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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Abbeville County

Honorable Donald B. Hocker, Circuit Court Judge

RECEIVED
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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

GEORGE ANTHONY CLARK,

APPELLANT

APPELLATE CASE NO. 2017-001861

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

WILLIAM M. BLITCH, JR.
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

DAVID M. STUMBO
Solicitor, Eighth Judicial Circuit

ATTORNEYS FOR RESPONDENT

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State of South Carolina
County of Abbeville

Court of General Sessions

State of South Carolina)
)
)
 v.)
)
 George Anthony Clark)
)
 Defendant.)

Transcript of Record
2016-GS-01-00516

August 28, 2017
Abbeville, South Carolina

B E F O R E:

The Honorable Donald Hocker, Judge; and a jury.

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

Micah Black, Assistant Solicitor
Attorney for the State

Yates Brown, Assistant Solicitor
Attorney for the State

Kami Granade, Assistant Public Defender
Attorney for the Defendant

Janna Nelson, Assistant Public Defender
Attorney for the Defendant

Lisa Scott
Circuit Court Reporter

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2	Defense - Picture		X
3	Defense - Picture		X
4	Defense - Picture		X
3	State's - Rights form		X
4	State's - Interview DVD		X
6	Defense - Picture		X
5	State's - Victim interview		X

- - -

State of South Carolina
County of Abbeville

Court of General Sessions

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

Micah Black, Assistant Solicitor
Attorney for the State

Yates Brown, Assistant Solicitor
Attorney for the State

Kami Granade, Assistant Public Defender
Attorney for the Defendant

Janna Nelson, Assistant Public Defender
Attorney for the Defendant

Lisa Scott
Circuit Court Reporter

Volume II

P R O C E E D I N G S

- - -

THE COURT: We're on the record. This morning I have had an opportunity to review in full the interview of the defendant, and I know we have some issues that we need to discuss there, as well as the forensic interview of the -- of the child. Which one do you want to deal with first? It does not matter to me.

MS. NELSON: Let's just do Mr. Clark's interview first, Your Honor.

THE COURT: Okay. All right. I guess what we will -- will we need to -- all right. Let me just hear your objections, and then -- then I can make a determination whether or not Officer Ashley would need to offer some testimony or not, so let me just hear from you, Ms. Nelson.

MS. NELSON: Thank you, Your Honor. First of all, I do understand and have already told the Court that I understand that this is a -- this -- that Mr. Clark is not in custody.

However, Sergeant Ashley did elect at the very top of the interview, the first thing she did was pull out the waiver of rights form. She had -- she read George's rights to him and asked him to initial

1 if he understood, which he did initial indicating
2 that he understood what his rights were.

3 Then she asked him to read the paragraph at the
4 bottom where -- where you're actually waiving those
5 rights. And that was when he said, "I don't want to
6 waive them all now. I'm willing to talk, but I
7 don't want to waive all my rights."

8 Although we understand that Miranda applies in
9 custodial situations, Your Honor, what we would
10 argue is that given that he -- that those rights
11 were read to him, that he indicated he understood
12 them, that he indicated he did not want to give them
13 all up, that it would be fundamentally unfair for
14 him not to be able to rely on the representation
15 that he had those rights at the time of that
16 interview.

17 It was presented to him as if he had those
18 rights, that they were in place. Throughout the
19 interview, it appears that Sergeant Ashley thought
20 he had those rights because she would tell him
21 periodically, "I can't talk to you anymore. You
22 could give me a statement, but I can't talk to you."

23 There was one point where she reached over and
24 tapped the waiver of rights form when she was
25 letting George know that -- or letting Anthony know

1 that they couldn't talk anymore.

2 He says again at about nine minutes into the
3 interview, "I'm having a big problem with just
4 saying I'm waiving them." That was in response to
5 Sergeant Ashley asking him, "What are you not
6 willing to give up? This form is just saying you're
7 willing to talk to me. It's not saying -- I mean,
8 if it goes to court, if you want an attorney, you
9 can get an attorney. At any point in conversation
10 you want to stop, you can stop. This is you just
11 understanding your rights, that you want to give
12 them up just to talk to me. Not saying you can't
13 ever get an attorney, you can't stop talking,
14 whatever."

15 And Anthony responds, "I'm having a big problem
16 with just saying I'm waiving them."

17 So even almost halfway through the interview,
18 he is still expressing his -- his belief that he is
19 not waiving all his rights. And one of the
20 significant rights that isn't mentioned when
21 Sergeant Ashley goes through with, "Hey, all this is
22 saying is that you can talk to me." The significant
23 rights that we're dealing with this morning is the
24 right that these statements won't be used against
25 him in court.

1 And, Your Honor, again, it was represented to
2 him throughout the interview that he had these
3 rights. He maintained throughout the interview that
4 he did not -- he said, "I'm willing to talk to you,
5 but I don't want to waive my rights."

6 THE COURT: He says, "I don't want to waive all
7 my rights," and I never -- I never heard him say
8 which particular right he was willing to waive and
9 which particular rights he was not willing to waive.

10 So it could've been as far as the -- the use of
11 statements against him at trial, maybe he was
12 waiving; maybe he wasn't. We don't know that
13 because he never identified that I ever heard, never
14 identified which rights that he was waiving.

15 MS. NELSON: I understand that, Your Honor, and
16 would ask the Court to construe that in his favor
17 when he says, "I don't want to waive them all." It
18 appeared from the conversation, the only thing he
19 was waiving was that he -- his willingness to speak
20 with her on that date.

21 In addition to just the general argument
22 that -- that it was represented to George that he
23 had rights and he represented he did not want to
24 waive them, in addition to that, it's our position
25 that the only relevant and probative portion of this

1 interview is early on around three minutes in when
2 he explains about what time he got -- he got back to
3 Frankie Nix's house that night after being at his
4 brother's.

5 He says that it was around 12:30 or 1:00. I
6 think later he says it was maybe 1:00 or 2:00, that
7 it was late when he got home. This is not something
8 that will be in dispute in this trial, Your Honor,
9 that he had been elsewhere. Frankie went and picked
10 him up and he came back to Ms. Frankie Nix's house
11 with her some time in that time period. I don't
12 think anybody knows exactly when, unless -- unless
13 Ms. Frankie Nix does.

14 We would submit that that's the only relevant
15 and probative portion of the interview, if Your
16 Honor determines that -- that the jury should be
17 allowed to hear anything from the interview.

18 There are a number of things in the interview
19 that -- that we would submit fall under 403 as the
20 prejudice substantially outweighing any probative
21 value; namely, those sections where Anthony talks
22 about not wanting to put Minor through a trial,
23 where he talks about how he will plead guilty in
24 order for her to -- in order to prevent that. We
25 would submit that that also falls under Rule 408, in

1 addition to 403.

2 And I can go through in -- in detail, Your
3 Honor, but, again, there -- there's a significant
4 part of that statement that talks about not wanting
5 this young lady to have to testify, which I think
6 puts Anthony in a serious position here with the
7 jury hearing that and now we're in trial. He
8 obviously changed his mind.

9 So we would ask Your Honor that if you
10 determine that it just doesn't matter that he was
11 Mirandized and chose not to give up all his rights,
12 that the only portion that's probative to the facts
13 in this case is about when he got home.

14 THE COURT: State's position?

15 MR. BLACK: Yes, sir, Your Honor. I guess
16 there's really two issues without hearing from
17 Investigator Ashley.

18 First issue is the custody issue, whether or
19 not an individual is in custody. At this point and
20 when they -- when they -- when viewing the video,
21 it's -- it's an objective standard, Your Honor. I
22 think that Ms. Nelson mentioned that you should
23 construe it in her client's favor because even
24 Investigator Ashley thought that she had to give the
25 Miranda rights, this waiver of rights.

1 I talked to Investigator Ashley. I know she
2 hasn't taken the stand or anything, but that's a --
3 that's a standard operating procedure that the
4 Sheriff's Office always does when they're talking to
5 witnesses or potential defendants, people that they
6 might potentially arrest or suspects in a crime. So
7 I just wanted to point out that it's an objective
8 standard.

9 And when an individual is not in custody,
10 Miranda doesn't apply. There's a case, Judge,
11 *Morgan v. Madison*. The cite is 429 U.S. 492. It's
12 a 1990 -- a 1977 case. Basically the ruling is a
13 voluntary station house interview where the
14 defendant is allowed to leave. Soon after,
15 individual is not in custody and Miranda doesn't --
16 isn't invoked at that -- at that point. And I'm
17 sure Your Honor is familiar with that case law, but
18 I wanted to point that out.

19 THE COURT: Let me just stop you. So the
20 defense concedes the fact that he was not in
21 custody.

22 MS. NELSON: He was a -- it's our understanding
23 he went there voluntarily.

24 THE COURT: Right.

25 MS. NELSON: He was -- he left when the

1 interview was over.

2 THE COURT: Okay.

3 MS. NELSON: I -- I can't legitimately dispute
4 that, Your Honor.

5 THE COURT: Okay.

6 MR. BLACK: Well, that -- I guess that's goes
7 to the second point, Judge, that I was going to talk
8 about, is the voluntariness of the statement.
9 Throughout the interview, I know there's several
10 points and you've watched it. I've watched it a
11 couple times, so I might be a little bit more
12 familiar with it, Judge, but when she -- when the
13 interview first starts, they go over the rights.
14 And the waiver of rights, we actually marked it as a
15 Court's exhibit, but it's kind of a standard waiver
16 of rights that you see most law enforcement agencies
17 have.

18 On number two, I think Ms. Nelson mentioned
19 that he was not aware of his rights, that anything
20 you say can and will be used -- used against you in
21 a court of law. That's number two on the waiver of
22 rights, and he actually initialled it.

23 Now, he didn't sign the bottom of it. She's
24 absolutely correct in that regard, but he did
25 initial that showing that he understood that -- that

1 what he might say might be used against him in
2 court, so I think that's important to note.

3 MS. NELSON: I'm not saying he didn't
4 understand that. I'm saying he didn't waive that.

5 THE COURT: All right. Well, I think -- and,
6 again, he's not in custody. Miranda is not -- just
7 really doesn't apply. But even arguing that it
8 does, to construe in his favor is going to require
9 me to speculate which rights was he thinking about
10 that he didn't want to waive. And -- and -- and I
11 don't think I can speculate on that, even though
12 Miranda doesn't apply in this situation.

13 MS. NELSON: We could have him testify to what
14 he wasn't waiving, Your Honor.

15 THE COURT: Well, I don't think I can let him
16 now pick and choose what he's -- he had every
17 opportunity during the interview to say, "Okay. I'm
18 waiving this, but I'm not waiving that." He had
19 every opportunity to do that at the time. I don't
20 think now I would be able to allow him to -- to tell
21 us what he intended to waive and not waive.

22 MR. BLACK: And, Judge, just to put on the
23 record. I know when the video first started, she
24 talked about the waiver of rights, and then he just
25 started talking. Then you fast forward it to a

1 minute 11:10, if you look -- if you're looking at
2 Windows Player, if you're looking at the VLC, it's
3 10:20 which I believe is what you viewed it at. He
4 says -- after they go back over the waiver of rights
5 again, he says -- he kind of sits there and says, "I
6 will give a statement," and then he starts at it
7 again.

8 And then you fast forward, Judge, to kind of
9 the end of the statement at minute 22:07, if you're
10 looking at the Windows Media Player or 21 if you're
11 looking at VLC, which is what Your Honor viewed it
12 at, he says, "I wanted to just come in and clear the
13 air." And those are his statements that he made,
14 and I think they show the voluntariness of the
15 statement with those particular statements that he
16 made on that day to Investigator Ashley.

17 THE COURT: I'm going to find that -- that
18 Miranda was not applicable in this case, but that
19 the statement was made voluntarily by the -- by the
20 defendant. He stated several times that he was
21 willing to talk, which he did.

22 Now, what we need to -- to cover, is there
23 anything -- and the State has already -- six
24 different portions of the interview the State has
25 already agreed to redact. I'm just looking at a

1 copy of an e-mail that Solicitor Black sent to you,
2 Ms. Nelson and Ms. Granade. And I'm certain that
3 you're -- you would agree with that redaction as far
4 as what the State has offered, correct?

5 MS. NELSON: There is one portion that I spoke
6 to Mr. Black about this morning. It's right after
7 there's a mention of a lie detector.

8 THE COURT: Right.

9 MS. NELSON: Detective Ashley goes into
10 explaining to Anthony what the process will be,
11 "We'll get the forensic interview. We'll get a
12 warrant depending on how that comes out."

13 And I -- I just want the part in where -- where
14 Anthony tells her he will turn himself in, and she
15 tells him, "Yes. I'll call you and give you a
16 chance." She takes his mother's number down so she
17 can call him. And he does, in fact, later turn
18 himself in when he's called.

19 THE COURT: Okay. So any problem with adding
20 that back to it if that is part of what you've
21 agreed to redact?

22 MR. BLACK: Yes, sir, Judge. I don't -- I
23 don't think we have a problem with it. I think when
24 I was viewing the video, and you -- obviously, you
25 saw the video as well. Mr. Clark kind of rambles

1 on, and I was trying to find a good stopping point
2 so it doesn't look like it's clearly being cut up so
3 we can kind of present it to the jury the best way
4 possible. And that's kind of why I did that, but I
5 can certainly -- you know, I think most -- both
6 Ms. Nelson and I agree the lie detector test stuff
7 has to come out, but we can -- we can try to get
8 together and figure out what exactly she wants in.

9 THE COURT: Well, after we have our discussion
10 concerning this, then go back and do your
11 redactions. Certainly, show it to defense and make
12 sure based upon our discussions and whatever rulings
13 that I make in addition to what has been agreed upon
14 that the redaction is -- is -- it is correct.

15 MR. BLACK: Yes, sir.

16 THE COURT: Well, you know, I alluded to the
17 fact Ms. Nelson just making a comment back in
18 chambers when we were talking about the juror issue,
19 is, you know, there's a -- there's a fine line here
20 as far as what I allow in. He, you know, has to
21 live with what he voluntarily said. Of course,
22 certainly I -- I have to be mindful of those things,
23 even though he voluntarily said it. It may be so
24 prejudicial that it needs to be redacted.

25 So I guess what you're going to have to do is

1 go through item by item that is not covered in what
2 the State's willing to do and let me make a
3 determination whether or not I'm going to allow it
4 in or take it out. I don't know how else we can do
5 it, other than in that fashion.

6 MS. NELSON: Yes, sir, Your Honor. We'll do
7 that.

8 THE COURT: And -- and don't necessarily give
9 me times because the difference in times depending
10 upon how the video is played, so just give me the --
11 I guess the subject matter of what you have concerns
12 with and I'll just rule on it based upon that.

13 MS. NELSON: Okay. And just to -- just to
14 help, primarily it would be anything where he talks
15 about taking a plea.

16 THE COURT: Right.

17 MS. NELSON: And that's -- that's in a few
18 different places.

19 THE COURT: Okay.

20 MS. NELSON: And I -- I would also ask that
21 any -- his expression of not wanting to -- this
22 young lady to have the take the stand and there's --
23 well, I can -- I can give it to you, but certainly
24 primarily any reference to his willingness to -- to
25 plead the case ---

1 THE COURT: All right.

2 MS. NELSON: --- plead guilty.

3 THE COURT: Okay. All right. So there's --
4 there's two subject areas, him taking a plea and not
5 wanting the child to take the witness stand.
6 Solicitor Brown?

7 MR. BROWN: Judge, I think without not taking a
8 plea or taking a plea under Rule 408, the way I read
9 408, would be compromise offers and compromise if we
10 were in negotiations in this case. When he is
11 talking about taking a plea, he's also including
12 with that is that he doesn't want to have the little
13 girl go through counseling.

14 He says, "I don't want her to have to go --
15 take the stand and then have to do counseling later
16 on." Judge, I think a jury can see -- read into
17 that and know there's some guilt in there that he
18 doesn't want her to have to go through that based on
19 what he's done to her. And that would be our
20 argument with him jumping to counseling and talking
21 about a plea is he's trying to clear the air, and
22 it's not really a compromise we're offering between
23 the State and him. He hasn't even been arrested,
24 and he's kind of bringing that out.

25 THE COURT: Just hold that thought a second.

1 Let me read 408.

2 (Reading.)

3 Ms. Nelson, how would 408 be applicable to him
4 stating in the interview several times that he would
5 be willing to take a plea if that's premised upon
6 his desire not for the child to testify? How does
7 -- how does 408 play into that?

8 MS. NELSON: Your Honor, I think very often
9 when people are arrested or know that they are a
10 suspect, which he certainly was. I mean, Detective
11 Ashley told him he was a suspect at the top of the
12 interview. For them to -- to try to talk to law
13 enforcement about what might happen to them and how
14 law enforcement might be willing to help him.

15 There was a discussion in this -- in this
16 interview about Sergeant Ashley telling him that she
17 would let the judge know he cooperated to try to get
18 him in and out of the jail, which of course he
19 didn't get out of jail.

20 But it is, I think, very common, Your Honor,
21 for people who are suspects or being questioned or
22 under arrest to talk to law enforcement about how
23 the case might potentially work out and what law
24 enforcement might be able to do for them in that
25 regard.

1 And we all know that the Solicitor's Office
2 gets input from the arresting officers and
3 investigating officers in cases. I mean, they --
4 they sit right here during the trial. They give
5 input with plea negotiations. I means, countless
6 times we might get an e-mail that says, "I can give
7 you something as soon as I talk to the DEU" or "I
8 can give you something as soon as I talk to the --
9 to Mike Dixon" or whoever it is.

10 So there's -- I don't see how there's any
11 question, Your Honor, that law enforcement is not
12 part in parcel of plea negotiations in this circuit.
13 Probably in this whole state, but certainly in this
14 circuit.

15 So it -- it seems to me that -- that it's not
16 unreasonable in any way to classify these
17 discussions that Anthony was having with Sergeant
18 Ashley as -- as offers to compromise ---

19 THE COURT: Right.

20 MS. NELSON: --- and trying to get her -- I
21 don't know how you want to word it -- on his side or
22 to advocate on his behalf as she said she was going
23 to do for the judge.

24 THE COURT: But didn't she also mention at
25 least one time, if not more than one time, that you

1 should not plead guilty if you didn't do it or -- or
2 something to that effect. And I -- I just don't --
3 I don't look at this as plea negotiations. It was
4 totally volunteer on his part several times, not in
5 response to any question that Officer Ashley may've
6 asked or -- or even stated. He volunteered the
7 fact. "I will -- I will plead to avoid the child
8 having to testify." I just don't look at that as
9 plea negotiations.

10 MS. NELSON: Well, Your Honor ---

11 THE COURT: Hold that thought.

12 MS. NELSON: Yes, sir.

13 THE COURT: Look at *State v. Compton*. That's
14 at 366-SC-671. And that is in relationship to
15 actually Rule 410.

16 MS. NELSON: Your Honor, I understand there
17 wasn't some agreement reached, but I still think
18 under 408 this was an offer to compromise -- to
19 compromise the case even -- I mean, if I went to
20 the -- if I went to Mr. Brown and said, "Hey, Joe
21 Blow will do two years on that ---

22 THE COURT: Right.

23 MS. NELSON: --- shoplifting charge," that's --
24 we don't have an agreement yet, but I would think
25 that would fall under 408, and I think that's what

1 he did in an effort to -- to talk about negotiating
2 a compromise with Sergeant Ashley. Just because she
3 didn't enter into an agreement with him, I ---

4 THE COURT: Well, I -- go ahead. I'm sorry.

5 MS. NELSON: --- I just don't think that would
6 keep it from falling under the rule, Your Honor.

7 THE COURT: I'm going to allow it in. I don't
8 think 408 is applicable. It was a voluntary
9 statement made by the defendant several times just
10 indicating what his desires were. I don't find it
11 to be any sort of plea negotiations, so I'm going to
12 leave that in the -- in the interview and not be
13 redacted.

14 Any other particular points other than those
15 two?

16 MS. NELSON: Your honor, I will go through it
17 again in detail on our break ---

18 THE COURT: Sure.

19 MS. NELSON: --- but I assume your ruling would
20 be the same as to the instances where he talks about
21 her being on the stand and doesn't mention a plea.

22 THE COURT: Well, it -- I -- I see that they go
23 together and I may be incorrect, but I see that the
24 desire to plead guilty was for purposes of the child
25 not having to testify. So I see that it goes

1 together, so that's why I would allow both in.

2 MS. NELSON: That's fine.

3 THE COURT: But we can revisit this if you want
4 to go back during the break. Even if after the
5 State does the redaction and you take a look at it
6 and make sure that even though you certainly
7 disagree, but it's in line with my ruling, plus
8 what's been agreed to, then we can revisit this if
9 you'd like.

10 MS. NELSON: Okay. It was my understanding you
11 intended for that to come in as well.

12 THE COURT: Okay.

13 MS. NELSON: There is a portion at about six or
14 so minutes in where Anthony says something about the
15 child will be scarred because she has to get on the
16 stand.

17 And Sergeant Ashley responds, "Well, she's
18 already -- it's affected her," and then ---

19 THE COURT: Right.

20 MS. NELSON: --- follows up with, "I don't
21 understand why she would say that.

22 THE COURT: Right.

23 MS. NELSON: It didn't happen." I think that's
24 needs to ---

25 THE COURT: And I'm going to -- I'm going to --

1 I want that out. I had actually made a note where
2 Sergeant Ashley had made some statement as far as
3 the effect on the child and that in her opinion, she
4 did not understand why the child would say it, I
5 guess the inference, unless it were true. And of
6 course my time has been a little different.

7 MR. BLACK: What time do you have, Judge?

8 THE COURT: I've got when Sergeant Ashley made
9 that statement starting at around 5:58 going through
10 to about 6:38. So I do agree with defense on that,
11 that that needs to come out.

12 MS. NELSON: And, Your Honor, I will -- I will
13 check. That was the other big thing that stood out
14 to me. There is also a portion fairly early on
15 about -- about Anthony saying he was drugged and got
16 the paperwork at Self Regional and lists all these
17 drugs that were in his system.

18 THE COURT: Right.

19 MS. NELSON: This is somewhere -- it's
20 somewhere between three and five minutes. I didn't
21 have ---

22 THE COURT: Right.

23 MS. NELSON: --- but it's fairly early on.

24 THE COURT: About three -- about three minutes
25 in, and he mentioned something about some suicidal

1 thoughts that he had.. And then about four ---

2 MS. NELSON: Yes, sir.

3 THE COURT: --- about four minutes in,
4 something about he was drugged.

5 MS. NELSON: Yes, sir.

6 THE COURT: And I'm not saying that -- I'm
7 just -- I'm not saying I'm going to redact that.
8 I'm just making sure that I understand where
9 Ms. Nelson's coming in.

10 MS. NELSON: Those are exactly the portions I
11 was talking about, Your Honor.

12 As it turns out, I believe that Anthony had a
13 misunderstanding from his medical records. He did
14 go to Self. That is accurate. And he did not test
15 positive for the list of things that he -- that he
16 lists in his statement. I think what happened is
17 that -- and Frankie Nix, was my understanding, was
18 involved in this as well.

19 The medical record shows the -- the drug test
20 results, you know, positive, negative for various
21 categories of -- of controlled substances.

22 Then underneath it, down at the bottom of the
23 page, is -- is a statement about cutoff levels.
24 What was it? What's the actual -- it's like -- it's
25 like cutoff levels where it will show up in testing.

1 And so it -- the records talk about the levels for
2 each different type of drug, and then they're just
3 listed.

4 And I think what happened is that George --
5 that Anthony got the impression from that medical
6 record that he had tested positive for all those
7 things that were listed in this cutoff values list,
8 and when, in fact, the actual test results did not
9 show him testing positive for any of that.

10 So I think that section of the statement is
11 actually inaccurate. What he was saying is not
12 supported by the medical record ---

13 THE COURT: Right.

14 MS. NELSON: --- that we obtained.

15 THE COURT: But doesn't he have to live with
16 it? I mean, he made this statement. He said he was
17 drugged. I took it to mean -- and I may be wrong.
18 I took it to mean that he believes he was drugged at
19 the time of the alleged incident.

20 And if he felt like he was drugged, the fact
21 that he may be in error based upon some medical
22 records, I think he's -- he's got to live with it.
23 I think he's got to live with the statement.

24 MR. BROWN: Sounds like an excuse.

25 THE COURT: Excuse me?

1 MR. BROWN: Almost like it was an intoxication
2 excuse ---

3 THE COURT: Right.

4 MR. BROWN: -- which turns out to be not true,
5 so ---

6 THE COURT: Right.

7 MR. BROWN: --- I think that's fair game.

8 THE COURT: Right. Well, you know, volun --
9 intoxication, is not -- we know that's not a
10 defense.

11 MR. BROWN: No, sir.

12 THE COURT: So I'm going -- I'm going to allow
13 that in. I'm going to allow that -- that statement
14 that he believed he was drug -- or under the
15 influence of drugs or drugged, I think as he said.
16 I'm going to allow that in.

17 MS. NELSON: I understand, Your Honor. Just
18 for the record, I would -- I would submit that we --
19 we did not intend to introduce any involuntary ---

20 THE COURT: Right.

21 MS. NELSON: --- intoxication defense in this
22 case because the records did not bear this out.

23 THE COURT: Right.

24 MS. NELSON: And I think that involuntary would
25 be a defense, but we don't have that, don't intend

1 to offer it. And I think this whole section of
2 the -- of the interview under 403 would be confusing
3 and misleading to the jury. And we'd just add that
4 for the record. I understand your ruling.

5 THE COURT: Okay. So noted. And unless
6 there's anything that needs to be brought out now,
7 I'll let you revisit once you've seen the redacted
8 interview. If there's anything else that pops up
9 that we have not discussed, then you can certainly
10 raise it at that time.

11 MS. NELSON: Thank you, Your Honor.

12 THE COURT: Okay. Now, let's go to the -- the
13 forensic interview.

14 MS. NELSON: Do you want me to do the same
15 thing on that, Your Honor, just ---

16 THE COURT: Yeah, let me just -- I'm going to
17 look at my notes. This is really, in some respects,
18 maybe a little bit more difficult. There is a lot
19 brought out that I don't know how relevant it is,
20 but it's -- it's almost kind of like a harmless
21 situation, you know. How much do we chop up this
22 forensic interview?

