the evidence. Is it more likely  
17 than not that somebody was at fault in the accident?

18 In a civil case, if fraud is alleged, and that's  
19 pretty serious, you have a higher standard. That's clear  
20 and convincing evidence.

21 But the highest standard in our law is beyond a  
22 reasonable doubt. And when you get to talking about  
23 beyond a reasonable doubt, you know, it's not all doubt,  
24 but it has to leave you firmly convinced. But if you  
25 think that there is a real possibility that a defendant is

1 not guilty of what they're charged with, you're supposed  
2 to give them the benefit of the doubt, and find them not  
3 guilty.

4 I don't know for sure, but I imagine that that's  
5 where the term give somebody the benefit of the doubt came  
6 from. It came from these concepts that John Adams and our  
7 other founding fathers thought were so important that they  
8 would be included in our Constitution.

9 So when you go through the evidence -- and it's  
10 really interesting. Because when the Prosecutor was up  
11 here, she said, well, this is my view of the evidence.  
12 And she tried to predict what she thought my view of the  
13 evidence might be when I came up here.

14 And that's interesting to me because that's her  
15 acknowledging that there's more than one way to look at  
16 this evidence, more than one way to view it. Because in  
17 our society, if in a jury trial, there's really more than  
18 one way to view the evidence, if there is a real  
19 possibility after viewing the evidence that a person is  
20 not guilty, then that's what the verdict's supposed to be.

21 The Judge is, also, going to charge you on something  
22 called circumstantial evidence. And I'm not going to try  
23 to quote the exact words as to what he's going to say.  
24 But it's just this sort of same type of, you know,  
25 convincing. If there is two ways to look at

1 circumstantial evidence, then the State has failed to meet  
2 their burden of proof. And they rely on a lot of  
3 circumstantial evidence. Certainly, things like  
4 testimony, eyewitnesses accounts are what we call direct  
5 testimony.

6 But one of the things that they did in their closing  
7 argument just a few minutes ago was want to talk about  
8 John Camelo's relationship with J.M. , and how John said  
9 that J.M. acted with him. Now, first of all, you  
10 haven't heard one bit of testimony that J.M. displayed  
11 any sexual or sexualized behavior with anybody else. So  
12 we're going to come back to that a little bit later on  
13 when we talk about John Camelo a little bit more and how  
14 all of this sort of evolved.

15 So the timeline. Matthew's suicide was, obviously, a  
16 pretty important point in the lives of a lot of the people  
17 that you've heard from in this courtroom here. You  
18 probably noticed this morning when Charles was up here  
19 that he got a little almost teary and a little emotional  
20 when he talked about that. And what we know and -- I  
21 mean, this is tragic. I mean, there's a lot of tragedies  
22 in all of this that we're going to talk about.

23 But what we know is that Matthew was close to his  
24 sister. Sometimes, we refer to her as Lori and sometimes  
25 we refer to her as Michelle. And that Matthew would go to

1 Jacksonville, Florida.

2           Sadly, Matthew was not the first suicide in this  
3 family. Lori's mother, also, named Lori, committed  
4 suicide. And, you know, sometimes mental illness does run  
5 in a family. And maybe that's what happened here, and  
6 maybe it's not. But they want you not to focus on that.

7           And the reason I don't think you can overlook that is  
8 because they want you to consider in this case the expert  
9 that came in and testified. This was an expert that  
10 hadn't read the file, hadn't interviewed J.M. , wasn't  
11 aware of any of J.M. 's, what we call, social history,  
12 sometimes, this family history, what J.M. has been  
13 exposed to in her life. She wasn't familiar with  
14 J.M. 's school records, didn't know that she did well in  
15 Beaufort when the abuse was supposedly going on, but  
16 didn't do well after they moved to North Carolina.  
17 Because if you think about it, if somebody is being  
18 abused, that's when they're grades are going to drop off.

19           Ms. Trask, also, talked about adjustments. And that  
20 children can sometimes have adjustment problems when they  
21 move. And J.M. was having those adjustment problems in  
22 North Carolina.

23           But the reason that you can't ignore the suicide is  
24 because Ms. Trask talked about there being different types  
25 of trauma. And back in the day, we didn't understand -- I

1 say back in the day, 20, 30, 40 years ago, we didn't  
2 understand what types -- what being exposed to trauma did  
3 to people.

4 I mean, I think after Vietnam, we began to learn more  
5 about that, and learn how when somebody is close to you  
6 and they die, like Matthew did, that that's something that  
7 has an effect on you. And that that's something that can  
8 be a trauma in somebody's life. So we can't overlook  
9 that.

10 So the timeline -- I mean, we've been through it over  
11 and over. August of 2012, the first townhouse. August of  
12 2013, the second townhouse. June 10th, 2014, law  
13 enforcement contacted. July 10th, July 18th, the  
14 interview -- I'm sorry. First interview date is on July  
15 10th. July 18th, two things happen. That's when they  
16 gave the authorities more information. But it's, also,  
17 the day that the Maurice incident happened. And then the  
18 second interview happened a week later.

19 Now, I alluded to the Maurice incident in opening  
20 statements. And I'm not trying to sit here and say  
21 Maurice is guilty and Charles is not. That's not the  
22 point of bringing it up. But it is curious that the  
23 Maurice incident happened on exactly the same day that  
24 more information came out. And when we get a little bit  
25 further, we're going to be talking about some of the

1 circumstances of when that additional information came  
2 out.

3 But what's important is I want you to think about  
4 children. I want you to think about somebody that's nine  
5 years old at that time. I want you to think about what we  
6 know about children. Children have imaginations. And  
7 that is a good thing. I mean, we want them to have  
8 imaginations. That's how you learn, that's how you  
9 develop. But, sometimes, the imaginations can run wild a  
10 little bit.

11 Children, also, want to please adults. I asked  
12 J.M. , one of the questions, if she wanted to please her  
13 mother. And she said, Yes. That's typical of children.  
14 We, also, saw an example of how children are able to read  
15 signs from adults and tailor what they say to it.

16 In this very -- we witnessed it yesterday. We  
17 witnessed it when they were talking about the  
18 photograph -- I don't have my glasses on, but the  
19 photograph with the dancing shorts. You know, there was a  
20 time she wasn't sure who took that. You found out that  
21 they showed that to her yesterday not long before she came  
22 into this courtroom to testify about it.

23 You heard how her answer evolved. And the more times  
24 she was asked the question she thought or, at least, said  
25 she was more sure that she thought her father [sic] took

1 it. There's no evidence who took any of these  
2 photographs, except there's evidence that Charles didn't  
3 take some of them. We don't know who took these  
4 photographs.

5 But when you walk through this door and you come in  
6 here -- and the way this courtroom is set up, and I don't  
7 know a better way to do it. But you have people on one  
8 side that are prosecuting, and the Defense is on the other  
9 side. And I'm sitting next to J.M. 's grandfather,  
10 Charles Dent. She had met the Prosecutor on the  
11 telephone. And she met her in person this week.

12 Now, I'm not saying anything improper happened here.  
13 I'm not saying that anybody said, J.M. , I need you to  
14 get in here and change your story. What I'm saying is  
15 that the dynamics of this courtroom and you knowing that  
16 there's people on different sides of the issue, and  
17 knowing that I'm connected to Charles Dent, knowing that  
18 these people are connected to Lori Mayo, her mother, who  
19 she wants to please, it's the process.

20 Even at that age, even at 13, she's giving the answer  
21 that she thinks is going to be -- receive the most  
22 approval from the adult that she wants to get approval  
23 from. Look, I'm not trying to blame Lori. I'm just  
24 trying to talk about -- I mean, J.M. . I'm not trying  
25 to blame J.M. . I just want to talk about the dynamics,

1 and what we know about children, and what we know about  
2 them wanting to please adults. And we're going to come  
3 back to her imagination in a minute.

4 But before I do that, I want to go through the  
5 indictments. Okay. Because the indictments, like we  
6 talked about, is what the State is trying to prove. And  
7 there's two indictments for disseminating obscene material  
8 to a person under 12. And in this first indictment, 1671  
9 are the last numbers of it, they're saying that Charles  
10 took pictures of his genitals and showed them to J.M. .

11 (WHEREUPON, a portion of State's Exhibit No. 16 was  
12 played in open court.)

13 MR. GROSE: Okay. Two things about that. But before  
14 that, I apologize that the picture is a little splotching.  
15 I've never gotten it able to play on my computer as well  
16 as it did yesterday morning.

17 But it's important to listen to what is said. And  
18 there was two things that were said in that that are  
19 important. One is for that indictment, the photographs of  
20 the genitals, she said he took 10 pictures and showed them  
21 to her, 10 pictures of his penis and showed them to her.

22 Now, I told you on Tuesday they weren't going to have  
23 any pictures of Charles Dent's penis. They brought in  
24 some other pictures without any evidence of where they  
25 came from. But they're not the pictures that prove this

1 count -- or this charge as contained in this indictment.

2 The other thing that's important is right there at  
3 the very end, you heard her say, no, as far as taking a  
4 picture of herself. So even at that young age, she  
5 understood that she could say no and something wouldn't  
6 necessarily happen.

7 Now, the next indictment is, also, the disseminating  
8 of obscene material. And this is showing pornography.  
9 And once again, we've had some testimony, but we haven't  
10 had anything that has confirmed or corroborated showing of  
11 pornography.

12 The next two indictments are for criminal sexual  
13 conduct with a minor in the first degree. And in these  
14 indictments, the State says what they're going to prove is  
15 a sexual battery. And they say they're going to prove  
16 that Charles had J.M. commit fellatio on her [sic].  
17 And it gives her date of birth and the code section that's  
18 involved.

19 And, again, going back to the timeline, there's a  
20 time frame in this first indictment, April 2013 to  
21 August 2013. Again, this goes back to the leases.  
22 Remember, they moved into the first one in August of 2012.  
23 They moved into the second one at the very end of August,  
24 beginning of September of 2013.

25 The next indictment still alleges the same thing, the

1       fellatio. But it alleges a time frame in August of 2013  
2 going to April of 2014 when they didn't have communication  
3 anymore. This is from the second interview.

