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S.C. SUPREME COURT

**THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

**CERTIORARI TO GREENVILLE COUNTY
Court of Common Pleas
Alex Kinlaw, Jr. Circuit Court Judge**

**Appellate Case No. 2019-000907
Lower Case № 2017-CP-23-5901**

Jerald D. Gaskins, Jr. #00362923. Petitioner,

vs.

State of South Carolina Respondent

**APPENDIX
VOLUME I**

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STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

STATE OF SOUTH CAROLINA,)

vs.)

JERALD DENTON GASKINS, JR.,)
DEFENDANT.)

COURT OF GENERAL SESSIONS

2013-GS-23-03231

2013-GS-23-03232

2013-GS-23-03233

2013-GS-23-03234

2013-GS-23-03235

2013-GS-23-03236

TRANSCRIPT OF RECORD

ORIGINAL

February 4th and 5th, 2015
Greenville, South Carolina

B E F O R E:

THE HONORABLE D. GARRISON HILL, JUDGE; and a jury.

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

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Assistant Solicitor

RANDALL L. CHAMBERS, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

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Greenville County.

P R O C E E D I N G S

THE COURT: Good morning.

This is --

Well, Solicitor, I'll let you announce the case.

MS. HODGE: Thank you, Your Honor.

We're here for the trial of State v. Jerald Denton Gaskins, Jr. Indictments 2013-GS-23-3231; 3232; 3233; 3234; 3235; 3536, three counts of criminal sexual conduct with a minor second degree, and three counts of lewd act upon a minor.

THE COURT: Okay. Mr. Gaskins is present with his counsel, Mr. Chambers.

And are there any pre-trial matters?

I see a motion from the State.

Is there anything other than this motion?

MS. HODGE: Your Honor, the State has informed Defense that we may have a Lyle witness, 404(B), under common scheme and plan. That witness is going to be here at lunch time.

I know the Court usually likes to hear the testimony first. I'm happy to address what I think the similarities would be at this point. But if we wanted to just wait until the lunch break and address that, I'm happy to do that as well.

MR. CHAMBERS: I -- my position would be just to

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1 wait, Your Honor.

2 THE COURT: Okay. We'll wait.

3 MS. HODGE: And then there's the State's motion under
4 the rape shield statute. I told Mr. Chambers I have not
5 heard anything from him that he intended to introduce
6 anything. I know it's just a matter, of course, of motion
7 I normally file.

8 MR. CHAMBERS: Yeah. I don't have any information
9 relative to any past sexual history. I don't intend to
10 offer anything like that. I don't think that's going to
11 be an issue.

12 THE COURT: Okay. Well, is there any voir dire
13 either of you wish me to ask, specifically, other than the
14 standard ones?

15 MR. CHAMBERS: In cases like this, Your Honor, I
16 normally ask the Court to inquire if anybody on the jury
17 pool or immediate family members has ever been accused of
18 or a victim of any kind of sexual type of assault offense.

19 THE COURT: Okay. And do you have any witnesses
20 different than the ones on this list?

21 MR. CHAMBERS: I do, Your Honor. And I came straight
22 from home this morning and, apparently, I left my list at
23 the office. And my paralegal is en route with that list
24 right now. So I hope to have it any minute. I apologize.

25 THE COURT: Oh, okay. You don't know the names?

1 MR. CHAMBERS: I do. I can tell you right now.

2 THE COURT: Yes. Just tell me the names. That's all
3 we've got to do.

4 MR. CHAMBERS: I have a Wilma Gosnell, Jacqueline
5 Parker, Michael Garner, Jerald Gaskins, Sr., and Gina
6 Gaskins.

7 And I'm going to provide addresses to the Solicitor
8 now.

9 THE COURT: Is it pronounced Mushenko?

10 MS. HODGE: Mucienko.

11 THE COURT: Mucienko.

12 All right. Anything else before we bring the jury
13 panel up?

14 MR. CHAMBERS: Not from the Defense, Your Honor.

15 MS. HODGE: Not from the State.

16 THE COURT: Okay.

17 MR. CHAMBERS: Your Honor, one other thing before we
18 get started. I would request that the witnesses be
19 sequestered.

20 THE COURT: All right.

21 MS. HODGE: Your Honor, we don't have any problem
22 with that, other than the fact we -- obviously, the victim
23 can be allowed to be in here. I have not asked her how
24 much she would like to be in here. She's still a
25 juvenile. But -- and then Investigator Perry is my lead

1 investigator.

2 THE COURT: I grant the motion with that condition.

3 (Pause.)

4 (WHEREUPON, the jury panel entered the courtroom.)

5 THE COURT: Good morning, ladies and gentlemen.

6 We're about to start the trial of the State v. Jerald
7 Denton Gaskins, Jr.

8 And this is another criminal case. So I'm going to
9 go over some principles of criminal law that apply to this
10 matter. And the first is that any time someone is charged
11 with a crime, no matter what the crime may be, they're
12 always presumed innocent. No one has to prove himself
13 innocent or prove himself not guilty.

14 The indictments in this case have been pled to not
15 guilty by Mr. Gaskins. So that puts the burden of proof
16 entirely on the State. Mr. Gaskins has no burden of
17 proof. He doesn't have to offer any evidence or
18 explanation whatsoever. And these indictments I'm about
19 to read to you don't constitute evidence. They don't even
20 raise a suspicion of guilt.

21 An indictment is simply the way a citizen is notified
22 of what they're charged with. And it is the ticket, so to
23 speak, that allows the State to come in the courtroom and
24 begin a criminal case against a defendant.

25 So with those principles in mind, I'm going to read

1 to you these indictments. There are six of them. And the
2 first one is 2013-GS-23-03231. The allegation is that
3 Jerald Denton Gaskins, Jr., did in Greenville County
4 between March 2012 and August 2012 commit a sexual battery
5 on initials VICTIM who was 14 years of age or less, but who
6 was, at least, 11 years of age. This is in violation of
7 Section 16-3-655(B) (1) of the South Carolina Code of Laws.

8 The next indictment is 2013-GS-23-03232. It alleges
9 that Jerald Denton Gaskins, Jr., did in Greenville County
10 between March 2012 and August 2012 commit a sexual battery
11 on initials VICTIM who was 14 years of age or less, but who
12 was, at least, 11 years of age. This is in violation of
13 Section 16-3-655(B) (1) of the South Carolina Code of Laws.

14 The next indictment is 2013-GS-23-03233. It alleges
15 that Jerald Denton Gaskins, Jr., did in Greenville County
16 between August 2011 and November 2011 willfully and lewdly
17 commit or attempt a lewd and lascivious act upon or with
18 the body or its parts of initials VICTIM a child under the
19 age of 16 years, with the intent of arousing, appealing to
20 or gratifying the lusts, passions, or sexual desires of
21 himself or such child. This is in violation of Section
22 16-15-140 of the South Carolina Code of Laws.

23 The next indictment is 2013-GS-23-03234, which
24 alleges that Jerald Denton Gaskins, Jr., did in Greenville
25 County between August 20th, 2011 and November 2011 commit

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1 a sexual battery on initials VICTIM who was 14 years of age
2 or less, but who was, at least, 11 years of age. This is
3 in violation of Section 16-3-655 (B) (1) of the South
4 Carolina Code of Laws.

5 The next indictment alleges that Jerald Denton
6 Gaskins, Jr. -- and this is 2013-GS-23-03235, that Jerald
7 Denton Gaskins, Jr., did in Greenville County between
8 March 2011 and August 2011 commit a sexual battery on
9 initials VICTIM who was 14 years of age or less, but who
10 was, at least, 11 years of age. This is in violation of
11 Section 16-3-655 (B) (1) of the South Carolina Code of Laws.

12 The last indictment is 2013-GS-23-03236, which
13 alleges that Jerald Denton Gaskins, Jr., did in Greenville
14 County between March 2011 and August 2011 willfully and
15 lewdly commit or attempt a lewd and lascivious act upon or
16 with the body or its parts of VICTIM a child under the age
17 of 16 years, with the intent of arousing, appealing to, or
18 gratifying the lusts, passions, or sexual desires of
19 himself or such child. This is in violation of Section
20 16-15-140 of the South Carolina Code of Laws.

21 Now, those are the indictments, which are merely
22 allegations.

23 JURY QUALIFICATION

24 THE COURT: And the first question is, is there
25 anyone here who is kin to or related to in any way by

1 blood or marriage Jerald Denton Gaskins, Jr.?

2 Mr. Gaskins, if you can just stand up so everybody
3 can see you.

4 Thank you.

5 If so, please, stand.

6 (WHEREUPON, there was no response.)

7 THE COURT: Does anyone have any --

8 You can have a seat, sir.

9 Thank you.

10 Does anyone have any social, business, or personal
11 relationship with Mr. Gaskins? If so, please, stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: The people who may testify in this case
14 include the following: Robert Perry, Paul Floyd, Patrick
15 Kelly. Those three gentlemen are with the sheriff's
16 office. VICTIM [REDACTED] Sandra Mucienko, Jamie
17 Mucienko, Wilma Gosnell, Jacqueline Parker, Michael
18 Garner, Rachel Lane Gaskins, Jerald Gaskins, Sr., #1 [REDACTED]
19 Barton, Mary Fran Croswell, Gina Gaskins, and Erica Van
20 Wagner.

21 Is that all the witnesses?

22 MR. CHAMBERS: Yes, Your Honor.

23 THE COURT: Okay. Is anyone related by blood or
24 marriage, or kin to any of theses potential witnesses? If
25 so, please, stand.

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1 (WHEREUPON, there was no response.)

2 THE COURT: Does anyone have any business, personal,
3 or social relationship with any of those potential
4 witnesses? If so, please, stand.

5 (WHEREUPON, there was no response.)

6 THE COURT: I'm going to ask the lawyers to introduce
7 themselves and the people who are at their table who have
8 not previously been introduced.

9 Yes, ma'am, Ms. Hodge.

10 MS. HODGE: Thank you, Your Honor.

11 My name is Kris Hodge. I'm an assistant solicitor
12 with the Thirteenth Judicial Circuit. This is Melissa
13 Bishop. She, also, works with the Solicitor's office.
14 She's my investigator. And this is Investigator Bob Perry
15 with the Greenville County Sheriff's Office.

16 THE COURT: Yes, sir, Mr. Chambers.

17 MR. CHAMBERS: My name is Randy Chambers. I practice
18 law primarily here in Greenville. And I'm representing
19 Mr. Gaskins today.

20 THE COURT: Thank you.

21 Is anyone related by blood or marriage or kin to any
22 of the lawyers or anyone they introduced? If so, please,
23 stand.

24 (WHEREUPON, there was no response.)

25 THE COURT: Does anyone have any personal, social, or

1 business relationship with any of these lawyers or anyone
2 they introduced? If so, please, stand.

3 JUROR 135, KATHRINE NEPON: We go to the same -- Kris
4 and I go to the same church. And we know each other from
5 the gym as well.

6 THE COURT: All right. Well --

7 JUROR 135, KATHRINE NEPON: Just socially to speak,
8 not...

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

11 JUROR KATHRINE NEPON: No, sir.

12 THE COURT: You could decide the case on the evidence
13 and the law?

14 JUROR #135, KATHRINE NEPON: Yes, sir.

15 THE COURT: Now, tell me your name.

16 JUROR #135, KATHRINE NEPON: Kathrine Nepon.

17 THE COURT: Has anyone ever been represented by
18 either Mr. Chambers or Ms. Hodge, or been involved in a
19 dispute, or transaction, or lawsuit, or charge where the
20 other side was represented by either Ms. Hodge or
21 Mr. Chambers? If so, please, stand.

22 (WHEREUPON, there was no response.)

23 THE COURT: Has anyone ever been employed by or had a
24 member of their immediate family be employed by the
25 Solicitor's Office, which is the prosecutor's office here

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1 in Greenville and Pickens Counties? If so, please, stand.

2 (WHEREUPON, there was no response.)

3 THE COURT: Has anyone here or had a member of their
4 immediate family be employed by any type of prosecutor's
5 office or law enforcement office or agency? If so,
6 please, stand.

7 JUROR #143, CAROLYN PERRY: In Greenville County
8 or --

9 THE COURT: Anywhere.

10 Okay. We're just going to go from --

11 JUROR #143, CAROLYN PERRY: I have several
12 brother-in-law's that are highway patrol, city police
13 officers.

14 THE COURT: And your name, ma'am?

15 JUROR #143, CAROLYN PERRY: Carolyn Perry.

16 THE COURT: Thank you, Ms. Perry.

17 JUROR #107, COREY LEE: And my brother is in law
18 enforcement in Berkley County.

19 THE COURT: Your name, sir?

20 JUROR #107, COREY LEE: Corey Lee.

21 THE COURT: Thank you.

22 JUROR #178, TAMMY THURSTON: My brother-in-law used
23 to be a Greenville County Sheriff's Office police officer.

24 THE COURT: What's your name?

25 JUROR #178, TAMMY THURSTON: Tammy Thurston.

1 THE COURT: What's your name?

2 JUROR #178, TAMMY THURSTON: Tammy Thurston.

3 THE COURT: Okay. Thank you.

4 Yes, sir.

5 JUROR #122, ROBERT MCKEE: Bob McKee.

6 Law enforcement officer, United States Air Force.

7 And I served as a police officer at a police department in
8 Colorado.

9 THE COURT: Thank you.

10 JUROR #181, LISA TRULL: My sister and brother-in-law
11 are officers in Charlotte, North Carolina.

12 THE COURT: Tell me your name, ma'am.

13 JUROR #181, LISA TRULL: Lisa Trull.

14 THE COURT: Thank you.

15 Of those of you who just stood and responded, do you
16 believe you -- do any of you believe you could not be fair
17 and impartial in this case given the family connection
18 with law enforcement? If so, please, stand.

19 (WHEREUPON, there was no response.)

20 THE COURT: This case involves allegations of a
21 sexual offense. So I'm going to ask several questions now
22 that are going to ask for personal information. And if
23 you need to respond, we will do it up here on the record
24 in a little more private atmosphere.

25 So the questions are as follow: First of all, has

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1 anyone been a member of or a contributor to, whether it's
2 your time or your money, any organization whose primary
3 purpose is to promote law enforcement or victim's rights?

4 The second question is: Is there anyone here who has
5 been a victim of, or arrested for, or convicted of any
6 type of sexual offense?

7 And, finally, is there anyone who does not believe,
8 given the nature of the allegations, they could give
9 either the State or the Defense a fair and impartial
10 trial?

11 In other words, is there anyone who has such strong
12 feelings about these types of offenses that they do not
13 feel they could be fair and impartial, and could not base
14 their decision on the evidence and the law?

15 So those are the questions. If you need to respond,
16 as I said, we'll do it up here in a little more private
17 setting.

18 JUROR #121, AUDREY MCINERNEY: Come up?

19 THE COURT: Yes.

20 (WHEREUPON, a sidebar was held with the Court, the
21 attorneys, and Juror #121, Audrey McInerney.)

22 (WHEREUPON, Juror #121, Audry, McInerney, came
23 forward.)

24 THE CLERK: #121, Ms. McInerney.

25 THE COURT: Let me get you to stand right here.

1 She's got to be able to take down what's said.

2 JUROR #121, AUDREY MCINERNEY: I was sexually
3 molested when I was 12 years old by a great-uncle.

4 THE COURT: All right. Do you believe you could
5 still be fair and impartial in this case?

6 JUROR #121, AUDREY MCINERNEY: Uh-huh.

7 THE COURT: Is that a "yes" you could --

8 JUROR #121, AUDREY MCINERNEY: Yes. Sorry.

9 THE COURT: You could decide the case on the evidence
10 and the law?

11 JUROR #121, AUDREY MCINERNEY: Yes.

12 THE COURT: All right. Thank you.

13 (WHEREUPON, Juror #121, Audrey McInerney, was
14 seated.)

15 MR. CHAMBERS: What was her juror number?

16 THE COURT: #121.

17 MR. CHAMBERS: Thank you.

18 THE COURT: All right. Mr. Chambers, do y'all have
19 any more voir dire you want to ask?

20 MR. CHAMBERS: No. That satisfies me.

21 Thank you.

22 (WHEREUPON, the sidebar was concluded.)

23 THE COURT: Okay. Is there anyone who is aware of
24 any bias or prejudice they may have about any matter
25 involving this case, or anyone involved in the case? If

1 so, please, stand.

2 (WHEREUPON, there was no response.)

3 THE COURT: We'll proceed with the jury selection.

4 Yes, ma'am.

5 JURY SELECTION

6 THE CLERK: When I call your name, if you'll, please,
7 stand in place and then wait for further instructions.

8 Juror #111, Timothy March.

9 (WHEREUPON, Timothy March, a white male, stood.)

10 THE CLERK: What says the State?

11 MS. HODGE: Please excuse this juror.

12 THE CLERK: I'm sorry, Ms. Hodge. I couldn't --

13 MS. HODGE: I'm sorry. Please excuse this juror.

14 THE CLERK: You may be seated, sir. You have been
15 excused from this case.

16 Juror #135, Kathrine Nepon.

17 (WHEREUPON, Kathrine Nepon, a white female, stood.)

18 THE CLERK: What says the State?

19 MS. HODGE: Please present the juror.

20 THE CLERK: What says the Defendant?

21 MR. CHAMBERS: Excuse Ms. Nepon from this case,
22 please.

23 THE CLERK: All right. Ma'am, please be seated. You
24 have been excused from this case.

25 Juror #110, Caesar Machado.

1 (WHEREUPON, Caesar Machado, a white male, stood.)
2 THE CLERK: What says the State?
3 MS. HODGE: Please present the juror.
4 THE CLERK: What says the Defendant?
5 MR. CHAMBERS: Swear Mr. Machado, please.
6 THE CLERK: Sir, please, come have a seat in the jury
7 box.
8 Juror #175, Michael Sullivan.
9 (WHEREUPON, Michael Sullivan, a male, stood.)
10 THE CLERK: What says the State?
11 MS. HODGE: Please present the juror.
12 THE CLERK: What says the Defendant?
13 MR. CHAMBERS: Swear Mr. Sullivan, please.
14 THE CLERK: All right. Mr. Sullivan, please, have a
15 seat in the jury box.
16 Juror #122, Robert McKee.
17 (WHEREUPON, Robert McKee, a white male, stood.)
18 THE CLERK: What says the State?
19 MS. HODGE: Please present the juror.
20 THE CLERK: What says the Defendant?
21 MR. CHAMBERS: Excuse Mr. McKee from this case,
22 please.
23 THE CLERK: All right. Sir, please, be seated. You
24 have been excused from this case.
25 Juror #170, Edward Snow.

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1 (WHEREUPON, Edward Snow, a white male, stood.)
2 THE CLERK: What says the State?
3 MS. HODGE: Please present the juror.
4 THE CLERK: What says the Defendant?
5 MR. CHAMBERS: Swear Mr. Snow, please.
6 THE CLERK: Mr. Snow, please, bring your things.
7 Come have a seat in the jury box.
8 Juror #9, Audrey Ballenger.
9 (WHEREUPON, Audrey Ballenger, a white female, stood.)
10 THE CLERK: What says the State?
11 MS. HODGE: Please present the juror.
12 THE CLERK: What says the Defendant?
13 MR. CHAMBERS: Excuse Ms. Ballenger from this case.
14 THE COURT: All right, Ma'am, please, be seated.
15 Juror #152, Letitia Rhodes.
16 (WHEREUPON, Letitia Rhodes, a white female, stood.)
17 THE CLERK: What says the State?
18 MS. HODGE: Please present the juror.
19 THE CLERK: What says the Defendant?
20 MR. CHAMBERS: Swear Ms. Rhodes, please.
21 THE CLERK: Ms. Rhodes, please, come have a seat in
22 the jury box.
23 Juror #37, Barbara Cooke.
24 (WHEREUPON, Barbara Cooke, a white female, stood.)
25 THE CLERK: What says the State?

1 MS. HODGE: Please present the juror.

2 THE CLERK: What says the Defendant?

3 MR. CHAMBERS: Excuse Ms. Cooke from this case,
4 please.

5 THE CLERK: All right. Ma'am, please, be seated.

6 Juror #109, Regina Lysak.

7 (WHEREUPON, Regina Lysak, a white female, stood.)

8 THE CLERK: What says the State?

9 MS. HODGE: Please present the juror.

10 THE CLERK: What says the Defendant?

11 MR. CHAMBERS: Swear Ms. Lysak, please.

12 THE CLERK: Ma'am, please, come have a seat in the
13 jury box.

14 Juror #7, Kevin Bain.

15 (WHEREUPON, Kevin Bain, a white male, stood.)

16 THE CLERK: What says the State?

17 MS. HODGE: Please present the juror.

18 THE CLERK: What says the Defendant?

19 MR. CHAMBERS: Excuse Mr. Bain from this case,
20 please.

21 THE CLERK: All right, sir. Please be seated.

22 Juror #76, Stephen Gresham.

23 (WHEREUPON, Stephen Gresham, a white male, stood.)

24 THE CLERK: What says the State?

25 MS. HODGE: Please present the juror.

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1 THE CLERK: What says the Defendant?
2 MR. CHAMBERS: Swear Mr. Gresham, please.
3 THE CLERK: Mr. Gresham, please, have a seat in the
4 jury box.
5 Juror #181, Lisa Trull.
6 (WHEREUPON, Lisa Trull, a white female, stood.)
7 THE CLERK: What says the State?
8 MS. HODGE: Please present the juror.
9 THE CLERK: What says the Defendant?
10 MR. CHAMBERS: Excuse Ms. Trull from this case,
11 please.
12 THE CLERK: Please be seated.
13 Juror #62, Elizabeth Flak.
14 (WHEREUPON, Elizabeth Flak, a white female, stood.)
15 THE CLERK: What says the State.
16 MS. HODGE: Please present the juror.
17 THE CLERK: What says the Defendant?
18 MR. CHAMBERS: Excuse Ms. Flak from this case,
19 please.
20 THE CLERK: All right. Ma'am, please, be seated.
21 Juror #156, Sonya Robinson.
22 (WHEREUPON, Sonya Robinson, a black female, stood.)
23 THE CLERK: What says the State?
24 MS. HODGE: Please excuse this juror.
25 THE CLERK: All right. Ma'am, please, be seated.

1 Juror #13, Ralph Belcher.
2 (WHEREUPON, Ralph Belcher, a black male, stood.)
3 THE CLERK: What says the State?
4 MS. HODGE: Please excuse this juror.
5 THE CLERK: All right. Please be seated.
6 Juror #17, Blake Berreth.
7 (WHEREUPON, Blake Berreth, a white male, stood.)
8 THE CLERK: What says the State?
9 MS. HODGE: Please present the juror.
10 THE CLERK: What says the Defendant?
11 MR. CHAMBERS: Excuse Mr. Berreth from this case,
12 please.
13 THE CLERK: All right, sir. Please be seated.
14 Juror #83, Jerome Harris.
15 (WHEREUPON, Jerome Harris, a black male, stood.)
16 THE CLERK: What says the State?
17 (WHEREUPON, there was an interruption in the
18 courtroom.)
19 MS. HODGE: Please present the juror.
20 THE CLERK: Thank you.
21 What says the Defendant?
22 MR. CHAMBERS: I was distracted by the phone. What
23 number were we on?
24 THE CLERK: #83, Jerome Harris.
25 MR. CHAMBERS: Thank you.

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1 Swear Mr. Harris, please.

2 THE CLERK: Mr. Harris, please, come have a seat in
3 the jury box.

4 Juror #112, Alice Marks.

5 (WHEREUPON, Alice Marks, a white female, stood.)

6 THE CLERK: What says the State?

7 MS. HODGE: Please present the juror.

8 MR. CHAMBERS: Swear Ms. Marks, please.

9 THE CLERK: Thank you.

10 Ms. Marks, please, have a seat in the jury box.

11 Juror #36, Valerie Clark.

12 (WHEREUPON, Valerie Clark, a white female, stood.)

13 THE CLERK: What says the State?

14 MS. HODGE: Please present the juror.

15 THE CLERK: What says the Defendant?

16 MR. CHAMBERS: Swear Ms. Clark, please.

17 THE CLERK: Ms. Clark, please, have a seat in the
18 jury box.

19 Juror #107, Corey Lee.

20 (WHEREUPON, Corey Lee, a white male, stood.)

21 THE CLERK: What says the State?

22 MS. HODGE: Please present the juror.

23 THE CLERK: What says the Defendant?

24 MR. CHAMBERS: Excuse Mr. Lee from this case, please.

25 THE CLERK: All right, sir. Please have a seat.

1 Juror #143, Carolyn Perry.

2 (WHEREUPON, Carolyn Perry, a white female, stood.)

3 THE CLERK: What says the State?

4 MS. HODGE: Please present the juror.

5 THE CLERK: What says the Defendant?

6 MR. CHAMBERS: Excuse Ms. Perry from this case,
7 please.

8 THE CLERK: All right, ma'am. Please be seated.

9 Juror #121, Audrey McInerney.

10 (WHEREUPON, Audrey McInerney, a white female, stood.)

11 THE CLERK: What says the State?

12 MR. CHAMBERS: Your Honor, may we approach?

13 THE COURT: Sure.

14 (WHEREUPON, a bench conference was held.)

15 THE CLERK: What says the Defendant?

16 MR. CHAMBERS: Swear the juror.

17 MS. HODGE: I'm sorry. I didn't put it on the record
18 yet.

19 THE CLERK: I beg your pardon.

20 What says the State?

21 I beg your pardon.

22 MS. HODGE: Please present the juror.

23 THE CLERK: Thank you.

24 MR. CHAMBERS: Swear the juror.

25 THE CLERK: Thank you.

1 Ms. McInerney, please, have a seat in the jury box.
2 Juror #178, Tammy Thurston.
3 (WHEREUPON, Tammy Thurston, a white female, stood.)
4 THE CLERK: What says the State?
5 MS. HODGE: Please present the juror.
6 THE CLERK: What says the Defendant?
7 MR. CHAMBERS: Swear Ms. Thurston, please.
8 THE CLERK: Ma'am, please, have a seat in the jury
9 box.
10 Juror #188, Erik Weikel.
11 (WHEREUPON, Erik Weikel, a white male, stood.)
12 THE CLERK: What says the State?
13 MS. HODGE: Please present the juror.
14 THE CLERK: What says the Defendant?
15 MR. CHAMBERS: Swear Mr. Weikel, please.
16 THE CLERK: Sir, please, have a seat in the jury box.
17 Would you care for an alternate, sir?
18 THE COURT: Yes.
19 Let me talk to the lawyers real quick about
20 something.
21 (WHEREUPON, a bench conference was held.)
22 THE CLERK: For alternate one, Juror #147, Charles
23 Price.
24 (WHEREUPON, Charles Price, a white male, stood.)
25 THE CLERK: What says the State?

1 MS. HODGE: Please present the juror.

2 THE CLERK: What says the Defendant?

3 MR. CHAMBERS: Excuse Mr. Price from this case,
4 please.

5 THE CLERK: All right, sir. Please be seated.

6 Juror #126, John Melson.

7 (WHEREUPON, John Melson, a white male, stood.)

8 THE CLERK: What says the State?

9 MS. HODGE: Please excuse this juror.

10 THE CLERK: All right, sir. Please be seated.

11 Juror #50, Mary Devon.

12 (WHEREUPON, Mary Devon, a white female, stood.)

13 MS. HODGE: Please present the juror.

14 THE CLERK: Thank you.

15 What says the Defendant?

16 MR. CHAMBERS: Please excuse Ms. Devon from the case.

17 THE CLERK: All right, ma'am. Please be seated.

18 Juror #183, Patricia Waldrep.

19 MS. HODGE: Please present the juror.

20 THE CLERK: Thank you.

21 What says the Defendant?

22 MR. CHAMBERS: Swear Ms. Waldrep, please.

23 THE CLERK: Ma'am, please, have a seat in the juror
24 box.

25 For the second alternate, Juror #78, Priscilla

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1 Hamblin.

2 (WHEREUPON, Priscilla Hamblin, a white female,
3 stood.)

4 THE CLERK: What says the State?

5 MS. HODGE: Please present the juror.

6 THE CLERK: What says the Defendant?

7 MR. CHAMBERS: Swear Ms. Hamblin, please.

8 THE CLERK: All right. Ma'am, please, have a seat in
9 the jury box.

10 THE COURT: Any matters or motions related to the
11 selection process or the composition of the jury?

12 MS. HODGE: Not from the State.

13 MR. CHAMBERS: None from the Defense, Your Honor.

14 THE COURT: All right. I find it complied with all
15 statutory Constitutional requirements.

16 Ladies and gentlemen, you've been selected to be the
17 jury in the case of the State v. Jerald Denton Gaskins
18 Jr. And we will start the trial in just a few minutes.

19 I'm going to ask you to go to the jury room at this
20 point. Don't talk about the case. And we will have the
21 opening statements here in just a few minutes.

22 (WHEREUPON, the jury was excused from open court at
23 approximately 10:22 a.m.)

24 THE COURT: I don't know what happened with that
25 phone earlier, but it happens a lot since cell phones are

1 everywhere. But it reminded me, I read a story several
2 years ago about a Broadway play that was going on. It was
3 a very famous actor. I can't remember who it was. But he
4 was performing and somebody's phone in the audience went
5 off. And he just stopped and looked at them and said,
6 Tell them you're busy.

7 At any rate, y'all just need to go back downstairs if
8 you weren't chosen. And Ms. Olson will give you more
9 instructions.

10 Thank you.

11 (WHEREUPON, the remaining jury panel members exited
12 the courtroom.)

13 THE COURT: Anything before we have the opening
14 statements?

15 MS. HODGE: No, sir.

16 MR. CHAMBERS: No, Your Honor.

17 THE COURT: Okay. You can bring the jury out.

18 MS. HODGE: May I -- I'm sorry. I didn't realize we
19 were going to do that. I thought we were going to take a
20 break. But my victim and --

21 THE COURT: Well, we can take a break.

22 MS. HODGE: -- witnesses are in my office. Can I
23 bring them over?

24 THE COURT: Yes. We'll take a break and let y'all --
25 if you need to --

1 MS. HODGE: Thank you.

2 Sorry.

3 THE COURT: We'll just take a break.

4 MR. CHAMBERS: Your Honor, I just don't want there to
5 be any issues. But is it going to be okay for my client
6 to remain out on bond throughout the trial?

7 MS. HODGE: We would need to revisit that at the end
8 of today.

9 THE COURT: Okay.

10 MR. CHAMBERS: But he's fine today to sort of leave
11 the courtroom?

12 THE COURT: Yes, sir.

13 The -- I'm sure your lawyer has explained to you that
14 your bond is evaporated because the jury has been sworn.
15 All right. If -- and I have to tell everybody this in
16 your situation. But if for some reason you did not
17 return, we would continue the trial in your absence.

18 DEFENDANT GASKINS: I understand.

19 THE COURT: And if you were convicted, you'd be
20 sentenced in your absence.

21 So do you understand that, sir?

22 DEFENDANT GASKINS: Yes, sir, I do.

23 THE COURT: Okay. Thank you.

24 (WHEREUPON, a break was taken.)

25 THE COURT: Is everybody ready?

1 MR. CHAMBERS: Yes, sir.

2 MS. HODGE: Yes, sir.

3 THE COURT: Okay. Bring the jury in.

4 (WHEREUPON, the jury came into open court at
5 approximately 10:39 a.m.)

6 INTRODUCTORY REMARKS

7 THE COURT: Ladies and gentlemen, we're going to
8 begin the trial of the State v. Jerald Denton Gaskins,
9 Jr. And before we get underway, I just want to give you a
10 few preliminary remarks.

11 First of all, again, thank you for your service this
12 week.

13 And to let you know that the reason you were chosen
14 to sit on this particular case is because both sides
15 believe you can be fair and impartial, and you could
16 decide this case without any kind of bias, or prejudice,
17 or preconceived ideas.

18 So the lawyers have introduced themselves to you.
19 And I've introduced myself to you, I believe, earlier in
20 the week, but my name is Gary Hill. I'm one of the
21 circuit judges here in Greenville and Pickens Counties.
22 And there's some other people who are involved in the
23 trial process here in the courtroom who you may not have
24 met or been introduced to. And I'm going to introduce
25 them to you now to sort of demystify the surroundings a

1 bit more.

2 And the first person I'm going to introduce is the
3 court reporter, Hollie Jenkins. As you see, she's seated
4 in front of me. She takes down the proceedings, because
5 circuit court is a court of record. And then to her right
6 is Mary Troop, who is the -- one of the assistant clerks
7 of court. And she helped with the jury selection, as you
8 saw earlier, and helps things run efficiently during the
9 trial. And Lisa Garris is with her as well to her right.
10 She's, also, an assistant clerk of court.

11 And up here on the bench with me is Weston White.
12 She is my law clerk. She's a lawyer. And she helps me
13 with legal research and issues that arise during the
14 trials. And the bailiffs in this case are Mr. Bobby
15 Thompson here in the back, and Mr. James Sims here to my
16 left. And they're here for your assistance while you
17 serve on the jury.

18 Now, everybody I just introduced to you and,
19 certainly, the lawyers have done this and I have done it,
20 we've all taken an oath to do our jobs. And you're going
21 to take an oath to do your job. And then after you take
22 the oath, I'm going to tell you what your job is. But the
23 oath itself tells you in a nutshell what your
24 responsibilities are. So listen to the words very
25 carefully because they've been around a long time.

1 So, yes, ma'am.

2 THE CLERK: All right. Would you, please, stand and
3 raise your right hand for the oath. And the proper
4 response is "I willl."

5 (WHEREUPON, the jury was sworn at approximately
6 10:42 a.m.)

7 THE CLERK: Thank you.

8 Please be seated.

9 THE COURT: Any time a trial is held in circuit court
10 with a jury, there are always two judges. Our
11 Constitution requires that there be two judges. And
12 there's the judge of the law, which is the role that I
13 fulfill, and there's the judges of the facts, which is the
14 role you, the jury, fulfill.

15 Since my job is a lot easier than yours, I'm going to
16 tell you what my job is first. And that is to be the
17 judge of the law. And I have two main responsibilities.
18 The first is to rule on the admissibility of evidence.

19 Now, I know very little about this trial, not much
20 more than you do at this point. That's just the way our
21 system is set up. But I anticipate that at some point
22 during the trial, some party may object to evidence. And
23 don't hold it against a lawyer for objecting to evidence.
24 That's their job after all. They have to object. They
25 have an ethical duty to do that when they think evidence

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1 is improper.

2 But, nevertheless, if an objection is made, I have to
3 decide whether it's proper under the law. Usually, I can
4 do that right on the spot. Sometimes, we have to take a
5 break if things get complex. But, nevertheless, if I
6 sustain the objection, that just means the evidence is
7 improper for this particular case and you can't consider
8 it. If I overrule the objection, that means the evidence
9 is something you can consider during this trial.

10 The second job I have as the judge of the law is that
11 I will tell you the law that applies to the facts of this
12 case. And I'll do that at the end of the trial after
13 you've heard all the evidence and the arguments of the
14 lawyers.

15 Now, your job is much more difficult. You're the
16 judge of the facts. And our Constitution makes you the
17 exclusive judge of the facts. I'm not going to do
18 anything during this trial that will suggest to you or
19 indicate to you what I think the facts are, or what your
20 verdict should be. Even if I have an opinion, I could not
21 share it with you because you are the sole and exclusive
22 judge of the facts. And I'm not going to intrude on your
23 prerogative to determine the facts just as you would not
24 intrude on my prerogative to tell you what the law is.

25 So how do you determine what the facts are? You do

1 that by weighing and evaluating the evidence you're going
2 to hear during this trial.

3 Evidence consists of two sources. The first is by
4 way of sworn witness testimony. The second source of
5 evidence is by way of an exhibit. An exhibit is simply a
6 physical, tangible object. It might be a map, or a
7 photograph, or something of that nature. But you'll know
8 it's an exhibit. And you'll know it's evidence you can
9 consider in determining the facts because it will be back
10 in the jury room with you at the end of the trial and will
11 have a sticker on it that says exhibit number so and so.
12 Now, those are the only two things, typically, that you
13 can use to determine what the facts are.

14 So, as the judge of the facts, you will have to, by
15 necessity, determine the credibility of all the evidence.
16 So that means for every witness who takes the stand and
17 testifies, and every exhibit that's admitted into
18 evidence, you'll have to determine its believability.

19 In the case of a witness who testifies, I can give
20 you some general guidelines that you may or may not find
21 useful in gauging credibility. But you can consider, for
22 instance, what opportunity the witness had to observe the
23 things they're here to tell you about. You may consider
24 if they have some interest in the outcome of this case,
25 whether they have something to gain or lose by the

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1 decision in the case. That is, whether they're biased or
2 prejudiced towards someone or some issue in the case.

3 You may consider how their testimony stacks up to the
4 other evidence in the case, whether it's consistent or
5 inconsistent. You may consider their demeanor on the
6 stand. And you may use whatever it is you use in your
7 daily life to determine whether someone is being truthful.
8 You can use your common sense. It didn't evaporate when
9 you walked into the courthouse. So you will make this
10 decision, however, about credibility, I know, using your
11 good common sense and your sense of logic and reason and
12 not arbitrarily.

13 So the criminal process has very definite rules and a
14 structure. And I already went over with you some of the
15 principles of criminal law that, certainly, apply in this
16 trial. But just to briefly recap, Mr. Gaskins is presumed
17 innocent. And this presumption of innocence will
18 accompany him throughout the trial. And it can only be
19 removed if you find unanimously the State has proven each
20 and every element of the crime beyond a reasonable doubt.

21 Now, there are six indictments in this case. And, as
22 I told you, the indictments are not evidence. They're,
23 certainly, not witnesses or exhibits. So you may not draw
24 any conclusion from the mere fact that he has been charged
25 and indicted. He has pled not guilty to all of these

1 charges. And the burden of proof is not on him. It's on
2 the State. He has no burden whatsoever. He doesn't have
3 to produce any evidence or explanation. And the
4 allegations are simply that.

5 So you will have to weigh and evaluate the evidence
6 separately as to each charge, and decide each charge on
7 its own and not let your decision on one influence your
8 decision on the others. But those general principles of
9 criminal law apply in this case.

10 Now, how many of y'all have sat on a jury in a
11 criminal case before?

12 (WHEREUPON, one juror raised their hand.)

13 THE COURT: Well, those of you who haven't may know
14 from your own experience a little bit about how a criminal
15 trial unfolds or the structure of it. But just to further
16 demystify things, let me tell you about that structure so
17 you'll know what to expect.

18 First of all, you're probably wondering how long is
19 this trial going to take. And I have been told that it's
20 estimated to, at least, go through tomorrow and, perhaps,
21 into Friday. We don't know yet. But, regardless of how
22 long or short the trial is, this case is, obviously, very
23 important to both sides. This is their day in court after
24 all.

25 But a criminal trial has a definite structure. And

1 in just a moment, you're going to hear the opening
2 statement of the Solicitor, who is the prosecutor. And
3 that's Ms. Hodge. And she's going to give you a brief
4 summary or outline of what she thinks the evidence will be
5 and what the issues are in the case. And she goes first
6 because the State has the burden of proof.

7 After she gives her opening statement, Mr. Chambers,
8 on behalf of the Defendant, Mr. Gaskins, has the
9 opportunity, but not the obligation, to give an opening
10 statement as well.

11 Then we will go to the presentation of evidence where
12 the State, again, bearing the burden of proof will present
13 their evidence first, which the Defense may confront. And
14 then after the State finishes its presentation of
15 evidence, the Defense may, again, choose to, but they do
16 not have the obligation to, present any evidence they wish
17 to, which the State may confront.

18 After you've heard the presentation of evidence, we
19 will have the closing arguments of the lawyers where they
20 will tell you what they think the evidence showed and what
21 your verdict should be. Then I'll give you the
22 instruction on the law that you are to apply to the facts
23 of the case. And then you will go deliberate and
24 determine what the facts are, apply the law I gave you to
25 those facts, and you'll be able to reach a verdict.

1 Now, until we get to that point, don't talk about
2 this case with anyone. Don't discuss it amongst
3 yourselves or with any third party. Don't do any kind of
4 outside investigation. Don't get on any kind of social
5 media and announce that you're sitting on the jury in such
6 and such case. You'd be amazed at how many times that
7 occurs and the problems -- serious problems it causes. So
8 you have to confine your decision to the evidence you hear
9 in this courtroom, and not from any other source.

10 Now, we spent a good bit of time this morning trying
11 to find a jury that could have an open mind. So we want
12 to keep you that way. So don't talk about the case.

13 It would be very easy for me to just stop right there
14 and say don't talk about the case and not explain why it's
15 so important. But just let me give you an example. You
16 may hear this morning from a witness and you may wonder
17 after they testify -- if you could go back and talk about
18 it, you might start talking about what the witness said,
19 or didn't say, or should have said. And when you do that,
20 you're starting to draw conclusions about the case. And
21 you may very well hear from a witness this afternoon or
22 tomorrow who says something completely opposite to what a
23 witness said earlier.

24 So keep an open mind. And remember that we are not
25 partisans or advocates for either the State or the

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1 Defense. You and I are supposed to be fair and impartial.
2 And your job is to determine the facts and determine
3 whether the State has met its burden of proof.

4 So, with that, we'll have the opening statement.

5 Yes, ma'am, Ms. Hodge.

6 OPENING STATEMENTS

7 MS. HODGE: Thank you, Your Honor.

8 May it please the Court.

9 Mr. Chambers.

10 Ladies and gentlemen of the jury, this is a case
11 about a man, a grown man, 28, 29, 30 years old, a married
12 man and a father, who manipulated, who groomed, seduced,
13 if you will, a young impressionable naive 13-year-old
14 girl. Why? For the sole purpose of his sexual
15 gratification, wanting to have sex with this child. The
16 Defendant is that man, the 28, 29, 30-year-old married man
17 with a child, who seduced, groomed, manipulated the victim
18 in this case, **VICTIM** She was 13 at the time.
19 By the time this case concluded, she will be 14 years old.

20 The evidence will show that the Defendant manipulated
21 her through means that are very simple and tend to work on
22 most people. It started with flattery, attention. It
23 moved on to gifts, small things, going to McDonald, going
24 to Waffle House, maybe a token something from Wal-Mart.
25 It graduated to giving her a cell phone. Things that kids

1 think are really cool and really important. Also, cell
2 phones can give some freedom and access to the child away
3 from the parents knowing about it.

4 The evidence will show that the Defendant not only
5 manipulated the girl, but her family as well with the same
6 kinds of things. This girl was the daughter of his family
7 friends. He was friends with the parents. And he made
8 himself a part of the family, calling them mom and dad,
9 saying that this was like his little sister, kind of
10 blinding them to what was really going on.

11 And he was, also, very generous with them. He gave
12 them things. And he offered to pay their bills, and did
13 pay some bills when they were on hard times. The evidence
14 will show they tried to pay him back. And he would be
15 like, no, no, don't worry about it, all the while
16 manipulating the daughter for the purpose of sexual
17 gratification.

18 The evidence will show his plan worked, that he, in
19 fact, did coerce and convince this girl to have sex with
20 him over 10 times at various locations in Greenville
21 County. He moved and was in several different residences.
22 This happened in his residences, and as well as in two of
23 his cars that he parked in front of an abandoned house in
24 Travelers Rest.

25 The evidence will show this took place between the

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1 spring of 2011 and the fall of 2012. By the fall of 2012,
2 the parents were kind of catching on. They were thinking
3 things were odd. And they had, basically, ended that
4 relationship friendship and said, no, I don't think we
5 need to -- you need to be hanging out with VICTIM
6 anymore.

7 The evidence will show the child never intended to
8 tell anyone about this. This was not something she was
9 eager to talk about, and she, certainly, wasn't about to
10 come forward. But on November the 10th of 2012, through a
11 totally unrelated set of circumstances, the mother in this
12 case received a Facebook post. As a result of something
13 she saw on Facebook, she called the Defendant's
14 mother-in-law and soon to be ex-wife. There was a
15 conversation had.

16 And the ex-wife, who will testify, will say that she
17 talked to the mother and said, You need to talk to your
18 daughter. I think that there was something going on, that
19 she had been suspicious for a little while. And, as a
20 result of that conversation, the mother then confronted
21 VICTIM who started to deny it, but then came forward
22 with everything.

23 At that point, the parents called the police. An
24 investigation was started by the Greenville County
25 Sheriff's Office. As a result, the Defendant was charged

1 with three counts of criminal sexual conduct with a minor
2 second degree and lewd act on a minor.

3 The Judge is going to tell you the law at the end.
4 But just so you know what we're talking about here, in
5 South Carolina, criminal sexual conduct with a minor
6 second degree means that the Defendant has committed a
7 sexual battery with a child between the ages of 11 and 14.
8 Sexual battery is defined as any type of sexual act that
9 has some type of penetrating -- injury is what they call
10 it. But it can be digital penetration of either the
11 vaginal area or anal area, penile penetration of the
12 vaginal or anal area, oral copulation of the vaginal area.
13 The evidence will show that the Defendant committed a
14 sexual battery, penile-vaginal penetration and oral
15 copulation on the victim during this time frame.

16 In addition, he was charged with lewd act on a minor.
17 Lewd act is simply the fondling or the touching of the
18 private parts of a minor, someone under the age of 16 with
19 the intent or arousing lusts, passions either of the child
20 or of the perpetrator themselves.

21 There are three charges. There were three time
22 frames and several different locations. And that's why
23 there are -- off three indictments for each charge -- or
24 three charges -- excuse me, two indictments, three sets of
25 each. That was confusing. I'll clear that up later.

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1 The State will prove its case through the evidence.
2 As you heard Judge Hill tell you, there are two types of
3 evidence, testimonial and then there are the exhibits.
4 This case will be almost entirely testimonial, which means
5 you're going to hear from witnesses who saw, heard, spoke
6 with the Defendant or the victim. And you will, also,
7 have actual eyewitness testimony. The victim herself is
8 going to testify and tell you in embarrassingly great
9 detail what occurred between she and the Defendant.

10 At the conclusion of the evidence, the State and the
11 Defense will both be back in front of you asking for a
12 verdict. Verdict comes from a Latin term, veredicto,
13 which means to speak the truth. And the State will be
14 asking you to return a verdict that speaks the truth in
15 this case, which is guilty on all counts.

16 Thank you.

17 THE COURT: Thank you, Ms. Hodge.

18 Yes, sir, Mr. Chambers.

19 MR. CHAMBERS: May it please the Court, Your Honor.
20 Solicitor.

21 MS. HODGE: Yes, sir.

22 MR. CHAMBERS: Ladies and gentlemen, you met him
23 earlier. This is Jerald Gaskins, who's seated over here
24 beside me. And he is the accused. As His Honor told you,
25 what we have at this stage of the proceedings is nothing

1 more than an accusation.

2 And the Solicitor very concisely and I think very
3 thoroughly summed up for you what their accusation is in
4 this case. And these accusations arose against Jerald
5 back around the December 2011 time frame. There was a lot
6 going on in his life at that time that you're going to
7 hear about.

8 He had been friends with the Mucienkos. They met
9 having horseshoe tournaments and hanging out and, frankly,
10 drinking, carrying on, having a good time, and doing that
11 sort of thing on a frequent basis. That was, basically,
12 normal life at the Mucienkos house. There's lots of
13 people that would gather there. And they would play
14 horseshoes. And they would drink. And they would party.
15 And that's, basically, what went on most of the time.

16 That's where he first came into contact -- Jerald
17 with VICTIM She wanted to babysit for Jerald and for
18 Rachel, his wife. She started to do that. And Jerald is
19 a very generous person. He saw that she needed help with
20 things. He helped her. He helped this family. He did
21 that on a continuing basis until he started to feel like
22 he was being taken advantage of.

23 You'll hear that his father came to him and told him,
24 You're being taken advantage of. At one point, you'll
25 hear that they even without his knowledge or his authority

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1 put cars that they owned on his insurance. And he said
2 enough is enough. I can't do this anymore. At that
3 point, they got mad at him. They told him that he would
4 be sorry.

5 At the same time, he and his wife, Rachel, were
6 having problems. They were beginning to go through a
7 divorce. There was a custody battle. And all of those
8 things were going on at the time that this allegation came
9 out.

10 Now, I'm not going to stand up here and talk about it
11 at length, because there's a trial that has to take place.
12 The Solicitor is going to present her case to you. She
13 presents her case because she has the burden of proof.

14 As His Honor has already told you, as -- when a
15 person is sitting over here as the accused the way Jerald
16 is, he is presumed innocent. That's something that all of
17 us in one capacity or another have heard probably
18 hundreds, if not thousands, of times in our lives. We
19 hear it almost daily in this age of the 24-hour news cycle
20 where we have all theses cable channels that are devoted
21 to this sort of thing. We hear about trials, and cases,
22 and things all the time. We are inundated with
23 information. And it's one of those things that everybody
24 has an opinion about.

25 But here is the thing, you're here as the triers of

1 fact. It's a hard job. It's not an easy job. But it is
2 an important job.

3 I stole this, actually, from Judge Hill, who's
4 presiding over this Court, but John Adams, who's one of
5 our founding father's, said that trial by jury is so
6 important that he deemed it the very heart and lungs of
7 liberty. Thomas Jefferson -- and I'm paraphrasing because
8 it's a fairly long quote -- essentially, said that trial
9 by jury is the greatest safeguard that our liberty has.
10 And I tell you that not to give you a civics lesson, but
11 to let you know how important what's going to take place
12 in this courtroom is, and how important your job here is.

13 There are other courts where very important things
14 get decided. We have civil court, which we call Common
15 Pleas here in South Carolina, where millions of dollars
16 sometimes are at stake where people have been injured for
17 life, and are looking to be taken care of for life because
18 of somebody else's negligence or somebody else's
19 recklessness. And, in those cases, the plaintiff is the
20 person bringing the case. And the Plaintiff is the person
21 that has the burden of proof. And even though those
22 matters are very important, we have said that, as a
23 society, the burden of proof is by a preponderance of the
24 evidence.

25 So if we think of a scale that we start with at the

ROA 48

1 beginning of the trial that is perfectly balanced, the
2 plaintiff merely has to move that scale ever so slightly
3 in his or her favor. It's the greater weight of the
4 evidence. Do you believe the Plaintiff by just a little
5 bit more than you do the other side?

6 There are other tribunals, mainly arbitrations and
7 things like that, where the level of proof is by clear and
8 convincing evidence, which sounds like a very high
9 standard, and it is. But we saved the highest standard,
10 the greatest burden of all for General Sessions, for
11 criminal court. And there's a reason for that.

12 This is the only court where a person can be deprived
13 of their life or their liberty. There's nothing greater
14 that we can take away from somebody than their liberty.
15 And so that's what's at stake here for Jerald today. And
16 as you consider this case, you have to consider that
17 burden of proof.

18 If you think about that scale, that means the
19 Solicitor has to move that scale almost all the way to her
20 side, almost all the way in her favor. In other words,
21 she has to remove any reasonable doubt from your
22 consciousness. If at the end of this you are left with
23 questions, that's reasonable doubt. If at the end of
24 this, you would find him guilty and then hesitate about
25 that, then that's reasonable doubt. If you had to stake

1 something that was very important to you on that decision,
2 would you feel comfortable with it?

3 There are lots of ways to define reasonable doubt.
4 But what most people will tell you is that does it leave
5 you firmly convinced? It's another way of saying
6 definitely sure. And I'm not going to stand up here and
7 try and tell you that they have to remove any doubt,
8 because that's really not possible. You know, you can
9 always have doubt. You could probably -- or some people,
10 I don't want to say you could. But people could be led to
11 believe that the sun is not going to come up tomorrow.
12 But, folks, that's not a reasonable doubt. You know,
13 short of an asteroid or something hitting the earth and
14 pretty much eliminating all life, it's going to come up
15 tomorrow. So that is not a reasonable doubt. And I'm not
16 here to tell you that that's the kind of doubt you need to
17 have.

18 Now, I expect that at the end of this, His Honor is
19 going to charge you when he charges the law, among other
20 things, that you can convict based on the testimony of the
21 alleged victim in this case alone. So it's important.
22 It's important that you listen. And you have to ask
23 yourself, do I believe what she is telling me? Does it
24 make sense to me when I consider all of the facts, and all
25 of the circumstances, and all of the collateral issues in

ROA 50

1 this case? Do I believe that? It doesn't relieve them of
2 the burden of proof. You have to believe beyond a
3 reasonable doubt.