23 She said the forensic interview spends probably
24 about -- about the first 15 minutes just kind of
25 preliminary-type stuff, talking about, you know,

1 everybody in her family and all that. I mean, it
2 doesn't really help or hurt. Do we -- do we leave
3 it in?

4 I think when we first start talking about
5 the -- Mr. Clark is -- my time is about almost
6 17 minutes in. And then they go probably -- or
7 about the next -- about eight minutes roughly -- no.
8 Probably a little more than that, a little more than
9 that -- about the alleged incident. And then she
10 gets into about other people. There's been others,
11 boys try to touch you and all that.

12 What's the State's position on that?

13 MR. BROWN: Judge, I think this whole
14 interview, the whole point of asking those questions
15 is to build a rapport to learn everybody in the
16 family, who she's been around, other men that have
17 been around her.

18 And then it gets to the point where if you get
19 past the part about Mr. Clark, the questions on,
20 "Has anybody else done this?"

21 "No."

22 "Did he -- do you know the points of -- the
23 parts of body that aren't supposed to be touched?"

24 "Yes."

25 And so it kind of lays out the whole scenario

1 for, you know, understanding exactly what's going
2 through this nine-year-old girl's head at that time
3 to know what's a right touch, what's a wrong touch,
4 and is this something that's common in her life,
5 which as she says no, and this is a one-time thing.

6 I think that goes to the credibility and also
7 the whole purpose of allowing the forensic in is to
8 judge -- you know, look at the totality and all the
9 four points laid out in the statute, you know, about
10 the first point about leading question, the second
11 one. I know the first two we kind of already got
12 through, but whether the State represents the
13 detailed account of the alleged offense.

14 I think everything involved in the interview
15 lays out a very detailed account of who she's
16 around, who doesn't touch her in those manners or in
17 those ways, and then it's really a totality of
18 what's gone on to get a full understanding of where
19 she comes from and what's actually happened.

20 So I think that would be probative in knowing
21 exactly how this has affected her and how -- and
22 how -- what actually happened to her.

23 THE COURT: All right. Before I hear from
24 Ms. Nelson on her objection, what is the State's
25 position, and this is my time around 28:30 when she

1 starts to cry in the interview, gets the Kleenex,
2 you know.

3 MR. BROWN: Your Honor, I would -- I would
4 submit that you see her leading up to that. She is
5 withdrawn in a way. She's quiet. And I think she's
6 already tearing up before that because
7 Ms. Strickland asked, "Why are you tearing up?" You
8 could see it prior to that, and then she explains
9 exactly why it is.

10 And I think -- you know, I understand that
11 it -- actually hurts the defendant because of what
12 she's alleging happened. Somebody that she thought
13 was trustworthy. Somebody that she had gotten to
14 know and gotten piggyback rides from.

15 You know, if you take it is the way these
16 forensic interviews under -- a person under 12 years
17 old is to see, you know, what that nine year old is
18 seeing and how they're relaying what happened to
19 them, and I think that comes with how it affects her
20 as she's saying it, which is it brought her to tears
21 reliving it.

22 So, you know, I understand that you take that
23 out, you want to make the child look like a robot
24 that it didn't affect her. I think when you're
25 dealing with a nine year old that's getting these

1 kind of touches, I think it would be normal for a
2 child to have some emotion regarding that.

3 So that would be my opinion is -- and our
4 position is that it's hand in hand with the forensic
5 of what happened.

6 THE COURT: All right. Ms. Nelson, you wanted
7 it kind of handled the same way as far as the
8 specifics of the forensic interview.

9 And as it relates to 17-23-175, the factor that
10 I have got to find as far as the interviewer being
11 trained, is there any dispute that she -- that this
12 interviewer was trained? I'm looking at Subsection
13 2.

14 MS. NELSON: I don't have particular knowledge
15 of it, but I don't -- I don't suspect that she
16 isn't.

17 THE COURT: Okay.

18 MS. NELSON: I mean, we didn't -- we didn't
19 investigate that ---

20 THE COURT: Right.

21 MS. NELSON: --- but I don't have any reason to
22 think that she isn't trained in the protocols she
23 used.

24 THE COURT: Right. Well, I mean, that is one
25 of the factors I have to make a finding on, and, you

1 know, if there is a dispute as to that, I think
2 it's -- if you -- if you -- if you have any personal
3 knowledge as far as her training, and then hopefully
4 Ms. Nelson would accept that.

5 MR. BLACK: I talked -- I spoke to
6 Ms. Strickland last night and had a conversation
7 with her, and she was explaining the training that
8 she went to and the classes that she had to
9 complete.

10 THE COURT: Right.

11 MR. BLACK: And I don't -- I can't tell you
12 what they were, you know, the time length of the
13 classes; but she did go into that in our
14 conversation last night.

15 THE COURT: Okay. All right. Okay.
16 Particular areas in the interview? And I understand
17 and you have submitted a very lengthy motion
18 memorandum in support of your position as far as the
19 constitutionality of 17-23-175 and why the whole
20 thing should not come in.

21 And unless you need to argue anything further
22 with respect to that motion, I have reviewed that
23 motion in full. And unless you need to add to it,
24 I'll take all that in consideration in making my
25 decision, but I need to know the specific areas of

1 the interview.

2 MS. NELSON: Yes, sir, Your Honor. As far as
3 the motion goes, I understand that there has been a
4 case that -- I think it's Anderson. I don't have
5 the cite, but that says that -- that playing the
6 forensic doesn't violate the confrontation clause.
7 And so I realize that that part of our motion ---

8 THE COURT: Right.

9 MS. NELSON: --- conflicts with existing --
10 with existing law, but would argue that ---

11 THE COURT: Sure.

12 MS. NELSON: --- we're submitting it;
13 therefore, we're asking for a change in the existing
14 law ---

15 THE COURT: Right.

16 MS. NELSON: --- but it should be changed. And
17 it is still our position that because this was an
18 out-of-court statement without contemporaneous
19 opportunity ---

20 THE COURT: I understand.

21 MS. NELSON: --- for cross-examination that it
22 would fall under that.

23 I would also refer the Court to Section I, I
24 believe, of the -- well, it's on -- it's on the
25 fourth page where we ask that the -- in addition to

1 the factors in the statute that -- that we ask that
2 the Court make a finding that this video is actually
3 necessary.

4 THE COURT: Right.

5 MS. NELSON: And we would submit that given
6 that only about nine minutes of the video is
7 actually addressing the incident in question, and
8 that presumably [Minor] is here to testify and
9 assuming that she will testify in accord to what she
10 said happened at the time and what she said happened
11 in the forensic interview, that -- that this -- that
12 the playing of this tape is actually not necessary,
13 that it would simply be cumulative of her court
14 testimony and is just not something that the jury
15 needs in order to reach a decision in this case.

16 So those are the only additional ---

17 THE COURT: Right. Okay.

18 MS. NELSON: We would ask the Court to make
19 that finding. And we would also point to the --
20 the -- the statement being elicited by leading
21 questions as far as the Court's determination of
22 particularized guarantees of trustworthiness in the
23 statute that -- that this interview is actually
24 rifling with leading questions. They are over and
25 over again after she has explained what happened,

1 the child is asked, "Did he do anything else? Did
2 he do anything else? Did he do anything that made
3 you uncomfortable?" Asked about all kinds of
4 additional things all in a -- in a leading fashion.
5 All departing from what the child's statement was
6 about what she claims actually happened.

7 THE COURT: Let me just stop you. My
8 understanding of leading questions is that it
9 suggests the answer ---

10 MR. BROWN: Yes, sir.

11 THE COURT: --- and if -- and if the question
12 is asked, "Did he do anything else?" I don't see
13 where that's leading.

14 MR. BROWN: Judge, I would view it as actually
15 an open-ended question.

16 THE COURT: I think there is. I mean, I --
17 quite honestly, Ms. Nelson, with all due respect to
18 your position that you're taking, I felt like there
19 was very little leading, if any, on the part of the
20 interviewer. Certainly, she would at times restate
21 what the child -- what she perceived the child to
22 have told her, but I -- I really didn't see much, if
23 any, leading in -- in the interview.

24 And, certainly, you have a position, and I
25 respect that, but I -- I just didn't see anything

1 where she was actually suggesting the answer to be
2 given by the -- the child. And, in fact, the
3 child's said nothing else happened after this one
4 alleged incident, so, but anyway's, continue please.

5 MS. NELSON: I understand that. It's just our
6 position that those questions are not open-ended
7 because they call for a "yes" or a "no."

8 As far as the -- Your Honor's already mentioned
9 the whole prelude about the first 16, 17 minutes of
10 the video. We would move that that all be redacted,
11 the portion about the family, the portion about what
12 she likes to do at recess and in her spare time.

13 Also, the rules of the room, I think could be
14 construed as bolstering because the interviewer
15 asked her -- tells her that the rules of this room
16 are -- is that we only talk about things that are
17 real and true. She elicits a pause from Minor
18 to tell the truth. That's occurring somewhere
19 around six-and-a-half to eight minutes in.

20 THE COURT: Right.

21 MS. NELSON: And so, Your Honor, that in
22 particular should be taken out, but we would submit
23 that all of that -- all of that, I do agree that
24 that's to build rapport between the interviewer and
25 the child, but I -- I don't think that's anything

1 that is relevant or probative for the jury to hear,
2 and I think that it is a way for the -- for the
3 State to elicit emotions from the jury about this
4 particular young lady.

5 After she -- in the portion where [Minor] is
6 giving details about the alleged event, there are
7 some hearsay segments in there. She talks about
8 things that she hears her mother and her aunt say.
9 She talks about the aunt leaving and taking him to
10 his mother's, something that she wouldn't have any
11 personal knowledge of. She would've had to been --
12 had to have been told about that. So there are --
13 in that portion where she's talking about the
14 incident, there is some hearsay, Your Honor.

15 Then after the disclosure of the incident, we
16 would submit that all of these questions about other
17 things that didn't happen are not relevant or
18 probative of anything in this case. There's a
19 significant portion of the remainder of the
20 interview that falls into that category.

21 Your Honor has already brought up the -- the
22 emotional section where [Minor] starts crying at
23 about -- at about 28 -- 27, 28 minutes in. It would
24 be our position that -- that this also does not add
25 anything to the facts of this case. And it is

1 allowing the State -- playing it would allow the
2 State to put on a display of emotion from this young
3 lady for the jury.

4 Obviously, if she takes the stand and cries on
5 the stand, that can happen in the courtroom. It
6 does happen in the courtroom, but adding this on
7 video, with her -- with her reaction, "I thought he
8 wouldn't do things like this" and putting that
9 emotional display in front of the jury, I think,
10 Your Honor, it falls squarely under 403.

11 I think the only other part in the interview
12 where she mentions Anthony again is around 39 to 40
13 minutes in when she's asked about people -- seeing
14 people drinking or smoking, and then she mentions a
15 couple of her aunts. And then the interviewer,
16 which I think is a leading question, again says,
17 "Have you ever seen Anthony drinking or smoking?"

18 And she talks about that and talks again about
19 what time he gets home, but she doesn't see him when
20 he gets there; her Aunt Frankie saw him. So, again,
21 this is about things that aren't personal knowledge
22 because she's supposedly asleep when he gets home.

23 And then, finally, Your Honor, the interviewer
24 leaves the room. There's a whole three to four
25 minutes at the end of the video where Minor is

1 just in the room alone drawing on an easel. We
2 would submit that none of that has anything to do
3 with the case at all. And, again, would be -- if
4 allowed would be demonstrating something --
5 something to the jury that isn't relevant, number
6 one, but would also be a play to the emotions of
7 this young girl drawing a picture on an easel that
8 she gets to take home with her later, has nothing to
9 do with this case.

10 THE COURT: All right.

11 MS. NELSON: So I think everything from the
12 time the interviewer leaves the room is -- is not
13 relevant, Your Honor.

14 THE COURT: All right. State have any position
15 as far as the -- the objections?

16 MR. BROWN: Judge, on one of the hearsay --
17 mentions of hearsay when she wouldn't have known
18 where he went that night. I think in the -- in the
19 forensic, she says that she was awake. And when
20 Aunt Frankie got him out of the room, he said he
21 didn't do that. She said, "Yes, you did." So
22 they're all awake at that time.

23 And I'd imagine she knows -- she probably even
24 said there where he's going that night, that he's
25 not staying there. And -- and so she hears it, so

1 her presence is the impression, so I would say
2 that's not hearsay, that she actually knows he's
3 leaving that house.

4 And, Judge, with regard to going back to any
5 kind of show of emotion that's been brought up, the
6 fourth prong under (A) in the statute is the
7 totality of circumstances surrounding the making of
8 the statement by a particularize guarantees the
9 trustworthiness. I think that goes in there with
10 it, see how, you know, her telling what happened,
11 through the whole thing shows exactly what the
12 statute meant there, you know, to be there for is,
13 you know, if it wasn't trustworthy, we wouldn't have
14 it in there, but, Judge, if you found that this
15 thing looks like it's a ploy or has been made up.

16 So I think when you show the whole video, you
17 take parts out, then you're -- you're taking away
18 part of the videos that show what the statute's, you
19 know, intending to show.

20 THE COURT: Okay. All right. Here -- here's
21 what I'm going to do. If I understand each
22 objection, the first 16 minutes, I'm going to allow
23 and not redact other than where she states
24 concerning the rules and telling the truth.
25 Typically, in forensic interviews when it's talked

1 about telling the truth, I find that to be in the
2 mode of bolstering and so I'm going to take that
3 small portion out of the first 16 minutes, but allow
4 everything else in.

5 Just as -- just laying a foundation for the
6 interview and historical kind of backdrop as far as
7 family members, I will allow all that, except for
8 the rules of telling the truth. I want that
9 redacted.

10 The hearsay, I don't find that being offered
11 for the truth of the matter asserted, so I'm going
12 to allow that in.

13 As far as asking her, "Did anything else
14 happen? Did he do anything else to you?" I'm going
15 to allow that.

16 The crying portion, that just -- that concerns
17 me. I have control -- I don't have control of a
18 witness on the witness stand insofar as whether or
19 not they elect to show emotion or not. And if she
20 gets up -- when she gets on the witness stand and if
21 she becomes very emotional, I can't control that. I
22 can take a break, but I can't control that. But in
23 this interview, I can.

24 If she had not been crying and made the
25 statement, "Didn't think he'd ever do that to me," I

1 would allow that in, but it's all coupled with this
2 showing of emotion. And, typically, showing of
3 emotion can elicit emotion on the part of the jury.
4 And since I have control over this forensic
5 interview, I'm going to redact that portion. I'm
6 going to allow everything else.

7 And, lastly, the drawing, I think we can take
8 that out. That just lengthens the -- the amount
9 that the jury has to see when she's in there for, I
10 don't know, two or three minutes drawing. That's
11 not going to really help -- help anything, so I'm
12 going to redact that.

13 So I realize it's kind of been a shotgun
14 approach redacting or allowing. Hopefully, I've
15 made -- or been somewhat clear on what I want to
16 happen. And, again, you know, take a look at the --
17 the interview and make sure everybody's in agreement
18 based upon my ruling.

19 All right. Anything -- anything else? It's
20 about 11:30. We need to get started, get some
21 opening done.

22 And, Solicitor Black, what is -- what's kind of
23 your plan as far as witnesses?

24 MR. BLACK: Judge, I think that -- considering
25 that we have to do some redactions, we have to

1 probably -- I think our plan all along was to call
2 the -- the little girl first so we could probably
3 get to her and then the mother.

4 THE COURT: Okay.

5 MR. BLACK: We might need a little bit of time
6 over lunch to make these redactions and then ---

7 THE COURT: Sure. I realize it's going to take
8 you some time as far as doing the redaction and then
9 allowing the defense to view, you know, what you've
10 done.

11 MR. BLACK: Yes, sir.

12 THE COURT: All right. Well, let's -- let's
13 try to get -- get some opening done and maybe get --
14 him to call the child first, then get her -- get her
15 up, and then we'll see where we are.

16 MR. BLACK: Yes, sir.

17 MS. NELSON: Just a couple more things. The
18 motion to sequester the witnesses and -- and we --
19 I -- I understand. I'm sure they would want
20 Sergeant Ashley still in here. We would want our
21 investigator still in here, but, otherwise, I don't
22 think there are that many more witnesses.

23 THE COURT: Okay.

24 MS. NELSON: And finally just one thing that I
25 think I need to put on the record. When we obtain

1 Minor ' counseling records that turned out to be
2 the property of Beckmann ---

3 THE COURT: Right.

4 MS. NELSON: --- we were able to get those
5 finally yesterday. It turns out that I think her
6 counselor is actually Mr. Black's wife, Samantha.
7 And I don't have any basis or reason to think that
8 the two of them have been sharing information in any
9 way, but it did -- it -- I mean, we noticed it and
10 we were like, wow, that's Micah's wife and he's
11 trying this case.

12 And I think I would be remiss if I didn't put
13 something on the record and ask -- just to ask the
14 Court to inquire whether there's any reason
15 Mr. Black would need to be recused from prosecuting
16 the case given that his wife was her counselor.

17 THE COURT: Okay. All right. Small world,
18 isn't it?

19 MR. BLACK: Judge, the first issue, we would
20 ask that the victim's mother, Deanna, also remain in
21 the courtroom while Minor testify. I mean, she's
22 going to actually go second, but I think that under
23 the rule, she's typically allowed to be in here.

24 THE COURT: Isn't the parent or slash guardian
25 of the victim in this type case, aren't they allowed

1 of their respective positions in this case.

2 State ready?

3 MR. BROWN: Yes, Your Honor.

4 THE COURT: You may proceed.

5 MR. BROWN: May it please the Court?

6 THE COURT: Certainly.

7 MR. BROWN: The deeds done in darkness will be
8 brought to light. Deeds done in darkness will be
9 brought to light. That's exactly why we're here.
10 Back on April 22, 2016, George Anthony Clark,
11 sitting at this table, molested a nine-year old
12 little girl, [Minor] sitting here.

13 April 22, 2016, [Minor] and mom, Deanna, little
14 brother, went to go stay the night with [Minor]'s
15 great aunt, Frankie Nix. She calls her Aunt
16 Frankie, who lives at [redacted] here in
17 Abbeville.

18 And it's a trailer. It's a smaller trailer.
19 If you go in, you've got a living room area.
20 There's a long couch and a short couch. Go out of
21 there, kitchen, hallway, bedroom, and then a master
22 bedroom.

23 Well, that night after [Minor] and her mom and
24 her little brother get there, they fall asleep on
25 the couch. [Minor]'s got her own couch. She sleeps

1 on the small, and right next to her is her mom and
2 little brother.

3 Early in the morning hours, George Anthony
4 Clark, goes by Anthony, or as **Minor** used to call
5 him "Ant," short for Anthony, he came in somewhere
6 around twelve or two o'clock in the morning.

7 As he comes in, there's some point Frankie
8 Nix's girlfriend, George Anthony Clark's girlfriend,
9 she goes back to bed. George gets up, comes down
10 the hallway, goes in to a sleeping child. She's
11 sleeping on the couch, goes up under her shirt, and
12 starts rubbing around on her chest. Wakes her up.

13 Tells him, "Ant, quit messing with me. Go on."
14 He leaves, goes down the hall. He doesn't leave for
15 the night. He comes back around to her a few
16 minutes later. Sticks his hand down her pants, down
17 her shorts, and under her panties, and starts
18 rubbing around on her private parts.

19 She again says, "Leave me alone. I'm going to
20 call my -- I'm going to tell my mom. I'm going to
21 tell my aunt."

22 He then leaves, goes back down the hall, and
23 gets in another bedroom.

24 **Minor** gets up off the couch, the short couch
25 she's sleeping on, and goes over to her mother where

1 she's sound asleep, pushes her mom, asks if she can
2 sleep on the couch with her.

3 At that time, Deanna asked, "What's wrong?"

4 "Ant keeps messing with me. He's touching me."

5 Deanna gets up in the middle of the night,
6 marches down the hallway to Aunt Frankie's room,
7 wakes Frankie up, tells her what happens, and
8 Frankie gets him out of the house that night. Takes
9 him to his mom's house.

10 The next morning, law enforcement is called and
11 the ball is rolling. We're now here.

12 Ladies and gentlemen, I said a little while ago
13 he molested her. In South Carolina, that's also a
14 mandatory. It's criminal sexual conduct with a
15 minor in the third degree. What does that mean?
16 It's points you can pick out as you hear testimony
17 throughout this trial which will come from this seat
18 here.

19 What can you look for? Criminal sexual conduct
20 with a minor in the third degree is an actor, that
21 would be the defendant, George Anthony Clark, over
22 the age of 14 years old, lewdly or lasciviously
23 touching a child under the age of 16 years old with
24 the intent of arousing, gratifying, or appealing to
25 the sexual desires of the actor, George Anthony

1 Clark, or the child victim or the child who is nine
2 years old at the time. That's what CSC with a minor
3 in the third degree is. Something you can look for.
4 The touching of a child under 16 years of age.

5 Ladies and gentlemen, the judge also made
6 mention that it's the State's obligation, it's the
7 State's burden to prove to you beyond a reasonable
8 doubt that this did happen, and that George Anthony
9 Clark did commit this offense. It's a burden we
10 welcome.

11 As you hear from the testimony in this trial,
12 keep in the back of your mind to make you firmly
13 convinced. It makes you firmly convinced that we
14 met our burden.

15 I want to thank you before we get going for
16 your patience, thank you for your attention. And as
17 the judge also said yesterday, being on a jury is
18 considered as the second highest thing you can do is
19 civic duty, just short of being in the military. So
20 we appreciate you being here and appreciate your
21 attention. Thank you.

22 THE COURT: Defense ready?

23 MS. GRANADE: Thank you, Your Honor. May it
24 please the Court?

25 THE COURT: Certainly.

1 MS. GRANADE: Ladies and gentlemen, there is
2 actually not a whole lot in dispute here. You've
3 already heard that my client, George Anthony Clark,
4 was dating [Minor]'s aunt, Frankie Nix, in April of
5 2016. That's true.

6 You'll hear that Anthony Clark lived with
7 Frankie Nix at her trailer on [REDACTED] here in
8 Abbeville in spring of 2016. That's true too.

9 You'll also hear that Anthony Clark was at that
10 trailer on [REDACTED] in the early morning of
11 April 22, 2016. That's true as well. He was there.
12 He was at home. We don't dispute that.

13 What we do dispute is that Anthony Clark
14 inappropriately touched [Minor] that night.
15 We dispute that Anthony touched [Minor] in any way
16 that would've made her feel uncomfortable. He
17 didn't.

18 Folks, you heard the Solicitor talk to you
19 about the State's burden of proof. You've heard
20 that the State has the duty to prove Anthony Clark's
21 guilt beyond a reasonable doubt.

22 So as this trial progresses, I'd ask that you
23 keep a few things in your mind.

24 Please keep in mind how small that trailer is
25 at [REDACTED].

1 Please keep in mind the placement of the
2 furniture in that tiny little living room where
3 Minor was sleeping that night.

4 Please keep in mind the proximity of Minor's
5 mother and her little brother who were in the same
6 room on the couch, mere feet away from Minor early
7 that morning.

8 Please keep in mind what little investigation
9 was done after this crime supposedly occurred.

10 Ladies and gentlemen, you'll have an
11 opportunity to view a video of Minor's interview.
12 You'll hear a confident, an eloquent young lady
13 who's convinced of her story.

14 But, please, pay close attention while you
15 watch that video. At the close of this trial, I'll
16 talk to you about some things that Minor did and
17 did not mention during her interview.

18 All of you folks, you're each the triers of
19 fact. At the end of all this, you get to decide
20 what actually happened in the early morning of April
21 22, 2016.

22 And when you consider all the facts, you'll
23 have to decide whether or not you're convinced
24 beyond a reasonable doubt that Anthony Clark
25 inappropriately touched Minor.

1 And if you're not firmly convinced of that,
2 then you must find Anthony Clark not guilty. And at
3 the close of this trial, I'll ask that you do
4 exactly that. Thank you.

5 THE COURT: Thank you. Let me see the lawyers
6 for just a second over here.

7 (Sidebar discussion.)

8 THE COURT: Ladies and gentlemen of the jury,
9 I've got one legal point that I need to deal with,
10 so I ask that you go back to the jury room. Don't
11 begin any discussions, and we should get you back
12 out very shortly and we'll start with testimony of
13 the first witness. Okay? So if you'll go back to
14 the jury room, please.

15 (At 12:03 p.m., the jury left the courtroom.)

16 THE COURT: All right. Minor I need for you
17 to come up here, and I need to ask you a few
18 questions. Okay?

19 THE WITNESS: (Approaching.)

20 THE COURT: Come around, Minor Have a seat,
21 please.

22 THE WITNESS: (Complying.)

23 THE COURT: How are you doing?

24 THE WITNESS: Good.

25 THE COURT: Good. Okay. All right. I need to

1 ask you some questions. Okay?

2 Do you know the difference between right and
3 wrong?

4 THE WITNESS: Yes.

5 THE COURT: Okay. And do you know it is right
6 to tell the truth and wrong to lie and not tell the
7 truth?

8 THE WITNESS: Yes.

9 THE COURT: Okay. What would happen, **Minor**
10 to you if you told a story or told a lie?

11 THE WITNESS: I would've gotten in trouble.

12 THE COURT: You would've gotten in trouble?

13 THE WITNESS: (Nonverbal response.)

14 THE COURT: Okay. And if I let you testify in
15 this case, will you tell the truth?

16 THE WITNESS: Yes.

17 THE COURT: All right. Attorneys have any
18 additional questions of this juvenile witness on the
19 issue of competency? State?

20 MR. BROWN: Not from the State.

21 THE COURT: Defense?

22 MS. GRANADE: No, Your Honor.

23 THE COURT: Okay. All right. I do find that
24 **Minor** is competent to testify in this case.

25 What we're going to do, **Minor** go back where

1 you were. Okay. And I understand you're going to
2 be the first witness, and so the Solicitors will
3 call you back up and the clerk will -- will swear
4 you in. Okay? Just go back to where you were.
5 Okay?

6 THE WITNESS: (Complying.)

7 THE COURT: Minor wait just a second.

8 Minor, when you're back up here testifying, do a
9 really good job of speaking loud right into that
10 microphone so everybody can hear you. Okay?

11 THE WITNESS: Yes, sir.

12 THE COURT: All right. Thank you. Now, ready
13 for the jury.

14 (At 12:06 p.m., jury entered the courtroom.)