4             Remember, in the first interview -- and they don't  
5 even dispute this. In the first interview, there was no  
6 disclosure, no comments, no claims, no accusations about  
7 fellatio. Look, what -- I want you to listen to what was  
8 said here.

9             (WHEREUPON, a portion of State's Exhibit No. 17 was  
10 played in open court.)

11       MR. GROSE: So she was given a choice to say where it  
12 happened, first house, both houses. And so even under  
13 this video -- and we don't think that this really  
14 happened. But under this video, she's only talking about  
15 it happening in one place. And she was consistent about  
16 that, although arguably inconsistent about whether it was  
17 the first one or the second one. But the point is from  
18 the get-go, you can take one of these off the table  
19 because her statements don't even support that it happened  
20 at both locations.

21             Now, we're going to keep talking and talk about why  
22 this was evidence of coaching, why there was coaching  
23 involved in this case, and the opportunities for coaching.  
24 Now, you know, this, also, gets back to something I said  
25 on Monday, which was I told you to expect her to come in

1 here and make some allegations.

2 But we were kind of warned in the Prosecution's  
3 opening that her memory was not going to be good. And we  
4 can talk about a little bit different reasons why that  
5 might have been. But, certainly, she didn't testify to  
6 all the things on Tuesday when she came in here that she  
7 did in her -- what she talked about in the videos.

8 But I, also, warned you that you were going to see  
9 these videos. And I, also, asked you to look for evidence  
10 of coaching. Because the thing is, in our system, the way  
11 the Court system works, people don't just walk in here and  
12 say I was coached or I was, you know -- I coached somebody  
13 to say something. You have to begin to look for clues.  
14 You have to pay attention to these videos and look for  
15 clues for coaching.

16 And so I'm going to play this one in a second. But  
17 she starts off saying, My mom told me to tell you this.  
18 And then we're going to listen to her make up a story.

19 (WHEREUPON, a portion of State's Exhibit 17 was  
20 played in open court.)

21 MR. GROSE: I mean, Ms. Capps caught her making up  
22 something. And this gets back to the active imagination  
23 that I was talking about before. And when she was telling  
24 this story about the places that it was hidden in or  
25 whatever, she sounds the same as she does when she's

1 talking about everything else.

2 And if you remember in other parts of the video,  
3 probably later on when they came back to this same thing,  
4 you know, it wasn't clear at what point she learned about  
5 the layout of everything in Alabama, whether she had been  
6 there at the point that this supposedly happened, or  
7 whether it was coming from photographs.

8 But it began with my mom wanted me to tell you this.  
9 My mom wanted me to tell you this is a clue about the  
10 coaching. The way it's said in this, you're going to hear  
11 her say, I told my mom lots of things. I just have to  
12 remember them.

13 And then we're going to get to a point later on where  
14 she says, My mom said. And when we get to that, I want  
15 you to pay attention. Because she's talking about things  
16 that she's claiming that Charles did to her. But then she  
17 sort of switches and starts talking about -- continues  
18 with, My mom said.

19 And again -- and we're still in the first interview.  
20 And there's some evidence where they ask her about, you  
21 know, being made to touch somebody's private parts.

22 (WHEREUPON, a portion of State's Exhibit No. 16 was  
23 played in court.)

24 MR. GROSE: So she had to remember. And in that  
25 story, she switched to talking about her mom saying that

1 he was rubbing this part. And we can't tell -- I wish  
2 they had this easel turned where we could see it. But  
3 from the context where they're talking about private  
4 parts, she's -- J.M. is disclosing to Ms. Capps that  
5 her mom talked about Charles rubbing his own penis and he  
6 shouldn't do that.

7 She just sort of switched. It kicked in. And it was  
8 probably subconscious, but it was another little clue.  
9 And then Ms. Capps honed in and asked, Have you ever been  
10 asked to touch his private parts?

11 And she said, No.

12 Now, I said we were going to come back to the  
13 relationship with John Camelo, a/k/a dad, and have you  
14 ever had to -- well, also, this is another thing about  
15 have you ever had to touch anybody else's private parts.  
16 Before we play this, let's talk about Camelo --

17 MS. JOSEPH: Objection, Your Honor. Improper  
18 third-party guilt.

19 MR. GROSE: I'm not going to third-party guilt, Your  
20 Honor. This is a response -- I'm going to play this  
21 video. But this is a response to their comments about the  
22 sexualized behavior. This is in evidence.

23 THE COURT: Go ahead.

24 MR. GROSE: Thank you.

25 Before we play it, we had some contradictions in this

1 courtroom about who J.M. referred to as dad. Now, the  
2 significance of her not knowing and ever meeting her real  
3 dad, which is tragic, is that I imagine that all through  
4 her life she's wanted to have a dad.

5 And her mother, Lori, told you that she's probably  
6 called every one of her boyfriends dad. J.M. didn't  
7 want to acknowledge that in here. She said that the only  
8 person she called dad is her mom's current boyfriend in  
9 New York, and she never called John Camelo dad. Well,  
10 John Camelo remembered being called dad and that's in the  
11 video.

12 And, again, I said nobody talked about J.M. having  
13 sexualized behavior with anybody other than John. So  
14 let's listen to what J.M. said about her relationship  
15 with John, who her mother had met in February or March,  
16 started dating in May and moved into the house.

17 (WHEREUPON, a portion of State's Exhibit No. 16 was  
18 played in open court.)

19 MR. GROSE: Okay. I mean, who let's a boyfriend  
20 they've only known for a few months spank their children?  
21 And then we find out it's for play or for fun. And they  
22 talked about, you know, wrestling with each other. And  
23 she said she had accidentally grabbed him somehow.

24 So this is not -- when you hear J.M. talk about  
25 this, this is not a relationship of her just coming up and

1 hugging on somebody and kissing them. Sure, she wants a  
2 dad. But this is a really odd kind of relationship with  
3 somebody that she's barely known.

4 The second interview, I think it's important -- the  
5 July 25th interview, it's important to talk about -- to  
6 listen to what she said about why she didn't remember  
7 everything.

8 (WHEREUPON, a portion of State's Exhibit No. 17 was  
9 played in open court.)

10 MR. GROSE: So John -- and remember, this is the same  
11 day the Maurice thing happened. And she was probably  
12 under some scrutiny about why this guy is coming around  
13 wanting to play with her. And then John starts asking,  
14 Did you remember to tell her everything? And over and  
15 over, she says, I'm trying to remember things. It's  
16 almost like she's trying to remember what she was told to  
17 say.

18 And when John's asking that question, it's like he  
19 knows what everything is. Did you remember to tell her  
20 everything?

21 And she was like, I forgot. And she said, And I was  
22 scared to tell them.

23 But that begs the question, was she scared to tell  
24 John the things that she was supposed to say? It's like  
25 John already knew. Or was she scared to tell John that

1 she didn't remember to tell Ms. Capps some of the things?  
2 It's an important question.

3 Now, as far as, you know, motive is concerned. We,  
4 certainly, have had, you know, presentations of two  
5 different ways as to what the arrangement was and how it  
6 was supposed to work. And they want to argue that there's  
7 nothing irrational. There's nothing for Lori to have  
8 gained out of this, or the children because she was  
9 getting kicked out of the house.

10 Well, it gets back to that timeline. August '12 to  
11 August '13 is when they had the lease on the first  
12 townhouse. August 2013 to August of 2014 was when they  
13 had the lease on the second townhouse. And almost every  
14 place that rents wants some kind of notice of when you're  
15 going to terminate the lease.

16 And you heard the people that are connected to  
17 Charles and, yes, they're probably some of the most  
18 important people in his life. But who else would you  
19 expect to be witnesses in a case like this? Who else  
20 would you confide in in your ordinarily -- ordinary  
21 everyday lives except the people that are important to you  
22 and close to you?

23 And Charles Dent was talking to Mitch Fife and his  
24 brother, David Dent, about the issues that he and Lori  
25 were having with regards to the arrangement that they had.

1 And he was getting advice. And you heard David say, you  
2 know, I told him he needed to back out of this situation.

3 And this was happening early on in 2014. It was  
4 early on in 2014 before any of these allegations came up.  
5 There was a date that that lease terminated. And so if  
6 Lori is truly interested in being self-sufficient, she  
7 knows what that date is. She has no obligation under any  
8 circumstances to stay there. But she knows what that date  
9 is and that it's coming.

10 And there's been a dispute about how much she was  
11 working. And they want to say, oh, these text messages  
12 say she was. We're not saying she wasn't working some of  
13 the time. We're saying she wasn't working a lot of the  
14 time.

15 So come the end of that lease when Charles -- and she  
16 knows that Charles is not going to be paying the bills any  
17 more. She has the time to plan to do something. And all  
18 of this was brewing. And she wanted that to continue.  
19 And it wasn't going to. And that's when all of this  
20 started evolving.

21 It gets back to reasonable doubt. And it gets back  
22 to what we were talking about, if there's a real  
23 possibility that Charles Dent is not guilty, you're  
24 supposed to give him the benefit of doubt.

25 In this case, you've got to ask yourself, is there a

1 real possibility that Lori was trying to get back at her  
2 father? And when you look at everything, everybody,  
3 including Lori, she said that she and the children were  
4 living in a poverty neighborhood, a bad neighborhood, I  
5 think, is how Lori described it.

6 She talks about the work that she was doing in  
7 Jacksonville -- or in Florida in one of these messages  
8 that the State introduced today. She was being a  
9 stripper. And she was living in a poor neighborhood.  
10 They had just had a death in the family, somebody that she  
11 relied on in the summers for some of the child care.

12 We don't know the number of homes that they had lived  
13 in during that period of time. But the most stable time  
14 in Lori's life and J.M. 's life was the two years that  
15 they lived here in Beaufort. And while they moved from  
16 one unit to another, they were units in the same apartment  
17 complex.