4 Here is really what you're going to be doing. His
5 Honor made reference to your common sense. As the triers
6 of fact, what you're going to do is, first of all, you're
7 going to take the law as His Honor gives it to you. We
8 have an excellent judge in this case. And he will charge
9 you on the law. You're going to take the evidence that's
10 presented to you from this witness stand. There's a
11 ritual that we have people go through to -- so that
12 they're struck with the importance of what they're about
13 to do. And it is that they come up here and they put
14 their hand on the Bible. They raise their right hand and
15 they swear that they're going to tell the truth.

16 So you're going to take the testimony. And what
17 you're going to do is what to one degree or another you do
18 every day. You're going to ask yourself, do I believe
19 what this person is telling me? You're going to judge
20 that by the person's demeanor. You're going to judge that
21 by whether there's anything at all to corroborate what
22 they have to say.

23 And here is where the common sense comes in. You're
24 going to judge it based on does it make sense to me when I
25 think about the circumstances? Anybody can say something

1 happened. Anybody can make an allegation against
2 somebody. But what is their motive for doing that? What
3 is their reason for doing that? And does it make sense
4 under the circumstance? And, more importantly, do you
5 believe it beyond a reasonable doubt? Do you believe it
6 beyond a reasonable doubt? That's what it comes down to.

7 Ladies and gentlemen, I, obviously, have been privy
8 to some of the information the Solicitor is going to
9 present because those are the rules. But I don't know
10 everything. And I don't know exactly how she's going to
11 proceed. So, like you, I look forward to hearing what she
12 has to present to us here today.

13 I can tell you that Jerald is thankful that you're
14 here. The specter of this case has been hanging over his
15 head for a long time. And, frankly, there's not a worse
16 accusation you could make against somebody in our society
17 than what he is accused of doing. This is his day in
18 court. And without you being here, he would continue to
19 languish with this hanging over his head.

20 We appreciate you being here. We look forward to
21 hearing the Solicitor's case.

22 THE COURT: Thank you, Mr. Chambers.

23 Yes, ma'am, Ms. Hodge. You may call your first
24 witness.

25 MS. HODGE: Thank you, Your Honor.

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1 The State calls Deputy Paul Floyd.

2 THE CLERK: Officer Floyd, please, come forward.

3 If you would, please, place your left hand on the
4 Bible and raise your right hand.

5 WHEREUPON,

6 PAUL FLOYD,

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

8 THE CLERK: Thank you.

9 Please be seated.

10 Would you, please, state your name for the record?

11 THE WITNESS: Master Deputy Paul Floyd.

12 THE CLERK: Thank you.

13 DIRECT EXAMINATION

14 BY MS. HODGE:

15 Q Master Deputy, who are you employed with?

16 A The Greenville County Sheriff's Office.

17 Q And how long have you been with the sheriff's office?

18 A Over five years now.

19 Q Did you have any law enforcement experience prior to
20 that?

21 A No, ma'am, I did not.

22 Q What's your educational background?

23 A I've got a bachelor's from Clemson University. And I
24 graduated from the South Carolina Criminal Justice
25 Academy.

1 Q And what are your duties or responsibilities with the
2 sheriff's office?

3 A I'm a uniform patrol master deputy and intermediate
4 supervisor with -- I'm out on the road patrolling every
5 day.

6 Q And what kinds of things do road deputies -- or
7 uniform patrol do for the community?

8 A Address any kind of issue that comes up. Any time
9 somebody comes -- has a problem, we try to help them out,
10 point them in the right direction, take law enforcement
11 action, if necessary.

12 Q Do you respond to calls for service to people's homes
13 or --

14 A Absolutely, yes.

15 Q And were you employed in this same capacity back on
16 November 10th, 2012?

17 A I was just as a deputy two. I have since been
18 promoted.

19 Q And did you have a trainee or anybody with you on
20 that day?

21 A Yes, ma'am, I did, Deputy Kelly.

22 Q Did you receive a call for service at a residence
23 located at [REDACTED]

24 A I did. We responded for a complaint about a criminal
25 sexual conduct with a minor that occurred.

ROA 54

1 Q Was this something that had recently occurred or
2 previously occurred?

3 A When I arrived, I met with the victim and the
4 parents. And they told me that they had found out that
5 their daughter had been --

6 MR. CHAMBERS: Objection, Your Honor. Hearsay.

7 THE WITNESS: Excuse me.

8 THE COURT: Sustained.

9 BY MS. HODGE:

10 Q Let me back up a little bit. So the -- there was
11 not -- this was not a criminal sexual conduct that was
12 occurring at that moment. You were not responding to an
13 urgent situation?

14 A Correct. It had already occurred.

15 Q Okay. And do you remember what time you ended up
16 going to this residence?

17 A I believe it was around 11:30 p.m. on the 10th of
18 November.

19 Q All right. Of 2012 --

20 A 2012, yes, ma'am.

21 Q Okay. And is this residence in Greenville County,
22 the one you responded to?

23 A Yes, ma'am, it is.

24 Q All right. And were you the lead deputy in this
25 case --

1 A Yes, ma'am.

2 Q -- in responding to the call?

3 A Yes, ma'am.

4 Q All right. So tell us what you did upon arrival.

5 A I arrived on scene and made contact with the victim's
6 parents. It was Walter and Sandra Mucienko. They told me
7 they just --

8 Q Well, hang on one second --

9 A Excuse me.

10 Q -- without telling me what the parents said --

11 A Sorry.

12 Q That's all right. Was this a case involving their
13 daughter?

14 A Yes, ma'am.

15 Q All right. And who was their daughter?

16 A It was VICTIM

17 Q All right. And how old was VICTIM

18 A I believe she was 15 years old at the time of the
19 report.

20 Q All right. And did you speak to the parents briefly
21 about why they had called you out there?

22 A Yes, ma'am, I did.

23 Q After speaking to the parents -- or what did you tell
24 the parents that you needed to do, or what you wanted to
25 do?

ROA 56

1 A I told them that I would like to speak to their
2 daughter alone, if possible, to establish whether a
3 complaint of a criminal act had occurred and the
4 jurisdiction.

5 Q All right. And did they give you permission to speak
6 to VICTIM

7 A Yes, ma'am, they did.

8 Q And was there a place that you and VICTIM went to
9 talk?

10 A I believe we went into an adjacent room with the door
11 open, obviously, just out of earshot so I could -- the
12 victim could feel comfortable speaking with me.

13 Q All right. And, at that time, did VICTIM tell you
14 that she had been involved in a sexual battery?

15 A Yes, ma'am, she did.

16 Q All right. And did she tell you when this sexual
17 battery had occurred, or if it was multiple occurrences?

18 A She said it was several times over about a period of
19 a year and three months is the best estimate I could
20 obtain.

21 Q And did she tell you how old she was at the time of
22 this?

23 A She said the first time it happened, it was -- she
24 was 13 years old.

25 Q And was she able to tell you where the sexual

1 batteries occurred?

2 A She -- we went through and she told me it was several
3 different locations, one of which was out of my
4 jurisdiction in Central, South Carolina. But then we went
5 on and started identifying that there were some instances
6 in some residences in TR city -- Travelers Rest city.

7 And then I was able to obtain that one residence in
8 Greenville County jurisdiction was 46 Quail Roost. I
9 believe it's Quail Roost in Travelers Rest.

10 Q Which was within the county?

11 A Yes, ma'am.

12 Q Okay. And Travelers Rest city is within Greenville
13 County as well; correct?

14 A Yes, ma'am. All of Travelers Rest city is within
15 Greenville County.

16 Q All right. Was a suspect identified?

17 A She identified by name and general description only.

18 Q All right. And so who was the suspect in this case?

19 A She told me that Jerald Gaskins was the suspect.

20 Q All right. Is there a senior, or junior, or --

21 A He's a junior. And she told me this.

22 Q All right. Now, what was her demeanor like, or how
23 was she in response to your questions and telling you what
24 had gone on?

25 A She appeared to me that she was ashamed. She even

ROA 58

1 said that she was ashamed and felt stupid for letting
2 herself get in this situation.

3 Q Okay. After talking to her -- well, did you try to
4 get a really detailed statement from her or --

5 A No, ma'am. I would like to -- I usually like to
6 leave that to the investigators who have much more
7 experience and training in conducting these
8 investigations. I just -- like I said, I just mainly
9 wanted to establish that I had jurisdiction in some of the
10 instances and that an allegation of a criminal act had
11 occurred.

12 Q And what did you do after speaking with VICTIM

13 A I contacted -- I went back and spoke with the
14 victim's parents, and did some standard paperwork. I had
15 them sign it as her legal guardians. And then I notified
16 my immediate supervisor and our on-call juvenile
17 investigator, which was Investigator Motes.

18 Q Was someone going to follow-up with VICTIM
19 parents?

20 A Absolutely, yes, ma'am.

21 Q Okay. And did you attempt to locate or speak to the
22 Defendant -- or suspect, Jerald Gaskins?

23 A No, ma'am. That needs -- that's better for the
24 investigator to do. Because I didn't want to get too far
25 into the investigation and have it be contrary to the way

1 the investigator would like to go.

2 Q Was there any urgent need or emergency to have him
3 located at that time?

4 A No, ma'am. I -- the juvenile was safe, in my
5 opinion, at this location and had not seen the suspect
6 recently -- excuse me, the Defendant.

7 Q All right. And that suspect is the Defendant?

8 A Yes, ma'am, Jerald Gaskins.

9 Q Jerald Gaskins. All right. After you left the
10 Mucienkos home, did you have any other involvement
11 investigating this case?

12 A No, ma'am.

13 MS. HODGE: Thank you.

14 Please answer any of the Defense's questions.

15 MR. CHAMBERS: Your Honor, I don't have any questions
16 for Deputy Floyd.

17 THE COURT: All right. Thank you, Officer Floyd.

18 You can step down, sir.

19 THE WITNESS: Thank you.

20 MS. HODGE: Your Honor, may he be excused?

21 MR. CHAMBERS: No objection from me, Your Honor.

22 THE COURT: All right. He's excused.

23 MS. HODGE: Thank you.

24 The State calls Sandra Mucienko.

25 THE CLERK: Ma'am, if you'll, please, place your left

ROA 60

1 hand on the Bible and raise your right hand.

2 WHEREUPON,

3 SANDRA MUCIENKO,

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

5 THE CLERK: Thank you.

6 Please be seated.

7 Would you, please, state your name for the record?

8 THE WITNESS: Sandra Mucienko.

9 THE CLERK: Move in a little bit, please.

10 All right. Thank you.

11 DIRECT EXAMINATION

12 BY MS. HODGE:

13 Q Ms. Mucienko, tell us a little bit about yourself.

14 Let's start with, how old are you?

15 A 46.

16 Q And are you, currently, married?

17 A Yes, ma'am.

18 Q Are you separated?

19 A Yes.

20 Q And who were you married to -- who are you married
21 to?

22 A Walter Mucienko.

23 Q And how long have you been married to him?

24 A 25 years.

25 Q And do you have any children?

1 A Yes, three.

2 Q And what are their names and ages?

3 A My son, Walter, is 25. My daughter Jamie is 23. And
4 my youngest daughter, VICTIM is 17.

5 Q And are you, currently, employed?

6 A Yes, ma'am.

7 Q Have you worked most of your life?

8 A Yes.

9 Q Do you live in the Greenville area?

10 A I do, in Travelers Rest.

11 Q Have you -- did you grow up in Greenville, or did you
12 move here?

13 A No. I moved here in 2006.

14 Q Where did you move from?

15 A West Palm Beach.

16 Q Do you know the Defendant in this case?

17 A Yes, ma'am.

18 Q All right. How do you know him?

19 A We used to play horseshoes together. That's how we
20 met.

21 Q That's how you met him?

22 A Uh-huh.

23 Q All right. And do you recall about when it was that
24 you met him?

25 A It was around the spring of 2011.

ROA 62

1 Q And is this a horseshoe tournament kind of a thing,
2 or was it --

3 A It was a weekly deal. We played every Sunday. It
4 would be at different people's house.

5 Q And how did y'all get involved in that?

6 A Just through some friends that we knew. And then we
7 started playing.

8 Q Had you been playing before the spring of 2011, or is
9 that when you started getting into --

10 A No. That's when we started.

11 Q Okay. And you met the Defendant at that time?

12 A Yes.

13 Q And did you meet -- was he married at the time?

14 A Yes.

15 Q Did you meet his wife?

16 A Yes.

17 Q And what was her name?

18 A Rachel.

19 Q And did he have any children at that time?

20 A At that time, it was just his daughter, Skyland. And
21 I think she was about five months old.

22 Q Did you and your husband get along with the Defendant
23 and his wife?

24 A Oh, yes.

25 Q Would your daughters -- or let's see. Let's start

1 with your son -- your oldest son, and then your middle
2 daughter, and your youngest, would they come to the
3 horseshoe --

4 A No, not at the time. Because my son and my middle
5 daughter were living still in Florida. So it was just me,
6 my husband, and my younger daughter.

7 Q And VICTIM

8 A Yes.

9 Q Okay. And so the relationship -- how was the -- how
10 did y'all form a relationship with the Gaskins?

11 A They would come hang out at our house. We'd
12 barbecue, you know. It was family and friends, you know.

13 Q And were they a little bit younger than you guys?

14 A Yes. His wife is my daughter's -- my middle
15 daughter's age. They went to school together at Travelers
16 Rest. And he was a bit older than that.

17 Q Do you know approximately how old he was when you met
18 him?

19 A 28, maybe 29.

20 Q Okay. And his wife is the same age as your
21 daughter --

22 A Right.

23 Q All right. And so did they -- did you guys get close
24 as two families?

25 A Oh, yes. He used to call me mom. He'd call my

ROA 64

1 husband dad or pops, you know. He'd call my children like
2 his little sister, you know, or sis. So it was -- we were
3 pretty close.

4 Q And did you allow VICTIM to hang out with him and
5 his wife --

6 A Yeah.

7 Q -- and that kind of stuff?

8 A Yeah.

9 Q Do you know where they lived when you first met them?

10 A It was on Tigerville Road. I don't know the address.

11 Q Okay. Was that close to you guys or --

12 A Yeah. About 10 minutes from my house.

13 Q And was VICTIM allowed to go over there when you
14 guys weren't there?

15 A Yes.

16 Q And what was the purpose of her going over there?

17 A She'd go over there and hang out with Rachel, and
18 play with the baby. They'd play video games. Sometimes,
19 she'd babysit if they had to run out to the store, or
20 whatnot. She'd stay there with the baby.

21 Q Was she getting paid to babysit?

22 A Oh, no.

23 Q Did she like little kids?

24 A Yes.

25 Q And was there anything in your mind, at that time,

1 like she shouldn't be doing this, or this is weird?

2 A No. I was not uncomfortable with that at all.

3 Q Okay. And there were times, obviously, you and your
4 husband would be there as well hanging out?

5 A Oh, yeah.

6 Q Okay. And did the Defendant and his family come to
7 your home and hang out?

8 A Yes. Because we would host some of the horseshoes.
9 It would be like at four people's houses. And each
10 Sunday, it would switch houses. So the whole family was
11 there when it was at our house.

12 Q All right. And so how old was VICTIM at this time?
13 Did we say?

14 A 13.

15 Q Do you remember what grade she would have been in?

16 A It was the end of the eighth grade, closer -- yeah,
17 closer to the end of the eighth grade. Because it was
18 spring.

19 Q All right. And what school was she going to for
20 middle school?

21 A Northwest Middle.

22 Q All right. And what kind of a student was VICTIM

23 A She's always been pretty good, not all A's, but A's
24 and B's.

25 Q All right. And was she involved in any activities or

ROA 66

1 anything at school?

2 A She was always into volleyball every year.

3 (WHEREUPON, State's Exhibit No. 1 was marked for
4 identification only.)

5 MS. HODGE: Thank you.

6 THE COURT REPORTER: You're welcome.

7 BY MS. HODGE:

8 Q I'm showing you State's Exhibit No. 1. Are you
9 familiar with that?

10 A Yes.

11 Q Okay. What is that?

12 A That's her volleyball picture from middle school.

13 Q All right. Is that the age she was when you guys met
14 the Gaskins?

15 A Yes.

16 MS. HODGE: All right. And, at this time, we'd move
17 to admit State's Exhibit No. 1 into evidence.

18 MR. CHAMBERS: No objection, Your Honor.

19 THE COURT: It's in evidence.

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

22 BY MS. HODGE:

23 Q Has **VICTIM** grown up a little since that --

24 A Absolutely.

25 Q She doesn't look like that today?

1 A No.

2 Q All right. Did the Defendant ever come to any of her
3 volleyball games?

4 A Yes. There was times that we would go together to
5 support her. Other times when I was working and I
6 couldn't make it to her games, he would go there and watch
7 to support her.

8 Q And did you think anything of that at the time, that
9 he would go without anybody else going?

10 A No.

11 Q How about church? Was VICTIM involved in a church
12 or a youth group?

13 A Yes. She was going to North Greenville Christian
14 Fellowship in Travelers Rest.

15 Q Was this on Sundays, or Wednesdays?

16 A Sundays and Wednesdays, yes. There would be a church
17 van that would pick her up.

18 Q Okay. Has that changed names now? Is it something
19 else?

20 A It's call God's Way now. It's still the same
21 location.

22 Q Okay. And during this time, did VICTIM have
23 friends, kind of a normal --

24 A Yes.

25 Q -- life as a 13-year-old?

ROA 68

1 A Yes, plenty of friends.

2 Q Was she social? Did she like to do things with her
3 friends?

4 A Very social.

5 Q Did she have a friend named #1 (Minor) [REDACTED]?

6 A Yes.

7 Q And how long had she and #1 (Minor) [REDACTED] been friends?

8 A It wasn't too long after we moved up here from
9 Florida. Her and #1 [REDACTED] met at school. And I think she
10 was in the fourth grade, fourth grade and on. And #1 [REDACTED]
11 lived like around the corner from us. So they stayed
12 pretty close friends the whole time.

13 Q Would #1 [REDACTED] ever come over on the Sundays that
14 horseshoes might be going on?

15 A Very rarely. She had moved to Greenville to stay
16 with her nanny and papa.

17 Q Did #1 [REDACTED] have kind of a difficult home life?

18 A She did. She was -- her and her sister were taken
19 away from her mother at one point. That's why she moved
20 to Greenville to stay with her grandparents.

21 Q Okay. And how about her father, was her father
22 alive?

23 A No. Her father passed away.

24 Q Would she be at your house a good bit, though, when
25 they were friends, even if they were on horseshoe days,

1 but --

2 A Oh, yeah.

3 Q All right. Now, let's go back to VICTIM How often
4 would you say that VICTIM would go over to the
5 Defendant's house once y'all, finally, met?

6 A Mostly weekends, because she was still in school.
7 Over the summer, it could be any time, you know, but,
8 mostly, on the weekends.

9 Q And how would she get there?

10 A Either they'd come and pick her up -- Jerald or
11 Rachel would come and get her. Because there was a time
12 when they lived out in Central. So it was a good ride.
13 Or there'd be times if we were hanging out over there that
14 she would ask to stay after we left, so.

15 Q You let her stay?

16 A Yeah.

17 Q Okay. So she spent the night over at their homes?

18 A Yes.

19 Q Okay. Did they have -- did they move several times
20 during this period --

21 A Yes.

22 Q -- that y'all were friends?

23 A Yes.

24 Q Okay. And did -- you said one time they were in
25 Central. Were the other times local like in TR or --

ROA 70

1 A Travelers Rest.

2 Q Travelers Rest. Sorry.

3 And, again, she's spending the night over there.
4 You're not -- at this point, you're not thinking anything
5 odd with that?

6 A No. Because Rachel was there, and the baby, you
7 know. And they just liked to hang out.

8 Q Okay. Did it help that Rachel and your middle
9 daughter were --

10 A Friends.

11 Q -- also friends --

12 A Yes.

13 Q -- and knew each other?

14 A Yes.

15 Q And was the Defendant nice to you guys, or generous
16 to you guys, or help you guys out?

17 A Always.

18 Q Okay. What were some examples of him doing that?

19 A There were times I was short on some of my bills.
20 And he offered to help me out, you know, lend me money. I
21 had told him I'd pay him back. And he said, Don't worry
22 about it, you know.

23 Q All right. When you would have the money, would you
24 try to give it to him?

25 A Yes.

1 Q And he would say, Don't worry about it?

2 A He always told me, Don't worry about it. He said he
3 had me covered.

4 Q Now, during the time that VICTIM started spending
5 time over at his home, did you notice any behavior changes
6 in her?

7 A There was a time she was pretty sassy, back talking.
8 She'd hide out in her room all the time, on her phone all
9 the time, just kind of pushing herself away from us, you
10 know. We used to have a good relationship. And she just
11 kind of didn't want -- you know, didn't want to bother
12 with me anymore.

13 Q Okay. And did you think anything about that?

14 A No. I just thought she was being a teenager. I went
15 through two of them already before her. So I just...

16 Q All right. So you're not really keying in on that as
17 some bigger problem?

18 A No.

19 Q Okay. How about was she usually outgoing and bubbly?

20 A Oh, yes, very social, happy, always had her friends.

21 Q And did that change some?

22 A It did. She didn't talk to any of her friends.

23 Q Did she continue to go to church and do those things?

24 A That started to slack off as well. There wasn't so
25 much of a -- maybe on Sundays. And then it started being

ROA 72

1 every other Sunday. And then maybe once a month. It just
2 wasn't -- it wasn't her. Because she was very much into
3 her church.

4 Q And did she -- did you provide her a cell phone
5 during this time in her life?

6 A Yeah. She had a cell phone. It got shut off,
7 though, because she went over her minutes -- or her
8 roaming. She would -- had excessive roaming. So I had to
9 have it shut off.

10 Q At some point, did she get a phone as a gift?

11 A She did.

12 Q All right. And where did that come from?

13 A That came from Jerald.

14 Q And did you know about that?

15 A Yes. He offered to put her on his plan since I
16 couldn't put her back on my plan.

17 Q And did you have any problem with that?

18 A Not at all.

19 Q At any point, did **VICTIM** have her phone taken from
20 her?

21 A Yes. When her grades were bad, she would -- her
22 phone would always be taken away if she had a bad grade.

23 Q Was she ever -- did you ever catch her using her
24 phone when she wasn't supposed to, or anything like that?

25 A Not at that time. After her phone was taken away

1 permanently, she was provided with another phone, not to
2 my knowledge.

3 Q Okay.

4 A And then I found her with that phone.

5 Q All right. And where did that phone come from?

6 A That came, also, from Jerald.

7 Q Did you ever ask her, specifically, about anything
8 going on possibly between them that was inappropriate,
9 initially?

10 A No.

11 Q Okay. Did you ever talk to him about it, or question
12 him about why he was so interested in her, or supportive
13 of her?

14 A No.

15 Q At some point, did you -- did that change? Did you
16 become uneasy or suspicious?

17 A Well, there -- he started to act a little more
18 controlling towards her. We -- my husband had asked him
19 to bring her home one night. And he kept coming up with
20 excuses saying, no, his clutch went out, he couldn't bring
21 her home, or he didn't want to bring her home because he
22 said my husband was drunk, and he wasn't going to bring
23 her home.

24 And I was at work. I couldn't do anything about it.
25 After that, I just -- I told him, I said, This isn't

ROA 74

1 working. I think our friendship has run its course, you
2 know.

3 Q And what were your feelings about that because he was
4 disregarding --

5 A Yes.

6 Q -- you all's wishes?

7 A Because -- yes. He was not doing as we said, you
8 know. That's my daughter, you know. She needed to get
9 home. Just too many things -- you know, like I said, just
10 being too possessive over her.

11 Q And then later, did you come to confront VICTIM
12 about what -- some allegations of maybe a sexual
13 relationship?

14 A I had received a Facebook message from Allison Lane.

15 Q And tell us, who is Allison Lane?

16 A That is Jerald's ex-wife's mother.

17 Q Rachel's --

18 A Rachel's mother.

19 Q -- mother.

20 A I asked her if I could call her to find out what the
21 full message was about. After speaking to her, Rachel got
22 on the phone. And I talked to her for a bit. And after
23 that is what -- after the conversation we had is what
24 brought me to confront VICTIM

25 Q All right.

1 A To ask her if there was something going on that she
2 needed to tell me about.

3 Q All right. And what -- when was this? Do you
4 remember when this was?

5 A It was in November of 2012.

6 Q And had -- the conversation that you had with the
7 Defendant about not seeing VICTIM anymore, had that been
8 before this?

9 A Yes. That was around October, the beginning of
10 October.

11 Q Okay. So maybe a month --

12 A Yeah.

13 Q -- prior to you now having this talk with VICTIM.

14 A Right.

15 Q Okay. And, to your knowledge, had they seen each
16 other, or had anything happened in that month?

17 A No, not that I know.

18 Q So tell us what happened when you went to VICTIM.

19 A I confronted her. She, initially, denied it. We
20 were all in the living room, my husband, myself, my
21 daughter.

22 And when she denied it, my daughter said, There's
23 something you need to tell mom. You need to tell her. So
24 she started to tell me, you know. She was crying and
25 upset. After that is when I called the sheriff.

ROA 76

1 Q Was that the same time --

2 A Same evening, yes.

3 Q Okay. Did she go into detail with you about where or
4 when this sexual battery --

5 A Not at that point. There was a few things she said.
6 But when the sheriffs got there, they took her into the
7 kitchen. We went to another room. And they questioned
8 her then.

9 I think it was shortly after that is when
10 Investigator Perry met her at school. And she had put a
11 few details in that -- in that statement.

12 Q So did the investigators contact you ahead of time to
13 see if it was okay --

14 A Yes.

15 Q -- to go to school?

16 A Yes. To meet her at the school, yes.

17 Q Okay. And after they'd interviewed her, they came
18 back and spoke to you about what she had disclosed?

19 A Yes.

20 Q Okay. And did they, also, set up a medical
21 appointment for VICTIM

22 A He had given me a pamphlet for the Julie Valentine
23 Center. I called and set up the appointment for her
24 there. They did the medical exam there. And then upon
25 that, they set her up with counseling.

1 Q Counseling therapy type counseling?

2 A Yes.

3 Q And where did she go for counseling, or did she go?

4 A She went to the Julie Valentine Center. It was a
5 12-week program.

6 Q And did she successfully complete her counseling?

7 A She did.

8 Q Once she -- let's go back a little bit. Once she,
9 finally, told and this was kind of off her plate or off
10 her chest, did you notice anything about her, anything
11 concerning about her? Did it change any patterns of
12 sleep, or any fearfulness, or any --

13 A Her anxiety level was pretty high. She wasn't
14 sleeping in her own room. She was sleeping with her
15 sister. But with the counseling, that helped, that
16 changed.

17 Q Okay. I think -- well, I'm sorry. I don't believe
18 you were in here during opening statements.

19 But let's go back to the time you had the
20 conversation with the Defendant and said, you know, I
21 don't think this is working anymore. We just need to go
22 our separate ways. Was there some kind of argument or
23 discussion that he -- you had put some cars on his
24 insurance, and he was paying for them, and he didn't want
25 to pay for them anymore?

ROA 78

1 A I know that we had a car on his insurance. Because
2 it made our rates lower. But I don't remember why that
3 was taken off.

4 Q Was there a discussion between you and him or your
5 family and him and -- that got heated about that?

6 A It may have been between him and my husband. I don't
7 know about that.

8 Q Okay. And when you said it's not working with us
9 anymore as far as being friends, what was your -- what was
10 the reason for that?

11 A Just the way he was possessing over **VICTIM** It was
12 getting a little weird.

13 Q Okay. And during that time frame, did the Defendant
14 become separated from his wife during some of this time?

15 A Yes. That was in April, April of 2012.

16 Q So April --

17 A When she left the home.

18 Q Okay. And when she -- when the wife, Rachel, left,
19 did you continue to maintain -- or did your family
20 continue --

21 A We did.

22 Q -- to maintain a relationship with the Defendant?

23 A We did for a while, yes.

24 Q Okay. Were you supportive of the Defendant during
25 that time?

1. A Yes.

2. Q And did you ever try to concoct anything with Rachel,
3. his ex-wife, to make things more difficult for him
4. regarding his divorce?

5. A Actually, we -- I hadn't talked to Rachel after she
6. had left. It was months after. Actually, I didn't talk
7. to her until I spoke to her on the phone in November.

8. So from April until then when I spoke with her and
9. her mother on the phone, we hadn't spoken at all.

10. Q All right. So you had not been a part of or privy to
11. anything with her and their divorce, or anything like
12. that?

13. A No.

14. Q So you didn't have some vendetta against the
15. Defendant to make this up?

16. A No.

17. Q Or to be in cahoots with his ex-wife?

18. A No.

19. Q And once your daughter told you that something had
20. gone on, did you look back and see maybe some signs?

21. A Absolutely. Some things popped up. There was a time
22. they were supposed to go to a concert. He said he had
23. tickets for him, her, his mother and father. And then
24. when they came back from the concert, there was no
25. pictures. They didn't talk about the concert.

ROA 80

1 So that -- after all was said, I thought, well, that
2 was -- you know, maybe that's why there was no pictures or
3 anything because they never went to the concert. He never
4 had tickets. Because my other daughter had asked him, Can
5 I go to the concert, too?

6 And he was like, I only have four ticket.

7 He never had tickets. So, yeah, that popped up after
8 she had told me.

9 Q Okay. And thinking back, just as much time as they
10 spent together and those kind --

11 A Right.

12 Q -- of things --

13 A Right.

14 Q -- did any of that start to be a red flag for you?

15 A Yeah.

16 Q All right. And is -- the person that you know as
17 Jerald Gaskins, is he present in court today?

18 A Yes, ma'am.

19 Q And where is he?

20 A He's sitting over there.

21 Q Okay. In the gray shirt with the black tie?

22 A Yes, ma'am.

23 MS. HODGE: Please let the record reflect that she
24 has identified the Defendant.

25 Thank you.

1 Answer any of Defense's questions.

2 THE COURT: Cross-examination, Mr. Chambers.

3 CROSS-EXAMINATION

4 BY MR. CHAMBERS:

5 Q So you met Jerald and Rachel through these horseshoe
6 tournaments; is that correct?

7 A Yes, sir.

8 Q And how is it that you -- that y'all became involved
9 with this group that had horseshoe tournaments? I mean,
10 how did that happen?

11 A It was, actually, one of the hosts that hosted the
12 horseshoes lived down the street from us. And my husband
13 used to go down there and every now and then play
14 horseshoes. And then we got involved in playing as well.

15 Q And where did y'all live at the time?

16 A In Travelers Rest.

17 Q And y'all had moved there from Florida; is that
18 correct?

19 A Yes.

20 Q And how long had you been living there when you met
21 Jerald?

22 A At that home, two years, I believe.

23 Q All right.

24 A We had lived at another residence before that.

25 Q And you met him at one of these horseshoe

1 tournaments?

2 A Yes.

3 Q And so you really became friends. Your whole family,
4 essentially, became friends with his family?

5 A Yes.

6 Q Rachel -- they had a baby. Their little girl was a
7 baby; is that correct?

8 A Yes.

9 Q And so y'all started to hang out?

10 A Yes.

11 Q And you would hang out not only at these horseshoe
12 tournaments, but, also, at your home, also, at their home;
13 is that correct?

14 A Yes.

15 Q And so how often would y'all be together as families?

16 A A lot of times, it would be on a daily basis, not
17 just on the weekends.

18 Q All right. And this was -- these were social events.
19 I mean, there was eating. And y'all liked to drink
20 alcohol, those sorts of things; right?

21 A Sure.

22 Q Play horseshoes, shoot pool, things like that?

23 A Shoot pool, no.

24 Q Oh, okay. And you said that I believe your middle
25 daughter, who was living in Florida, at least, for part of

1 this time, actually, went to school with Rachel. So there
2 was that relationship?

3 A Yes.

4 Q All right. And over the course of this, your
5 daughter, VICTIM started to sometimes go to the home of
6 Rachel and Jerald?

7 A Yes.

8 Q And this is something she wanted to do; am I correct?

9 A Yes.

10 Q I mean, she was never at any point forced into going?

11 A No.

12 Q And she never seemed reluctant about going?

13 A No.

14 Q And she wanted to go?

15 A Yes.

16 Q Because you described her as sort of a normal, happy,
17 healthy 13, 14-year-old girl during this time frame; is
18 that correct?

19 A Yes.

20 Q In fact, she was very social. She had lots of
21 friends?

22 A Yes.

23 Q She had the outlet of playing volleyball?

24 A Yes.

25 Q So there were lots of things she could be doing with

1 her time?

2 A Yes.

3 Q But her choice was, at least, in these instances to
4 go over and spend time with Rachel and with Jerald at
5 their house?

6 A Yes.

7 Q And you said that -- it sounds as though Jerald was
8 very generous with your entire family?

9 A Yes.

10 Q He not only helped y'all pay bills, but he helped
11 with things with VICTIM And he did that on a fairly
12 frequent basis?

13 A Yes.

14 Q He went so far as -- y'all even put your cars on his
15 insurance policy; is that correct?

16 A Yes.

17 Q And during this time frame, I believe that you were
18 the breadwinner, I guess, for your family; is that
19 correct?

20 A Yes.

21 Q You worked for a while at the Olive Garden?

22 A I don't think I was working at the Olive Garden
23 during that --

24 Q You worked as a waitress somewhere?

25 A There was a restaurant in Travelers Rest.

- 1 Q Okay.
- 2 A I worked there.
- 3 Q And you worked as a bartender, I believe, for a
- 4 while?
- 5 A Yes.
- 6 Q But your husband, Walt, he did not work, did he?
- 7 A Not often. If he did, it was just casual labor.
- 8 Q Okay. So he was home pretty much most of the time?
- 9 A Yes.
- 10 Q And had -- he sort of took care of things at the
- 11 house?
- 12 A Yes.
- 13 Q It'd be fair to say that Walt liked to drink beer,
- 14 would it not?
- 15 A Yes.
- 16 Q And was he -- did he have a car at his disposal? Was
- 17 he able to drive, go places, do things?
- 18 A Yeah.
- 19 Q And, at some point, the -- Jerald came to y'all and
- 20 said that he couldn't help you with your bills and things
- 21 anymore, didn't he?
- 22 A No.
- 23 Q He didn't tell you -- he told you that he felt like
- 24 he was being taken advantage of?
- 25 A He never said that to me.

1 Q Do you remember, specifically, there was a
2 disagreement, I believe, that you, or Walt, or somebody
3 had, actually, put these cars on his insurance without his
4 authority and without his knowledge. And he found out
5 about it and he was angry. Do you recall that?

6 A No.

7 Q You don't recall that. But there was a time when he
8 no longer helped you with your bills, regardless of
9 what -- the reason for that; is that correct?

10 A I'm sorry. Say that again.

11 Q There did come a time when he was no longer helping
12 you with your bills; is that correct?

13 A No. If I asked him, he would help.

14 Q And the cell phone was on his plan and Rachel's plan,
15 presumably. You knew about it, and you approved of it?

16 A The first cell phone, yes.

17 Q Okay. After these allegations -- well, the first
18 time you said that you began to have any suspicion is you
19 got this phone call from Rachel's mother-in-law -- or
20 mother?

21 A Mother.

22 Q Mother. Which would be Jerald's mother-in-law?

23 A Right.

24 Q And you were aware when you got that phone call that
25 they were in the middle of a fairly nasty divorce

1 proceeding; correct?

2 A The divorce hadn't started then. They were
3 separated. Because it was only from April until October.

4 Q Okay. And you were aware that there was an issue
5 about custody between the two of them?

6 A Yes.

7 Q And Jerald wanted custody of his daughter, and his
8 wife wanted custody of his daughter?

9 A Right.

10 Q And it was within that time frame that you got this
11 call from his mother-in-law, Rachel's mother?

12 A Uh-huh.

13 Q And that's when she said, You need to take a look at
14 what's going on between Rachel and your daughter -- I
15 mean, between Jerald and your daughter?

16 A Rachel said that, not her mother.

17 Q Okay. And this was, also, after the time that you
18 had -- that he was no longer paying your bills, and
19 we [sic] had this disagreement about car insurance?

20 A I don't -- I don't even know what the whole car
21 insurance thing is. That had to have been between him and
22 my husband. I know he had put the vehicle on there. As
23 far as taking it off or saying we put it on there without
24 his knowledge, no, I don't know anything about that.

25 Q And, again, what was the date that you called the

1 sheriff's office?

2 A It was November, I believe, 10th.

3 Q Of what year?

4 A 2012.

5 Q And did you see Jerald anymore after that?

6 A No.

7 Q You never saw him again?

8 A I may have seen him at Wal-Mart. But I never talked
9 to him. I tried to avoid him if I saw him in public.

10 Q Was there a cookout last summer where you and your
11 husband were at -- were there with Jerald and some other
12 people?

13 A Last summer?

14 Q Yes. Last summer around June?

15 A No, not that I would have been at.

16 MR. CHAMBERS: I want to -- first of all, let me get
17 this marked.

18 We'll call that Defendant's Exhibit No. 1 for
19 identification.

20 (WHEREUPON, Defendant's Exhibit No. 1 was marked for
21 identification only.)

22 BY MR. CHAMBERS:

23 Q I want to show you a picture, and see if you
24 recognize anybody that's present in that picture that's
25 marked Defendant's Exhibit No. 1 for identification.

- 1 A My husband.
- 2 Q In the green shirt?
- 3 A In the green shirt, and Jerald.
- 4 Q And who is that? Do you know?
- 5 A That's Jerald's brother, Shaun.
- 6 Q Do you know where that picture was taken?
- 7 A That looks at -- like nanny's house, horseshoes.
- 8 Q Okay. And were you present there?
- 9 A No.
- 10 Q All right. So you don't know when that picture was
- 11 taken?
- 12 A I do not. But I can almost tell it was a while ago
- 13 because my husband was a lot heavier.
- 14 Q Okay.
- 15 A And after I had called the sheriff's, I did not go to
- 16 any of those horseshoe events after that.
- 17 Q You didn't go to any horseshoe events?
- 18 A Not after that, no.
- 19 Q Do you know if Walt went to any horseshoe events?
- 20 A Yes.
- 21 Q He did go to some horseshoe events?
- 22 A He used to go to the bars, the horseshoe events.
- 23 Q Okay. Do you know if he saw Jerald at any --
- 24 A Absolutely, I know he did.
- 25 Q He did see Jerald at some --

ROA 90

1 A He told me he did.

2 Q So he continued to see Jerald?

3 A He did.

4 Q Both at these horseshoe events, and, also, at the
5 VFW?

6 A Yes.

7 Q And you're aware of that?

8 A Yes.

9 Q Okay. No trouble arose out of that?

10 A Well, my husband and I aren't together anymore. And
11 that was one of the reasons as well.

12 MR. CHAMBERS: That's all the questions I have for
13 you.

14 Thank you.

15 THE COURT: Redirect?

16 MS. HODGE: No, Your Honor.

17 THE COURT: You may step down.

18 THE WITNESS: Thank you.

19 MS. HODGE: May she be excused, please?

20 MR. CHAMBERS: No objection, Your Honor.

21 THE COURT: She's excused.

22 MS. HODGE: Thank you.

23 Would you like me to call my next witness?

24 THE COURT: Is it fairly short?

25 MS. HODGE: It will be probably about that same

1 length.

2 THE COURT: Let's take about a 10-minute break.

3 Don't talk about the case. Continue to keep an open
4 mind.

5 Thank you.

6 (WHEREUPON, the jury was excused from open court at
7 approximately 11:48 a.m.)

8 THE COURT: Mr. Chambers, did you wish to put
9 anything on the record about Juror #121 that you earlier
10 spoke to me at the bench conference --

11 MR. CHAMBERS: Yes, Your Honor.

12 At the time she was called, I had used my preemptory
13 strikes. And when she stood up, I realized that that was
14 the person who had identified herself as the -- having
15 been the victim of sexual molestation from an uncle, I
16 believe, when she was, if I remember correctly, around
17 12 years old.

18 So I had made a motion during the bench conference to
19 have her stricken for cause, which the Court, at that
20 point, overruled. And so I just wanted to put that on the
21 record.

22 THE COURT: Okay. Well, I found that she could be
23 fair and impartial based on her responses. I don't have
24 any evidence that would support a finding that she
25 couldn't follow her oath, or any other basis for good

1 cause to excuse her.

2 So I respectfully deny the motion.

3 All right. We'll take about a 10-minute break.

4 MR. CHAMBERS: Thank you, Your Honor.

5 THE COURT: Thank you.

6 (WHEREUPON, a break was taken.)

7 THE COURT: Anything else before we bring the jury
8 in?

9 MS. HODGE: No, sir.

10 MR. CHAMBERS: No, Your Honor.

11 THE COURT: Have you got --

12 Go ahead and bring them in.

13 I'm trying to figure out about breaking for lunch.

14 What do y'all think? I don't know your order of witnesses
15 or length.

16 MS. HODGE: Right. The next witness might be a
17 little bit lengthy. But then the victim would be after
18 that. So I anticipate the victim would be after lunch,
19 but --

20 THE COURT: Okay. That's fine.

21 MS. HODGE: But the next witness after -- well, I'm
22 calling the sister, Jamie. And then it would be Rachel,
23 the ex-wife.

24 THE COURT: So you want to --

25 MS. HODGE: And then the victim.

1 THE COURT: -- do those two and then we can --

2 MS. HODGE: I would like to do that.

3 THE COURT: Okay. Sure.

4 (WHEREUPON, the jury came into open court at
5 approximately 12:04 p.m.)

6 THE COURT: You may call your next witness.

7 MS. HODGE: Thank you.

8 The State calls Jamie Mucienko.

9 THE CLERK: Ma'am, if you'll, please, come here and
10 pause at the end of the bench.

11 Please place your left hand on the Bible and raise
12 your right hand.

13 WHEREUPON,

14 JAMIE MUCIENKO,

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

16 THE CLERK: Thank you.

17 Please be seated.

18 Would you, please, state your name for the record?

19 THE WITNESS: Jamie Mucienko.

20 THE CLERK: Thank you.

21 DIRECT EXAMINATION

22 BY MS. HODGE:

23 Q Jamie, tell us a little bit about yourself. Now, how
24 old are you?

25 A 23.

ROA 94

1 Q All right. And are you married?

2 A No.

3 Q All right. Do you have any children?

4 A One of my own, and two stepchildren.

5 Q All right. And are the stepchildren from a previous
6 marriage?

7 A On his side, yes.

8 Q On his side?

9 A Uh-huh.

10 Q So is this your boyfriend?

11 A Yes.

12 Q Okay. And how old is your child?

13 A Four months old today.

14 Q How about the two stepchildren?

15 A The oldest is eight, and the middle child is three.

16 Q Do you -- did you grow up in the Greenville area?

17 A No, ma'am. I grew up in Florida.

18 Q When did you move to Greenville?

19 A August of 2012.

20 Q Had you been in Greenville previously for some school
21 before that?

22 A Yes. I moved up here in 2006. And when I graduated
23 high school, I moved back to Florida. And it's been back
24 and forth. But I'm here to stay.

25 Q All right. When you came here for school, what high

1 school did you graduate from?

2 A Travelers Rest High School.

3 Q And did you know a girl named Rachel Lane?

4 A I did and do.

5 Q You still do?

6 A Yes, I do.

7 Q All right. Is she -- or was she married to the
8 Defendant at one time?

9 A No.

10 Q Was she married to Jerald Gaskins?

11 A Not while we were in high school.

12 Q Okay. Not in high school. But at some point in her
13 life --

14 A Yeah.

15 Q -- she ended up marrying the Defendant?

16 A Yes.

17 Q All right. Now, how did you know the Defendant -- or
18 how do you know the Defendant?

19 A Through Rachel.

20 Q Through them being married, that's how you met him --

21 A Well, it wasn't until they came over to my parents
22 and I saw that Rachel was there, and that's how, you
23 know...

24 Q You kind of made the connection?

25 A Yeah.

ROA 96

1 Q All right. And was this -- when was this that we're
2 talking about that you met the Defendant, finally, through
3 this connection?

4 A February of 2012 when they came to Florida with my
5 parents to visit us.

6 Q All right. Tell me who all came to Florida, and when
7 was that.

8 A It was my mom, my dad, my sister, Jerald, and Rachel.

9 Q And your sister is VICTIM.

10 A Yes.

11 Q Okay. And they came -- did they stay with you?

12 A Yes. My mother, my sister, VICTIM Jerald, and
13 Rachel did stay with me.

14 Q Did they have their child at the time?

15 A No.

16 Q All right. And, during that time, did you notice
17 while they were in Florida anything odd or strange about
18 any relationship?

19 A Not while in Florida, no.

20 Q And did you think that the Gaskins were just family
21 friends with your family?

22 A Well, I never really knew the Gaskins, other than
23 Jerald himself.

24 Q Okay.

25 A I hadn't met anybody else but Jerald at that point.

1 Q So how about Jerald and Rachel, did they just appear
2 to be family friends?

3 A Uh-huh.

4 Q All right. And you said you moved back here in
5 August of 2012?

6 A Yes, ma'am.

7 Q Did you live in the home with VICTIM and your mom,
8 and dad?

9 A Yes.

10 Q All right. Once you moved back, was VICTIM hanging
11 out with the Defendant a good bit?

12 A Yes.

13 Q At this point, August of 2012, when you moved back,
14 was the Defendant still living with his wife?

15 A No.

16 Q Was he living alone?

17 A As far as I know, yes. I never really went over to
18 the Defendant's house as much. He was more so with us and
19 hung out with us.

20 Q All right. And did you have any suspicions about
21 anything between he and your sister when you moved back?

22 A I did.

23 Q All right. Tell me about that. What did -- what
24 were you suspicious of, and what made you suspicious?

25 A Just the way he acted around her, you know. We'd go

ROA 98

1 somewhere and he would buy her something, such as like a
2 candy bar or a soda, you know. Why buy that one person
3 something and not offer the other person, you know, and
4 treat the others as an outcast?

5 So that's when I figured I had to go into depth and
6 see what I had to do to find out what I needed to find
7 out.

8 Q All right. So you suspected there was some kind of
9 deeper relationship possibly --

10 A Yes.

11 Q -- going on.

12 A I didn't want to question it, one, because I wanted,
13 you know, to find out. But I didn't want to scare him
14 away.

15 Q All right. And what about your sister, did you think
16 you could just talk to **VICTIM** about it?

17 A No.

18 Q Why is that?

19 A Because she's scared to tell people other things.

20 Q Okay. Did -- would it have been possible to get in
21 trouble if she had disclosed something like that?

22 A Yeah.

23 Q Trouble like with your --

24 A My mom.

25 Q -- mother?

1 A Yeah.

2 Q Right. So when you said you needed to go into depth,
3 what did you -- what were you thinking? What were you
4 trying to do?

5 A Become good with him, I guess you could say, to make
6 him trust me to want to tell me more. I wanted
7 information, but I didn't want to get too deep into
8 information. Because there was a question I didn't want
9 to ask, because I didn't want the answer to. But I didn't
10 find out until VICTIM filled out her report.

11 Q All right. Is that they had, actually, had sex?

12 A Yes, ma'am.

13 Q Okay. So you were curious, trying to find out, but
14 didn't ask the point blank question?

15 A Right.

16 Q All right. And, during that time, did you and the
17 Defendant -- did you guys either talk or hang out like at
18 your house and things?

19 A A couple of times.

20 Q Did you ever try to, specifically, ask him if
21 something was going on?

22 A No.

23 Q Did you hope he would just slip up and say something?

24 A Yes.

25 Q All right. Did you guys have phone conversations, or

ROA 100

1 texting conversations?

2 A Yes, on numerous occasions.

3 Q All right. And was there ever anything in those text
4 conversations that made you go, uh-huh, I'm --

5 A Yes --

6 MR. CHAMBERS: Objection, Your Honor.

7 THE COURT: What's the objection?

8 MR. CHAMBERS: Could I be heard outside the presence
9 of the jury, Your Honor?

10 THE COURT: Yes.

11 Ladies and gentlemen, we'll just take a short recess.
12 Don't talk about the case.

13 Thank you.

14 (WHEREUPON, the jury was excused from open court at
15 approximately 12:11 p.m.)

16 MR. CHAMBERS: Your Honor, I have some concerns about
17 this witness getting into discussions about texts. First
18 of all, our position would be that it's hearsay. We -- if
19 this were a face-to-face conversation with my client, then
20 I don't believe that it would be -- because, obviously, it
21 would be -- it's not hearsay, specifically, at that point
22 under the rules.

23 But with a text, you know, she can't give a
24 secondhand account of that. And if they want to present
25 the text, then there has to be some way of laying a

1 foundation to show that these texts, in fact, came from my
2 client.

3 I was provided yesterday with a stack of what are
4 purported to be texts from my client. We received these
5 yesterday at 2:11 p.m. I was not able to discuss them
6 with my client until this morning. I was able to get them
7 to him last night so that he could look at them. But they
8 were not timely disclosed.

9 Now, I understand from the Solicitor -- because I've
10 dealt with Kris for a long time. I don't think she was
11 trying to hide the ball on me or anything. She said that
12 she didn't get these from this witness until yesterday.

13 So our position would be that these were not timely
14 disclosed. They're not admissible. And she shouldn't be
15 able to testify about anything to do with these texts.

16 MS. HODGE: Your Honor, that is correct as far as
17 when I received the texts and when they were given over to
18 Mr. Chambers.

19 I do not believe this is going to violate hearsay.
20 For starters, it's a conversation between this witness and
21 the Defendant. And they are statements against his
22 interest. They're statements about how he loves VICTIM
23 and misses VICTIM things along those lines. I don't
24 think that's any different than if the Defendant would
25 have wrote her a letter and said those things in a letter.

ROA 102

1 It's the same thing. They're admissions of a party
2 opponent.

3 As far as laying the foundation, I didn't intend to
4 introduce the photocopy of the text. I intended to let
5 the witness recall from memory. If she couldn't recall,
6 then she had taken a picture of the text and provided a
7 copy of the picture of the text, to refresh her memory and
8 talk about, yes, there were texts on this day about him
9 missing VICTIM about him loving VICTIM

10 I think she can lay that foundation. She can say
11 this is a conversation I was engaged in. This was the
12 contact that came from Jerald. We texted numerous times
13 back and forth throughout this. It's not a random text.
14 I think anything as far as admissibility would go to the
15 weight of -- for the jury to decide whether those came
16 from him or not. But I don't think they exclude them.

17 THE COURT: Can you lay some foundation about the
18 number it came from, and her knowledge of that number?

19 MS. HODGE: Yes, sir.

20 Okay. Would you like me to proffer that, or do you
21 want to do that in front of the jury?

22 THE COURT: Well, you can do both. You can proffer
23 it now and we'll see --

24 MS. HODGE: Okay.

25 THE COURT: -- if there's any --

1 MS. HODGE: All right.

2 DIRECT EXAMINATION

3 BY MS. HODGE:

4 Q Jamie, did you have the Defendant's phone number in
5 your phone at the time of September and October of 2012?

6 A Yes.

7 Q As a contact?

8 A Yes.

9 Q All right. And had you communicated -- do you know
10 what that number was?

11 A I don't, but I can get it.

12 Q Did you label his contact with his name, Jerald?

13 A Yes.

14 Q All right. Did you have numerous texts or phone
15 conversations with the Defendant, and it would appear as
16 Jerald on your phone?

17 A Yes.

18 Q All right. And, specifically, as to the text from
19 September 30th, October 2nd, October 6th, 7th, 8th, and
20 13th, the text that we -- you sent me yesterday, can you
21 state that you know that those came from the Defendant,
22 that you and the Defendant were having these
23 communications?

24 A Yes.

25 Q And to preserve these, did you not delete them?

1 A Correct -- well, I don't have that phone anymore.

2 Q There's no service on this phone; is that correct?

3 A Right. The phone is like two or three years old now.

4 Q Okay. And do you still have the phone?

5 A (There was no audible response.)

6 Q Okay. Did you take pictures of these texts back at
7 the time you had the phone?

8 A Yes.

9 Q Okay. And what did you take a picture with?

10 A My iPad.

11 Q All right. And you just had screen shots, basically,
12 of texts between you and the Defendant?

13 A Right.

14 Q All right. And then you e-mailed those photographs
15 to me yesterday. And if I showed you these documents,
16 would these be true and accurate pictures of the texts
17 between you and the Defendant that you sent to me, or that
18 you took at the time that that phone was operating?