15 THE COURT: Let the record reflect the jury is
16 back in.

17 Is the State ready to proceed?

18 MR. BROWN: Yes, Your Honor.

19 THE COURT: Okay.

20 MR. BROWN: State calls Minor.

21 THE COURT: Okay. Come around please, ma'am.

22 THE WITNESS: (Complying.)

23 THE CLERK: Put your left hand on the Bible and
24 raise your right.

25 THE WITNESS: (Complying.)

1 THE CLERK: The evidence you're about to give
2 the Court be the truth, the whole truth, and nothing
3 but the truth?

4 THE WITNESS: Yes.

5 THE CLERK: Be seated.

6 THE WITNESS: (Complying.)

7 THE COURT: Okay. [Minor] remember to speak
8 right in that microphone and speak up loud so we can
9 hear you. Okay?

10 THE WITNESS: Uh-huh.

11 THE COURT: Would you spell your first and last
12 name for us? Okay?

13 THE WITNESS: [Minor].

14 [Minor],

15 having been produced and first duly sworn as a
16 witness on behalf of the State, testified as
17 follows:

18 DIRECT EXAMINATION

19 BY MR. BROWN:

20 Q. Can you spell your last name for us too?

21 A. [Minor].

22 Q. Thank you, [Minor]. [Minor], how old are you?

23 A. I'm 10, almost 11.

24 Q. And when is your birthday?

25 A. [Redacted].

- 1 Q. Of what year?
- 2 A. 2006.
- 3 Q. [Minor] are you in school right now?
- 4 A. Yes.
- 5 Q. What grade?
- 6 A. Fifth.
- 7 Q. And where are you in school?
- 8 A. In Greenwood, South Carolina.
- 9 Q. Which school do you attend?
- 10 A. [REDACTED].
- 11 Q. And are you missing school today?
- 12 A. Yes.
- 13 Q. [Minor] who are your parents?
- 14 A. Deanna and Devetrick Jones.
- 15 Q. Are they in the courtroom?
- 16 A. Yes.
- 17 Q. Are they standing or sitting behind me?
- 18 A. Yes, sir.
- 19 Q. Do you live with your parents?
- 20 A. Yes, sir.
- 21 Q. Do you have any brothers and sisters?
- 22 A. I have one brother -- brother.
- 23 Q. What's his name?
- 24 A. [Brother] [REDACTED].
- 25 Q. Is he older or younger than you?

- 1 A. Younger.
- 2 Q. How much younger?
- 3 A. Five years.
- 4 Q. Do you have any aunts or uncles?
- 5 A. I have -- I don't know how many I have.
- 6 Q. Do you have an Aunt Frankie?
- 7 A. Yes.
- 8 Q. What's her last name?
- 9 A. Nix.
- 10 Q. Where does she live?
- 11 A. [REDACTED].
- 12 Q. What county is that in?
- 13 A. Abbeville, South Carolina.
- 14 Q. Have you ever stayed the night at Aunt
- 15 Frankie's house?
- 16 A. Yes.
- 17 Q. Now, [Minor], do you know why you're here?
- 18 A. Yes.
- 19 Q. Do you know George Anthony Clark?
- 20 A. Yes.
- 21 Q. Is he here today?
- 22 A. Yes.
- 23 Q. Can you point to him?
- 24 A. (Complying.)
- 25 THE COURT: Let the record reflect that she has

1 identified the defendant.

2 BY MR. BROWN:

3 Q. [Minor], how do you know George Anthony Clark?

4 A. He was my aunt's boyfriend.

5 Q. Did you have any other names for him?

6 A. Ant.

7 Q. Now, [Minor], where did you -- did you get to
8 know him?

9 A. Yes.

10 Q. And where did you know him from?

11 A. From my aunt.

12 Q. Where would you see Ant?

13 A. He would be at my aunt's house.

14 Q. [Minor], do you remember April 22, 2016?

15 A. Yes, sir.

16 Q. Why do you remember that?

17 A. Because it was -- it was something that he
18 wasn't supposed to do.

19 Q. "He" being Ant?

20 A. Uh-huh.

21 Q. What did he do?

22 A. He touched me inappropriately.

23 Q. [Minor], when this happened, where were you?

24 A. I was sleeping on my aunt's couch.

25 Q. Was that Frankie?

1 A. Yes.

2 Q. And what address was that again that she lived
3 at?

4 A. [REDACTED].

5 Q. And that's in Abbeville?

6 A. Yes, sir.

7 Q. What were you doing over at Aunt Frankie's
8 house?

9 A. I was spending the night because I had -- the
10 next day, I was supposed to go to school, but I
11 didn't.

12 Q. Where were you going to school at that time?

13 A. Westwood Elementary School.

14 Q. And is that here in Abbeville?

15 A. Yes, sir.

16 Q. Who else was staying with your Aunt Frankie
17 that night?

18 A. Me, my mom, and my brother and Ant.

19 Q. And Ant?

20 A. Uh-huh.

21 Q. Where was your dad, Devetrick?

22 A. He was at work.

23 Q. He worked the night shift?

24 A. Yes, sir.

25 Q. Do you remember what time you got over to Aunt

1 Frankie's house that night?

2 A. No, sir.

3 Q. But it was earlier in the evening? Would you
4 assume it was early in the evening you got to Aunt
5 Frankie's house?

6 A. It was around nighttime.

7 Q. Nighttime? When Ant touched you
8 inappropriately, where were you?

9 A. I was on the couch.

10 Q. Where was your mother?

11 A. She was across from me.

12 Q. Where was your brother?

13 A. On the same couch.

14 Q. As who?

15 A. Across from me.

16 Q. Across from you. Now, [Minor], when you go to
17 sleep, are you a pretty heavy sleeper?

18 A. Sometimes.

19 Q. Sometimes? That night, what woke you up?

20 A. Ant touching me.

21 THE COURT: [Minor], can you speak up a little
22 louder for us, please? Thank you.

23 BY MR. BROWN:

24 Q. [Minor], where did Ant touch you?

25 A. On my chest and in my underwear.

1 Q. When he touched your chest, was it on top of
2 your clothes, under your clothes, or something else?

3 A. Under.

4 Q. Was it skin to skin?

5 A. Yes, sir.

6 Q. And what was he doing when he was touching your
7 chest?

8 A. He was rubbing my chest.

9 Q. What happened as he was rubbing your chest,
10 what did you do?

11 A. I told him to go down the hall and go to sleep.

12 Q. Did he quit touching you at that moment?

13 A. Yes, sir.

14 Q. Where did he go?

15 A. He went down the hall for a while.

16 Q. Did he go to sleep?

17 A. No.

18 Q. What did he do?

19 A. He went down the hall and sat. I guess he sat
20 in the room for a while, then he came back up the
21 hall.

22 Q. Did he ever go in the kitchen?

23 A. Yes.

24 Q. After he went in the kitchen, what did he do?

25 A. He came and sat in the chair, dried his hands

1 by the heater, and then he came and touched me in my
2 underwear.

3 Q. Now, did you have any other clothes on other
4 than your underwear or can you remember?

5 A. I can't remember.

6 Q. What did he touch you with when he touched you
7 on your underwear?

8 A. His hand.

9 Q. What did he do with his hand when he touched
10 you in your underwear?

11 A. He rubbed.

12 Q. What did he rub?

13 A. My private.

14 Q. He rubbed your vagina?

15 A. Yes, sir.

16 Q. Did he ever touch inside of your vagina?

17 A. No, sir.

18 Q. He just rubbed on the outside?

19 A. Yes, sir.

20 Q. What made him stop?

21 A. I told him to go down the hall and go to sleep
22 again.

23 Q. Did he eventually stop?

24 A. Yes, sir. He went down the hall and went to
25 sleep.

- 1 Q. Do you know which bedroom he went into?
- 2 A. He went into the very front bedroom.
- 3 Q. Which bedroom was Aunt Frankie's?
- 4 A. The last -- the last one down the hall.
- 5 Q. After Ant stopped touching you, what did you do
- 6 after that?
- 7 A. I asked my mom could I sleep on the couch with
- 8 her.
- 9 Q. Did she let you?
- 10 A. She -- she said -- well, no. She -- she told
- 11 me to go back and get back on the couch because she
- 12 didn't know what was wrong.
- 13 Q. Did you tell your mom what happened?
- 14 A. After I laid down on the couch, she woke up and
- 15 then I told her what happened.
- 16 Q. What did your mom do after you told her?
- 17 A. She went down the hall to go tell my aunt.
- 18 Q. What happened after that?
- 19 A. She came down the hall and asked me what
- 20 happened and I told her.
- 21 Q. Who -- who -- who asked you that, your aunt?
- 22 A. My Aunt Frankie.
- 23 Q. After you told your aunt what had happened,
- 24 what happened after that?
- 25 A. She got Ant, brought him up the hall, and he

1 was talking and saying he didn't mean -- he
2 didn't -- he wasn't trying to hurt us or anything.

3 Q. Did Ant stay there at the house the rest of the
4 night?

5 A. No.

6 Q. Where did he go?

7 A. He went to his mom's house.

8 Q. Who took him over there?

9 A. My Auntie Frankie.

10 Q. Now, [Minor], what kind of relationship did you
11 have with Ant prior to this?

12 A. After or before?

13 Q. Before.

14 A. We had a really good bond together.

15 Q. How long did you know him before all this?

16 A. I don't know.

17 Q. Would he play with you?

18 A. Yes.

19 Q. Would he play with your brother?

20 A. Yes.

21 Q. Have you had anything to do with him after
22 this?

23 A. No.

24 Q. How did those touches make you feel?

25 A. Horrible.

1 Q. Had you ever been touched like that before?

2 A. No.

3 Q. You ever been touched like that since?

4 A. No, sir.

5 Q. Do you know how old Ant is?

6 A. No.

7 Q. [Minor], I'm going to show you what's been
8 marked for identification purposes, State's Exhibit
9 No. 1 and also State's Exhibit No. 2. Do you
10 recognize these pictures?

11 A. Yes, sir.

12 Q. What is that?

13 A. This is a picture of my aunt's front -- front
14 yard.

15 Q. What about the second one?

16 A. This is where I was sleeping.

17 THE COURT: You need to sit a little closer to
18 the microphone. Okay?

19 THE WITNESS: This is where I was sleeping.

20 MR. BROWN: Your Honor, at this time, the State
21 would move into evidence State's ID 1 and 2.

22 THE COURT: Okay. And what says the defense?

23 MS. GRANADE: No objection.

24 THE COURT: All right. Without objection, 1
25 and 2 into evidence for the State.

1 (State Exhibit Nos. 1 and 2 was received into
2 evidence.)

3 BY MR. BROWN:

4 Q. [Minor], you said that's your Aunt Frankie's
5 house?

6 A. Yes.

7 Q. [Minor], you mentioned previously you were
8 sleeping on the short couch?

9 A. Yes, sir.

10 Q. In that picture, can you point to which one the
11 short couch is?

12 A. This one (indicating).

13 Q. Where was your mom and brother sleeping?

14 A. That one (indicating).

15 Q. Where is the hallway to go back to the
16 bedrooms?

17 A. It's behind the -- it's behind the curtain.

18 Q. Back here (indicating)? So ---

19 A. Back that way. After you ---

20 THE COURT: Sit close to the microphone when
21 you're talking, please.

22 THE WITNESS: After you go -- go in the living
23 room, if you walk in the front door after you go in
24 the living room, you'll turn around the corner and
25 then you go down the hall.

1 BY MR. BROWN:

2 Q. And, [Minor], next, did you ever -- after this
3 happened, after Ant was out of the house, did you
4 ever talk to law enforcement?

5 A. Yes, sir.

6 Q. When was that?

7 A. I don't remember the dates.

8 Q. It was after this happened?

9 A. Yes, sir.

10 Q. And do you remember talking to someone and
11 having -- basically being interviewed and having
12 that recorded?

13 A. Yes, sir.

14 Q. [Minor], what you're testifying to on the
15 stand, was all that true?

16 A. Yes, sir.

17 Q. Is there any reason whatsoever why you would
18 make that up regarding Ant?

19 A. No, sir.

20 Q. Based on your experience being there at Aunt
21 Frankie's house and being around Ant, did it appear
22 to you that Ant and your Aunt Frankie had a good
23 relationship?

24 A. Yes, sir.

25 Q. How old were you then?

1 A. I was nine years old.

2 Q. And when's your birthday?

3 A. [REDACTED].

4 MR. BROWN: No further questions.

5 THE COURT: Okay. Cross-examination?

6 MS. GRANADE: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. GRANADE:

9 Q. Hi, [Minor]?

10 A. Hi.

11 Q. All right. You're in the 5th grade at

12 [REDACTED] Elementary School?

13 A. Yes, ma'am.

14 Q. Okay. And before that, you went to Lakeview
15 Elementary School for the 4th grade?

16 A. Yes.

17 Q. All right. And even before that in the spring
18 of 2016, you went to Westwood Elementary?

19 A. Yes, sir -- yes, ma'am.

20 Q. And that was for the 3rd grade?

21 A. Yes.

22 Q. Okay. You like to play with your friends at
23 school?

24 A. Yes, ma'am.

25 Q. You like to draw?

1 A. Yes.

2 Q. You like to sing?

3 A. Yes.

4 Q. So back in 2016 when you were in the 3rd grade,
5 you were staying with your Aunt Frankie at [REDACTED]

6 [REDACTED]?

7 A. Yes, ma'am.

8 Q. Did you and your family also have an apartment
9 somewhere?

10 A. Yes, ma'am.

11 Q. Okay. But you would stay at Aunt Frankie's
12 sometimes?

13 A. (Nonverbal response.)

14 THE COURT: You need to verbally respond.

15 THE WITNESS: Yes, ma'am.

16 BY MS. GRANADE:

17 Q. Did you have your own bedroom in your
18 apartment?

19 A. No, ma'am. Me and my brother shared a room.

20 Q. But you had a bedroom?

21 A. Yes, ma'am.

22 Q. But not at Aunt Frankie's?

23 A. No, ma'am.

24 Q. You slept on the couch there?

25 A. Yes, ma'am.

1 Q. And that was in the living room in the trailer?

2 A. Yes, ma'am.

3 Q. Okay. And your mother and your little brother
4 slept on a couch in the living room too?

5 A. Yes, ma'am.

6 Q. And it was right across from your couch?

7 A. Yes, ma'am.

8 Q. So when you were sleeping on the couch, they
9 were pretty close by, your mother and your brother?

10 A. Yes, ma'am.

11 Q. Okay. And Aunt Frankie would've been just down
12 the hallway?

13 A. Yes, ma'am.

14 Q. All right. And going back to April 22, 2016,
15 what you were talking about before, the first time
16 that this happened, Anthony was standing up?

17 A. He was on his knees.

18 Q. The first time?

19 A. Yes, ma'am.

20 Q. Okay. So the first time when he touched your
21 chest, he was down on the floor kneeling?

22 A. Yes, ma'am.

23 Q. All right. And you didn't tell your mom after
24 the first time?

25 A. No, ma'am.

1 Q. And the second time this happened, was he again
2 kneeling on the floor?

3 A. I don't remember if he was kneeling or standing
4 on the floor the second time.

5 Q. So when Aunt Frankie brought -- brought Anthony
6 home to the trailer that night, you were asleep on
7 the couch?

8 A. Yes, ma'am.

9 Q. And it didn't wake you up when they came in?

10 A. No, ma'am.

11 Q. No. And that night you also heard Anthony in
12 the kitchen, didn't you?

13 A. Yes, ma'am.

14 Q. All right. [Minor] I'm going to show you
15 what's been marked as Defense Exhibit 5 for
16 identification purposes. You can take that and have
17 a look.

18 A. (Complying.)

19 Q. Do you recognize that photo?

20 A. Yes, ma'am.

21 Q. What is it?

22 A. It's a photo of my -- the other side of the
23 living room and kind of -- and kind of down the
24 hallway.

25 Q. And that's your Aunt Frankie's house?

1 A. Yes, ma'am.

2 Q. And you recognize it because you stayed there a
3 lot, right?

4 A. Yes, ma'am.

5 Q. Okay. And is that what the trailer looked like
6 back in April of 2016?

7 A. Yes, ma'am.

8 MS. GRANADE: Your Honor, I would like move
9 State's Exhibit -- or Defense Exhibit 5 into
10 evidence.

11 THE COURT: And what says the State?

12 MR. BROWN: No objection.

13 THE COURT: Without objection, Number 5 into
14 evidence for the defense.

15 (Defense Exhibit No. 5 entered into evidence.)

16 BY MS. GRANADE:

17 Q. All right. [Minor], I'm going to hand this
18 back to you. The opening right there, that's a
19 cutout between the kitchen and the living room?

20 A. Yes.

21 Q. You can see through it?

22 A. Yes, ma'am.

23 Q. And the living room is where you would've been
24 sleeping?

25 A. Yes, ma'am.

- 1 Q. And the kitchen's just on the other side?
- 2 A. Yes, ma'am.
- 3 Q. Okay. And you heard Anthony in the kitchen
- 4 that night?
- 5 A. Yes.
- 6 Q. You had -- said he was running the water, maybe
- 7 washing his hands?
- 8 A. Yes, ma'am.
- 9 Q. And your mother never woke up when Anthony was
- 10 in the kitchen?
- 11 A. No, ma'am.
- 12 Q. And your little brother didn't wake up?
- 13 A. No, ma'am.
- 14 Q. Okay. And if I may, there's a painting right
- 15 there, correct?
- 16 A. Yes, ma'am.
- 17 Q. Okay. Do you remember what that painting had
- 18 on it?
- 19 A. No, ma'am.
- 20 Q. But it was hanging on the wall before this
- 21 incident, correct?
- 22 A. Yes, ma'am.
- 23 Q. Okay. Was the painting knocked down that
- 24 night?
- 25 A. I don't know because I was sleeping.

1 Q. Okay. And where that painting is, that would
2 only be a few feet from where you were sleeping,
3 correct?

4 A. Yes, ma'am.

5 Q. Okay. Now, after you told your mother that
6 Anthony had touched you, it took a long time for
7 police to come, didn't it?

8 A. Till the morning.

9 Q. Till the morning. And by the time that the
10 police had gotten there, you had already talked to
11 your mom about what happened?

12 A. Yes, ma'am.

13 Q. And you talked to Aunt Frankie about what
14 happened?

15 A. Yes, ma'am.

16 Q. And your dad had come home from work by then
17 too, correct?

18 A. Yes, ma'am.

19 Q. So you had talked to your dad about what
20 happened?

21 A. Yes, ma'am.

22 Q. And you heard all of those people talk about
23 what happened?

24 A. Yes, ma'am.

25 MS. GRANADE: Nothing further. Thank you,

1 [Minor] .

2 THE COURT: Redirect?

3 MR. BROWN: Just a couple of questions.

4 REDIRECT EXAMINATION

5 BY MR. BROWN:

6 Q. [Minor], when Ant was in the kitchen running
7 the water, was that after he had already woken you
8 up by touch -- touching you on your chest?

9 A. Yes, sir.

10 Q. After he woke you up touching you on your
11 chest, did you ever really go back to sleep?

12 A. No, sir.

13 Q. Did you have a pretty good idea where he was
14 during that time?

15 A. Yes, sir.

16 Q. [Minor], regarding the picture, looking at
17 Defense No. 5, did you ever see or hear that picture
18 fall off the wall?

19 A. No, sir.

20 Q. Did you see or hear your Aunt Frankie and Ant
21 come back in the house that night?

22 A. No, sir.

23 Q. And why is that?

24 A. I'm kind of a pretty hard sleeper.

25 Q. What woke you that night?

1 A. Ant touching me.

2 Q. [Minor], did anybody -- your dad, your mom,
3 your Aunt Frankie -- did anybody tell you to tell
4 anything or say Ant did something to you?

5 A. No, sir.

6 MS. NELSON: We're going to object to the
7 hearsay and request to remove to strike, Your Honor.

8 THE COURT: Okay. Repeat the question again.

9 MR. BROWN: Did anybody in your family ever
10 tell you to make up these stories on Ant?

11 THE WITNESS: No, sir.

12 THE COURT: And you're objecting that it's
13 hearsay?

14 MS. NELSON: Yes, Your Honor. It calls for
15 hearsay and we move to strike.

16 THE COURT: All right. Overruled. I think her
17 answer was no; therefore, nothing was said to
18 constitute an out-of-court declaration. So noted
19 for the record, but overruled.

20 BY MR. BROWN:

21 Q. And the only thing that woke you up that night
22 was what?

23 A. By Ant touching me.

24 MR. BROWN: No further questions.

25 THE COURT: Any recross, Ms. Granade?

1 MS. GRANADE: Nothing from the defense, Your
2 Honor.

3 THE COURT: Okay. You can go back to your seat
4 back there.

5 THE WITNESS: (Complying.)

6 THE COURT: Solicitor, do you have another
7 witness who could maybe get us up to close about one
8 o'clock to break for lunch?

9 MR. BLACK: Yes, sir, Your Honor.

10 THE COURT: Okay. Very good. Thank you.

11 MR. BLACK: State calls Deanna Jones.

12 THE WITNESS: (Approaching.)

13 THE CLERK: Put your left hand on the Bible,
14 raise your right.

15 THE WITNESS: (Complying.)

16 THE CLERK: The evidence you're about to give
17 the Court be the truth, the whole truth, and nothing
18 but the truth?

19 THE WITNESS: Yes, ma'am.

20 THE CLERK: You may be seated.

21 THE WITNESS: (Complying.)

22 DEANNA JONES,
23 having been produced and first duly sworn as a
24 witness on behalf of the State, testified as
25 follows:

1 DIRECT EXAMINATION

2 BY MR. BLACK:

3 Q. Can you spell your name for the court reporter
4 please, ma'am?

5 A. Yes. D-e-a-n-n-a J-o-n-e-s.

6 Q. Deanna Jones. Is that the correct
7 pronunciation?

8 A. Yes, sir.

9 Q. Ms. Jones, can you just tell us how you're
10 related to [Minor]?

11 A. I'm her mother.

12 Q. Okay. And you've got another son as well?

13 A. Yes, sir. [Brother].

14 Q. He's named after his father?

15 A. Yes, sir.

16 Q. And, Ms. Jones, you -- do you have a job? Do
17 you work?

18 A. Yes, sir.

19 Q. Okay. Where do you work at?

20 A. Nhc Homecare of Greenwood.

21 Q. Okay. And y'all live in Greenwood currently?

22 A. Yes, sir.

23 Q. Back in April of 2016, where were y'all living?

24 A. Well, we had a trailer on [REDACTED]

25 [REDACTED]

1 We ended up staying with my aunt the end of
2 December of 2015 due to our sewer line backing up.

3 Q. Yes, ma'am.

4 A. So my aunt allowed us to stay there with her
5 until we figured out what the city was going to do.
6 So we stayed there from December of 2015 up until
7 March.

8 I got the apartment in Greenwood March 1st of
9 2016, but we -- we were only staying there on the
10 weekend due to my kids still going to school.

11 Q. Okay. So you had a trailer in -- on [REDACTED]
12 [REDACTED] here in Abbeville?

13 A. Yes, sir.

14 Q. Okay. And when the sewer line went bad, then
15 you ---

16 A. Yeah. We ended up staying with my aunt. It
17 was like the end -- right after Christmas. We
18 stayed down there with her from that time up until
19 everything happened.

20 Q. Okay. And at this time, where was [REDACTED] Minor
21 going to school?

22 A. Westwood Elementary.

23 Q. And that's here in Abbeville County?

24 A. Yes, sir.

25 Q. And you were working in Greenwood at the time?

1 A. Yes, sir.

2 Q. What about your husband? Where was he working
3 at?

4 A. He was still working at Electrolux in Anderson.

5 Q. Okay. And he -- where does he work now?

6 A. He still works at Electrolux in Anderson.

7 Q. In Anderson?

8 A. Yes, sir.

9 Q. But now currently, y'all live in Greenwood?

10 A. Yes, sir.

11 Q. And you live closer to work?

12 A. Yes, sir.

13 Q. And where does [Minor] go to school now?

14 A. She goes to [REDACTED] Elementary School in
15 Greenwood.

16 Q. And is she in any kind of special programs
17 there or anything?

18 A. Yes. She's in the ACTS program.

19 Q. What is that?

20 A. It's performing arts and theater school.

21 Q. And that's for people that have special
22 talents?

23 A. Yes, sir.

24 Q. And what does -- she does dance; is that right?

25 A. Yes, sir.

1 Q. Now, I want to take us back to April 2016. Do
2 you remember the night of April 22nd?

3 A. Yes, sir, I do.

4 Q. How do you remember that night?

5 A. I was awakened by my daughter balled up on the
6 couch. And I ask her, I said, "[Minor], what's
7 wrong?"

8 And she said, "Ant keeps coming in here
9 touching me."

10 And I asked her what did she mean, and she said
11 he kept coming in there and touching her on her
12 chest and in her private area.

13 Q. Where were you -- where were you staying that
14 night at your Aunt Frankie Nix, her apartment or her
15 trailer? Where were you -- where were you sleeping
16 at?

17 A. We were sleeping on the longer couch that's
18 right when you come in the front door, the couch
19 that's to the right.

20 Q. Is that considered the living room?

21 A. Yes, sir.

22 Q. And who was on the couch with you?

23 A. [Minor]'s brother, [redacted].

24 Q. And where was [Minor] staying?

25 A. She was across from us on the short couch in

1 the living room.

2 Q. Do you remember what time y'all arrived at Aunt
3 Frankie's house that evening?

4 A. It was after my husband went to work, so I want
5 to say it was -- it probably was between 10:00 and
6 10:30. It was dark when we got there.

7 Q. Okay. And your husband, did he -- what shift
8 does he work?

9 A. Third shift. He works from 11:00 to 7:00.

10 Q. Does he do that now?

11 A. Uh-huh.

12 Q. Was he doing third back in 2016?

13 A. Yes, sir.

14 Q. Leading up to that -- to that evening, do you
15 know -- do you happen to know what day that is --
16 that was?

17 A. That was on a Sunday.

18 Q. Okay. And the kids had school the next day?

19 A. Yes.

20 Q. Did y'all have a normal routine that y'all
21 pretty much did before -- before school days with
22 your kids?

23 A. Yes.

24 Q. Did y'all pretty much have the same standard --
25 did y'all do the routine that day?

1 A. Yes, sir.

2 Q. What time did y'all typically go to bed?

3 A. We probably would go to bed around, like, maybe
4 11:00. When we were coming to my aunt's house, you
5 know, we'd leave from our apartment -- our apartment
6 and get back to my aunt's house right after my
7 husband would go to work. So it would be between
8 11:00, 11:30 before we actually settled down to go
9 to bed.