18 In the four years that Lori and the children have  
19 been gone from Beaufort, they've lived in three houses in  
20 two states. That was the testimony. And you've got a  
21 seven-year-old child when she comes here, seven to nine  
22 for the time frame that she's living here who wants to  
23 please her mother and has never had a stable father figure  
24 in her life. Oh, she's searched for it and she's looked  
25 for it in all of her mother's boyfriends.

1           But to J.M.           , people in her mother's life  
2 disappear. When she's done with them, they're gone. When  
3 she was done with Charles Dent, he was gone. When she was  
4 done with John Camelo, he was gone.

5           In fact, I suggest that she was, actually,  
6 manipulating John Camelo because he said he had been a  
7 victim of sexual abuse himself. And that was an issue  
8 that was important to him. And she had him move in to pay  
9 half the rent, but Charles finished out the rent. So she  
10 was using that money for something else.

11           But getting back to the point, they're all gone. And  
12 J.M.       knows that people disappear from her mother's  
13 life. And her mother wants her to make these allegations.  
14 We saw the evidence of coaching in these videos.

15           When she came in here -- when J.M.       came in here  
16 and couldn't remember things this week -- and some of the  
17 videos we watched today, she was nonchalant talking about  
18 this. When she comes in here today -- or this week to  
19 talk about it, there's a lot of reasons why a child may  
20 forget things, may be hesitant, may be inconsistent with  
21 things. They want to say it's about the disclosure  
22 process.

23           But they, also, talked about kids reacting to  
24 stresses in their life and being asked to do something --  
25 or doing something that's out of the ordinary. And I

1 would imagine that it would be an extreme stress on a  
2 child to be coached to lie about something that didn't  
3 happen.

4 Her school problems didn't start until after this.  
5 They weren't going on while the abuse was supposedly  
6 taking place. The changes happened after she was coached  
7 to talk about something that didn't happen.

8 And so coming in here and being reluctant -- people  
9 don't come in here and say I was coached. But she may  
10 have been uncomfortable in here because she knows that  
11 what she's doing is wrong. She's not a bad person. She's  
12 lived a sad life. She's lived a tragic life. And it's  
13 unfortunate that we have to be here and talk about all of  
14 this.

15 But when you get back to the burden of proof, is  
16 there a real possibility, based on the evidence that  
17 you've heard here this week, that Lori coached J.M. to  
18 do this? If the answer is yes, then we ask you to find  
19 Charles Dent not guilty of all of these charges.

20 THE COURT: Ms. Joseph.

21 MS. JOSEPH: Thank you, Your Honor.  
22 Jennifer.

23 THE CLERK: Yes.

24 MS. JOSEPH: Motive, motive, motive, motive. There  
25 is a reason the Defense talked to you so much about

1 coaching, so much what he views as inconsistencies in  
2 these videos before he got to motive. Motive is sort of a  
3 throw away for them. Because, basically, effectively, if  
4 you look at the testimony, Lori admits I was living in a  
5 bad neighborhood. We're not hiding it. She admits she  
6 had a variety of jobs, temp agencies, Publix.

7 The Defendant testified on the stand that she was on  
8 food stamps -- or the Facebook messages mention food  
9 stamps. It is not a crime to be poor. It is not a crime  
10 to struggle. You are not a bad mom if you struggle. She  
11 was doing fine in Florida.

12 These are the risk factors for sexual abuse.  
13 Single-parent household. Why? Because predators know  
14 that people that they can financially manipulate are  
15 people that they can effectively prey upon. I'm sorry.  
16 I'm getting worked up. But emotion is something that we  
17 have to talk about in this case. Read the Facebook  
18 messages. Read the text messages. Look at the anger in  
19 those text messages.

20 The Defense wants to argue that Lori coached J.M. .  
21 And he says -- he looks at the videos and he says, look,  
22 she's saying my mom said, my mom said, my mom said. First  
23 of all, all nine-year-olds say my mom said a hundred  
24 times.

25 Second of all, in her very first interview, the

1 interviewer asked, you know, basically, why are we here?  
2 And she says, My mom said we're here so this doesn't  
3 happen again to any other little girl. So, yeah, her and  
4 her mom, they had some conversations about this meeting.  
5 And her mom said go in there and tell the truth. Read the  
6 text messages.

7 The Defense wants to argue that this is all about  
8 timeline. And in support of his argument, he has put up a  
9 bunch of bias witnesses to say, oh, yeah, he was talking  
10 about kicking that lame girl out, you know, at the end of  
11 this lease.

12 But meanwhile, he's moved her into a house so that he  
13 can have a room there and is visiting her all the time.  
14 But he wants this to end as soon as possible, you know.  
15 He just had established a relationship with his daughter  
16 and grandchildren, but cutting them off because he wants  
17 her to be financially independent, even though he's moving  
18 her into a bigger home.

19 But look at the timeline established not by his  
20 witnesses, but by the text messages. Yes, Lori texted her  
21 father and said, I want rent money. That's on the same  
22 day she's reported this case to law enforcement. She is  
23 not saying give me rent money or I will tell the police.  
24 She's already told the police. At this point, she's just  
25 looking for money so she can keep a roof over her kids

1 head for a little bit longer.

2 There is no motive in this case, members of the jury,  
3 because she talked to her daughter. Her daughter told her  
4 what happened to her. And they ended up not in the house,  
5 they ended up in a long-term motel. And, members of the  
6 jury, there is nothing wrong with being in a long-term  
7 motel. After all, it's another roof over her children's  
8 head. They had lived in a bad neighborhood in Florida.  
9 But they survived before without Charles Dent and they  
10 survived after without him.

11 They keep wanting to talk about John Camelo and what  
12 a weirdo. This is a short relationship. And Lori is a  
13 bad mom for having these boyfriends move in.

14 This is a man that she had no relationship with, no  
15 relationship with. And suddenly, he's buying gifts, huge  
16 packages of Christmas gifts. He's paying their rent.  
17 He's paying their cable. He's all up in their life. He's  
18 baby-sitting. He has a room in that house. The same  
19 behavior that they want you to judge John for and find him  
20 not credible, the Defendant exhibits.

21 A lot of what Defense Counsel talked about was how we  
22 had failed to do things. We didn't show you photos of the  
23 Defendant's penis. We didn't show you porn found on  
24 electronic devices. We're not required to do that.

25 And he started talking about circumstantial evidence.

1 And he said the Judge would talk to you about  
2 circumstantial evidence. And he didn't want to read out  
3 the definition of circumstantial evidence that the Judge  
4 is going to read. But I'm going to do that because  
5 circumstantial evidence is frequently viewed as a dirty  
6 word, I think. If you guys -- you know -- it's viewed as  
7 not being serious. But -- and I'm going to read it.

8 Crimes may be proven by circumstantial evidence. The  
9 State can rely on direct evidence, circumstantial  
10 evidence, or some combination of the two. The Judge is  
11 going to read that to you.

12 Circumstantial evidence is evidence. And it's not a  
13 lesser type of evidence. And why -- why is this case  
14 about circumstantial evidence? Why do we not have photos  
15 of J.M. licking the Defendant's penis? Why do we not  
16 have J.M. 's clothes covered in the Defendant's semen?  
17 We don't have that because of the grooming process.  
18 Because sexual assault cases, these type of cases, they do  
19 not happen out in broad daylight with witnesses. They  
20 happen in private homes. They happen between two people  
21 who have a power difference. And that's what happened  
22 here.

23 It happened when J.M. was alone with the offender.  
24 It happened in a private home. It happened after months  
25 of grooming. And that is why we must rely on

1 circumstantial evidence.

2 They talked about how there are two interviews, and  
3 how she didn't tell the interviewer everything in the  
4 first interviewer -- first interview. This is a  
5 nine-year-old girl who had held in all of this abuse for a  
6 year.

7 She, finally, found the courage to tell someone. Her  
8 mom told her to tell everything that had happened to her.  
9 Through the course -- in those tapes, she says, I'm trying  
10 to remember. I'm trying to remember. She's trying to  
11 remember. It's a lot to remember. And this is her  
12 chance.

13 The Defense Counsel told you that children have  
14 imaginations. They do. Children's imaginations do not  
15 let them perfectly describe the consistency of semen. He  
16 said that children want to please adults. Why would  
17 J.M. telling her mom, hey, your dad, a man who you just  
18 got back in touch with, sexually abused me? Why would  
19 that please her mom? We know there was no financial gain.

20 Defense Counsel talked to you a lot about the  
21 indictments in this case. I'm holding a copy of the  
22 indictments. You're going to get a copy of the  
23 indictments. The indictments are not evidence. But you  
24 will get a chance to look at them. But they are not  
25 evidence.

1           As Defense Counsel pointed out, there are two date  
2 ranges, it's the difference between the first house and  
3 second house. Then it alleges in both of these  
4 indictments the Defendant committed a sexual battery upon  
5 a minor who is less than 11 years of age.

6           And, obviously, everyone testified that J.M. was  
7 nine approximately when this occurred, eight or nine. And  
8 then the indictment goes on to say, to wit, fellatio.  
9 Fellatio, members of the jury, is oral contact between a  
10 victim and male genitalia. That's what fellatio is.

11           So it says, to wit, it gives an example. And she did  
12 talk, both on the stand and in her tape, about being  
13 forced to lick the Defendant's penis. But all the law  
14 requires is that she have committed a sexual battery. And  
15 the Court is going to read out the definition of sexual  
16 battery. But I'm going to read it to you as well --

17           MR. GROSE: Objection to the variance to the  
18 indictment.

19           THE COURT: Overruled, subject to your objection.

20           MS. JOSEPH: Thank you, Your Honor.

21           Sexual battery means sexual intercourse, cunnilingus,  
22 which is oral contact with a Defendant and female  
23 genitalia, fellatio, anal intercourse, or any intrusion  
24 however slight of any part of a person's body or any  
25 object into the genitalia or anal opening of a person's

1 body, except when such intrusion is accomplished for  
2 medically recognized treatment or diagnostic purposes.  
3 The Defendant committed a sexual battery over -- he  
4 committed several sexual batteries over a year period on  
5 J.M. .