19 A Yes.

20 Q Yes?

21 A (Witness nodded.)

22 MS. HODGE: That would be all my questions regarding
23 the foundation for these, Your Honor.

24 MR. CHAMBERS: I don't have anything further on it,
25 Your Honor.

1 THE COURT: I overrule the objection.

2 MS. HODGE: Thank you, Your Honor.

3 THE COURT: Okay. You can bring the jury back in.
4 Thank you.

5 (WHEREUPON, the jury came into open court at
6 approximately 12:18 p.m.)

7 THE COURT: Yes, ma'am, Ms. Hodge.

8 MS. HODGE: Thank you, Your Honor.

9 CONTINUED DIRECT EXAMINATION

10 BY MS. HODGE:

11 Q Jamie, when we -- when the jury stepped out, we were
12 going to talk about some texts. But I want to back up
13 just one second.

14 When you moved back to Travelers Rest in August of
15 2012, now, how old was your sister, and what grade was she
16 in school at that time?

17 A She was 15, and in tenth grade.

18 Q All right. And do you know how old the Defendant was
19 at that time?

20 A I believe 29.

21 Q Okay. Did -- and we were talking -- did you and the
22 Defendant exchange text messages after you came back kind
23 of in your friendship, if you will?

24 A You could say that.

25 Q Okay. And I'm going to need you to speak up just a

1 little bit when you answer. You're kind of falling off.

2 A I'm sorry.

3 Q That's okay.

4 Did you get his phone number and put it in your
5 phone?

6 A Yes.

7 Q And did you name it a certain contact name?

8 A Yes.

9 Q What was that?

10 A Jerald.

11 Q And how did he spell that?

12 A J-E-R-A-L-D.

13 Q All right. Did you give him your phone number?

14 A Yes.

15 Q And would you say there were texts from August,
16 September, October between you guys?

17 A Yes.

18 Q And did he start to call you like sister, or sissy,
19 or something like that?

20 A Yes.

21 Q All right. Would there be texts that might have that
22 in there referring to yourself?

23 A Yes, ma'am.

24 Q And did he text you some things about his feelings
25 towards **VICTIM** during these times?

1 A I got text messages and verbal.

2 Q All right. And what was he saying about his feelings
3 for VICTIM

4 A Text message or verbally?

5 Q You can give us both, you know, general or as
6 specific as you can get.

7 A Text messages that he loves her most of all out of
8 all of us. And verbally was pretty much the same. He
9 can't ever be with her, and whatnot.

10 Q Okay. And when you said he said he couldn't be with
11 her, what was that about? Was that after your parents had
12 said he couldn't be with her, or was he implying --

13 A That was more so after they kind of wanted him to not
14 have connections. But there was several occasions where
15 there was no connections. But I think this was like the
16 third or -- second or third time. And then he said he was
17 going to move. And that's when we had the verbal
18 conversation about him and VICTIM -- or how he felt about
19 VICTIM

20 Q All right.. And, at this time, was your family still
21 friends with him for the most part?

22 A One at a time, I guess you could say. It was one
23 time my father, and the next time my mother. Like I said,
24 it was that he's not allowed to, and then one would say he
25 is allowed to. And it was like a back and forth deal.

ROA 108

1 Q Okay. But he's not allowed to see VICTIM

2 A Right.

3 Q This was all about him seeing VICTIM

4 A Right.

5 Q Okay. And did it have anything to do with paying
6 bills for your family, or car insurance, or anything like
7 that?

8 A Not at that time.

9 Q Okay. Did it ever have anything to do with that
10 regarding why he could see VICTIM

11 A Do you mean in how he would do stuff to see VICTIM
12 Is that what you're saying?

13 Q I'm sorry. My question may not have been clear.

14 When your parents said that he could no longer hang
15 out with VICTIM --

16 A Right.

17 Q -- meaning the Defendant, was there a reasoning? If
18 you're aware of their reasoning, was it because now the
19 Defendant wasn't paying -- helping pay some bills?

20 A No. It was through just suspicions themselves.

21 Q All right. And, during this time, the Defendant was
22 separated from his wife; is that right?

23 A Yes.

24 Q Was there ever any plan concocted about some
25 relationship he had with VICTIM so that could be used to

1 help his ex-wife in court?

2 A Not to my knowledge.

3 Q Was your family, initially, supportive, or were they
4 supportive of him during his separation from Rachel?

5 A Yes.

6 Q And Rachel was your friend; correct?

7 A Yes. But I hadn't spoken to Rachel in years since
8 that happened.

9 Q Okay.

10 A Since before -- since high school.

11 Q So you just kind of got reacquainted with her at the
12 same time you --

13 A Met Jerald, yes.

14 Q -- met him?

15 A Yes.

16 Q All right. Let me back up a little bit on the texts.
17 So you had a phone back in September or October of 2012.
18 And is that phone still the phone that you use today?

19 A No.

20 Q Okay. Is that phone out of service?

21 A It's out of service and out of my sight.

22 Q Okay. You don't have that phone anymore.

23 Before you quit using that phone, did you do anything
24 to document or to preserve any text messages that you
25 received from the Defendant?

1 A I just took pictures with my iPad of the text
2 messages on my phone.

3 Q Okay. So you had it on your screen, and you took a
4 picture of it?

5 A Yes, ma'am.

6 Q All right. And why did do you that?

7 A Because of my suspicions. And that if today were to
8 come that I'd have that to back me up.

9 Q All right. To help your -- you remember, is that
10 another reason?

11 A Uh-huh.

12 Q Okay. And then once you had those pictures, did
13 you -- of those messages, did you send them to the
14 Prosecution, the pictures of the texts?

15 A No.

16 Q Okay. When did you provide those to us?

17 A Yesterday when I sent them to you.

18 Q Yesterday. Okay. And so I'm going to show you --
19 was there a text sent or a text conversation between
20 you and the Defendant on September 30th around
21 9:30 p.m.?

22 A Yes, ma'am.

23 MR. CHAMBERS: Your Honor, I'm going to object.

24 She's leading the witness --

25 THE COURT: Sustained.

1 BY MS. HODGE:

2 Q What was the basis or what was one of the things that
3 came out of that text conversation as it related to
4 VICTIM

5 A What are you and my beautiful future wife doing?

6 Q Okay. I need you to speak up. Because I can
7 hardly --

8 A What are you and my beautiful future wife doing?

9 Q Okay. So he sent that to you. And the "beautiful
10 future wife" would have been who?

11 A VICTIM

12 Q Okay. Would there have been text messages on
13 October --

14 MR. CHAMBERS: Objection, Your Honor. She's leading.

15 THE COURT: Sustained.

16 BY MS. HODGE:

17 Q Did you continue to have text conversations with the
18 Defendant?

19 A Yes, ma'am.

20 Q Okay. Was there one about him missing --

21 MR. CHAMBERS: Objection, Your Honor. She's leading.

22 THE COURT: Sustained.

23 BY MS. HODGE:

24 Q Can you tell me every text message that you got, or
25 do you need something to refresh your memory in regard to

ROA 112

1 VICTIM

2 A Word for word, I can't.

3 Q Okay.

4 A Bits and pieces, yes, I can.

5 Q Okay. If I showed you a document, could it refresh
6 your memory to tell us what it was?

7 A Yes, ma'am.

8 Q All right. Please look at that.

9 A (Witness complied.)

10 Q Can you tell me any text message or anything that the
11 Defendant may have said about missing or loving VICTIM in
12 the text?

13 A Just saying that he missed VICTIM And out of --
14 you know, out of all of us -- he says he's worried about
15 us, but only stated really who he missed the most out of
16 all.

17 Q Okay. And was this -- when was this?

18 A October 2nd around 1:40 a.m.

19 Q Okay. And was he allowed to see your daughter --
20 your sister during that time?

21 A I don't believe it was -- it was one of those times
22 where he wasn't allowed to.

23 Q Okay. Now, did the Defendant ever offer to take your
24 sister to a concert?

25 A Yes.

1 Q Okay. And what concert was that?

2 A Luke Bryan.

3 Q Do you remember when that was?

4 A The date I can't remember.

5 Q Okay. If I showed you this document, could it
6 refresh your memory?

7 A Yes.

8 Q Okay. If you'll look at that.

9 A I want to say it was October 3rd. It was the day
10 before I texted him and asked.

11 Q Okay. What did you text and ask?

12 A I asked if I could go with them to the concert.

13 Q All right. And what did he say?

14 A He said he only had four tickets.

15 Q All right. And who was going to go with those four
16 tickets?

17 A It was going to be VICTIM Jerald, his father, and
18 his mom, Angie.

19 Q And you asked if you could go as well?

20 A Yes, ma'am.

21 Q And his response was?

22 A I only have four tickets, hon.

23 Q All right. There continued to be a couple -- did
24 y'all continue to talk or text over the next few days?

25 A Yes.

ROA 114

1 Q All right. Did he say anything about -- well, let
2 me let you look at this and see if it refreshes your
3 memory.

4 Did he text again about VICTIM or his feelings
5 towards VICTIM

6 A Yes. This was around the time that he wasn't allowed
7 to see VICTIM And he planned on leaving. And when --
8 he stated that he would miss us all, but most of all
9 VICTIM

10 Q All right. And was there any time that -- did
11 VICTIM get in trouble for anything, or have her phone
12 taken away that you remember?

13 A Yes.

14 Q All right. And what was that all about? Do you
15 recall?

16 A My mother took her phone away. Jerald bought her a
17 phone and she kept it a secret. My mother found out and
18 took it.

19 Q All right. So did VICTIM get in trouble for that
20 or --

21 A She just got the phone taken away. And she wasn't
22 allowed to see him. That's pretty much --

23 Q Okay. Was there any texting conversation between you
24 and the Defendant regarding that?

25 A Just, basically, him saying that she lost her phone

1 because of him.

2 Q Okay. And let me show you this document.

3 Was there ever any conversations about VICTIM
4 leaving with him, or running off with him that you're
5 aware of between you and the Defendant?

6 A It wasn't exactly stated that she was running off
7 with him. But he did state that we would regret doing
8 what we do or say to her when she's gone.

9 Q Okay. And doing what you do or say to her, what was
10 that about?

11 A Downing her, being jealous of her, as he would say.

12 Q Okay. And was that to you or to everybody?

13 A Everybody.

14 Q In the family?

15 A We were all jealous of VICTIM according to Jerald.

16 Q Okay. At some point, did VICTIM disclose that a
17 sexual relationship had gone on between her and the
18 Defendant?

19 A After the report.

20 Q Okay. So tell me -- were you present when the police
21 were called?

22 A Yes.

23 Q Were you living at the home during that time?

24 A Yes.

25 Q And tell us from your point from what you did, not

ROA 116

1 what you heard at that time, but what did you do after
2 VICTIM talked to the police?

3 A I told her she needed to write a statement. But she
4 didn't want to do it right then and there. So I told her
5 to go in the room with me. I recorded it on that phone
6 that I did have.

7 And I let her go back and write what she heard.
8 Because it was easier for her to tell me than to sit there
9 and write it.

10 Q Did she go -- without telling me what the details
11 were, did she go into pretty great detail?

12 A Yes.

13 Q And did she tell you when these sexual encounters
14 occurred, and where they occurred?

15 A In the statement, yes.

16 Q Okay. And then did she write everything down that
17 she stated to you verbally?

18 A Yes, ma'am.

19 Q And did you witness her doing that as well?

20 A Yes, ma'am. I provided her with paper and a pen.

21 Q Was she hesitant about doing that?

22 A No, because it was just me.

23 Q All right. And was that something that the police
24 had told her to do, or this was more --

25 A Something I told her to do.

1 Q And why did you tell her she needed to do that?

2 A Because they needed to know every detail.

3 Q And have you had any contact with the Defendant at
4 all since he's been arrested for these --

5 A Once. And that was at the Ob-Gyn while I was still
6 pregnant.

7 Q Did y'all have a discussion?

8 A Yes. He noticed me. I tried to avoid him, but he
9 noticed me and apologized for everything. He didn't say
10 what for. He just said, I apologize for everything.

11 Q Did you say anything back?

12 A Other than there was like a brief conversation about
13 my father, and that's it.

14 Q Okay.

15 A And then I got called back.

16 Q All right. So is -- the person that you know as
17 Jerald Gaskins, the one that you were texting with and
18 all, is he present in court today?

19 A Yes, ma'am.

20 Q And which person is he?

21 A The one over there with the black tie and the gray
22 shirt.

23 MS. HODGE: Thank you.

24 Please answer any of Defense's questions.

25 THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. CHAMBERS:

Q So you had been living in Florida while your parents and VICTIM were up here in South Carolina; is that correct?

A Yes, sir.

Q Had you ever lived here in South Carolina with them prior to August of 2012?

A Yes, sir.

Q Did you grow up in Florida?

A Yes, sir.

Q And graduated -- but you went to school with Rachel. So did you go to school here?

A Yes, for my tenth, eleventh, and twelfth year.

Q All right. So you lived here then. And then right after graduation, did you then go back to Florida?

A Yes, sir.

Q What year did you graduate?

A 2010.

Q And so you were gone for a couple of years in Florida?

A Yes, two years.

Q All right. Now, your parents had been together how long at that point when you came back?

A 23 years.

1 Q Okay. And did they have what you would refer to as a
2 stormy relationship?

3 A Yes.

4 Q Was your father abusive to your mother?

5 A Not in the present. In the past when we were
6 younger, yes.

7 Q Did he drink a lot?

8 A Yes --

9 MS. HODGE: Your Honor, I'm going to object to the
10 relevance of these questions.

11 MR. CHAMBERS: I'm just trying to establish the
12 family dynamic, Your Honor, which existed in this
13 household. I think it's relevant to this witnesses
14 testimony and, perhaps, future witnesses testimony as to
15 how -- what the dynamic was inside the house.

16 THE COURT: All right. Overruled

17 BY MR. CHAMBERS:

18 Q Was your father a heavy drinker?

19 A Yes.

20 Q And did your mom drink?

21 A Occasionally.

22 Q Did they have lots of get-togethers and have people
23 over all the time, and there would be lots of drinking and
24 things going on?

25 A No. We couldn't afford that.

1 Q All right. Did -- your mother was really the
2 breadwinner around this time frame; is that correct, 2011,
3 2012?

4 A Breadwinner?

5 Q In other words, she's the one that was out working
6 for a living?

7 A Yes.

8 Q Your dad was not working, was he?

9 A No.

10 Q He was playing horseshoes, and hanging out, doing
11 those sorts of things?

12 A That's something we all did as a family.

13 Q I understand.

14 And were there times when there was -- when y'all --
15 sort of unease in the house and a lot of anxiety and sort
16 of upset because of the nature of the relationship between
17 your mom and your dad?

18 A Yeah. But that's every family.

19 Q Okay. Did you ever feel neglected by them?

20 A No.

21 Q Okay. So when you got here in 2012, you then became
22 acquainted with Jerald. And the way you became acquainted
23 with him is he was friends with your family?

24 A Correct.

25 Q And you, also, knew, I guess, that he was married to

1 your old high school friend, Rachel?

2 A Yes.

3 Q And Rachel is a little bit younger, I guess, than
4 Jerald; is that correct?

5 A Yes.

6 Q At the time in 2012, you would have been, what, 21?

7 A I hadn't turned 21 yet. I was on my way there.

8 Q Close to that?

9 A Yeah.

10 Q And Rachel would have been about the same age?

11 A I think she's like a year older, but that's about it.

12 Q And Jerald, you said you believed, was 29 at the
13 time?

14 A Yes.

15 Q And so, specifically, when in August did you move
16 back here and move in with your parents?

17 A August 14th, 2012.

18 Q Okay. And Rachel was already separated from Jerald
19 at that time, wasn't she?

20 A Correct.

21 Q And you said that you not only became acquainted with
22 Jerald, but you, also, became reacquainted with Rachel?

23 A In 2012, when they came down to Florida in February.
24 They came down together. That's how I reacquainted with
25 Rachel.

ROA 122

1 Q And then when you moved back here, you had contact
2 with Rachel?

3 A No.

4 Q You didn't have any contact at all with Rachel?

5 A No, not until after the fact of everything happened.

6 Q I understand.

7 And you said that immediately after coming back, you
8 started to have these suspicions about what was going on
9 between your sister and Jerald?

10 A Yes.

11 Q So you devised this plan that you were going to gain
12 his trust and confidence, and see if you could get
13 information out of him?

14 A Correct.

15 Q And, according to you, he e-mailed these things -- or
16 texted these things to you about how he loved VICTIM the
17 best, and he wanted to marry her, and all these things?

18 A Correct.

19 Q And all of this happened, you said, between August
20 and November -- the middle of November when these
21 allegations first came to light; is that correct?

22 A That was the horseshoes between August and November.
23 It was the horseshoe deal is when we were really
24 acquainted, I guess you could say. Because that's when
25 everybody hung out most.

1 Q Well, it is a fact, isn't it, that your mother and
2 father called the police in November of 2012?

3 A Correct.

4 Q So -- and you didn't move here until August of 2012?

5 A Correct.

6 Q So everything that we're talking about occurred
7 within about a two-month span?

8 A Two or three months, yes.

9 Q So your testimony is that you were so quickly able to
10 gain the confidence of somebody that you had never met
11 before, you the friend of his estranged wife, that he
12 would then start sending you what we would refer to as
13 damming text messages?

14 A Yes. Because if you agree with him, he's willing to
15 do it.

16 Q Okay. And you -- having these concerns and having
17 these texts in your possession, you did not go to your
18 sister and talk to her about it, you, her older sister;
19 correct?

20 A Correct.

21 Q And you did not go to your parents and say, you need
22 to look at these. I've had some concerns about this guy
23 and you need to see these text messages?

24 A I didn't have enough evidence for them to believe me,
25 because he manipulated us and blinded them.

1 Q Okay. And, in fact, on November the 12th, were you
2 aware that the police were only called after Rachel's
3 mother-in-law called your mom and dad?

4 A Say that one more time.

5 Q Were you aware that the police were only contacted
6 after Rachel's mother-in-law -- or mother, I'm sorry,
7 Rachel's mother, who was Jerald's mother-in-law, contacted
8 your parents?

9 A Correct.

10 Q You were aware of that?

11 A Yes.

12 Q And even after knowing that they were going to call
13 the police, you didn't go to your mom and dad and say,
14 hey, I think you need to take a look at these text
15 messages?

16 A I showed it to them. But by me providing that to the
17 cops right then and there, it wouldn't have done anything.
18 Because I told them I had text messages.

19 Q And, yet, nobody seemed to share that with the
20 police. You didn't share it with the police.

21 A I told them I had text messages.

22 Q In fact, you didn't share it with anybody, with the
23 police, or with law enforcement until yesterday, did you?

24 A Correct.

25 Q On the eve of trial?

1 A Correct. Well, I was supposed to send it to her a
2 couple days prior to the eve of trial. But I have three
3 kids. So to find the time to send something to somebody
4 is rare.

5 Plus, living in the sticks, I guess you could say,
6 you have no service. So I had to wait until I was in to a
7 place where I could get service to send her these e-mails
8 that were on my computer that I had to get Internet from
9 to get back to my phone to send to her.

10 Q And so I guess over the course of over the last two
11 years, it took you until this week to say, you know what,
12 I've got these, you need to take a look at them?

13 A I didn't know I was going to be here today.

14 Q And, conveniently, you don't -- well, you didn't know
15 you were going to be called as a witness today?

16 A It wasn't until a couple days ago. I knew I had to
17 come in as a witness, but I just didn't know I was going
18 to testify.

19 Q So the only reason you thought those text messages
20 would be of any importance at all would be is if you were
21 going to be called as a witness. And you had no idea you
22 were going to be a witness?

23 A Well, I knew I was going to be a witness. I didn't
24 know I was going to testify. I didn't find out that I
25 still had those text messages until the other day. I was

1 going through pictures on my computer. I transferred all
2 of my pictures from my iPad to my computer. So I had
3 nothing left on my iPad. So I had to get them from the
4 computer. And in order for me to send them to her in an
5 e-mail, I had to get Internet on my computer.

6 Q When did you lose this phone?

7 A Not too long -- I'd say February two years ago.

8 Q Okay. But you had the phone when the police came to
9 the house to talk to your parents?

10 A Yes. I still had that phone.

11 Q And you had the phone as this police investigation
12 continued for months thereafter?

13 A Yes.

14 Q And you could have produced that phone to law
15 enforcement --

16 A I didn't have it for much longer, though.

17 Q Okay.

18 A Because it went -- blacked out on me.

19 Q But if you had produced that phone to them in a
20 timely manner, they could have forensically examined that
21 phone to verify where the text messages came from, and
22 that sort of thing; correct?

23 A Then why didn't they take it when I told them I had
24 text messages?

25 Q The only evidence we have that you told them is you.

1 And what you testified to a few minutes ago, if I heard
2 you correctly, was that you didn't give them anything
3 until yesterday?

4 A And I told you why I didn't give it to them till
5 yesterday.

6 Q And then this statement that your sister gave, again,
7 the first time you go to talk to her is after you're aware
8 that the police have gotten involved; correct?

9 A Correct.

10 Q And you sat down with her as she gave the statement.
11 And then under your supervision -- excuse me, she wrote
12 out the statement; is that correct?

13 A She wrote it out, yes.

14 Q All done under your supervision?

15 A Correct.

16 Q Just the two of you in a room together?

17 A Correct.

18 Q And all done after the police were called?

19 A Correct.

20 Q All done after your mom and dad were contacted by
21 Rachel's mother?

22 A Correct.

23 MR. CHAMBERS: That's all the questions I have for
24 you.

25 Thank you.

1 THE COURT: Redirect?

2 MS. HODGE: No.

3 THE COURT: All right. Thank you.

4 You may step down, ma'am.

5 You may call your next witness.

6 MS. HODGE: Thank you.

7 The State calls Rachel Lane.

8 Oh, may this witness be excused?

9 THE COURT: Sure.

10 MR. CHAMBERS: No objection, Your Honor.

11 THE CLERK: Ma'am, if you'll, please, come forward.

12 And, please, stop at the end of the bench.

13 Place your left hand on the Bible and raise your

14 right hand. And if you'll face me, please.

15 WHEREUPON,

16 RACHEL LEANNE GASKINS,

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

18 THE CLERK: Thank you.

19 Please be seated.

20 Would you, please, state your name for the record?

21 THE WITNESS: Rachel Leanne Gaskins.

22 THE CLERK: Thank you.

23 DIRECT EXAMINATION

24 BY MS. HODGE:

25 Q Do you still go by Gaskins?

- 1 A Yes, ma'am.
- 2 Q Okay. And is Lane your maiden name?
- 3 A Yes, ma'am.
- 4 Q Okay. Rachel, how old are you?
- 5 A 23.
- 6 Q All right. When's your birthday?
- 7 A REDACTED
- 8 Q Okay. Are you, currently, married?
- 9 A No.
- 10 Q All right. But you kept your married name?
- 11 A For my kids.
- 12 Q Okay. And who were you married to?
- 13 A Jerald Gaskins, Jr.
- 14 Q All right. And how many children did you have with
- 15 the Defendant?
- 16 A Two.
- 17 Q And how old are they?
- 18 A My daughter is four, and my son is two.
- 19 Q And when did you and the Defendant get divorced?
- 20 A May 12th, 2014.
- 21 Q And tell me, are you, currently, in school or working
- 22 anywhere.
- 23 A I go to school.
- 24 Q And where do you go to school?
- 25 A Greenville Tech.

ROA 130

- 1 Q What are you studying at Greenville Tech?
- 2 A Paralegal.
- 3 Q Do you live in Greenville County?
- 4 A Yes, ma'am.
- 5 Q And have you lived in Greenville County your whole
- 6 life?
- 7 A Yes, ma'am.
- 8 Q What area did you grow up in?
- 9 A Travelers Rest.
- 10 Q What high school did you go to?
- 11 A Travelers Rest High.
- 12 Q Okay. Tell us how you met the Defendant.
- 13 A When I was working at CVS as a cashier.
- 14 Q When was that?
- 15 A 2008, September of 2008.
- 16 Q And how -- were you still in school? How old were
- 17 you?
- 18 A I was 17. I was a senior.
- 19 Q And how about him? How old was he?
- 20 A 26.
- 21 Q And so you just -- you met him at CVS?
- 22 A Yes, ma'am.
- 23 Q Was he working there or --
- 24 A He just came in a lot.
- 25 Q Just a customer?

- 1 A Yes, ma'am.
- 2 Q And you guys started talking?
- 3 A Yes, ma'am.
- 4 Q Did you date for some period of time?
- 5 A We talked on the phone for about two weeks. And he
- 6 convinced me to move in with him. We never went on a date
- 7 or spent any time outside of him coming to CVS.
- 8 Q Okay. And were you living at home with your parents
- 9 at that point?
- 10 A Yes.
- 11 Q And was that a big deal for you to move out of your
- 12 parents home and move in with this guy?
- 13 A Yes.
- 14 Q Okay. And why did you do that?
- 15 A Honestly, looking back, because I was naïve,
- 16 brainwashed. I thought he loved me.
- 17 Q Okay. And where did you guys live when you moved in
- 18 with him?
- 19 A In a trailer on Coleman Road with his parents.
- 20 Q Did you finish high school?
- 21 A No. He made me quit.
- 22 Q And you agreed to just not go?
- 23 A Not willingly, but...
- 24 Q All right. And did you -- how did you get your --
- 25 did you get your -- well, obviously, you're at Greenville

1 Tech. You got your diploma.

2 A I got my GED in 2012 when I was going through the DSS
3 investigation.

4 Q So by the time -- after you separated from the
5 Defendant?

6 A Yes, ma'am.

7 Q So during the time you were married -- when did you
8 get married?

9 A February 12th, 2009.

10 Q 2009 in February. So from that time until -- when
11 did you separate from him?

12 A April 15th, 2012.

13 Q So two years -- three years?

14 A Yes.

15 Q All right. During that time, did you go to school or
16 work anywhere?

17 A He let me work for three days when we moved to
18 Central.

19 Q Did you want to work, but you were not allowed to
20 work or --

21 A Yes. He wouldn't let me work.

22 Q And how -- when you say he wouldn't let you, would he
23 like physically hold you in the house? How did that work?

24 A No. It was just angry outbursts. He would yell and
25 throw things, break things. I just -- he was the only way

1 I had around. I didn't have a car.

2 Q And you had a baby, I guess?

3 A Yes.

4 Q And when was your daughter born?

5 A REDACTED .

6 Q And then your son, when was he born?

7 A REDACTED .

8 Q So you had already separated by the time your son was
9 born?

10 A Yes, ma'am.

11 Q At some point, did you and the Defendant become
12 acquaintances or friends with the Mucienkos?

13 A Yes.

14 Q All right. And can you tell us about how you met
15 them and when that was?

16 A It was the spring of 2011. I think it was around
17 March.

18 Q And how did you meet them?

19 A Jerald played horseshoes at a horseshoe tournament.
20 And VICTIM dad, Walter, had came to meet someone else
21 that was at the tournament. And they started talking.
22 And then we went to their house that night.

23 Q Okay. So you kind of hit it off and went and hung
24 out at their house that night?

25 A Yes.

ROA 134

1 Q And who was at the home when you went there that
2 night? Did you meet the entire family or --

3 A Yes, except for Jamie and her brother. They were
4 living in Florida.

5 Q Did you recall Jamie from high school?

6 A Yes.

7 Q Were y'all close friends in high school, or just
8 acquaintances?

9 A We were pretty close.

10 Q So then you put together this was Jamie's family?

11 A I saw the name Mucienko on the wall. And I asked
12 them if they knew Jamie. And then I found out that that
13 was VICTIM sister.

14 Q Okay. At that point, how old was VICTIM

15 A 13.

16 Q Was she in high school yet?

17 A No, ma'am. She was in eighth grade.

18 Q All right. And did you hit it off with VICTIM I
19 mean, did you like her?

20 A Yeah. I mean, I had never really hung out with
21 younger people, except for my sister.

22 Q And she was how much younger than you?

23 A Four, five -- five years.

24 Q Five years younger than you at that time?

25 A (Witness nodded.)

1 Q Were you more friendly with her mom than with her, or
2 was it just kind of an odd --

3 A It was just odd for me.

4 Q Okay. And how old were her parents, I guess?

5 A I don't want to make anybody mad.

6 Q Okay. Let's do this. Were they older than the
7 Defendant?

8 A Right, yes.

9 Q Okay. Closer maybe to your parents age?

10 A Yes.

11 Q Okay. After meeting and hanging out with them this
12 first night, did that family, and you, and the Defendant,
13 and your daughter, I guess by this point, start going to
14 each others houses, or hanging out, or having cookouts, or
15 doing stuff?

16 A Yes. It was mostly we would go to their house.

17 Q Okay. And what kind of things would y'all do to do?

18 A Cookouts or listen to music. Jerald and Walter would
19 go back to the back room and play the guitar. And I was
20 just kind of hanging out.

21 Q Okay. Did **VICTIM** ever come to your home, or did --
22 or her parents ever come to your home. Let's start with
23 some -- because I understand y'all moved a lot?

24 A Right.

25 Q When you first met them, did you live -- where did

ROA 136

1 you live?

2 A Tigerville Road.

3 Q Okay. Was that a house, or apartment, trailer?

4 A A house.

5 Q Did the parents or VICTIM ever come to that house
6 and hang out?

7 A I think her parents came over once. But VICTIM came
8 over most of the time.

9 Q And would you invite her, or how would it be that she
10 would be there?

11 A Jerald initiated all of that through text messages or
12 calling, I guess.

13 Q Okay. Did he -- did you ever witness him or see him
14 text VICTIM directly?

15 A Yes.

16 Q And so you were -- were you ever the one inviting
17 VICTIM over?

18 A I may have over the course of the -- I can't
19 accurately answer that.

20 Q Initially, were you the one inviting her over?

21 A No.

22 Q Did you get to know her more over the year, year and
23 a half?

24 A Yes.

25 Q Okay. And, at some point, maybe you and she talked

1 about hanging out?

2 A No. It always felt uncomfortable for me.

3 Q All right. Why did it feel uncomfortable? Tell me
4 about that.

5 A Because she was a child. I wasn't raised to hang out
6 with people that were that much younger.

7 Q Okay. Did you ever think to maybe say anything to
8 her mom about that, or her parents?

9 A I wanted to, but I was too scared.

10 Q What were you scared of?

11 A Of his reaction.

12 Q When you say "his," who are you talking about?

13 A Jerald.

14 Q Okay. Did you think it would make him mad?

15 A Yes. I had said stuff to him before.

16 Q All right. And when you say that, what are you
17 talking about?

18 A Just asking why he was hanging out with her, why he
19 thought that she was his best friend, what the connection
20 was.

21 Q All right. Would he go to school events, or things
22 like that of hers?

23 A Yes.

24 Q And what kind of things would that be?

25 A Volleyball tournaments or practices. He would pick

ROA 138

1 her up from practice.

2 Q And would you be along as well?

3 A No.

4 Q How often would you say VICTIM would be -- well,
5 again, we're talking -- let's talk Tigerville. How often
6 do you say she came to that residence while y'all lived
7 there?

8 A Maybe once or twice a week. It could be more.

9 Q And did she ever spend the night that you can recall
10 at that residence?

11 A Yes.

12 Q When did you -- did you move from Tigerville -- the
13 Tigerville residence?

14 A When?

15 Q Did you? Did you move from that house?

16 A Yes.

17 Q And when do you think you moved from that house?

18 A The end of 2011, maybe the beginning of -- no. It
19 had to be the end of 2011.

20 Q Okay. And where did you move to?

21 A Magnolia Trailer Park.

22 Q And during -- how long did you live at Magnolia
23 Trailer Park. Do you recall?

24 A Not long.

25 Q Not very long?

1 A No.

2 Q And when you moved to Magnolia Trailer Park, did the
3 Defendant and VICTIM still have this friendship, or was
4 she still coming around?

5 A Yes. It had become more frequent by then.

6 Q All right. And would she spend the night over at
7 that location?

8 A Yes. He gave her a bedroom there.

9 Q Okay. Did y'all have an extra bedroom, a spare
10 bedroom?

11 A Yes.

12 Q Okay. Did you have any roommates at that house -- or
13 that trailer?

14 A There was Joshua Pruitt that lived over there for a
15 little bit. And then his girlfriend moved in. And then
16 they moved out. And Josh's cousin, Rachel, moved in for a
17 little bit.

18 Q All right. And when VICTIM would come over to your
19 house, what kind of things -- I mean, would you
20 participate in hanging out? I mean, what would y'all do?

21 A We would -- I mean, to be honest, I just did what I
22 had to do to stay out of the line of fire. But it was
23 mostly just video games, and music, and talking. I would
24 help her with her homework sometimes, if she asked.

25 Q And would she help with Skyland or --

ROA 140

1 A Yes.

2 Q Okay.

3 A She played with her a lot.

4 Q Did that help you out a little bit, give you a little
5 relief?

6 A Yes.

7 Q Okay. Did y'all ever go out places together, or was
8 this always really at your home?

9 A It was mostly at home. But every now and then, we
10 would go to the movies or bowling.

11 Q Okay. And just about every time you went somewhere,
12 was VICTIM along or --

13 A Every time.

14 Q How about -- well, let me ask you this. Let me
15 switch over to cars. Do you recall if you -- I don't know
16 if you had a car, but if the Defendant ever owned or had a
17 green Jeep during this time frame?

18 A Yes.

19 Q How about a silver Grand Prix?

20 A Yes.

21 Q Did he ever own or drive a black pickup truck?

22 A Yes. But I don't think it was ever registered in his
23 name. He didn't have it for very long.

24 Q And are these cars that he had consistently
25 throughout the time y'all were together or --

1 A No. They changed.

2 Q Did they change kind of like the houses changed, the
3 residences changed?

4 A More frequently than the houses.

5 Q Okay. And where was the Defendant working during
6 this time?

7 A He never worked.

8 Q Do you know how money was -- was he on disability, or
9 any kind of government assistance?

10 A Yes, disability.

11 Q All right. Now, you said you only lived at the
12 Magnolia Trailer Park for a little while. Did you move
13 somewhere after that?

14 A Yes. We moved to Central, South Carolina.

15 Q And what was -- do you know the reason for moving to
16 Central away from Travelers Rest?

17 A No, ma'am.

18 Q Okay. Did you have a lot of input into where you
19 moved, or when you moved?

20 A No, ma'am.

21 Q Did you keep communication with your family at all
22 during this time?

23 A No. He cut me -- he isolated me away from my family
24 and friends.

25 Q How did that happen? What would he do?

ROA 142

1 A He would say the -- they were bad, and they hated
2 him, and they didn't want us together, and everything. It
3 just always led into an argument.

4 Q Were you believing this as he was saying this, or
5 were you --

6 A At the time, I think, at one point, I did, but, no.

7 Q How was your relationship during this time? I mean,
8 it doesn't sound good. But were there good times during
9 this marriage?

10 A No. It was abusive.

11 Q Did you ever think about leaving?

12 A Yes. I did leave multiple times.

13 Q All right. And where would you go when you left?

14 A I went to my aunt's one time, my biological father's
15 another time, a friend's another time.

16 Q And, eventually, would you come back?

17 A It would only last a day or two.

18 Q When you left, it would only last a day or two? Is
19 that what you're saying?

20 A Yes.

21 Q And would you come back willingly, or were you talked
22 into coming back? How did that work?

23 A Talked into it. The last few times, he would use my
24 daughter against me. He took her away from me and would
25 call and say that they had been in a wreck, or she wasn't

1 breathing, or he would take her to Georgia and I wouldn't
2 know if she was okay or not. So I would go back.

3 Q All right. Now, did you ever go visit your grandma
4 sometimes while y'all were still together, or still living
5 in the house together?

6 A Yes. She's the only one I could go visit.

7 Q And where does she live? You don't have to give me
8 the address. But where does she live?

9 A Right outside of Travelers Rest. Her address is
10 Greenville, but it's still in Travelers Rest.

11 Q Okay. And would there have been times that you would
12 have left and maybe gone to your grandmother's, and the
13 Defendant and VICTIM would be at your house?

14 A Yes.

15 Q And would anyone else be there?

16 A No, except for maybe the times that Josh Pruitt was
17 living there.

18 Q Did you think anything of leaving them alone at your
19 house when you would go visit --

20 A Yes. But there was -- I was too scared to say
21 anything.

22 Q Okay. Now, I'm sorry. I kind of want to go back
23 just a little bit. When you guys lived at a Magnolia
24 Trailer Park, was there a Waffle House close by?

25 A Yes.

ROA 144

1 Q Would y'all order food from there?

2 A Yes.

3 Q Was VICTIM ever over there when y'all would order
4 food to be picked up?

5 A Yes.

6 Q Would she and the Defendant ride together to get the
7 food?

8 A Yes.

9 Q Would you go along?

10 A No.

11 Q So they would be alone when they went to get the
12 food?

13 A Yes.

14 Q All right. So I'm sorry. We've gone on to Central.
15 When you guys -- when was that do you think approximately
16 that you moved to Central?

17 A Right before my daughter's first birthday, 2011.

18 Q Okay.

19 A We moved around too much. It's hard to keep up with
20 dates and places.

21 Q Okay. And about how long did you live in Central?

22 A Just a few months.

23 Q All right. And when you moved to Central, did this
24 relationship with VICTIM -- did she continue to come
25 visit in Central?

- 1 A Yes.
- 2 Q Now, did you have some health problems when you were
3 in Central?
- 4 A Yes.
- 5 Q Okay. What happened there -- or what kind of problem
6 did you have?
- 7 A I had to go to the emergency room because we thought
8 that I was having an allergic reaction.
- 9 Q Okay. And who took you to the emergency room?
- 10 A Jerald and VICTIM
- 11 Q Did they stay with you at the hospital?
- 12 A No. He dropped me off at the front door.
- 13 Q And then how -- did you get a ride home, or how did
14 you get home?
- 15 A Him and -- Jerald and VICTIM picked me back up.
- 16 Q How long do you think you were at the hospital?
- 17 A It was a few hours. They had to run a bunch of
18 tests. And they wanted to do a chest X-ray, but I had to
19 take a pregnancy test before they could do that. And I
20 found out I was pregnant again.
- 21 Q Okay. So that was when you found out you were
22 pregnant with your second child?
- 23 A Yes.
- 24 Q Did you have an allergic reaction to something?
- 25 A I don't even think we ever found out.

1 Q Okay. Did you just get to feeling better and went
2 home or --

3 A No, ma'am. I had stayed in the bed for a few days
4 after that.

5 Q Now, at that location, was that a trailer, or a
6 house, or what in Central?

7 A A trailer.

8 Q Did that one, also, have a spare bedroom or guest
9 bedroom?

10 A Yes.

11 Q Okay. Were there any roommates that lived with you
12 guys at that trailer?

13 A Jamie McCrary lived there for a while, but I can't
14 remember for how long.

15 Q And did you guys have a futon in your house?

16 A Yes.

17 Q Okay. And was it -- for anybody that doesn't know,
18 what's a futon?

19 A It's a fold out -- it looks like a couch. And then
20 you can fold it out, but it's a single-size bed.

21 Q And where would -- where was that when y'all lived in
22 the Central place?

23 A The spare bedroom.

24 Q Okay. Now, when you guys were in Central, was there
25 a time that you would have gone to Wal-Mart with Jamie?

1 Is it Jamie?

2 A Yes.

3 Q Is it McCrary?

4 A Yes.

5 Q Okay. Would you have left the Defendant at home, or
6 did he come along?

7 A I think he let me go to Wal-Mart with Jamie without
8 him once.

9 Q And do you recall if VICTIM was over at your house
10 visiting that time?

11 A Yes.

12 Q All right. Did anything ever happen in Central that
13 raised your suspicions about a relationship going on?

14 A Yes.

15 Q Okay. Tell us what that was.

16 A I woke up in the middle of the night one night
17 because I had gotten up with my daughter. And I walked
18 out of the bedroom to the living room. And VICTIM was
19 laying on the couch with a coverling [phonetic] over her.
20 And Jerald was laying beside her with his leg over her
21 legs.

22 Q Did they have clothes on?

23 A Yes -- well, I don't know if VICTIM did underneath
24 the cover, but he had clothes on.

25 Q Okay. Did you ever say anything to him about that?

1 A Yes.

2 Q What happened when you said something about that?

3 A It became a very violent argument that escalated.
4 And we were arguing outside.

5 Q Did it become physical?

6 A No, just threatening.

7 Q And the basis of it was you confronting him about
8 VICTIM

9 A Yes.

10 Q Did you ever say anything to her personally about it?

11 A No. He told me -- he threatened me. And I wasn't
12 allowed to say anything to her.

13 Q Okay. What about her parents? Since you did know
14 them, did you ever think to say anything to them either?

15 A When we went to Florida, I tried to hint around about
16 it. But I was too scared to say anything outright.

17 Q Okay. You went to Florida. Tell me when that was,
18 and where did you go.

19 A We went to Florida. It was around my birthday. I
20 think we went down there the day before my birthday. And
21 that was 2012. Because they were -- Sandy and Walter were
22 going down there to visit Jamie and their son, Walter.
23 And so Jerald wanted to go to follow VICTIM

24 Q Did he tell you that, or is that just what you put
25 together?

1 A I put it together. He made it sound like he wanted
2 to take me down there for my birthday, but...

3 Q And that was to go to the Mucienkos house?

4 A Yes.

5 Q Did you ask to go down there for your birthday?

6 A No.

7 Q Did you ask to go there, period?

8 A No.

9 Q So that's in February of what year?

10 A 2012.

11 Q Did you guys move from Central back to TR at some
12 point?

13 A Yes.

14 Q And where did you move? And give me a ballpark maybe
15 when, a time frame.

16 A We moved right after we got back from Florida, so the
17 middle or the end of February.

18 Q Of 2012?

19 A Yes, ma'am.

20 Q Where did y'all move?

21 A To Quail Roost. I can't remember the house number.

22 Q And who all lived in that house?

23 A Me, Jerald, my daughter. His brother, and his
24 brother's girlfriend, and their child lived there for a
25 little while.

1 Q And did the relationship with VICTIM continue? Was
2 she coming over to that location as well?

3 A Yes.

4 Q Okay. So did she ever come over there and spend the
5 night at that location?

6 A Yes.

7 Q And did -- actually, did, in fact, her mom or her
8 come over and help y'all get moved in, or paint, or things
9 like that?

10 A Yes.

11 Q Did you ask them for that help?

12 A No.

13 Q Did they offer, or how did they --

14 A I think Sandy offered.

15 Q Okay. And when they were over there, did you think
16 of telling them anything or saying anything at this point
17 still?

18 A No. He was there.

19 Q And during -- I don't know if you remember. Do you
20 remember on that day, did you and Sandy go get some food
21 for people that day that y'all were painting and moving
22 in?

23 A Yes.

24 Q And who did you leave behind at the house?

25 A Jerald and VICTIM

1 Q Was your child there, or did you take your child with
2 you?

3 A No. She was at my grandmother's.

4 Q Okay. Now, this trailer in Quail Roost, did it have
5 a guest bedroom?

6 A Yes.

7 Q And did the futon make it back over to this residence
8 as well?

9 A Yes.

10 Q And how about bathrooms and showers? How many
11 bathrooms and showers were in this residence?

12 A There was a big bathroom in the master bedroom, and a
13 smaller one right next to the spare bedroom.

14 Q Did you and the Defendant have the master bedroom?

15 A Yes.

16 Q Would you ever take a shower in the smaller shower?

17 A Me?

18 Q Uh-huh.

19 A No, ma'am.

20 Q Okay. So how long did you live at Quail Roost?

21 A From February whenever we moved in until April 15th
22 of 2012.

23 Q And what happened on April 15th, 2012?

24 A He kicked me out.

25 Q And did you take your daughter with you?

1 A When we started arguing, he took her out of my arms
2 and gave her to VICTIM He called his dad to come get
3 VICTIM and Skyland, and her friend, Daylin [phonetic],
4 that had spent the night.

5 Q Did y'all have a big argument, I guess?

6 A Yes, ma'am.

7 Q Did you decide to leave?

8 A I was made to leave.

9 Q Did you have a car or any way to get out?

10 A No, ma'am.

11 Q So how did you leave?

12 A He had taken my phone before that, so I wasn't able
13 to call anyone. But I just remember putting all of my
14 stuff in trash bags and I put them out on the porch. And
15 I was going to carry what I could, which was this picture
16 that my mom had given me that had the 12-month pictures of
17 my daughter in one bag. And I was going to walk to the
18 gas station that was 10 minutes down the road.

19 Q Is that what you did?

20 A No. He blocked the driveway and wouldn't let me
21 leave. He told me that I was only leaving with him or his
22 father. So his father took me to my grandmother's.

23 Q And did you bring your bag and picture and --

24 A Yes.

25 Q After you left that day, did you ever move back in

1 with him, or get back together with him?

2 A No. I never talked to him.

3 Q You never talked to him again after that day?

4 A No.

5 Q Did you ever talk to VICTIM or her mom, or sister,
6 or anybody during that time frame?

7 A No. I completely cut myself off from everyone
8 associated with him.

9 Q All right. Did you file for a divorce, or did he
10 file for divorce?

11 A He filed for divorce.

12 Q And during that time, where were you living?

13 A When?

14 Q From April until, let's say, November of 2012.

15 A With my parents.

16 Q Okay. Was there something that occurred that caused
17 you to, finally, talk to VICTIM mom about your
18 concerns?

19 A Yes.

20 Q Okay. So tell us about that.

21 A On November 8th, me and my sister went to a Brantley
22 Gilbert concert that the Defendant was at. And he caused
23 a big scene there. And my mom was angry and sent a
24 Facebook message to all of Jerald's friends.

25 THE COURT: I'll tell you what. Let's break right

1 here for lunch.

2 Ladies and gentlemen, just be back in the jury room
3 at 2:30. It's about 1:10 right now. So be back at 2:30.

4 Don't talk about the case. Don't do any outside
5 investigation. And continue to keep an open mind.

6 Thank you.

7 (WHEREUPON, the jury was excused from open court at
8 approximately 1:13 p.m.)

9 THE COURT: All right. We'll see you back at 2:30.

10 (WHEREUPON, a lunch break was taken.)

11 THE COURT: Are y'all ready to proceed?

12 MS. HODGE: Yes, sir.

13 MR. CHAMBERS: Yes, Your Honor.

14 THE COURT: Bring the jury in.

15 (WHEREUPON, the jury came into open court at
16 approximately 2:51 p.m.)

17 THE COURT: Yes, ma'am, Ms. Hodge.

18 MS. HODGE: Thank you, Your Honor.

19 THE COURT: The witness can come back up.

20 BY MS. HODGE:

21 Q Ms. Gaskins, we were kind of getting to the end of
22 your testimony. And I think we left off around the time
23 that you had an occasion to contact VICTIM mom -- or
24 spoke to VICTIM mom regarding your suspicions about
25 VICTIM and the Defendant?

1 A Yes.

2 Q So, now, you were telling me about -- telling us
3 about something that happened in November, a concert or
4 something like that that y'all went to, you and somebody
5 went to?

6 A Yes.

7 Q Okay. So why don't you start back with that.

8 A We had -- me, and my sister, and her friend had went
9 to a Brantley Gilbert concert. And when Jerald saw that
10 we were there, he followed us around the area, and then
11 followed me outside and caused a big scene. And we had to
12 get the security that was at the concert involved. And
13 then my dad had to come there and take me home.

14 Q All right. And, as a result of that incident, did
15 your mom do something?

16 A Yes. She sent the message to everyone that was on
17 his friend's list.

18 Q Okay. And were you any part of that message? Did
19 you do that, or tell her to do that, or anything like
20 that?

21 A No, ma'am. She, actually, sent it while we were
22 still in Clemson.

23 Q All right. And up until this point -- now, we're
24 talking November of 2012. Since you and the Defendant
25 split, had you had any contact with anybody in **VICTIM**

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1 family?

2 A No.

3 Q As -- were you back at home -- or at your home with
4 your mom?

5 A Yes.

6 Q Okay. And did your mom get a phone call while you
7 were present as a result of this Facebook post?

8 A Yes. I believe so.

9 Q Okay. Let me ask this, did you ever have a phone
10 conversation with Sandy, VICTIM mother, that came after
11 this Facebook post by your mom?

12 A Yes.

13 Q And how did that conversation start, and what did you
14 say in that?

15 A I just told her about what I thought about his
16 relationship with VICTIM being not normal, and about the
17 incident with me finding him asleep on the couch with his
18 legs on her.

19 Q Okay. Did you say anything about her needing to
20 confront VICTIM or --

21 A Yes.

22 Q -- anything like that?

23 A Yes.

24 Q Was that the last conversation you had with VICTIM
25 mom or anyone in VICTIM family for a while?

1 A Yes.

2 Q All right. And were your divorce proceedings or
3 court proceedings, had those things been going on during
4 that time period?

5 A Yes. We had already been involved in a DSS
6 investigation and it was, actually, over a few weeks after
7 the concert. But it had been going on since April.

8 Q And had you brought any of VICTIM family into
9 court on your behalf during that case?

10 A No, ma'am.

11 Q Did you get with her family now on this November 10th
12 date and concoct some story about the Defendant and
13 VICTIM to help your future court case?

14 A No. I didn't need their help.

15 Q Did any of that information ever come into your DSS
16 case or divorce case?

17 A No, ma'am.

18 Q Were you contacted by Investigator Perry with the
19 Greenville County Sheriff's Office after you spoke to
20 VICTIM mom?

21 A Yes.

22 Q Did you ever come down to the police station, or was
23 this on the phone?

24 A It was on the phone. He said he was going to call me
25 in for an interview, but he never -- he never did.

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1 Q Okay. Did you tell him, basically, what you told us
2 in here?

3 A Yes.

4 Q Did you ever personally witness any specific sexual
5 activity between the two of them?

6 A No.

7 Q Okay. But you did have the incident of seeing them
8 asleep together on the couch?

9 A Yes.

10 Q And is it your testimony that they were alone
11 numerous times throughout the time you were with him?

12 A Yes.

13 Q Is your -- are all your court dates completed as far
14 as you and the Defendant with divorce, or custody, or any
15 of those kinds of things?

16 A There's still one pending charge with Greenville
17 city.

18 Q Okay. As far as your court dates for --

19 A It's not set. It's still continuing because he kept
20 having it continued.

21 Q Okay. Is it related to your children or --

22 A A violation of an order of protection.

23 Q Okay. But, other than that, your divorce is final --

24 A Yes.

25 Q -- and the custody is settled?

1 A Yes. We still have joint custody of my son
2 technically, but...

3 Q Well, has he seen your son?

4 A No.

5 Q Okay. And how about your daughter? Who has custody
6 of your daughter?

7 A I do.

8 Q Sole custody or joint?

9 A No. It's sole.

10 Q Sole custody. Okay. And is -- the person you were
11 married to, the father of your kids, is he present in
12 court today?

13 A Yes.

14 Q And who is that?

15 A Jerald Gaskins.

16 Q Can you tell us who he is and where he is?

17 A The Defendant sitting beside Randy Chambers.

18 MS. HODGE: Thank you.

19 Please answer any of Defense's questions.

20 CROSS-EXAMINATION

21 BY MR. CHAMBERS:

22 Q All right. Ms. Gaskins, when did you meet Jerald?

23 A September of 2008.

24 Q And how old were you at the time?

25 A 17.

1 Q And you were in school. What grade were you in?

2 A I was a senior.

3 Q All right. And how did you meet him?

4 A I met him at CVS when I was working as a cashier.

5 Q So he was just a customer that came in, and the two
6 of you hit it off?

7 A Yes.

8 Q And you were living at home at the time --

9 A Yes.

10 Q -- with your mom?

11 A Yes.

12 Q And who else? Who else lived with you?

13 A My dad, and my nephew, and my sister.

14 Q And when you say "dad," is that your natural father
15 or your stepfather?

16 A He is my adopted father. He is my father.

17 Q Is that Kenyard Matthew Lane?

18 A Yes.

19 Q So there were four of you living there. Did you have
20 a good relationship with your mom and your stepfather?

21 A Yes. It was a typical relationship with a teenage
22 girl.

23 Q How so? I mean, describe your life.

24 A I felt like I wanted more freedom. But my dad wanted
25 to protect me from people like him.

1 Q Okay. So you met Jerald at CVS. And did the two of
2 you at that point -- you -- I believe you said earlier
3 that you wouldn't call it dating. In fact, it sounded
4 like y'all didn't really have a whole lot to do with each
5 other up before the time you got married. Describe that
6 for me a little bit.