10 Q. You put your kids to bed about that time?

11 A. Yes, sir.

12 Q. You put them down first?

13 A. Uh-huh.

14 Q. When you went to bed, were your kids -- were
15 they -- were they already sleeping? Was Minor
16 sleeping already?

17 A. Yes, sir.

18 Q. And then you curled up on the couch next to --
19 kind of across from her?

20 A. Yes, sir.

21 Q. Do you know about what time you went to bed?

22 A. I'd probably say it was around, like, 11:45
23 maybe, I want to say.

24 Q. And you probably don't remember this, but do
25 you remember falling asleep pretty quickly or taking

1 a while or do you know?

2 A. Oh, I'm not sure. It might've been kind of
3 quick when I fell asleep.

4 Q. Okay. Do you remember what time you got
5 awakened later that -- that morning?

6 A. To be exact, it was 2:34 a.m.

7 Q. 2:34?

8 A. Yes, sir.

9 Q. Who woke you up?

10 A. Minor

11 Q. How -- how did she go about waking you up?

12 A. Well, she was like on the end of the long couch
13 where we were sleeping, but she was like balled up
14 on my feet. So when I got ready to turn over, she
15 was right there. And that's when I asked her what
16 was wrong, and I could see that she was upset
17 because she was crying and telling me that Ant had
18 been in there touching her.

19 Q. When she told you that, what did you do? Did
20 you send her back to bed or did you try and calm
21 her?

22 A. No. I -- I got up immediately and went down
23 the hall and got my aunt and told her what was going
24 on.

25 And she came up the hall to ask Minor what

1 had happened. And after that, that's when she went
2 to the first bedroom to get Ant where he was found
3 sleeping in the first bedroom.

4 Q. And you were with Aunt -- Aunt Nix while she
5 was doing this?

6 A. Yes.

7 Q. Okay. Now, when you -- going back a little
8 bit. When you -- when you went to bed, was
9 Mr. Clark, was he in the house with y'all?

10 A. No, sir. He was gone.

11 Q. Do you know where he was?

12 A. When I got there, I asked my aunt where he was.
13 She stated that his brother had came in town and
14 asked her permission could he take his brother out
15 because they hadn't hung out in a while, and she
16 told him, yeah, you know, that it was fine. So I
17 assume that's where he was still with his brother,
18 you know, out.

19 Q. So when y'all got home, it was just Aunt
20 Frankie Nix there?

21 A. Yeah, it was just me, the kids, and my aunt.

22 Q. And when you went to bed, it was just ---

23 A. It was just us.

24 Q. Okay. Do you remember what time Mr. Clark came
25 into the house that night -- later that night?

1 A. No, sir. I never heard him when he came in.

2 Q. You didn't hear him at all?

3 A. No, sir.

4 Q. He didn't wake you up?

5 A. No, sir.

6 Q. What about when your aunt left to go pick him
7 up? Did you hear her leave?

8 A. No, sir.

9 Q. Would you classify yourself as a pretty heavy
10 sleeper? pretty light sleeper? just kind of depends?

11 A. It depends. It depends, but I think I'm more
12 on the hard sleeping side, but it just really
13 depends on how tired I am I'm assuming.

14 Q. Yeah. Now, fast forward back to when you got
15 woken up by your daughter, [Minor] Once y'all were
16 awakened, you said -- where was Ant at when y'all --
17 when y'all woke up?

18 A. Where was Ant when we woke up?

19 Q. Yes, ma'am.

20 A. During when that happened?

21 Q. Well, when y'all -- when you and -- you and
22 Frankie Nix, your Aunt Frankie -- after you talked
23 to [Minor], what did you do?

24 A. I stayed in the living room. My aunt, she went
25 and talked with him, brought him up there.

1 And she told Ant that [Minor] had said he'd
2 been in there touching her, and he was trying to
3 plead to me saying that he wouldn't do that, that he
4 loved us, he loved my kids.

5 And while he was saying that he didn't, [Minor]
6 was screaming at him, telling him, "Yes, you did.
7 You did touch me. You came in here twice and
8 touched me."

9 Q. And this was, what, 2:30 in the morning?

10 A. Yes.

11 Q. What happened -- what happened after this kind
12 of encounter in the living room?

13 A. After that, my aunt took Ant down the hall,
14 talked with him for a few more moments. And then
15 she told him that he had to get his stuff, he had to
16 leave.

17 MS. NELSON: I'm going to have to object to the
18 hearsay, Your Honor.

19 THE COURT: Sustained.

20 BY MR. BLACK:

21 Q. Did you see Mr. Clark leave that night?

22 A. Yes.

23 Q. How did he leave?

24 A. My aunt took him away from the house.

25 Q. After y'all -- after Mr. Clark left, did y'all

1 go back to bed that night?

2 A. No.

3 Q. What did y'all do?

4 A. We stayed up. I was just up.

5 Q. Is Mr. Clark here in -- in this courtroom?

6 A. Yes.

7 Q. Can you point him out for us, please, ma'am?

8 A. Right there (indicating).

9 THE COURT: Let the record reflect that the
10 witness has identified the defendant.

11 BY MR. BLACK:

12 Q. And just for context purposes, your aunt lived
13 at [REDACTED]?

14 A. Yes, sir.

15 Q. Is that kind of behind Abbeville Tire?

16 A. Yes.

17 Q. It's in Abbeville County?

18 A. Yes, sir.

19 Q. And the date might seem like a silly question,
20 but this was April 22nd?

21 A. Yes, sir.

22 MR. BLACK: That's all the questions I have.
23 Please answer any questions that Ms. Granade might
24 have.

25 THE COURT: All right. Defense have a

1 cross-examination?

2 MS. GRANADE: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. GRANADE:

5 Q. Hi, Deanna.

6 A. Hi.

7 Q. All right. So you and your family would stay
8 at [REDACTED] off and on at least around this
9 time?

10 A. Yes.

11 Q. Spring of 2016?

12 A. Yes.

13 Q. And you said there was a problem at your
14 previous residence, a sewer problem?

15 A. Yes.

16 Q. But you and your husband had actually leased an
17 apartment in March of 2016?

18 A. Yes. We got the apartment March of 2016.

19 Q. And that was in Greenwood?

20 A. Yes.

21 Q. But y'all stayed at Frankie's?

22 A. We stayed there during the week. We only went
23 to the apartment on the weekend.

24 Q. And that's because it was closer to the
25 children's schools?

1 A. No. It was due to not being able to pull my
2 kids out of school at that time because the teacher
3 recommended that if I pull my daughter out of school
4 at that time and she started school in Greenwood,
5 and for some reason if she had to come back to
6 Abbeville school, she would be classified as a third
7 grader. So that's why we still stayed with my aunt
8 during the week and stayed at the apartment on the
9 weekend.

10 Q. Okay. Because April 22, 2016, that was
11 actually a Friday?

12 A. Okay.

13 Q. Still a school day, but it was Friday, not
14 Sunday?

15 A. Yes.

16 Q. So you, your son, [Brother], and [Minor]
17 y'all were staying at [redacted] April 21st
18 through the morning of April 22nd?

19 A. Yes.

20 Q. And you were sleeping on one couch with your
21 son while [Minor] was on the other couch?

22 A. Yes.

23 Q. So you were actually in the living room when
24 this is supposed to have occurred?

25 A. Yes.

1 Q. And those couches are directly across from one
2 another, correct?

3 A. Yes.

4 Q. They were pushed up on either side of the
5 walls?

6 A. Yes. They are both up against the wall. The
7 only thing separating them is a table -- coffee
8 table.

9 Q. So you're familiar with the layout of that
10 living room?

11 A. Yes, I am.

12 Q. Okay. I'm going to hand you -- all right. I'm
13 going to hand you what's been marked as Defense
14 Exhibit 2 for identification, Defense Exhibit 3 for
15 identification, as well as Defense Exhibit 4 for
16 identification. Okay?

17 A. This is my aunt's trailer.

18 THE COURT: Look -- identify it by the -- look
19 over on the back.. What number is it?

20 THE WITNESS: Exhibit No. 2.

21 MS. GRANADE: Okay.

22 THE WITNESS: This is the front yard in my
23 aunt's trailer.

24 BY MS. GRANADE:

25 Q. And then just stay on that for a moment.

1 A. Okay.

2 Q. You recognize that because that's where you
3 were on April 22nd, correct?

4 A. Yes.

5 Q. And you'd been there many times before?

6 A. Yes.

7 Q. And is that what the trailer looked like back
8 in 2016?

9 A. Yes.

10 Q. All right. Now Defense Exhibit 3 for
11 identification.

12 A. Yes. This is Exhibit No. 3. This is my aunt's
13 trailer from a side angle and the front yard.

14 Q. Okay. And, again, you recognize that because
15 you've been there a lot?

16 A. Yes.

17 Q. And that's what it looked like back in April of
18 2016?

19 A. Yes.

20 Q. And that angle in particular, that would be
21 where the living room is?

22 A. Yes.

23 Q. Okay. And Defense Exhibit 4 for
24 identification. Do you recognize that?

25 A. Yes, ma'am, I do.

1 Q. What is it?

2 A. This is the living room, the long couch right
3 when you come on in the front door on this side, and
4 this is the short couch that's straight across from
5 the hall.

6 Q. Okay. And you recognize that because that's
7 where y'all were back in April of 2016?

8 A. Yes, ma'am.

9 Q. And is that what the living room looked like
10 back then?

11 A. Yes.

12 MS. GRANADE: All right. I'd like to move
13 Defense Exhibit 2, 3, and 4 into evidence, Your
14 Honor.

15 THE COURT: What says the State?

16 MR. BLACK: No objection.

17 THE COURT: Without objection, 2, 3, and 4 into
18 evidence for the defense.

19 (Defense Exhibit Nos. 2, 3, and 4 were received
20 into evidence.)

21 MS. GRANADE: Permission to publish, Your
22 Honor.

23 THE COURT: Sure.

24 (Defense Exhibit Nos. 2, 3, and 4 were
25 published to the jury.)

1 BY MS. GRANADE:

2 Q. All right. This is Defense Exhibit 2. You
3 identified this as the trailer at [REDACTED],
4 correct?

5 A. Yes, ma'am.

6 Q. All right. And I'm just going to try to point
7 out the rooms and you tell me if I'm correct. Back
8 here, this is where the living room would be,
9 correct?

10 A. Back where?

11 Q. Right here (indicating).

12 A. Yes. That's the living room area.

13 Q. And there's a bit of glare, but -- all right.
14 This is the door -- this is the door where Anthony
15 would've come in?

16 A. Yes. That's the front door.

17 Q. All right. This would be the kitchen?

18 A. Yes.

19 Q. And then the front bedroom would be over here
20 (indicating) somewhere?

21 A. Uh-huh.

22 Q. And then the back bedroom where Aunt Frankie
23 slept would be back here (indicating)?

24 A. Yes, ma'am.

25 Q. And then there's also a bathroom right there

1 (indicating)?

2 A. Yes, ma'am.

3 Q. Okay. And this is Defense Exhibit 3. And,
4 again, this would be the small area where the living
5 room is?

6 A. Yes, ma'am.

7 Q. Okay. And this is Defense Exhibit 4. And this
8 is the living room where you and your daughter
9 slept?

10 A. Yes, ma'am.

11 Q. You and [REDACTED] Brother. would've been on this
12 (indicating) couch?

13 A. Yes, ma'am.

14 Q. And [REDACTED] Minor would've been here (indicating)?

15 A. Yes, ma'am.

16 Q. Okay. And this is the same table that was
17 there back in April of 2016?

18 A. Yes, ma'am.

19 Q. Okay. And the area in between these two
20 couches, that's less than four feet?

21 A. Excuse me?

22 Q. The distance between this (indicating) couch
23 and that (indicating) couch, would you agree that
24 it's less than 4 feet?

25 A. Yeah, probably so.

1 Q. It wouldn't surprise you if it was less than 4
2 feet, right?

3 A. No.

4 Q. Okay. So you were less than 4 feet away from
5 your daughter when she was supposedly assaulted?

6 A. Yes.

7 Q. Now, after [Minor] told you what happened, you
8 went down the hallway and you told Aunt Frankie?

9 A. Uh-huh.

10 Q. You didn't call law enforcement?

11 A. No. Not at that time I didn't.

12 Q. You also called your mother, I think, [Minor]'s
13 grandmother, some time early that morning?

14 A. Yes, I did.

15 Q. And you didn't call law enforcement?

16 A. Not at that time, no. And the only reason why
17 I didn't was because my aunt didn't want me to at
18 that time because we were trying to let her find out
19 the story and everything, but I did end up calling
20 law enforcement.

21 Q. You called law enforcement or you called a
22 friend whose husband worked for law enforcement?

23 A. I called law enforcement, and then I called my
24 job where one of my coworkers, her husband did work
25 on the police force at the time. And he arranged

1 for a woman officer to come out instead of the
2 gentleman that they said they were going to send
3 out.

4 Q. So his name is Ritter?

5 A. Yes.

6 Q. Officer Ritter actually was the one that called
7 dispatch and got ---

8 A. Got ---

9 Q. --- Sherri Ashley?

10 A. --- Sherri Ashley to come out instead of -- I'm
11 not sure what the gentleman's name was that was
12 supposed to come out first, but he said it may be
13 better for her to talk with a woman officer. She
14 may have been feeling more comfortable to talk to
15 her.

16 Q. But nevertheless, nobody from law enforcement
17 was contacted until at least six hours after this is
18 supposed to have happened?

19 A. It might have been close to six maybe.

20 Q. Because it happened between 2:00 and 2:30. Law
21 enforcement got there a little before 8:30 that
22 morning?

23 A. Right.

24 Q. So it's fair to say that you had discussed this
25 with three to four people before law enforcement

1 arrived?

2 A. Right.

3 Q. That would be Frankie, your mom, your husband,
4 Ms. Ritter?

5 A. I never -- I never talked to my husband. I
6 called to his job ---

7 Q. Okay.

8 A. --- and told him that it was an emergency, and
9 then he actually called after the fact.

10 Q. And he came back to the trailer before law
11 enforcement got there?

12 A. Yeah. He got there probably a little after
13 5:00 I think.

14 Q. And all these conversations that you had with
15 these people, [Minor] heard all that?

16 A. I think she was in there when we -- when we
17 talked. I believe so.

18 Q. And when the police officer arrived,
19 Investigator Sherri Ashley ---

20 A. Uh-huh.

21 Q. --- you were the first person that she spoke
22 to?

23 A. Yes.

24 Q. Right. She didn't speak to [Minor] first?

25 A. She talked with me, and then she sat in the

1 chair and got a report from [Minor]

2 Q. Right. So [Minor] heard everything that you
3 told Investigator Ashley before [Minor] told
4 Investigator Ashley?

5 A. I didn't really tell her much, you know, or
6 anything, and then she got everything pretty much
7 from [Minor]

8 Q. But you told her that Anthony had ---

9 A. I told her that my daughter had woken me up and
10 said that Ant had touched her. Yes, I did.

11 Q. Okay. And [Minor] -- [Minor] heard that?

12 A. Yes, she did.

13 Q. And she heard that before she said anything to
14 Investigator Ashley?

15 A. Yes.

16 MS. GRANADE: Nothing further. Thank you,
17 Deanna.

18 THE COURT: Redirect, Solicitor?

19 MR. BLACK: Briefly.

20 REDIRECT EXAMINATION

21 BY MR. BLACK:

22 Q. Ms. Jones?

23 A. Yes, sir.

24 Q. You called the police early that morning?

25 A. Yes, sir.

1 Q. But you were woken up about 2:30 in the
2 morning?

3 A. Yes, sir.

4 Q. Do you remember about what time Investigator
5 Ashley got to your place?

6 A. It was a little after 8:00. I'm not sure
7 exactly what time.

8 Q. That's 8:00. And 8:00 is typically the start
9 of the work day?

10 A. Excuse me?

11 Q. Eight o'clock is typically the start of a work
12 day?

13 A. Yes, sir.

14 Q. What was -- Mr. Clark and your Aunt Frankie,
15 what was -- what was their relationship? What
16 was -- what was their relationship?

17 A. What was it like?

18 Q. Yeah, like, what was the status I guess? How
19 do you define their relationship? What was it?

20 A. They were girlfriend and boyfriend. They
21 seemed -- assumed to have been okay, you know, happy
22 relationship from what I could see.

23 Q. And what was your relationship with Mr. Clark
24 before this incident?

25 A. It was okay. I mean, I trusted him. You know,

1 he seemed to have proved himself to me that he was
2 an okay gentleman. You know, I saw my aunt happy
3 and -- and he reassured me that he loved my aunt,
4 just as well as us, and would never do anything to
5 hurt us.

6 Q. And he -- he would play with the kids, wouldn't
7 he?

8 A. Yes, sir, he would.

9 Q. Deanna, do you have any reason to make this up?

10 A. No, sir, not at all.

11 MR. BLACK: That's all the questions I have.

12 THE COURT: Recross?

13 MS. GRANADE: No, Your Honor.

14 THE COURT: Okay. You can step down, ma'am.

15 THE WITNESS: (Complying.)

16 THE COURT: Okay. Madam forelady and ladies
17 and gentlemen of the jury, we're just about at the
18 one o'clock hour. It would be a good time to break
19 for lunch, so you'll be back here promptly at 2:30
20 and we'll continue with the trial of this case.

21 Again, no discussions among yourselves about
22 anything related to this case nor any discussions
23 with anybody that you may come into contact with
24 over your break. And we'll see you back at 2:30.
25 Have a good lunch.

1 (At 12:58 p.m., jury was excused for lunch.)

2 THE COURT: Okay. Y'all have a good lunch.

3 See you at 2:30.

4 (From 1:00 to 2:30 p.m., lunch recess.)

5 THE COURT: We're back on the record. And
6 the -- the redactions have been made to both videos
7 as it concerns the interview of the defendant. This
8 is based upon what we've had discussions in
9 chambers.

10 I'm going to explain to the jury that there
11 have been -- by agreement, there have been some
12 portions redacted or taken out. And there was one
13 portion that should not have been taken out, but it
14 was inadvertently -- through no fault of anybody's,
15 it was inadvertently taken out. And instead of
16 trying to physically insert it back in, at the
17 conclusion, Ms. Nelson is going to read that portion
18 of what was inadvertently taken out.

19 MR. BLACK: Yes, sir. That's correct. And
20 just so the record is clear, we've had some problems
21 with the redactions and we've been dealing with
22 that. And we've had to do it a couple of times, and
23 that's kind of what's taken so long to get going
24 this afternoon.

25 Currently, the -- the last version that we have

1 agreed upon the redacted version, there's not a
2 disk. It's saved to Investigator Wilke's computer
3 and it's pulled up and ready to go. So when I'm
4 questioning Investigator Ashley, I will show her the
5 sleeve that that disk will go to..

6 THE COURT: Okay.

7 MR. BLACK: But because we've had problems
8 burning that to a disk at this point, I'm just going
9 show her the sleeve and have her identify it as her
10 interview.

11 THE COURT: Okay.

12 MR. BLACK: And then we'll go from there, and I
13 think the defense agreed. We just wanted to put
14 that on the record.

15 THE COURT: All right.

16 MS. NELSON: All I want to do is make sure for
17 the record that there will be -- ultimately there
18 will be a DVD with the redacted version ---

19 THE COURT: Right.

20 MS. NELSON: --- on it for -- for purposes ---

21 THE COURT: For purposes if their needed.

22 MS. NELSON: --- of appeal if necessary.

23 THE COURT: That's right. And even though
24 there were certainly objections made by both sides,
25 there were issues raised by both sides, it's agreed

1 that based upon the Court's ruling, the redaction is
2 proper. You're not necessarily agreeing to all of
3 the redactions because there were some issues raised
4 by both sides.

5 And I guess I need to go ahead and put on the
6 record too, based upon the defense's opposition to
7 the admissibility of the forensic interview, the
8 multiple-page opposition or memorandum that was
9 submitted by the defense, which was part of the
10 record in this case, and if it's not part of the
11 record, it needs to be by way of Court's exhibit.

12 I don't think I gave an official ruling on the
13 record, but I'm denying the defense request based
14 upon that memorandum. And, again, make sure that
15 it's a Court's exhibit along with the other filings
16 that you've made too so the record's complete.

17 MS. NELSON: Yes, sir, Your Honor.

18 THE COURT: Okay. All right. Thank you very
19 much. Let's -- let's bring the jury out, please.

20 THE BAILIFF: (Complying.)

21 (At 3:46 p.m., jury entered the courtroom.)

22 THE COURT: Let the record reflect the jury is
23 back in.

24 Madam forelady, ladies and gentlemen of the
25 jury, thank you for your patience. I know you have

1 THE CLERK: Put your left hand on the Bible and
2 raise your right.

3 THE WITNESS: (Complying.)

4 THE CLERK: The evidence you're about to give
5 the Court be the truth, the whole truth, and nothing
6 but the truth?

7 THE WITNESS: Yes, ma'am.

8 SERGEANT SHERRI ASHLEY,
9 having been produced and first duly sworn as a
10 witness on behalf of the State, testified as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. BLACK:

14 Q. Can you state your name for the record, please,
15 ma'am?

16 A. Sherri Ashley.

17 Q. And can you spell your first name for the court
18 reporter?

19 A. S-h-e-r-r-i.

20 Q. And you work with Abbeville County?

21 A. Yes, sir.

22 Q. The Sheriff's Department?

23 A. Yes, sir.

24 Q. How long have you been with Abbeville County
25 Sheriff's Department?

1 A. Approximately, four-and-a-half years.

2 Q. Did you work in law enforcement prior to that?

3 A. I did.

4 Q. Where?

5 A. Honea Path.

6 Q. How long?

7 A. Four-and-a-half years.

8 Q. About how long total have you been in law
9 enforcement?

10 A. Close to nine.

11 Q. Okay. And what -- since you've been with the
12 Sheriff's Department, what kind of roles have you
13 had?

14 A. I worked as a road deputy to begin with. Then
15 I went into investigations. Then I went back to the
16 road as a sergeant. And now I'm an SRO for
17 Abbeville High School.

18 Q. For the high school, and that's where you're --
19 that's your current position?

20 A. Yes, sir.

21 Q. How long were you in investigations?

22 A. Approximately, three years.

23 Q. What kind of cases would you typically handle?

24 A. Sex crimes.

25 Q. You also handled an array of crimes as well?

1 A. Yes, sir.

2 Q. April 22nd of 2016, last year, were you in
3 investigations?

4 A. Yes, sir.

5 Q. Did you get involved in this particular case
6 with [REDACTED] Minor ?

7 A. I did.

8 Q. How did you become involved in this particular
9 case?

10 A. I believe it was on a Friday morning. I was
11 coming to work and I heard the call come out over
12 the radio. And I knew that I'd be handling it
13 anyway, so I went ahead and answered the call with
14 the deputy that went out there.

15 Q. Do you know about what time you heard it over
16 the radio?

17 A. It was after eight o'clock. I was on my way in
18 and we usually have to be here at 8:30, so it was
19 some time after eight o'clock.

20 Q. Okay. And you -- did you even go to the office
21 or did you just arrive at the scene?

22 A. I went straight to the scene.

23 Q. And do you know the address?

24 A. Yes, sir.

25 Q. What is it?

1 A. Is it [REDACTED] -- is it [REDACTED]?

2 Q. I think so. Is that -- is that in Abbeville
3 County?

4 A. Yes, sir.

5 Q. Can you explain to the jury kind of about where
6 it is in Abbeville County?

7 A. It's behind A-1 Tire off of -- which is on
8 Highway 72.

9 Q. So it's relatively close to the city I guess?

10 A. Yes, sir.

11 Q. When you -- when you first showed up to [REDACTED]
12 [REDACTED], what's the first thing you did?

13 A. I went in and I sat down and was talking with
14 [REDACTED] Minor 's mother and [REDACTED] Minor .

15 Q. Okay. Was that -- where was that, inside the
16 house?

17 A. Inside the home.

18 Q. Were there any other people inside the home?

19 A. The dad was sitting there on the other couch
20 while I was talking to them.

21 Q. Okay. Do you remember about how long you were
22 at the house?

23 A. Approximately, an hour.

24 Q. Okay.

25 A. Maybe a little longer.

1 Q. What -- what kind of things did you do when you
2 first arrived?

3 A. When I first arrived, I, of course, had my body
4 camera on and I was speaking to the mother.

5 After that, I spoke to [Minor] She told me
6 exactly what had happened that day.

7 And let's see -- that's pretty much -- that's
8 it.

9 Q. When you -- when you spoke to the family, I
10 guess that was early that morning, correct?

11 A. Yes, sir.

12 Q. Do you -- do you remember what day that was?

13 A. April 22nd.

14 Q. And do you remember what day of the week it
15 was?

16 A. It was on Friday.

17 Q. Friday morning?

18 A. Yes, sir.

19 Q. And so kids are typically in school on that
20 day?

21 A. Yes, sir.

22 Q. Did [Minor] go to school?

23 A. I'm not sure if she went to school after I
24 talked to her. I was there until some time after
25 nine o'clock.

1 Q. But she was there when you were there?

2 A. Correct.

3 Q. Can you describe -- I know the jury's already
4 seen some pictures. Can you describe the type of
5 house that is at [REDACTED]?

6 A. It's a single-wide trailer. As you go into the
7 front door, you -- to the right is where the living
8 room is. There's a couch on the right wall. And on
9 the opp side -- opposite side of the room, there's
10 another couch. To the left is the kitchen. And to
11 the left past the kitchen, it goes back to the
12 bedrooms.

13 Q. So it's two bedrooms in the back?

14 A. Yes, sir.

15 Q. Front bedroom and back bedroom?

16 A. Uh-huh. Yes, sir.

17 Q. When -- when you were there, where was the
18 interview conducted? Where did you talk to Deanna
19 and [REDACTED] Minor

20 A. There was a chair sitting -- as you come
21 straight in the front door, there was a chair there.
22 I sat there and [REDACTED] Minor sat on the couch ---

23 Q. After ---

24 A. --- the small couch.

25 Q. Okay. After you talked to Deanna and [REDACTED] Minor

1 was there -- did you collect any type of evidence on
2 the scene?