6 This is where I finish talking to you and you get to  
7 go out and look at the evidence and consider it. I know  
8 that you will take that seriously. I just ask that you  
9 look at all of the evidence. And as the Judge said at the  
10 beginning of the trial, apply your common sense.

11 Thank you so much for taking this matter so  
12 seriously.

13 THE COURT: Thank you, ma'am.

14 We're going to take about a three-minute break. And  
15 the three-minute break is for Your Honor to use the  
16 restroom.

17 So take the jury out. And we'll be back in about  
18 three minutes.

19 (WHEREUPON, the jury was excused from open court at  
20 approximately 2:42 p.m.)

21 (WHEREUPON, a break was taken.)

22 (WHEREUPON, Court's Exhibit No. 10 was marked for  
23 identification and admitted into evidence.)

24 THE COURT: The jurors are using the restroom and  
25 they'll be back shortly. The exhibit -- not the exhibit,

1 the note where they selected the jury Foreman, I just had  
2 that marked as Court's Exhibit No. 10.

3 And I'm assuming that's without objection.

4 MS. JOSEPH: Without objection, Your Honor.

5 MR. GROSE: Correct.

6 THE COURT: Okay. Here you go.

7 MR. GROSE: Your Honor, they have given me copies of  
8 the proposed verdict forms. I have no objection to those.

9 THE COURT: All right.

10 MR. GROSE: I do have one question. When they put up  
11 their definition of reasonable doubt, it had jurors  
12 searching for the truth in it. I don't remember hearing  
13 that when you read yours out.

14 THE COURT: I didn't read that when I read it out.  
15 Was that in --

16 MS. JOSEPH: Yeah, Your Honor. I did my best to take  
17 down your version.

18 MR. GROSE: Okay. And I'm not criticizing her. I  
19 just wanted to make sure that it's not in what you're  
20 going to say because of the case law on that.

21 THE COURT: Yes.

22 MR. GROSE: So we're good.

23 THE COURT: All right.

24 MR. GROSE: I mean, I don't think either of us got it  
25 exactly like you're going to do it, you know, but we're

1 good.

2 THE COURT: And I think that language was in prior  
3 definitions. And then I think -- you know, there was some  
4 discussion about that. But in other words, it's not  
5 anything I'm going to say.

6 MR. GROSE: And I didn't think it was because I'm  
7 kind of tuned in to that one for some reason.

8 THE COURT: All right.

9 MS. JOSEPH: While we're on break, Mr. Grose, do you  
10 want to look at the evidence and make sure what's going  
11 back?

12 THE COURT: As to each verdict form, I'm going to  
13 read exactly what's on this verdict form.

14 MS. JOSEPH: Yes, Your Honor.

15 THE COURT: Anything before we bring the jury in?

16 (WHEREUPON, there was no response.)

17 THE COURT: Bring in the jury.

18 (WHEREUPON, the jury came into open court at  
19 approximately 2:59 p.m.)

20 CHARGE ON THE LAW

21 THE COURT: All right. Ladies and gentlemen of the  
22 jury, I know you've been here all week and you've listened  
23 to a lot of testimony. But what I'm getting ready to do  
24 right now is very, very critical. I need you to focus on  
25 everything and every word that comes out of my mouth. In

1 other words, I want you to listen to everything I'm  
2 getting ready to say. So, please, ma'am, and, please,  
3 sir, please, listen. And I'm going to try to speak loud  
4 enough so everyone can hear.

5 Ladies and gentlemen, you have heard all of the  
6 evidence that you're going to hear in this case. And you  
7 have heard the closing arguments. And, now, it is my duty  
8 to instruct you on the law that applies to the facts in  
9 this case.

10 It is your duty to determine the facts from the  
11 evidence that you've heard during this trial. As to those  
12 facts, you must apply the law as I give it to you. And  
13 you should not be concerned with what you think the law  
14 should be, but what the law is. And you should not be  
15 concerned with any undue sympathy, or biases, or  
16 prejudices, or personal likes or dislikes you may have.

17 And that means that you must decide this case solely  
18 on the evidence before you and according to the law. As  
19 you recall, you took an oath at the beginning of this  
20 trial to do exactly that.

21 Now, in following my instructions, you must follow  
22 all of them and not single out some of my instructions and  
23 ignore others. Because all of my instructions are equally  
24 important. And do not read into these instructions or  
25 anything that I may have said or done during this trial as

1 any indication to what I think the facts are or what your  
2 verdict should be.

3 Because, as I told you at the outset, under our  
4 Constitution and system of justice, you and you alone are  
5 the sole and exclusive judge of the facts of this case.  
6 You decide what the facts are by evaluating and weighing  
7 the evidence you've heard during the trial. There's no  
8 way for you to do that in a literal sense.

9 I'm, certainly, not going to give you a set of scales  
10 to go back and forth to conduct experiments. But what I'm  
11 talking about is weighing the evidence and evaluating it  
12 by using your good common sense, your sense of logic and  
13 reason, and your own life experiences. And you bring  
14 those things to bear on what you've heard during this  
15 trial.

16 I, also, told you at the beginning of the case that  
17 evidence consists of several things. The first is sworn  
18 testimony, and the second is exhibits. You judge the  
19 credibility of the evidence. And you, as jurors, would  
20 have to necessarily gauge the credibility or believability  
21 of the evidence presented. That's within your purview.  
22 And I'm not going to go back and forth over that with you,  
23 because I know you heard me the very first time I said  
24 that at the outset of this trial.

25 But I will tell you that you may, also, consider in

1 deciding credibility of the witnesses testimony in such a  
2 way that you believe everything that they say, or you  
3 would believe nothing a witness says. You may believe  
4 parts of a witnesses testimony, and disbelieve the other  
5 part of a witnesses testimony. You may believe one  
6 witness over several, or several over one. But I know  
7 that you will decide this matter of credibility using  
8 reason, and logic, and your good common sense and not do  
9 it in an arbitrary fashion.

10 Now, there are, also, two sources -- or two types of  
11 evidence, rather. And I'm talking about now is there's  
12 direct evidence and circumstantial evidence. Direct  
13 evidence is the testimony of someone who claims to have  
14 direct and actual knowledge of a fact, such as an  
15 eyewitness. Direct evidence is evidence that if it is  
16 believed immediately establishes a fact.

17 Circumstantial evidence. Circumstantial evidence is  
18 indirect evidence. Put another way, circumstantial  
19 evidence is proof of a chain of facts from which you could  
20 find that another fact exists, even though it has not been  
21 proven to you directly.

22 The law makes no distinction between the weight or  
23 value to be given to either direct or circumstantial  
24 evidence. You may consider both kinds. And there's not a  
25 greater degree of certainty required of one over the

1 other.

2 Now, ladies and gentlemen, there are certain  
3 things -- or certain witnesses who come in here who are  
4 qualified and described as experts. You saw that during  
5 the course of this trial. These are people who by reason  
6 of their training, education, and experience have achieved  
7 a specific expertise in their field. And they are, unlike  
8 other witnesses, entitled to give their opinions about  
9 things that they have observed.

10 However, expert witnesses share this with all other  
11 witnesses, and that is that you, the jury, are the sole  
12 judges of their credibility as well. You may accept their  
13 testimony, or you may reject their testimony, or give it  
14 whatever weight that you think their opinion or testimony  
15 deserves. You're not required to accept even the  
16 uncontradicted opinion of an expert.

17 Now, there are certain principles that apply in  
18 criminal cases. And I'm going to go over those again with  
19 you now. And I went over those -- some of those with  
20 you -- or those with you at the outset of the trial.

21 The first is the mere fact that Mr. Dent, the  
22 Defendant in this case, was indicted and charged doesn't  
23 constitute evidence of any kind. The fact that a person  
24 has been indicted doesn't even create a suspicion of  
25 guilt.

1 I explained to you that these indictments are simply  
2 the manner -- or formal manner in which a case begins. In  
3 other words, that's how cases begin. And they, certainly,  
4 do not constitute evidence against the Defendant.

5 Mr. Dent, in these four indictments, has pled not  
6 guilty. And that puts the burden of proof solely and  
7 squarely upon the shoulders of the State. And he can only  
8 be convicted if all 12 of you agree that the State has  
9 proven each and every element of the charges against  
10 Mr. Dent beyond a reasonable doubt.

11 You're, also, required to weigh each of these charges  
12 separately and consider the evidence as to each one  
13 separately. There are four indictments, four charges,  
14 four evaluations by you of each one to determine -- and  
15 that has to be done to determine whether or not the State  
16 has met its burden of proof as to each element of the  
17 offense.

18 Mr. Dent is presumed innocent. And that presumption  
19 of innocence is not some legal technicality. It is a  
20 fundamental right that all of you -- every person enjoys  
21 in this country. And it can only be removed if the State  
22 convinces you with proof beyond a reasonable doubt as to  
23 every element of the crime.

24 Now, what is reasonable doubt? A reasonable doubt is  
25 defined as the kind of doubt that would cause a

1 reasonable, sincere, honest, and conscientious person to  
2 hesitate to act in an important matter in their own  
3 affairs. Proof beyond a reasonable doubt is proof that  
4 leaves you firmly convinced of the Defendant's guilt.

5 The law does not require proof that overcomes every  
6 possible doubt. There are few things in this world that  
7 we know with absolute certainty. And in criminal cases,  
8 the law does not require proof that overcomes every  
9 possible doubt.

10 If based on your consideration of the evidence, you  
11 are firmly convinced that the Defendant is guilty of the  
12 crimes charged, you should find the Defendant guilty. If,  
13 on the other hand, you think that there is a real  
14 possibility that the Defendant is not guilty, you should  
15 give the benefit of the doubt and find him not guilty.

16 So if based upon -- on your view of the evidence you  
17 are firmly convinced, then you -- that the Defendant is  
18 guilty of the crime, then you must find him guilty. On  
19 the other hand, if you think he is not guilty, as I said  
20 earlier, you must give him the benefit of the doubt.

21 Now, in order to establish criminal liability, the  
22 State must prove criminal intent. And criminal intent is  
23 a matter that must be determined by you from the facts.  
24 And there is no way to prove criminal intent to a  
25 mathematical certainty.