7 A We talked on the phone constantly until I ran away
8 from home and moved in with him.

9 Q So you ran away from home and moved in with him. And
10 you -- but you were only 17 at the time; is that correct?

11 A Yes.

12 Q You were still under your parents roof top?

13 A Yes.

14 Q Did the police become involved? I mean, you're a
15 teenage run away. You're under age.

16 A Yes.

17 Q They did get involved. They didn't take you back to
18 the house?

19 A No.

20 Q Why not?

21 A Because in the state of South Carolina, you can move
22 out when you're 17.

23 Q Is that right? You don't have to be 18?

24 A No.

25 Q So what you're saying is that your mom and your dad

1 never approved, never liked Jerald, never wanted you to
2 have anything to do with Jerald?

3 A Yes.

4 Q And, despite that, you moved in with him?

5 A Yes.

6 Q Based on phone conversations that you had with him?

7 A Yes.

8 Q I mean, y'all didn't date?

9 A No.

10 Q But these phone conversations were attractive enough
11 to you that you simply ran away from home, moved in with
12 him, and then that was that?

13 A Yes.

14 Q And then just listening to you describe the events as
15 the Solicitor talked to you, it sounded like from that
16 point forward, it was just, basically, a living hell for
17 you. Is that how you would describe it? I realize that's
18 my term. But was it a living hell for you?

19 A Yes.

20 Q I mean, he made you quit high school; is that right?

21 A Yes.

22 Q He made you quit. And then he made you quit your job
23 at CVS; is that right?

24 A Yes.

25 Q He made you -- he would not let you work anywhere; is

1 that correct?

2 A Correct.

3 Q He just made you sit at home all the time?

4 A Yes.

5 Q And he was just abusive and mean to you all the time?

6 A Yes.

7 Q Never any happiness, never any joy; is that correct?

8 A Correct.

9 Q And, yet, you didn't pick up the phone and call
10 mom -- this is your mom seated right here, isn't it?

11 A Yes.

12 Q And that's your grandmother seated right here?

13 A Yes.

14 Q And isn't that your stepdad?

15 A That's my dad.

16 Q Your dad. And they've been here in the courtroom
17 since this trial began, haven't they?

18 A Yes.

19 Q So you, as a family, are taking a great interest in
20 this case that involves the Mucienko family; is that
21 correct?

22 A Yes.

23 Q Okay. But you never called any of these people to
24 say, I made a mistake, I'm in hell over here, please help
25 me. You never did that, did you?

1 A No. Because I had my life and their lives
2 threatened.

3 Q Okay. Well, you know, there's -- you can always pick
4 up the phone and dial 911 and say, please, help me. I've
5 been threatened. I'm in a terrible situation. Did you
6 ever do that?

7 A No.

8 Q This man, your father, who you said was so protective
9 of you protecting you from people like Jerald, you knew he
10 would come to your rescue, didn't you?

11 A Yes.

12 Q The truth of the matter is you didn't have a very
13 good relationship with this man, did you, with this father
14 who you say protected you; is that right?

15 A I did. But I was a teenage girl. I rejected his
16 authority.

17 Q The truth of the matter is you, actually, accused him
18 of cutting and raping you; isn't that correct?

19 A No. That is what I was made to accuse him of.

20 Q So -- but you don't deny you made the accusation?

21 A No.

22 Q You don't deny that you, initially, told your
23 grandmother that; is that correct?

24 A Correct.

25 Q You don't deny that you told the police that?

1 A No. I don't deny it.

2 Q And, yet, when it came time to prosecute, you had to
3 come forward and say none of that happened, I made it up?

4 A No. It never made it to trial -- or my dad was never
5 arrested.

6 Q But you did make it up?

7 A Yes.

8 Q And you say you were made to say that?

9 A Yes.

10 Q And I assume the person that you say made you do that
11 was Jerald?

12 A Yes.

13 Q So he didn't want you to work. He didn't want you to
14 go to school. He wanted you at home all the time. So it
15 would seem like you were always there. You were very
16 seldom ever out of the house, were you?

17 A Yes.

18 Q Yes what? Yes, you were almost always in the house?

19 A Yes, or at his father's house, or his sister's house.

20 Q Okay. So, normally, you know, you were around him or
21 his family. But you were never just off -- you weren't
22 just out of the house hanging out where he had lots of
23 time where he was there home alone ever, did you?

24 A No.

25 Q And the truth of the matter is that all these places

1 that y'all lived, they were usually very small places,
2 weren't they?

3 A Yes.

4 Q Not -- I mean, we're not talking about big 2,500,
5 3,000 square foot homes. Usually, one or two bedrooms,
6 small places; correct?

7 A Correct.

8 Q And there were normally other people living with you
9 at each one of these addresses; am I correct?

10 A Correct.

11 Q You already talked about Josh and his girlfriend that
12 lived with you at two different places; correct?

13 A Correct.

14 Q You talked about that, I believe, Jamie McCrary lived
15 with you for a while?

16 A Correct.

17 Q So, typically, in these small houses that y'all lived
18 in where you were almost always present by your own
19 testimony, and then there were other people living in the
20 home who were almost always there, all that's correct?

21 A Correct.

22 Q All right. Now, at some point, as you already
23 testified, y'all became friends, Jerald and you, with the
24 Mucienko family?

25 A Yes.

1 Q You, initially, met at a horseshoe tournament?

2 A Yes.

3 Q And you were there with Jerald at the horseshoe
4 tournament?

5 A Yes.

6 Q So he did let you out of the house sometimes. Y'all
7 went out and socialized and did things together?

8 A As long as I was under his supervision.

9 Q You didn't enjoy any of that. It was misery for you?

10 A There were times when I enjoyed being at the
11 horseshoe tournaments, because I was getting relief from
12 him.

13 Q Okay. And y'all, actually, spent a lot of time
14 together, you said, mostly going over to their house; is
15 that correct?

16 A Yes.

17 Q And they would come -- they came to your house on a
18 couple of occasions; correct?

19 A Yes.

20 Q And, at some point, **VICTIM** began to come over to the
21 house; is that correct?

22 A Correct.

23 Q And you said that you never really wanted that, that
24 was all Jerald's idea?

25 A Correct.

1 Q In fact, you would prefer that she not come?

2 A Correct.

3 Q But you were afraid to say anything to him about it?

4 A Correct.

5 Q And you were afraid to say anything to the Mucienkos
6 about it?

7 A Correct.

8 Q Why were you afraid to talk to the Mucienkos? I find
9 that kind of odd.

10 A Because there had been an incident when we lived at
11 Tigerville when Sandy's friend, Andy, had mentioned to me
12 having suspicions. And it was a crisis when I got back.

13 Q Okay. But you were a mother at that point, weren't
14 you? I mean, wouldn't you think that Sandy would want to
15 know about these concerns that you claim to have?

16 A Yes. And my first priority was to keep my child
17 safe.

18 Q And you didn't have -- and you had those concerns,
19 but you didn't tell anybody?

20 A Correct.

21 Q There was even -- and you said a lot of that was
22 because you were never alone with anybody. But you talked
23 to the Solicitor about an incident where you and Sandy
24 were, actually, in the car together when she had come over
25 there to help y'all get moved into your new place, and

1 paint, and that stuff. Y'all got in the car to go get
2 some food, and it was just the two of you. Do you
3 remember telling the Solicitor about that?

4 A Yes.

5 Q That would have been the perfect time to say, you
6 need to look into what's going on between your daughter
7 and Jerald. But you didn't do that, did you?

8 A No.

9 Q In fact, you didn't do any of that until you had
10 moved out and divorce proceedings had been started by
11 Jerald?

12 A Correct.

13 Q Jerald started the divorce proceedings?

14 A Correct.

15 Q And you indicated that he made you leave the house?

16 A Correct.

17 Q Okay. And you, also, indicated that, basically, even
18 though you were never allowed to go anywhere and you were
19 always there that Jerald really wasn't spending any time
20 with you. He was ignoring you. He wasn't having any kind
21 of a relationship with you, other than making you afraid.
22 Is that fair to say?

23 A Yes.

24 Q And, yet, you became pregnant with a second child?

25 A Yes.

1 Q Is he the father of that child?

2 A Yes.

3 Q So the two of you were engaging in a sexual
4 relationship?

5 A It was not my choice.

6 Q Okay. I mean, you didn't want to have sex with him,
7 but, apparently, you were having sex?

8 A Yes.

9 Q So he was interested in having sex with you?

10 A Yes.

11 Q And y'all did have a sex life?

12 A Very few.

13 Q That resulted in your second child?

14 A Yes.

15 Q And do you remember when you met with Investigator
16 Perry? Because I believe you said today that Jerald just
17 told you to leave, to get out of the house. And you were
18 going to walk off, but your -- his dad ended up taking you
19 over to your grandmother's house?

20 A Yes.

21 Q You're saying it wasn't your idea to leave, it was
22 Jerald's idea for you to leave?

23 A I was already planning to leave him the day after
24 that.

25 Q Because you remember telling Investigator Perry,

1 don't you, that you had decided to leave because you had
2 caught him in numerous lies. Is that -- do you remember
3 saying that?

4 A No.

5 Q Okay. The truth is that Jerald wanted you to leave
6 because you were fooling around on him, weren't you?

7 A No.

8 Q He filed a divorce action against you and he alleged
9 adultery against you; correct?

10 A No.

11 Q He didn't?

12 A No.

13 Q So you --

14 A To my understanding, it was based on the one year of
15 separation.

16 Q So you weren't having an affair with his brother?

17 A No.

18 Q Jerald -- with Joseph Gaskins?

19 A No.

20 Q You weren't having an affair with Joshua Pool?

21 A No.

22 Q And so just out of the blue then, apparently, after
23 having, basically -- had you under his thumb for all these
24 years, you were living in abject misery, he suddenly
25 decides he just wants -- just leave, get the hell on out

1 of here; is that right?

2 A No. It started with an argument. And I told him
3 that I already had plans with my mom to leave on Monday
4 when he left.

5 Q He was mad at you because you were cheating on him?

6 A No.

7 Q And when he filed this divorce action, he was trying
8 to get custody of the kids. And you didn't like that;
9 right?

10 A No.

11 Q You didn't like him trying to get custody?

12 A He never filed for visitation or for custody.

13 Q He filed the divorce action for adultery; correct?

14 A No.

15 Q He -- so you're saying he didn't want any -- he
16 didn't even want visitation. He didn't even ask for
17 visitation?

18 A No. He did not ask for --

19 Q And, yet, your testimony a few minutes ago was he got
20 joint custody?

21 A No. He got joint custody because we were still
22 legally married when I had my son.

23 Q Well, it sounds like you never went to court.

24 A No, not for custody of my son.

25 Q Okay. Now, when you were up there with the

1 Solicitor, it seemed like she sort of guided you through
2 hitting certain touch stones about where you lived and
3 what kind of cars you had. You've spent some time with
4 her preparing for this testimony before you came in here
5 today, haven't you?

6 A No. I've only met with her one time.

7 Q Okay. And you got an opportunity to see or, at
8 least, hear about the statement that the victim in this
9 case, **VICTIM** made; is that correct?

10 A Yes.

11 Q So you were familiar with what she had said before
12 you came in here to testify today?

13 A Yes.

14 Q And you did meet with the Solicitor before trial?

15 A Once.

16 Q And, in fact, after you were placed under oath today,
17 before we reconvened, you were huddled up in this
18 conference room right here with the Solicitor discussing
19 your testimony, weren't you?

20 A No.

21 Q You deny that you were in that room talking to her?

22 A No. I deny that I was discussing my testimony.

23 Q So you were talking to her after you had left the
24 stand and you were under oath before you came back in here
25 and testified?

1 A Yes, about his witnesses.

2 Q You could have had that conversation any time,
3 couldn't you?

4 MS. HODGE: Your Honor, I'm going to object. This is
5 perfectly legitimate for me to talk to the witness. I
6 don't know what he's trying to imply to the jury, some
7 false things that have happened.

8 THE COURT: All right. Overruled.

9 Go ahead.

10 MR. CHAMBERS: Actually, that's all the questions I
11 have for you.

12 Thank you.

13 REDIRECT EXAMINATION

14 BY MS. HODGE:

15 Q All right. So would it be fair to say that the
16 Defendant was a pretty good talker to get you to leave
17 home and move in with him?

18 A Yes.

19 Q Pretty smooth?

20 A Yes.

21 Q Pretty manipulative?

22 A Yes.

23 Q Pretty convincing?

24 A Yes.

25 Q Told you things you wanted to hear?

1 A Yes.

2 Q Made you feel good?

3 A Yes.

4 Q Made you feel special?

5 A Yes.

6 Q He was going to provide you with things, give you
7 stuff. You weren't going to have to work or go to school?

8 A Yes.

9 Q Telling you that he loved you?

10 A Yes.

11 Q And you were 17; is that right?

12 A Yes.

13 Q And by the time this thing is all said and done,
14 you're only 20? 21?

15 A I'm 23.

16 Q By the time you were out of the house with him?

17 A 21.

18 Q And things changed pretty fast after him smooth
19 talking, and manipulating, and all that kind of stuff; is
20 that true?

21 A Yes.

22 Q Was he very controlling?

23 A Yes.

24 Q Were you given a car to use to drive yourself where
25 you needed to go?

1 A No.

2 Q Would he take your phone away if he didn't want you
3 to call people or have a phone at all?

4 A He would break it.

5 Q How many phones do you think you may have gone
6 through?

7 A Over a hundred.

8 Q Over a hundred. Are these like phones that have
9 plans? Are these throw-away phones?

10 A They were straight talk.

11 Q Straight talk phones. And did he make threats to
12 hurt you or your child if you were to ever go against him?

13 A Yes.

14 Q Threats to take your child away from you?

15 A Yes. And he did take her.

16 Q And where did he take her?

17 A To Georgia.

18 Q Was that with your permission?

19 A No.

20 Q Did he threaten you with -- or did he, actually, use
21 any physical harm ever to keep you from doing things, or
22 going against him?

23 A Yes.

24 Q And what did he do?

25 A He held a gun to my head. And he strangled me twice.

1 Q And when you confronted him about this thing with
2 VICTIM did things escalate?

3 A Yes.

4 Q All right. And what happened then?

5 A He had put the gun to the side of my head and told me
6 that if I told anybody or said anything to VICTIM or her
7 parents that he would kill me.

8 Q So did you think that you could go to VICTIM
9 parents and tell them what happened?

10 A No.

11 Q Did you think you could call the police and still be
12 safe?

13 A No.

14 Q Did you worry not only for your safety, but your
15 child's safety?

16 A Yes.

17 Q Again, you're somewhere around 19 years old at this
18 point?

19 A Yes.

20 Q Had you been isolated from your parents who did love
21 and care about you?

22 A Yes.

23 Q And you even made some false claim, you said, that
24 Jerald wanted you to make against your parents?

25 A Yes.

1 Q Was that to keep you further away from them?

2 A Yes.

3 Q Did you want to say those things about your dad?

4 A No.

5 Q And none of that was true?

6 A No.

7 Q Did you think you might be killed or something? I
8 mean, what was the motivation for you?

9 A I was just trying to keep myself safe.

10 Q Since you've been away from him, have you been doing
11 better?

12 A Yes.

13 Q All right. And do you, actually, attend any kind of
14 therapy or counseling?

15 A Yes. I go to Greenville Mental Health and the Julie
16 Valentine Center.

17 Q Have you had a reconciled relationship with your
18 family?

19 A Yes.

20 Q And you're in school studying to be a paralegal?

21 A Yes.

22 Q So once you got away from him, things looked up. Is
23 that fair to say?

24 A Yes.

25 MS. HODGE: Thank you.

RECROSS-EXAMINATION

BY MR. CHAMBERS:

Q So, now, you say for the first time, apparently, that he held a gun to your head, that he threatened you, that he did all these things to you; is that right?

A The threatening wasn't the first time. The gun I didn't elaborate on because I wasn't asked.

Q And then you -- but you never called the police?

A No.

Q I mean, you're smart enough to know even at a young age that the police would come to your house, that they would investigate, that if they thought there was danger, they would take you out of it. You know that; right?

A A woman in an abusive relationship leaves seven to eight times. I knew that if I called the police that I probably wouldn't make it out of his trailer alive.

Q And you knew that your family who's, apparently, supportive enough that they all came here to watch this trial, they would, certainly, have helped you?

A Yes. And I did go to them for help in 2011 when he took my daughter to Georgia.

Q Took his daughter to Georgia. Would that be fair to say? It was his daughter, too?

A DNA.

Q Pardon?

1 A By DNA.

2 Q Okay. But, I mean, he didn't break any laws. I
3 mean, he's allowed to travel with his child?

4 A He broke a law when he lied and said that I had
5 scratched him, and torn up the house, and had me arrested.
6 And that's when he took her to Georgia.

7 Q And, yet, you didn't contact these folks for any
8 help, even though you knew that -- you already said your
9 dad would protect you. You knew that?

10 A And, in 2011, when he took my daughter to Georgia and
11 had me arrested, I was at home.

12 Q Okay. So that you were fine with. You weren't
13 worried about reporting that. But somebody holding a gun
14 to your head and threatening you --

15 A I wasn't reporting what?

16 Q Well, I mean, you said that you got them involved
17 over him taking his daughter to Georgia?

18 A No. I was in jail and the police gave my daughter to
19 him.

20 Q But you didn't say --

21 A And then he took her to Georgia.

22 Q But you didn't say anything to anybody ever about him
23 being such a bad guy that he threatened you, that he hit
24 you, that he held a gun to your head --

25 A Yes, I did.

1 Q -- that he did all these terrible things?

2 A Yes, I did.

3 Q Who did you tell?

4 A I told my family when I went to their house in 2011.

5 Q Okay. But you didn't tell them when they were able

6 to do anything about it?

7 A While I was still with him, no, I did not tell them.

8 MR. CHAMBERS: All right. Thank you.

9 MS. HODGE: Nothing further from the State.

10 THE COURT: Thank you, ma'am.

11 You can step down.

12 MS. HODGE: And may she be excused?

13 MR. CHAMBERS: No objection.

14 THE COURT: You may call your next witness.

15 MS. HODGE: Thank you.

16 The State calls VICTIM [REDACTED]

17 THE CLERK: Ma'am, if you'll, please, pause at the

18 end of the bench.

19 Please place your left hand on the Bible and raise

20 your right hand.

21 WHEREUPON,

22 VICTIM [REDACTED]

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

24 THE CLERK: Thank you.

25 Please be seated.

1 Would you, please, state your name for the record?

2 THE WITNESS: VICTIM

3 THE CLERK: Thank you.

4 DIRECT EXAMINATION

5 BY MS. HODGE:

6 Q VICTIM how old are you?

7 A 17.

8 Q And where do you go to school?

9 A Travelers Rest.

10 Q What year are you?

11 A I'm a senior.

12 Q And do you have any plans after graduation?

13 A I plan to go to a four-year college to be a nurse.

14 Q And do you -- is that something you've always thought
15 about doing?

16 A No. I did want to do law enforcement at one point,
17 but then I changed my mind.

18 Q And at school -- how are you doing in school?

19 A Good.

20 Q Do you enjoy going to school?

21 A Yeah.

22 Q How about, do you participate or have you
23 participated in any school activities, or sports, or
24 anything like --

25 A I did play volleyball this past fall and three years

1 prior.

2 Q Do you work while you're going to school?

3 A I babysit sometimes.

4 Q But you don't have a job at a business or

5 something like that?

6 A Not at the moment, no.

7 Q Okay. And where are you living right now?

8 A With my mom.

9 Q With your mom. All right.

10 A And everybody who lives with us.

11 Q Who else lives with you?

12 A My brother, my sister, her boyfriend, the three kids,

13 and my brother's girlfriend.

14 Q You have a full house.

15 A Yeah.

16 Q All right. Is that in Greenville County?

17 A Yes.

18 Q In the Travelers Rest area?

19 A Yes, ma'am.

20 Q Okay. Is that the house that you've lived in the

21 whole time you've lived in Greenville?

22 A No, ma'am.

23 Q How long have y'all been in that house?

24 A That house we've been in for -- we've been here for

25 nine years, so I'd say seven.

1 Q Okay. So for about --

2 A Seven years.

3 Q Seven years. Okay. And so do you know the Defendant
4 in this case?

5 A Yes, ma'am.

6 Q All right. Tell me when you met him and how you met
7 him.

8 A I met him in the spring of 2011, so about
9 Marchish [sic]. And it was at a horseshoe tournament. I
10 rode up there with my dad just to get out of the house for a
11 little bit. And he was up there.

12 Q Okay.

13 A And he came to the house later on after that.

14 Q How many people participate in this -- these
15 horseshoe --

16 A You never know. It can vary from a small group to a
17 larger group. Just some people come one week, some people
18 won't the next.

19 Q This is not like a tournament thing where you --

20 A It was like money.

21 Q For money?

22 A Yeah. You kind of put a little bit in, and whoever
23 wins the game gets the money.

24 Q Okay. And this was on -- what day of the week did
25 this happen?

- 1 A Sundays.
- 2 Q So you weren't supposed to be at school or anything?
- 3 A No.
- 4 Q This is a weekend activity. Okay. And how old were
- 5 you in the spring of 2011?
- 6 A I was 13.
- 7 Q And what grade were you in?
- 8 A I was in the eighth.
- 9 Q Where did you go to school for eighth grade?
- 10 A Northwest Middle.
- 11 Q And when you met the Defendant, was his wife, Rachel,
- 12 also, at that tournament?
- 13 A Yes, ma'am.
- 14 Q Did they have their child at that time?
- 15 A No, ma'am.
- 16 Q Okay. Did you know if they had kids?
- 17 A Later on that night, we were talking. And they said
- 18 that they had a five-month old daughter.
- 19 Q Were your parents friends with other people in the
- 20 horseshoe group as well?
- 21 A They were friends with the people that was hosting
- 22 the horseshoes. That's why my dad went up there, just to
- 23 kind of see everybody or talk to somebody. I just wanted
- 24 to ride up there to get out of the house. That's -- and
- 25 then we kind of made more friends as we went along.

1 Q Okay. Did -- that very first time that you met the
2 Defendant, did y'all talk about phones, or exchange phone
3 numbers, or anything --

4 A I had a ring tone on my phone that he wanted. So I
5 got his number -- or he gave me his number and was like,
6 Can you send me this ring tone?

7 Well, later on, I got my phone taken because one
8 grade slipped up. And then after that, I got it back.
9 And he had texted me and was like, Why haven't you sent me
10 the ring tone? You know, I wanted that ring tone and --
11 yeah.

12 Q Okay. So pretty innocent stuff right there?

13 A Uh-huh.

14 Q Okay. But from the first day, he had given you his
15 phone number and wanted you to send him something?

16 A Yeah.

17 Q Okay. And did your family, initially, like him --

18 A Yes.

19 Q -- and his wife. Okay. And they spent time at your
20 home with your family?

21 A Yeah.

22 Q Over the course of months, did things get closer and
23 closer, the friendship get closer and closer?

24 A Yeah.

25 Q Where was the Defendant living at that time when you

1 first met him?

2 A A house on Tigerville Road.

3 Q Okay. Did you and your family ever go to his place?

4 A They -- my parents went a few times. I was over
5 there often.

6 Q Okay. And whose choice was that for you to go over
7 there? Did you ask to go, or were you invited?

8 A I was invited. There were times I would ask to go to
9 see their daughter and just to hang out, get away from the
10 house. I did like to go out and get away from the house a
11 little bit. But most of the time, I was invited to go
12 over.

13 Q Who would do the inviting?

14 A Jerald.

15 Q And how would you be invited?

16 A It would be like a text message or a call. It would
17 be like, Do you want to come over, you know, hang out,
18 play some video games, chill out with me, you know, stuff
19 like that.

20 Q And would you have to ask your parents permission to
21 be able to go do that?

22 A Yes.

23 Q And would they give you permission to go?

24 A Yes.

25 Q How would you get over there?

1 A Either him or Rachel would come pick me up.

2 Q Okay. And would they bring you back home as well?

3 A Uh-huh, unless my parents came over that night and I
4 had to go home.

5 Q Initially, did you spend the night over there when
6 you went to visit or --

7 A At first, no. But then when I started going over
8 there more often, I did start spending the night. And
9 then just kind of helping out with the baby every now and
10 then.

11 Q Did you like to play with the baby?

12 A Yeah.

13 Q Now, during this time, they, obviously, know how old
14 you are, what grade you're in, those kinds of things?

15 A Yes, ma'am.

16 Q Okay. And was there a point in time that the
17 Defendant started asking you things that were maybe
18 inappropriate, or in relation to sex, or something of that
19 nature?

20 A Yes, ma'am.

21 Q Okay. How did that come about?

22 A We were sitting in the living room. And I think
23 Rachel was putting the baby to sleep. And he started
24 talking about his past, you know, just kind of talking
25 about it.

1 And then he asked me if I was a virgin. And I told
2 him, yes. And he -- we just kind of went on with that
3 conversation. And he was like, Well, why hasn't anybody
4 taken it?

5 And I was like, Because I don't want them to.

6 And he was like, Well, if it was me -- he said, If it
7 was me, I'd make love to you and spoil you for the rest of
8 your life.

9 Q And did you say anything to that?

10 A I kind of kept quiet. I was just kind of in shock
11 that somebody would say that to me. But, on the other
12 hand, I was 13. And if somebody would spoil me -- any
13 13-year-old girl would love to be spoiled.

14 Q Did it make you feel special or --

15 A Yeah.

16 Q And did that kind of start the ball rolling with some
17 other conversations, or more in-depth type relationship?

18 A Yes, ma'am.

19 Q Did anything happen that day or night when the
20 conversation --

21 A No, ma'am. It happened a couple weeks later.

22 Q And do you have any idea what time frame we're
23 talking about at this point? Is it summertime by now or
24 is it --

25 A It's still spring. It's about April or May. So just

1 kind of almost going into the summer.

2 Q Okay. Of your eighth grade year?

3 A Yes, ma'am.

4 Q Okay. Did you happen to have a boyfriend or anything
5 at that time?

6 A No.

7 Q And did you tell anybody about that comment that he
8 made to you?

9 A No.

10 Q Why didn't you say anything to anybody?

11 A I thought it, you know, was just a small thing, just
12 blow it off, don't worry about it, kind of go on with life
13 type thing.

14 Q But did it kind of make you feel good in a way?

15 A It made me feel good in a way because of the
16 spoiling. But the fact that he got a little bit deeper
17 with it, it felt awkward. It felt a little weird.

18 Q Okay. Did you tell him that?

19 A No. I just kind of stayed quiet and was like okay.

20 Q Now, you said that his wife was at the house, but she
21 wasn't in the room for that conversation?

22 A Yes, ma'am.

23 Q When you would be over there, where would Rachel be
24 most of the time?

25 A She would be either tending to the baby, because she

1 was still little, or she would go to her grandma's house.

2 Q So she was in the home sometimes while you were
3 there, and sometimes at her grandma's house?

4 A Yes.

5 Q Okay. And you would still stay at the house, even if
6 Rachel wasn't at the house?

7 A Yes, sometimes.

8 Q Sometimes. So what was the next thing that happened
9 between you and the Defendant?

10 A We ended up having sex.

11 Q Okay. How did that come about?

12 A We were sitting there and he brought it back up again
13 about the whole thing that he said that he would make love
14 and spoil me. And I was still kind of in shock about it
15 and just was like okay. And we kind of -- I don't know
16 how to put it.

17 But then he went -- and Rachel was in the house. He
18 went to find out how long she was going to be in the
19 shower, because she was taking a bath, how long she was
20 going to be in there. And she said about 30 to
21 45 minutes.

22 Well, he came back out. And he was like, Well, she's
23 going to be in there for a while. And we went back into a
24 spare bedroom. And then he kind of checked one more time
25 to make sure that she was in there for a while. And then

1 he came back in and everything started.

2 Q Would you say that, at this point, you're a willing
3 participant? Are you -- how are you feeling at this
4 point?

5 A Kind of like I feel now, kind of anxious and shaky,
6 not knowing what's going to happen. And just -- I didn't
7 know what to think, whether I was willing. But I was,
8 also, 13.

9 Q When you get to this -- is it a guest bedroom?

10 A Yes, ma'am.

11 Q Okay. Tell us what happens. I know we're going to
12 start going into some very personal stuff. But just give
13 us, if you can, the best recollection of what happened.

14 A We went in there. I laid down. And he took my bra
15 off. And then he started to fondle me and, basically, was
16 seducing, if that's how you would say it. And he started
17 doing that. And then he...

18 Q Did he have his clothes on at this point?

19 A No, ma'am.

20 Q Okay. Was he completely undressed?

21 A No. He had his shirt on.

22 Q Any underwear, or boxers, or anything?

23 A No.

24 Q And what about you? What clothing did you have --

25 A I have no -- from my waist down, there was no

1 clothing.

2 Q Did he kiss you, or do anything like that, or --

3 A Yeah.

4 Q Okay.

5 A He did.

6 Q And did he touch your vaginal area?

7 A Uh-huh.

8 Q With his -- with what parts?

9 A At first his hands, and then his penis.

10 Q And did he use a condom?

11 A Yes, ma'am.

12 Q And what did he do with his penis?

13 A He put it in. And I kind of made sure that I didn't
14 say anything like I was quiet so that she would never find
15 out. And then the sex occurred.

16 Q Was this the first time that you had ever had sex?

17 A Ever.

18 Q And about how long did that last?

19 A Only a few minutes, just for the safety of her coming
20 out.

21 Q All right. And when it was over, what happened?

22 A We just went back to playing games or sitting out in
23 the living room watching TV.

24 Q So did you get yourself dressed --

25 A Yes.

1 Q And he got himself dressed?

2 A Uh-huh.

3 Q And then --

4 A We just kind of acted like nothing ever happened.

5 Q How are you feeling at that point?

6 A Disgusting, honestly. I was -- told myself I would
7 wait and keep it for somebody that cared and I thought I
8 cared for.

9 Q Did you feel like he cared for you?

10 A Yes, ma'am.

11 Q At that point?

12 A Yes, ma'am.

13 Q What were you basing that on?

14 A The way he treated me, how he kind of gave me this if
15 I asked for it, gave me that, you know, just small things
16 if I'd ask I got. So it was, basically, just material
17 things.

18 Q Did he give you attention?

19 A A lot of that, a lot of attention.

20 Q And then little stuff, you're talking about if you
21 asked for stuff, it would be --

22 A Like I could ask for a candy bar, a drink, and it
23 would just simply just be put in my hand in an instant.

24 Q Did you end up staying there that night that this all
25 happened?

1 A Yes, ma'am.

2 Q And was there any discussion about you not telling
3 anyone or --

4 A He, basically, told me don't -- everything will be
5 okay if you don't tell anyone. Just don't tell anyone.
6 And I'll give you whatever you want.

7 Q Okay. And did you believe that to be true?

8 A Yes.

9 Q Had you wanted to tell anyone?

10 A No. Because I wanted what I asked for. I mean, you
11 can't always get what you ask for, but it was nice to get
12 it when I asked for it.

13 But then I did want to tell. Because I felt really
14 bad like it was the worst thing I could have done. And
15 that's something that you -- you know, have to wait for
16 and not just give it. And to tell somebody is a lot
17 harder if you didn't willingly want to give it completely.

18 Q Did you think you'd get in trouble, also, like --

19 A Yeah, by far.

20 Q Okay. Did you -- but, at some point, did you kind of
21 grow to like him, or the relationship, or --

22 A Yes.

23 Q Were you conflicted about that?

24 A I really liked the things that I got and the
25 attention I was given.

1 Q Is that -- you're now at 17 looking back, is that
2 kind of how you're processing this, or at 13, were you
3 thinking that?

4 A This is me at 17 looking back realizing that it was
5 just a material thing.

6 Q So you continued to have a -- some kind of
7 relationship with him?

8 A Yes, ma'am.

9 Q And this progressed on for maybe about a year, a year
10 and a half?

11 A A year and a half.

12 Q All right. So I'm going to kind of go through the
13 rest of that year and a half, if you will. Did anything
14 else happen with him sexually at that Tigerville house?

15 A No.

16 Q Was this something that happened every single time
17 you saw him?

18 A No.

19 Q Okay. About how many times would you say total did
20 any sex happen?

21 A Every -- a little over -- it was over 10 times. I
22 can say that much.

23 Q Okay. But not like a hundred times?

24 A No.

25 Q All right. So, as we've heard, the Defendant moved

1 several times?

2 A Yes, ma'am.

3 Q And did you ever visit him when he moved to 12
4 Magnolia Trailer Park?

5 A Yes, ma'am.

6 Q So is it -- you tell us. Did you maintain this kind
7 of friendship thing for that year -- for a year and a
8 half, and maintained it every place that he moved?

9 A Yes, ma'am.

10 Q So 12 Magnolia, you'd go over there and hang out?

11 A Yes, ma'am.

12 Q Kind of like before?

13 A Yeah.

14 Q All right. And, at that location, did any type of
15 sexual activity happen?

16 A Yes.

17 Q Okay. Can you tell us about that?

18 A Rachel had went to her grandma's, took Skyland to her
19 grandma's. And he said, She's gone. Let's, you know, do
20 something.

21 I was like, Why?

22 And he was like, Because we never have the chance.

23 So why not try it now?

24 And I was like, No. I really don't want to.

25 And he was like, Well, why not?

1 I just don't want to.

2 He was like, Please.

3 And I kept telling him no. And he kept begging me.

4 And then I just got sick of the begging. It was
5 overwhelming. He wouldn't stop.

6 So I then agreed. We went to the back room, the
7 spare room. And then, again, we were both -- had no
8 clothes on from the waist down. And the same thing
9 happened again. And then he inserted and it happened.
10 But he used a condom.

11 Q Did he use a condom every time?

12 A Yes, ma'am.

13 Q All right. And, again, how long did this maybe go
14 on?

15 A Maybe 10 minutes.

16 Q What happened after it was over?

17 A The same thing, just put the clothes on and go back
18 like everything is okay. He'd either go make dinner, or
19 do something in his bedroom. And I'd sit out in the
20 living room and watch TV, or play a game, or go on the
21 game system. I've forgot what game system it was, or just
22 go on YouTube, or something.

23 Q How many times do you think it happened at that
24 location?

25 A The full -- like actual full sex?

1 Q Actual -- right. Full vaginal-penile penetration?

2 A Only one time.

3 Q What, if anything, happened there that wasn't that?

4 A Oral.

5 Q Okay. So what happened during that occasion?

6 A Once again, Rachel went to her grandma's. I think
7 this time to pick up Skyland. She went over there. And,
8 you know, she usually stayed there for a good hour and a
9 half or so, maybe shorter.

10 And then he kind of pulled me into the back in his
11 room. And it was -- you know, he turned out the lights,
12 turned on the TV with music on, just kind of -- I don't
13 know what type of music was on. And he took my pants off,
14 everything waist down was gone. And he did oral.

15 Q So he put what part of his body --

16 A Mouth.

17 Q His mouth. On what part of your body?

18 A My vagina.

19 Q And how long did that last?

20 A Maybe five minutes.

21 Q Did he ask you to do anything in return?

22 A Not then, no.

23 Q Did that lead to any other sexual activity?

24 A No, ma'am.

25 Q Okay. Is -- did -- was time running short on that,

1 or was there -- did -- was there some reason that it was
2 just that, or you don't recall, or not?

3 A (Witness shook her head.)

4 Q While he was living at this residence, did y'all ever
5 go to the Waffle House to pick up some food for everybody?

6 A Yes, ma'am.

7 Q Okay. Tell us about that.

8 A He had a silver Grand Prix, at first. And everyone
9 was sitting in the house. And he was like, Does everybody
10 want some Waffle House? It was like 10:00, 11:00 at
11 night. Excuse me. And everyone was like, Yeah. Let's
12 get some Waffle House. And we all got the -- we both got
13 the order down. And on the way out, he called it in.

14 And he said that it would be about a 10 or 15 minute
15 wait. I was, Okay.

16 So he was like, Well, I know this place behind the
17 shop behind the BP station off of the highway.

18 I was like, Okay.

19 And he was like, We're going to go there.

20 And I was like, Why?

21 He said, Because we're going to do it.

22 I was like, Why?

23 He said, We've got time. He's like, It's the chance.
24 There's always a chance.

25 And then we went behind -- it was behind an abandoned

1 house in the Grand Prix. And we never went in the house.
2 We stayed in the car. It was in the backseat. It was,
3 basically, the same thing all over again, pants --
4 waist -- sorry. From the waist down was taken off. He had
5 a condom on. And we had sex.

6 Q Okay. Did any other type of sexual activity happen
7 at that time?

8 A At that time, oral was, also, taking place there,
9 too. But that was it at that time.

10 Q Okay. And where in the car did this happen?

11 A The backseat.

12 Q Okay. So this -- how long did that last?

13 A Maybe the 10 minutes that we had to wait.

14 Q And did you just get back dressed?

15 A Yeah.

16 Q Get back in the front seat --

17 A It was, basically, the same thing all over every
18 time.

19 Q And you went and got the food?

20 A Yeah. We went back to the house.

21 Q You brought it back. You all acted like nothing was
22 wrong or different?

23 A Uh-huh.

24 Q Now, were you over there every single weekend or --

25 A No. There were weekends I wasn't over there. I

1 would go to a friend's house. But most of the weekends, I
2 was there.

3 Q Okay. And, speaking of that, did you stop spending
4 less and less time with your friends or --

5 A Yes.

6 Q Okay. And why did that happen?

7 A He would tell me -- like we'd be -- this was later
8 on. He would tell me that, you know, they're not good
9 friends. They're bad influences. You know, I heard this
10 about them, I heard that. And, you know, he was like,
11 They're not real friends. He said, I'm your best friend.

12 Q Did you believe him when he said that stuff, or sort
13 of believe him?

14 A I sort of believed him. Because, I mean, at the
15 time, I was going through arguments with my friends, but
16 what friendship doesn't, so.

17 Q Okay. And are you in ninth grade by this point? Are
18 we getting --

19 A Yes.

20 Q Okay.

21 A Or it was -- yes, ninth grade.

22 Q Okay. Did -- would you say that your relationship
23 with the Defendant was getting more and more like
24 boyfriend-girlfriendly type, or how is that?

25 A In a way, yeah. Like it was more -- you know, we

1 were together, always together. Yeah, boyfriend-girlfriend
2 type.

3 Q Is that how you looked at it, or --

4 A (Witness nodded.)

5 Q Somewhat?

6 A Yeah, somewhat.

7 Q I mean, you couldn't tell your parents -- or you
8 didn't tell your parents about it; right?

9 A Yeah. I didn't tell my parents yet.

10 Q Okay. And his wife is right there. Are you not
11 thinking, you know, this is wrong, I shouldn't be doing
12 this?

13 A I did.

14 Q Did you ever think about telling her anything?

15 A No. Because he made her seem like she was a liar, a
16 constant liar. So you couldn't tell her anything without
17 her telling somebody, or that she always ran her mouth
18 about something is what he made her out to be.

19 Q He made her out to be a bad guy?

20 A Yeah.

21 Q So did you try to form any friendship with her, or
22 not really?

23 A I tried, you know, just to keep it kind of civil and,
24 you know, keep it kind of pushed back that anything was
25 going on.

1 Q Keep it looking normal, I guess?

2 A Yeah.

3 Q While you're over there. All right. So then I guess
4 they moved to Central. Did you ever go visit when they
5 moved to Central?

6 A Yes.

7 Q Okay. Tell us about going over to Central, if
8 anything happened over there.

9 A Yes.

10 Q Okay. What happened?

11 A The first time, there was two incidents. The first
12 time is when Rachel -- she was sick like really sick. So
13 we took her to the hospital and we dropped her off. He
14 said, We'll call -- call me when, you know, you find out
15 something. So we dropped her off, you know, and went back
16 to the house.

17 And I went to the bathroom and came out. And he kind
18 of pulled me into the room like he did at Magnolia. And
19 he kind of -- he turned on the music again, turned out the
20 lights. This time, completely unclothed, everything. And
21 he used KY during this. And it was -- I'm sorry. And
22 then the sex was going to happen. And then when that was
23 done -- because Rachel had called. We both got dressed.
24 I had to clean myself because it burned.

25 Q The KY?

1 A Yeah. It burned like a bad burn.

2 Q Okay.

3 A And then we went and picked up Rachel, and then found
4 out she was pregnant.

5 Q Did you ever say to yourself I'm not doing this
6 anymore, I'm just going to stop hanging out with him, I'm
7 going to stop doing this?

8 A I told myself that I wasn't going to do -- I was
9 telling myself I'm not going to do this anymore, you know.
10 They have a family they're going to raise, you know.
11 They're going to have a kid again. I shouldn't -- this is
12 wrong. I want to stop hanging out with them. Because I
13 did start to get a friendship with Rachel.

14 And I started to grow fond of the child, Skyland. I
15 did like going over there seeing her. So I went to see
16 her sometimes. And then other times, he invited me.

17 Q Was this kind of like a sense of freedom from your
18 parents, or kind of giving you free rein --

19 A It was --

20 Q -- to hang out and --

21 A -- go over there, you know, hang out. It was a fun
22 type of thing.

23 Q Nobody is telling you to get off the phone, or off
24 the games, or go to bed, or any of that?

25 A Yeah.

ROA 206

1 Q So you're kind of --

2 A Free.

3 Q All right. So after that incident happened, did you
4 go back and hang out with no intentions of doing anything?

5 A Yes.

6 Q Okay. But did something happen?

7 A Yes, ma'am.

8 Q Okay. So what happened the next time you went over
9 there?

10 A It was in the spare room that they had the futon in
11 it. And I was going to sleep. I was laying down getting
12 ready to go to sleep. And he came in there. Because
13 Rachel still wasn't feeling good. He came in there and
14 told me, Hey, she's asleep. Come on.

15 I was like, No, just flat out, No, I don't want to.
16 You know, I wanted to go to sleep. That's my intentions,
17 to go to sleep.

18 And he was like, Come on, come on.

19 And I was like, No, just no.

20 And then he started to kiss me, put his hands all
21 over me and, basically, seduce me to do it even though I
22 really didn't want to. Because I had told myself before
23 that this is wrong, don't ever do it again. And I did --
24 at the time, I like to keep my promises to myself. And he
25 made it to where I started breaking my promises. And I

1 felt like the worst person in world. I told him no. He
2 didn't go away. And then it was waist down this time, no
3 clothes, same deal.

4 Q Okay. And is it safe to say he used a condom this
5 time as well?

6 A Yes, ma'am, every time.

7 Q Okay. And was there oral sex on this one as well?

8 A Yes.

9 Q And was there anything -- did he talk about it while
10 all this was going on? Were there ever things -- again,
11 him reminding you not to say anything, or nothing?

12 A He was just like, you know, Just keep quiet. While
13 it's going on, he was like, Just like keep quiet, you
14 know. Because you don't know when she's going to walk out
15 of the room, you know. Because she did like to get up,
16 you know, and get a drink. He was like, Just stay quiet,
17 you know. She won't ever know.

18 And by the time it -- maybe 10 minutes again. And by
19 the time it stopped, you know, clothes were back on. He
20 got rid of the condom every time. He either flushed it
21 down the toilet or threw it out somewhere. And he just
22 kind of left the room. And by the time he went back into
23 the living room and sat on the couch, Rachel had walked
24 out of the bedroom to go get a drink, or some sort of
25 thing.

ROA 208

1 Q Okay. So she came out and --

2 A I could see her come out because I left the door
3 open. Because it would get either really hot or really
4 cold, depending on the weather. And I could see her walk
5 out into the kitchen.

6 Q Was there ever a time that you fell asleep with the
7 Defendant on the couch purposely or accidentally?

8 A No, ma'am. I was asleep already on the couch. I
9 think that was when Jamie was living at the house and he
10 had that spare room. And the other room still had some of
11 Skyland's toys in it. They hadn't gotten that room
12 situated yet. And I slept on the couch.

13 And I was playing games, you know, watching YouTube,
14 doing that. Well, I fell asleep. Well, I was in a
15 complete sleep. And it woke me out of my sleep when
16 Rachel came out. And he was laying next to me. I had no
17 idea he had laid down next to me with his leg thrown over.
18 I mean, he was like on me, not on top. But it was kind of
19 thrown over me sleeping.

20 Q And did something -- did an argument start at that
21 point, or did anything happen?

22 A (Witness nodded.)

23 Q Okay. Did you witness that?

24 A I didn't see it. I could hear it because it was a
25 trailer. It was through the walls. You could hear it

1 pretty clearly. They were -- at first, they went in their
2 bedroom -- bathroom -- between the two. And I could still
3 hear it because I was doing my own laundry. And I could
4 hear them screaming and yelling at each other. I really
5 couldn't make out what they said. And then one bolted out
6 the door, and then the other bolted out the door. And I
7 couldn't hear it from then on.

8 Q Did you ever hear any other arguments or fights that
9 they had?

10 A When she was kicked out, I did. I heard that one.

11 Q Okay. You were there?

12 A Yes, ma'am.

13 Q Was there anything that -- did you see, hear, witness
14 anything that would be considered threatening or physical
15 harm to Rachel?

16 A I don't recall hearing. I could barely hear what
17 they were saying through the walls or outside. But when
18 she left, it was just an all out brawl of words.

19 Q Okay. Would you say that -- what was the Defendant's
20 temper like?

21 A Short.

22 Q Did you witness that?

23 A Yes.

24 Q On more than one occasion?

25 A Yes.

ROA 210

1 Q Who would be on the receiving end of that short
2 temper?

3 A Anybody who -- I mean, you could just barely have
4 said something the wrong way and he'd snap like his
5 temper would -- like the fuse would go.

6 Q Did that ever make you concerned?

7 A Yes.

8 Q Did that make you more likely to say yes when he was
9 pushing you to have sex?

10 A Yes.

11 Q Did he ever make any specific threats to you if you
12 didn't do it, though?

13 A No.

14 Q That was just at the back of your mind --

15 A Yeah.

16 Q All right. Was there a time that Rachel and Jamie
17 went to Wal-Mart that something happened in Central?

18 A Yes, ma'am.

19 Q Do you recall that?

20 A Yes.

21 Q Okay. Can you tell us what happened then?

22 A It was -- if I may literally say -- or say,
23 literally, it was the same as before on the futon, spare
24 room, everything.

25 Q Okay. Kind of a pattern?

- 1 A Yeah.
- 2 Q A routine, if you will?
- 3 A (Witness nodded.)
- 4 Q They ended up moving from Magnolia; is that correct?
- 5 A No, Central.
- 6 Q I'm sorry. Central.
- 7 A Back to TR.
- 8 Q Back to TR. At this point, are you still texting,
- 9 talking, hanging out?
- 10 A Uh-huh.
- 11 Q Did you go and visit or help them move in to 46 Quail
- 12 Roost?
- 13 A Yes.
- 14 Q All right. Who all did that?
- 15 A Me, him, Rachel, and my mom.
- 16 Q Now, your mom came this time. Was that -- was she
- 17 normally coming with you, or not --
- 18 A No. I think it was just because they were moving and
- 19 they needed help moving, so she came.
- 20 Q All right. So what happened at Quail Roost?
- 21 A Rachel and my mom had went to go get something to eat
- 22 because we had been moving all day. So we were like,
- 23 Well, we're hungry. They were like, Well, we're going to
- 24 go grab a couple of pizzas and maybe some drinks.
- 25 I was like, Okay.

1 And we stayed at the house. Well, then he was like,
2 Well, time to break in the new house.

3 I was like, What?

4 He was like, Break in the new house.

5 And I was like, Why? It was more of a why.

6 And he was like, Let's just do it.

7 I was like, No. I didn't want to. And I was still
8 promising myself, I was like, you can't do that, you
9 can't. I was always telling myself, you can't, you can't.
10 Well, I kept breaking my promises. And I was scared he
11 was going to blow up if I kept telling him no, but not
12 physically hurt me, just yell. And I didn't want to be
13 yelled at.

14 Q Were you still on the receiving end of good things?

15 A Yes.

16 Q Was there some point that he -- you lost your phone
17 and he got you a phone, or you got your phone taken away?

18 A I got my phone taken away because of the excessive
19 talking to him and isolating myself in my room all the
20 time, you know. I was always over there. I wasn't really
21 talking to my parents, you know, kind of just would push
22 myself away. And my mom took my phone.

23 And she was like, Well, no more of this, you know,
24 kind of took it, put it off inside of the drawer. Excuse
25 me.

1 And he asked for it back. And then by the time that
2 one had got taken and shut off, then he got one of the
3 kind of little prepaid phones or two of those -- three of
4 those. Sorry. Three of those. And he gave one to me.
5 He had one. And then he tried to give my brother one.

6 Q Were you supposed to let your parents know you had
7 that?

8 A No, ma'am.

9 Q Did they find out that you had it?

10 A Yes, my mom did.

11 Q And did you get in trouble for that?

12 A Yes.

13 Q Did you think to tell her I just need to tell you
14 everything that's going on?

15 A No.

16 Q Did that ever pop into your head?

17 A No. Not at that time, no.

18 Q Did you ever think you would tell her?

19 A Eventually.

20 Q How did you see this ending? Did you ever think
21 about how this was going to end?

22 A No. Honestly, I didn't really think about how it was
23 going to end or how badly it would end.

24 Q All right. You were just trying to be in ninth
25 grade, do what ninth graders do?

1 A Right.

2 Q So tell us, did any other instances happen -- well,

3 did something happen on the day of moving in? Did we go

4 through that?

5 A Yeah.

6 Q Okay. Was it the same old, same old?

7 A Yeah.

8 Q Okay. And then did it ever happen again at that

9 place?

10 A Two more times in the spare bedroom that they had on

11 the futon.

12 Q Okay.

13 A Same --

14 Q Same kind of thing --

15 A Same thing.

16 Q Was there ever any time that he wanted you to perform

17 oral sex on him?

18 A Yes.

19 Q Did you ever do that?

20 A No.

21 Q And was that a discussion or --

22 A Yes. He asked me a few times. And I kept telling

23 him no. He asked me why. And I said, Because I don't

24 want to. It's nasty. It's disgusting to me.

25 And he would tell me, Well, I do it to you. What's

1 the difference?

2 I'd still tell him, no. I wouldn't do it at all.

3 But he'd still be persistent and try to get me to, but I
4 wouldn't.

5 Q Okay. Was there something he'd said to you about he
6 could make you do it one day?

7 A Yeah. He said that one night while I was sleeping on
8 the futon in the spare room that he was going to come in
9 there and do it. He was going to put it in my mouth and
10 make me do it.

11 Q Did that ever happen?

12 A No.

13 Q Was there ever anything that happened in his green
14 Jeep?

15 A Yes.

16 Q Okay. And where was he living at this time, and what
17 happened?

18 A The green Jeep, he was living in Central. And then
19 it was with him when he went to Quail Roost.

20 Q Okay. So did --

21 A And it was another Waffle House occasion.

22 Q Okay. And where did y'all go in the Jeep?

23 A Behind the abandoned house again.

24 Q Was it the same kind of thing in the Jeep?

25 A Yeah. The backseat was folded down and it was the

ROA 216

1 same thing again.

2 Q Okay. So did he ever give you any ideas or things to
3 tell your parents if they ever questioned you or asked
4 about anything?

5 A He said to tell them that a tampon -- that I used a
6 tampon and it's how I lost it.

7 Q How you lost your virginity?

8 A Yes, ma'am.

9 Q If they ever asked or --

10 A Yeah. If they ever had suspicions or anything, you
11 know, maybe why or, you know, if they had me examined,
12 that's what he was saying. He was like, If they have you
13 checked out that it would -- you know, say that a tampon
14 did it, that I used a tampon and it did it.

15 Q All right. And did he ever tell you anything else to
16 say that maybe you did it to yourself or --

17 A The main one that he would use was the tampon one.
18 But he did say, you know, you did it to yourself, just
19 tell them you did it to yourself, you used this or -- I
20 don't know. Thinking back, I can't recall what it was.
21 But it was anything that could do it. It was just tell
22 them that, just tell them this.

23 Q So there was going to be a plan if they ever got
24 suspicious?

25 A Yeah. There was a set plan on if they asked.

1 Q Now, at Quail Roost, did -- is this -- was Rachel
2 still living at Quail Roost?

3 A Yes. That's where they separated at.

4 Q Okay. And you said you were present that day?

5 A Yes, ma'am.

6 Q Okay. So when -- you said an all out brawl, I think
7 is what you said before?

8 A It was a verbal brawl.

9 Q Okay. A verbal brawl. And so what -- he kicked her
10 out?

11 A Yeah. It was screaming and yelling, of course. I
12 had Skyland inside at first. And then, you know, I kind
13 of took her outside on the other side of the house so she
14 could still play outside while they're inside the house.