3 A. No, sir.

4 Q. Did you take any fingerprints?

5 A. No, sir.

6 Q. And that might be kind of a strange question,
7 but why would you not take any kind of fingerprints
8 in a case like this?

9 A. In a case like this, you know, the only place
10 there may have been fingerprints would've been on
11 her body or on her clothes. And you cannot gather
12 latent fingerprints from a body or from clothing.

13 Q. Why is that? Does it have to do with the type
14 of surface?

15 A. Yes. The type of surface.

16 Q. What -- what type of surfaces are typically --
17 are conducive to taking fingerprints?

18 A. Pretty much like a hard surface, a table. You
19 know, you can't -- you can't collect fingerprints
20 off of carpet, but any kind of hard surface.

21 Q. And skin, you can't take fingerprints from
22 skin?

23 A. No, sir.

24 Q. A lot of people in Abbeville County have --
25 have deer cameras on their property; is that -- is

1 that right?

2 A. Correct.

3 Q. Was there any cameras that that family had in
4 their house?

5 A. No, sir. Not that I'm aware of.

6 Q. Once you finished up at the house, was there
7 anything else you did at the house when you -- when
8 you got there and talked with the family?

9 A. No, sir.

10 Q. What did you do after you left?

11 A. When I left there, I went back to the office
12 and I set up a forensic interview for [Minor] And
13 pretty much we had to wait until I think -- I'm not
14 sure how many days it was before the forensic
15 interview, but...

16 Q. Okay. Did -- did you take [Minor] to the
17 hospital for any kind of medical exam?

18 A. No, sir.

19 Q. And why would you not do that in this case?

20 A. Because [Minor] stated that he had not
21 penetrated her at all. It was basically just
22 rubbing on top of her skin.

23 Any time there's any type of penetration, the
24 first place we take -- we take them is to the
25 hospital to have a rape kit done, but there was no

1 need in a rape kit or going to the hospital.

2 Q. Because you learned there was no penetration?

3 A. Correct.

4 Q. And if there were, you would've taken her to
5 the hospital?

6 A. Immediately.

7 Q. A couple days later, you had the occasion to
8 interview Mr. Clark; is that correct?

9 A. Yes, sir.

10 Q. Do you know when that was?

11 A. I believe it may have been May 2nd.

12 MR. BLACK: Your Honor, may I approach the
13 witness?

14 THE COURT: You sure can.

15 BY MR. BLACK:

16 Q. I'm showing you what's been marked as State's
17 No. 3. I'm just going to let you hold onto this for
18 a minute. And what was the date of the interview
19 with Mr. Clark?

20 A. May the 2nd.

21 Q. Where did that occur?

22 A. Abbeville County Sheriff's Office.

23 Q. When you interviewed Mr. Clark, did -- do you
24 remember him -- how did he -- how did that interview
25 take place? Did you call him up?

1 A. No, sir.

2 Q. Okay. Do you know how he got to the Sheriff's
3 Department?

4 A. He came on his own.

5 Q. And when he showed up, what did you do when you
6 interviewed him?

7 A. The first thing I did was I turned on the --
8 you know, the video and the audio in our interview
9 room.

10 Q. So the interview was recorded?

11 A. Correct. And then I brought out the Miranda
12 form, I read his rights to him, and asked him to
13 initial each one as I -- as I read them to him.

14 Q. Is that the -- is that the waiver form that
15 you're referring to ---

16 A. Yes, sir.

17 Q. --- in your hand?

18 A. Yes, sir.

19 Q. Is that a -- is that kind of a standard
20 document that y'all -- that y'all possess?

21 A. It is.

22 Q. And you typically -- when do y'all use these
23 documents?

24 A. Anyone that's typically a suspect in a case, we
25 always try to Mirandize -- we always Mirandize them.

1 Q. And that's just kind of standard operating
2 procedure?

3 A. Yes, sir.

4 Q. When -- when Mr. -- Mr. Clark, the defendant in
5 the case, when he showed up to the Abbeville County
6 Detention Center, you said he came on his own?

7 A. Yes, sir.

8 Q. Was he under arrest?

9 A. No, sir.

10 Q. After the interview, was he under arrest?

11 A. No, sir.

12 Q. Was he -- was he free to leave?

13 A. Yes, sir.

14 Q. Is it saying that he gave his statement
15 voluntarily?

16 A. Yes, sir.

17 Q. When you were -- when you were interviewing
18 him, did you smell any kind of alcohol or any --
19 anything on him?

20 A. No, sir.

21 Q. He seemed like he was in his right mind?

22 A. He did.

23 Q. And you stated that statement was recorded?

24 A. Yes, sir.

25 Q. Just for the jury's kind of benefit, what --

1 what are the rights that you typically -- that's on
2 that form?

3 A. The first one is, "You have the right to remain
4 silent."

5 Second one is, "Anything you say can and will
6 be used against you in a court of law."

7 The third one is, "You have the right to talk
8 to a lawyer."

9 The fourth one is, "If you cannot afford to
10 hire a lawyer, one will be appointed to represent
11 you before any questions if you wish."

12 The fifth one is, "You can decide at any time
13 to exercise these rights and not answer any
14 questions or make any statements."

15 Q. Is there a spot for an individual being
16 interviewed to make an initial beside that?

17 A. Yes, sir.

18 Q. Did Mr. Clark initial those?

19 A. He did.

20 Q. Is there a place for him to sign on that form?

21 A. Yes, sir.

22 Q. And where is that at?

23 A. It's the middle of the form.

24 Q. Did he -- did he sign that?

25 A. No, sir.

1 Q. But you're saying he did talk to you though?

2 A. He did.

3 Q. Voluntarily?

4 A. Yes, sir.

5 MR. BLACK: Your Honor, at this point, the
6 State moves Number 3 into evidence.

7 MS. NELSON: Renew pretrial objection.

8 THE COURT: Okay. So noted.

9 (State's Exhibit No. 3 is moved into evidence.)

10 BY MR. BLACK:

11 Q. And you said that interview that you did with
12 Mr. Clark that day was recorded?

13 A. Yes, sir.

14 Q. And you've had a chance to review that?

15 A. I have.

16 Q. And that's a fair and accurate reflection of
17 the interview?

18 A. Yes, it is.

19 MR. BLACK: Your Honor, at this point, the
20 State moves to place State's No. 4 into the evidence
21 and publish to the jury.

22 THE COURT: Okay. Ladies and gentlemen, let me
23 offer one explanation to you. There are portions of
24 this interview that have been taken out or the term
25 we use is "redacted."

1 What -- what we want you to consider is only
2 admissible evidence, relevant evidence. And so
3 portions of it -- based upon the Court's rulings,
4 portions of it has been taken out.

5 You're to place no significance whatsoever to
6 the fact that there have been portions taken out.
7 Okay. And in the course of doing that, physically
8 taking that out, there was a portion that was
9 inadvertently taken out that should've remained in.

10 So to avoid spending more time to put it back
11 into the equipment, at the conclusion you're going
12 to be told what that portion is and you're to
13 consider that as if it was a part of the -- the
14 video. The fact that it was inadvertently taken out
15 was that, it was inadvertent. It was no one's
16 fault.

17 They've worked together to make sure that based
18 upon the Court's rulings that it had been properly
19 redacted, but it was just one of those inadvertent
20 things. And that's technology. That's technology
21 for you. Okay.

22 But, again, place no significance on the fact
23 that I determined that portions of it is not going
24 to be for your inspection and viewing. Okay. All
25 right.

}

1 And Ms. Nelson will be the one, based upon my
2 ruling, that will actually read to you at the end of
3 this that portion that was inadvertently taken out.

4 You may proceed, Solicitor.

5 MR. BLACK: Thank you, Your Honor.

6 (Playing DVD video.)

7 THE COURT: Okay. Ms. Nelson, would you ---

8 MR. BLACK: I've got a couple more questions.

9 THE COURT: I know and I'm going to let you
10 continue with your -- but I want that portion that
11 was inadvertently redacted, go ahead and publish
12 now, and then -- then you can start back on your
13 direct.

14 MR. BLACK: Yes, sir.

15 MS. NELSON: In the portion that was redacted,
16 Sergeant Ashley says, "I promises you this, I'll
17 make a promise to you and I don't make many
18 promises, but I promise you this: Once we get the
19 write-up from the interviewer, this is what happens.
20 I present it to the judge. If she feels like it's
21 enough, an arrest warrant will be issued."

22 Anthony responds, "I'm willing to turn myself
23 in."

24 Sergeant Ashley says, "Well, if you, you
25 know -- I'll be more than happy to give you a phone

1 call and ask you to turn yourself in."

2 Anthony says, "I'm willing. I had no reason to
3 hide to run. I'll come turn myself in."

4 At that point, Anthony gives Sergeant Ashley
5 his mother's telephone number for contact.

6 And Sergeant Ashley says, "If she does issue a
7 warrant, I'll call you and I'll make sure the judge
8 and everyone knows you cooperated. You know, we'll
9 do whatever we've got to do to get you in and out."

10 THE COURT: Thank you, Ms. Nelson.

11 You may continue, Solicitor, with your direct
12 examination.

13 MR. BLACK: Thank you, Your Honor. Just for
14 the Court's record, I did move Number 4 into
15 evidence.

16 THE COURT: Okay. And subject to what is
17 already on the record, it will be Number 4 into
18 evidence for the State.

19 BY MR. BLACK:

20 Q. Detective Ashley, Ms. Nelson kind of stole my
21 thunder. Mr. Clark, he was cooperative and gave you
22 his phone number; is that right?

23 A. Yes.

24 Q. And he ultimately did turn himself in when a
25 warrant was issued?

1 A. Yes, sir.

2 Q. When the inter -- when this interview was
3 taken, do you remember that date again? Do you have
4 it on paper?

5 A. May the 2nd.

6 Q. May the 2nd. And on May the 2nd, was he
7 arrested?

8 A. No.

9 Q. He showed up voluntarily?

10 A. Correct.

11 Q. And he left voluntarily?

12 A. Yes, sir.

13 Q. And, ultimately, he was arrested, correct?

14 A. Correct.

15 Q. And that's Mr. Clark over here (indicating)?

16 A. Yes, sir.

17 MR. BLACK: That's all the questions I have.

18 THE COURT: All right. Cross-examination?

19 MS. GRANADE: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MS. GRANADE:

22 Q. Hi, Sergeant Ashley. How are you?

23 A. Good.

24 Q. All right. So you responded to [REDACTED] [REDACTED]

25 [REDACTED] a little before 8:30 on April 22, 2016?

1 A. Yes, ma'am.

2 Q. And you were called out about six hours after
3 the alleged incident occurred?

4 A. That's correct.

5 Q. And you had a body cam on ---

6 A. Yes, ma'am.

7 Q. --- when you walked in?

8 A. Uh-huh.

9 Q. And that body cam video only encompasses about
10 20 minutes?

11 A. Correct.

12 Q. But you stated earlier that you were there for
13 about an hour?

14 A. Correct.

15 Q. So at some point, you had turned your body cam
16 off?

17 A. Correct.

18 Q. Now, upon your arrival, you made contact with
19 Deanna, [Minor], and I think you said that
20 Devetrick, Sr., was there as well?

21 A. Yes, ma'am.

22 Q. And they were in the room all at the same time?

23 A. In the living room. Yes, ma'am.

24 Q. And the first person who told you what happened
25 was Deanna?

1 A. Yes, ma'am.

2 Q. Not [Minor] ?

3 A. Correct.

4 Q. So you did not get the story from [Minor] until
5 after Deanna had told you what happened?

6 A. Correct.

7 Q. And you actually only talked to [Minor] at
8 least what's shown on the body cam video, for about
9 two minutes?

10 A. Correct.

11 Q. And at that point, you had never met with
12 [Minor] alone?

13 A. Correct.

14 Q. Or thereafter?

15 A. Correct.

16 Q. Now, that trailer at [REDACTED], that is
17 owned by [Minor]'s great aunt, Frankie Nix?

18 A. Yes, ma'am.

19 Q. And she was in the trailer when the alleged
20 incident occurred?

21 A. Correct.

22 Q. But you never got a statement from Ms. Nix?

23 A. No, ma'am.

24 Q. And you never followed-up with her in the days
25 following the incident?

1 A. No, ma'am.

2 Q. Now, that trailer at [REDACTED], that's
3 a pretty small trailer, a single-wide trailer?

4 A. Yes, ma'am.

5 Q. Okay. There's not a lot of space in the living
6 room?

7 A. Correct.

8 Q. More specifically, there's not a whole lot of
9 space in between those couches?

10 A. Uh-huh.

11 THE COURT: You need to give a verbal response,
12 ma'am.

13 THE WITNESS: Correct.

14 BY MS. GRANADE:

15 Q. All right. Those couches are about 46 inches
16 apart?

17 A. I'm not sure exactly how far apart they are.

18 Q. Okay. Because you didn't measure it?

19 A. No.

20 Q. You also didn't take any photographs of the
21 trailer, correct?

22 A. Correct.

23 Q. Although pictures that we've seen today that
24 the State put up and we've put up, those were
25 obtained through our investigator, the defense's?

1 A. Right.

2 Q. All right. On May 2, 2016, it's about ten days
3 after the incident occurred, Anthony came into the
4 Sheriff's Office and spoke to you?

5 A. Yes, ma'am.

6 Q. And you had made no effort to contact him
7 before that?

8 A. No, ma'am.

9 Q. Even though he was a suspect in this crime?

10 A. Correct.

11 Q. And Anthony came in all on his own?

12 A. Correct.

13 Q. He answered your questions?

14 A. Yes, ma'am.

15 Q. Even though he didn't necessarily waive his
16 rights, he still answered your questions?

17 A. Yes, ma'am.

18 Q. And he said several times that he didn't commit
19 the crime?

20 A. Yes, ma'am.

21 Q. But he would plead to protect Minor?

22 A. Correct.

23 Q. And you, in fact, encouraged him not to plead
24 if he was, in fact, not guilty?

25 A. Correct.

1 Q. And here we are at trial, right?

2 A. Yes, ma'am.

3 MR. BLACK: Objection, Your Honor.

4 THE COURT: And the nature of your objection,
5 Solicitor?

6 MR. BLACK: Judge, it's the ultimate question.
7 That's -- that's her opinion, and this is -- this is
8 why we have 12 here, Judge.

9 MS. GRANADE: That's exactly my point.

10 THE COURT: Well, she just said, "And we're
11 here at trial." We all realize we're in a trial, so
12 I'll -- I'll overrule the objection. You may
13 proceed.

14 MS. GRANADE: Thank you, Your Honor.

15 BY MS. GRANADE:

16 Q. All right. And you stated in the interview
17 that an arrest warrant would at least in some part
18 be dependant on the interview of Minor

19 A. The forensic interview. Correct.

20 Q. And at that point, Anthony had given you his
21 mother's telephone number in the event that an
22 arrest warrant was issued?

23 A. Yes, ma'am.

24 Q. After that interview on May 2nd, you did not
25 arrest Anthony?

1 A. No, ma'am.

2 Q. Now, during the course of your conversation
3 with Anthony, he had mentioned that he was hanging
4 out with his brother that night. I guess it would
5 be April 21st?

6 A. Yes.

7 Q. Okay.

8 A. Up until midnight. It was the 21st.

9 Q. But you didn't make any effort to contact his
10 brother?

11 A. No, ma'am.

12 Q. You never went to Haigler Street or anywhere
13 where Anthony had said he'd been to talk to people
14 there?

15 A. No, ma'am.

16 Q. Now, I think it was 14 days after the alleged
17 incident occurred that an arrest warrant was issued?

18 A. Correct.

19 Q. And right after it was issued, you called
20 Anthony's mother?

21 A. Yes, ma'am.

22 Q. Because he had given you her telephone number?

23 A. Correct.

24 Q. And that same day that the warrant was issued,
25 Anthony turned himself in?

1 A. He did.

2 Q. You didn't have to go hunt him down?

3 A. No.

4 Q. He came to the Sheriff's Office voluntarily and
5 turned himself in?

6 A. Yes, ma'am.

7 MS. GRANADE: Nothing further. Thank you,
8 Sergeant Ashley.

9 THE COURT: Any redirect?

10 MR. BLACK: Briefly, Judge.

11 REDIRECT EXAMINATION

12 BY MR. BLACK:

13 Q. When you arrived at the house on April 22nd
14 that morning at eight o'clock, was -- the defendant
15 in this case, was he at the house?

16 A. No.

17 Q. He was not there?

18 A. No, sir.

19 Q. Did you know why he wasn't there?

20 A. Not initially, until I was able to speak to the
21 mother and Minor

22 Q. And from speaking to them, you learned what had
23 happened?

24 A. Correct.

25 Q. I believe it was mentioned that you briefly

1 spoke with [Minor] on April the 22nd that morning;
 2 is that correct?
 3 A. Correct.
 4 Q. I think it was mentioned that it was a
 5 two-minute conversation?
 6 A. I'm not sure how long it was.
 7 Q. But you spoke to her that -- that morning?
 8 A. Absolutely.
 9 Q. And these types of cases, is it typical that
 10 these children go to a child interviewer after a
 11 situation like this arises?
 12 A. Always.
 13 Q. Always?
 14 A. Always.
 15 Q. And where -- where does this take place?
 16 A. Takes place at Greenwood.
 17 Q. Is it Greenwood?
 18 A. Yes.
 19 Q. Okay. And when was Mr. Clark arrested again?
 20 A. I believe it was May the 6th.
 21 Q. I want you to be sure on that.
 22 A. Okay.
 23 Q. Take a look at that.
 24 A. (Reading.) May the 6th.
 25 Q. That's when he was arrested?

1 A. Yes, sir.

2 Q. And your interview with him was on May the 2nd;
3 is that right?

4 A. Yes, sir.

5 Q. So that was four days after the fact?

6 A. Yes, sir.

7 MR. BLACK: That's all the questions I have.

8 THE COURT: Any recross?

9 MS. GRANADE: No, Your Honor.

10 THE COURT: Thank you, ma'am. You can step
11 down.

12 (Witness excused.)

13 THE COURT: Let's take a very, very short break
14 and then we'll continue forward.

15 Ladies and gentlemen, let's go back to the jury
16 room and will be a short break and we'll get you
17 back out and we'll proceed forward again. No
18 discussion among yourselves about anything related
19 to this case. Okay. Go back to the jury room.

20 (At 4:33 p.m., jury left the courtroom.)

21 THE COURT: All right. We'll be in recess just
22 for a few minutes.

23 (From 4:33 to 4:45 p.m., a recess was taken.)

24 MR. BLACK: Judge, before we started, do we
25 need to have Ms. Strickland come in here and testify

1 about her qualifications to be a child interviewer
2 before the jury comes back in?

3 THE COURT: I mean, I -- I made the assumption
4 in my ruling that -- that the one factor concerning
5 being properly trained had been met. That may -- I
6 mean, I know -- I know you don't necessarily want to
7 concede that, but you may want to take a minute or
8 two and y'all go back there and talk to her. If
9 you're satisfied, then we don't need to do that en
10 camera.

11 MS. NELSON: Sure.

12 THE COURT: Why don't you just -- let's just
13 take a minute, Solicitor Black, or wherever she is
14 and just go back there and just let her -- if you're
15 satisfied, then we don't need to it en camera.

16 MS. NELSON: That's fine, Your Honor.

17 THE COURT: All right. Everybody be at ease.

18 (From 4:45 to 4:48 p.m., a recess was taken.)

19 THE COURT: Okay. Ms. Nelson, you've had an
20 opportunity to talk with the interviewer?

21 MS. NELSON: Yes, sir. Ms. Granade and I both
22 asked her questions and we're satisfied that she's
23 trained in the ---

24 THE COURT: Okay.

25 MS. NELSON: --- in the protocol and had ---

1 THE COURT: Right.

2 MS. NELSON: --- three years experience doing
3 it.

4 THE COURT: So, consequently, we don't need to
5 do anything en camera.

6 And then, of course, the -- Solicitor Black and
7 Brown, you understand as far as, you know, she
8 interviews children for a living and she interviewed
9 the child on such a day and here is the video.

10 MS. NELSON: And, of course, Your Honor, we
11 concede that one point while still ---

12 THE COURT: Sure.

13 MS. NELSON: --- preserving all our other
14 arguments.

15 THE COURT: Oh, by all means. Yeah, you're
16 protected on the record.

17 MS. NELSON: Thank you, Your Honor.

18 MR. BLACK: That was the extent of the
19 questions we're going to be asking.

20 THE COURT: Okay. But we're not -- we're doing
21 the aunt next, correct?

22 MR. BLACK: That's correct.

23 THE COURT: Okay. All right. Let's bring the
24 jury out, please.

25 THE BAILIFF: (Complying.)

1 (At 4:49 p.m., the jury entered the courtroom.)

2 THE COURT: Let the record reflect the jury is
3 back in.

4 I've noticed, as I indicated to you, that, you
5 know, most juries like to sit in the same seat and
6 you've done that which is -- which is fine. It's
7 kind of like, you know, at church, you sit in the
8 same pew at church, and so that holds true for --
9 for juries.

10 Solicitor Brown, do you want to call your next
11 witness?

12 MR. BROWN: Yes, Your Honor. State calls
13 Frankie Nix.

14 THE WITNESS: (Approaching.)

15 THE CLERK: Put your left hand on the Bible,
16 raise your right.

17 THE WITNESS: (Complying.)

18 THE CLERK: The evidence you're about to give
19 the Court be the truth, the whole truth, and nothing
20 but the truth?

21 THE WITNESS: Yes, ma'am.

22 THE CLERK: You may be seated.

23 THE WITNESS: (Complying.)

24 FRANKIE NIX,
25 having been produced and first duly sworn as a

1 witness on behalf of the State, then testified as
2 follows:

3 DIRECT EXAMINATION

4 BY MR. BROWN:

5 Q. Good afternoon, Ms. Nix.

6 A. Good afternoon.

7 Q. Please spell your first name.

8 A. F-r-a-n-k-i-e.

9 Q. And, Ms. Nix, where do you live?

10 A. [REDACTED], Abbeville, South Carolina.

11 Q. How long have you been there?

12 A. Seventeen years.

13 Q. Ms. Nix, do you -- are you an Abbevillian?

14 A. Yes.

15 Q. And you worked and lived here for quite some
16 time?

17 A. Yes.

18 Q. Where do you work?

19 A. Sixteen years with Hardee's in management.

20 Q. Hardee's here in Abbeville?

21 A. (Nonverbal response.)

22 Q. Is that a "yes"?

23 A. Yes.

24 Q. Ms. Nix, do you know [REDACTED] Minor ?

25 A. Yes.

- 1 Q. How -- how do you know her?
- 2 A. She's my niece -- my great niece.
- 3 Q. What about Deanna?
- 4 A. She's my niece.
- 5 Q. [REDACTED] Brother ?
- 6 A. He's my nephew.
- 7 Q. And [REDACTED] ?
- 8 A. He's my nephew.
- 9 Q. And that's [REDACTED] Minor 's little brother?
- 10 A. Yes, sir.
- 11 Q. Do you know George Anthony Clark?
- 12 A. Yes, I do.
- 13 Q. How do you know him?
- 14 A. We were dating at one point.
- 15 Q. Is Mr. Clark in the courtroom?
- 16 A. He is.
- 17 Q. Can you point him out for me?
- 18 A. Yes, sir. He's right there (indicating).
- 19 THE COURT: Let the record reflect she's
- 20 identified the defendant.
- 21 BY MR. BROWN:
- 22 Q. Ms. Nix, do you remember back April 22, 2016?
- 23 A. Yes.
- 24 Q. Were any of those people you mentioned just
- 25 now, were they in your house?

- 1 A. Yes.
- 2 Q. At [REDACTED] -- the address there, [REDACTED] ---
- 3 A. --- [REDACTED].
- 4 Q. --- [REDACTED]?
- 5 A. Correct.
- 6 Q. That night, who all was at your house?
- 7 A. Deanna, [REDACTED] Minor, [REDACTED] Brother, myself, until
- 8 Anthony called to pick him up.
- 9 Q. What time did [REDACTED] Brother., Deanna, and
- 10 [REDACTED] Minor get to your house?
- 11 A. They were already there.
- 12 Q. They got there earlier? I guess they were
- 13 there --
- 14 A. Earlier that day. Yes.
- 15 Q. --- Thurs -- the Thursday?
- 16 A. Yes, sir.
- 17 Q. And what were they doing at your house?
- 18 A. They were staying with me. They had problems ,
- 19 with their house with a pipe bursting, so they were
- 20 staying with me at the time.
- 21 Q. Where was [REDACTED] Minor going to school?
- 22 A. Westwood I think.
- 23 Q. Here in Abbeville?
- 24 A. Yes, sir.
- 25 Q. Was it easier for her to stay with you to get

1 to school the next day?

2 A. Yeah.

3 Q. Now, when Deanna, Brother and Minor and
4 Devetrick, Sr., when they come stay with you, where
5 would they sleep?

6 A. In the living room.

7 Q. And your living room, how would you describe
8 it?

9 A. (No response.)

10 Q. Well, let me just show you a picture. Let me
11 show you what's been marked as State's Evidence No.

12 2. Do you recognize that photo?

13 A. That's my living room.

14 Q. Okay. And what's in that living room?

15 A. A couch; a table; a trash can; love seat; lamp;
16 TV.

17 Q. Is that how it was April 22, 2016?

18 A. Yes.

19 Q. And that's the room that your niece, great
20 niece, great nephew, and nephew stayed in?

21 A. Correct.

22 Q. Now, that night you said they were at your
23 house, and then Anthony arrived later on. How did
24 Anthony get to your house?

25 A. He called me to pick him up.

1 Q. When you left to pick him up, what was -- what
2 were Deanna, [Minor], and [Redacted] doing?

3 A. Asleep.

4 Q. In that front den?

5 A. Yes, sir.

6 Q. And the night Anthony called you, where was he?

7 A. In Carver Apartments on Branch Street.

8 Q. Who was he with?

9 A. His brother.

10 Q. Did he hangout with his brother a lot?

11 A. No, sir.

12 Q. What time did you go pick him up?

13 A. I think it was around one o'clock when he
14 called me to come pick him up.

15 Q. And what time do you think he got back to your
16 house?

17 A. It's about like maybe 15 minutes from my house
18 to Carver Apartments and back.

19 Q. So if he called you around 1:00, say 1:30 or a
20 little after?

21 A. Somewhere around in there. Yes, sir.

22 Q. When you got back to your house -- well, first
23 of all, when you picked him up, how was he acting?

24 A. He was feeling pretty tipsy. Looked like, you
25 know, he had had a lot to drink.

1 Q. Had you seen him drink that night, or did he
2 have anything that made you think that?

3 A. He and his brother were sharing a bottle of --
4 I don't know the name of it, but it was a bottle of
5 liquor. It had a black label on it.