1           So the law says that criminal intent may be inferred  
2 from circumstances. It is not necessary to establish  
3 intent by direct evidence. Intent may be established by  
4 circumstantial evidence taking into account the  
5 circumstances that are at issue.

6           Criminal intent is a mental state of conscious  
7 wrongdoing. It is up to you to determine what the  
8 Defendant intended to do based on the circumstances shown  
9 to have existed.

10           The testimony of children. During this trial, you  
11 have heard the testimony from a child. Where a witness is  
12 a child, you must determine, as with any other witness,  
13 whether the testimony is believable. In deciding  
14 believability, you may consider not only matters that I  
15 have already discussed with you, but you may, also,  
16 consider the age of the child, the child's ability to  
17 observe and remember the facts, and the child's ability to  
18 understand and answer questions.

19           Because young children may not fully understand what  
20 is happening here, it is up to you to decide whether the  
21 child understood the seriousness of appearing as a witness  
22 at this criminal trial, whether the child understood the  
23 questions, whether the child has a good memory, and  
24 whether the child understands the difference between lying  
25 and telling the truth.

1           In addition, young children may be influenced by the  
2 way the questions are asked. It is up to you to decide  
3 whether the child understood the questions asked.

4           Now, the offense that we're, first, going to discuss  
5 is criminal sexual conduct with a minor first degree.  
6 Mr. Dent is charged in two indictments. Both indictments  
7 charge him with criminal sexual conduct in the first  
8 degree, count one and count two.

9           In order to convict the Defendant of this offense,  
10 the State must prove several things beyond a reasonable  
11 doubt. First, the State must prove that the Defendant  
12 engaged in a sexual battery with the victim. Sexual  
13 battery is -- is defined as sexual intercourse,  
14 cunnilingus, fellatio, anal intercourse, or any intrusion,  
15 however slight, of any part of a person's body or of any  
16 object into the genitalia or anal openings of another  
17 person's body, except when the intrusion is accomplished  
18 for medically recognized treatment or diagnosis --  
19 diagnostic purposes.

20           The State must next prove beyond a reasonable doubt  
21 that the victim in the case was less than 11 years old at  
22 the time of the alleged sexual battery. Consent,  
23 willingness, indifference, or ignorance on the part of the  
24 minor, if any, as to what was taking place does not in any  
25 way affect the charge of criminal sexual conduct with a

1 minor. The specific date and time of the alleged offense  
2 is not an element that the State is obligated to prove.

3 The next charge against this Defendant is the  
4 dissemination of obscene material to a minor prohibited by  
5 Section 16-15-305 of our South Carolina Code of Laws,  
6 which makes it unlawful for an individual 18 years of age  
7 or older to knowingly disseminate to a minor 12 years of  
8 age or younger material which he or she knows or  
9 reasonably should know to be obscene.

10 Now, ladies and gentlemen of the jury, in order to  
11 convict this Defendant of this offense, the State must  
12 prove beyond a reasonable doubt that the Defendant  
13 knowingly disseminated, which is defined as published,  
14 exhibited, or otherwise made available to a minor under  
15 the age of 12 anything obscene.

16 Knowledge of the conduct of the content of the  
17 material or performance, or failing under reasonable  
18 opportunity to exercise reasonable expectation that would  
19 have shown the content of the material or performance.  
20 Material is considered obscene if, to the average person,  
21 applying the contemporary community standards, the  
22 material shows or describes sexual conduct in a patently  
23 offensive way that the average -- that the average person  
24 applying contemporary community standards relating to the  
25 showing or description of sexual conduct would find the

1 material taken as a whole to the purpose -- to the pure  
2 interest in sex -- to a whole appeals to be purely  
3 interest in sex. I'm sorry.

4 To a reasonable person, the material taken as a whole  
5 lacks serious literacy, artistic, political, or scientific  
6 value. And the material is used -- or is used as not  
7 otherwise protected -- that the material used is not  
8 otherwise protected or privileged under the Constitution  
9 of the United States.

10 Now, many of the terms I've just used in describing  
11 obscene material have special definitions for purposes of  
12 these offenses. Sexual conduct means vaginal, anal, or  
13 oral intercourse, actual or simulated, normal or perverted  
14 between human beings, animals, or a combination of an act  
15 that depicts actual or simulated touching, caressing, or  
16 fondling of or other similar physical contact with the  
17 covered or exposed genitalia, pubic, or anal regions, or  
18 female breast, nipple, whether alone or between humans,  
19 animals, or a human and an animal at the same time, or  
20 opposite sex in an act of actual sexual stimulation or  
21 gratification.

22 Patently offensive means, obviously and clearly,  
23 disagreeable, objectionable, repugnant, displeasing  
24 distasteful or obnoxious to contemporary standards of  
25 decency and propriety within the community. Nudity in and

1 of itself is not obscene. Materials showing or depicting  
2 nude men or women may be provocative without being  
3 obscene. And, also, the candid display of male or female  
4 genitals is not in and of itself obscene.

5 In other words, sex and obscenity are not synonymous.  
6 They're not the same thing. The contemporary standards  
7 means the current modern standards within this community.

8 In deciding whether materials in this case are  
9 obscene, you're not to base your decision on your own  
10 personal tastes or personal standards. Instead, you must  
11 decide whether an ordinary adult in this country would --  
12 in the county would find the materials to be obscene as I  
13 have defined the terms to you. The materials must be  
14 judged as a whole in their entire context.

15 Now, those are the principles and law applied to the  
16 offenses upon which this Defendant is charged. There's  
17 two counts of each one of those areas that I just  
18 outlined.

19 The verdict form is pretty straightforward. Now --  
20 and I'll talk about that in just a minute.

21 Now, ladies and gentlemen of the jury, you were  
22 chosen prior in this case to be unbiased partisans. And  
23 you are the judges of the facts. You were chosen to be a  
24 juror in this case because both sides in this case, the  
25 State as well as Defense, believed that all 12 of you

1       could be fair and impartial, and you could decide this  
2       case without any kind of bias, or prejudice, or  
3       preconceived ideas.

4                So you are the judges. You're the judges of the  
5       facts. And your sole interest is to determine what the  
6       facts are, take the law as I just gave it to you, and  
7       apply it to those facts using your life experiences, your  
8       common sense, and your sense of logic and reason. Once  
9       you do that, you'll be able to reach a verdict in this  
10      case.

11             Now, each of you has a vote in this case. And your  
12      vote is exactly that, it's your vote and no one else's.  
13      Don't be afraid to change your mind if you are of  
14      different minds and the discussion that you have -- the  
15      discussion that you have persuades you that you should  
16      change your mind. But don't change your mind simply to  
17      get the case over with or to reach a unanimous verdict.  
18      Because, obviously, the case is important to both sides,  
19      both important to the Prosecution, both important to the  
20      Defense.

21             The record in this case is now closed. There's not  
22      going to be any more witnesses. There will be no more  
23      evidence presented. There will be no more testimony.

24             So if something was referred to during the trial that  
25      you want to have, but you don't have back there in the

1 jury room as an exhibit, I can't get it for you. So keep  
2 that in mind.

3 Don't start talking about this case until I have  
4 instructed the bailiff to deliver to you the verdict form  
5 and the exhibits.

6 Now, you have already selected a Foreperson. I'm  
7 going to now go over with you the possible verdicts in  
8 each one of the offenses charged.

9 In the State of South Carolina v. Charles Dent,  
10 indictment 2014-GS-07-01673, in which Mr. Dent is charged  
11 with criminal sexual conduct with a minor first degree,  
12 count one -- as to count one -- as to indictment  
13 2014-GS-07-01673, the charge of criminal sexual conduct  
14 with a minor first degree, we, the jury, unanimously find  
15 the Defendant, Charles Dent -- and pay no particular  
16 attention as to the order that I'm listing it. I have to  
17 list it in some order. We find Charles Dent not guilty or  
18 guilty.

19 Once you make a decision in that regard, Madam  
20 Foreperson, sign your name and date it.

21 As to count two, the State of South Carolina v.  
22 Charles Dent, charged with criminal sexual conduct with a  
23 minor first degree, we, the jury, unanimously find the  
24 Defendant, Charles Dent -- and here again, I reiterate,  
25 pay no attention to the order in which this is listed, I

1 had to list it in some order -- not guilty or guilty.

2 And once you reach a decision on this particular  
3 count two, then, Madam Foreperson, you would sign it and  
4 date it. Once you, the jury, all 12 of you reach a  
5 decision on it, then you would sign and date it.

6 On the other two indictments, count three, the State  
7 of South Carolina v. Charles Dent, as to indictment  
8 2014-GS-07-01672, on the charge of disseminating obscene  
9 material to a person 12 years old or younger, we, the  
10 jury, unanimously find the Defendant, Charles Dent -- and  
11 here again, pay no attention to the order in which this is  
12 listed, I had to list them in some order -- not guilty or  
13 guilty.

14 Once you reach a verdict, then Madam -- the  
15 Foreperson of the jury signs it and dates it.

16 On count four, indictment 2014-GS-07-01671, it states  
17 as follows, as to indictment 2014-GS-07-01671, on the  
18 charge of disseminating obscene material to a person  
19 12 years or younger, we, the jury, unanimously find the  
20 Defendant, Charles Dent -- and here again, as to this  
21 particular -- this fourth indictment, pay no attention to  
22 the order in which this is listed, I had to list it in  
23 some order -- guilty or not -- not guilty or guilty.

24 And once you reach your verdict, the Foreperson of  
25 the jury would sign it and date it. And this will be

1 given back to the Court.

2 Now, I am going to -- I have some legal matters to  
3 take up with both sides. So I am going to ask that you go  
4 back to your jury room. And, please, ma'am, and, please,  
5 sir, do not begin deliberating until the verdict forms  
6 have been brought to you by the bailiff, along with all  
7 the exhibits. There's to be no discussion at all about  
8 this case until you receive that.

9 Everybody is clear on that?

10 (WHEREUPON, all of the jurors indicated in the  
11 affirmative.)