15 Because it was -- it started inside, so I took her
16 outside. And then they moved outside. And he told me to
17 take Skyland -- call his dad, take Skyland, me, and my
18 friend, Gaylon, to -- you know, to take us to the
19 horseshoe tournament that we were about to go to when he
20 decided to kick her out.

21 Q And was she pregnant at that time?

22 A Yes.

23 Q And did she have a car, or anything?

24 A No.

25 Q Okay. How was she supposed to go? Did you hear any

ROA 218

1 of that?

2 A No.

3 Q Were you present when, I guess, his dad -- did his
4 dad come and get you?

5 A His dad came and got me and my friend, Gaylon, and
6 Skyland. And we went to the horseshoe tournament. And,
7 after that, I really didn't quite know what happened.
8 Because I was there and they were over there. And he came
9 and told just a story.

10 Q So did he come to the horseshoe tournament --

11 A Yeah.

12 Q -- after kicking his pregnant wife out?

13 A Yes.

14 Q Okay. He comes to the horseshoe tournament. And did
15 you continue to see and talk to him and hang out with him
16 after he and Rachel split?

17 A Yes.

18 Q And your parents allowed you to hang out with him
19 without Rachel being around?

20 A Yes.

21 Q Did anything ever happen between y'all once Rachel
22 was gone?

23 A There was a time he came and got me from a volleyball
24 game. And he kind of -- I had to change clothes, of
25 course. And we went to the mall and just kind of walked

1 around. We went to Krystal Burgers. We went to the
2 movies. And then we went to his dad's house and just kind
3 of hung out. And then he took me home.

4 Q Okay. Did you stop at his house and anything happen
5 at his house on this time?

6 A No, ma'am. Not that time, no.

7 Q Okay. Did you write out a really long statement for
8 yourself, I guess, and then send it to law enforcement?

9 A Yes, ma'am.

10 Q Okay. Is it 16 pages? Would that be accurate?

11 A 16 pages front and back, eight full pages like
12 sheets, eight pages.

13 Q Okay.

14 A 16 front and back.

15 Q And you've been doing very well, but if I -- would it
16 refresh your memory if I could show you Page 11 of your
17 statement?

18 A Yes, ma'am.

19 Q Now, is this statement -- would this statement be
20 accurate for you making this from your memory back in
21 November of 2012?

22 A This is all from memory.

23 Q This is all from memory?

24 A Yeah. Well, this was written in November, so I'm
25 trying to remember it.

ROA 220

1 Q Okay. Was there an occurrence that day after the --
2 Krystal was --

3 A Yes, ma'am.

4 Q Okay. Are you sure about that?

5 A Yes.

6 Q Okay. And --

7 A I had to go back.

8 Q And when we say a sexual occurrence, was it the --

9 A Same thing.

10 Q -- same exact thing?

11 A Same thing.

12 Q Okay. Did the Defendant ever want you to take
13 pictures of yourself?

14 A Yes.

15 Q Okay. What kind of pictures?

16 A Nude.

17 Q And did you ever do that?

18 A Yes.

19 Q Did you do that on the phone that your parents knew
20 about, or the other phone?

21 A Both.

22 Q Did he ever send any pictures to you of him?

23 A One.

24 Q Do you happen to have those phones, or did y'all have
25 those phones --

1 A No. He took those back. He took them all back.

2 Q Okay. And did the Defendant move to one last place
3 before, I guess, all of this kind of came to light where
4 you would visit?

5 A Yes, ma'am.

6 Q Okay. Which place was that?

7 A 505 Belvue Road.

8 Q All right. And did you ever go over there or hang
9 out over at that house?

10 A I did. But we didn't really hang out. We had just
11 went there to look at it. He was kind of showing me,
12 look, this is my house, you know. He said, This is where
13 we're going to start our life when I get Skyland. This is
14 where we're going to start our life.

15 Q Okay.

16 A And that was the only time we really, you know, hung
17 out, if you would say that.

18 Q Okay. So were you thinking that now that he was
19 separated, y'all were going to be an item?

20 A He had me thinking that once I was old enough that I
21 was his.

22 Q Okay.

23 A That we were going to get married and we were going
24 to live together forever. He had me thinking forever.

25 Q And, at this point -- was there some talk of you

ROA 222

1 trying to be emancipated?

2 A Yes. He tried to convince me to get emancipated,
3 telling me, you know, kind of like -- he was like disown
4 your parents type of thing. He was like they don't treat
5 you right. And he just kept telling me, you know, they're
6 not good people. They treat you so badly. And why would
7 you want to stay with them? You know, get yourself out of
8 the house. You can do it. You're old enough.

9 Q Pushing you away from your family. Did you kind of
10 believe what he was saying?

11 A Yes and no.

12 Q Did your parents loved [sic] you?

13 A I knew my parents loved me.

14 Q But did they make you do chores and have rules?

15 A Yeah. I mean, I've got to do chores still. But it's
16 just my job that I've got to do.

17 Q Did that bother him that you had to do chores?

18 A He would tell me that I -- that they treated me like
19 a slave. I had to do everything for everybody, that
20 nobody treated me right. That I was their slave,
21 basically.

22 Q But was he going to treat you right?

23 A He claimed that, yeah.

24 Q So, again, I'm going to show you Page 11 and see if I
25 can refresh your memory here. Belvue Road, did

1 anything -- did something sexual happen there? Do you
2 remember that?

3 A Yes.

4 Q Okay. Will it help to review your statement?

5 A That was when the Luke Bryan concert came about.

6 Q Okay. So back at the Belvue place, did anything
7 happen sexually there?

8 A Yes.

9 Q So can you tell us what happened there?

10 A We were supposed to go to the Luke Bryan concert. I
11 was pretty excited. And he picked me up from another
12 volleyball after. And he told me that the tickets were
13 sold out. And he told my parents -- after he had told my
14 parents he had already gotten them and that, you know,
15 they were all going to get used, so nobody else could go.
16 Well, we never went.

17 And then we went to his dad's house, kind of just
18 hung out there for a little bit watching TV. And then we
19 went to Belvue -- I take that back. We went to S&S
20 Cafeteria over in Greenville off of Wade Hampton.

21 And then we went back to Belvue. And this time I was
22 completely naked. It was like a -- one of the side rooms.
23 It was a small room. He kind of put buckets down and made
24 a pallet out of it. And he -- we were both stripped down.

25 And then he started doing oral again, fondling, oral,

ROA 224

1 same thing, everything. And then he told me -- he asked
2 me to do it. And, again, I told him, no, that I wasn't
3 going to do it. And we argued about it for a good 10
4 minutes. And then he started doing it to me again. And
5 then he had put a condom on. And we had sex.

6 Q Okay. And you had sex?

7 A Yes.

8 Q Okay. The Luke Bryan thing, so he had told your
9 parents y'all were going?

10 A Yeah.

11 Q You believed you were going?

12 A Yeah.

13 Q And your sister had asked to go?

14 A Yeah. And he denied it.

15 Q The tickets were all --

16 A Yeah.

17 Q -- used up?

18 A Yeah.

19 Q So once you found out you weren't going, were you
20 disappointed?

21 A Yeah.

22 Q Do you like Luke Bryan?

23 A I like him.

24 Q Okay. And did you think to call your parents and say
25 looks like we're not really going or --

ROA 225

1 A No.

2 Q Okay. Was that an agreement between y'all not to
3 do -- or was it even --

4 A No. Because I can't recall -- I think our phones
5 were shut off at the time because of a bill.

6 Q Okay. But so, now, there was this really big block
7 of time that you were given permission to be gone --

8 A Yeah.

9 Q -- I guess by your parents to go to the concert?

10 A Yeah. My dad was not -- you know, he was drinking,
11 so he was like whatever.

12 Q Oh, okay.

13 A He had bought my dad some beer. And I was like, Hey,
14 dad, we're going to the Luke Bryan concert. And they were
15 like, Okay. And I think my mom was at work. And we were
16 supposed to go and we didn't.

17 Q Okay. And that's a good -- you know, a couple of
18 hours to go to a concert, I guess. So that y'all had that
19 time --

20 A We just kind of, you know, went to the cafeteria.
21 And we went to his house -- or his dad's house, the
22 cafeteria, and then Belvue. And by the time that ended, I
23 had went home. And that was the last time anything
24 happened.

25 Q Okay. That was the last time anything --

ROA 226

1 A Sexual happened.

2 Q -- sexual happened?

3 A Yes, ma'am.

4 Q Did you continue to have a relationship of just
5 talking with him?

6 A The -- that's when the prepaid cell phone came into
7 play.

8 Q Okay.

9 A Because my phone had gotten taken. It was shut off.
10 So he was like, Well, I'm going to get you this other one.
11 Don't tell your mom. Don't let your mom know.

12 I was like, Okay. You know, I still had a phone.
13 And we just kept talking. And my mom found out about that
14 phone and took it. And then that -- all contact was
15 completely cut off.

16 Q Okay. So did you -- was there a discussion between
17 you and your mom where your mom said, hey, you can't hang
18 out with him anymore?

19 A She, basically, told me, you know, look, this is
20 ending, no more. This is done. She cut it off with him.
21 And she made sure I knew you're done hanging out with him.

22 Q Did she ask you if anything inappropriate had ever
23 happened between y'all, at that point, or did she --

24 A No. She just wanted to end things --

25 Q All right. So --

1 A -- because she was upset about me having a phone.

2 Q Right. Without her permission. And so do you --
3 what time frame are we talking here? Do you remember what
4 month and what year this would have been?

5 A Getting my phone taken, it was --

6 Q And the concert?

7 A The concert, it was the fall of 2012.

8 Q Okay. From that point on, no more seeing him?

9 A Uh-huh.

10 Q No more talking to him?

11 A Uh-huh.

12 Q All right. How long did that go on before you were
13 confronted by your mom and family about the relationship?

14 A A little over a month.

15 Q A little over a month?

16 A Because it was early October. And then it was the
17 10th of November of 2012 when I was confronted.

18 Q When you were confronted. All right. So let's go to
19 that. Tell us how it came about that -- from your
20 perspective, what happened on November 10th of 2012?

21 A I was just sitting there watching TV. And it was
22 really just calm in my house, you know. Everyone was laid
23 back, just watching TV.

24 And my mom had walked in and was like, I need to ask
25 you a question.

ROA 228

1 I was like, What?

2 She was like, It's about Jerald.

3 I was like, What?

4 And I was just watching TV. I was watching Criminal
5 Minds. I was like, What?

6 And she asked me if anything had went on. She told
7 me that she had spoke to Rachel and, you know -- and asked
8 me. And I denied it. I was scared. I was shaking,
9 crying. But I denied it. And then I came forward with
10 everything.

11 Q All right. Like in that same conversation?

12 A In that same conversation, the whole thing. My
13 sister came in there -- or my sister was in there. My dad
14 was standing up in front of the TV. And my sister was
15 just like, You need to tell mom. You need to tell her
16 everything and anything that needs to be said now. And I
17 did. I cried. I was ashamed. I felt like this big -- a
18 piece of dirt. And I told them everything. And they
19 called the cops. And the cops came to the house. And I
20 talked to the officer.

21 Q Was that your plan for that night or any time --

22 A No.

23 Q -- that that was going to happen?

24 A No. I was just set on watching Criminal Minds.

25 Q All right. And was that something you were probably

1 going to keep to yourself for many, many years or --

2 A Oh, I was -- well, not many years. Excuse me. My
3 eye itches.

4 I was -- I would have had to build myself up the
5 courage to tell is what I was waiting to do, kind of let
6 him slide out of our lives like he did, and build up the
7 courage to tell my mom what happened and -- until she
8 asked me.

9 So I just -- I mean, my plan was just to sit in the
10 chair like I was doing for the past month sitting at home
11 watching TV, doing nothing. And, you know, then she asked
12 me.

13 Q And the police came and you spoke to them kind of
14 briefly --

15 A Yes.

16 Q -- or a little bit that night?

17 A Yes.

18 Q And did you have to talk to Investigator Perry later?

19 A I did at school. I was called out of class. They
20 pulled me into the guidance conference room, my guidance
21 counselor, somebody else -- I really don't remember the
22 name -- and Investigator Perry were in the room. And I
23 wrote three and a half pages of a statement page.

24 Q All right. And did you tell them in that statement
25 a, I guess, more generalized version of what you told us

ROA 230

1 today?

2 A Yes. It was very simple, a small version of what was
3 told today.

4 Q Did you go home and tell your parents about the
5 statement or what you said -- what they'd asked you, or
6 anything like that?

7 A They had asked me, you know, what did they ask you?
8 What did you need to do? And I just told them, you know,
9 I had to write a statement. They just needed me to write
10 a statement. Excuse me. And it was just simple
11 questions, you know, what did they say? What did they do?
12 What did they ask you?

13 Q At some point, did you -- or did your sister or
14 somebody suggest to you that you needed to write your own
15 statement, or document things?

16 A Yes, ma'am.

17 Q Okay. How did that come about?

18 A We were kind of sitting there. And I think -- if I
19 do recall, we had a copy of my statements. And we were
20 going over that. And they were saying it was too short.
21 It's too incomplete.

22 So me and my sister went in her room by ourselves
23 with her phone, recorded it. And I went back over the
24 recording and wrote down what I said so I could remember
25 word for word. I didn't want to skip a part, skip a beat,

1 nothing. And I just wrote it down. And it came to 16
2 pages.

3 Q And, again, would you say maybe your two and a half
4 page one is kind of an outline or a rough --

5 A It was just a -- brief.

6 Q Okay. And then you had your more in detail one. And
7 did that more detailed statement get sent to the police
8 officer -- or Investigator Perry, I mean?

9 A Yeah.

10 Q Okay. Once you had to talk to law enforcement and
11 you gave your statements, did you, also, have to go have a
12 medical exam done?

13 A Yes.

14 Q All right. And --

15 A I was signed up for Julie Valentine. They sent me to
16 Julie Valentine. And they gave me a medical exam. And I
17 went to therapy for 12 weeks.

18 Q And was the therapy helpful to you, do you think?

19 A Yes.

20 Q Okay. And did you successfully complete therapy?

21 A Yes, ma'am.

22 Q And have you been able to kind of, I guess, get
23 yourself thinking right about this?

24 A Yes, ma'am.

25 Q At this point -- up until this point, I guess today,

1 had you seen the Defendant again since you had --

2 A I would see him occasionally throughout stores, you
3 know, just kind of pass by. I would try to avoid it, try
4 to avoid anything -- a confrontation.

5 Q A confrontation?

6 A Yeah.

7 Q Okay. And no small talk even, or anything like that?

8 A Nothing.

9 Q All right. And were you in any way, shape, or form
10 encouraged or told to make this story up by anybody?

11 A No.

12 Q Did Rachel ever come to you and want you to give a
13 statement, or go to their divorce hearings or custody
14 case, or anything like that?

15 A No.

16 Q And, to your knowledge, was there any big financial
17 feud between your dad and the Defendant where your dad
18 asked you to make this up?

19 A No.

20 Q And why are you telling us? And why did you write
21 this 16-page statement?

22 A Because it was pulled to -- aside for a year and a
23 half everything that was going on. Everyone was being
24 blinded by the gifts and the giving, not realize -- they
25 weren't realizing and neither was I that there was more or

1 less manipulation to it. And nobody else in this world
2 needs to go through that.

3 Q Do you have a friend named #1 (Minor)

4 A Yes, I do.

5 Q And how long have you known #1 (Minor)

6 A Since fourth grade.

7 Q And would #1 have been around you or your family
8 during these horseshoe tournaments?

9 A It was -- she was scarce, very scarce. She was there
10 when me and my dad -- it was me, my dad, and #1 We
11 pulled up -- we rode in the back of the truck because it
12 was warm out. And we rode in the back of the truck up
13 there.

14 But once it started getting further in, she made
15 herself scarce, not only on top -- she had a lot of her
16 own stuff going on. But she made herself very scarce.

17 Q All right. When you say we met or we rode up
18 together, was that the -- what are you referring to? What
19 day was that?

20 A The day I met the Defendant.

21 Q Okay. So #1 was with you the day you met the
22 Defendant?

23 A Yes.

24 Q And she met the Defendant that day as well?

25 A She went home before the Defendant came to my house.

ROA 234

1 Q Okay. But at the horseshoe place?

2 A Yes.

3 Q Okay.

4 A She was there.

5 Q Okay. Was her mom there at that point?

6 A No.

7 Q Was there another time maybe her mom would have come,
8 or is that -- am I thinking of something different?

9 A Not that I remember, no, ma'am.

10 Q Okay. And would #1 ever go with you when you
11 went over to hang out at the Defendant's house?

12 A No. I don't recall. I do remember Gaylon. I think
13 maybe twice #1 came over, or he would come over to my
14 house and #1 would be there.

15 Q Okay. And are y'all still friends at this point?

16 A Yes.

17 Q Do you see her very much?

18 A Not lately. She's been working. And I'm trying to
19 find a job. But even though it's small talk, we still --
20 we're still friends.

21 MS. HODGE: Can we approach the bench one second?

22 THE COURT: Sure.

23 (WHEREUPON, a bench conference was held.)

24 THE COURT: We're going to take a short recess.

25 Don't talk about the case.

1 And, if you would, select someone to be the
2 Foreperson of the jury. It has to be one of the regular
3 jurors, not one of the alternates. But write their name
4 down and give it to the bailiff when you make the choice.

5 Thank you.

6 (WHEREUPON, the jury was excused from open court at
7 approximately 4:27 p.m.)

8 THE COURT: Ms. Hodge.

9 MS. HODGE: Your Honor, I was about to go into a line
10 of questioning with the victim in regard to any
11 conversations she and #1 (Minor) may have about the
12 Defendant having a sexual relationship with Ms. Barton.
13 Ms. Barton would be the State's 404(B) witness under
14 common scheme or plan. And we would intend to call her as
15 our next witness.

16 So I was just inquiring of the Court as to how to
17 proceed at this point since we've not had a ruling on that
18 information -- or the admissibility of that witnesses
19 testimony yet. My offer was to ask this witness two
20 questions. Number one, did you ever tell #1 (Minor)
21 about your sexual relationship with the Defendant? And,
22 two, did #1 (Minor) ever tell you about a sexual
23 relationship she had with the Defendant?

24 So a few of these trials that I've done, it appears
25 that defense attorneys seem to think the victims collude

1 and get their stories together. And so I just wanted to
2 be able to ask that question before I excused my witness
3 and/or was finished with my direct.

4 THE COURT: Mr. Chambers.

5 MR. CHAMBERS: Well, first of all, Your Honor, I
6 don't think -- it was not my intent to ask her anything
7 about #1 (Minor) I would, certainly, object. I
8 wouldn't necessarily object to her asking if she told her
9 friend, #1 (Minor) anything about the relationship she
10 had with this Defendant. But I would, certainly, object
11 to her asking if #1 (Minor) ever told her anything.

12 First of all, anything that #1 (Minor) would have
13 to say to her would be hearsay.

14 Secondly, it starts down the road of 404(B) Lyle
15 evidence, which I would, also, object to because -- for a
16 couple of reasons. One, the only notice that I ever
17 received about #1 (Minor) and any 404(B) information
18 was in an e-mail that I got from the Solicitor. I don't
19 remember the exact date. And I've looked in my file
20 trying to find it, because I did print it out a few days
21 ago.

22 And, really, all it said was there was #1 (Minor)
23 and there was another potential witness listed, Heather
24 Gosnell [sic], that would be testifying pursuant to Lyle.
25 I didn't receive any information about what they might

1 say, about what the facts and circumstances were, but
2 absolutely nothing to -- I had no expectation about what
3 that might be. So I, certainly, at this point, don't know
4 whether it meets the standard, which I think are strict
5 standards, under Lyle, under 404(B).

6 So I would object to her testifying. And I would
7 object to this witness testifying at all about anything
8 she may have been told about a sexual relationship.

9 THE COURT: Okay. Why don't we all take a break
10 right now. We'll come back and hash this out in about 10
11 minutes.

12 MR. CHAMBERS: Thank you.

13 THE COURT: I did notice, and y'all might be aware,
14 that the Supreme Court today issued an opinion in State v.
15 George Chavis. I don't think it has anything earth
16 shattering. But it talks about expert qualifications in
17 sexual abuse cases. You might want to look at it.

18 MR. CHAMBERS: Yes, sir.

19 What's the name of that case, Your Honor? Chavis?

20 THE COURT: Sir?

21 MR. CHAMBERS: Chavis?

22 THE COURT: State v. George Chavis, C-H-A-V-I-S.

23 All right. Thanks.

24 We'll just take about a 10-minute break.

25 (WHEREUPON, a break was taken.)

1 THE COURT: Okay. Did y'all work it out or --

2 MR. CHAMBERS: Oh, I didn't know we were supposed to
3 be working anything out. I'm sorry.

4 THE COURT: No. I'm just eternally optimistic.

5 MS. HODGE: No. I don't know -- I did not respond to
6 his saying that the Lyle witness should not be admissible.
7 So I didn't know if that -- if we were getting ready to
8 hear that. Because this would be a good time while the
9 jury is out to go ahead and decide that. That would be my
10 next witness that I would intend to call.

11 In regards to what Mr. Chambers said, I did send him
12 a letter on January 22nd stating that, Let this letter,
13 please, serve as notice that we intend to introduce 404(B)
14 evidence through the testimony of two potential witnesses,
15 a #1 (Minor) and Heather Gaskins.

16 At that point, they had not been served. And we have
17 still not been able to serve Ms. Gaskins. But we do have
18 #1 (Minor) under subpoena. She's been here since noon
19 today.

20 If you would like, I can state what I -- why I feel
21 that her testimony is relevant and admissible under
22 404(B).

23 THE COURT: Yes, ma'am. Go ahead.

24 MS. HODGE: All right. Your Honor, as you know, in
25 sexual abuse cases, the Court's have come down with

1 numerous cases, especially recently in the case of McCombs
2 that talks about common scheme or plan, and what the State
3 must show in order to be able to introduce evidence of
4 other victims.

5 In this case, Your Honor, this was an uncharged
6 incident. The Defendant -- the victim never came forward
7 to law enforcement. So there's not been any police
8 report. The child, also, never gave a statement during
9 the course of this investigation. The State found out
10 about this potential victim when interviewing the victim
11 herself. In preparation for trial, the victim and the
12 mother told me there might be another girl. That girl may
13 be #1 (Minor).

14 So, at that point, I tried to locate her, speak to
15 her about what, if any, experience she had with the
16 Defendant. And as far as 404(B) goes, what her testimony
17 would show is that there was a common scheme or plan
18 between this victim and Ms. #1 (Minor) and the fact
19 that they were both females, age 13. They were both
20 friends that met the Defendant on the very same day at
21 this horseshoe tournament. They were in the eighth grade.

22 They -- #1 (Minor) would testify that the
23 Defendant started texting her, talking to her almost
24 immediately upon meeting her at the horseshoe tournament.
25 That he then engaged her in some flirtatious kind of talk.

ROA 240

1 It led to him having sex with her at a residence of
2 his where his wife and child were present in the guest
3 bedroom. He then, also, took her to an abandoned house,
4 the abandoned house the victim had discussed, attempting
5 to have sex in the car, but she refused to have it in
6 the car, so they, actually, went inside the abandoned
7 house.

8 This was during the time frame almost immediately
9 preceding the victim's case within the month of March of
10 2011. The Defendant told her, you know, don't tell
11 anyone, made her, again, believe that she was special.
12 This was fondling, touching of the vaginal area and
13 vaginal-penile penetration, which was a type of sexual
14 battery. And, in addition, the Defendant used condoms
15 with this victim as well. There would be three instances
16 of sexual battery with this victim.

17 And then, basically, her testimony is that he said he
18 was -- that she didn't want to do that anymore. He said
19 he was done with her and he was moving on to **VICTIM**
20 anyway. So that would be the essence of her testimony.

21 And, clearly, it's in line with what the victim has
22 testified to. They were 13, eighth grade, met at
23 horseshoes, had sex in the Defendant's residence, went to
24 the abandoned house and had sex. And the Defendant used a
25 condom. It was vaginal-penile penetration.

1 So the State believes we've met our burden under
2 404(B) once, you know, this witness testifies. I mean,
3 obviously, I've been telling you this as an officer of the
4 Court, but that would be the essence of her testimony.

5 THE COURT: Mr. Chambers.

6 MR. CHAMBERS: Your Honor, in response, I mean, first
7 of all, I would go back to the issue that -- and it was --
8 January 26th sounds about right. I mean, the only notice
9 that I got was that these witnesses would be offered up
10 and they would illicit 404(B) evidence. I was never given
11 any information via a statement or anything.

12 I mean, I heard what #1 (Minor) will testify to
13 for the first time just now. And, for that reason, we
14 don't believe there was a timely disclosure. And that it
15 shouldn't -- that even if this were admissible under
16 404(B) that it should be precluded for that reason.

17 Beyond that, though, Your Honor, we realize that, at
18 least, as things stand now, the majority of the Court, at
19 least, in the past in State v. Wallace and some other
20 cases have held that a close degree of similarity
21 establishes and would require a connection between two
22 acts and that no further connection must be shown for
23 admissibility, which in our position would be -- and this
24 was, actually, sounded out by Justice Pleicones in the
25 dissent of that very case, in Wallace, is that what the

1 Court has, essentially, done is carved out an exception
2 from 404(B) itself, and, basically, said we're not going
3 to require you to satisfy all the elements of 404(B) if
4 it's a sex case.

5 And Justice Pleicones wrote a very good dissent
6 saying that that was improper. There's reason to believe
7 that if a case like that were to go up on appeal now that
8 the Court would rule differently. We just believe it's
9 bad law.

10 But even if we apply the law in this particular case,
11 I don't believe what they've established is under the
12 prevailing law of Wallace and some other cases that
13 followed Wallace -- still a common scheme and plan.

14 Basically, what we have is that he may have had sex
15 with another 13-year-old girl. There -- you know, this
16 girl testified to a good many things that I didn't hear
17 when the Solicitor stood up and talked about the common
18 scheme and plan in this case. I mean, essentially, there
19 has to be some sort of something -- sort of a modus
20 operandi that somebody has that would make it a common
21 scheme or plan. And our position would be that that's not
22 present here.

23 So for all of those reasons, we would object to it
24 coming in. As the Court well knows, obviously, this is
25 probably the most prejudicial kind of evidence that can

1 come in before a jury. And this is not even a prior
2 conviction. This is completely not just uncharged
3 misconduct, but misconduct that, apparently, was never
4 reported or mentioned to anybody until this case arose.
5 And I heard about it, as I said, for the first time when
6 the Solicitor sent me that letter. So that's the position
7 that we're in.

8 And, Your Honor, I would, also -- this is not related
9 to our argument, which I know is going on now. But just
10 before we get too far into this, I'm probably going to be
11 in a position to have to ask the Court if I can do my
12 cross-examination first thing in the morning. Because
13 we're almost at 5:00. And my wife needs me home early
14 tonight because she has somewhere that she has to go. So
15 I just want to throw that out.

16 THE COURT: What rule is that?

17 MR. CHAMBERS: That's the --

18 THE COURT: That's the one that trumps all the other
19 rules, isn't it?

20 MR. CHAMBERS: Yes, sir.

21 THE COURT: Okay. Well, why don't we do this. What
22 time do you have to leave?

23 MR. CHAMBERS: Well, I mean, as long as I can leave
24 around 5:00, 5:10, I'm good, you know. I just can't go
25 much -- too much past that.

ROA 244

1 And I, of course, told her when I talked to her today
2 that I can't always control when the Court stops, but she
3 said as much as I could, so.

4 THE COURT: Why don't we let the jury go, bring in
5 Ms. Barton, and let you proffer what her testimony is
6 going to be.

7 And then you can head out.

8 MR. CHAMBERS: Yes, sir.

9 THE COURT: Does that suit everybody?

10 MS. HODGE: Yes, sir.

11 MR. CHAMBERS: Yes, sir.

12 THE COURT: Okay. If you'll bring the jury back in
13 just briefly.

14 (WHEREUPON, the jury came into open court at
15 approximately 4:52 p.m.)

16 THE COURT: Ladies and gentlemen, I'm sorry to bring
17 you back in here to tell you this, but we are going to go
18 ahead and break for the evening. We've got some matters
19 we need to take up. And it doesn't make any sense for
20 y'all to have to stay here while we do that.

21 So just be back at 9:00 in the morning, and we'll
22 resume the testimony at that time. Don't talk about the
23 case. Don't do any outside investigation. And continue
24 to keep an open mind.

25 Have a good evening.

1 (WHEREUPON, the jury was excused from open court at
2 approximately 4:53 p.m.)

3 THE COURT: Do we have Ms. Barton? Is she here?

4 MS. HODGE: Oh, yes.

5 (Pause.)

6 THE CLERK: Ms. Barton, if you would, please, come
7 forward. Pause at the end of the bench there.

8 If you'll, please, place your left hand on the Bible
9 and raise your right hand.

10 WHEREUPON,

11 [REDACTED] #1 [REDACTED]
12 after first having been duly sworn, testified as follows:

13 THE CLERK: Thank you.

14 Please be seated.

15 Would you, please, state your name for the record?

16 THE WITNESS: #1 (Minor)

17 THE CLERK: Thank you.

18 DIRECT EXAMINATION

19 BY MS. HODGE:

20 Q Ms. Barton, do you -- how old are you?

21 A 18.

22 Q And do you know VICTIM [REDACTED] Am I saying her
23 name properly?

24 A Yeah.

25 Q Okay. How do you know her?

1 A I've known her since like fourth grade.

2 Q Have y'all been friends?

3 A Yeah.

4 Q Okay. And do you know the Defendant in this case,
5 Jerald Gaskins?

6 A Yes.

7 Q All right. And how do you know the Defendant? When
8 did you meet him? How did you meet him?

9 A When we were doing like the horseshoe tournaments
10 over at my friend VICTIM house.

11 Q All right. Were you over at VICTIM house and
12 y'all went to a horseshoe tournament?

13 A No. It was -- we had them played separate at the
14 house.

15 Q Okay. They would play over at VICTIM house?

16 A Yes.

17 Q Did they play other places as well?

18 A If they did, I never went.

19 Q Okay. And did you meet the Defendant at the
20 horseshoe stuff?

21 A Yeah.

22 Q Okay. What time -- what year, and what time of year?
23 Can you tell us?

24 A Oh, goodness. I guess spring of 2011.

25 Q And how old would you have been at that time?

1 A 13 or 14 -- just turned 14.

2 Q And what grade would you have been in school?

3 A Eighth.

4 Q Did you and VICTIM go to the same school for eighth
5 grade?

6 A No. In middle school, we separated.

7 Q All right. What middle school did you go to?

8 A Lakeview.

9 Q All right. And when you met the Defendant, did you
10 immediately start talking to him, or was there some kind
11 of conversation that started up with you two?

12 A Yeah. We immediately started talking.

13 Q All right. And how about phone numbers? Did y'all
14 exchange phone numbers, or text each other, or stuff?

15 A Yeah.

16 Q Do you remember how that happened?

17 A I think it was -- we were having a little get
18 together. And we sat in the car just playing the radio
19 and just exchanged phone numbers.

20 Q Well, how would you characterize what y'all were
21 talking about, like was it just general stuff?

22 A It was just general.

23 Q Did it ever get to a point where it was flirtatious,
24 or anything overtly --

25 A Immediately.

ROA 248

- 1 Q All right. And what happened?
- 2 A Just talking about hanging out sometime.
- 3 Q Okay. Together like the two of y'all hanging out?
- 4 A Yeah.
- 5 Q Okay. Was he married at the time?
- 6 A Yes.
- 7 Q Okay. And where was his wife at the time?
- 8 A They were inside the house playing with VICTIM and
- 9 the baby.
- 10 Q Okay. And were you agreeable to hanging out
- 11 sometimes with him?
- 12 A Yes.
- 13 Q Okay. Was he saying nice things to you or --
- 14 A Very.
- 15 Q And did y'all make some time to meet or hang out?
- 16 A It was about like two weeks later, or maybe even a
- 17 month, I think. I vaguely remember, but...
- 18 Q And what -- tell us about that. Where did you meet?
- 19 What happened?
- 20 A I think the first time, VICTIM was, actually,
- 21 babysitting with Rachel. And I'd come over to the house.
- 22 And we just sat there and talked. And we were in the back
- 23 room. And they were, actually, watching Fear Factor in
- 24 the bed. And we just started talking.
- 25 Q All right. And when you say "started talking," kind

1 of fill me in, like talking about what?

2 A Just flirtatious things.

3 Q Did that lead to anything?

4 A Just kissing.

5 Q All right. Did anything else happen at that time?

6 A Huh-uh.

7 Q Okay. And did you see him or talk to him again after
8 that, or text, or --

9 A Yeah. It was probably -- I don't know like time
10 distance wise. I think it was -- in school weeks, it was
11 a while.

12 Q Right. Sure. So did a couple of weeks go by?

13 A Yeah, a few weeks went by.

14 Q Was this something that -- was he texting you or
15 calling you on a regular basis?

16 A Over Facebook occasionally.

17 Q All right. Facebook. And how and when did y'all
18 meet up or hang out the next time?

19 A I think it was about two or four weeks after that,
20 about four weeks, I think. It was -- I can't remember if
21 we went to the house first or we went to an abandoned
22 house.

23 Q Okay.

24 A And we just started flirting again. And one thing
25 led to another.

ROA 250

1 Q And so I know it's embarrassing. I know it's not
2 anything -- I mean, I don't want to sit here and talk
3 about it either. But you've got to tell me what happened
4 next.

5 A We had just started talking about -- he was making me
6 feel very special, and that, you know, not to tell
7 anybody, or whatever. And we had sex on the bed. Nobody
8 was around in the house at that time.

9 Q Okay. Just you and he were there?

10 A Yeah.

11 Q Okay. And so did you like -- what kind -- how was
12 your clothing? Was it on, off, part on?

13 A On. Pretty much all on, but the pants.

14 Q But the pants. And how about him?

15 A On, but the pants.

16 Q Okay. And what type of sexual thing happened?

17 A Quick, fast, and in a hurry.

18 Q Quick, fast, and in a hurry. Okay. Did he touch any
19 part of your body with any part of his body?

20 A Just chest area.

21 Q With his hands or --

22 A Yeah.

23 Q Okay. Did he touch your vaginal area?

24 A Yes.

25 Q Okay. Did he touch with his hands?

1 A No.

2 Q Did he touch with another body part?

3 A Yeah.

4 Q Okay. What part?

5 A His penis.

6 Q Okay. And did he put his penis inside your vagina?

7 A Yes.

8 Q Did he wear a condom?

9 A Yes.

10 Q And how long did this incident last? I think you

11 just said quick and fast, but --

12 A Five, 10 minutes. I didn't -- I wasn't comfortable

13 with it, so he took me home.

14 Q Okay. And would you characterize yourself as a

15 willing participant when this happened?

16 A Oh, yeah, very. I was at a point in my life like I

17 had just gotten taken away from my mom. And I was very

18 rebellious and dumb.

19 Q Vulnerable maybe?

20 A Yeah.

21 Q Okay. And so did you think -- did he make you think

22 that he liked you, or you were special?

23 A I was the most special person in the world. I felt

24 as if, you know, I -- very cooperative.

25 Q Okay. Did he give you anything, or buy you things,

ROA 252

1 or anything like that?

2 A Yeah. We'd get something to eat or any kind of
3 money, if I wanted anything. But I'm really not the kind
4 of person to ask for much.

5 Q Okay. Are we talking a large amount of stuff or --

6 A No.

7 Q Just small things?

8 A Just small things.

9 Q And so this would have been at his house, you think?

10 A The first time, yes.

11 Q All right. And then was there a second time?

12 A The second time was in an abandoned house.

13 VICTIM -- they said that she had gotten taken [sic] to
14 it as well.

15 Q Okay. Did -- okay. So we're just going to talk
16 about what you know about it.

17 A Yeah.

18 Q Then we'll get to that piece of it. So he took you
19 to an abandoned house. Where was the abandoned house?

20 A It was dark. I, honestly, do not know.

21 Q All right. Was it in the Travelers Rest area?

22 A Yeah.

23 Q And did you -- did he want you to go in the house, or
24 stay in the car?

25 A At first, it was just in the car, but I was not

1 comfortable with the car. So he laid down his wife's
2 clothes in the cabin, or whatever. And I had a little bit
3 of glass in my knees at first.

4 So it was just a -- it was a quick five, just him on
5 top. And we went to the Spinx gas station so I could get
6 my knees cleaned up. And then I went home.

7 Q Was that, again, vaginal-penile --

8 A Uh-huh.

9 Q Okay. And did he wear a condom that time?

10 A Yes.

11 Q Okay. Do you know what he did with it?

12 A Just disposed of it on the floor.

13 Q Did you know whose abandoned house that was or --

14 A I think he said it was like one of his -- like his
15 father's, or just some family owned it. I'm not sure.

16 Q Okay. And are we still -- what month or time frame
17 are we talking here? How far were those two instances
18 apart?

19 A Probably a month -- or less than a month.

20 Q And was there a third time?

21 A The third time was in the same house the first time
22 with no one in it again.

23 Q Do you know where the other people had gone, or why
24 they weren't there?

25 A No. It was late at night and there was no one there.

ROA 254

1 Q And how did you get over there?

2 A He picked me up from my house.

3 Q Because y'all were Facebooking, or texting, or --

4 A Uh-huh.

5 Q So you knew to be on the lookout or --

6 A I walked up the street to meet him.

7 Q Did -- who were you living with at the time?

8 A My grandparents.

9 Q Did they have any idea you were going?

10 A They didn't have any idea of anything.

11 Q And what happened that third time? Was it at the

12 house?

13 A Yes.

14 Q The first -- the same as the first place?

15 A Uh-huh.

16 Q Okay. And where was it inside the house?

17 A On the bed.

18 Q And the same kind of thing happened?

19 A Yeah. Although, it was quicker and I -- that was the

20 final time. I kind of felt totally uncomfortable with it.

21 So he took me home. And we never really spoke again.

22 Q And was there something -- did you tell him, this is

23 it, I'm done, or --

24 A Yeah. I was starting to feel -- like really knowing

25 what's going on like this is not a smart thing to do.

1 And, actually, I wasn't comfortable with it. So I told
2 him that was going to be it.

3 Q And what was his response to that?

4 A He seemed disappointed like, okay, I understand
5 you're a child and you couldn't possibly understand what
6 love is, or something like that.

7 Q Okay. So he was trying to make you feel like this
8 was some love relationship?

9 A Or to feel like you're a kid, how could you possibly
10 understand, yes.

11 Q Did he make any mention of ~~liking~~ VICTIM or
12 anything like that?

13 A Right at the end, as I left, he said he was going to
14 make his next move on VICTIM And I stayed away for a
15 while to cope with everything.

16 Q Did you think you needed to tell VICTIM or did you
17 try, or --

18 A I broke down mentally. So I didn't contact anyone.
19 Then later on, my grandmother died. And I forgot about
20 the whole incident, so.

21 Q Did you ever think about going to the police or
22 telling anybody?

23 A I was too ashamed. But, later on, when I did contact
24 VICTIM about six months later, I found out it had
25 happened to her. So I told her I would testify for her.

1 She's my sister.

2 Q So you didn't know if anything ever really did happen
3 with VICTIM You weren't hanging out with her?

4 A I figured out when it was too late.

5 Q Okay. And then you heard about the Defendant being
6 arrested, or you heard about VICTIM having this
7 experience, or --

8 A I heard that somebody -- I guess Sandy had finally --
9 once it had happened to VICTIM -- VICTIM actually,
10 didn't know it happened to me before. And then I filled
11 them in. And I said I would testify, so.

12 Q Okay. And, as far as whatever happened to you, you
13 never told VICTIM that. You just kind of -- things kind
14 of took a turn in your life and you kind of fell off the
15 radar a little bit?

16 A Yeah.

17 Q And so not until after she came forward to the police
18 and all that did you hear that it, actually, happened to
19 her?

20 A Yeah.

21 Q Okay. And then you came to her and said, guess what,
22 it happened to me, too, kind of thing?

23 A Uh-huh.

24 Q Did you -- have you and VICTIM ever really talked in
25 detail about this?

1 A No.

2 Q Okay. And, just to be clear on the record, that
3 third time at that house, it was vaginal-penile
4 penetration?

5 A Yeah.

6 Q He used a condom?

7 A Yeah.

8 MS. HODGE: Thank you.

9 Your Honor, I think that would be -- at least, for
10 Lyle purposes -- or 404(B) purposes, that would be the
11 evidence that we would seek to admit.

12 THE COURT: Okay. Mr. Chambers.

13 MR. CHAMBERS: I don't have any questions, Your
14 Honor.

15 THE COURT: All right. Thank you.

16 Mr. Chambers, are you contending there are
17 dissimilarities in this witnesses alleged encounter with
18 the Defendant from the encounters that have already been
19 testified to?

20 MR. CHAMBERS: There are dissimilarities, Your Honor.
21 I do contend that.

22 THE COURT: What are they in your view?

23 MR. CHAMBERS: Well, Your Honor, I mean, really, the
24 only similarities are that these people are close -- that
25 these girls are close in age and that they engaged in

1 sexual activity. I mean, beyond that, the whole series of
2 events lays out much differently.

3 I mean, they, apparently, talked, and met, and had
4 sex at several locations, if what she says is to be believed.
5 With the alleged victim in this case, there was an ongoing
6 relationship with the family where he, basically,
7 ingratiated himself with the whole family, where she spent
8 lots and lots of time at his home, that he supposedly gave
9 her gifts, and gave help to the family, and just lots of
10 things like that.

11 So while there are, certainly, some similarities, I'd
12 be stupid to stand up here and say that there aren't
13 similarities. It doesn't rise to the -- to common scheme
14 and plan.

15 THE COURT: I may have missed something, but was
16 the -- before Ms. Barton testified, was -- had there been
17 any evidence about this abandoned house?

18 MS. HODGE: Yes. The victim testified that twice the
19 Defendant took her to the abandoned house.

20 THE COURT: Okay. Yes, sir.

21 MR. CHAMBERS: Well, I was just going to add, Your
22 Honor, that because, obviously, you know, I do want to
23 reiterate again that just now is the first time that I've
24 heard anything about what this girl is going to testify
25 to. Beyond that, I've already stated that we think there

1 are substantial dissimilarities between the two.

2 So even under the prevailing law as it applies to sex
3 cases, we believe they haven't met their 404(B). And this
4 is, certainly, the most prejudicial type of evidence that
5 can be introduced.

6 But beyond that, we believe that Wallace, which sort
7 of carves out this exception, is bad law and is really an
8 exception that's been created to the general rule of
9 404(B) under which the Solicitor would have to prove
10 either motive, which is, clearly, not the case here,
11 intent, which is not the case here, the absence of mistake
12 or accident, which is not the case here, which would then
13 take us to a common scheme or plan embracing the
14 commission of two or more crimes so related to each other
15 that proof of one tends to establish proof of the other.

16 And we don't believe -- certainly, don't believe this
17 evidence would go that far. And it would, also, require
18 the Court to do a 403 balancing act of whether it's more
19 probative than prejudicial.

20 So we -- I, certainly, want to make sure the record
21 is clear that we're also -- if nothing else, it's a last
22 ditch effort saying that prevailing law in South Carolina
23 is bad law.

24 THE COURT: Well, of course, I don't have any
25 authority to do anything but follow the law. And Wallace

1 and McCombs are the controlling authority. Although I am
2 familiar with Justice Pleicones dissent that you referred
3 to earlier.

4 The unfair prejudice that's in Rule 403 means an
5 undue tendency to decide the case on an improper basis.

6 So why doesn't the prejudicial value substantially
7 outweigh the probative value, Ms. Hodge?

8 MS. HODGE: I believe that the probative value
9 outweighs the prejudicial value. What we've got in sexual
10 abuse and assault cases are, essentially, victims
11 testimony, because there are nine times out of ten delayed
12 disclosures. We have no other forensic proof or
13 scientific proof. So you've got the credibility of one
14 witness against -- if the Defendant chooses to testify or
15 put up witnesses, it's a he said she said, if you will.

16 The Courts have stated that this type of evidence is,
17 actually, relevant to CSC cases, that it can assist jurors
18 in determining defendants guilt on the current charge.
19 Therefore, it's relevant that the proof of one is strong
20 proof of another.

21 They have stated in McCombs and I believe, also, in
22 Wallace that it's, clearly, probative. It's not
23 prejudicial -- not more prejudicial than probative. It
24 helps them -- the jury determine guilt of the case at
25 hand. It does not cause jurors to make their decision

1 based on some improper bias such as emotion. They're
2 getting a fact pattern, an MO, if you will.

3 If the person committed this crime, he committed it
4 this way, now, we have a second crime and he committed it
5 this way. It aids in them determining what, actually,
6 happened here, what are the facts of this case. And
7 that's the way the Courts have ruled and allowed this
8 evidence to be admitted.

9 THE COURT: So when would it ever be -- if you found
10 the similarities outweighed the dissimilarities, based on
11 Wallace, in these types of cases, when would Rule 403 ever
12 operate to exclude it?

13 MS. HODGE: I'm not sure. I guess if you had some
14 extremely aggravating circumstances in your 404(B)
15 evidence and you might have many similarities, but
16 something just crazy off the wall that people would get
17 real upset about and say, wow, if he did that heinous
18 thing, then he must have done this thing. I don't think --

19 THE COURT: Well, then it would be dissimilar,
20 wouldn't it?

21 MS. HODGE: It would go towards the dissimilarities.
22 But I'm thinking if that's the balancing test, I mean,
23 you've got to have something really over the top to kick
24 it out. And I don't know. I think they're just very wise
25 in allowing this type of evidence. Because these are the

1 hardest kinds of cases to prove because they are --
2 technically, they come down to the credibility of a child.

3 THE COURT: But I thought that the rule that barred
4 character evidence was decided by some pretty wise people
5 for centuries.

6 MS. HODGE: Oh, I don't think we're introducing this
7 for his character. In fact, it's not supposed to be --

8 THE COURT: But that's what Lyle is, isn't it?

9 MS. HODGE: Well, it's common scheme or plan. We're
10 not attacking his character. We're saying that he
11 operates in the same manner. Good, bad, or indifferent,
12 we're not saying. But we're saying that he operates
13 consistently the same way, targeting young girls,
14 schmoozing, talking big, talking good, talking them into
15 sex, having sex with them.

16 THE COURT: Well, but Rule --

17 MS. HODGE: Capitalizing on them.

18 THE COURT: I think Rule 404 says character
19 evidence is not admissible to prove the conduct exception.
20 Isn't that what it says?

21 MS. HODGE: Well, that is what it says. But we're
22 not saying, hey, he's a bad guy. I guess that's how I
23 read that. I mean, if we could do that, I would be happy
24 to put many witnesses on the stand to say, 404(B), we're
25 just going to talk about what a bad guy he is. We're

1 talking fact specific instances of conduct by the Defendant.

2 THE COURT: Which is an exception to the rule against
3 character evidence?

4 MS. HODGE: Under 404(B), I guess it is.

5 THE COURT: All right. Well, I'm going to have to
6 think about this one over the overnight recess. I
7 understand how powerful this evidence is. Frankly, I
8 don't think McCombs gives us very much guidance on a 403
9 analysis. So it's -- and Wallace doesn't even discuss it,
10 other than mentioning the rule.

11 So I'm not sure that once you determine the
12 similarities outweigh the dissimilarities, which I find
13 they do here based on the age of the victims, when the
14 abuse occurred, the relationship between the victims and
15 the perpetrator, the location where the abuse occurred,
16 the use of coercion or seduction by this Defendant
17 allegedly, and the manner of the occurrence, including the
18 type of battery. So I find that it meets that.

19 I'm just struggling with the Rule 403 requirement,
20 which I don't think is just a technicality.

21 All right. We'll have -- we'll be back at 9:00.

22 Thanks.

23 (WHEREUPON, the proceedings were concluded at
24 approximately 5:21 p.m., to be reconvened on
25 Thursday, February 2, 2015.)

1 THURSDAY, FEBRUARY 5, 2015

2 THE COURT: Let's see. We were discussing the
3 admissibility of the testimony of Ms. Barton.

4 Is that her name?

5 MS. HODGE: Yes, sir.

6 THE COURT: And I find that, as I did yesterday,
7 State v. Wallace and McCombs would require that I find
8 that it meets the exception under Rule 404(B), common
9 scheme or plan.

10 As to the Rule 403 analysis, Rule 403, at least,
11 generally, is designed to keep out of evidence testimony
12 or exhibits that can cause unfair prejudice. And it
13 doesn't offer protection against evidence that's merely
14 prejudicial in the sense of hurting a parties case. It
15 only protects against evidence that's unfairly prejudicial
16 and evidence that's unfairly prejudicial only if it has an
17 undue tendency to suggest a decision on an improper basis,
18 commonly, but not necessarily, an emotional one.

19 It is unfairly prejudicial if it appeals to the
20 juries sympathies, or arouses its sense of horror, or
21 provokes instinct to punish, or otherwise may cause the
22 jury to base its decision on something other than the
23 established propositions in the case. And I cite for that
24 the advisory committee notes to the Federal Rule 403,
25 Carter v. Hewitt, 617 F.2d. 961, Third Circuit 1980, and

1 Old Chief v. United States, which is a U.S. Supreme Court
2 case.

3 This is somewhat of a new trend that started with
4 Wallace, which was six years ago. But in the scheme of
5 things, it's a fairly new trend that these previous sexual
6 offenses sometimes uncharged as they are here can be
7 admitted in a trial of criminal sexual conduct in an
8 unrelated matter. But, nevertheless, that is the law.

9 I understand Justice Pleicones dissent where he
10 alludes to the federal rules of evidence, which in Rule
11 413 and 414 that expressly makes this evidence admissible
12 in sexual conduct cases. And he points out that those
13 rules were passed by Congress after public comment and
14 hearing. And his argument is that Wallace was a
15 judge-made rule, and it turns Rule 404 on its head is,
16 basically, what he's saying. But it is the law. And I
17 don't find that it is unfairly prejudicial within the
18 meaning of Rule 403.

19 So I overrule the objection to it.

20 MS. HODGE: Thank you, Your Honor.

21 THE COURT: Anything else before we resume?

22 MS. HODGE: Nothing from the State, Your Honor.

23 MR. CHAMBERS: Nothing from the Defense, Your Honor.

24 THE COURT: Okay. You can bring the jury on in.

25 Now, I don't know if the Defense -- when this

1 evidence is elicited if the Defense wants a limiting
2 instruction or what that limiting instruction would be.
3 But I'll, certainly, consider that, if you would wish me
4 to.

5 MR. CHAMBERS: You know, I -- it's always a good
6 idea, but I'm not sure what it should say either, to be
7 quite honest with you.

8 THE COURT: Which, again, might be indicative of some
9 defect in the entire rule.

10 THE BAILIFF: Are you ready, Your Honor?

11 THE COURT: Yes, sir.

12 (WHEREUPON, the jury came into open court at
13 approximately 9:41 a.m.)

14 THE COURT: Good morning.

15 I had to take care of one matter this morning. I'm
16 sorry for not starting right at 9:00. But we're ready to
17 proceed.

18 Yes, ma'am, Ms. Hodge.

19 MS. HODGE: Thank you, Your Honor.

20 I believe that VICTIM was still on direct
21 examination. So if she'll come up to the stand.

22 THE CLERK: Your Honor, she's still under oath?

23 THE COURT: Yes.

24 THE CLERK: Okay.

25 THE COURT: Before we get started, Ms. Marks, you've

1 been selected as the Forelady. So if you need to
2 communicate with me or if anybody on the jury needs to
3 communicate with me, I can only do so out here on the
4 record or by way of a written note. A written note is the
5 preferred way, which will be made a part of the record.
6 And then you'll preside over the deliberations.

7 So, yes, ma'am. You may proceed.

8 MS. HODGE: Thank you, Your Honor.

9 CONTINUED DIRECT EXAMINATION

10 BY MS. HODGE:

11 Q I think we were about at the end of your direct exam.
12 And we were discussing your friend, #1 (Minor)

13 A Yes, ma'am.

14 Q Okay. Did you ever tell #1 (Minor) anything about
15 you and the Defendant's relationship before you went to --
16 or were talking to law enforcement about it?

17 A No.

18 Q Did she ever have any conversations with you about
19 anything regarding the Defendant before you went to law
20 enforcement about it?

21 A No.

22 Q At some point after the police had become involved,
23 did you and #1 ever talk about anything regarding the
24 Defendant?