6 Q. So when he got in the car with you when you
7 picked him up at Carver Apartments, you could tell
8 he was tipsy?

9 A. Yeah, he was feeling pretty good.

10 Q. Now, once you got back to the house, what did
11 you do?

12 A. I went -- I went back down the hall to my
13 bedroom.

14 Q. Now, in relation to the front living room,
15 where is your bedroom?

16 A. Straight down the hall. Once you walk out of
17 the living room, you're in the hall, and you just go
18 straight down the hall to my bedroom.

19 Q. Would you say that's the opposite side of
20 the -- of the home?

21 A. Yes, sir.

22 Q. What did Anthony do?

23 A. Well, we first went back to the bedroom
24 together and we sat back there for a while and
25 talked, but he was -- and like I said, he was

1 feeling pretty good, but he just really wasn't --
2 wasn't acting himself.

3 And after a while, he asked about something to
4 eat, and I would go get it, but he said, no, he'd
5 get it. So he went into the kitchen and fixed
6 himself something to eat. He came back down the
7 hallway and ate it.

8 Q. Did he stay there in your room?

9 A. Yeah, he ate in the room. And then after he
10 got through eating, he took the plate back up to the
11 kitchen.

12 Q. While all of this is going on, you -- you and
13 Anthony came back in the house from going to pick
14 him up, did you notice -- did it wake up Deanna,

15 Minor or Brother

16 A. No, sir.

17 Q. Now, after he ate and -- ate in your room and
18 then took the plate back up, did you see what he did
19 after that?

20 A. No, sir. I didn't see anything, but after a
21 while, I heard a noise. And when I come out the
22 room and come up the hall, he was trying to -- I had
23 a picture in the hall and he was trying to put the
24 picture back up where it had fell and broke.

25 Q. While he's doing all of that with the picture,

1 were you -- actually, when you heard that noise,
2 were you already asleep or were you still awake?

3 A. I was watching TV in my bedroom.

4 Q. And show you what's been marked Defense No. 5.
5 Do you recognize that photograph?

6 A. Yes, sir.

7 Q. And do you see the picture that you're talking
8 about in that?

9 A. It's behind me.

10 Q. Now, once you heard that picture fall off the
11 wall, did you go see what was going on?

12 A. I did.

13 Q. What did you tell Mr. Clark at that time?

14 A. He was trying to put it back up, but I told
15 him, you know, that it had broke, that wasn't no
16 need to try and put it up. But he said that he
17 would try it anyway, so I left and went back down to
18 my bedroom.

19 Q. During this walking down the hall, did you see
20 if Deanna, **Minor**, or **Brother** were awake?

21 A. No, sir. I had -- I cut the hall light on when
22 I left out of my bedroom, but it didn't -- I didn't
23 see if none of them awoke.

24 Q. Did you hear them talking or anything like
25 that?

1 A. No, sir.

2 Q. After that happened, what did you do?

3 A. After he was trying to put the picture up, I
4 went back to my bed -- to my bedroom.

5 Q. What did Anthony do?

6 A. He stayed up trying to put the picture up.
7 That's where I left him was trying to hang the
8 picture back up on the wall.

9 Q. Did you ever -- did he ever come back in your
10 bedroom after that?

11 A. No. Not that I can remember. It was a while
12 later on that a knock came on the door and it was
13 Deanna, but it wasn't Anthony.

14 Q. How much longer after -- I guess after you had
15 been up that you got that knock?

16 A. It may have been an hour. I'm not exactly
17 sure, but I would -- it may have been about an hour.

18 Q. About an hour?

19 A. May have been. Yes, sir.

20 Q. When you heard that knock, were you asleep or
21 were you awake?

22 A. I was watching TV when she knocked on the
23 bedroom door.

24 Q. And if she knocked on the door, would that mean
25 your door was shut?

1 A. Yes, sir. It was closed.

2 Q. So during that hour, you didn't have your eyes
3 on Anthony?

4 A. No, sir.

5 Q. Again, in your words, he was pretty tipsy?

6 A. Yes, sir.

7 Q. When you got that knock on the door, what did
8 you do?

9 A. I said, "Come in." And then that's when Deanna
10 peeked her head in the door and asked me would I
11 come and get Anthony.

12 And I asked her, I think it was, "What was he
13 doing?"

14 And then that's when she said that -- well,
15 we -- her name is [Minor], but we call her [redacted]. And
16 that's when she said, [redacted] ---

17 MS. NELSON: Object to any hearsay, Your Honor.

18 THE COURT: Okay. All right. What hearsay are
19 you objecting to?

20 MS. NELSON: It sounded like Ms. Nix was about
21 to testify to something that someone else said.

22 MR. BROWN: I hadn't heard that yet.

23 THE COURT: You can't testify to what someone
24 else told you. I'm not sure if you were planning to
25 or not, but -- but don't. You may proceed.

1 BY MR. BROWN:

2 Q. Ms. Nix, after you got the knock on the door
3 and went to see about what that knock was about,
4 what did you do?

5 A. I went to the living room looking for Anthony.

6 Q. Where was he?

7 A. I found him in the first bedroom.

8 Q. After you found him, what did you do with him?

9 A. I called him a couple of times, and he didn't
10 answer. And then when I shake him -- I shook him
11 and he opened his eyes, you know, like he was waking
12 up like he had been asleep. And I asked him what
13 was going on.

14 Q. Did he answer you?

15 A. After he got himself together, he said -- his
16 answer to the question was no.

17 Q. After you got him up, did he stay at the house
18 the remainder of the night?

19 A. No, sir.

20 Q. Where did he go?

21 A. I carried him back to his mother's house.

22 Q. Later on after I guess the next day, did
23 Anthony have any clothes at your house?

24 A. Yes, sir. He had clothes at my house that
25 night, but the next morning I got up and I packed

1 his clothes and took them to his mother's house.

2 Q. Now, since that time and I guess leading up to
3 this, what was your relationship with Anthony?

4 A. We were boyfriend and girlfriend. We were
5 dating.

6 Q. Did y'all have any problems?

7 A. Only his mother.

8 Q. Only his mother. But yet y'all were still
9 boyfriend and girlfriend enough where he stayed at
10 your house?

11 A. Yes, sir.

12 Q. Once Mr. -- and it is true that up until a few
13 months ago, you actually had talked to Mr. Anthony,
14 right?

15 A. That's correct.

16 Q. When was the last time you talked to him?

17 A. It was around December -- between December of
18 last year and January or February of this year I
19 think.

20 Q. Have you talked to him since then?

21 A. No, sir. Not -- no, sir. Not since I stopped
22 going out to the -- out there to see him.

23 Q. That's fine. After he was -- after you took
24 him to his mother's house that night, April 22nd,
25 did law enforcement come to your house?

1 A. Yes, sir.

2 Q. When did they come?

3 A. That next morning.

4 Q. And where does [Minor], Deanna, Devetrick, and
5 [Brother] live now?

6 A. In Greenwood, South Carolina.

7 Q. But at the time just to help out with [Minor]
8 going to school, they were staying at your house
9 during those times?

10 A. Yes, sir.

11 Q. And, specifically, April 22, 2016?

12 A. Yes, sir.

13 Q. And, again, to the best of your knowledge when
14 you went to go pick up Anthony at his brother's
15 house, when you got back and even when the picture
16 fell, you never saw them wake up?

17 A. No, sir.

18 MR. BROWN: No further questions.

19 THE COURT: Cross-examination?

20 MS. GRANADE: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. GRANADE:

23 Q. Hi, Ms. Nix. How are you?

24 A. Fine. Thank you for asking. And yourself?

25 Q. I'm good. Thank you. All right. You own the

1 trailer at [REDACTED]?

2 A. That's correct.

3 Q. All right. And [REDACTED] Minor is your great niece?

4 A. Correct.

5 Q. And, of course, you were dating Anthony in
6 April of 2016?

7 A. Correct.

8 Q. And y'all had been dating for a few months at
9 least at that point?

10 A. Yes, ma'am.

11 Q. And Anthony was actually living with you at [REDACTED]
12 [REDACTED]?

13 A. Yes, ma'am.

14 Q. Now, back on the night of April 21st and into
15 the early morning of April 22nd, you picked Anthony
16 up?

17 A. Correct.

18 Q. All right. You picked him from Branch Street
19 here in Abbeville?

20 A. Correct.

21 Q. He had been hanging out with his brother?

22 A. Correct.

23 Q. All right. So you picked him up from Branch
24 Street, brought him home to [REDACTED]?

25 A. Correct.

1 Q. And then y'all both went into the back bedroom?

2 A. Correct.

3 Q. And he wanted something to eat?

4 A. Yes.

5 Q. So he walked down the hallway and into that
6 kitchen, and he got something to eat out of the
7 fridge?

8 A. Correct.

9 Q. And then you're saying he went back to the back
10 bedroom with you while he ate his food?

11 A. Correct.

12 Q. All right. And then he went back down the
13 hallway when he was done to rinse his plate off in
14 the sink?

15 A. He took the plate back. I can't say what he
16 did, but I know he took the plate back to the
17 kitchen.

18 Q. All right. Ms. Nix, this is Defense Exhibit 5,
19 and I'm going to put this up on the projector.

20 Okay.

21 All right. This area right there (indicating),
22 is that sort of an open window into the kitchen?

23 A. Correct.

24 Q. This, of course, is the living room down here
25 (indicating)?

1 A. Can she move her head back a little bit?

2 Correct. I'm sorry. But I can't -- I want to see.

3 Yeah, that's correct.

4 MS. NELSON: Your Honor, if she wants to step
5 down a little closer where she can see, that's fine.

6 THE COURT: Would you rather step down closer?
7 Just need to make sure that you speak up loud since
8 you're away from the microphone.

9 THE WITNESS: Okay.

10 BY MS. GRANADE:

11 Q. All right. And this wall right here
12 (indicating), this separates the kitchen from the
13 living room?

14 A. Correct.

15 Q. And this couch over here (indicating) is where
16 Minor would've been sleeping?

17 A. That's the little sleep, correct.

18 Q. And this painting right there (indicating),
19 that fell down that night?

20 A. Yep. Right where it's at. It was hanging --
21 if you put -- it was hanging right where it fell
22 down at, but it was a long ways.

23 Q. All right. You can sit back down. We'll
24 get -- we'll get back to that painting more a little
25 bit later. Okay?

1 A. Okay.

2 Q. All right. So based on your previous
3 testimony, you were basically awake from the time
4 that you brought Anthony home until Deanna knocked
5 on the door?

6 A. Correct.

7 Q. And it was Deanna that first told you what
8 happened?

9 A. Correct.

10 Q. Not [Minor] ?

11 A. Correct.

12 Q. But [Minor] heard what Deanna said?

13 A. I'm not sure.

14 Q. And by this time, Anthony was asleep in the
15 front bedroom?

16 A. Correct.

17 Q. You had to wake him up?

18 A. Correct.

19 Q. And nobody called 9-1-1?

20 A. No, ma'am.

21 Q. Law enforcement wasn't alerted until at least
22 six hours later, the next morning?

23 A. I cannot answer that either, ma'am.

24 Q. But it was the next morning?

25 A. It was the next morning when I saw law

1 enforcement at my house. Yes.

2 Q. Okay. And when law enforcement arrived, you
3 were at the trailer?

4 A. Correct.

5 Q. Did they get a statement from you?

6 A. They didn't even acknowledge me at all.

7 Q. Okay. Now, we already established that you and
8 Anthony were dating back in April of 2016?

9 A. Correct.

10 Q. Are you aware that he went to the hospital
11 following this incident?

12 A. He told me about it. Yes, ma'am.

13 Q. Did you see the toxicology report?

14 A. I did.

15 Q. And at the time you thought maybe he had tested
16 positive for some drugs?

17 A. I -- I don't know how to read it at all. I
18 just know that I read it, so I'm not exactly sure.

19 Q. Okay. But you've never known Anthony to use
20 cocaine?

21 A. No, ma'am.

22 Q. No opiates?

23 A. No, ma'am.

24 Q. No barbiturates?

25 A. No, ma'am.

1 Q. No amphetamines?

2 A. No, ma'am.

3 Q. All right. And y'all were together some after
4 this incident occurred, correct?

5 A. Correct.

6 Q. That next Sunday, I think it was nine days
7 after this incident occurred, I think that was
8 May 1, 2016. Anthony actually came to [REDACTED]

9 [REDACTED]

10 A. He did. I'm not exactly sure of the date, but
11 he did.

12 Q. About a week after the incident?

13 A. I'm not even sure of that. I just know that he
14 came. I can't give a time limit or whatever because
15 I'm not sure.

16 Q. Okay. But it was after ---

17 A. It was after the incident. Yes, ma'am.

18 Q. All right. And he stayed the night there?

19 A. He did.

20 Q. And he actually had to hide under the bed in
21 the back bedroom to avoid being seen by anyone else?

22 A. He did.

23 Q. And when Anthony came back over there after
24 this occurred, he came back because you invited him
25 there?

1 A. I'm not exactly sure how it happened. I just
2 know we were talking up the street at a friend of
3 mine's house and we went to the house. I'm not
4 exactly sure if I invited him or else he just -- you
5 know, he just came on. I can't really say.

6 Q. But he was certainly there because you allowed
7 him to be?

8 A. Be he was -- yes, ma'am. Correct.

9 Q. Thank you. All right. I'm going to put up
10 Defense Exhibit 5 again.

11 Now, you've already said that this painting
12 that's lying on the floor, that used to be hung up,
13 right?

14 A. Correct.

15 Q. Right above where it's now lying down?

16 A. Correct.

17 Q. All right. And I'm going to show you what's
18 been marked as Defense Exhibit 6 for identification.

19 You can sit back down for now if you'd like.

20 A. (Complying.)

21 Q. All right. Do you recognize that picture?

22 A. Yes, ma'am.

23 Q. Can you tell me what it's of?

24 A. It's just of some water and looked like it's a
25 midnight painting of something that they painted

1 with the -- like a tree house or something and the
2 moon in it.

3 Q. Is that the painting that used to be hung on
4 the wall though?

5 A. Correct.

6 Q. Okay. So you own that painting?

7 A. Correct.

8 Q. And that's the same painting that was hanging
9 on the wall the night that this occurred back in
10 April 2016?

11 A. Yes.

12 MS. GRANADE: All right. Your Honor, we'd like
13 to move Defense Exhibit 6 into evidence.

14 THE COURT: What says the State?

15 MR. BROWN: Without objection.

16 THE COURT: Without objection, six for Defense
17 into evidence.

18 MS. GRANADE: Permission to publish, Your
19 Honor?

20 THE COURT: Certainly.

21 (Defense Exhibit No. 6 published to the jury.)

22 BY MS. GRANADE:

23 Q. All right. Just so that the jury can see and
24 everything's a bit more clear, this is the painting
25 that's depicted here?

- 1 A. Correct.
- 2 Q. Okay. Now, this painting looks kind of large?
- 3 A. It is.
- 4 Q. It is. And this is the painting that fell to
- 5 the ground that night?
- 6 A. That's correct.
- 7 Q. And it was loud enough that even though you
- 8 were in the back bedroom, you heard it fall?
- 9 A. Correct.
- 10 Q. And at the time you and Anthony actually fussed
- 11 a little bit about whether or not to hang it back
- 12 up?
- 13 A. We debated.
- 14 Q. Okay. And just to be clear, this (indicating)
- 15 is the living room?
- 16 A. Yes.
- 17 Q. This (indicating) is where the picture fell,
- 18 and this is -- sorry -- this is where the picture
- 19 fell?
- 20 A. Wait a minute. Where are you pointing again to
- 21 it?
- 22 Q. It's right here (indicating)?
- 23 A. Yeah, right. Right.
- 24 Q. And that's also where you and Anthony were
- 25 fussing a little bit that night?

1 A. We was going back and forth over leave it alone
2 or I'm going to put it up. Back and forth. Yes.

3 Q. And that's just a few feet away from where
4 everyone was sleeping in the living room?

5 A. Correct.

6 Q. And, Ms. Nix, from the time you got home that
7 night when you brought Anthony home, you were in the
8 back bedroom the entire time until this picture fell
9 to the ground?

10 A. Correct.

11 MS. GRANADE: Thank you for answering my
12 questions.

13 THE WITNESS: You're welcome.

14 THE COURT: Redirect?

15 MR. BROWN: Yes, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. BROWN:

18 Q. Ms. Nix, when you -- Ms. Nix, when you went and
19 picked Anthony up that night when you were coming
20 back into your home, were you wanting to be quiet?

21 A. Yes, sir. We were -- I told him we had to be
22 quiet because they were asleep.

23 Q. And with him walking up and down the hallway
24 and you being awake, would you say you're pretty
25 alert as to not want to make any noise?

1 A. Yeah.

2 Q. And, again, when you came out of your room when
3 he knocked the picture off the wall, did you see
4 that it woke them up?

5 A. No, sir.

6 Q. Now, moving on, what was the relationship like
7 between Minor and Anthony?

8 A. To me, it seemed like they had a great
9 relationship. I mean, they got along fine. They
10 talked to each other. He helped her with her
11 homework and stuff like that.

12 Q. From what you saw, did she have any vendetta
13 against him?

14 A. Not that I could see. No, sir.

15 Q. What about Deanna?

16 A. No, sir. Not that I could see.

17 Q. Would you say they had a pretty good
18 relationship?

19 A. I would -- I would say so. Yes, sir.

20 Q. So that night everybody that lived in that
21 house at the time, what was their relationship with
22 Anthony?

23 A. We were all getting along fine.

24 Q. Now, it was brought up about some drug report.
25 Did it turn out that he didn't have any of those

1 drugs in his system?

2 A. I don't know. I just -- I don't know. I just
3 know we saw it.

4 Q. What he thought he had drugs in his system?

5 A. I'm guessing. I'm assuming.

6 Q. That night, you used with your eyes and your
7 nose, what did you remember when you picked him up?

8 A. Just the big bottle of liquor that he and his
9 brother were sharing.

10 Q. Did he seem strung out or just normal tipsy?

11 A. Well -- well, just riding along with me, he
12 seemed like he was kind of tipsy. But, you know,
13 once we got back, he just -- at the house he just --
14 I don't know. It was like he just didn't seem
15 himself, like he -- you know, moving around and
16 stuff, but that's about how I remember it.

17 Q. That night, you kicked him out of your house?

18 A. I did.

19 MR. BROWN: No further questions.

20 THE COURT: Recross?

21 MS. GRANADE: Briefly, Your Honor.

22 RECROSS-EXAMINATION

23 BY MS. GRANADE:

24 Q. Ms. Nix, you've stated that Anthony was a
25 little bit tipsy that night, but he was walking

1 around, correct?

2 A. Correct.

3 Q. He was able to go down the hallway and into the
4 kitchen where ---

5 A. Leaning back and forth, yeah, but he was -- he
6 was walking.

7 Q. And he fixed himself a plate of food?

8 A. He did.

9 Q. He walked back to the back bedroom and ate?

10 A. Correct.

11 Q. Then he walked back to the kitchen to rinse his
12 dish off?

13 A. He went back to the kitchen.

14 Q. And the picture falling down that night, that
15 certainly wasn't quiet, was it?

16 A. It was like a thump thud, like it wasn't like
17 it made like a big kapow pow noise, but it was a
18 thud like something hitting the floor.

19 Q. Sure. When it fell to the ground?

20 A. Yes, ma'am.

21 Q. So it's pretty heavy?

22 A. Yes. It's pretty heavy.

23 Q. And Anthony made an effort to hang it back up?

24 A. He did.

25 MS. GRANADE: That's all. Thank you.

1 THE COURT: You can step down, ma'am. Thank
2 you.

3 (Witness excused.)

4 THE COURT: Solicitor, next witness.

5 MR. BLACK: State calls Katie Strickland to the
6 stand.

7 THE WITNESS: (Approaching.)

8 THE CLERK: Put your left hand on the Bible,
9 raise your right.

10 THE WITNESS: (Complying.)

11 THE CLERK: The evidence you're about to give
12 the Court be the truth, the whole truth, and nothing
13 but the truth?

14 THE WITNESS: Yes.

15 THE CLERK: Have a seat.

16 THE WITNESS: (Complying.)

17 KATIE STRICKLAND,
18 having been produced and first duly sworn as a
19 witness on behalf of the State, testified as
20 follows:

21 DIRECT EXAMINATION

22 BY MR. BLACK:

23 Q. Can you state your name for the record, please,
24 ma'am.

25 A. Katie Strickland.

1 Q. Is that an "i-e" or a "y"?

2 A. I-e.

3 Q. Ms. Strickland, you -- are you trained -- are
4 you trained in interviewing children?

5 A. I am. I'm trained to interview children in a
6 non-leading way.

7 Q. Yes. And you -- you had previously worked in
8 Greenwood; is that right?

9 A. Yes.

10 Q. Did you have the occasion to interview Minor
11 [REDACTED]?

12 A. I did.

13 Q. And do you remember when that was?

14 A. It was -- let me make sure -- April 28, 2016.

15 Q. And during the course of this interview, was it
16 video recorded?

17 A. It was.

18 Q. And have you had a chance to review the video?

19 A. I did.

20 Q. I'm going to show you what's been marked as
21 State's No. 5. Can you identify this?

22 A. Yes.

23 Q. Is this the video that you -- that you -- is
24 this your interview?

25 A. Yes.

1 Q. Is it a true and accurate representation of the
2 interview that you did with [Minor] ?

3 A. Yes.

4 MR. BLACK: Your Honor, at this point the State
5 moves Number 5 into evidence and asks permission to
6 publish to the jury.

7 THE COURT: Subject to what has already been
8 placed on the record previously?

9 MS. NELSON: Yes, Your Honor.

10 THE COURT: Be admitted into evidence, Number 5
11 for the State.

12 MR. BLACK: Thank you. And we would ask that
13 Ms. Strickland be allowed to step down during the
14 video portion.

15 THE COURT: Sure.

16 (Playing the DVD.)

17 MR. BLACK: Judge, I just want to make sure we
18 did introduce State's No. 5 into evidence.

19 THE COURT: Right. You did.

20 MR. BLACK: Judge, I don't have any other
21 questions for Ms. Strickland.

22 THE COURT: Okay. Any cross-examination by the
23 defense?

24 MS. GRANADE: Nothing from the defense, Your
25 Honor.

1 THE COURT: Okay. Thank you, ma'am. You can
2 step down.

3 THE WITNESS: Thank you.

4 (Witness excused.)

5 MR. BLACK: Judge, I think this is probably a
6 good stopping point for the evening.

7 THE COURT: Okay. All right. Okay. Ladies
8 and gentlemen, we've gone a little bit longer than
9 we normally have. I appreciate your hard work and
10 your good attention that you have paid to this case
11 thus far.

12 I have -- in the morning, I have worked in a
13 couple of other matters unrelated to this, and so
14 probably we'll start back with this at about 10:30,
15 so if you'll be back here at 10:30.

16 Again, I remind you to get a good night's rest.
17 Also remind you, no discussion about this case with
18 anybody that you come in contact with, and we'll see
19 you in the morning about 10:30. Have a good
20 evening.

21 (At 5:58 p.m., jury excused for the day.)

22 THE COURT: Is it the State's plan to rest in
23 the morning?

24 MR. BLACK: I think that's the plan, Judge. I
25 think we're going to talk it over tonight, but

1 that's probably what we're going to do, Judge.

2 THE COURT: Okay. Is it likely that there will
3 be any other witnesses? I'm not going hold your
4 feet to the fire.

5 MR. BLACK: I would say probably not.

6 THE COURT: Okay. All right. Well, it's about
7 six o'clock. Let's just wait until they rest and
8 then deal with motions, so let's go ahead and
9 adjourn for the evening.

10 MS. NELSON: Can I tell you one brief thing
11 before we stop, Your Honor?

12 THE COURT: You sure can.

13 MS. NELSON: The -- the video actually stopped
14 before the interviewer left the room.

15 THE COURT: Right.

16 MS. NELSON: And it -- I take responsibility
17 for not watching that entire video. I was just
18 looking for the parts that were redacted ---

19 THE COURT: Right.

20 MS. NELSON: --- with the truth telling and the
21 crying. There -- there are things that were omitted
22 about -- about Minor denying that when Ant drank
23 beer -- drank beer it made him act different. And
24 she was also -- she also specifically said no to
25 the -- when she was asked if he was drinking

1 anything when he touched her. And the video cut off
2 before that part played.

3 And like I said, I didn't catch that when I
4 reviewed it because I was just looking for the parts
5 that had been omitted and thought it was going to
6 play all the way up until the interviewer finished
7 talking to her and then left the room ---

8 THE COURT: Okay.

9 MS. NELSON: --- and she started drawing. So
10 we've again got something that's -- that was missing
11 and we think it's in -- if this is all going to come
12 in, we think it would be important for the jury to
13 hear that she denied that Ant was drinking when she
14 was touched.

15 THE COURT: Okay.

16 MS. NELSON: So I would -- I -- I could make
17 the same suggestion that we did today with what was
18 left out of Anthony's statement to have that -- the
19 exact quotes read to the jury.

20 MR. BROWN: Judge, over -- over the night, I
21 didn't -- it actually caught me by surprise too. I
22 thought it was on there when we were flipping
23 through it. We can actually get another copy of it
24 and finish it in the morning if that's okay.

25 THE COURT: All right. So -- so then,

1 Solicitor, you would agree that for whatever
2 reason ---

3 MR. BROWN: Yes, sir.

4 THE COURT: --- it terminated a little bit
5 premature and I thought it did too.

6 MR. BLACK: I thought it did too. I'm sure you
7 saw my reaction, Judge.

8 THE COURT: Right. Right. And -- all right.
9 Well, how about, let's try to -- if you can, try to
10 get that portion back in. We can play that ---

11 MR. BROWN: Yes, sir.

12 THE COURT: --- to the -- to the jury in the
13 morning. If for some reason you can't, then we'll
14 have the fall back and handle it in the same fashion
15 that we handled the defendant's statement, but try
16 to get it back in to where it could be played to the
17 jury.