12 (WHEREUPON, the jury was excused from open court at  
13 approximately 3:24 p.m.)

14 THE COURT: Any exceptions to the charge by the  
15 State?

16 MS. JOSEPH: None, Your Honor.

17 THE COURT: Any exceptions to the charge by the  
18 Defendant?

19 MR. GROSE: Three. First, out of an abundance of  
20 caution, I think I need to renew my objection to the  
21 manner in which the Court charged sexual battery. We  
22 asked it be limited to fellatio. And, of course, you gave  
23 them the other options. And that's the same arguments we  
24 made before.

25 When Your Honor was charging 16-15-305, I know you

1 talked about the term knowingly. But I don't recall if  
2 you read the definition of that.

3 THE COURT: Of what? The definition of what?

4 MR. GROSE: The term knowingly, which is in  
5 16-15-305(c)(5).

6 And, finally, with regard to circumstantial evidence,  
7 I think that that was a variance from the Logan case and  
8 didn't include all the language about to the extent the  
9 State relies on circumstantial evidence, all of the  
10 circumstances must be consistent with each other and when  
11 taken together point conclusively to the guilt of the  
12 accused beyond a reasonable doubt. If these circumstances  
13 merely portray the Defendant's behavior as suspicious,  
14 then the proof has failed. That may not be the only  
15 variance, but that's one that jumped to mind. And that's  
16 Defendant's request to charge number two.

17 And that's my objections.

18 MS. JOSEPH: I didn't note those, Your Honor. I  
19 don't know which circumstantial evidence you were reading,  
20 if you were, in fact, reading the one Defense provided,  
21 but it seems to include everything pertinent. If he wants  
22 you to read the definition of knowingly, we have no  
23 objection to that.

24 THE COURT: What definition do you have of knowingly  
25 that you want me to read?

1 MR. GROSE: I have 16-15-305(c)(5). Knowingly  
2 means --

3 THE COURT: 16-15-305?

4 MR. GROSE: Yeah. It means having general knowledge  
5 of the content of the subject material, or performance, or  
6 failing after reasonable opportunity to exercise  
7 reasonable inspection, which would have disclosed the  
8 character and material of the performance. And that's  
9 straight out of the code.

10 THE COURT: I'm satisfied that the charge on  
11 circumstantial evidence was satisfied. So I'm probably  
12 not going to do that.

13 But I will give a definition of knowingly. And I'm  
14 assuming that's for purposes of the indictments on  
15 dissemination?

16 MR. GROSE: Yes, sir. Just because that's a part of  
17 that code section.

18 THE COURT: And I'll bring them back.

19 And I think the State has no opposition to that?

20 MS. JOSEPH: No objection at all, Your Honor.

21 Thank you.

22 THE COURT: As soon as I get that in front of me.

23 MR. GROSE: I believe you need to hire him as your  
24 permanent clerk. He's done a good job this week.

25 THE COURT: He's done an excellent job.

1 MR. GROSE: And we've only seen part of it. I'm sure  
2 he has done many more things.

3 (Pause.)

4 THE BAILIFF: Are you ready, Your Honor?

5 THE COURT: Yes.

6 (WHEREUPON, the jury came into open court at  
7 approximately 3:30 p.m.)

8 FURTHER CHARGE ON THE LAW

9 THE COURT: All right. Ladies and gentlemen of the  
10 jury, in the charge that I gave you just a minute ago as  
11 to the offenses count three and four, this Defendant is  
12 charged with disseminating obscene material to a person  
13 12 years of age or younger. And I'm going to read the  
14 language in the indictment. And I'm going to tell you  
15 what I'm getting ready to do.

16 In the indictment, it says that in Beaufort County,  
17 South Carolina, on or about April of 2013 through April of  
18 2014, the Defendant, Charles Dent, did, while 18 years of  
19 age or older at the time of the offense, knowingly  
20 disseminate to a minor 12 years of age or younger at the  
21 time of the offense material he knew or reasonably should  
22 have known to be obscene within the meaning of Code  
23 Section 16-15-305.

24 I need to give you a definition of what the word  
25 knowingly means. And knowingly means -- in that code

1 section, it is defined as knowingly means having general  
2 knowledge of the content of the subject material or  
3 performance, or failing after reasonable opportunity to  
4 exercise reasonable inspection which would have disclosed  
5 the character of the material or performance.

6 And I'll read it again. Knowingly means having  
7 general knowledge of the content of the subject material  
8 or performance, or failing after reasonable opportunity to  
9 exercise reasonable inspection which would have disclosed  
10 the character of the material or performance.

11 So I needed to define -- and that word is, obviously,  
12 used in the -- in this count three and four. So I just  
13 wanted you to know that. And that's -- I think that's it.

14 So until you get further instructions from me and  
15 receive the verdict forms and the exhibits, please, do not  
16 begin to deliberate. I need to discuss something else  
17 with the lawyers.

18 (WHEREUPON, the jury was excused from open court at  
19 approximately 3:32 p.m.)

20 THE COURT: And, Counsel, let the record reflect  
21 that, obviously, you made -- Mr. Grose, you made a  
22 statement regarding the Court's charge regarding  
23 circumstantial evidence. And I found that the charge that  
24 I did give to the jury was satisfactory. So I did not  
25 charge what you asked, but, certainly, I note your

1 exception for the record.

2 MR. GROSE: And my ongoing exception to the sexual  
3 battery.

4 THE COURT: To the sexual battery.

5 As it relates to the request to define to the jury  
6 the word "knowingly," are there any questions or  
7 exceptions to that?

8 MS. JOSEPH: No exceptions or objections, Your Honor.

9 MR. GROSE: No, sir.

10 THE COURT: All right. Anything else before we send  
11 the verdict forms and exhibits back?

12 And I think everybody has had an opportunity to go  
13 through the exhibits and make sure they're all in. And  
14 the indictments go back. I think everybody is in  
15 agreement that the indictments go back.

16 MR. GROSE: Yes, sir.

17 THE COURT: All right.

18 MR. GROSE: And you're correct. We've already  
19 reviewed the evidence and I think that's ready to go.

20 MS. JOSEPH: And she has the indictments.

21 THE BAILIFF: Everybody is satisfied this is  
22 everything?

23 MS. JOSEPH: Yes, sir.

24 MR. GROSE: Yes, sir.

25 MS. JOSEPH: Thanks, Your Honor.

1 And, Your Honor, are you ready for pleas?

2 THE BAILIFF: Judge, are you ready for your  
3 alternates? We usually just bring them in.

4 THE COURT: Yes.

5 (WHEREUPON, Juror #153, Keri Haars-Sherry, and Juror  
6 #140, Douglas Gilman, entered the courtroom.)

7 THE COURT: All right. Juror #40.

8 JUROR #140, DOUGLAS GILMAN: #140.

9 THE COURT: And you're Juror --

10 JUROR #153, KERI HAARS-SHERRY: #153.

11 THE COURT: We thank you for your service. We're  
12 going to excuse you. You're free to do whatever you want  
13 to do. You can stay here, or go home, or do whatever. We  
14 appreciate your service and appreciate you staying here  
15 these last four days.

16 JUROR #153, KERI HAARS-SHERRY: Thank you.

17 JUROR #140, DOUGLAS GILMAN: Thank you.

18 (WHEREUPON, Juror #153, Keri Haars-Sherry, and Juror  
19 #140, Douglas Gilman, exited the courtroom.)

20 THE COURT: Okay. Anything else?

21 MR. GROSE: No, sir.

22 (WHEREUPON, the proceedings were recessed at  
23 approximately 3:37 p.m.)

24 QUESTIONS FROM THE JURY

25 THE COURT: We have questions. Here are the

1 questions.

2 Do y'all want to come up here and read them with me  
3 at a sidebar?

4 MS. JOSEPH: Sure.

5 (WHEREUPON, a bench conference was held.)

6 THE COURT: State's Exhibit Nos. 1, 3, 4, 6, 11, 13,  
7 and 15. That's what's written on here. What device or  
8 camera did the photos come from? Who was it? Whose was  
9 it? I'm assuming that's what they meant. Who discovered  
10 them, the police-mom?

11 MS. JOSEPH: Maybe if you just tell them their  
12 recollection, I assume, to rely on --

13 MR. GROSE: Are we on the record?

14 MS. JOSEPH: We are on the record.

15 THE COURT REPORTER: I can't hear --

16 THE COURT: You got the question I just read, though;  
17 right?

18 THE COURT REPORTER: Yes, sir.

19 You say maybe if --

20 MS. JOSEPH: I said maybe they should just be told to  
21 rely on their recollection. And then the Judge was  
22 starting to answer me.

23 THE COURT: I was just going to say that they need to  
24 rely on their recollection and the testimony.

25 MS. JOSEPH: Yes, Your Honor. That's sounds

1 appropriate.

2 MR. GROSE: I would add that all the testimony is in,  
3 like you told them.

4 And I would, also, note on the record that I believe  
5 this note establishes prejudice for our objections to  
6 those photographs coming into evidence.

7 THE COURT: Do you want me to write all that?

8 MR. GROSE: Well, actually, I would like you -- no.  
9 I'm just putting on the record that I think this question  
10 indicates prejudice to the admission of those exhibits.

11 THE COURT: Let me ask you. As opposed to me  
12 bringing them out, are both sides okay with me writing on  
13 here that all of the relevant evidence and testimony is  
14 in? That's all I was going to put --

15 MR. GROSE: That's perfect.

16 MS. JOSEPH: Well, can you write you must rely on  
17 your --

18 THE COURT: You tell me what you want.

19 MS. JOSEPH: All of the relevant evidence is in,  
20 period. You must rely on your own recollections.

21 MR. GROSE: I don't think the second part is  
22 necessary, but I don't object to it.

23 MS. JOSEPH: Of the testimony received.

24 THE COURT: Okay. I'm just going to put, all of the  
25 relevant evidence is in. Rely on the testimony presented.

1 MS. JOSEPH: Okay.

2 MR. GROSE: That's perfect.

3 MS. JOSEPH: Thank you, Your Honor.

4 (WHEREUPON, Court's Exhibit No. 11 was marked for  
5 identification and admitted into evidence.)