25 A No.

1 Q Now, I guess we're really probably to the end here.
2 Is the person that you had the sexual battery -- the
3 sexual relationship with from the spring of 2011 until
4 fall of 2012, is that person who you call Jerald present
5 in court today?

6 A Yes, ma'am.

7 Q And who is that?

8 A The man sitting next to Mr. Chambers in the green
9 shirt and black tie.

10 Q And have you had any personal communication with him
11 since the police were called regarding this case?

12 A No, ma'am.

13 MS. HODGE: Thank you.

14 Answer any of Mr. Chambers questions.

15 CROSS-EXAMINATION

16 BY MR. CHAMBERS:

17 Q VICTIM it's been a while. You've had overnight.
18 Tell us, again, when did -- as specifically as you can
19 about the date. When did you meet Jerald?

20 A It was sometime in March, I believe, in 2011. I'm
21 not sure of the date. It was on a Sunday because the
22 horseshoes.

23 Q And that was at a horseshoe tournament?

24 A Yes, sir.

25 Q And do you recall where this horseshoe tournament was

1 held?

2 A It was down the road from my house.

3 Q And how was it -- describe the meeting and how you
4 met Jerald that day at the horseshoe tournament.

5 A I was in the back of my dad's truck with my friend,

6 #1 Because we had just rode down there. And he was

7 on -- across the driveway talking with somebody else. And

8 he looked over. And we kind of looked and talked. And

9 then he came to the house later.

10 Q Okay. And he went to the house at the invitation of
11 your parents?

12 A Yes, my dad.

13 Q And it wasn't just him, Rachel was there as well?

14 A Yes.

15 Q But their -- they had a baby; correct?

16 A Yes.

17 Q The baby was not with them, I don't think.

18 A No, sir.

19 Q And would it be fair to say that, at that point, a
20 friendship began between your parents, and Jerald, and
21 Rachel?

22 A Yes, sir.

23 Q And I believe that it's been testified by you and
24 several other people that they spent quite a bit of time
25 together?

1 A At our house, yes, sir.

2 Q So they would come primarily over to y'all's house.
3 How often would they, as a couple, come to your parents
4 home?

5 A At first, it started like maybe once or twice a week.
6 And then maybe a little bit more, probably not too much,
7 like they came three or four times a week.

8 Q So starting --

9 A Depending on what days.

10 Q So starting in March of 2011, they, as a family,
11 would come to your parents home three or four times a week
12 every week?

13 A Almost every week, yes, sir.

14 Q Okay. And did that -- how long did that continue?
15 We talked yesterday about approximately a 15-month span of
16 time. Was it during that entire 15 months?

17 A That they came over?

18 Q Yeah.

19 A They came over, yes.

20 Q All right. And three or four times a week?

21 A Or two, one or two. It varied depending on --

22 Q Okay. But there really weren't any weeks where
23 Jerald and Rachel and usually, I guess, their baby didn't
24 come over to the house, at least, a couple times a week?

25 A Yes.

1 Q Okay. And when they came over, how long would they
2 usually be there?

3 A A few hours or so.

4 Q And what sorts of things did everybody do while they
5 were there?

6 A Just hung out. Jerald and my dad would go to the
7 back room, you know, play the guitar, and everything.
8 Because that's what they did. They listened to music.
9 And me, and my mom, and Rachel, whether she had the baby
10 or not, we'd sit out in the kitchen and just talk and --
11 or play with the baby.

12 Q So Jerald primarily hung out with Walt, your dad?

13 A At my house, yes.

14 Q And that was, again, anywhere from two to four times
15 every week?

16 A Yeah.

17 Q For this entire 15-month stretch that --

18 A Until -- yes.

19 Q And so it sounds like you spent a good bit of time
20 with Rachel?

21 A At my house.

22 Q And would it be fair to say that the two of you got
23 to be friends with one another?

24 A Not close, but friends. But not close friends.

25 Q And you would even babysit for their child sometimes;

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1 is that correct?

2 A Only if they had to go to the store.

3 Q All right. And, sometimes, when they were -- when
4 all three of you were together, you -- even though Rachel
5 was there and Jerald was there, you would help take care
6 of the baby; is that correct, play with it? I'm not
7 talking about the normal things that a mom would do, but
8 play with the baby, just, you know, enjoy being around the
9 child?

10 A Yeah.

11 Q Okay. And, at some point, you -- well, we'll get to
12 that in a minute.

13 I believe you said that -- when you testified
14 yesterday that when you first -- after you first met him
15 at this horseshoe tournament, it was really just the --
16 almost immediately that the two of you started talking and
17 texting with one another; is that correct?

18 A Actually, it was a couple weeks later. Because I had
19 just got my phone taken after he came to the house. And
20 then the texting started because he wanted the ring tone.

21 Q Okay. So when you said yesterday a couple of hours
22 later he showed up at my house, he gave me his number, and
23 we began talking and texting, that really wasn't as
24 immediate as it sounds, based on what you said yesterday?

25 A No. Because I said yesterday that I did -- that my

1 phone was taken. And then a couple -- it was about a
2 couple weeks later because a grade did fall. And I got my
3 phone taken. And then I got it back.

4 Q And that was the phone you had from your parents?

5 A Yes, sir.

6 Q And, presumedly, a phone over which they had control
7 since it was on their plan, I would imagine?

8 A Yes, sir.

9 Q Okay. And you said you then a couple weeks, I guess,
10 after meeting him is the first time you went to the house
11 at Tigerville?

12 A After the texting started, yes, sir.

13 Q Yeah. And that was at the invitation of both Rachel
14 and Jerald; is that correct?

15 A No.

16 Q Well, let me ask you. Do you recall meeting with
17 Investigator Perry of the sheriff's office there at your
18 school?

19 A At my school, yes.

20 Q Do you remember that he came down there? And I
21 believe you asked your guidance counselor to sit in on the
22 meeting.

23 A I didn't ask her. She was already sitting in. She
24 asked if it was okay to sit in. And I told her it was
25 fine.

1 Q And that's Ms. Hunt, Karis [phonetic] Hunt; is that
2 correct?

3 A Yes, sir.

4 Q All right. You don't -- so your testimony here today
5 is you don't recall telling Investigator Perry that Jerald
6 and his wife, Rachel, later asked you to come over to
7 their home on Tigerville Road?

8 A As far as I can remember, it was just him.

9 Q Okay.

10 A Because he was usually the one to invite me to the
11 house.

12 Q So you're saying Rachel had nothing to do with it?

13 A The first time, I don't recall. But the rest of the
14 times, yes, it was just him.

15 Q Well, let me ask you. You had just met this guy.
16 You had only known him for a little bit. He was primarily
17 friends with you dad. What was the big attraction about
18 going over to hang out with Jerald if he's the only one
19 that wanted you over there?

20 A He told me he had his daughter.

21 Q Okay.

22 A And they were describing their daughter to me. And I
23 like children. So I wanted to meet the baby.

24 Q Okay. So you go over there and you say the very
25 first time over there, he starts to talk to you about sex?

1 A The first -- yes.

2 Q So the very first time you make a trip over there to
3 his house on Tigerville Road, he talks to you about sex?

4 A Yes.

5 Q He asked you if you were a virgin?

6 A Yes.

7 Q And your reaction that you described yesterday would
8 seem to be understandable, a 13-year-old girl and somebody
9 who was a grown man starts asking you if you're a virgin
10 and having sexual talk is you felt really uneasy about it.
11 You didn't like it; is that right?

12 A Yes, sir.

13 Q All right. And, yet, you continued to go back time
14 and time and time again?

15 A Yeah.

16 Q Okay. Now, when your mom testified and, also, when
17 you testified, I mean, what I heard described -- and
18 you -- I want you to tell me if this is accurate or not --
19 is somebody who was a good student in school?

20 A Yes, sir.

21 Q What grade were you in?

22 A I was in eighth..

23 Q And where were you going to school?

24 A Northwest Middle.

25 Q And a fairly popular girl. I mean, you had lots of

1 friends?

2 A I did.

3 Q Your mother described you as very sociable?

4 A I am still a social person.

5 Q Yeah. I mean, you were involved in extracurricular
6 activities like volleyball?

7 A Yes.

8 Q You had lots of friends; is that correct?

9 A Yes, sir.

10 Q You talked to those friends on the telephone a good
11 bit?

12 A Some of them, yes. The others, I just talked to at
13 school.

14 Q Y'all went places together, you did things together?

15 A Yeah.

16 Q You had a -- basically, a full and complete life?

17 A Yes.

18 Q You were not unhappy at home?

19 A No.

20 Q You didn't feel neglected by your parents?

21 A No.

22 Q You felt like they gave you the proper amount of
23 attention?

24 A Yes.

25 Q You were just not unhappy at all?

1 A No.

2 Q And, yet, you -- your own testimony yesterday was,
3 virtually, every weekend you continued to go to whatever
4 house Jerald was living in?

5 A Not every weekend.

6 Q Well, I believe that you said yesterday more often
7 than not; is that not true?

8 A More often on every weekend, but not every weekend.

9 Q Well, over the course of the 15 months that y'all
10 discussed yesterday, which I believe you said was about
11 the approximate time limit, that would be somewhere in the
12 neighborhood of 70 weekends, give or take. Any idea how
13 many of those weekends you spent with Jerald and Rachel?

14 A Out of 70?

15 Q Yeah.

16 A I don't know the math.

17 Q Well, let's say in an average --

18 A I couldn't tell you.

19 Q Well, let's say in an average month, how many times
20 were you at the Gaskins home?

21 A In a month?

22 Q Yeah.

23 A It varied. It could be one month I could be over
24 there every weekend, or every other weekend, or maybe just
25 two weekends or -- not two weekends, but one weekend.

1 Q So why would a girl who has all of this going for her
2 in her life, happy home, lots of friends spend virtually
3 every weekend with Rachel and Jerald Gaskins?

4 A Because I was a social person. I like making
5 friends. That's just me. And they had a kid. And I
6 liked the kid. I grew fond of the child.

7 Q So the sole attraction to you then was to go over
8 there and be with that child?

9 A At the start, yes, until I kept getting invited over
10 for whatever.

11 Q Well, what was the reason that you kept going?

12 A He kept inviting me.

13 Q And why did you want to go?

14 A Because I thought it was just going to be a normal
15 weekend with the baby, and just hanging out with them, and
16 playing the games like we usually did.

17 Q So every time that you went, despite the fact that
18 you said these things were going on with Jerald that you
19 didn't like, you continued to go back with the expectation
20 that it was going to be what you described as a normal
21 weekend?

22 A I went back with the expectation that I wasn't going
23 to let myself do that again. But with his manipulating
24 talk and everything...

25 Q Well, he didn't manipulate you into going, did he? I

1 mean, you went --

2 A No.

3 Q -- on your own free will --

4 A I went for the sake of hanging out. But I went with
5 the mind that I wasn't going to do anything again.

6 Q I mean, Jerald -- this is not a relative of yours.
7 This is not somebody that lived --

8 A No.

9 Q -- in your home; correct?

10 A Correct.

11 Q I mean, you had complete free will about whether or
12 not you were going to be around him or not?

13 A Yes.

14 Q And this is not a situation, -- I mean, you have not
15 contended at any point that you were somehow in love with
16 this man, and wanted to be with him, and engaged in a
17 sexual relationship with him because that's something you
18 enjoyed and wanted to do. That is not what you have said,
19 is it?

20 A No.

21 Q I mean, what you have testified to, basically, is he
22 manipulated you, coerced you, practically forced you to do
23 things that you didn't want to do with him?

24 A Yes.

25 Q So that's the position that you have in this case?

1 A Yeah.

2 Q I mean, you even went so far as to say that this
3 became a controlling relationship where he limited your
4 exposure to your friends and would not give you any
5 freedom?

6 A Yes.

7 Q And, yet, he had no control over any of that, did he?

8 A Yes, he did.

9 Q Explain that to me. How did he have control over
10 whether you have friends, or where you could go, and the
11 things you could do?

12 A Because once I started going over there and all the
13 sexual stuff started happening, he claimed that I was his
14 and that I couldn't go here because these people were bad,
15 or they weren't good influences, or they weren't real
16 friends.

17 Q But nobody forced you to go there?

18 A I went -- of course, I went there on my own will.
19 But it was for everybody, not just him.

20 Q Okay. So Rachel was your friend. You just said a
21 few minutes ago that she wasn't your good friend --

22 A Not a close friend.

23 Q But, apparently, a close enough friend that you
24 wanted to endure all of the things you say were coming
25 your way from this man so you could go over there; is that

1 right?

2 A Excuse me?

3 Q In other words, she wasn't a very close friend?

4 A Yes.

5 Q You didn't really like being around Jerald?

6 A No. Well, I did, but not all the time. Like I said,
7 it was for everybody.

8 Q I believe you said that the first time that the two
9 of you had any sexual relations, Rachel was right there in
10 the house?

11 A Yes.

12 Q Now, was this the house -- this is the house in
13 Tigerville?

14 A Yes.

15 Q Was it a house or a trailer?

16 A It was a house.

17 Q Okay. And how big was this house?

18 A It was a two bedroom, one bath.

19 Q Okay. So not a very big house at all?

20 A No, sir.

21 Q It probably had a living room, a kitchen?

22 A It had a living room, a small dining room, a kitchen,
23 and a back porch.

24 Q Okay. Was anybody else there, or just Rachel?

25 A It was Rachel.

ROA 282

1 Q Was the baby there?

2 A I believe she was sleeping.

3 Q And so your testimony is then that with -- in this
4 small house with his wife in this one bathroom taking a
5 shower --

6 A A bath.

7 Q -- the two of you got undressed and had sex with one
8 another?

9 A Yes.

10 Q And you're saying that he -- I believe you said he
11 used a condom?

12 A Yes.

13 Q And I believe you said when he was done, he put the
14 condom in a trash can?

15 A Yes.

16 Q Where was the trash can located where he put this
17 condom?

18 A I don't recall.

19 Q You don't know?

20 A I was still in the room putting my clothes on when he
21 disposed of it.

22 Q Okay. But you saw him dispose of it?

23 A No.

24 Q And do you recall what kind of condom it was?

25 A No.

ROA 283

1 Q Okay. And you said he used condoms every time?

2 A Yes.

3 Q So he just always had condoms with him?

4 A Or he went and bought them.

5 Q Okay. During this time -- and he moved -- they moved
6 several times, as you recounted yesterday when you were
7 talking to the Solicitor; correct?

8 A Yes, sir.

9 Q And every time he moved, you would still go wherever
10 it was they lived to the house, even when they lived in
11 Central, which is a pretty good drive from here?

12 A Yes.

13 Q You didn't, generally, take any friends, or anything
14 with you?

15 A I did take one.

16 Q Who?

17 A My friend, Daylin.

18 Q How often would Daylin go with you?

19 A Not often.

20 Q And, normally, wherever they lived, there was
21 somebody else living in the house with them; is that
22 correct?

23 A Correct.

24 Q There was a guy named Josh and Josh's girlfriend that
25 lived with them at a couple of different locations?

1 A Yes.

2 Q There was a Jamie McCrary that lived with them at a
3 couple of different locations?

4 A Yes.

5 Q And so, ordinarily, when you would go over there,
6 there would be people in the house?

7 A Yes.

8 Q I mean, we know Rachel didn't work, so she was home a
9 good bit?

10 A Yes, unless he let her go to her grandma's.

11 Q Okay. And so there were times that -- and she did go
12 visit with her family; is that correct?

13 A Just her grandma.

14 Q She would visit with her grandma?

15 A That was it.

16 Q Okay. And how many -- and on how many occasions
17 would she go to visit with her grandma?

18 A It would be every now then, just occasionally, not
19 often.

20 Q So she was normally at the house when you were there?

21 A Most of the time, yes.

22 Q And usually somebody like Josh, or Josh's girlfriend,
23 or Jamie McCrary, or somebody else was, also, there?

24 A Yes.

25 Q There -- and when y'all were at your house, of

1 course, the whole family was around?

2 A Yes.

3 Q So there were really very few times that you were
4 ever alone with Jerald; is that correct?

5 A Few times?

6 Q Very few. I mean, normally there were people around?

7 A Not often.

8 Q Not often?

9 A I was alone with him a few times, a few times that
10 all this happened.

11 Q Okay. And your sister, Jamie, she wasn't -- she was
12 in Florida up until August of 2012; correct?

13 A Yes, sir.

14 Q So she wasn't around to hang out with Jerald, and
15 Rachel, and all of y'all the way the whole family was, was
16 she?

17 A No, sir, not except in February when we went down
18 there.

19 Q So really her -- she came into the picture in August.
20 And then all of this sort of broke loose in November?

21 A Yes, sir.

22 Q Okay. And that was, also, right after the time that
23 Rachel and Jerald had split up and Jerald filed for
24 divorce?

25 A Yes. This would have been April.

1 Q And you continued to go to Jerald's house, you said,
2 even after the divorce?

3 A After they split up.

4 Q Yeah. Or after they split up?

5 A Yes.

6 Q He was living by himself?

7 A Or he had somebody else living with him.

8 Q Or there was somebody else --

9 A Or just staying there.

10 Q Yeah. And you were pretty much able to go whenever
11 you wanted to; is that correct?

12 A Yes.

13 Q So when -- there's some story about a Luke Bryan
14 concert that you talked about you didn't get to go to and
15 you thought you were going to go to. Is it your
16 contention that that was just some sort of a ruse, some
17 sort of a trick to be able to get alone with you?

18 A Yes.

19 Q And, yet, he wouldn't have had to do that, would he,
20 because you were free to come and go and spend time with
21 him any time or any place that you wanted --

22 A Around that time, it varied between who would let me
23 go.

24 Q Okay. And you indicated yesterday and, again, today
25 that while you found it really unpleasant being around

1 him, you liked the fact that he got things for you?

2 A Yeah. I was young.

3 Q And -- but when questioned about it, all I could
4 recall you ever talking about he got you is a Coke and a
5 candy bar?

6 A He would buy me meals, or he would buy me a phone, or
7 a CD. It was anything. If I asked for it, I got it.

8 Q He was, also, helping your parents out with their
9 bills, and their car insurance, and all sorts of things?

10 A Yes, to blind them away from what was happening.

11 Q Well, that's what you say now. But, at the time,
12 everybody was very happy with him; correct?

13 A Yes. Because nobody knew who he really was.

14 Q And, at some point, he came forward and said, you
15 know, y'all are taking advantage of me. I'm not going to
16 continue to be your meal ticket. I'm not going to
17 continue to pay your bills. You can't do these things to
18 me; right?

19 A I don't recall.

20 Q And people started to get upset with him?

21 A I don't recall.

22 Q All right. Following these allegations, you didn't
23 have anything else to do with Jerald?

24 A No.

25 Q And your mom testified yesterday that she didn't. As

1 far as you know, did she have anything to do with Jerald?

2 A After everything came out?

3 Q Yeah.

4 A No. She had nothing to do with him.

5 Q But, now, your dad, Walt, continued to see Jerald,
6 didn't he?

7 A Yes.

8 Q And do you have any idea just based on your own -- if
9 you don't, that's fine. But do you have any idea how
10 often they would see each other after these allegations?

11 A No, sir. I didn't keep up with my father.

12 Q You didn't keep up with him. Why?

13 A No. Because he was drinking. And I didn't want
14 anything to do with him the first time after he saw him
15 and was hanging out with him. I didn't want nothing to do
16 with my dad then.

17 Q And until you were asked about it by your mom
18 following the phone call that she got from -- or that she
19 had with Rachel, you never said anything to anybody about
20 this is your testimony?

21 A Yes, sir.

22 Q You never said anything to your sister, Jamie?

23 A No, sir.

24 Q You never said anything to anybody at school?

25 A No, sir.

- 1 Q You never said anything to Rachel?
- 2 A No, sir.
- 3 Q You never said anything to your parents?
- 4 A No, sir.
- 5 Q You never said anything to any of your friends?
- 6 A No, sir.
- 7 Q So despite the fact that, you know, he was giving you
- 8 anything that you wanted, things were going on that you
- 9 didn't like, you kept going back for more. You didn't
- 10 tell anybody?
- 11 A No, sir.
- 12 Q And then after you, finally, do tell somebody, you
- 13 gave a short statement to the investigator when he came
- 14 over to the house; correct?
- 15 A He didn't come to the house. He came to the school.
- 16 Q Okay. And then you sometime after that sat down with
- 17 your sister, Jamie. And the two of you got -- went and
- 18 did your statement; is that correct?
- 19 A Yes, sir.
- 20 Q And that's the 16-page statement that we've heard
- 21 about?
- 22 A Yes, sir.
- 23 Q And that is the statement that has headings of
- 24 Tigerville?
- 25 A The houses they lived in.

1 Q Yeah. And then 12 Magnolia?

2 A Yes, sir. And Central.

3 Q Yeah. And it has those details, all of which is --
4 we've heard people testify in here today, the Solicitor
5 kind of clicks off each one of the things that's in your
6 statement as she's talking to y'all; correct?

7 A Yes, sir.

8 Q And that's the statement that you worked on with
9 VICTIM [sic] after the police had come out and talked to
10 your parents at the house?

11 A Do you mean Jamie?

12 Q Jamie. I'm sorry.

13 A Yes, sir.

14 Q Okay. And am I straight? I just want to make sure
15 I'm clear about this, that you didn't like the things that
16 were going on with Jerald?

17 A No, sir.

18 Q You were very unhappy with the situation?

19 A Yes, sir.

20 Q It started to adversely affect your life?

21 A Yes, sir.

22 Q And, yet, not only did you not tell anybody, but you
23 continued to go over there time and time again?

24 A Yes, sir.

25 Q And you could have stopped it at any point?

1 A I could have, but I was scared.

2 Q Even if you didn't say anything to anybody, you
3 didn't have to go back?

4 A Then there would be a reason, a question why.

5 MR. CHAMBERS: That's all the questions I have for
6 you.

7 Thank you.

8 THE COURT: Redirect.

9 REDIRECT EXAMINATION

10 BY MS. HODGE:

11 Q So you said you were scared to stop, there would be a
12 question why if you said, no, I'm not coming. Who would
13 that come from?

14 A The question?

15 Q Uh-huh.

16 A It would come from my parents, you know, what
17 happened, you know, kind of thing. Because they were
18 still talking.

19 Q So it would be weird if all the sudden now you're
20 like --

21 A It just stopped.

22 Q -- I don't want to go over there anymore?

23 A Yeah.

24 Q It might raise their suspicions about something, and
25 then maybe you would get in trouble for that?

ROA 292

1 A Yeah.

2 Q If they found out what had gone on?

3 A Yes.

4 Q Okay. Now, you said, you know, you didn't like the
5 things that the Defendant was doing. Do you mean like the
6 sex stuff? You didn't like that part?

7 A Yes, ma'am.

8 Q Okay. You didn't want to do that part?

9 A No, ma'am.

10 Q Okay. You liked feeling special?

11 A Yes.

12 Q Being given the special attention from a male?

13 MR. CHAMBERS: Objection, Your Honor. She's leading
14 the witness.

15 THE COURT: Sustained.

16 BY MS. HODGE:

17 Q Did you have a boyfriend before this ever happened?

18 A No, ma'am.

19 Q Okay. So was it nice for a guy to be telling you
20 nice things?

21 A Yes, ma'am.

22 Q Okay. Buying you things?

23 A Yes, ma'am.

24 Q And, again, you're 13; right?

25 A Yes.

1 Q Did you ever have anybody do that for you before?

2 A No, ma'am.

3 Q Did you think he cared about you?

4 A Yes, ma'am.

5 Q And why did you think that?

6 A Because of the way he acted, you know, like when
7 somebody else would be over, you know, he kind of singled
8 me out on things, but would give me more of this than the
9 other person.

10 Q Show you favoritism?

11 A Yes.

12 Q Okay. Would that be with other girls around, or
13 how -- what is that?

14 A It would be sometimes with Rachel, or my sister, or
15 my family.

16 Q And so you did -- did you like that part of the
17 relationship, if you will?

18 A Yes.

19 Q But you did end up having sexual relations with him
20 even though you didn't want to?

21 A Yes, ma'am.

22 Q And was that ever going to -- was that ever your idea
23 to do those things?

24 A No, ma'am.

25 Q Was it ever something that was only asked of you one

ROA 294

1 time?

2 A Asked of, yes.

3 Q And then if you said -- did you say "no" ever?

4 A Yes.

5 Q I think you testified yesterday you said "no" --

6 A Yes, ma'am.

7 Q -- many times?

8 A Yes.

9 Q But would he persist?

10 A Yes.

11 Q And would it seem like you just needed to give in?

12 A Yes.

13 Q All right. And, again, you're 13, maybe 14 years old
14 during this stuff?

15 A 13 through 15, yes.

16 Q And going over to his house -- or going over and
17 hanging out, again, I think we touched on this yesterday.
18 Was that sort of a bit of freedom for you?

19 A Yes.

20 Q So you had -- I mean, your parents pretty much said,
21 sure, go, hang out?

22 A Yeah.

23 Q Not a lot of questions from them about, you know --

24 A No.

25 Q -- where you're going, who you're hanging out with?

1 A Well, they would ask where are you going, you know.

2 But I'd tell them and they were like, oh, okay.

3 Q So it was easier to go hang out with them?

4 A Yeah.

5 Q So what if you had some new friend, some new guy
6 friend, were they going to let you just --

7 A No.

8 Q -- go hang out, and spend nights, and do what you
9 want with that new person?

10 A No.

11 Q Okay. So this was comfortable for them?

12 A Yes. Because they were, also, getting things from
13 him, too.

14 Q Right. And they trusted him?

15 A Yes.

16 Q And thought he was a friend?

17 A Yes.

18 Q All right. And he was helping out your family?

19 A Yes.

20 Q But he was, also, spending a lot of time at your
21 house?

22 A Yes.

23 Q Okay. So it was a mutual thing, there was a
24 friendship back and forth?

25 A Yes.

1 Q Okay. And I think you testified, you -- even your
2 mom went and helped like unpack him one time?

3 A Yes.

4 Q And paint?

5 A When they moved to Quail Roost.

6 Q So there was a mutual friendship going on?

7 A Yes.

8 Q All right. And did he become immediately kind of
9 controlling with you, or was this a progression through
10 this relationship?

11 A It was a progression.

12 Q What did it start with? Was there any particular
13 thing when he started becoming more jealous or --

14 A My friends, you know, not liking my friends, and you
15 know, not wanting me to go around them because they're bad
16 influences, as he would say, and, you know, they're not
17 good to me, they're not my real friends.

18 Q Would he -- how did he know who your friends were?

19 A They would come around. If they were at the house,
20 he would be there. If he was at the house, they were at
21 the house. They'd meet. That was it.

22 Q So he took an interest in your 13 and 14-year-old
23 friends?

24 A Yeah.

25 Q And did he ever text any of those friends?

1 A I don't recall.

2 Q Okay. Did he ever say that he had, or that they were
3 flirty with him, or anything like that?

4 A Yes, ma'am.

5 Q Okay. What was that about?

6 A That he would try to get me to believe that he -- you
7 know, they were texting him and that they were flirting
8 with him. And that they're bad, you know. They're trying
9 to take me away from you, and stuff like that.

10 Q Okay. So they were trying to flirt with the
11 Defendant, and that's why they shouldn't be your friends?

12 A Yeah.

13 Q You can't trust them --

14 A Yeah. Because they're going to take what you have.

15 Q Which would be him. Okay. And he -- did he say
16 something -- tell me about you going to church on the bus.
17 Was there some issue with that?

18 A Yes.

19 Q What was that?

20 A He started telling me that my bus driver had a rape
21 charge from the past, and that he would look me up and
22 down like he was going to do something to me.

23 Q And did you believe that?

24 A Yes.

25 Q Was it true?

1 A No.

2 Q So -- and you were going to church on that bus; is
3 that right?

4 A Yes, ma'am.

5 Q On Wednesdays and Sundays?

6 A Yes, ma'am.

7 Q And did you stop doing that --

8 A Yes.

9 Q -- at some point down the road?

10 A Yes, ma'am.

11 Q Okay. And did -- what was the reason you stopped
12 doing that?

13 A When he told me about the bus driver. And then he
14 went. Because he thought he was going to change, or
15 something like that. And he went. I'm trying to --

16 Q He went to the church?

17 A Yeah.

18 Q Okay.

19 A He went to the church. And he said he was going to
20 change, and everything. And he started talking about, oh,
21 this pastor is really bad, you know, he's a bad person.
22 And then the bus driver is a bad person. You don't need
23 to go there.

24 Q Okay. So he ended up coming to your church and going
25 to check out your church for you, basically?

1 A Yes, ma'am.

2 Q Okay. And then your church was no good after that?

3 A Yes, ma'am.

4 Q All right. What about boys at school? Was there
5 ever any kind of issue with that?

6 A He would tell me like, you know, if they're ever
7 looking at you, you better tell me, you know, because I'll
8 solve that problem kind of thing.

9 Q And what were his feelings towards your sister?

10 A They were like never okay. But he would like -- it
11 looked as if they were okay together. But when he was
12 alone and she wasn't there, he would say that she's bad,
13 she's mean, she's abusive to you, she's a really bad
14 person. He would tell me that anybody was a bad person,
15 other than him.

16 Q And, during this time, did you tend to believe that,
17 or how were you feeling?

18 A Yes, ma'am.

19 Q And then about your parents, I mean, these people
20 that he claims to be friends with and he's helping on one
21 hand, what was he telling you about them on the other
22 hand?

23 A That they were like verbally abusive, you know,
24 mentally abusive, that they treated me like a slave, you
25 know, because I had to do chores, and that, you know, they

1 didn't treat me right. They didn't treat me like I should
2 be treated.

3 Q And I don't know if we touched on it yesterday. Was
4 there -- let's see -- anything about you leaving your
5 parents -- or leaving your parents home?

6 A Yeah. Emancipating myself is what we talked about
7 yesterday.

8 Q Okay. And why would you want to do that -- or why
9 did he want you to do that?

10 A So I can go live with him.

11 Q Okay. Was this after he and Rachel had split, or was
12 this before that even?

13 A It was before that, a little bit before they split.

14 Q And when you're hearing all of these kinds of things,
15 are you thinking maybe one day that will happen, or what
16 are you thinking?

17 A It was like maybe, you know, one day, it will happen.
18 Maybe he's telling the truth, you know. Maybe he cares
19 about me type of thing.

20 Q Maybe he really does like me?

21 A Yeah.

22 Q All right. And back on your parents. Did he ever
23 say anything about your mom like being interested in him,
24 or something?

25 A Yeah. He had said something. He was like, you know,

1 every time I'm over at your house, your mom kind of looks
2 at me and gives me these eyes like -- you know, like she
3 wants me, or, you know, that she likes me.

4 Q Trying to make you think your mom is like flirting
5 with him, or something?

6 A Yes.

7 Q And then what about your dad in relation to that?

8 A That he would get mad, that he knows that my mom was
9 looking at him like that. And he would get mad.

10 Q Are these conversations y'all are having when you're
11 hanging out?

12 A Yes.

13 Q Okay. This is not in text, or is it in text, too?

14 A Some of it may have been in text.

15 Q Okay. Let me ask you. Do you take showers, or
16 baths, or both?

17 A Mainly showers.

18 Q Okay. About how long do you shower, just generally?

19 A About 30 minutes.

20 Q Okay. When you're in the shower, do you know what
21 everybody else in the house is doing?

22 A No.

23 Q So, for you, 30 minutes could go by and you have no
24 idea what all those people in your house are up to?

25 A Huh-uh.

ROA 302

1 Q Okay. I think at the end of cross-examination,
2 Mr. Chambers asked you about a few times -- there were
3 only a few times that you were, actually, alone, alone
4 with the Defendant. Is that -- was that accurate? I was
5 getting confused.

6 A It was enough for this to happen. It wasn't so few
7 like he's making it seem. It was enough to happen.

8 Q Okay. So I think Mr. Chambers brought up the number,
9 maybe 70 weekends?

10 A Yes.

11 Q That there were possibly 70 weekends out of this
12 entire thing. About how many times did something,
13 actually, happen out of those 70 possible opportunities?

14 A Well, it wasn't just weekends either. Because when
15 the summer came around, it was, also, weekdays.

16 Q Okay. Well --

17 A So it would have been --

18 Q So how many times did something happen? 70 times?

19 A No. It was -- as I said yesterday, over -- about
20 over 10, maybe over 20.

21 Q Okay. So not every time --

22 A No.

23 Q -- it was sporadic when opportunities arose?

24 A Yes, ma'am.

25 Q Okay. And I think you mentioned something yesterday.

1 But you said it would start with this is our chance or --

2 A Yes.

3 Q Okay. So what -- explain that.

4 A Basically, it would be -- if we were alone together,
5 it'd be a chance, you know, this is -- take the chance,
6 you know, do it.

7 Q Let's do it because we can?

8 A Yeah. We can. We have the chance.

9 Q Now, nobody is there?

10 A Yeah.

11 Q Okay. So they weren't all the time, but they were
12 enough for this to happen?

13 A Yes, ma'am.

14 Q All right. And I think that you said something about
15 condoms. You were asked about the condoms?

16 A Yes, ma'am.

17 Q Did -- he provided those?

18 A Yes, ma'am.

19 Q Did you ever --

20 A He bought them himself.

21 Q Okay. And did y'all ever go to a store together to
22 buy them?

23 A Yes, ma'am. I stayed in the car, though.

24 Q Okay. Do you remember when that was, or which
25 incident?

1 A No, I don't.

2 Q Okay.

3 A I think the Waffle House once. Yeah, the Waffle
4 House once. And I'm thinking that was the only time we
5 went to the store, unless he went without me.

6 Q Sure. But when you were alone?

7 A Yes.

8 Q Okay. So you were -- would have been in the car at
9 that time?

10 A Yes, ma'am.

11 Q Okay. There's been mention and you've been asked
12 about your dad hanging out with the Defendant after all
13 this happened?

14 A Yes, ma'am.

15 Q And you became aware of that at some point?

16 A Yes, ma'am.

17 Q And were you aware that the Defendant was trying to
18 get your dad to drop these charges?

19 A Yes, ma'am --

20 MR. CHAMBERS: Objection, Your Honor.

21 MS. HODGE: Thank you.

22 That's all the questions I have.

23 THE COURT: Redirect?

24 MR. CHAMBERS: No redirect, Your Honor.

25 THE COURT: Or recross, rather. Sorry.

1 MR. CHAMBERS: No recross.

2 THE COURT: You may step down, ma'am.

3 Thank you.

4 You may call your next witness.

5 MS. HODGE: Thank you, Your Honor.

6 The State calls #1 (Minor)

7 THE CLERK: Ms. Barton, please, come forward. If
8 you'd pause at the end of the bench.

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

11 WHEREUPON,

12 #1 (Minor)

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

14 THE CLERK: Thank you.

15 Please be seated.

16 Would you, please, state your name for the record?

17 THE WITNESS: #1 (Minor)

18 THE CLERK: Thank you.

19 DIRECT EXAMINATION

20 BY MS. HODGE:

21 Q Ms. Barton, tell us, how old are you?

22 A 18.

23 Q And are you in school currently?

24 A Not currently.

25 Q Okay. I'm going to get you to move the microphone --

1 A Sorry.

2 Q -- closer to you. You can move it. That's okay.

3 And how far did you go in school?

4 A Sophomore year.

5 Q Where were you going to high school?

6 A Greenville High School.

7 Q And are you working currently?

8 A Yes.

9 Q And who do you live with right now?

10 A My grandfather.

11 Q Are you married?

12 A No.

13 Q Do you have any children?

14 A No.

15 Q Do you know VICTIM

16 A Yes.

17 Q All right. And how do you know VICTIM

18 A I've known her since fourth grade in elementary

19 school.

20 Q Were y'all friends?

21 A Like sisters.

22 Q Did you hang out a lot from that point forward?

23 A Yes.

24 Q Okay. Did y'all go to elementary school together?

25 A Yes.

1 Q And what school was that?

2 A Heritage Elementary. Sorry.

3 Q Are you a little nervous?

4 A No.

5 Q Okay. How about middle school? Where did you go to
6 middle school?

7 A Lakeview Middle School.

8 Q All right. Did VICTIM go to Lakeview Middle?

9 A No.

10 Q Did you guys continue to be friends, though?

11 A Yes.

12 Q Okay. And do you know the Defendant in this case,
13 Jerald Gaskins?

14 A Yes.

15 Q So tell us how you know him.

16 A Over at the horseshoe tournaments that we had over at
17 VICTIM house is when I met him.

18 Q All right. Were you with VICTIM when you met him?

19 A Yes.

20 Q Okay. Do you recall what time of year this was, or
21 what year it was?

22 A Spring of 2011.

23 Q And how old were you at that time?

24 A 14.

25 Q What grade were you in then?

1 A Eighth grade.

2 Q And even though you and VICTIM were not at the same
3 school, would you hang out at her house, and stuff around
4 then?

5 A Yeah, on the weekends.

6 Q And were you living with your grandfather then or --

7 A Yes.

8 Q Okay. And you said horseshoe tournaments. Had you
9 been involved in those or anybody in your family been
10 involved in those?

11 A Me and my mom would come over. And I'd try to play
12 every now and then. But I'm a lefty, so it didn't really
13 go well.

14 Q All right. And was that the only place or time you
15 had met the Defendant -- the first place or time you had
16 met him?

17 A The first place and time, yes.

18 Q Okay. And was he married at the time?

19 A Yes.

20 Q And was his wife there, also, at the tournament?

21 A Yes. They were babysitting in the back room with

22 VICTIM

23 Q Okay. Was it at her house -- VICTIM house that
24 you met them?

25 A Yeah.

1 Q Okay. And did you have a conversation with the
2 Defendant the first time you met him?

3 A He showed me his car and his stereo system. And we
4 sat in there and talked.

5 Q What kind of stuff were y'all talking about?

6 A It was just about how cool bluetooths were these
7 days. And then it started getting flirtatious, I guess.

8 Q Okay. Did he ask for your phone number, or did y'all
9 swap phone numbers, or anything?

10 A We exchanged phone numbers later on that afternoon.

11 Q And how long -- like when did these tournaments start
12 like what time of day, and how long would they go?

13 A Usually, about 12:00 in the afternoon till 8:00 at
14 night.

15 Q Okay. And people would just kind of hang out and
16 mill around?

17 A Uh-huh.

18 Q Okay. And did you think anything of him getting your
19 number, or you getting his number?

20 A At first, no. I didn't think much of it.

21 Q Okay. What happened after that?

22 A After that, about two weeks later, he was texting me
23 on Facebook saying we need to meet up and stuff, that he
24 was having a cookout over at his house and VICTIM was
25 there babysitting with Rachel and the baby. And I came

1 over.

2 Q Okay. And did you think it was weird that you got an
3 invite from him to come to that?

4 A A little. But, at that time, it was desperation for
5 attention. So it was at a bad point in my life.

6 Q What was going on?

7 A I had just gotten taken away from my mom for custody.
8 And my grandmother was sick in the hospital.

9 Q And was he giving you some special attention?

10 A Very much.

11 Q And so did you end up going over to the cookout
12 thing?

13 A Yeah.

14 Q How did you get over there?

15 A I think it was VICTIM -- when VICTIM went over
16 there either he gave me a ride from VICTIM house when
17 they all went, or he picked me up. I cannot remember.

18 Q Okay. And this is back in 2011?

19 A Yeah.

20 Q Okay. And did you ever write down any kind of
21 statement to anyone about this case?

22 A No.

23 Q Okay. So you don't have anything to go back and look
24 at to refresh your memory?

25 A (Witness shook her head.)

1 Q Okay. So this is all just coming from memory?

2 A (Witness nodded.)

3 Q And so what happened when you got over there for the
4 cookout?

5 A Well, we were all conversating [sic] and stuff. And
6 then he took me to the back room where his wife and
7 VICTIM was babysitting. And they were watching Fear
8 Factor. And we started to talk. And we started to kiss
9 and -- very repetitive.

10 Q Okay. Talking and kissing?

11 A Yeah.

12 Q All right. And so other people were in the house?

13 A Just on the other side.

14 Q On the other side. Okay. And did anything beyond
15 talking and kissing happen at that point?

16 A No.

17 Q About how long do you think that lasted?

18 A Just an hour or two.

19 Q When you were over there -- while you were over
20 there?

21 A Yeah.

22 Q And the talking and kissing lasted a whole hour?

23 A Oh, no. That was just about 20 or 30 minutes.

24 Q And did you go back into the room where his wife and
25 VICTIM were after that?

ROA 312

1 A Yes.

2 Q Did you act like anything was different?

3 A No. I just -- I -- it felt very uncomfortable to be
4 alone in that situation, so. But I didn't tell anyone
5 what happened.

6 Q Did you even think to tell VICTIM like your friend?

7 A No.

8 Q And why not?

9 A I didn't think anybody would understand what was
10 going on. And VICTIM I have -- my entire life -- I've
11 lost a lot of my innocence very quickly. So I've tried to
12 protect her.

13 Q You just didn't think that was something to talk
14 about?

15 A No.

16 Q So did anything else ever happen between you and the
17 Defendant after that?

18 A After that, there was two times. There was sexual
19 encounters.

20 Q And what happened? Tell me about the first time.

21 A The first time, it was nobody over there. I think it
22 was a few weeks later. I got out of school. It was like
23 8:00 at night. And he came to pick me up. And we went to
24 his house. And there was no one in there at that time.
25 It was late at night. And we had sex on the bed. And

1 then he -- after that, he took me home.

2 Q And tell me about like how did you get over there?

3 Were y'all texting, or Facebooking, or --

4 A We were Facebooking. And he picked me up off the
5 street in front of my house.

6 Q Did you sneak out of your house?

7 A Yes.

8 Q And so when you say you went in the bedroom and had
9 sex, can you tell me what that means?

10 A Strictly, it was me with my pants off for about five
11 minutes. He used a condom. And it was vaginal.

12 Q And was there any conversation about this or --

13 A Not much.

14 Q And then did you -- well, how were you feeling about
15 that?

16 A Very awkward. But afterwards, he made me feel, with
17 his conversation, just special like I was doing a good
18 favor.

19 Q Okay. And so did you continue to talk to him or see
20 him again?

21 A Yes. There was two more times. The second time was
22 at that abandoned house. I do not know the location. I
23 just know it was late at night. And he wanted to have a
24 sexual encounter in the car. But I was not comfortable
25 with that.

ROA 314

1 So he got his wife's clothes and laid them on the
2 bottom of the floor inside the house. And I had tried to
3 get on my knees, but it was -- there was glass in there.
4 So it was about five minutes or six minutes of a sexual
5 encounter. We finished. And he took me to Spinx, got me
6 a drink. And I got to go to the bathroom so I could clean
7 up my knees. And he took me home.

8 Q And when you say "abandoned house," was this in the
9 Travelers Rest area, or Greenville, or --

10 A Yes, the Travelers Rest area.

11 Q Okay. But, at first, he wanted to do it in the car?

12 A Uh-huh.

13 Q And y'all ended up going inside this abandoned house?

14 A (Witness nodded.)

15 Q Do you know whose house it was, or belonged to, or --

16 A I can recall he was saying it was like his father's,
17 or some family member previously owned. I do not know
18 other than that.

19 Q And, again, are you like sort of a willing
20 participant in this, or how are you feeling about this?

21 A At 14 and very rebellious, yes, I was young and
22 naive. But I was -- I put forth my efforts into agreeing.

23 Q Making it happen?

24 A Yeah.

25 Q And did -- was this vaginal-penile penetration?

1 A Yes.

2 Q Okay. And did he use a condom?

3 A Yes.

4 Q All right. Do you know what he did with the condom?

5 A It was -- he just took it off and threw it on the
6 floor.

7 Q And then once that was over, y'all went to Spinx?

8 A Yeah. And then I think it was almost -- it was about
9 a week or two later, two weeks later, he took me back to
10 his house again. And it happened the same way like the
11 first time. But it was much shorter. Because I, finally,
12 said I was very uncomfortable with it. And I was,
13 finally, seeing that this isn't right, and I was making a
14 dumb decision. So I left. I mean, he took me home.

15 Q Okay. Was there a conversation that y'all had about
16 this being over?

17 A Yeah. I was saying how I wasn't comfortable and
18 coming out with my true feelings about it. And he's
19 like -- he was making me feel like it's okay, you're a
20 child, you can't -- there's no way you can process this like
21 an adult, you know, making me feel young and naive, dumb,
22 which, actually, I took that in pride that that was the
23 honest truth. And so I went home. And I've never talked to
24 him since.

25 Q Okay. And was there something -- a conversation

ROA 316

1 that -- or anything he said about VICTIM to you?

2 A Yes. Right before he left, he said that he was going
3 to go after VICTIM next. And so I kind of just
4 disappeared off the radar. Mentally, I didn't know how to
5 handle it. And it felt like if I was going to be the one
6 telling her that, there would be consequences, or
7 something. And I had so much guilt in my head that I
8 didn't talk to VICTIM I didn't talk to anybody for
9 about six months.

10 Q So you didn't kind of -- you didn't give her a
11 warning, or anything like that?

12 A No.

13 Q Okay. And had you -- or do you think it would have
14 mattered if you had?

15 A No.

16 Q Now, during this time -- how long of a time frame are
17 we talking about here from when you met him till when it
18 was -- that was the last time?

19 A Two to three months.

20 Q All right.

21 A Three months, yeah.

22 Q All right. So by the end of your eighth grade year,
23 this was done?

24 A Uh-huh.

25 Q Okay. And you say you kind of dropped off the face

1 of the earth?

2 A A little bit.

3 Q All right. Did your grandmother pass away?

4 A Yes.

5 Q And you went to a different high school from VICTIM

6 A Yes.

7 Q Okay. When did you reconnect or start back hanging
8 out with VICTIM

9 A About a month after my grandmother passed, I thought
10 it was good to get out and start doing the right things.
11 And I -- the next time I encountered VICTIM she had told
12 me what happened. And I had already pretty much known it
13 was going to happen in my head.

14 So to cope with it, I told her what happened to me.
15 And that I felt threatened as if I were going to tell
16 her -- but as much as I wanted to -- so we just kind of
17 connected back after that.

18 Q Okay. And this was after she had, you know, gone to
19 the police, and all this stuff was out?

20 A Yes.

21 Q And she had already given statements, and all that
22 kind of stuff?

23 A Yes.

24 Q Did you think after hearing that that maybe you
25 should go to the police and talk about your case?

ROA 318

1 A I said I'd do anything I can do to help, you know.
2 Because I know my mental capacity, I can handle stuff like
3 that because I've had a bit of a rough past. But I knew
4 that it would distraught her more than anything.

5 So I said I would do anything I could do to help, and
6 if I needed to write a testimony. And here I am doing it
7 now like I promised.

8 Q Okay. But did you really want to get involved, or
9 you just said you would if it was necessary?

10 A I do what I can for my family. But I don't really
11 like to get involved in things like this.

12 Q Okay. So you really never had any intention once you
13 heard that of going to the police and making your own
14 case, if you will?

15 A Yeah. I've got a bit of a social anxiety thing. But
16 sitting up here proudly talking in front of all of these
17 people, I'm okay.

18 Q Okay. And do you -- can you identify the person that
19 you know as Jerald Gaskins in court today?

20 A (Witness pointed.)

21 Q And you have to tell me -- okay. What's he wearing?

22 A A black tie and gray shirt.

23 MS. HODGE: Let the record reflect she identified the
24 Defendant.

25 Please answer Mr. Chambers questions.

CROSS-EXAMINATION

BY MR. CHAMBERS:

Q So you met Jerald, you said, at a horseshoe tournament?

A Yes.

Q And VICTIM was there?

A Yes.

Q You had gone with your mom, though, you had not gone with VICTIM is that right?

A My mother and VICTIM were both hanging out with Sandy. And we were all together.

Q Okay. And was that about March of 2011, or do you recall when that was?

A I remember it was in the springtime.

Q Spring of 2011. And so that day, the two of you exchanged phone numbers?

A Yes.

Q Is that right?

A Yes.

Q And he -- y'all immediately started talking to one another?

A Yes.

Q And then the first time that the two of you got together was this time that you went to his house. He came and -- did he come and get you?

ROA 320

1 A Yeah. I was over at VICTIM And we were in our
2 bathing suits. And we were trying them on. And we went
3 for a tan. And then he texted and said there was a
4 cookout.

5 So we got dressed and he picked us up. And we went
6 over there. I think VICTIM was already over there. And
7 he came back just for me.

8 Q So you were at VICTIM without VICTIM

9 A Yeah. Sandy and Walt are like family. So it was
10 nice to come over there and just hang out for the
11 afternoon.

12 Q So VICTIM was there already?

13 A Yeah. And then they had picked her up. And then I
14 guess he came back for me. Because I was wanting to hang
15 out with my mom and Sandy for a little bit longer.

16 Q And you went over and there was a cookout going on.
17 Do you recall who all was there?

18 A Rachel, Jerald, me, VICTIM and the baby.

19 Q That was it?

20 A That was it.

21 Q And so the four of y'all are there together. At some
22 point, were -- were you out in the yard, or were you in
23 the house, or what were you doing?

24 A We were in the house.

25 Q Okay. And this is the two-bedroom house?

1 A Yes.

2 Q All right. And so you said that -- if I remember
3 correctly that VICTIM and Rachel, and the baby were in
4 one room; is that correct?

5 A Yes. All the way on the right side.

6 Q And then you and Jerald went off into another room
7 for about 20 to 30 minutes?

8 A Yes.

9 Q Just the two of you in a room for 20 to 30 minutes?

10 A Yes.

11 Q And that's where you said the kissing and things
12 occurred?

13 A Yes.

14 Q All right. And you -- did you say you felt kind of
15 weird about that?

16 A A little uncomfortable. Because, I mean, he's a
17 married man. And it seems that, you know, Rachel is a
18 wonderful girl. She's so nice and a good mother. And
19 VICTIM is my best friend, you know. It doesn't seem that
20 they would be, you know, manipulative to hurting anyone.

21 Q So you described VICTIM as your best friend?

22 A She's just like my sister practically.

23 Q Okay. And so this went on as you described. And it
24 sounds like even though you were a willing participant,
25 you really didn't enjoy the experience very much?

ROA 322

1 A No.

2 Q You felt used?

3 A I felt like I was corrupting a family that was
4 already sewn together, you know. I mean, they're married.
5 It's not right.

6 Q You said that you had lost your innocence, I guess,
7 at a fairly young age. Would -- so you were different in
8 that regard than VICTIM is that correct?

9 A Yes.

10 Q Did you think that VICTIM was more naive?

11 A No. She was just -- she hasn't been exposed to
12 things like being -- you know, put in situations like
13 that.

14 Q So this relationship that you said that you had with
15 Jerald was going on, basically, at the same time that your
16 best friend, VICTIM was spending a lot of time over at
17 the Gaskins home?

18 A Yes. Although, I know he had his eyes locked on her,
19 she didn't know what was going on. She was there to
20 babysit, and hang out with Rachel, and that was it.

21 Q And you were not only best friends with VICTIM but
22 you -- as you said, you considered Sandra and Walt --
23 Sandy and Walt like family?

24 A Yes.

25 Q You felt very comfortable with them?

1 A Yes.

2 Q And so -- but your testimony is that even after
3 breaking things off with him -- "him" being Jerald and
4 Jerald, apparently, saying to you, well, I'm moving on to
5 VICTIM now, you didn't go and say anything at all to your
6 best friend, hey, you need to watch out for this guy?

7 A Simply because my mother already tried to talk to
8 Sandy about it. And, I mean, he put up a really good
9 front, and like he was just there for the family. And my
10 mental capacity at 14 years old, everything that was going
11 on, and my grandmother dying, I couldn't handle it.

12 So I did fall off the face of the earth. And I
13 didn't tell anyone simply because I didn't know how to
14 handle it.

15 Q Well, you didn't literally fall off the face of the
16 earth. I mean, you --

17 A I didn't talk to anybody.

18 Q You were around; correct?

19 A Yes.

20 Q And you knew what the situation was, that VICTIM was
21 spending time over there. And you knew, apparently, based
22 on this relationship you say you had that -- what might be
23 going on with Jerald?

24 A Uh-huh.

25 Q And, yet, you didn't even -- you didn't go to VICTIM

ROA 324

1 at any point and say, this has been going on with me and
2 Jerald, or even as much as you need to watch out for
3 Jerald?

4 A I simply didn't say anything because nobody -- I
5 don't know how anybody would have handled it. And with my
6 social anxiety disorder, I was kind of like panicking and
7 freaking out. And I didn't know how everyone would take
8 it. And that would make me, I thought, look like, well, a
9 child whore. So I simply stayed away.