18 MR. BROWN: Yes, sir.

19 MS. NELSON: And it seems like it would be easy
20 to just que it up to there and then stop it when the
21 interviewer -- when Ms. Strickland leaves the room.

22 THE COURT: Okay.

23 MR. BROWN: I think we can do that. To save
24 from Ms. Strickland not having to come back up ---

25 THE COURT: I don't think -- I would not think

1 since there was no desire to cross-examination ---

2 MR. BROWN: Okay.

3 THE COURT: --- and there was no continuation
4 of direct after the video was played. I don't see a
5 reason for her to have to be back here.

6 MR. BROWN: Judge, before we rest, we'll just
7 play that part we were having difficulties on it.

8 THE COURT: And I can explain to them that, you
9 know, just another little technology glitch and
10 we've been able to fix it and we're going to play a
11 little bit more of the video.

12 MR. BROWN: Okay.

13 MS. NELSON: Thank you, Your Honor. Sorry to
14 delay it.

15 THE COURT: Thank you. All right. Y'all have
16 a good evening. We'll see you in the morning.

17 (At 6:03 p.m., court adjourned for the day.)

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State of South Carolina
County of Abbeville

Court of General Sessions

State of South Carolina)
)
)
 v.)
)
 George Anthony Clark)
)
 Defendant.)

Transcript of Record
2016-GS-01-00516

August 30, 2017
Abbeville, South Carolina

B E F O R E:

The Honorable Donald Hocker, Judge; and a jury.

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

Micah Black, Assistant Solicitor
Attorney for the State

Yates Brown, Assistant Solicitor
Attorney for the State

Kami Granade, Assistant Public Defender
Attorney for the Defendant

Janna Nelson, Assistant Public Defender
Attorney for the Defendant

Lisa Scott
Circuit Court Reporter

Volume III

1 P R O C E E D I N G S

2 * * * * *

3 THE COURT: Ready to bring the jury out?

4 MR. BLACK: Judge, just before we get started,
5 we have already marked Court's Exhibits 1 and 2.
6 They are the original copies of the forensic
7 interview ---

8 THE COURT: Okay.

9 MR. BLACK: --- and the interview that Sherri
10 Ashley did with Mr. Clark, and just I want to put on
11 the record.

12 THE COURT: Okay. Very good.

13 MS. NELSON: And in that regard, in that same
14 vein, the four things that we filed with the clerk,
15 the motion for voir dire and et cetera, the motion
16 about the video; I have given all those to the court
17 reporter to be made Court's exhibits as well, Your
18 Honor.

19 THE COURT: Very good. Okay. We'll bring the
20 jury out and then we can -- we can put the
21 stipulation on the record concerning the age of the
22 defendant. And as I understand it, going to play
23 the remaining part of the forensic interview and
24 we'll proceed forward.

25 Bring the jury out, please.

1 THE BAILIFF: (Complying.)

2 (At 10:42 a.m., jury entered the courtroom.)

3 THE COURT: Let the record reflect the jury is
4 back in.

5 Good morning, ladies and gentlemen. I hope
6 everybody is doing well.

7 Solicitor, I think the first matter of
8 business, we have a stipulation to put on the -- on
9 the record.

10 MR. BROWN: Yes, Your Honor. The State, along
11 with defense, stipulated that George Anthony Clark
12 at the time of April 22, 2016, was the age of
13 42 years of age, and also his date of birth is
14 [REDACTED].

15 THE COURT: Okay. Very good.

16 Ms. Granade and Ms. Nelson, is that a correct
17 stipulation?

18 MS. NELSON: Yes, sir, Your Honor. We
19 stipulated that he was over 14.

20 THE COURT: Okay. All right. Very good. The
21 stipulation, ladies and gentlemen, is to be
22 considered as evidence in this case.

23 All right. Solicitor, you may proceed.

24 MR. BLACK: Yes, sir, Your Honor.

25 THE COURT: Ladies and gentlemen, as I

1 understand it, if you recall yesterday, the
2 interview with the child was played in the
3 courtroom. And it's my understanding that the end
4 part inadvertently did not get played, and they're
5 going to play that -- that remaining portion of that
6 interview with -- with the child.

7 Okay. You may proceed.

8 MR. BLACK: Thank you, Your Honor.

9 (Playing DVD of child.)

10 MR. BLACK: And, Your Honor, we stopped the
11 video at 3:30.

12 THE COURT: Okay. All right. Very good.
13 Anything further from the State?

14 MR. BLACK: No, sir, Your Honor. The State
15 rests.

16 THE COURT: Okay. All right. Very good.

17 Ladies and gentlemen of the jury, I have a
18 housekeeping matter to take up with the lawyers.
19 I'm going to ask that you go back to the jury room.
20 It should not be long. And, again, remind you no
21 discussion about this case among yourselves, and
22 we'll get you back out shortly.

23 (At 10:48 a.m., the jury left the courtroom.)

24 THE COURT: Defense have any motions?

25 MS. NELSON: Your Honor, at this time we'd move

1 sir?

2 THE DEFENDANT: I will not be testifying, sir.

3 THE COURT: Okay. And is that decision not to
4 testify, has that been made freely, voluntarily, and
5 intelligently made?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. Thank you very much, sir.
8 You can have a seat.

9 THE DEFENDANT: Thank you, sir.

10 THE COURT: All right. We'll bring the jury
11 out, and you can rest on the record. And then I
12 think you've indicated -- both sides have indicated
13 that they're prepared to go forward with closing
14 arguments.

15 MR. BLACK: Yes, sir, Your Honor.

16 THE COURT: Okay. Very good. Bring the jury
17 out, please.

18 THE BAILIFF: (Complying.)

19 (At 10:55 a.m., jury entered the courtroom.)

20 THE COURT: Let the record reflect the jury is
21 back in. The defense ready?

22 MS. NELSON: Your Honor, the defense rests and
23 renews all our motions made during the course of the
24 trial, both hearing and pretrial.

25 THE COURT: Okay. Very good. So noted for the

1 record.

2 Madam forelady and ladies and gentlemen of the
3 jury, the evidentiary record in this case is now
4 closed. So what we have left to do before I give
5 you this case to begin your deliberations, the
6 lawyers will make their closing arguments to you.

7 And then after that is done, I will give you
8 the charge on the law applicable to this case. So
9 if you will give the attorneys your undivided
10 attention, and Solicitor Black will go first.

11 MR. BLACK: Thank you, Your Honor. May it
12 please the Court?

13 THE COURT: Certainly.

14 CLOSING ARGUMENTS

15 MR. BLACK: Early morning hours on Friday,
16 April the 22nd of last year, 2016, [REDACTED] Minor ,
17 her life was forever changed because of the acts
18 that Mr. Clark did that night.

19 You've heard the testimony, seen the people get
20 up here on this witness stand and talk about what
21 happened on that day. And because of what happened,
22 Mr. Clark was charge -- was charged with criminal
23 sexual conduct with a minor in the third degree.

24 In a few minutes, the judge is -- like he
25 stated, he's going to read you the law. He's going

1 to tell you what's applicable, but I'm just going to
2 go ahead and read it to you now. And you'll have a
3 copy of these jury instructions back there with you
4 so you can look at them.

5 He's going to say that the defendant is charged
6 with committing criminal sexual conduct with a minor
7 in the third degree.

8 The State, our side, must prove beyond a
9 reasonable doubt that the defendant was over the age
10 of 14.

11 Next, the State must prove that the defendant
12 willfully and lewdly committed or attempted to
13 commit lewd or lascivious acts on or with the body
14 parts of a child under the age of 16 with the intent
15 of arousing, filling to or gratifying with lust,
16 passion, or sexual desires of the defendant or of
17 the child.

18 A couple of definitions that you'll have back
19 there:

20 Willfully means voluntarily and intentionally
21 with the specific intent to do something that the
22 law forbids.

23 Lewd means obscene, lustful, indecent, or
24 lecherous.

25 Lascivious means tending to incite lust, lewd,

1 indecent, obscene, or tending to deprave the morals
2 and respect of sexual relations.

3 ^ Simply put, that Mr. Clark molested [Minor]
4 [REDACTED] That's the law.

5 And you've heard a little bit about the
6 standard of proof that we as the State have. We
7 have to prove our case beyond a reasonable doubt.
8 And if any of you've ever seen any kind of legal
9 shows on television or any kind of movies talking
10 about the law, read any books, some legal books, you
11 know, stories, in all criminal courts in this
12 country, the State has to prove the case beyond a
13 reasonable doubt.

14 What's beyond a reasonable doubt? The judge
15 will instruct you on that as well. But beyond a
16 reasonable doubt, when you think about what is
17 beyond a reasonable doubt, we don't have to prove
18 our case beyond all doubt. We don't have to prove
19 our case beyond every doubt, every possible
20 conceivable doubt. It's not beyond a shadow of a
21 doubt. It's exactly what it is, it's beyond a
22 reasonable doubt. It's being firmly convinced of
23 something.

24 Reasonable doubt, you can't -- you can't take
25 it apart and put it in some kind of mathematical

1 equation, kind of quantitative analysis, qualitative
2 analysis. It's beyond a reasonable doubt. It's
3 being firmly convinced of something.

4 And the evidence that the record's been closed,
5 we're here now making our arguments. Once the
6 lawyers sit down, once you go back there and
7 deliberate, if you're firmly convinced of the
8 defendant's guilt, you have to find him guilty.

9 The judge will tell you that there are few
10 things in this world that we know for absolute
11 certainty, and the law doesn't require us to prove
12 somebody guilty -- guilty 100 percent certainty.
13 It's not -- that's not the standard. It's beyond a
14 reasonable doubt. It's being firmly convinced of
15 the defendant's guilt based on the evidence, the
16 witnesses, judging the credibility of the witnesses.
17 Those -- those three things.

18 So what is this case about? This case is about
19 Mr. Clark inappropriately touching [Minor]
20 after midnight, Friday morning, April 22nd.

21 Who did we hear from? Heard from Deanna Jones.
22 Deanna Jones is the mother of [Minor] She got up
23 here and testified. Her testimony was that she was
24 staying at her Aunt Frankie's house that night, over
25 here behind Abbeville Tire at [redacted] here

1 in Abbeville right outside the city.

2 She was staying there because her house on
3 [REDACTED], there's a problem with her sewer
4 line. They had gotten an apartment in Greenwood.
5 They were going to move to Greenwood, but it was
6 April. The kids got to finish out school because
7 there would've been a transfer issue if they'd
8 transferred schools in the middle of the school
9 year. So during the week they would stay at Aunt
10 Frankie's house. Why would they do that? It's
11 closer to school. It's easier for the kids.

12 When they got over there that night, the only
13 people over there was Aunt Frankie, Brother [REDACTED] Minor [REDACTED], and
14 Deanna. George Clark wasn't there.

15 What seemed like a normal night, got ready for
16 bed, went to sleep. It's a two-bedroom trailer.
17 Frankie's in the back front bedroom. Deanna,
18 [REDACTED] Minor [REDACTED], and her brother in the front room where the
19 door is where they typically slept on the two
20 couches. And you've seen pictures of those in the
21 living room.

22 Deanna testified that at some point while she
23 was attempting to turn over in the middle of the
24 night because we all toss and turn, Deanna is no
25 different, she was trying to turn over, [REDACTED] Minor [REDACTED] was

1 at her feet. Wouldn't let her turn over. She told
2 her, "Go back to bed, honey. We got school in the
3 morning." She wouldn't go. That's when [Minor]
4 told her mom what happened.

5 Like any mother would do, [Minor] got up and
6 went and talked to her great aunt, Frankie Nix, in
7 the back bedroom. Told her what her daughter told
8 her.

9 Frankie Nix and George Clark had had a
10 relationship. They were boyfriend and girlfriend at
11 the time. You heard Frankie's testimony.
12 Everything was fine. They weren't fighting. I
13 guess they fuss like normal people do, but who
14 doesn't? They weren't going through a breakup.
15 Deanna testified that she had a good relationship
16 with George Clark. Nothing was out of the ordinary.

17 Aunt Frankie talked to Deanna and talked to
18 [Minor] What did they do? They went to where
19 Mr. Clark was in the front bedroom and confronted
20 him. And immediately kicked him out of the house
21 and immediately drove him to his mother's house to
22 protect that little girl.

23 You heard testimony that this was about 2:30,
24 three o'clock in the morning. It's in the middle of
25 the night. They didn't go back to bed. Stayed up

1 all night.

2 When the -- when the workday started 7:00,
3 eight o'clock, [Minor] didn't go to school. Law
4 enforcement was called. Sherri Ashley, investigator
5 with the Sheriff's Department, showed up to the
6 house. Talked to the mother; then talked to
7 [Minor] George Clark wasn't there because he had
8 been taken to his mother's house.

9 Frankie Nix also testified that that night
10 Mr. Clark was hanging out with his brother. And at
11 some point later after midnight, she went and got
12 him -- got him and brought him back home. What was
13 her testimony? What was Deanna's testimony?

14 When they left, Deanna was on the bed sleeping
15 with [Brother] [Minor] was on the short couch in the
16 front bedroom. Frankie was awake while they were
17 asleep.

18 When he got home, Frankie with Mr. Clark, did
19 they wake up? No, they didn't wake up.

20 We asked Deanna, "Did you wake up? When did
21 you wake up that night?" When [Minor] was at her
22 feet.

23 You heard Frankie's testimony that when she got
24 home, her and Mr. Clark had a conversation. She
25 went to the back bedroom, closed the door, and

1 watched TV.

2 You heard about a picture falling off the wall.

3 And how did Frankie Nix describe that picture? Was

4 it a big kaboom? No. It was a thud. She got up.

5 They had a debate about him trying to put that

6 picture up. She went back in the bedroom.

7 And at that point, coming in and out of the

8 house, nobody waking up, picture falling off the

9 wall, that little girl didn't wake up. The mother

10 didn't wake up. She's in the back bedroom. Frankie

11 Nix in the back bedroom, it's open season.

12 At that point, Mr. Clark made his move and

13 approached [Minor] not once, but twice. And you

14 heard the testimony, rubbed on her chest and then

15 down her panties.

16 Sherri Ashley, the investigator with the

17 Sheriff's Department, she showed up at eight o'clock

18 in the morning. She heard the call over the radio.

19 She said she went straight there. And what did she

20 do? Well, talked to the mother. She talked to the

21 daughter. Talked to [Minor] Figured out what

22 happened. "Tell me what happened."

23 Once she got the story, she set up a child

24 interview and waited. Did she collect any evidence?

25 No. She didn't collect any evidence because there

1 wasn't any evidence. May seem like a silly
2 question, but I asked if you took any fingerprints.
3 Can't take fingerprints on skin. It's got to be
4 a -- it's got to be a surface, a hard surface like a
5 TV or a computer screen or hood of a car. Can't
6 take fingerprints.

7 What about a -- what about a medical exam?
8 Well, the story that Sherri got and the story that
9 you heard, the testimony that you heard under oath
10 and on the interview is there was no penetration.
11 You can't do a medical exam if there's no
12 penetration. Just touched on the outside.

13 Sherri Ashley with the Sheriff's Department
14 took the interviews, talked with family, waited for
15 the child interview, and then waited. What happened
16 while -- while Sherri was waiting? This happened on
17 April the 22nd. The child interview was later on in
18 April.

19 Mr. Clark wasn't arrested until May the 6th.
20 What happened on May the 2nd? No arrest warrant.
21 Sherri Ashley's testimony was that no arrest warrant
22 had been made. She's at her office, Abbeville
23 County Sheriff's Department, and Mr. Clark freely
24 and voluntarily, no warrant, shows up wanting to
25 talk. He gave a statement.

1 What was in his statement? He talked about a
2 lot of different things. He said the mother was in
3 the room. He said he had been having suicidal
4 thoughts. Went to the hospital. He said he was
5 drugged. He said he was tired of being confused.
6 He said they, the family, doesn't even want to push
7 the issue. He says, "I will plea so she doesn't
8 even have to testify." Plead? He hasn't even been
9 arrested yet. "I wasn't even there." Why? Why?
10 Guilty conscience. It's a guilty conscience.

11 (Playing DVD.)

12 MR. BLACK: To make sure that child doesn't get
13 on the stand and testify. Why does he want her to
14 not get on that stand and testify? Think about it.
15 It's your common sense, folks. When you marched up
16 here Monday, you marched up here Tuesday, and came
17 back here today, the most important thing you
18 brought with you is your common sense.

19 Why does he not want her to get up on that
20 stand and testify? How magnanimous of him? "I will
21 plead so she doesn't have to get up on that stand
22 and testify." How generous. Come on, folks. You
23 can see right through it.

24 (Playing DVD.)

25 MR. BLACK: Doesn't want it to affect her.

1 Don't want her to have to go to counseling. Why
2 would [Minor] have to go to counseling if she's
3 making it up? Why would she have backlashes six,
4 seven years down the line if it's just a made up
5 story? Does that make any sense at all?

6 You also heard from [Minor] You heard from
7 her twice. You saw the interview that
8 Ms. Strickland did with her a couple of days after
9 the fact. You saw her march around here, get up
10 here, put her Bible -- put her hand on the Bible,
11 sit here and testify. What did she say? What was
12 her testimony?

13 The judge is going to say that you have the
14 opportunity. You will be the judges of the
15 witnesses. You'll judge their credibility. How was
16 [Minor] on the stand? How was she in the interview
17 with Ms. Strickland? Twelve of you are the judges
18 of her credibility. Is she making it up?

19 [Minor] is a courageous little girl. It took
20 courage to go over to her mother and tell her what
21 happened that night. She's a brave little girl. It
22 took bravery to get up here on this stand and tell
23 12 people what happened to her, 12 strangers.

24 Is she making it up? Why would you go through
25 all of this to make up a story that night about a

1 man that she genuinely thought she had a good
2 relationship with, a man that would give her
3 piggyback rides and help her out with her homework
4 and never done anything to her and was good to her
5 family, good to her Aunt Frankie, good to her
6 mother, good to her little brother.

7 Make up a story that night? Make up a story a
8 couple of days later when she talks to the
9 interviewer, and then come in here and make up the
10 same story? Does that make sense?

11 There's an old saying that I'm sure everyone of
12 you have heard. True character is revealed when no
13 one is watching. In the morning -- at two o'clock
14 in the morning on April 22nd in the middle of the
15 night when no one was watching, when [Minor]'s
16 father was working in Anderson, working third shift,
17 when her mother was asleep, when her brother was
18 asleep, when [Minor] was asleep, under the cover of
19 darkness, after they had come in the house twice,
20 after Mr. Clark had been to the kitchen, after the
21 picture had fallen off the wall, and none of that
22 woke up that little girl, Mr. Clark made his move.

23 He molested [Minor] under the cover of
24 darkness, but that brave little girl walked up here
25 and uncovered the darkness and brought it to light

1 by telling you exactly what happened to her that
2 day. Folks, find him guilty.

3 THE COURT: All right. Ms. Granade.

4 MS. GRANADE: Thank you, Your Honor. May it
5 please the Court?

6 Ladies and gentlemen, I told you at the
7 beginning of this trial that Anthony did not dispute
8 that he was at [REDACTED] in the early
9 morning of April 22, 2016. You heard just about
10 every witness testify to that. You heard Anthony
11 admit as much in his videotaped interview with law
12 enforcement.

13 But in addition to Anthony and in addition to
14 [REDACTED] Minor, there were three other people in that
15 trailer that night. There was mom and little
16 brother sleeping in the same room on a couch less
17 than four feet away from [REDACTED] Minor and there was Aunt
18 Frankie in the back bedroom awake from the time she
19 brought Anthony home until the time Deanna came
20 knocking on her door that night.

21 Now, I can't tell you why [REDACTED] Minor would lie
22 about this, maybe it was suggested to her, maybe she
23 didn't want to sleep on that tiny little couch on
24 school nights anymore. I can't speculate. I won't
25 speculate. I don't have to speculate. I don't have

1 the burden here.

2 But I'd like to talk to you about some things
3 that we do know. We know that this trailer at [REDACTED]
4 [REDACTED] is a small single-wide trailer. By
5 now, you've all seen the pictures of this living
6 room. It's tiny. It's cramped. You've got two
7 couches pushed up against either side of the walls,
8 and you have this large coffee table in the middle
9 here. The area in between here is only 46 inches.

10 We know that [REDACTED] Minor's mother and her little
11 brother were sleeping on that couch on the opposite
12 side of the room, and we know that Aunt Frankie was
13 just down the hallway.

14 We know that there's a wall with an open
15 shuttered window that separates the kitchen from the
16 living room. Anthony was rumbling through the
17 fridge. He was fixing himself a plate of food that
18 night right beside the living room.

19 So let me again take you through the events of
20 that night. Anthony was on Branch Street with his
21 brother. They were hanging out. They were having a
22 good time. Frankie picked Anthony up from the
23 Branch Street apartments between midnight and one
24 o'clock in the morning. They came home and they
25 walked down to the back bedroom.

1 At that point, Anthony decided he was hungry so
2 he went back down the hallway and into that kitchen.
3 He rumbled through the cabinets to find himself a
4 plate. He rummaged through the fridge to find
5 himself some food. And then he walked back down to
6 the hallway and ate in Frankie's back bedroom. And
7 then he walked back to the kitchen to rinse his
8 plate off.

9 As Anthony turned to walk back down the
10 hallway, he accidentally knocked that painting off
11 the wall, this painting right here (indicating).
12 Pretty large and kind of clunky.

13 You heard Frankie testify that her and Anthony
14 debated about whether or not to hang that picture
15 back up. They debated right here in this hallway a
16 few feet from the living room where everyone was
17 supposed to be sleeping.

18 Today that painting is still lying right here
19 on the floor from where Anthony knocked it down that
20 night. So the State would have you believe that
21 three people stayed sleeping in that living room
22 while Anthony rifled through the kitchen which has
23 that open window into the living room and while that
24 large painting fell to the floor and made a thud in
25 that tiny trailer, a thud loud enough that Frankie

1 heard it from the back bedroom and walked down the
2 hallway to check to see what the commotion was.

3 On top of that, Frankie and Anthony then had a
4 debate about whether or not to hang it up right
5 there in the hallway a few feet from where everyone
6 was sleeping.

7 So not only did two children sleep through
8 this, but mom sleeps through all of this too.
9 Frankie was the only person awake that night. You
10 heard her testify. She was awake from the time she
11 brought Anthony home and she was still awake when
12 Deanna came and knocked on her door.

13 Frankie told you that Anthony went to the
14 kitchen two times that night and then knocked the
15 picture off the wall, yet [Minor] puts Anthony in
16 the kitchen only once and it was in between the
17 times that he's alleged to have touched her.
18 Frankie was the only one awake that night, and yet
19 [Minor]'s story conflicts with Frankie's.

20 Now, once [Minor] purportedly told her mother
21 about what happened Friday morning, Deanna walked
22 down the hallway and she told Frankie what happened.
23 She didn't call law enforcement.

24 Then Deanna called her own mother, [Minor]'s
25 grandmother, and she told her what happened. Still

1 didn't call law enforcement.

2 Deanna waited for her husband to come home from
3 working third shift. She told him what happened.
4 She still didn't call law enforcement. Law
5 enforcement wasn't notified until six hours after
6 this is supposed to have occurred.

7 And all this time, [Minor] hears all these
8 conversations, the conversation between mom and Aunt
9 Frankie, between mom and grandma, between mom and
10 dad. And when finally -- when law enforcement
11 finally arrives six hours later, Sergeant Ashley
12 first got the story from mom, not from [Minor]. So,
13 again, [Minor] hears this story told in someone
14 else's words before she tells her story.

15 And the owner of that trailer, the person who
16 told you she was awake all that night and into the
17 early morning, Sergeant Ashley never talked to her.
18 She never talked to Frankie Nix. There were no
19 written statements taken from -- from anyone inside
20 the trailer.

21 There were no photographs taken by law
22 enforcement. All these photographs that have been
23 introduced, those came from the defense's
24 investigator. We had to take our own pictures.
25 There's not a single picture taken by law

1 enforcement of this crime scene where this horrid
2 crime was alleged to have occurred.

3 Sergeant Ashley made no attempt to contact
4 Anthony's brother who he said he had been with that
5 night. She made no effort to go to the Branch
6 Street apartments to talk to anyone there to
7 corroborate his story. Sergeant Ashley didn't even
8 make an effort to contact the main suspect. Anthony
9 went down to the Sheriff's Office. He went there
10 voluntarily on his own volition and he talked to
11 Sergeant Ashley.

12 You got to hear all the relevant portions of
13 that interview, and you had -- you heard Anthony
14 say, "I'll plead. I'll plead to save Minor the
15 embarrassment of testifying," but he said, "I will
16 plead even though I'm not guilty."
17 Self-preservation kicked in, folks, and here we are
18 at trial. We're here because Anthony vehemently
19 denies these allegations. We're here because he's
20 not guilty.

21 So Sergeant Ashley waited about 14 days until
22 she swore out an arrest warrant. That same day, she
23 called a number that Anthony provided to her, and
24 Anthony came to the Sheriff's Office and he turned
25 himself in that day, the same day that the arrest

1 warrant was issued.

2 I told you at the beginning of this trial that
3 I would discuss with you some things that were not
4 mentioned or were mentioned by [Minor] during her
5 interview, some inconsistencies. You all got an
6 opportunity to watch that video. Yesterday [Minor]
7 testified that Anthony was kneeling both times he
8 touched her, but on the video you heard her say
9 standing up the first time and kneeling the second
10 time. She even demonstrated it.

11 [Minor] never mentioned which way she was lying
12 on that couch. The direction in which [Minor] was
13 lying makes all of the difference here. You have
14 this tiny living room. You have this 46-inch space
15 and you have this very large coffee table right here
16 (indicating) that takes up almost that entire
17 46-inch space. Had [Minor]'s head been toward the
18 TV on that side, it would make her story far less
19 plausible, especially given how large that coffee
20 table is and how much room it takes up in that small
21 46-inch space.

22 Folks, you heard that Anthony had been drinking
23 that night. We told you he'd been out with his
24 brother and had a good time, but [Minor] was
25 specifically asked during her interview if Anthony

1 had been drinking when he touched her and she said
2 no.

3 And I'd ask you to consider this, Frankie
4 testified that Anthony was stumbling around, that he
5 was swaying back and forth a little bit as he was
6 walking. He clumsily knocked the painting to the
7 floor, and yet he was able to quietly and discretely
8 touch this little girl with her mother and her
9 little brother 46 inches away and Aunt Frankie down
10 the hallway awake the whole time.