6 (WHEREUPON, the proceedings were recessed at  
7 approximately 3:52 p.m.)

8 (WHEREUPON, Court's Exhibit No. 12 was marked for  
9 identification and admitted into evidence.)

10 THE COURT: We have a note from the jury. I can tell  
11 you what the question is. They need a reprint of the  
12 verdict form on two. But I told them to write it out on a  
13 piece of paper so we could make it an exhibit.

14 MS. JOSEPH: Yes, Your Honor.

15 THE COURT: Y'all take a look at it.

16 MS. JOSEPH: Yeah. That looks great. Who wrote that  
17 has great handwriting.

18 THE COURT: Take a look at that.

19 MS. JOSEPH: That looks perfect.

20 MR. GROSE: Oh, is this the one you reprinted?

21 THE COURT: Is it okay just sending that one back?

22 MR. GROSE: Yes, sir.

23 (WHEREUPON, the proceedings were recessed at  
24 approximately 6:23 p.m.)

25 THE COURT: We have a verdict.

1 Bring the jury in.

2 (Pause.)

3 THE BAILIFF: Are you ready, Your Honor?

4 THE COURT: Yes, sir.

5 (WHEREUPON, the jury came into open court at  
6 approximately 6:43 p.m.)

7 THE COURT: Madam Forelady, has the jury reached a  
8 verdict?

9 JUROR #309, JULIE RICHARDSON: Yes, sir.

10 THE COURT: Mr. Bailiff, hand the verdict forms to  
11 the Clerk.

12 THE CLERK: Thank you.

13 THE COURT: Madam Clerk, please, publish the  
14 verdicts.

15 VERDICT

16 THE CLERK: The State of South Carolina v. Charles  
17 Dent, indictment #2014-GS-07-01673, we, the jury, find the  
18 Defendant guilty.

19 As to indictment #2014-GS-07-01674, the charge of  
20 criminal sexual conduct with a minor first degree, we, the  
21 jury, unanimously find the Defendant, Charles Dent, not  
22 guilty.

23 In count three, as to indictment #2014-GS-07-01672,  
24 the charge of disseminating obscene material to a person  
25 12 years old or younger, we, the jury, unanimously find

1 the Defendant, Charles Dent, guilty.

2 In count four, as to indictment #2014-GS-07-01671,  
3 the charge of disseminating obscene material to a person  
4 12 years old or younger, we, the jury, unanimously find  
5 the Defendant, Charles Dent, guilty.

6 THE COURT: All right.

7 MR. GROSE: I request the jury be polled, Your Honor.

8 THE COURT: All right. Poll the jury, Madam Clerk.

9 THE CLERK: Would you like me to use names or  
10 numbers?

11 THE COURT: Numbers.

12 THE CLERK: Juror #232, is this your verdict?

13 JUROR #232, MELANIE MARTIN: Yes, it is.

14 THE CLERK: Is it still your verdict?

15 JUROR #232, MELANIE MARTIN: Yes, it is.

16 THE CLERK: Juror #256, is this your verdict?

17 JUROR #256, ALEXES MITCHELL: Yes, it is.

18 THE COURT: Is it still your verdict?

19 JUROR #256, ALEXES MITCHELL: Yes, it is.

20 THE CLERK: Juror #383, is this your verdict?

21 JUROR #383, RICHARD WELKER: Yes, it is.

22 THE CLERK: Is it still your verdict?

23 JUROR #383, RICHARD WELKER: Yes, it is.

24 THE CLERK: Juror #279, is this your verdict?

25 JUROR #279, EDDIE PEARCE: Yes, it is.

1 THE CLERK: Is it still your verdict?  
2 JUROR #279, EDDIE PEARCE: Yes, it is.  
3 THE CLERK: Juror #172, is this your verdict?  
4 JUROR #172, TAKAYLA HOLMES: Yes, it is.  
5 THE CLERK: Is it still your verdict?  
6 JUROR #172, TAKAYLA HOLMES: Yes.  
7 THE CLERK: Juror #309, is this your verdict?  
8 JUROR #309, JULIE RICHARDSON: Yes, it is.  
9 THE CLERK: Is it still your verdict?  
10 JUROR #309, JULIE RICHARDSON: Yes, it is.  
11 THE CLERK: Juror #268, is this your verdict?  
12 JUROR #268, PAULA NOVAK: Yes, it is.  
13 THE CLERK: Is it still your verdict?  
14 JUROR #268, PAULA NOVAK: Yes.  
15 THE CLERK: Juror #311, is this your verdict?  
16 JUROR #311, SINDODA ROBINSON: Yes, it is.  
17 THE CLERK: Is it still your verdict?  
18 JUROR #311, SINDODA ROBINSON: Yes, it is.  
19 THE CLERK: Juror #278, is this your verdict?  
20 JUROR #278, CHRISTOPHER PATRILLA: Yes.  
21 THE CLERK: Is it still your verdict?  
22 JUROR #278, CHRISTOPHER PATRILLA: Yes.  
23 THE CLERK: Juror #334, is this your verdict?  
24 JUROR #334, PETER SINGLETON: Yes, it is.  
25 THE CLERK: Is it still your verdict?

1 JUROR #334, PETER SINGLETON: Yes, it is.

2 THE CLERK: Juror #266, is this your verdict?

3 JUROR #266, LEONARD NEWTON: Yes.

4 THE CLERK: Is it still your verdict?

5 JUROR #266, LEONARD NEWTON: Yes.

6 THE COURT: All right. Thank you, ma'am.

7 All right. Ladies and gentlemen of the jury, your  
8 services here this week has ended. I appreciate --  
9 everyone here appreciates your service. We appreciate the  
10 time you've spent. And at this time, I'm going to excuse  
11 you.

12 And thank you so much for being attentive all week  
13 long. I know it's been a long week. It's been a  
14 difficult time. But I, certainly, want to thank you on  
15 behalf of the State of South Carolina and, certainly, on  
16 behalf of the parties involved in this matter.

17 So you're excused -- hold on.

18 THE CLERK: I'm sorry.

19 THE COURT: Hold on a second. Have a seat.

20 Any questions of the jury by anyone?

21 MS. JOSEPH: No questions from the State.

22 MR. GROSE: Nothing additional.

23 THE COURT: All right. Thank you, ma'am. Thank you  
24 all.

25 I appreciate it.

1 (WHEREUPON, the jury was excused from open court at  
2 approximately 6:47 p.m.)

3 MS. JOSEPH: Your Honor, we just need a few moments  
4 to prepare the sentencing sheets.

5 And I believe the victim's mother, at least, would  
6 like to be heard.

7 THE COURT: All right. Any motions, Ms. Joseph?

8 MS. JOSEPH: I apologize.

9 THE COURT: Any motions?

10 MS. JOSEPH: No motions from the State.

11 MR. GROSE: I want to take the 10 days as provided by  
12 the rule, Your Honor.

13 THE COURT: All right.

14 (Pause.)

15 THE COURT: Juror #332 indicated that he was not  
16 polled. So I'm bringing that juror back in for that sole  
17 purpose.

18 Did you -- that's what he says.

19 THE CLERK: Okay. I'm sorry, Your Honor. I don't  
20 recall. I thought that I did call #332, but I may not  
21 have.

22 THE COURT: All right. So is it okay? I'm going to  
23 bring that juror in just for that limited purpose.

24 MS. JOSEPH: Yes. No objection, Your Honor. That's  
25 okay.

1 (WHEREUPON, Juror #332, Robert Simonsen, entered the  
2 courtroom.)

3 THE COURT: Juror #332, yes, sir. You indicated you  
4 had not been polled?

5 JUROR #332, ROBERT SIMONSEN: That is correct.

6 THE COURT: All right. Madam Clerk.

7 THE CLERK: Is this your verdict?

8 JUROR #332, ROBERT SIMONSEN: It is.

9 THE CLERK: Is this still your verdict?

10 JUROR #332, ROBERT SIMONSEN: Yes, ma'am, it is.

11 THE CLERK: Thank you.

12 THE COURT: Thank you, sir.

13 (WHEREUPON, Juror #332, Robert Simonsen, exited the  
14 courtroom.)

15 MS. JOSEPH: Your Honor, I'm handing you up the  
16 verdict forms and the sentencing sheets.

17 And, Your Honor, the State would like a chance to be  
18 heard whenever Your Honor is ready.

19 THE COURT: All right. Is the State ready to  
20 proceed?

21 MS. JOSEPH: Yes, Your Honor.

22 THE COURT: Is the Defense ready to proceed?

23 MR. GROSE: Yes, Your Honor.

24 THE COURT: Yes, ma'am.

25 MS. JOSEPH: I'm going to be very brief. I know

1 we've been here for a very long time. And the victim's  
2 mother, Lori Mayo, would like to be heard.

3 The State in this case is asking for life. And let  
4 me tell you why. The State demonstrated at trial that  
5 this was careful grooming done over a period of over a  
6 year.

7 In addition, something that was mentioned at trial,  
8 but something I was careful to stay away from because the  
9 Defendant was not charged with incest, is this was his  
10 granddaughter. That's a special relationship that was  
11 violated as part of this heinous crime.

12 And then, finally, this is evidence that could not  
13 come in at trial, but Your Honor heard about the evidence  
14 extensively in pre-trial motions. Large amounts of child  
15 pornography were found on the Defendant's computer as part  
16 of the investigation in this case. Taking all that  
17 evidence into consideration, Your Honor, we think that  
18 this man deserves life in prison.

19 And now -- Your Honor, if now is the appropriate  
20 time, we would like the victim's mother to be heard.

21 THE COURT: Yes, ma'am.

22 MS. LORI MAYO: This has not been easy in any way for  
23 me or my daughter. Since the day that she told me, I have  
24 not been able to talk to her about it, just to make sure  
25 that there was no indication that she was coached in any

1 way.