10 Q These are people, though, that you feel comfortable
11 with, that you consider family?

12 A Yes. But I wasn't even comfortable with myself at
13 that time simply because of a rebellious point of like --
14 I didn't even know who I was at the time.

15 Q So you just weren't able to overcome all this social
16 anxiety and this searching for your identity in order to
17 help your best friend in the world?

18 A No, I was not.

19 Q You couldn't even go and talk to this woman Sandy,
20 who you said is just like a mother to you?

21 A I couldn't.

22 Q And, in fact, you never said or did anything about
23 any of this until these allegations arose?

24 A Correct.

25 Q And even then, you didn't go and talk to Investigator

1 Perry or anybody with the sheriff's office?

2 A No.

3 Q You never had the opportunity for anybody to listen
4 to what you had to say and investigate it, did you?

5 A No. But by the time my grandmother had died, I --
6 that was all forgotten.

7 Q And, yet, when you hear this case is going to trial,
8 that's when you step forward and say, hey --

9 A Yeah.

10 Q -- this happened to me?

11 A Yes.

12 Q And even then, nobody got with you and said, let's
13 sit down and get a statement, let's talk about what
14 happened?

15 A Well, I mean, we had talked about it -- like right
16 after it happened to VICTIM is -- you know, we text on
17 Facebook. But we haven't been as close like we used to be
18 ever since this incident. But we have been talking about
19 it. And I have met up with them to say, I will testify.

20 And then before I know it, I got my new job. And the
21 Solicitor lady said that it's going to trial. And I said
22 I would help. So that was that.

23 MR. CHAMBERS: That's all the questions I have for
24 you.

25 Thank you.

ROA 326

1 MS. HODGE: Nothing further.

2 THE COURT: You may step down.

3 Thank you.

4 MS. HODGE: May she be excused?

5 MR. CHAMBERS: I don't have any objection.

6 THE COURT: All right. Yes, ma'am. You're excused.

7 We're going to take a short recess, about 10 minutes.

8 Don't talk about the case. Continue to keep an open mind.

9 (WHEREUPON, the jury was excused from open court at
10 approximately 10:45 a.m.)

11 THE COURT: Yes, sir, Mr. Chambers.

12 MR. CHAMBERS: Just quickly, Your Honor. I just want
13 to make it clear, because I had this issue come up in a
14 PCR. I did not contemporaneously object when that witness
15 testified. I just want to make it clear for the record
16 that I had objected to her testimony, that you ruled on
17 that objection, and you overruled it. So, you know --

18 THE COURT: Certainly.

19 MR. CHAMBERS: -- I just want to protect the record.

20 THE COURT: Certainly. And I reincorporate all your
21 previous arguments. And you had objected quite vehemently
22 before the testimony. And everyone knows you objected to
23 it.

24 MR. CHAMBERS: Thank you, Your Honor.

25 THE COURT: How many more witnesses do you have?

1 MS. HODGE: I have two short witnesses.

2 THE COURT: And then you're going to have how many,
3 do you think?

4 MR. CHAMBERS: I believe I'm going to have two
5 witnesses, Your Honor.

6 THE COURT: So what time do you think we would
7 conclude the testimony? I'm just trying to get an idea
8 for planning purposes.

9 MS. HODGE: I would love to do it by lunch. I mean,
10 my witnesses are really short, 10 minutes each probably
11 for me. It's the doctor and investigator.

12 MR. CHAMBERS: Okay.

13 THE COURT: So what does that mean?

14 MS. HODGE: So I can be done in -- I mean, I can be
15 done in 20 to 30 minutes, if there's no cross. But, I
16 mean --

17 THE COURT: Yes. Right.

18 MR. CHAMBERS: And there's likely to be some cross.

19 THE COURT: All right. Fair enough.

20 MS. HODGE: It's on him.

21 THE COURT: We'll take about a 10-minute break.

22 Thank you.

23 (WHEREUPON, a break was taken.)

24 THE COURT: Anything before we bring the jury in?

25 MS. HODGE: No, sir.

ROA 328

1 MR. CHAMBERS: Not from the Defense, Your Honor.

2 THE COURT: Thank you.

3 (WHEREUPON, the jury came into open court at
4 approximately 10:59 a.m.)

5 THE COURT: You may call your next witness.

6 MS. HODGE: Thank you, Your Honor.

7 One moment.

8 (Pause.)

9 MS. HODGE: The State calls Mary Fran Crosswell.

10 THE CLERK: Ma'am if you'll, please, pause at the end
11 of the bench.

12 Place your left hand on the Bible and raise your
13 right hand.

14 WHEREUPON,

15 MARY FRAN RATCHFORD CROSWELL, M.D.,
16 after first having been duly sworn, testified as follows:

17 THE CLERK: Thank you.

18 Please be seated.

19 Would you, please, state your name for the record?

20 THE WITNESS: Mary Fran Ratchford Crosswell.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MS. HODGE:

24 Q Dr. Crosswell, where are you, currently, employed?

25 A I am employed by the Greenville Health System in the

1 division of forensic pediatrics, child abuse, and neglect.

2 Q All right. And how long have you been employed in
3 that capacity?

4 A I have been employed since 2006, so eight years.

5 Q All right. Tell us your educational background.

6 A I received my bachelor's degree at Wake Forest
7 University. I received my medical degree from the
8 University of Louisville School of Medicine. I completed
9 my pediatric residency at the Greenville Hospital System.

10 Q And how about your work experience prior to the
11 Greenville Hospital System?

12 A I worked as a general pediatrician at the Children's
13 Healthcare of Atlanta.

14 Q And are you board certified in any areas?

15 A Yes. I'm board certified in general pediatrics and
16 in child abuse pediatrics.

17 Q And do you attend continuing education courses,
18 meetings, or seminars in the area of pediatric and child
19 abuse pediatrics?

20 A Yes. I attend annually ongoing medical education
21 courses in both pediatrics and child abuse pediatrics.

22 Q All right. And when you say "child abuse," what kind
23 of abuse is that?

24 A All forms of child maltreatment, including physical
25 abuse, physical neglect, and sexual abuse, among others.

ROA 330

1 Q Okay. And have you lectured or presented to peers in
2 these areas?

3 A Yes, I have. I've lectured to medical students and
4 residents, as well as I have lectured at a state-wide
5 conference on a couple of occasions.

6 Q And are you a member of any professional
7 organizations that deal with pediatric medicine?

8 A Yes, I am. I am a member of the subcommittee of
9 child abuse and neglect of the American Academy of
10 Pediatrics, the American Professional Society on the abuse
11 of children. I'm a member of a state-wide network of
12 child abuse providers in the state of South Carolina.

13 Q And have you conducted sexual assault exams -- or
14 sexual abuse exams on children under 16, I guess, in your
15 career?

16 A Yes, I have.

17 Q Approximately how many of those have you done?

18 A Roughly 150 to 200 a year. So I would say over a
19 thousand cases since I've been practicing in Greenville.

20 Q Okay. And where do you conduct those exams?

21 A The sexual abuse exams are conducted at the Julie
22 Valentine Center.

23 Q Is that a contract with the hospital system or --

24 A It -- correct. The hospital system contracts with
25 the Julie Valentine Center to allow the hospital to

1 provide those services in a location that is child
2 friendly and appropriate.

3 Q All right. And have you ever been qualified as an
4 expert in the field of pediatric medicine or pediatric
5 child abuse?

6 A Yes, I have.

7 Q All right. And how many times?

8 A I would estimate roughly 30 to 35 times.

9 MS. HODGE: At this time, Your Honor, we would move
10 to admit Dr. Crosswell as an expert in pediatric medicine
11 and in child abuse pediatrics.

12 THE COURT: Any voir dire?

13 MR. CHAMBERS: I just want to make sure I understand.
14 She's being offered as an expert. And she's here to
15 render a medical opinion, is that what she's being offered
16 for?

17 MS. HODGE: Yes.

18 MR. CHAMBERS: Okay. No objection, Your Honor.

19 THE COURT: All right. I find she's qualified.

20 Ladies and gentlemen, typically, under the law,
21 witnesses can only testify about things they've observed
22 firsthand or have personal knowledge of that they've
23 acquired through one of their senses. There is an
24 exception for people who have by reason of their training,
25 education, or experience have achieved expertise in their

ROA 332

1 field. These expert witnesses are allowed to give
2 opinions about things they've observed, or had made known
3 to them. So that's the difference. But expert witnesses
4 and all other witnesses have this in common, they're
5 credibility is determined entirely by you.

6 So you may proceed.

7 MS. HODGE: Thank you, Your Honor

8 BY MS. HODGE:

9 Q Did you conduct a sexual assault exam on VICTIM
10 Mucienko?

11 A Yes, I did.

12 Q All right. And when was that done?

13 A December 5th, 2012.

14 Q Okay. And where did that take place?

15 A It took place at the Julie Valentine Center.

16 Q Did VICTIM have anyone come with her for that exam?

17 A Her mother and father brought her to the appointment.

18 Q And what was the reason for the appointment?

19 A She had been referred by law enforcement for a sexual
20 abuse evaluation.

21 Q Okay. And once someone is referred and the exam is
22 to take place, what is the normal protocol, or what are
23 the steps that you take in an exam, just generally?

24 A Prior to the appointment, I review any materials that
25 are made available to me by the referring source. Once

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1 the child is brought to the appointment, he or she is
2 brought back to the exam room by a child specialist, who
3 goes through the entire process with the child.

4 Then I take a detailed medical history and history of
5 any incident from the parents, and then from the child as
6 well. After taking that history, I perform a physical
7 exam, determine any necessary laboratory or radiographic
8 studies that may need to be done to assist in the
9 evaluation. And then I make any recommendations.

10 Q All right. And did you follow that same procedure
11 with VICTIM

12 A Yes, I did.

13 Q All right. Did you gain any information pertinent to
14 VICTIM physical or behavioral health from her
15 caregivers?

16 A Yes. As far as behaviors, they had described a
17 change in her behaviors prior to her disclosure of abuse.
18 She had begun isolating herself. She had begun back
19 talking. Her grades had been fluctuating. They had
20 described her as -- that she previously was very bubbly
21 and her personality -- that they had noticed personality
22 changes. And that she didn't like to sleep by herself
23 anymore.

24 Q And why are those things important for you to know?

25 A Those are just additional information about

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1 alterations in behavior that would support other history
2 that was provided to me as part of my diagnosis in the
3 evaluation.

4 Q Okay. Are those things -- would you -- are you
5 allowed -- or do you make recommendations for mental
6 health treatment, as well as physical treatment?

7 A Absolutely.

8 Q And how about -- tell me, did you -- did you then ask
9 VICTIM about any pertinent information regarding her
10 mental or physical health?

11 A Yes, I did.

12 Q Okay. And what information did you receive from her
13 that was pertinent to your diagnosis for treatment for
14 her?

15 A She was able to clarify the types of contact that
16 occurred during the abuse that would assist me in making
17 the appropriate recommendations for sexually-transmitted
18 infection testing.

19 Q And did she tell you -- what did she tell you about
20 the types of abuse?

21 A She described that the alleged perpetrator had
22 performed oral sex on her. And that he had performed
23 penile-vaginal penetration with her.

24 Q All right. Did she disclose any oral sex that she
25 performed on the perpetrator?

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- 1 A She denied that she ever performed oral sex on him.
- 2 Q All right. And how about anal sex?
- 3 A She denied that he had -- that his penis ever touched
- 4 her butt.
- 5 Q All right. Did she state to you when or where --
- 6 when and where this sexual abuse took place?
- 7 A She said the abuse started when she was 13. And that
- 8 the last incident had been a couple months prior to the
- 9 medical appointment. It occurred either in his car or at
- 10 his house.
- 11 Q All right. And after you got all of your
- 12 information, did you then conduct a full examination?
- 13 A Yes, I did.
- 14 Q All right. And what does that entail?
- 15 A It entails a complete head to toe physical exam like
- 16 any general well-child check-up of a pediatric patient.
- 17 Included as part of that is a coloscopic exam.
- 18 And the colposcope is a piece of medical equipment
- 19 that allows me to visualize her anogenital area. It has a
- 20 light source magnification system, and the ability to
- 21 photo document any findings.
- 22 Q How old was VICTIM at the time of this exam?
- 23 A She was 15 years old.
- 24 Q All right. Had she been through puberty?
- 25 A Yes, she had.

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1 Q Okay. And why is that important for this exam?

2 A So a female who has gone through puberty necessarily
3 has the hormones estrogen in -- the hormone estrogen in
4 her body. Estrogen has affects on the tissues in the
5 genital area that alter the characteristics.

6 So it can make those tissues more flexible. And it
7 makes them more redundant.

8 Q Okay. And so what were your findings during

9 VICTIM exam?

10 A So she had -- at the time, she was on her period. So
11 I did see presence of menstrual blood. She had normal
12 hymenal tissue. She had evidence of going through puberty
13 with the presence of pubic hair. And her tissues looked
14 like they had been -- what we call estrogenized, meaning
15 that they had had that effect of the estrogen on the
16 tissues.

17 Q Would you call that a normal exam or --

18 A It was a normal exam.

19 Q All right. And what makes something a normal exam
20 versus an abnormal exam?

21 A So, at times, there can be physical findings that
22 would indicate trauma of some sort, either bruising or
23 abrasions. The hymenal tissue is a tissue that partially
24 covers the entrance into the vaginal canal. At times,
25 there can be a laceration or either what we call

1 transection when a tearing of that hymen has healed. All
2 of those areas looked very normal in VICTIM

3 Q All right.. And would her findings on this exam be
4 consistent with the allegations of the sexual abuse?

5 A Yes. It's commonly believed that you can tell by
6 physical exam that there's been vaginal penetration. We
7 know from medical studies that most of the time children
8 who have been sexually abused in the order of 85 to 90
9 percent, there's not specific findings of sexual abuse.
10 There's studies of pregnant teenagers who have normal
11 hymens and no evidence of penetration.

12 So just because she has a normal exam on the day of
13 my evaluation doesn't exclude sexual abuse.

14 Q Okay. Thank you.

15 And did you, also, do a diagnostic workup?

16 A Yes, I did.

17 Q Testing that was necessary?

18 A Yes.

19 Q Was there anything specific?

20 A There was nothing specific for sexual abuse. She had
21 another medical condition that was unrelated to sexual
22 abuse that we treated.

23 Q Okay. And did you refer her on for more -- or later
24 sexually-transmitted disease testing?

25 A Yes. Because of the nature of the abuse, she

1 required repeat blood work up to six months after the last
2 incident. So she had to come back -- or go to another
3 location to get additional blood work for HIV, and so
4 forth.

5 Q Okay. And how about mental health counseling, did
6 you make a recommendation for that?

7 A Yes. We made a referral for her to have appropriate
8 mental health counseling.

9 MS. HODGE: Thank you.

10 Please answer any of Defense's questions.

11 CROSS-EXAMINATION

12 BY MR. CHAMBERS:

13 Q Your testimony is not that there was sexual abuse,
14 just that there could have been?

15 A My testimony is that my patient provided me a history
16 of sexual abuse, and her exam was consistent with the
17 history provided.

18 Q You didn't make any physical findings of any kind?

19 A I did not make -- I did not have physical findings
20 specific for sexual abuse.

21 Q So, really, you were an information gatherer here
22 more than anything; correct?

23 A I'm a medical doctor treating my patient.

24 Q Well, I understand you're a medical doctor. But
25 everything that you just recounted came to you from the

1 mouth of VICTIM or her parents?

2 A That's correct.

3 Q Okay. I mean, there's not anything that you got
4 independently from this examination?

5 A I don't know -- I mean, that's -- it's -- "anything,"
6 what do you mean by I didn't get anything from the
7 examination?

8 Q Well, again, everything that you just discussed in
9 response to the questions from the Solicitor were things
10 that you were told either by VICTIM or one of VICTIM
11 parents?

12 A That's correct.

13 Q So, in other words, you -- through this exam that you
14 did, you didn't make any independent findings of your own?

15 A I made findings based on the history and the physical
16 exam of what she needed as a result.

17 Q What did the physical exam show that was consistent
18 with anything?

19 A Well, the physical exam showed a normal exam, which
20 is -- has repeatedly been shown can be consistent with the
21 allegations that she made. And then we made -- you know,
22 we did the appropriate sexually-transmitted infection
23 testing that needed to be done.

24 Q You seem very hesitant to say -- and you can correct
25 me on this -- that a normal physical exam could, also, be

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1 consistent with there being no sexual abuse?

2 A I'm not hesitant in saying that.

3 Q Okay. So --

4 A But that would be counter to the history that was
5 provided to me as a doctor.

6 Q In other words, it would be counter to what they told
7 you?

8 A Correct.

9 Q In other words, if what they told you wasn't true,
10 then your findings would, also, be untrue?

11 A Correct.

12 Q I mean, it's, certainly, possible that somebody could
13 come in and just lie to you and tell you something that
14 wasn't true?

15 A That is correct.

16 Q And you take it at face value what they tell you?

17 A I do. I'm a doctor. And I take a history from my
18 patient. And I'm expecting that the history provided to
19 me is what happened.

20 Q And, in this case, they didn't just -- VICTIM didn't
21 just tell you what supposedly happened, you were,
22 actually, handed by someone a 16-page detailed report?

23 A Correct.

24 Q And you read that detailed report?

25 A I did. And then I clarified the questions to make

1 sure that my understanding of my reading was accurate. So
2 I did ask her questions to make sure that I had an
3 accurate understanding so I could make the appropriate
4 recommendations for her.

5 Q So that 16-page handwritten detailed report, I guess,
6 was, basically, the blue print for the questions that you
7 asked in the history; is that correct?

8 A It provided me information for some of the questions
9 that I routinely ask my patients. Then there are other
10 questions that I ask in addition to what was provided in
11 that 16-page written statement.

12 Q And how long have you been doing this type of work?

13 A Eight years.

14 Q And you don't handle just normal pediatric work, I
15 mean, people that come down with strep throat, and ear
16 infections, and that sort of thing, do you?

17 A I do some of that, yes.

18 Q But, mainly, you do this kind of work?

19 A Yes. That's correct.

20 Q And you're on contract to work with the Julie
21 Valentine Center?

22 A No. I'm not on contract to work with the Julie
23 Valentine Center. We just contract to have space to do
24 exams. But I'm not employed by the Julie Valentine Center
25 and have no --

1 Q But that's, generally, where you do your
2 examinations?

3 A I do a portion of my work at the Julie Valentine
4 Center.

5 Q And you've been involved in hundreds, if not
6 thousands, of these kinds of cases?

7 A That's correct.

8 Q And you've testified in court for the Solicitor on
9 numerous occasions?

10 A That's correct.

11 Q You are a medical doctor, though, are you not?

12 A I am.

13 Q Let me ask you a question. Are you familiar with
14 latex allergies?

15 A Yes.

16 Q Does it -- what happens if somebody is allergic to
17 latex, typically?

18 A I mean, they -- depending on how allergic, they can
19 have an anaphylactic reaction. They could have a rash.
20 It just depends on the nature of the allergy.

21 Q Is that something that medical professionals are
22 concerned about because of the use of latex gloves?

23 A Yes. We do not use latex anymore.

24 MR. CHAMBERS: That's all the questions I have for you.
25 Thank you.

REDIRECT EXAMINATION

BY MS. HODGE:

Q Did VICTIM tell you that she was allergic to latex?

A I don't recall her telling me that she was allergic to latex. I don't have it documented in my records.

Q And are condoms made out of latex? Do you know?

A I don't know.

Q All right. And if someone was allergic to them and a condom was made out of it, would there be something that they might need to seek medical attention for if they're allergic to that?

A Potentially.

MS. HODGE: Okay. Thanks.

That's all I have.

MR. CHAMBERS: Nothing else, Your Honor.

THE COURT: Thank you.

MS. HODGE: May she be excused, Your Honor?

MR. CHAMBERS: No objection, Your Honor.

MS. HODGE: The State would call Investigator Bob Perry.

THE CLERK: Sir, if you'll, please, place your left hand on the Bible and raise your right hand.

WHEREUPON,

ROBERT J. PERRY,
after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 Please be seated.

3 Would you, please, state your name for the record?

4 THE WITNESS: It's Investigator Robert J. Perry with
5 the Greenville County Sheriff's Office.

6 THE CLERK: Thank you.

7 DIRECT EXAMINATION

8 BY MS. HODGE:

9 Q Investigator Perry, how long have you been with the
10 sheriff's office?

11 A Since 2006.

12 Q And what are your duties or responsibilities
13 currently?

14 A Currently, I'm assigned to a special victims unit
15 that primarily investigates any type of physical or sexual
16 abuse, or violent crimes directed towards a child.

17 Q And a child in South Carolina is someone under what
18 age?

19 A We consider 16 and below.

20 Q All right. Did you have previous law enforcement
21 experience before coming to the sheriff's office?

22 A I did. I originally started in law enforcement in
23 1986.

24 Q And was that in South Carolina, or somewhere else?

25 A That was in Georgia. And I ended up working in

1 Florida for many years, also.

2 Q All right. And were you assigned as an investigator
3 in crimes against children back on November 10th -- 11th
4 of 2010?

5 A That is correct.

6 Q I'm getting my dates wrong. 2011?

7 A That's correct.

8 Q All right. Were you assigned the case involving
9 VICTIM [REDACTED]

10 A I was.

11 Q All right. And how did you receive this case?

12 A Basically, we have -- our particular unit does not
13 work out of the law enforcement center. We work out of
14 county square.

15 So what happens on a normal basis is one of the
16 investigators or a supervisor will pick up reports that
17 have been written by uniform patrol. They'll bring them
18 over to the county square. And they'll walk through the
19 various offices over there and hand out individual
20 reports. In this particular case, I received a report
21 with VICTIM [REDACTED] as the victim in it.

22 Q All right. And VICTIM [REDACTED] was what age at the time of
23 the report?

24 A 15.

25 Q Okay. And who was the suspect in the report?

1 A Mr. Gaskins.

2 Q All right. And how old was Mr. Gaskins at this time?

3 A 30.

4 Q Okay. What was your first step in the investigation?

5 A Basically, you know, you review the report and try to
6 make contact with the family and contact with the victim.

7 So one of the first things I did is I went out to the
8 residence and -- to talk to VICTIM but to, also, talk to
9 her parents and tell them that, you know, there's somebody
10 looking at the investigation, you know. I will be the
11 lead, but I have five partners that work with me. So it's
12 going to be a team that works together to try to figure
13 out what's going on.

14 Q Okay. And did you want to talk to the victim at that
15 point as well?

16 A Yes.

17 Q And did you make a time to do that?

18 A I did. I requested that, you know, they speak to her
19 when she comes home -- I've forgot where she was at -- and
20 see if I could talk to her the next day at school.

21 Q Did you get any background or history from the
22 parents while you were out talking to them initially or ---

23 A I did. There was a house full of people. The
24 parents were home. I believe the sister was home. And
25 maybe somebody else was there. I'm not sure. And I

1 talked to the -- I tried to talk to everybody about what's
2 going on, and if anybody had any information that could
3 corroborate some of the stuff that VICTIM had stated.

4 Q All right. And so then your next step was to go talk
5 to VICTIM herself?

6 A That's correct.

7 Q And tell me about that.

8 A Basically. The next day, myself and one of my
9 partners, Melissa Burton [phonetic], proceeded over to
10 Travelers Rest High School, made contact with VICTIM and
11 I believe it was her guidance counselor maybe, one of the
12 workers at the school, got to sit down with her and talk
13 to her for 30, 45 minutes, or so.

14 Q And did she disclose to you any sexual battery or
15 sexual abuse?

16 A She did. In our conversation, she, actually,
17 disclosed sexual assaults that occurred in multiple areas.
18 She stated there was an assault that took place on
19 Tigerville Road at a house that Mr. Gaskins was living at
20 the time.

21 Later on, there was one at -- at least, one that
22 occurred at Magnolia Avenue where he had moved to. They
23 then moved somewhere else in Central or -- they moved
24 around a lot. And there was an incident that happened in
25 Central. They came back to Greenville. And she talked

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1 about another incident happening, you know, where they
2 were living when they moved back to Greenville.

3 So she was able to, basically, outline in a little
4 bit of detail what was happening particularly at each
5 particular incident.

6 Q Okay. And what -- why is location important for you?

7 A The first thing, we're deputized to go anywhere in
8 the county. So we're not really concerned about small
9 city wide jurisdictions. We can go into the city and take
10 over cases if they don't want to work them, or they don't
11 have the manpower, or something. But we have to stay
12 within our county jurisdiction.

13 Like if something happened in Central, I would simply
14 write it in my report. And then I'd have to ship my
15 report over to the appropriate agency in Central to allow
16 them to investigate that. It would be out of my
17 jurisdiction.

18 Q And so was the Tigerville Road residence in
19 Greenville County?

20 A It was.

21 Q Was the Magnolia Trailer Park residence in Greenville
22 County?

23 A It was.

24 Q Was the Quail Roost residence in Greenville County?

25 A It was.

1 Q Okay. And Belvue Road, is that in Greenville County?

2 A That is also.

3 Q Okay. Central is not in Greenville County?

4 A That's correct. It was not in Greenville County.

5 Q Did you contact the Central Police Department or
6 their sheriff's office?

7 A Yeah. I sent them a copy of my initial report. And
8 then I believe I sent them a copy of her two-and-a-half
9 page statement that she wrote out for me at the school.

10 Q And is that something that agencies generally do
11 when --

12 A That's correct.

13 Q All right. And did she tell you -- did **VICTIM** tell
14 you when this -- these sexual assaults -- the sexual
15 battery began and ended?

16 A She was unable to be real specific. She kind of gave
17 a generality of the spring of 2011.

18 Q And how about the last time anything would have
19 occurred?

20 A I think she said it was October of 2012, or maybe the
21 fall of 2012, something like that, another generality.

22 Q Okay. Now, how long did that last -- that
23 conversation last?

24 A I'm guessing anywhere from -- probably close to
25 45 minutes. I think it lasted the entire class period.

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1 Because I think I remember hearing the bells going on and
2 she was changing from one class to another.

3 Q Okay.

4 A So I'm not real sure how long the class periods are.

5 Q And was it pretty easy for her to tell you what
6 was -- to give you the statement, or were you having to
7 prompt her a lot, or how was that going?

8 A I felt like she was a little bit ashamed and kind of
9 embarrassed, not necessarily talking to me as a male, but
10 talking about what had occurred to her. She presented
11 herself as bright and intelligent. And she presented
12 herself, to me, as being a pretty articulate young lady,
13 and kind of embarrassed that she kind of got manipulated
14 by Mr. Gaskins.

15 Q So after you met with her, what is your next step in
16 the investigation?

17 A One of the first things is to make sure that I can
18 try to corroborate some of the things that she told me in
19 her statement. I, also, had some information about
20 Mr. Gaskins maybe estranged wife. I don't know if they
21 were divorced at that time or not.

22 So I tried to contact her. I left phone number -- or
23 I got her phone number and left her a message. And I
24 would, eventually, talk to her about this particular
25 incident.

1 But I wanted to go by and see if I could locate this
2 abandoned building that everybody was talking about, which
3 I was able to do. And I found out it was, actually, like
4 200 Frontage Road, or that was the closest address I could
5 find.

6 And I walked around and looked at the building to see
7 if it resembled what she had told me, you know, was --
8 could you pull around to the back of it, or could you pull
9 around to the front of it, or -- you know, things like
10 that and be out of sight, which would make the possibility
11 of them having some type of, you know, activity --
12 inappropriate activity, you know, a reality.

13 Q And you were able to locate --

14 A Yes.

15 Q -- the abandoned house?

16 A I was.

17 Q Okay. And is that in the Travelers Rest area?

18 A It is. It's right -- basically, as you start
19 entering Travelers Rest on Highway 25, it's on the
20 left-hand side.

21 Q All right. Did you -- at that point, did you go back
22 and speak to her parents again after, I guess, you took
23 the statement from her? Is that just kind of a courtesy
24 thing, or to get more info?

25 A Yeah, I did. I went back and -- I don't think -- I

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1 don't remember who was at the house at that time. But I
2 think I spoke to both of the parents, maybe even her
3 sister momentarily.

4 And VICTIM had made some mention that they had been
5 texting back and forth and talked on the telephone a lot.
6 And I really wanted that phone.

7 So I was asking the parents, you know, do you still
8 have that phone? Whether it's turned off or not, it
9 doesn't matter to me. I've got technicians that can pull
10 information from that phone. And they said that, you
11 know, Mr. Gaskins had already taken it back. So, you
12 know, it was out of my ability to find it at that time.

13 Q Okay. Were you advised of any other possible text
14 messages maybe from -- between the sister, or were you --
15 did you ask about that or care about that?

16 A I think she's the one that told me about text
17 messages. But I thought she was talking about the actual
18 phone -- text messages that VICTIM had on her phone that,
19 you know, Mr. Gaskins had taken back. I wasn't aware --
20 or maybe I didn't understand her completely that there
21 were -- she was exchanging text messages or somebody else
22 was exchanging text messages.

23 Q All right. Tell me about your next step then.

24 A At that point, I tried to make contact with
25 Mr. Gaskins. I knew his last residence. I, actually, had

1 a phone number. I placed a call to the phone number. I
2 don't think there was a voice mail. It just was like, you
3 know, you can leave a message for such and such number.

4 I went by the house that I believe was owned by his
5 parents maybe, you know. I left a card in the door with a
6 message on it, please give me a call. I need to talk to,
7 you know, Mr. Gaskins about this incident and get his side
8 of the story. I never did make contact with him. He
9 never contacted me.

10 Q All right. Is that something you normally try to do,
11 give the suspects an opportunity to talk to you?

12 A Oh, absolutely.

13 Q All right. So after attempting to speak with him,
14 what was your next step?

15 A Basically, I accumulated all the information in the
16 report, spoke to a local judge. And I ended up getting
17 warrants on Mr. Gaskins for criminal sexual conduct.

18 Q All right. Can -- let's back up a minute. Because
19 you said you had attempted to talk to his estranged
20 ex-wife?

21 A Correct.

22 Q Did you make contact with her?

23 A Not at first, but I did by phone. I never talked to
24 her face-to-face until much, much later. But I did talk
25 to her by phone.

1 Q And what was her name?

2 A Her name is Rachel, Rachel Gaskins.

3 Q Okay. And so then you obtained warrants for the
4 Defendant for criminal sexual conduct with a minor second
5 degree?

6 A And lewd act.

7 Q And lewd act. After you had obtained the warrants,
8 did you receive additional information for your case file?

9 A I did. Probably the better part of two weeks after I
10 had, initially, spoke to VICTIM I received a call from
11 her father and asked if I had received some mail in my
12 inner office -- or in my office. And I advised -- you
13 know, I think it was Thanksgiving break, or whatever,
14 that, you know, I had been out of the office for several
15 days. And I had a stack of stuff sitting there on the
16 corner of my desk that I hadn't even gone through yet.

17 So I started going through the mail. I found the --
18 a rather big envelope that had a 16-page handwritten
19 statement that came from VICTIM

20 Q And did you include that into the case file?

21 A I did. I, basically, photocopied that original that
22 she sent me, kept it in my case file. And I put a case
23 number across the original and put it into our records
24 division.

25 Q Was there anything in that 16-page statement from her

1 that gave you cause for concern, or you felt like that it
2 was different, or anything that would cause you to say,
3 whoa, things have changed?

4 A Well, I think that it was exactly the same as she had
5 told me, just a much longer version and a much more
6 detailed version. She had hit the exact same areas that
7 we had spoken about briefly at school. She went into more
8 detail about maybe the actual act and, you know, exactly
9 how she felt during particular areas.

10 So that was more detail. It was obvious that she sat
11 down and -- maybe for several hours and ended up writing
12 this -- you know, this thing that was eight pages front
13 and back out.

14 Q All right. And how -- in your career, how many
15 criminal sexual conduct with minors types of cases do you
16 think you've probably investigated? I mean, just ball
17 parking.

18 A The sheriff's office had so many cases that they,
19 actually, formed a specialized unit to just handle those
20 types of cases back on August 16th, 2011. I was one of
21 four people who was asked to start looking into those and
22 start investigating those.

23 So I can say definitely from August of 2011 until
24 today, we average probably anywhere from 120 to 145 cases
25 a year. The majority -- 95 percent of those are some type

1 of sex related act that's been done to a child. So
2 several hundred, probably over 500.

3 Q And in your experience investigating those cases,
4 is -- what we call delayed disclosure or the child coming
5 forward much after the events have, actually, occurred, is
6 that common or uncommon?

7 A Oh, yeah. It's such a rarity for me to see a case
8 that a child has immediately told that it's like, you
9 know, maybe one out of a hundred, you know. So that is a
10 very common thing, very common.

11 Q And does -- this delaying in coming forward, does
12 that somehow -- does that hamper what you can do in the
13 investigation?

14 A It does. It puts some problems in our investigation
15 and the actual gathering of evidence. I mean, the fact
16 that most of these cases are something that is done in
17 secret is not unusual. And it's, also, affected -- most
18 of these cases are done -- you know, it's his word against
19 her word because there's not a lot of physical evidence
20 that's transferred or maybe even available. But if
21 there's months and months and months that have passed,
22 then the gathering of physical evidence is much more
23 difficult.

24 So that's why it was really -- you know, when I heard
25 about the text phones -- or the texts and the phones, you

1 know, I was like, great, I can retrieve those off the
2 phones. But that was not an option.

3 Q Okay. And so as far as trying to gather any DNA or
4 serological type evidence to connect -- or to back up
5 these sexual assaults, if it's taken a month or more --

6 A Yes.

7 Q -- for the report to be made, is that evidence going
8 to be laying around somewhere?

9 A Probably not. It's gone.

10 Q Okay. And is that pretty delicate evidence?

11 A It is.

12 Q If you take a shower or a bath, it's gone?

13 A Yeah. If you put soap on DNA, you've distorted the
14 nucleic acids in there and it's not worth testing anymore.

15 Q Okay. And is there usually any kind of other
16 evidence, things, or objects, or anything that you can
17 collect in these kinds of cases, or in this case,
18 specifically?

19 A In this case, no. There was never -- she never made
20 mention of a particular item that maybe he had used to
21 wipe himself and then had discarded, or she kept, or
22 something of that nature. Really, the -- it was her
23 statement with his statement, and then maybe try to
24 corroborate it by her statement showing that, you know,
25 they, actually, did live at these locations. That was

1 verified by, you know, the wife. And I talked to Rachel
2 on the phone. And then I tried to see if there was
3 anything else that we could gather, and there just wasn't.

4 Q So I guess that concluded your investigation?

5 A It did.

6 MS. HODGE: All right. Thank you.

7 Answer any of Defense's questions.

8 CROSS-EXAMINATION

9 BY MR. CHAMBERS:

10 Q So you were -- first became involved, you said, on
11 November the 12th, 2012?

12 A That's correct -- or 2011.

13 Q That's when you went -- 2011. That's when you went
14 to the home and you spoke to the Mucienkos?

15 A Yes. The same day that I got the report, I believe I
16 went out to the home.

17 Q And **VICTIM** was not present?

18 A That is correct.

19 Q And you left, I guess, before she returned to the
20 home?

21 A I don't recall where she was at. She may have been
22 babysitting, or out somewhere spending the night at some
23 friend's house, or something.

24 Q But you didn't -- I mean, you didn't talk to her that
25 night?

1 A That is correct.

2 Q And did the family know you were coming over?

3 A No.

4 Q They didn't. So you just popped by?

5 A That's correct.

6 Q Okay. So that would explain why she wasn't there
7 when you got there?

8 A Yes.

9 Q All right. And -- but you did arrange to speak to
10 her the next day at school?

11 A Yes, sir.

12 Q And she then gave you a statement which -- and you
13 made notes about that statement; is that correct?

14 A Correct. I -- she gave me a statement and I tried to
15 hit, basically, the highlights of her statement in a
16 supplemental report.

17 Q Do you remember her telling you that Jerald and his
18 wife, Rachel, had invited her over to their home at
19 Tigerville Road?

20 A I mean, I remember reading it, but I don't remember
21 her, specifically, saying that to me.

22 Q You do remember that it was in your --

23 A Correct. And that's --

24 Q -- report?

25 A I wrote it down. I transferred it probably the same

1 day I went back to my office and did the supplemental.

2 That's usually what I do.

3 Q So, I mean, you probably pride yourself on your
4 report being accurate, don't you?

5 A Correct.

6 Q Okay. And then you later got a call after you had
7 met with her at school from, I believe, VICTIM dad.

8 And that was around -- that was later on in November,
9 maybe November 26th?

10 A Yeah. It had to have been, at least, two weeks
11 later.

12 Q Yeah. And that's when he said VICTIM had written
13 out this detailed statement?

14 A Correct.

15 Q And they provided you a copy of that?

16 A E-mailed it to me, that's correct.

17 Q So it was more than two weeks later when you got
18 that?

19 A Correct. I think I talked to her on the 13th, and it
20 came on the 26th, or something.

21 Q Did you follow-up with VICTIM at any point after you
22 were able to read her more detailed statement? Did you
23 talk to her anymore?

24 A I know I spoke to several of the Mucienkos on the
25 phone. I don't think I ever went out and, specifically,

1 sat down and talked to VICTIM again about the statement
2 that I received. I may have spoken to her on the phone.
3 I don't recall.

4 Q Okay. But your recollection would be that you didn't
5 talk to her as a follow-up to this more detailed statement
6 that you got?

7 A Yeah. I didn't really feel that -- the need to
8 re-interview her was necessary since she didn't really
9 change any of the information she originally told me. She
10 just added little bits of detail in each incident.

11 Q Well, her original statement to you was about a page
12 and a half handwritten; correct?

13 A Yeah. I thought it was like two pages, but that's
14 probably correct.

15 Q And then this other statement was handwritten, 16
16 pages?

17 A That's correct.

18 MR. CHAMBERS: Okay. Thank you.

19 That's all the questions I have for you.

20 MS. HODGE: Nothing else.

21 THE COURT: All right.

22 MS. HODGE: Your Honor, the State rests.

23 THE COURT: All right. Ladies and gentlemen, the
24 State has concluded its presentation of evidence. And
25 we'll have to take up a few legal matters at this time.

1 And I think we'll just go ahead and break for lunch to
2 make it easier on everybody. Just be back in the jury
3 room at 1:15, and we'll start back up then. Don't talk
4 about the case.

5 Thank you.

6 (WHEREUPON, the jury was excused from open court at
7 approximately 11:43 a.m.)

8 THE COURT: Any motions?

9 MOTIONS

10 MR. CHAMBERS: I make a motion for a directed verdict
11 as to all indictments, Your Honor.

12 THE COURT. All right. Well, I find in the light
13 most favorable to the State, there's sufficient evidence
14 for them to go forward based on the standard Rule 19. So
15 I deny your motion.

16 Yes, sir.

17 MR. CHAMBERS: I was just going to let the Court
18 know, Your Honor, I anticipate two witnesses, one of whom
19 will be my client. I've gone over his Constitutional
20 rights with him.

21 THE COURT: Okay.

22 MR. CHAMBERS: He knows he doesn't have to testify.
23 But he has chosen to testify and will do so after lunch.

24 THE COURT: And, Mr. Gaskins, I'm just going to ask
25 you a couple of questions related to that.

1 Can you raise your right hand?

2 WHEREUPON,

3 JERALD DENTON GASKINS, JR.,

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

5 THE COURT: You understand, I'm sure, from your
6 conversations with your lawyer that you have the right to
7 testify and tell your side of the story. If you do that,
8 the Prosecutor can cross-examine you, just as your lawyer
9 has cross-examined the State's witnesses. And that means
10 that she can ask you about anything that might be relevant
11 to this case, anything that might bear on your
12 credibility. And I don't --

13 Does he have any kind of record the State seeks to
14 impeach him with?

15 MS. HODGE: Nothing that would fit under the rule.

16 THE COURT: Okay. So, obviously, if you didn't
17 testify, you wouldn't be subject to cross-examination.
18 But if you chose not to testify, the Court would tell the
19 jury that you have the absolute right guaranteed by the
20 Constitution not to testify and to remain silent. And
21 they could draw no conclusion from the fact that you
22 didn't take the stand. They couldn't even discuss that in
23 the jury room.

24 So it's entirely up to you whether you wish to
25 testify, because it's your right and nobody else's.

1 And do you feel like you've had enough time to
2 discuss your right to testify or not to testify, and the
3 consequences of your decision with Mr. Chambers?

4 DEFENDANT GASKINS: Yes, sir, I do.

5 THE COURT: Do you have any questions of me about
6 your right to testify or not testify?

7 DEFENDANT GASKINS: No, sir.

8 THE COURT: All right. We'll start back at 1:15.

9 I've got the jury charge up here. I don't know if
10 y'all want to look at it, and the verdict form just
11 sometime during the break. Let me know. I don't know if
12 you're going to be seeking any lesser included offenses or
13 not. But we can discuss that after the break.

14 MR. CHAMBERS: Thank you, Your Honor.

15 THE COURT: See you back at 1:15.

16 (WHEREUPON, a lunch break was taken.)

17 (WHEREUPON, Defendant's Exhibit Nos. 2 and 3 were
18 marked for identification only.)

19 THE COURT: Anything before we bring the jury?

20 MS. HODGE: Yes, Your Honor.

21 THE COURT: Yes, ma'am.

22 MS. HODGE: I was just provided from Mr. Chambers a
23 document from Family Court that is a copy, I guess, of a
24 filing down there.

25 THE COURT: Okay.

1 MS. HODGE: And I was, also, shown a prescription on
2 a piece of -- prescription pad that he intended to
3 introduce both of these documents into the -- into his
4 case. And I did file reciprocal discovery in this case.
5 And I have not been provided these or there's not been any
6 notice that anything like this was going to come into
7 evidence.

8 And I would ask that these be excluded. That he did
9 not comply with Rule 5. And if we get beyond that, then
10 I'll have additional motions.

11 THE COURT: Okay. Yes, sir.

12 MR. CHAMBERS: Your Honor, essentially, I didn't
13 realize until her witness, Rachel Gaskins, testified
14 yesterday that there would be any need for the Family
15 Court pleadings. So when I asked her yesterday if my
16 client had filed for divorce and had done so on the
17 grounds of adultery, she said that he had not, that that
18 was not what had happened.

19 And so, essentially, as rebuttal, I then went to
20 Family Court and got the pleading so that I can then
21 introduce through my client the fact that he did file for
22 divorce on the grounds of adultery. So it would not have
23 fallen within reciprocal discovery.

24 The other -- the note from the doctor is much like
25 the items that were introduced last minute by the

1 Solicitor, they just came into my possession. And it goes
2 to what we believe to be an important matter, and that is
3 that my client has an allergy to latex. Certainly, he can
4 testify to that. But he received this from his doctor to
5 use at a workplace. And so we would seek to introduce it
6 to corroborate his allergy to latex.

7 THE COURT: Well, on the basis of Rule 5, I deny the
8 State's request.

9 You said you had some additional grounds?

10 MS. HODGE: Yes, sir.

11 THE COURT: All right.

12 MS. HODGE: It's my understanding that if we are
13 introducing -- because the State has done this in trials
14 before. If we tried to introduce matters that are filed
15 in the clerk's office such as previous convictions or
16 things of that nature, we've got to have a member of the
17 clerk's office to come here so that we can properly lay
18 the foundation that these are true and accurate copies.
19 And there is no witness to lay that foundation. I'm
20 sure -- because, certainly, his client can testify about
21 that. But I would object to these documents coming in
22 as evidence, because the proper foundation will not be
23 laid.

24 And, second, as far as that prescription thing goes,
25 he's known for two and a half years that the State's

1 case -- that part of it is the fact that there were
2 allegedly condoms used in every sexual occurrence.

3 So, number one, that could have been disclosed to me
4 much, much before right now. And, number two, there is no
5 proper foundation to get some doctor note. We don't have
6 the doctor here that says, yes, I wrote this note, which I
7 would submit, again, goes to excluding the document. If
8 he wants to testify that he's allergic to latex,
9 obviously, he can do that. But to introduce that
10 document, I don't think the proper foundation would be
11 through him.

12 MR. CHAMBERS: First, as to the Family Court
13 pleading, Your Honor, this is a self-authenticating
14 document. We got it today. And, as I'm sure Your Honor
15 is aware from practicing in Family Court in the past, when
16 you get a copy from them, they stamp it original, which
17 indicates to you that it's a true copy that came from the
18 clerk's office.

19 I mean, if it's absolutely necessary, I'm certain I
20 can get somebody from the clerk's office over here by
21 tomorrow to authenticate this document. But it is
22 self-authenticated. And I don't think there's any reason
23 for the Court to -- or the Solicitor to question its
24 authenticity.

25 The doctor's note, ideally, I would like to have a

1 doctor here, but that is not possible. But my client can,
2 certainly, lay the foundation that he received this from
3 his doctor. It is signed by the doctor. It is the
4 original, clearly, the handwriting of the doctor.

5 So we believe there's a sufficient foundation laid
6 for that to come into evidence as well.

7 THE COURT: I would agree with the State that the
8 foundation for the prescription is not present.

9 On the Family Court pleading, I'll have to look at
10 what you've got there. I can't see that far.

11 MR. CHAMBERS: I'll hand it up to you.

12 THE COURT: All right.

13 MR. CHAMBERS: And this is one that's, actually, been
14 marked. And it is -- as you can see, it's just the
15 divorce complaint. That's really all it is.

16 And, as I stated, you can see the stamp on the front.
17 They put that on there at the clerk's office. They stamp
18 it original. And you can, also, see the date stamped from
19 when it was filed with the Court.

20 (Pause.)

21 THE COURT: Well, the Defendant's Exhibit No. 2, the
22 pleadings from Family Court...

23 MS. HODGE: Are you asking me about this?

24 THE COURT: No. I'm just...

25 (Pause.)

1 MS. HODGE: If I may say something.

2 THE COURT: Yes, ma'am.

3 MS. HODGE: Well, as to the self-authentication, my
4 understanding of that is that there's a lot of hearsay
5 contained in this document. And that is what
6 self-authentication gets you around is that if this is a
7 formal order filed in a proceeding, then someone who can
8 come lay the proper foundation for the document being this
9 is a true and accurate copy of what's filed gets it in and
10 we get around some of the -- or around the hearsay, I
11 guess, in here.

12 My second part of that, though, is that we are off on
13 a tangent, basically. This is not a matter germane to the
14 victim's allegations or the State's evidence. This is in
15 regard to the ex-wife's testimony about them and their
16 marital situation. And what he's attempting to do is
17 enter extrinsic evidence to rebut a claim that is not the
18 central allegation or issue in this case.

19 So my suggestion would be that he could testify that
20 he filed under adultery, but that the document should not
21 be admitted. Because it's -- again, it's extrinsic
22 evidence outside the scope of the rules.

23 MR. CHAMBERS: I'm confused. It would seem that the
24 Solicitor is -- seems to have some doubt as to whether or
25 not that is an authentic document, which would be what the

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1 custodian of the record would be here for. And I can,
2 certainly -- if we have to go to that extent, I don't
3 think it would be very hard to arrange for a custodian to
4 be over here.

5 Our position is, though, that my client can,
6 certainly, say that his client [sic] filed that on his
7 behalf. And it is, clearly, a time-stamped marked
8 original copy from the clerk's office. It would seem to
9 have every indicia of authenticity. And, for that reason,
10 I don't know why there would be any problem with it being
11 introduced on that basis.

12 As far as it being a hearsay document, Your Honor, it
13 is a pleading. It is simply that. It is not a hearsay
14 document. And we're not really offering it for -- to
15 prove anything that's asserted in there.

16 Very specifically what happened was when Rachel
17 Gaskins was on the stand yesterday and we were talking
18 about the relationship she had with my client, I asked her
19 a specific question, Isn't it true that Jerald filed for
20 divorce on the basis -- because of alleged adultery? And
21 she denied it. And it is germane. It's not a tangent.
22 Because she is a critical witness that was put up by the
23 Solicitor's Office. And that goes directly to her
24 credibility.

25 The jury, I believe, has a right to know that what

1 she said when she said that he didn't do that was wrong.
2 It's no different than if she had an impeachable offense
3 on her RAP sheet.

4 THE COURT: All right. Well, if this Defendant's
5 Exhibit No. 2, the Family Court pleading, was a certified
6 copy, which is what Rule 902 contemplates, then it may be
7 self-authenticating. But that still doesn't get us past
8 the hearsay. And I just don't know any basis for it to be
9 admitted.

10 Now, if she were to testify, the Defendant in this
11 case, you, certainly, could ask her if this refreshed her
12 memory, or whatever other basis you might inquire about
13 that with her. And there are any number you could use, I
14 suppose.

15 But the document itself is hearsay. It's his
16 statement made out of court. If he -- I don't even know
17 if he verified it. But it's a pleading made out of court
18 on his behalf. And I don't -- I have not thought through
19 completely the possible basis of admissibility. I don't
20 know how you get the document itself in, even if it was
21 self-authenticating.

22 MR. CHAMBERS: Well, Your Honor, our position is it's
23 not hearsay because the statement is he alleged that she
24 had committed adultery.

25 THE COURT: Right.

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1 MR. CHAMBERS: We're not -- it's not being offered to
2 prove that she committed adultery. It's being offered to
3 rebut a specific statement -- or question that I asked
4 her. And she said that he did not file on that basis.
5 That's why we're offering it, not to prove that she
6 committed adultery. My client is going to testify that.
7 But that when he filed this complaint that was what was
8 alleged in that complaint was adultery. And she said that
9 was not true.

10 So we don't offer it for the truth of the matter
11 asserted. We merely offer it as a rebuttal to what she
12 testified to yesterday.

13 THE COURT: Well, what was the matter asserted then?

14 MR. CHAMBERS: The matter asserted by her was that he
15 didn't file on that basis. The matter for rebuttal is
16 that he did in fact. And that's clear from the document,
17 that that was a complaint filed with that allegation.
18 Whether or not that allegation was true isn't relevant.
19 What's relevant is that he filed on that basis. And she
20 said he didn't.

21 THE COURT: But it's still not authenticated, I mean,
22 even if you --

23 MR. CHAMBERS: If I can, you know, have the Court's
24 indulgence, I'll go through the trouble if that's what the
25 Solicitor wants, to have somebody from the clerk's office

1 come over here and authenticate that document. I mean,
2 I've, certainly, never required them to do that. But if
3 that's what they want, we can, certainly, do that.

4 MS. HODGE: Your Honor, I don't understand why the
5 Defendant won't just testify to that. Then the rebuttal
6 is out there. This is extrinsic evidence. The insertion
7 of this document -- if he gets up there and says, I filed
8 under adultery, there you have it.

9 Now, he wants to introduce another piece of evidence,
10 an exhibit, if you will, to then reiterate what he just
11 testified to. It's just duplicative on top of it.

12 MR. CHAMBERS: And, of course, she understands why I
13 want the document in.

14 THE COURT: Well, so do I.

15 Is that witness still available?

16 MS. HODGE: Ms. Gaskins?

17 THE COURT: Yes.

18 MS. HODGE: Yes. She's here.

19 THE COURT: Why can't you just call her?

20 MR. CHAMBERS: I'll be happy to do that, Your Honor.

21 THE COURT: I mean, it seems -- and I'll let you
22 impeach her with that.

23 MR. CHAMBERS: I'd be happy to do that. I had
24 thought that she had been excused, so.

25 THE COURT: I think that might solve our problem.

ROA 374

1 MR. CHAMBERS: I'll be happy to do that, Your Honor.

2 THE COURT: All right. Anything else before we bring
3 the jury in?

4 MS. HODGE: No, sir.

5 THE COURT: Okay. Thanks.

6 (WHEREUPON, the jury came into open court at
7 approximately 1:42 p.m.)

8 THE COURT: Ladies and gentlemen, we've reached the
9 point in the trial where the Defense has the opportunity,
10 but, as I've told you, not the obligation, to present any
11 evidence it wishes to.

12 So, yes, sir, Mr. Chambers.

13 MR. CHAMBERS: Your Honor, I call Jerald Gaskins.

14 THE CLERK: Sir, please, come forward. If you'll
15 pause at the end of the bench.

16 Please place your left hand on the Bible and raise
17 your right hand.

18 WHEREUPON,

19 JERALD DENTON GASKINS, JR.,
20 after first having been duly sworn, testified as follows:

21 THE CLERK: Thank you.

22 Please be seated.

23 Would you, please, state your name for the record?

24 THE WITNESS: Jerald Denton Gaskins, Jr.

25 THE CLERK: Thank you.

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DIRECT EXAMINATION

BY MR. CHAMBERS:

Q Jerald, you are doing a good job speaking into the mic. Just be sure that you continue to speak up and speak into the mic so that everybody over here can hear you.