11 And then, of course, there's that painting that
12 fell to the floor with the loud thud that Aunt
13 Frankie heard from down the hallway. Neither
14 [Minor] nor Deanna ever mention that to law
15 enforcement, and [Minor] never mentioned that in her
16 interview.

17 You all heard Anthony say that he had been
18 alone with [Minor] before. He had babysat, played
19 with her, walked her home from the school bus. You
20 heard [Minor] mention that she used to play with
21 Anthony, that he would give her piggyback rides. So
22 why then would Anthony do this when [Minor]'s mother
23 was 46 inches from her? This far (indicating).

24 Why do it when [Minor] had the opportunity to
25 yell and to scream right away? Why do it when Aunt

1 Frankie was just down the hallway awake the whole
2 time? It just doesn't make sense. How could all
3 this have been going on and mom never woke up? Why
4 wouldn't mom have called law enforcement right away?

5 So now you'll all go back there to that jury
6 room, and you'll consider all of the facts,
7 everything that you've heard, everything that you've
8 seen. And I urge each of you to stick to your
9 convictions. Decide for yourself whether or not
10 you're convinced beyond a reasonable doubt.

11 Think about the shotty investigation. Think
12 about the inconsistencies in [Minor]'s story. And
13 please look at those pictures, the ones that the
14 defense provided. See for yourself how cramped that
15 little living room is. Think about how improbable
16 it is that Anthony would do this with a trailer full
17 of people, the majority of which were lying
18 46 inches away from [Minor]

19 When you consider all of that, I'd ask you to
20 find Anthony not guilty. Thank you.

21 THE COURT: The State have any reply argument
22 as to any new matters raised by the defense?

23 MR. BLACK: Yes, sir, Your Honor. Briefly.

24 THE COURT: Okay.

25 MR. BLACK: Folks, I'm not going to belabor the

1 point any longer. I'm going to try to be as brief
2 as possible, but talk to you about some of the
3 issues the defense raised.

4 The defense wants to talk about the
5 inconsistency in her statement, the statement she
6 gave and testified -- what she testified to today.
7 They want to talk about a shoddy police
8 investigation that happened.

9 Folks, inconsistencies, whether he stood up or
10 kneeled down, what her testimony was and what she
11 stated on that interview. It's been a year and
12 three, four months.

13 But what hasn't changed? It hasn't changed he
14 first rubbed on my chest. That was consistent all
15 the way through. When she told him to get away, he
16 went away, went to the kitchen and washed his hands,
17 warmed them by the heater, came back and stuck --
18 stuck his hands down her pants. Has that changed?
19 That story changed at all?

20 The defense wants to get up here and say that
21 Deanna was the one that said -- told the story. Law
22 enforcement got the story from Deanna. Where did
23 Deanna get the story from? She got that story from
24 [Minor] Deanna didn't make this up. Deanna has no
25 reason to make this up. [Minor] has no reason to

1 make it up.

2 [Minor] went and laid down at her mom's feet.
3 And when her mother asked what was wrong, she told
4 her. And based on that, Deanna went and talked to
5 Frankie Nix, her aunt. [Minor] told the child
6 interviewer, Ms. Strickland, the story, not Deanna.

7 Sergeant Ashley talked to [Minor] when she
8 showed up that morning. Deanna didn't make this
9 story up. Frankie Nix didn't make the story up.
10 [Minor] told the story she told her mom.

11 They want to talk about a shoddy police
12 investigation. Our investigator -- our investigator
13 took these pictures. Our investigator -- they
14 didn't -- they -- Sherri Ashley, she didn't talk to
15 Mr. Clark's brother. Why would she talk to the
16 brother? The brother wasn't there.

17 Do these pictures prove any kind of crime? Sex
18 crimes -- sexual crimes with a minor are secret
19 crimes. They're not done out in the open. People
20 don't talk about this. Sergeant Ashley was there
21 with a video at the house. Is there any kind of
22 security system, maybe video of the house? No. If
23 there was, she would've collected it.

24 These are secret crimes. They're done when no
25 one's watching. They're done when -- after

1 individuals come in and out of the house and no one
2 wakes up. And when aunt goes to the back bedroom --
3 Aunt Frankie Nix goes to the back bedroom and shuts
4 the door and watches TV, and an individual,
5 Mr. Clarks, walks through the house and no one wakes
6 up, that's when these crimes are committed. He saw
7 an opportunity and he took it. No one woke -- no
8 one woke up. There were no witnesses. Yeah, there
9 were three people in the house, but it was the
10 middle of the night.

11 Folks, use your common sense. Use your -- use
12 your life experiences. We all know people that
13 sleep through hurricanes, tornados, and thunder
14 storms. And they show up to work the next day and
15 the coworkers, "Hey, man, did you hear that storm?"
16 "I didn't hear nothing. Slept right through it."

17 Or we've got those people if you barely hit a
18 door, they wake up and they come out and yell at
19 you. We all know these people. We're not all --
20 we're not all cut from the same mold. We're all
21 different. And their testimony was that they
22 thought they were pretty heavy sleepers, and that
23 proved true, didn't it?

24 They want to -- they want to talk about the
25 fact that -- they want to talk about the fact that

1 Deanna and Frankie Nix didn't call law enforcement
2 at three o'clock in the morning. When a little
3 girl, one's daughter, says, "This man touched me on
4 my chest and in my panties," what's the first
5 thought in your mind, call the police or protect my
6 little girl? Their thought was to protect their
7 little girl. How is that wrong? It's not.

8 They want to talk about how she was laying on
9 the couch. You heard [Minor]'s testimony. [Minor]
10 said she was laying on her back. The second time he
11 came up there, he stuck his hands -- he was warming
12 up by the heater, underneath her panties. She was
13 on her back.

14 And, folks, if you want to -- if you want to
15 watch these videos again, they're in evidence. You
16 can come back out here and watch them. His
17 statement, her statement, they're in evidence. You
18 guys can watch them.

19 They want to talk about [Minor] not talking to
20 Ms. Strickland or the investigator about not hearing
21 the thud of the picture fall down. She was asleep.
22 She didn't hear the thud of the picture fall down
23 because she was asleep. That's why it wasn't
24 mentioned in the statement, [Minor]'s statement.

25 Folks, they want to make this case about

1 inconsistent statements, about shoddy police
2 investigation. Mr. Clark is on trial. This case
3 isn't about any of that. This case is about [Minor]
4 [REDACTED]. This case is about her courage to tell her
5 mother that night what happened. It's about her
6 bravery to get up here and tell 12 strangers what
7 happened that night. This case is about her, not
8 any of that other stuff they want to talk about.
9 Find him guilty.

10 THE COURT: Ladies and gentlemen, we're going
11 to take a really short break before I bring you back
12 out and charge you on the law in this case. So if
13 you'll go back to the jury room for a short break.
14 And, again, I remind you, no discussions.
15 Deliberations don't start yet. And we'll get you
16 back out shortly all. Okay.

17 (At 11:41 a.m., the jury left the courtroom.)

18 THE COURT: Short recess.

19 (From 11:41 to 11:53 a.m., a recess was taken.)

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

21 THE BAILIFF: (Complying.)

22 (At 11:53 a.m., jury entered the courtroom.)

23 THE COURT: Let the record reflect the jury is
24 back in.

25 Madam forelady and ladies and gentlemen of the

1 jury, I now will charge you the law applicable to
2 this case. You must consider the charge as a whole
3 and not focus on some portions to the exclusion of
4 other portions.

5 The indictment charges the defendant with
6 criminal sexual conduct with a minor, third degree.
7 I remind you once again, the fact that the defendant
8 has been arrested, charged, and indicted in this
9 case is not evidence in this case and not -- and
10 cannot be considered by you as evidence of guilt in
11 this case, nor does it create any presumption or
12 inference of guilt. The indictment is simply the
13 formal written instrument which contains the charge
14 made against the defendant. It is the formal
15 document by which this case is brought into this
16 court.

17 The defendant has pled not guilty to the
18 indictment and, therefore, that plea of not guilty
19 puts the burden on the State to prove the defendant
20 guilty. A person charged with committing a criminal
21 offense in South Carolina is never required to prove
22 himself innocent.

23 I charge you that it is an important rule of
24 the law that the defendant in a criminal trial, no
25 matter what the seriousness of the crime may be,

1 will always be presumed to be innocent of the crime
2 for which the indictment was issued, unless guilt
3 has been proven by evidence satisfying you of that
4 guilt beyond a reasonable doubt.

5 This presumption of innocence does not end when
6 you begin your deliberations, but it accompanies the
7 defendant throughout the entire trial, unless you
8 reach a verdict of guilt based on evidence
9 satisfying you of that guilt beyond a reasonable
10 doubt.

11 This presumption of innocence is like a robe of
12 righteousness placed about the shoulders of the
13 defendant, which remains with the defendant unless
14 it has been stripped from the defendant by evidence
15 satisfying you of the defendant's guilt beyond a
16 reasonable doubt.

17 Now, this presumption of innocence is not mere
18 legal theory. It's not just a legal phrase that we
19 use in court. It is a substantial right to which
20 every defendant is entitled, unless you, the jury,
21 are satisfied from the evidence of the defendant's
22 guilt beyond a reasonable doubt.

23 Now, concerning reasonable doubt, some of you
24 may have served as jurors in civil cases where you
25 were told that it is only necessary to prove that a

1 fact is more likely true than not true, such as by
2 the greater weight of the preponderance of the
3 evidence.

4 However, in criminal cases, the State's proof
5 must be more powerful than that. It must be beyond
6 a reasonable doubt. Proof beyond a reasonable doubt
7 is proof that leaves you firmly convinced of the
8 defendant's guilt.

9 Now, there are very few things in this world
10 that we know with absolute certainty. And in
11 criminal cases, the laws does not require proof that
12 overcomes every possible doubt, yet based on your
13 consideration of the evidence, you are firmly
14 convinced that a defendant is guilty of the crime
15 charged, then you must find the defendant guilty.

16 If on the other hand you think there's a real
17 possibility that the defendant is not guilty, you
18 must give the defendant the benefit of the doubt and
19 find him not guilty.

20 Once again, I remind you, madam forelady and
21 ladies and gentlemen of the jury, that during this
22 trial, you and I have had certain duties to perform.
23 As the trial judge, it's been my responsibility to
24 preside over the trial of this case and also had the
25 duty to rule on the admissibility of the evidence

1 offered during this trial. You are to consider only
2 the competent evidence before you.

3 If there's any testimony ordered stricken from
4 the record in this case during this trial, you must
5 disregard that testimony. You are to consider only
6 the testimony which has been presented from this
7 witness stand, any exhibits which have been made a
8 part of the record in this case, and any
9 stipulations between the attorneys.

10 I have the additional duty to charge you the
11 law applicable to this case. As the presiding
12 judge, I am the sole judge of the law in the case.
13 And it is your duty as jurors to accept the law as I
14 now stated to you.

15 If you already have any idea as to what the law
16 is or what the law ought to be and it does not agree
17 with what I now tell you the law is, you must
18 abandon your idea because you're sworn to accept the
19 law and apply the law exactly as I state it to you.

20 Once again, in every case tried in this court
21 before a jury, the jury becomes the sole and
22 exclusive judge of the facts in the case. A trial
23 judge cannot intimate, state, comment on, or make
24 any statement to a trial jury about the facts in the
25 case.

1 Since you, the jury, are the judge of the facts
2 in this case, you're not to infer from what I said
3 during the progress of this trial in ruling upon the
4 admissibility of evidence or otherwise or anything
5 that I say now during the course of this instruction
6 to you that I have any opinion about the facts in
7 this case. The law does not allow me to have an
8 opinion about the facts in this case. This is a
9 matter solely for you, the jury, to determine. As
10 jurors, it is your duty to determine the fact value
11 weight of the evidence presented during this trial.

12 Now, madam forelady and ladies and gentlemen of
13 the jury, there are two types of evidence which are
14 generally presented during the trial, that being
15 direct evidence and that being circumstantial
16 evidence.

17 Direct evidence directly proves the existence
18 of a fact and does not require deduction.

19 Circumstantial evidence is proof of a chain of
20 facts and circumstances indicating the existence of
21 a fact.

22 Crimes may be proven by circumstantial
23 evidence. The law makes no distinction between the
24 weight or value to be given to either direct or
25 circumstantial evidence.

1 However, to the extent the State relies on
2 circumstantial evidence, all of the circumstances
3 must be consistent with each other, and when taken
4 together point conclusively to the guilt of the
5 accused beyond a reasonable doubt. If these
6 circumstances merely portray the defendant's
7 behavior as suspicious, the proof has failed.

8 Once again, the State has the burden of proving
9 the defendant guilty beyond a reasonable doubt, and
10 this burden rests with the State regardless of
11 whether the State relies on direct evidence,
12 circumstantial evidence, or some combination of the
13 two.

14 Necessarily, you must determine the credibility
15 of witnesses who have testified in this case and the
16 evidence presented. Credibility simply means
17 believability. It becomes your duty as jurors to
18 analyze, evaluate the witnesses and the evidence,
19 and determine the credibility of the witnesses and
20 the evidence.

21 In determining the credibility of witnesses who
22 have testified in this case, you may believe one
23 witness over several witnesses or several witnesses
24 over one witness. You may believe part of the
25 testimony of a witness and reject the remaining part

1 of the testimony of that same witness.

2 You may believe the testimony of a witness in
3 its entirety or reject the testimony of a witness in
4 its entirety. You may consider whether any witness
5 has exhibited to you any interest, bias, prejudice,
6 or other motive in this case. You may also consider
7 the appearance and manner of a witness while on the
8 witness stand.

9 In order to establish criminal liability,
10 criminal intent is required. For example, the
11 mental state required to be proven by the State for
12 a particular crime might be purpose, intent,
13 knowledge, recklessness, or criminal negligence.

14 Criminal intent must be proven by the State
15 beyond a reasonable doubt. Criminal intent is
16 always a matter that must be determined by the jury
17 from the circumstances surrounding the situation.
18 Now, there's no way to prove intent to a
19 mathematical certainty. There's no way medical
20 science can dissect a person's brain and determine
21 what the person had in mind.

22 Some law says that criminal intent may be
23 inferred from the circumstances shown to have
24 existed. This is how you make a determination of
25 whether or not the element requiring intent was

1 present. It's not necessary to establish intent by
2 direct or positive evidence, but intent may be
3 established by inference in the same way as any
4 other fact by taking into consideration the acts of
5 the parties and all of the facts and circumstances
6 of the case.

7 Criminal intent is a mental state, a conscious
8 wrongdoing. And it is up to you to determine what
9 the defendant intended to do based on the
10 circumstances shown to have existed. Criminal
11 intent can arise from action or failure to act or
12 may arise as negligence, recklessness, or an
13 indifference to duty or consequences that is
14 considered by the law to be the equivalent of
15 criminal intent.

16 Now, during this trial you have heard testimony
17 from a child. Where a witness is a child, you must
18 determine as you would any other witness whether
19 that testimony is believable. In deciding
20 believability, you may consider not only matters
21 that I have already discussed with you, but you may
22 also consider the age of the child, the child's
23 ability to observe and remember facts, the child's
24 ability to understand and answer questions.

25 Because young children may not fully understand

1 what is happening here, it is up to you to decide
2 whether the child understood the seriousness of
3 appearing as a witness at this criminal trial,
4 whether the child understood the questions, whether
5 the child has a good memory, and whether the child
6 understands the difference between lying and telling
7 the truth. In addition, young children may be
8 influenced by the way the questions are asked. It
9 is up to you to decide whether the child understood
10 the questions asked.

11 Now, I instruct you, madam forelady and ladies
12 and gentlemen of the jury, and emphasize the fact
13 that the defendant did not testify is not a factor
14 to be considered by you in any way in your
15 deliberations and in your consideration on the
16 question of the guilt or the innocence of the
17 defendant. It must not be considered by you in any
18 manner whatsoever.

19 A defendant has the Constitutional right to
20 remain silent, and the assertion of this right must
21 not be considered by you in your deliberations. I
22 repeat, under the oath that you took, you are to
23 draw no conclusion whatsoever from the fact that the
24 defendant in this case did not testify.

25 The fact that this defendant did not testify

1 should not even be discussed in the jury room. The
2 burden of proof, as I've stated to you, is on the
3 State. The defendant is not required to prove his
4 innocence. The burden of proof remains on the State
5 to prove guilt beyond a reasonable doubt.

6 Now, a statement alleged to have been made by
7 the defendant has been admitted into evidence in
8 this case. While the Court has determined that the
9 statement is admissible, I instruct you that you
10 make the ultimate decision of whether or not the
11 defendant made the statement.

12 If the defendant did make the statement, you
13 must determine whether the statement was made by the
14 defendant voluntarily and of his own freewill. This
15 means that the statement was not caused by pressure,
16 force, fear, threats, coercion, or intimidation, or
17 by hope or a promise of leniency or a reward of any
18 kind.

19 In determining whether the statement was
20 voluntarily made, you consider both the
21 characteristics of the defendant and the details of
22 the question. Some of the factors that you may
23 consider are:

24 The age of the defendant. The defendant's
25 education or lack of education. The defendant's

1 mental ability or capacity. The defendant's IQ or
2 intelligence. The defendant's background or
3 environment. The place and length of detention.
4 The nature of the questioning. The advice or lack
5 thereof to the defendant of his Constitutional
6 rights including but not limed to, the right to
7 remain silent, that any statement could be used
8 against him in a court of law, the right to have a
9 lawyer present, that if he could not afford a
10 lawyer, a lawyer would be appointed to represent him
11 without any cost, and that he could stop making a
12 statement at any time.

13 You must carefully consider all of the
14 surrounding circumstances before you give any weight
15 to a statement made by the defendant. The State,
16 once again, has the burden of proving beyond a
17 reasonable doubt that the alleged statement was
18 voluntary. If you determine it was, you may give
19 the statement any further consideration that you
20 deem proper. You must decide what weight, if any,
21 should be given to the State. If you determine the
22 statement was not free and a voluntary statement of
23 the defendant, you should not consider the statement
24 at all.

25 Now, once again, the defendant has been charged

1 with committing a criminal sexual conduct with a
2 minor in the third degree. The State must first
3 prove beyond a reasonable doubt that the defendant
4 was over the age of 14. That was stipulated to by
5 the attorneys.

6 Next, the State must prove that the defendant
7 willfully and lewdly committed or attempted a lewd
8 or lascivious act on or with the body or its parts
9 of a child under the age of 16 years with the intent
10 to arouse, appeal to, or gratify the lust,
11 compassion, or sexual desire of the defendant or of
12 the child.

13 Willfully means voluntarily and intentionally
14 with the specific intent to do something the law
15 forbids.

16 Lewd means obscene, lustful, indecent, or
17 lecherous.

18 Lascivious means tending to incite lust, lewd,
19 indecent, obscene, or tending to deprave the morals
20 in respect to sexual relations.

21 Madam forelady and ladies and gentlemen of the
22 jury, there are two possible verdicts in this case,
23 guilty or not guilty. And I'm going to show you in
24 just a second the verdict form that you will need to
25 complete to indicate your verdict.

1 The verdict that you reach must be unanimous.
2 All 12 must agree to the verdict. And when you have
3 reached a unanimous verdict, then you're to knock on
4 door and notify the bailiff that a verdict, a
5 unanimous verdict, has been reached.

6 And also, you will be given a copy to take back
7 in the jury room of this jury charge and to use in
8 whatever manner that you feel like is appropriate.

9 Madam forelady, this is the verdict form. It
10 is very simple. It just names the case. And it
11 says as to indictment number which charges the
12 defendant with criminal sexual conduct with a minor,
13 third degree, "We the jury find the defendant guilty
14 or not guilty." You'll put your initials on the
15 appropriate line. The fact that guilty is listed
16 first above not guilty is of no significance
17 whatsoever. But when you reach your verdict, you'll
18 put your initials on the appropriate line and sign
19 it as forelady.

20 Okay. Now, I'm going to send the 13 of you
21 back to the jury room for just a moment. I need to
22 discuss with the lawyers if they have any objections
23 or requested additions to the Court's charge.

24 If they do not, then the bailiff will bring to
25 you all of the exhibits, the verdict form, and the

1 jury instructions. That will be your cue for two
2 things to happen.

3 Mr. Duncan, you will need to leave the jury
4 room, come back out here, and I'll talk with you at
5 that time. And then, madam forelady, you will begin
6 your deliberations at that time. If I need to bring
7 you out for an additional charge, then of course
8 we'll do that as well.

9 Okay. So if the 13 of you will go back to the
10 jury room. Don't begin your deliberations yet.

11 (At 12:10 p.m., jury left the courtroom.)

12 THE COURT: State have any objections or
13 exceptions to the Court's charge?

14 MR. BLACK: No, sir, Your Honor.

15 THE COURT: Defense?

16 MS. GRANADE: No, Your Honor.

17 THE COURT: Okay. Thank you very much. We'll
18 be off the record. Let's make sure we get all the
19 exhibits together.

20 (At 12:12 p.m., the jury began deliberating.)

21 (Verdict at 12:48 p.m.)

22 THE COURT: I understand there is a verdict.
23 If you'll bring the jury out, please.

24 THE BAILIFF: (Complying.)

25 (At 12:55, the jury entered the courtroom.)

1 THE COURT: The record will reflect the jury is
2 back.

3 Madam forelady, it's my understanding that you
4 have reached a verdict in this case; is that
5 correct?

6 THE FORELADY: Yes, Your Honor.

7 THE COURT: Without telling me what the verdict
8 is, is the verdict unanimous among the 12 of you?

9 MADAM FORELADY: Yes, Your Honor.

10 THE COURT: Okay. If you would hand the
11 paperwork to the bailiff and he will hand it to me.

12 THE BAILIFF: (Complying.)

13 THE COURT: Okay. Madam clerk, would you
14 publish the verdict, please?

15 THE CLERK: State of South Carolina, County of
16 Abbeville, Indictment 2016-GS-01516, *State of South*
17 *Carolina v. George Anthony Clark*, as to Indictment
18 No. 2016-GS-01516, which charges the defendant with
19 criminal sexual conduct with a minor, we, the jury,
20 find the defendant guilty, forelady, August 30,
21 2017.

22 Madam forelady, ladies and gentlemen of the
23 jury, is this your verdict so say you all? Please
24 signify by raising your right hand.

25 THE JURORS: (Complying.)

1 THE COURT: Let the record reflect that all 12
2 indicated in the affirmative.

3 Does the defense request individual polling of
4 the jury?

5 MS. NELSON: No, Your Honor.

6 THE COURT: Madam forelady and ladies and
7 gentlemen of the jury, let me thank you for your
8 jury service. The verdict that you reached in this
9 case does not matter to me. What matters to me is
10 that the jury performed their duties
11 conscientiously, diligently, and that the jury
12 follows the instructions from the Court and you have
13 done that.

14 As I told you at the outset yesterday, that you
15 have to pay very close attention to everything that
16 goes on because you don't have the benefit of taking
17 notes. And one of the jobs of a trial judge is
18 to -- is to watch the jury on a regular basis, and
19 I've done that. And at all times you were paying
20 very close attention to the proceedings, and I
21 appreciate that.

22 The -- you're more than welcome if you want to
23 stay for the sentencing proceedings that will take
24 place in just a few minutes, but you don't have to.
25 If you decide to stay, you'll just need to have a

1 for him to be at home with me.

2 THE COURT: Thank you, ma'am. Anything further
3 from the defense?

4 MS. GRANADE: No, Your Honor.

5 THE COURT: Anything further from the State?

6 MR. BLACK: No, sir, Your Honor.

7 THE COURT: Okay. Mr. Clark, when -- when a
8 jury comes back with a guilty verdict as what has
9 taken place this afternoon, then I accept as
10 100 percent absolute fact that you are guilty of the
11 crime charged.

12 And this is a -- anytime a child is involved in
13 any sort of being a victim of any sort of crime, and
14 especially a crime like this, it's just a -- it's
15 just a terrible, terrible situation. How anyone
16 could violate the dignity and the privacy of this
17 young little girl, I don't understand it. I don't
18 understand why you did what you did.

19 But given the nature of this offense, given the
20 nature or given the fact that you do have a prior
21 record where you have served two different times in
22 the Department of Corrections, the sentence of the
23 Court is, Mr. Clark, that you be committed to the
24 State Department of Corrections for 15 years.

25 Credit given for 481 days you've been

1 incarcerated.

2 You'll be placed on the central registry of
3 child abuse and neglect, the mandatory sex offender
4 registry, as well as the mandatory electronic
5 monitoring upon your release from prison. Good luck
6 to you, sir.

7 THE DEFENDANT: Thank you, sir.

8 (The proceedings concluded at 1:19 p.m.)

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WITNESSES

Sherri Ashley
Abbeville County Sheriff

WARRANT NUMBER

2016A0110200067

TRUE BILL

Carline Blackwell

Foreman of the Grand Jury

Date: DEC 05 2016

VERDICT

Guilty
Kathy R. Jull 8/30/17
Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

December Term, 2016

Indictment # 16GS01-0516

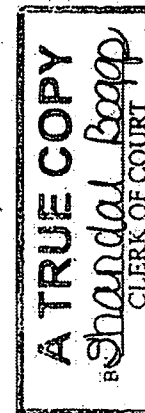
THE STATE

vs.

George Anthony Clark

INDICTMENT FOR

**CRIMINAL SEXUAL CONDUCT WITH
MINOR
§16-03-0655
CDR: 3661**



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THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT WITH MINOR
§16-03-0655

At a Court of General Sessions, convened on the 5th day of December, 2016, the Grand Jurors of Abbeville County present upon their oath:

That George Anthony Clark, on or about April 22, 2016, in Abbeville County, being over the age of fourteen (14) years, the said defendant did unlawfully, willfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body, or its parts, of a child under the age of sixteen years, to wit: Minor with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of the said defendant, or of the said child, Minor, in violation of Section 16-3-655(C) of the South Carolina Code of Laws, 1976, as amended.

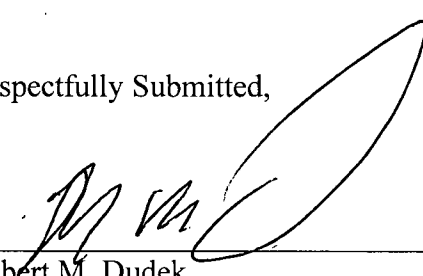
Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.


Assistant Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 22nd day of October, 2018.

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