2 For four years now, my daughter has not been able to  
3 heal from this, and neither have I. We have watched over  
4 our shoulder every single day. I keep moving from place  
5 to place because I'm afraid who's going to come after us.

6 I knew as soon as I called the police that he would  
7 never come near my daughter again. We had the option many  
8 times to back out and to not put her through this this  
9 week. My daughter and I both know that we are doing this  
10 to make sure it doesn't happen to anyone else.

11 I don't have a recommendation. I feel like you guys  
12 know what you're doing. And that's all.

13 MS. JOSEPH: And that's it from the State, Your  
14 Honor.

15 THE COURT: Mr. Grose.

16 MR. GROSE: Your Honor, you've already heard a little  
17 bit about Mr. Dent. They've not provided you with any  
18 criminal history because, essentially, he doesn't have  
19 any. He only has, as I understand it, a simple possession  
20 of marijuana conviction from his late teens before he went  
21 into the military.

22 You know, obviously, he has a supportive family and a  
23 support structure that have been here throughout this  
24 week, you know. I think from what I've been able to  
25 learn, he had, you know, a distinguished career when he

1 was in the Navy. And we'd ask that you take all of that  
2 into account.

3 There is a -- a minimum sentence that you have to  
4 impose, which is, essentially, going to be a life sentence  
5 for him. We would ask that you impose the minimum  
6 sentence on the criminal sexual conduct and run any of the  
7 other sentences concurrent.

8 He's, also, been on a GPS home detention since he was  
9 arrested in Alabama. And under the statute, he can be  
10 given credit for the entire time since the date of his  
11 arrest through today. So we'd ask that you do that as  
12 well, Your Honor.

13 THE COURT: What's the State's position regarding  
14 the --

15 MS. JOSEPH: Your Honor, that is in the Court's  
16 discretion. We'd, obviously, ask that that not be -- not  
17 take into effect. This case, frankly, took far too long  
18 to come to court. The State's aware of that.

19 Your Honor, yes, he has no criminal history. But you  
20 should consider that he has a pending child porn case in  
21 Alabama. We ask that he not be given credit for that  
22 time.

23 And, again, we are asking for life because this is --  
24 this was a violation of his relationship with a blood  
25 relative. This is a violation of a little girl. This was

1 careful grooming. And, ultimately, he had child  
2 pornography on his computer. And he was taking sexual in  
3 nature photos of his granddaughter.

4 For those reasons, Your Honor, we think the minimum  
5 is just not enough in this case.

6 THE COURT: Anything else?

7 MR. GROSE: No, sir.

8 THE COURT: All right. Mr. Dent, anything you would  
9 like to say?

10 DEFENDANT DENT: I have nothing to say.

11 SENTENCING

12 THE COURT: The State of South Carolina v. Charles  
13 Dent, indictment number 2014-GS-07-01673, charging the  
14 Defendant with criminal sexual conduct in the first degree  
15 the victim under 11, the sentence of the Court is that  
16 you, Charles Dent, be sentenced to the South Carolina  
17 Department of Corrections for a period of 30 years.

18 On indictment 2014-GS-07-01672, State of South  
19 Carolina v. Charles Dent, charging Charles Dent with  
20 disseminating obscene materials to a person 12 years old  
21 or younger, the sentence of the Court is you, Charles  
22 Dent, be sentenced to the South Carolina Department of  
23 Corrections for a period of 15 years. That sentence is to  
24 run concurrent.

25 On indictment 2014-GS-07-01671, the State of South

1        Carolina v. Charles Dent, charging Charles Dent with  
2        disseminating obscene material to a person 12 years old or  
3        younger, the sentence of the Court is that you, Charles  
4        Dent, be sentenced to the South Carolina Department of  
5        Corrections for a period of 15 years. That sentence is,  
6        also, to run concurrent.

7                Good luck to you, sir.

8                MR. GROSE: And did you make a decision on the house  
9        arrest?

10               THE COURT: I will not do that.

11               MS. JOSEPH: Thank you, Your Honor.

12               THE COURT: All right. Thank you.

13        \*\*\*\*\*END OF TRANSCRIPT OF RECORD\*\*\*\*\*

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA            )  
 COUNTY OF GREENVILLE            )

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Beaufort County, South Carolina, on the 21st, 22nd, 23rd, and 24th days of May, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

November 20, 2018

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Hollie M. Jenkins, Court Reporter

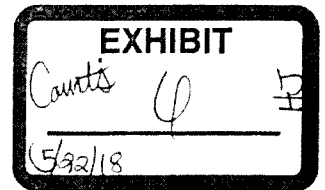
My Commission Expires: 09/24/20

**Subject:** State v. Dent

**Date:** Thursday, April 5, 2018 at 1:06:02 PM Eastern Daylight Time

**From:** Alex Joseph

**To:** Rebekah Luttrell, April Winston, Charles Grose



Good afternoon:

Here are the notes from Rebekah's (cc-ed here) and April's meeting with John Camello (this was who Victim first disclosed to):

He said he grew up in Beaufort and graduated from Beaufort HS. After graduation he was a volunteer firefighter and also did some work with PD. In the late 90's he moved back to Florida (where he was born) to be close to family. He lived in south Florida where he met/married his wife. From 2002-2012 he worked as a college administrator at a few different colleges in South Florida. He also was a private investigator for 10 years in Florida working with a couple different agencies - mostly worked on child runaway cases, child abuse/molestation cases, and child drug cases. In 2009 his wife and step daughter moved to LA and the two lived separate for three years until divorce in 2012.

Camello suffered from severe depression after the divorce and attempted suicide. Started counseling and during these sessions disclosed for the first time that he was sexually abused by a male family friend when he was 12 years old for approx a year.

Camello moved back to Beaufort in 2013. First job back was a pool security guard with the apartment complex where Lori and victim lived. He met them at the pool and would talk with Lori. He said Lori was very outgoing, and the kids were both well-behaved, sociable and outgoing. Eventually he and Lori started dating. He would occasionally go to the house for dinner and to hang out. He always hung out with the kids in the living room. The D picked the family up from the pool twice and Camello briefly met him. He seemed like a normal grandpa, but they never had a lengthy conversation. Lori told Camello the D was helping pay bills, would visit occasionally and was retired navy and lived out of state.

A month or two into dating Lori, Camello started noticing signs from J.M. that raised red flags. He said she was affectionate towards him, liked to be touching people and tried kissing Camello on the cheek. She would try to sit in his lap often, which made him uncomfortable. Also she would dance and "shake her booty" or "twerk" in front of him, which he found odd for her age. Both the victim and Adam would call Camello dad, and Lori told the kids that Camello "could be there new dad." When out in public, victim would introduce Camello as "my new dad." This also made Camello uncomfortable and he found it a little odd.

After he started dating Lori, he learned that she used to be a stripper in Florida and she smoked marijuana. He decided this was not a relationship he wanted to continue. He eventually moved into the house, but he said it was purely as a renter, and he told Lori he was moving in to help her pay bills and rent a room from her. He can't remember if J.M. disclosed before or after he moved into the house.

J.M. Disclosure: He can't remember specific details, but does remember they were sitting in the living room, possibly on the couch. Said Adam was in the room, because he was never alone with the kids, he was always with both of them and/or Lori was with him when he was with the kids. He doesn't remember if J.M. just told him or if he asked her questions, but J.M. disclosed that her grandfather had touched her and it made her uncomfortable. She told him her grandfather had kissed her on the mouth. After she disclosed J.M. became very upset and emotional. He said J.M. was very clear, no confusion when she disclosed. She seemed like she'd been wanting someone to ask and wanting to tell someone. Camello immediately told Lori and suggested she report to law enforcement. He said Lori called police that same night. He was working two jobs at the time, Lowes at night. He said he went to bed after the disclosure to get some sleep before his night shift and Lori woke him up because police were at the house to take a report. He told her to just talk to them and tell them everything she knew. He did not give a statement until later. Levan came to the house and took two different statements from him about each disclosure. (Prior to getting a statement, Levan read Camello his rights and Camello signed a waiver.

Second disclosure: He doesn't remember exactly how long after the first disclosure. He said after the first disclosure J.M. attempted to put her mouth new Camello's groin area over his clothes a couple times, and this raised more red flags that more happened than what she originally disclosed. He said he asked her if anything else happened, and that's when she wrote the note that D "made her lick it." He said J.M. face was "full of fear" when she disclosed the second time and she again became very emotional. After the second disclosure Camello decided to remove himself from the situation, and told Lori in front of Levan that he could not be alone with the kids anymore. Camello said he asked Adam if D ever made him uncomfortable and Adam said no. He said Adam never disclosed anything about D. Said Lori disclosed abuse by D when she was younger well-after J.M. disclosures. Shortly after the second disclosure, Camello moved out and back into the Suburban. Lori had trouble paying bills after Camello moved out and he was able to help her with a room at the Suburban while she got back on her feet.

He found out they were moving the day before they left. He didn't know where they were going and hadn't kept in touch after they moved.

Neighbor Incident: He did remember there was a neighbor who came by asking to play with J.M. He said this happened after both disclosures, and he was already living at the house. He said the neighbor was much older than J.M. maybe late teens/early 20s. He thinks he was mentally handicapped. He told the guy to leave because he was too old to be playing with J.M. . . . Another day the guy came back and was sitting in the backyard. Camello physically removed him from the backyard and had a talk with the guy's mom. They also filed a police report. He asked J.M. about the guy, and she was adamant nothing happened.

Thanks,

Alex  
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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
Court of General Sessions  
Alex Kinlaw, Jr., Circuit Court Judge

Appellate Case No. 2018-001257

RECEIVED  
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SC Court of Appeals

The State,..... Respondent,

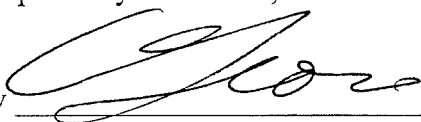
v.

Charles Dent, ..... Appellant.

**Rule 210, SCRCP Certification**

The Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully Submitted,

By 

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*Attorney for Charles Dent*

October 29, 2019  
Greenwood, South Carolina