Okay.

A Yes, sir.

Q Where -- how old are you right -- as you sit here right now?

A I'm 32. I'll be 33 on February the 18th.

Q And are you from here in this area?

A I've lived here all my life. I was born and raised in Richmond County, Augusta, Georgia.

Q Okay.

A Well, not raised, but I lived there maybe two years of my life in Georgia. The rest of it has been here.

Q The rest of the time, you've lived here?

A Yes, sir.

Q Where do you, currently, reside?

A I stay with my father.

Q And where is that?

A 198 Robertson Circle, Travelers Rest, South Carolina.

Q And have you always kind of lived out in northern Greenville County, for the most part?

A Yes, sir, for the most part.

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1 Q Do you work?

2 A No, sir. I'm, currently, on disability. I have been
3 since I was 13 years of age. And, currently, I still am.

4 Q What's the reason for the disability?

5 A I was diagnosed back when I was 13 years old with
6 ADHD. And I don't know if a lot of you know about ADHD,
7 but it allows you to -- sometimes you can do things, but
8 then you just quit. Your mind just goes everywhere.
9 You're very hyper at times. And then at certain times,
10 you're wore out.

11 So the reason for my disability was just for that. I
12 could not comprehend and keep my brain to where it needed
13 to be at times. I would lose interest in a lot of stuff.
14 So that's why I'm on disability.

15 Q How much do you draw?

16 A A total of 600 -- well, now \$659.

17 Q Is that -- has that over the years been your only
18 source of steady income?

19 A For the most part. I mean, growing up, everything
20 that I got from my disability -- I helped my dad out.
21 When I got 18 years of age, I did try to have a job. But
22 I just couldn't hold it in. It just wouldn't work.

23 Q Have you worked over time side jobs and --

24 A Yeah.

25 Q -- things like that to supplement? What kinds of

1 things do you do?

2 A I worked at a VFW. I was a disc jockey there for
3 about a year and a half -- well, actually, for about a
4 year, I worked there. Also, I built -- I tried to build
5 houses. My dad used to build houses a lot. I tried to
6 help him with that and couldn't keep up with my own dad.
7 So then I reverted back to disability.

8 Q Where were you living when you met Rachel Gaskins?

9 A With my father.

10 Q And what was Rachel's maiden name?

11 A Lane.

12 Q All right. So how old were you when you met her?

13 A I believe I was around 26 -- about 26, yeah.

14 Q And you were living with your dad. Were you working
15 doing anything at that time?

16 A At that time, no. I was, actually, receiving
17 disability.

18 Q And how did you meet Rachel?

19 A I had, actually, walked into a CVS pharmacy in
20 Travelers Rest, and she was the cashier there.

21 Q And how did things progress from there? I mean,
22 she -- I've had lots of people wait on me at CVS. I've
23 never ended up marrying them. So tell me how that works.

24 A Actually, when I first walked in and seen her, I
25 first met her September 14th, 2009. And I did meet her at

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1 CVS. However, I didn't really approach her like -- I
2 guess I just walked up and said, hey, how are you doing
3 and left.

4 I come back a week later. And I seen her working
5 there again. And I did ask her for her phone number. I
6 asked her if she was single. And she said, Yes. Just --
7 from that point forward, we had phone conversations for
8 about two weeks before we, actually, moved in together.

9 Q How old was she at the time?

10 A She was 17 years of age.

11 Q Okay. And so just based on two weeks worth of phone
12 conversations, y'all just moved in together?

13 A Yes.

14 Q Did you think that was odd?

15 A A little bit, yeah, I did. When I -- as I talked to
16 Rachel for them two weeks, she had told me about her
17 stepfather, a very abusive man, that he would beat on her,
18 cut on her. But she never -- you know, she kind of
19 stopped there. She didn't really elaborate more until
20 about -- well, until she moved -- she moved in with me.
21 Then she kind of --

22 MS. HODGE: Your Honor, I'm going --

23 THE WITNESS: -- elaborated more --

24 MS. HODGE: -- to object to anything Rachel said to
25 the Defendant as hearsay.

1 THE COURT: Sustained

2 BY MR. CHAMBERS:

3 Q Did -- whose idea was it for y'all to move in
4 together?

5 A It was both of ours, actually.

6 Q And -- but she gave you some indication that she was
7 unhappy at home?

8 A Yes, she did.

9 Q All right. And she was 17, so she's still a minor at
10 this point. Did you ever have any discussions with her
11 parents?

12 A Actually, her stepfather did come to the house with
13 about three cars of cops. He tried to ask Rachel to
14 leave. And she said, no. She said she wanted to live
15 there with me. She felt safe there. And she wanted to
16 continue living there with me.

17 Q Were y'all just living together, or did you get
18 married?

19 A We later -- five months later got married in 2000 --
20 February the 12th; two days after Rachel turned 18, we
21 did --

22 Q February the 12th of what year?

23 A 2009.

24 Q Okay. So February the 12th of 2009, you two get
25 married. Is she still 17 at the time?

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1 A No. She had just turned 18, two days of being 18.

2 Q And you were 26? 27?

3 A I was fixing to be 27 on February the 18th.

4 Q Did she drop out of high school?

5 A Yes, she did.

6 Q Did you make her drop out of high school?

7 A No. The reason why Rachel dropped out of high school
8 was her stepfather was coming up there harassing her --

9 MS. HODGE: I'm going to object to --

10 THE WITNESS: -- is why --

11 MS. HODGE: -- anything that he did not personally
12 witness that he doesn't know of as hearsay.

13 THE WITNESS: Actually, I witnessed that.

14 THE COURT: I sustain the objection.

15 BY MR. CHAMBERS:

16 Q So she dropped -- so dropping out of school, was that
17 her idea?

18 A Yes, it was.

19 Q And what about working at CVS? Did she continue to
20 work at CVS?

21 A When she moved in with me, she stopped working at
22 CVS. And the reason was because her stepfather would come
23 up there and try to harass her and --

24 MS. HODGE: Again, I'm going to object unless he was
25 personally there and saw these things.

1 THE WITNESS: I was.

2 BY MR. CHAMBERS:

3 Q And so she quit working. And y'all lived together.
4 And, eventually, you got married?

5 A Correct.

6 Q Over time, how was your relationship with one
7 another? Just describe it to the Court.

8 A When we first got together, it was crazy because
9 Rachel's parents did not want us together at all. They
10 were high class. I was low class. They didn't believe
11 that a low class man could be with a high class family.

12 So we had multiple, multiple problems. As time
13 unfolded, her parents would come to the house and cause a
14 lot of drama. So as this would keep going, I would get
15 frustrated and ask them to leave. And it got to the point
16 where they were stalking.

17 So that's why -- most of the moves I made was just
18 for that reason. I did not want them to know where we
19 resided at, or the fact of Rachel was pretty much -- you
20 know, she feared for her life with this guy. So we
21 potentially were moving around.

22 Q And you heard her testify yesterday that she had,
23 actually, filed a rape allegation against her stepdad?

24 A I did.

25 Q Did you tell her to do that?

ROA 382

1 A Actually, it was both of our decisions for that.

2 Q Well, did you tell her to make it up?

3 A No, I did not.

4 Q Okay. Did -- so she -- you encouraged her to go
5 forward. Is that what happened?

6 A Yeah. Actually, I did encourage her to go forward.
7 Because if this really happened to her, then that was
8 probably part of her mental disposition at that point in
9 time. Because she was very -- when we first got
10 together -- and that's when she unloaded all this stuff to
11 me. She stayed real quiet up until that point. She was
12 distant. She was -- just wasn't like your average
13 17-year-old would be.

14 The guy showed up and she would completely go -- run
15 and hide in the bedroom, start screaming and yelling, keep
16 him away, keep him away. It was just so much tension
17 between them when -- the man would stalk her. He'd come
18 by the house. And she would, literally, call 911, you
19 know, get Greenville County out here real quick because
20 here's her stepfather here. And she would freak out over
21 him every time.

22 Q Okay. You said that her family would come over
23 there. Besides the stepfather, would anybody else come
24 over?

25 A Yes, her mom.

1 Q And you said there was drama when they came?

2 A Her mom, yes, there was drama when she came. Her
3 nana, her papa would come to the house and try to make --
4 they were more like trying to, I guess, assess the
5 situation. Because Rachel was more comfortable with her
6 nana and papa than she was with her mother and father.

7 Q Who are nana and papa?

8 A That is Rachel's grandparents.

9 Q All right. And where were you living when this
10 drama, as you call it, was going on?

11 A Well, when we first started, I was living with my
12 father. We were living with my father.

13 Q And then did you move somewhere after that?

14 A Yes, we did.

15 Q Where did you move?

16 A We moved from my father's house into 198 Robertson
17 Circle. Because my father and I had put together some
18 money to get a double wide. So we moved in with my father
19 in that double wide.

20 Q And this is where they were coming by? After your
21 father's, they would, also, come by there?

22 A Yes, several times.

23 Q Was there ever a time when they just came over and
24 y'all had a nice visit together or anything?

25 A Never.

ROA 384

1 Q Did you do anything to keep Rachel from her family?

2 A No. Actually, when me and Rachel got together, from
3 the time we were married until the time we split up,
4 Rachel -- I always kept her in a car. She always had a
5 phone. And she always had the car. And she could go and
6 come whenever she wanted.

7 Q Now, did you -- did she want to go around her family?

8 A There towards the end of the marriage, she was trying
9 to get back in with them. But for the first two -- about
10 two years, no, she distanced herself from them.

11 Q In retrospect, do you think one of the reasons that
12 she moved in with you was to get away from her family?

13 A I believe so. Yes, I do.

14 Q How was -- you know, you talked about the problems
15 you had with her family. Talk about the relationship
16 between you and Rachel as it progressed from the time that
17 you got married on through to the end when you filed for
18 divorce. Talk about that.

19 A Rachel -- like I said, she was distant. I mean,
20 there was a lot of stuff I was finding out through the
21 marriage that I didn't know. Like as -- she had cheated
22 on me. I found out about that. The guy come and picked
23 her up shortly after we moved into my dad's at 198. His
24 name was Joshua Pool. I found out later he was her
25 ex-boyfriend. But he had come to the house and picked her

1 up. And they went home together that night to his
2 place --

3 Q With you there? This happened with you there?

4 A Yes. Yes, I was there. And the guy come to the
5 house and picked her up. She claimed it was just a mutual
6 friend, nothing else. It was a mutual friend. She wanted
7 to go get away that night and get her head cleared of
8 things. So I let her go.

9 The next day, I did go back to pick my wife up. And
10 as I got there to get her, she seemed distraught. She
11 seemed that something had happened, but she didn't want to
12 talk about it. When we got back to my dad's house where
13 we were staying, Rachel had hit the ground. She hit the
14 ground and started crying. And I immediately asked her
15 what is going on --

16 MS. HODGE: Okay. I'm going to object to anything --

17 THE WITNESS: -- so --

18 MS. HODGE: -- Rachel says. Because I think that's
19 where this is going. I would object to anything Rachel
20 would say at this time.

21 THE COURT: Sustained

22 BY MR. CHAMBERS:

23 Q Don't say anything Rachel said. Just what you --
24 talk about what you said, and talk about what you
25 observed.

1 A I asked her exactly what was wrong. And, basically,
2 what was said was that --

3 MS. HODGE: I'm going to object --

4 BY MR. CHAMBERS:

5 Q Don't talk about what she said.

6 A Sorry. What I found out is she had sex --

7 MS. HODGE: I'm going to object to that, too.

8 Because I don't think there's any way he could find out
9 without being told.

10 BY MR. CHAMBERS:

11 Q And what was the time frame when this overnight with
12 Josh Pool happened?

13 A Right after we got married. I mean, we were married
14 maybe two weeks.

15 Q Well, did that cause problems between the two of you?

16 A Yes, it did.

17 Q And then describe those problems. What happened?

18 A Our marriage was getting on the outs. I couldn't
19 believe my wife. I couldn't believe my wife cheated on
20 me. I tried my best to put it in the back of my head what
21 had happened. And for about a year, year and a half, I
22 did just that.

23 I mean, you'll never forget what your wife or
24 significant other does, but you try to forgive them that
25 first time. That's what I done. Because we had a

1 daughter. I wanted to forgive my wife and move on.

2 Q So you stayed together?

3 A Yes, we did.

4 Q When was your daughter born?

5 A [REDACTED] is when my daughter, Katherine, was born.

6 Q Okay. So this thing with Josh Pool then happened
7 prior to your daughter being born?

8 A Right.

9 Q But y'all stayed together?

10 A Yes.

11 Q Did Rachel go out? Did she socialize? Did she have
12 friends?

13 A Yeah, yeah. She had friends. Like I said, she had a
14 car. She could go and come as she pleased. A lot of
15 times, she would go to her nana's and sit down and talk,
16 or she would go to some of her friends house.

17 She has a friend named Ashley Fitz, I believe. And
18 she would go and hang out with her. I mean, she was never
19 isolated to where she never could do nothing. She always
20 had free will to go wherever she chose to go.

21 Q Did you ever know her friend Jamie Mucienko?

22 A Yes, actually, I do.

23 Q Did you know her before August of 2012?

24 A Actually, no. Jamie didn't come down until later in
25 2012.

ROA 388

1 Q Had you ever heard of her?

2 A Not from that point forward, no, I didn't, not until
3 we, actually, went to Florida to meet the family with the
4 rest of the family.

5 Q Did -- when y'all were living together, did Rachel
6 have a temper. Were there issues with her temper?

7 A Yeah. Actually, there was an incident on Tigerville.
8 Rachel became violent. And there was some stuff that
9 happened. I had my daughter in my hands. And she had,
10 actually, punched me and left marks with her wedding band.
11 An officer was called to the location. And Rachel was
12 arrested for assault on me, and later had to do six months
13 anger management.

14 Q Was that unusual for things like that to happen with
15 her?

16 A Yeah. Actually, it kind of was. Because when we
17 first got together, she was not really -- I mean, she
18 wasn't violent -- like violent natured. All of that was
19 at one time. It just come out at one time.

20 So I know that we had searched for her biological
21 father and found him. And I do know that the other
22 parents were kind of mad about it. But we did -- her
23 father did come down from North Carolina. So she,
24 finally, got to meet her true father.

25 And after the Lanes had found out about this, yeah,

1 they become more impressionable toward Rachel. They
2 didn't like the fact that her mother was hiding something,
3 or whatever it was, the reason why they had never found
4 the father. Something had been hidden. And Rachel wanted
5 to just find out, hey, what -- where is my adopted -- or
6 my actual father. So we found him.

7 Q Would -- did you and Rachel go out and do things
8 together?

9 A Yeah. We went out to all kinds of places. We went
10 to the movies a lot. We ate out a lot, vacationed, you
11 know, at the beach. We went to, you know, Palm Beach. We
12 went to a lot of places, yeah. We never stayed at home
13 that much. We were not really home people that much.

14 Q What about the horseshoe tournaments? When did you
15 start doing that?

16 A I, actually, started the horseshoe tournaments up in
17 2002.

18 Q So you had been involved --

19 A A long time.

20 Q -- a long time?

21 A Yes.

22 Q So is that something that you did throughout your
23 marriage --

24 A Yes.

25 Q -- with Rachel?

1 A Yes, actually, it was.

2 Q And would she normally go with you?

3 A Yes, she would. And she, actually, loved playing
4 horseshoes.

5 Q And it sounds like these were, actually, fairly large
6 events. This -- we've heard a lot of discussion about it.
7 But for the juries edification, would you describe it a
8 little bit? What --

9 A Basically, we would have the hang outs on Sunday, a
10 horseshoe tournament. And if you guys aren't familiar
11 with that, it's a stop at each end, and you have actual
12 horseshoes, the bottom of a horseshoe, and you would toss
13 the -- you had two sets of shoes that you would toss to
14 the other end in hopes to get a ringer. There were points
15 given from one point to five point to 10 points, depending
16 on if you rung the shoe or not.

17 So -- but, yeah, a lot of friends got together on
18 this every Sunday. We started at 1:00 every Sunday. And
19 it would proceed on until either the tournament was over
20 or until we couldn't see no more.

21 Q Was there food, drinks, that sort of thing --

22 A Oh, yeah, food, alcoholic beverages, just whatever --
23 you know, that day.

24 Q And were there a lot of people like you that brought
25 their families and stuff?

1 A Yeah. A lot of people brought families. There were,
2 actually, kids there that played with kids. We tried to
3 keep it family oriented, not too much to where -- we
4 wanted it to where anybody could come and, actually, love
5 coming there. It was a very good thing to do.

6 Q And Rachel enjoyed going to those with you?

7 A Yes, she did very much.

8 Q And did she normally go?

9 A Every time I went, yes.

10 Q And it's through that -- is that how you met the
11 Mucienkos?

12 A Yes, it is. We, actually, met them at a friend of
13 mine Brad's house, actually, on June the 7th of 2011.

14 Q Okay. Where does Brad live?

15 A Off of -- just right down from the Mucienkos. They
16 lived at -- on one end of Valley Road. And Brad lived at
17 the other end of Valley Road.

18 Q All right. And when did you say this was? What time
19 frame?

20 A It was around about June the 7th of 2011.

21 Q Was it in March?

22 A No. It was not in March.

23 Q All right. So June of 2011. And so you're there.
24 How is it -- I mean, you've been to these things before.
25 How is it that you came to interact with the Mucienkos and

ROA 392

1 Walt -- specifically, Walt and his family?

2 A Walt had -- I had met him beforehand before the
3 tournament at the VFW. He had come in with some friends
4 of mine that I know that he knows as well. And since I
5 was working at the VFW, he come in one night and that's
6 how I -- I first met Walt before I met any of the
7 Mucienkos.

8 Q All right. And so you knew him before the tournament
9 then?

10 A Yes, I did.

11 Q From coming to the VFW. So when you saw him, he
12 wasn't a stranger. He was somebody you had already talked
13 to?

14 A Right. I had already met him, and shared a drink
15 with him, and, actually, sang a song down at the VFW with
16 him.

17 Q So what was it about that particular day that made
18 y'all decide you were going to -- you know, you were going
19 to take your family and his family and everybody was going
20 to meet back at his house.

21 A He had asked me if I wanted to come over. Walt and I
22 shared guitar. I love the passion of guitar, and Walt as
23 well. We shared the same music together. He was a big
24 80s nut, so was I.

25 So we, actually, had the same similarities, you know,

1 as far as values and having fun. So, I mean, I had no
2 problem with that. He asked me if I wanted to come over
3 and jam out in the man cave and play the guitar and listen
4 to some music. So I agreed.

5 Q Did you see VICTIM at the horseshoe tournament?

6 A Yes, actually, I did.

7 Q Did you talk to her any at the horseshoe tournament?

8 A No, I did not.

9 Q And do you remember seeing this girl, #1 at the
10 horseshoe tournament?

11 A Yes, I do.

12 Q Did you talk to her?

13 A No, I did not.

14 Q How do you know who it was?

15 A I later on didn't see #1 again until a couple
16 months after when #1 had returned to the family's
17 house.

18 Q And so y'all went over there to the Mucienkos. You
19 hung out. And did you continue -- did y'all continue to
20 visit with one another at their house?

21 A At which -- at the --

22 Q At the Mucienkos?

23 A Yeah, yeah, yeah. We had a really good friendship.
24 I mean, weekend after weekend, we tried to be there. Like
25 I said, they loved watching my daughter. And, I mean,

ROA 394

1 Skyland loved being there. I mean, she loved somewhat of
2 the environment there when we come over. It was kind of a
3 decent set of environment. Skyland loved music.

4 Q Skyland is your daughter?

5 A Skyland is my daughter, yes.

6 Q And did they ever come over to your house to hang
7 out?

8 A Rarely, but, yes.

9 Q But, primarily, you went to their house?

10 A Yes.

11 Q It sounds like they had a pretty good set up for --

12 A They did. They had a very nice double wide, a very
13 big yard, a five-bedroom double wide. It was a very big
14 scenery, yes.

15 Q All right. And so how often would you go?

16 A Well, I tried to, at least -- you know, me and Rachel
17 go, at least, once, twice a month. Because, as I said,
18 I'm on disability. You can't do much. After paying rent,
19 I was pretty broke. So I would try to get there as much
20 as I could. Because, I mean, they were decent people at
21 the time. They really was.

22 Q And, at some point, did Rachel start spending -- I
23 mean, not Rachel, but VICTIM start spending time with you
24 and Rachel?

25 A She did, yes.

1 Q How and when did that happen?

2 A VICTIM first started staying with us -- I remember
3 we were living on Tigerville. And she had asked to come
4 over because -- this is after -- we had first went over to
5 VICTIM house to begin with. And we, actually, brought
6 our daughter with -- not that visit, the first time, but
7 the second time, we had brought our daughter over. And
8 that's where VICTIM had a chance to meet Skyland. And
9 after that like about a month later is when we, actually,
10 asked -- Rachel and I asked her to come over to babysit
11 for us.

12 Q And did she do that?

13 A Yes, she did.

14 Q Did she -- what was the period which she'd babysit?
15 Was she there overnight? Was it just for a little bit
16 during the day?

17 A Sometimes, it was a couple of hours. Sometimes, she
18 would spend the night, so.

19 Q Well, on that particular occasion, that first time?

20 A The first time, she did spend the night. At the
21 time, there was me and my ex-wife. We had some other --
22 another couple staying with us, Michael and -- I can't
23 think of his wife's name talking right here -- Heather.
24 Michael and Heather Williams were staying with us.

25 Q Was this at the Tigerville house?

ROA 396

1 A Yes, it was.

2 Q So when you were living there -- how big was that
3 house?

4 A It was not a very big home. It was -- the way it was
5 set up, you know, a bedroom here. The bathroom connected
6 to the side of the bedroom, and then another bedroom in
7 between the bathroom. And then just a kitchen and a
8 living room, a very small house.

9 Q Two bedrooms?

10 A Yes.

11 Q And I guess you, and Rachel, and the baby were in
12 one; is that correct?

13 A Yes, we were. We, actually -- the way we had things
14 set up was Rachel and I had our own bedroom. The other
15 bedroom was intended for our daughter. But, at her size,
16 we wanted her in the room with us. So we kept her
17 belongings in the bedroom -- the other bedroom. And as --
18 whoever stayed with us, there was, also, a bed in that
19 spare bedroom to stay in, so.

20 Q So this other couple was staying in that spare
21 bedroom?

22 A Yes, they were.

23 Q And who were they?

24 A Michael and Heather Williams.

25 Q And how long were they living there with you at --

1 A They lived throughout the duration. I think that we
2 were there a little -- about a year, maybe close to a
3 year. And they were there the whole duration.

4 Q In addition to those two, were there other people
5 that lived in the house with you?

6 A No. Michael and Heather Williams was the only ones
7 that lived in the house with us at Tigerville.

8 Q So did Rachel -- did **VICTIM** eventually, start
9 coming over and spending the night and staying on
10 weekends?

11 A She did. She did. The times that she would stay,
12 she'd sleep on the couch.

13 Q How many times did that happen while you lived at
14 Tigerville?

15 A I think she stayed twice.

16 Q So two times while you were there at Tigerville?

17 A Yes, sir.

18 Q Was there ever a time when it was just you and her
19 alone in the house?

20 A Never. Like I said, we've always had someone living
21 with us.

22 Q So when she came over there on those two occasions
23 when you lived at Tigerville, I mean, what sorts of things
24 did she do while she was there?

25 A She played with Skyland. I have this humongous

ROA 398

1 70-inch TV, and I had this Internet connection to where it
2 would be on the TV through my PlayStation 3. And she'd
3 Google, Facebook, talk to her friends on the Internet,
4 play video games. She would, sometimes, try to help me
5 cook. Other than that, that's really about it.

6 Q How did she and Rachel get along?

7 A They got along really, really great, really great.

8 Q And she liked playing with Skyland?

9 A Yeah. She loved -- in fact, she loved our daughter.
10 I mean, she really did.

11 Q When did you move from Tigerville?

12 A I moved from Tigerville -- it was 20 -- it was the
13 later part of 2011. Because I think we moved to
14 Tigerville in 2010 till the later part of 2011. And then
15 from 2011 -- from Tigerville, we moved around to another
16 double wide that was on State Park Road.

17 Q So you didn't move from there to 12 Magnolia?

18 A No. We, actually, moved to a double wide on State
19 Park Road.

20 Q State Park Road?

21 A Yeah.

22 Q And when is it that you moved to State Park Road?

23 A I lived there after the fact of us moving to
24 Tigerville. Me, and Rachel, and the baby did move to
25 State Park Road to a double wide.

1 Q How long did you live in a double wide on State Park
2 Road?

3 A Approximately maybe five months. We had, actually,
4 fixed the place up a little bit. And we were going to
5 stay for a while longer, but we started having problems
6 with the rent people. Because we had a lot of people
7 staying over. And the rent lady lived liked right beside
8 us.

9 Q Did VICTIM come over and visit while you lived
10 there?

11 A No, she did not.

12 Q She did not. So you were only there five months and
13 she never came?

14 A Yes.

15 Q And who did you have living with you during that
16 time?

17 A At that time, it was my wife, my daughter, and I. My
18 cousin, actually, stayed with us for a while, which was
19 H.N.G. Gaskins. She stayed for about three weeks. Then
20 when she moved out -- well, who I call him my brother,
21 which he's not really my brother, my best friend, Joshua
22 Pruitt moved in.

23 Q Now, you seem to always have people living with you,
24 why is that?

25 A I'm one of them people that love -- I like to have

ROA 400

1 someone there. I grew up with a family that we loved
2 sharing. We always give. And my brother -- you know, me
3 and my brothers, we got along real great.

4 One of the biggest reasons why I always wanted
5 someone around was the fact that growing up, I'd get into
6 a lot of trouble. People would say I'd done something I
7 didn't do. And so the fact of me having someone living
8 with me would prove the point that I really didn't do
9 nothing. You know, that's why -- a witness -- basically,
10 a witness that I didn't do nothing. I've been accused of
11 a lot of stuff.

12 Q Did they help with the rent, and things like that?

13 A Yes, they did. Joshua, actually, worked. And he,
14 actually, paid half the bills.

15 Q All right. And so when you moved from State Park
16 Road, where -- when was that that you moved out of the
17 double wide on State Park --

18 A We moved to the double wide in 2011. Because we,
19 actually, moved three times in 2011. From the double
20 wide, we moved to Magnolia Trailer Park.

21 Q Okay. So that's the 12 Magnolia. And that was,
22 also, into a trailer?

23 A That was a -- yes, that was a trailer, a single wide.

24 Q Okay. Single wide. So it was much smaller than the
25 double wide --

1 A Yes, it was.

2 Q -- about half as small --

3 A It was a two-bedroom single wide versus a
4 three-bedroom double wide.

5 Q So in addition to you, and Rachel, and Skyland, who
6 lived there with you? Who --

7 A Actually, Joshua stayed with us. Him and his
8 girlfriend stayed with us for a little while. After he
9 had moved out -- as a matter of fact, he stayed about
10 two months with me. And then he had moved out. And, at
11 the time he moved out, my nephew, Jamie, had moved in at
12 that point in time.

13 Q Now, during this time, are you continuing to
14 socialize with the Mucienkos --

15 A Yes.

16 Q -- and going to their house?

17 A Yes.

18 Q So that never stopped; right?

19 A No. That never stopped.

20 Q I mean, that was going on on a regular basis?

21 A Yes.

22 Q And y'all were still going to these horseshoe
23 tournaments and things?

24 A Yes, every weekend.

25 Q So you were still having frequent contact with the

ROA 402

1 Mucienkos?

2 A Pretty much, yeah.

3 Q And continuing to have contact with VICTIM and her
4 entire family?

5 A Well, not so much VICTIM Like I said, VICTIM she
6 had her own friends. There was one guy she was so much in
7 love with, which was Logan. I mean -- or if she wasn't at
8 home, she was with a friend of Walt's, Mr. Moore. And
9 they had -- you know, VICTIM would go over there and
10 watch the kids over at the Moore's house.

11 So the times that she wasn't, you know, doing things,
12 she was at the house. A lot of times, we went there and,
13 like I said, VICTIM was not there, so.

14 Q Did VICTIM come over and visit with y'all at 12
15 Magnolia?

16 A She did twice.

17 Q Two times?

18 A Yes.

19 Q And did she stay overnight, or just for the day,
20 or --

21 A Actually, she stayed a couple of hours. We then had
22 Joshua's cousin, Rachel Rish, to come down. And,
23 apparently, Rachel and VICTIM didn't get along too well.
24 One day, they got along, the next day, they didn't.
25 Rachel just didn't like her. So, you know, we sent

1 VICTIM home.

2 Q So she intended to stay longer, but you sent her
3 home?

4 A Yes.

5 Q Now, when she would come over to visit, how would she
6 usually get there? Would one of y'all go get her?

7 A Not really. When we lived in Travelers Rest, her
8 family would bring her some -- most of the time. If not,
9 then, yeah, me and Rachel would ride over and get her.

10 Q Okay. Did you ever pick her up by yourself?

11 A No, never. If it wasn't Rachel and I picking her up,
12 then it was Rachel -- or Rachel and Jamie going to pick
13 her up, or me and Jamie going to pick her up. It was
14 never alone.

15 Q And so the one time, you said she was only there for
16 a couple of hours. Was there another time when she came
17 and stayed longer?

18 A Actually, about three weeks later, she come and
19 stayed longer. And the reason why was because the
20 trailer -- it was an old trailer, a very old trailer. And
21 the floor was falling in. And I had hurt my knee really
22 bad in that trailer is another reason why we moved,
23 because it was not up to code for our daughter.

24 So I had hurt my knee. And I'd asked VICTIM if she
25 would come over and help my wife with Skyland. Because

ROA 404

1 Skyland was a little fussy, the flu, or whatever it was.
2 She was just raising heck. And Rachel couldn't do it by
3 herself.

4 Usually, Rachel wanted to take our daughter to her
5 grandma's and leave her there for a couple days. And we
6 had had some problems with that in the past was another
7 reason why we later separated. Because all Rachel wanted
8 to do was take our daughter and leave her there, so.

9 Q Did she go to visit with her grandmother often?

10 A I think the whole time we've been together -- or we
11 were together, she might have went 10 times.

12 Q And you were okay with that; right?

13 A Yeah. I mean, it's her family. Why wouldn't I be?

14 Q All right. Well, when did you move out of the
15 trailer with the floor falling in?

16 A That was July -- July, August 2011, somewhere after
17 there. That's when we moved to Ryan Road in Central,
18 South Carolina.

19 Q And so you moved to Central, which is -- I can't
20 remember if that's Anderson or Oconee County --

21 A No. Actually, it's kind of -- it's Clemson. It's
22 the Liberty area.

23 Q Okay. At any rate -- maybe it's Pickens then?

24 A Actually, it really is. I think it is Pickens
25 County. It is.

1 Q And so where did you move over there in Central?

2 A It was 241 Ryan Road.

3 Q And that's a pretty good little drive from TR --

4 A It's a 45-minute drive from that place to TR one way.

5 Q And did -- while you were living there, again, did
6 you continue to associate with the Mucienkos going to
7 their house?

8 A We did, but not as often as we did before. Like I
9 said, it was so far away. It's just -- we kind of just --
10 everything started distancing itself, kind of like it
11 played out.

12 Q Okay. Did VICTIM come visit y'all over there?

13 A She did one time.

14 Q One time?

15 A Uh-huh.

16 Q And what was the reason for coming? How long did she
17 stay? Give us the details.

18 A She claimed she wanted to come over to get away from
19 home, that her father was getting on her nerves. Because
20 he's a bad alcoholic, a very bad alcoholic.

21 Q This is your friend, Walt, you're talking about?

22 A Yes, her father. So he would, you know, talk crazy
23 stuff to her. Her brother and him was into it very badly,
24 which was -- we call him Moose. But his name --

25 Q Is what you call Walt?

ROA 406

- 1 A Right. Walt, III, was the son.
- 2 Q And how old is Walt, III?
- 3 A Roughly, 27, 28 years old.
- 4 Q Okay. So he's a grown man?
- 5 A Yes, he is.
- 6 Q All right. So she came to visit you once over in
7 Central?
- 8 A Yes.
- 9 Q And she stayed for how long?
- 10 A She stayed that day. And she went home that night.
11 And then the next time they came was the whole family.
12 Because our daughter had a birthday. And we threw a
13 birthday party for our daughter.
- 14 Q At the house in Central?
- 15 A At the house in Central.
- 16 Q And was Rachel there when she came to visit --
- 17 A Yes, she was.
- 18 Q And did -- was there anybody else living in the house
19 with you?
- 20 A Yes, there was. Jamie McCrary.
- 21 Q Jamie McCrary?
- 22 A Uh-huh.
- 23 Q How long did y'all stay at the house in Central?
- 24 A We stayed there about -- from I'd say August of 2011
25 until probably February of 2012. And the reason why we

1 moved back from Central is because Rachel didn't want to
2 live so far away from her family. She wanted to near with
3 her family.

4 Q Where did you move then?

5 A We then moved from Central, South Carolina, to 46
6 Quail Roost.

7 Q And where is Quail Roost located?

8 A It's located off of Highway 25 in Travelers Rest.

9 Q Is it within the city limits of Travelers Rest?

10 A No. It's just barely outside the city limits. It's,
11 actually, a county district.

12 Q And describe the house that you moved into there.

13 A It was a very nice two-bedroom mobile home. The
14 landlord lived completely beside us. It was a very nice
15 place. The landlord was a Christian guy.

16 We moved into the home, big yard, big yard. Kids
17 loved the yard. But it was a very -- it was one of the
18 nicest homes that Rachel and I had had together.

19 Q And, at this point, obviously, you're back closer to
20 home --

21 A Yes.

22 Q -- and closer to your father; correct?

23 A Yes, sir.

24 Q And closer to the Mucienkos. Did you then -- were
25 you then spending more time with them?

ROA 408

1 A Not really.

2 Q Why not?

3 A I guess it played out because of the violent
4 tendencies of the family, especially the father and the
5 brother all the time having fights. And VICTIM would be
6 so upset to see her family fight. I mean, there was one
7 case when I was sitting there and a knife broke out. They
8 brought a knife out.

9 Q And that was while y'all were at that house, the
10 Mucienko house?

11 A Yes.

12 Q Did VICTIM come to visit with y'all once you moved
13 back to Quail Roost?

14 A No, she did not.

15 Q She never went to Quail Roost --

16 A She never come to that house in Quail Roost.

17 Q Is that the one where supposedly Sandy came over and
18 helped paint?

19 A Yes.

20 Q Did that happen?

21 A There was never no painting done at the house. The
22 house was completely remodeled when I moved in. It was
23 completely remodeled. The guy next door, which I said was
24 the rent man, signed a year lease there for me, Rachel,
25 and our daughter. And that was not -- you know, no.

1 Q And what was the time frame that you were living at
2 Quail Roost?

3 A After Rachel and I split up -- me and Rachel split up
4 on April 14th of 2012. I still continued living on at
5 Quail Roost. I, actually, went out the whole term of the
6 lease.

7 So I didn't move from Quail Roost until
8 approximately -- I think it was October -- yeah, October
9 of 2012.

10 Q Is Quail Roost where y'all were living when you and
11 Rachel split up?

12 A Yes, it was.

13 Q Why did you split up?

14 A We were having some problems with mental abuse from
15 Rachel's side of the family, the cheating going on from my
16 wife --

17 Q You suspected -- excuse me. You suspected that she
18 was cheated?

19 A I suspected and it was proven.

20 Q All right. With whom did you suspect that she was
21 cheating?

22 A Her ex-boyfriend and -- which was later confirmed,
23 and my brother.

24 Q Your brother?

25 A My own flesh and blood brother.

ROA 410

1 Q Which brother was that?

2 A My middle brother, Joseph.

3 Q Okay. She, at some point, became pregnant with a
4 second child; is that correct?

5 A Yeah. We found out when we were living in Central,
6 South Carolina, that she was pregnant again.

7 Q And she was -- so she was pregnant when y'all split
8 up?

9 A Yes, she was.

10 Q When was your second child born?

11 A I really don't know. I haven't been around my kids.
12 She's kept me from my kids, my daughter for three years.
13 I've never met my son, ever. Never have I met my son.

14 Q You were here when Rachel talked about how you threw
15 her out of the house?

16 A Yes, I was.

17 Q Describe for us what happened on that day.

18 A That day was April 14th. I can't remember exactly
19 what -- oh, yeah I do. We were having some problems from
20 the argument that I was having about my brother.

21 My brother was in prison at this time. He was in a
22 facility up in North Carolina. And she had, finally -- I
23 don't know if it was her conscience or what. But she come
24 out about having oral sex with my brother. And the
25 horseshoe -- my father's road is a horseshoe. He lives on

ROA 411

1 Robertson Circle. It's an actual horseshoe. It ropes
2 around.

3 She had claimed that --

4 MS. HODGE: If there's any more hearsay that's going
5 to come from Rachel, I'm going to object.

6 BY MR. CHAMBERS:

7 Q Just talk about what you said, what you observed, and
8 just keep it to that. Okay.

9 A Basically, I observed her getting a whole lot -- I
10 mean, she was getting violent, angry, and --

11 Q Angry. Is this --

12 A -- I told her, you know, leave --

13 Q -- after you had confronted her with your suspicions?

14 A I had confronted her with my suspicions of my
15 brother. Because my brother had come to me and --

16 MS. HODGE: Objection as to anything --

17 THE WITNESS: -- you know, talked to me about it --

18 MS. HODGE: -- his brother is going --

19 THE COURT: Sustained.

20 BY MR. CHAMBERS:

21 Q Was VICTIM there?

22 A Yes. Actually, VICTIM come -- no, actually, VICTIM
23 was not there. It was me, my wife, my daughter, and
24 Mr. Stevens, actually.

25 Q Who?

ROA 412

1 A Mr. Stevens, the rent man.

2 Q All right. Did you throw her out of the house?

3 A I asked her to leave. I did not throw her out of the
4 house. But I did tell her to get her belongings and
5 leave.

6 Q Okay. And did she leave?

7 A Yes, she did.

8 Q Now, did you call for anybody else to come over to
9 your house?

10 A I called for my father to pick her up. Because I
11 didn't want to be mean enough for her to walk down the
12 road with her belongings. I tried giving her her phone
13 back. She didn't want it. So she wanted just to --
14 because, I mean, she was tempered [sic]. She wanted just
15 to just go, just go.

16 Q And did Skyland stay --

17 A I wasn't going to let her do that. I was not going
18 to let her leave, you know, without some adult supervision
19 taking her where she needed to be.

20 Q Did Skyland stay with you?

21 A Yes. I kept my daughter. I, actually, did.

22 Q And did you -- very shortly after that, did you file
23 for divorce?

24 A Yes, I did.

25 Q Who did you -- do you recall who you hired as your

ROA 413

1 lawyer?

2 A I do. I just can't think of his name. I remember
3 him.

4 Q Does Ron Clement sound familiar?

5 A Ron Clement, yes, sir. It does sound familiar.

6 Q And did he then go ahead and file for a divorce on
7 April the 23rd of 2012?

8 A Yes, he did. He sure did.

9 Q And what did you allege as the grounds for seeking
10 the divorce?

11 A We filed under adultery.

12 Q And did you, also, ask for custody of your child?

13 A I did.

14 Q And was your child in your custody -- or in your
15 physical custody at the time you filed --

16 A At the time, she was, yes.

17 Q Now, during this -- we've kind of walked through all
18 the places that you lived up until the time that you and
19 Rachel sort of had this falling out and she left. And we
20 talked about the fact that you continued to see the
21 Mucienkos and all of that.

22 But did you provide financial support and help in
23 other ways to the Mucienko family?

24 A I did. But I financed all, not just one person. If
25 they needed food, if they needed a light bill paid, or,

ROA 414

1 you know, something like, yeah, I would do for all, not
2 just one single person.

3 Q Is that just something that you did on your own, or
4 had they sought assistance from you?

5 A In the beginning, I done it on my own. Because I had
6 seen how the family was. They really didn't have much.

7 So like when I first met them, they didn't have much.
8 So I provided cell phones to VICTIM her brother, my
9 father, myself, and my wife.

10 Q It sounds like you didn't have much. How could you
11 afford to do all this?

12 A Little side jobs here and there. Because disability
13 was not going to help pay for nothing, no. So, yeah, I
14 would get side jobs such as the VFW, or building a house,
15 or working for [inaudible], which was a really good friend
16 of mine that would pay me under the table to help, you
17 know, with some of the costs and expenses of what we done.

18 Q Okay. So you provided phones to several family
19 members, including VICTIM and her brother?

20 A Yes, I did.

21 Q Did you -- what else did you provide for them?

22 A Sometimes, school stuff for VICTIM Sometimes --

23 Q School stuff?

24 A Yeah, supplies, stuff like that that she needed for
25 school. Food and, you know, clothing. Her son, I --

ROA 415

1 basically, whatever he wanted. I mean, he was like a
2 brother to me, so.

3 Q Who was like a brother to you?

4 A That was Walt, III.

5 Q Okay. So the 27-year-old son?

6 A Yes.

7 Q So you, also, provided things for him?

8 A Yeah. Like I said, he lived with me for a while. So
9 I took care of him, and pretty much the whole family. I
10 mean, I never did give to one and not give to another.

11 Q Was there -- did there come a time when there was a
12 disagreement about some car insurance?

13 A Yeah, actually, there was. Walt had went behind my
14 back and put some cars -- the three vehicles, which was
15 his, his wife's, and his son on my policy. And we did
16 have a big discrepancy about that. I asked him why he
17 done so.

18 Because he -- what he done was he added his name to
19 my policy. Therefore, he could add a car at any given
20 time to the policy of which Sandy was aware of all this
21 because of the fact that the address was sent to their
22 home. I mean, all my information was just put on that
23 paper and mailed to their house.

24 Q And did you confront Walt about that?

25 A I did. And he told me, June bug, man, what were we

ROA 416

1 to do? We didn't have any insurance --

2 MS. HODGE: I object --

3 THE WITNESS: -- Sandy was --

4 MS. HODGE: -- to anything Walt might say as hearsay.

5 THE COURT: All right. Sustained.

6 BY MR. CHAMBERS:

7 Q Did your relationship with them suffer at that point?

8 A After that, yeah. It totally crashed. I didn't even
9 want to be around them no more after the fact of me,
10 actually, having time to stop and think about how much
11 this family was, you know, being dysfunctional as far as
12 the mental outbursts, threatening. I mean, I just didn't
13 want to deal with them no more. And to know that Walt
14 would go behind my back and put these cars on my insurance
15 without me knowing about it was pretty bad. So after
16 that, I just cut ties.

17 Q And when you cut ties, what does that mean? What all
18 did you do?

19 A I cut ties with all of them. I didn't want nothing
20 to do with them. I had told Walt from that point forward
21 to leave me be. I don't want nothing else to do with
22 them. Because, I mean, it was just showing how much they
23 were just not being honest.

24 Q Did you continue to provide phones for them after
25 that?

1 A No. Actually, after that, I cut ties completely.

2 Q And when was it that you cut ties?

3 A October the -- about the 5th of October of 2012.

4 Q And, at some point, did you move to Belvue Road?

5 A Belvue Road was, actually -- I didn't move there per
6 se. The deal with Belvue Road was -- it was in Brian
7 Moore's name, a good friend of mine. It was going through
8 probate. He wanted to sell me the property.

9 So I was, actually, trying to buy the property. And
10 never did I live at Belvue. And even right now, the
11 property was, actually, seized. It was -- taxes owed.
12 There's no trailers there at all now. But I was trying to
13 buy the property at Belvue, but never resided there.

14 Q All right. Well, did you visit with VICTIM any
15 after this cutting of ties?

16 A No.

17 Q In fact, did you ever see her any after you split up
18 with your wife?

19 A Other than out, you know, at Ingles, Walmart, no, no
20 more.

21 Q Did you ever see her over at the Mucienkos house?

22 A No. I didn't go to the Mucienkos house no more after
23 that.

24 Q After Rachel moved out, did she ever come to visit at
25 your home where you resided?

ROA 418

1 A No. After my wife left totally -- after we had our
2 disagreement and we left and we cut ties for good, I
3 really never -- no.

4 Q What about #1 (Minor) You said that you had seen
5 her once or twice?

6 A Yes.

7 Q Did you spend any time with #1 (Minor)

8 A The only time I ever seen VICTIM with #1 was at
9 VICTIM house. That was it.

10 Q Did #1 (Minor) ever come to your house?

11 A Never.

12 Q She never came for a cookout, or anything like that?

13 A She never come -- the only time, like I said, I ever
14 seen #1 (Minor) was when she came to the Mucienkos. I
15 think I might have seen her twice over there. And that
16 was that.

17 Q Did you ever exchange phone calls, text messages,
18 anything like with #1 (Minor) --

19 A No. The -- she, actually, got the number from
20 VICTIM

21 Q Did you ever go out with her in a car driving around,
22 or go anywhere with #1 (Minor)

23 A I've never been with #1 (Minor) nowhere at all,
24 never. I mean, mostly, every time I went out, it was
25 either my wife was with me, my nephew was with me, my best

1 friend was with me. I mean, there was always somebody
2 with me -- or some of my family members every time I went
3 out anywhere. I mean, I always have to have somebody
4 close.

5 Like I said, having ADHD, it's a very weird thing. I
6 mean, it would cause you to have panic attacks for no
7 reason at all. And I've had a couple in the past, which
8 my father knows about. And I always wanted somebody, you
9 know, right there beside me. I have to have the feel of
10 someone there beside me, so.

11 Q Did -- at some point, did you invite [REDACTED] [sic] to
12 a Luke Bryan concert?

13 A Never. Like I said, I cannot stand country music.
14 No offense to people that listen to country. But I'm more
15 of an 80s air-style air-band person. I love 80s music. I
16 just don't -- me and country, no, too sad and sobby [sic].

17 Q And, I mean, was there ever any discussion with
18 anybody about going to a Luke Bryan concert?

19 A There was never a discussion about Luke Bryan ever.
20 However, there was a discussion about an Iron Maiden and a
21 Kiss concert. That was the only concert that was really
22 even brought up. Luke Bryan was never brought into the
23 picture.

24 Q So when was the Kiss and Iron Maiden with -- I
25 mean --

1 A The Iron Maiden concert was in the summer of 2012.
2 And it was, actually -- her brother Walt, III, me and him,
3 actually, went.

4 Q So you, actually, went to that concert?

5 A Yes. I went to that concert. It was my father, my
6 cousin, Ronald, me, and their brother, Moose.

7 Q So do you have any knowledge about a Luke Bryan
8 concert?

9 A Never in my life. It had no -- nothing about Luke
10 Bryan, ever.

11 Q Do you know anything about -- we've heard a lot about
12 an abandoned house. Are you familiar with any kind of an
13 abandoned house?

14 A Never. Like I said, this abandoned house crossed my
15 mind. I mean, I only heard about it because of the
16 statement from VICTIM and when I got the report asking me
17 about an abandoned house. But, no, never heard about no
18 abandoned house until that point.

19 Q Now, we've been here for the better part of two days
20 now. I mean, everybody is very familiar with what the
21 allegations are. Did you ever have any kind of sex or an
22 inappropriate relationship with #1 (Minor)

23 A No, never.

24 Q Did you ever have sex or an inappropriate
25 relationship with VICTIM

1 A No, never.

2 Q Did you carry on any kind of a romantic relationship
3 with either one of those girls?

4 A To my knowledge, no, I did not. And if I did, I
5 don't see where buying anyone any type of, you know,
6 things would be a romantic deal.

7 Q Were you treating these girls as though they were
8 your girlfriends?

9 A No. I, actually, treated them as they were my
10 sister. And as far as these girls, no, one girl, VICTIM
11 #1 no, I never went nowhere, subjected myself to

12 #1 at all. Like I said, the only time I seen her is
13 when they -- she was at their home. And that was twice
14 within the whole time I knew the Mucienkos.

15 Q Since all of -- when did you find out that these
16 allegations had been made against you?

17 A I was in Family Court and still going through the
18 proceedings with my ex-wife, and was still trying to see
19 my children. Because her family kept me from my children.
20 It was November 14th, 2012. I will never forget. I was
21 locked up in Family Court on these charges. And, I mean,
22 embarrassing, yeah, very.

23 And from that point forwards, I mean, I've been
24 living this nightmare of these charges. It's kept me from
25 my kids and everything.

ROA 422

1 Q Have you -- since these allegations came to light,
2 have you seen any of the Mucienkos or had anything to do
3 with them?

4 A Since the allegations, no. I hate them too much. I
5 didn't want to see them.

6 Q You never saw -- or ran into Walt at the VFW or
7 anything --

8 A I ran into Walt at the VFW probably around about
9 March of 2014.

10 Q Was he angry with you?

11 A He, actually, come up to me and wanted to talk. And
12 I really didn't want to talk. He had said -- looked at me
13 and said --

14 MS. HODGE: I'm going to object to anything that Walt
15 may have said.

16 THE WITNESS: He made comments about the case --

17 MS. HODGE: Objection.

18 THE COURT: I sustain the objection.

19 MS. HODGE: Thank you

20 BY MR. CHAMBERS:

21 Q But he did come and y'all had a conversation?

22 A Yes.

23 Q Is that a conversation you wanted?

24 A Not really. I mean, like I said, I tried to stay
25 away from the Mucienkos. Once these charges were filed, I

1 hated every one of them.

2 Q Did he appear to be angry at you?

3 A No. Drunk.

4 MR. CHAMBERS: Okay. Jerald, that's all the
5 questions I have for you. Please answer any that the
6 Solicitor has.

7 MS. HODGE: Thank you.

8 CROSS-EXAMINATION

9 BY MS. HODGE:

10 Q So you said you hated Walt and his whole family over
11 there; correct?

12 A After the fact, yes.

13 Q Okay. And you did not talk to or communicate with
14 Walt at all, other than seeing him at the VFW?

15 A I seen him at the VFW. I was singing a song with
16 him. And that was it.

17 Q So you, actually, sang a song together?

18 A We sang a song together, yes.

19 Q Okay. And your phone number -- was it 561-7021?

20 A No. It was not.

21 Q Okay. Let me show you -- let's see here. Can you
22 read this for me? To yourself would be fine. This
23 message right here.

24 A That's fine.

25 Q Okay. Is that referencing your wife, Rachel?

- 1 A It is referencing Rachel.
- 2 Q That you just left Family Court and good news,
3 divorce was filed?
- 4 A Yeah. But that's not my number.
- 5 Q Okay. Were you texting him from that number --
- 6 A No. I was not texting from that number.
- 7 Q So somebody was texting Walt --
- 8 A I understand. Someone else, yes.
- 9 Q -- that -- acting like you?
- 10 A (Witness nodded.)
- 11 Q Saying that you just left Family Court and your
12 divorce was thrown out, and Rachel doesn't have custody of
13 Skyland. Some random person was texting --
- 14 A Someone, yes. Because we had problems with that back
15 in -- random texts coming through throughout this whole
16 thing.
- 17 Q Okay. And that was dated June 24th --
- 18 A Of what year?
- 19 Q -- of 2013, right here; is that correct?
- 20 A Yeah, 2013.
- 21 Q Okay. And then it continued on another -- some more
22 messages?
- 23 A No. On this date of Family Court, it's some
24 person --
- 25 MR. CHAMBERS: Your Honor, I'm going to object at

1 this point. There's no foundation laid about any texts or
2 anything. Apparently, what she's doing is she's got
3 pictures of texts. And she's just showing him and asking
4 him to read those --

5 MS. HODGE: I'm not asking him to read them --

6 MR. CHAMBERS: -- I think there has to be some kind
7 of foundation to be laid as to whether he even knows what
8 those are that he's commenting on.

9 THE COURT: Sustained.

10 BY MS. HODGE:

11 Q Did you text -- well, here's how I'll do it. Did you
12 text Walt on June 22nd of 2013, and state to him, Will you
13 drop charges, or are we going to go to court? Either way,
14 I'm still going to hang out with you. Just be honest with
15 me?

16 A No, I did not.

17 Q Did you then text him, Please, my life is -- excuse
18 me -- fucked up --

19 MR. CHAMBERS: Your Honor, I'm going to object again.
20 She's, essentially, introducing these --

21 THE COURT: Sustained.

22 MR. CHAMBERS: -- she's reading them out loud.

23 THE COURT: Sustained.

24 MS. HODGE: Your Honor, these are statements --

25 THE COURT: All right. Take the jury out.