

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Marion County

Honorable Thomas A. Russo, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

COURTNEY ANTHONY SMITH,

APPELLANT

APPELLATE CASE NO 2019-000857

RECORD ON APPEAL

ADAM SINCLAIR RUFFIN
Appellate Defender

ALAN WILSON
Attorney General

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

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

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
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State of South Carolina	)	Court of General Sessions
	)	Twelfth Judicial Circuit
County of Marion	)	Case No. 2018-GS-33-00469
	)	
	)	
The State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Courtney Anthony Smith,	)	
	)	
Defendant.	)	
	)	

May 14-16, 2019
Marion, South Carolina

B E F O R E:

The Honorable Thomas A. Russo, Judge; and a jury

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

David Richardson, Esquire
Emily Neller-moe, Esquire
Attorneys for the Plaintiff

William "Vick" Meetze, Esquire
Attorney for the Defendant

Krystal J. Smith
Circuit Court Reporter

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COURT REPORTER LEGEND

dashes -- intentional or purposeful interruption
or change in thought

ellipses . . . trailing off

[ph] phonetically written

[sic] written as said

1 MAY 14, 2019

2 (WHEREUPON, the proceedings began at 11:06 a.m. The
3 defendant was present, along with his counsel of
4 record.)

5 THE COURT: All right. Ladies and gentlemen, we're
6 going to pull a jury for our first case. I would recognize
7 the State for the calling of the first case.

8 MR. RICHARDSON: Thank you, Your Honor. If it pleases
9 the Court, the State would call the State of South Carolina
10 versus Courtney A. Smith, which is Indictment 2018-GS-33-
11 Number 469.

12 THE COURT: Thank you, sir.

13 Let me -- Mr. -- let me get y'all to step up real quick.
14 I just have one brief question. I think I have that.

15 (WHEREUPON, a bench conference was held in the presence
16 of the jury panel but out of the hearing of the jury
17 panel off the record, after which the proceedings
18 resumed as follows.)

19 THE COURT: All right. Ladies and gentlemen, you've
20 heard Mr. Richardson. He announced that the case, the first
21 case for trial, is the State of South Carolina versus
22 Courtney Anthony Smith.

23 Mr. Smith is charged under this indictment. An
24 indictment, ladies and gentlemen, is simply a piece of paper
25 that carries with it the charge or the allegations that the

1 State has made against a defendant. It is not in any sense
2 evidence in the case. It is merely the allegations that the
3 State is making against a person who is charged and, as I
4 said, it is not evidence that supports any of the allegations
5 that are contained here.

6 To these allegations or to these charges, Mr. Smith has
7 pled not guilty and so that plea of not guilty places upon
8 the State the burden of proving these charges beyond a
9 reasonable doubt. I'm going to read to you the allegations
10 or the charges that are contained in this indictment so that
11 you will have some understanding about what this case is
12 about and that you'll be able to answer any questions that I
13 have for you.

14 But this is Indictment Number 2018-GS-33-469, and it is
15 a two-count indictment. Count 1 of the indictment charges
16 Mr. Smith with criminal sexual conduct with a minor in the
17 first degree, and I'm going to read the allegations of that
18 charge to you.

19 The -- Count 1 charges that Courtney Anthony Smith did
20 in Marion County in the State of South Carolina on or about
21 June the 8th of 2018 willfully and unlawfully commit the crime
22 of criminal sexual conduct with a minor in the first degree
23 by engaging in a sexual battery with a minor who was less
24 than 11 years of age, to wit: a 10-year-old male, by
25 performing fellatio upon the child in violation of Section

1 16-3-655(a)(1) of the South Carolina Code of Laws, 1976, as
2 amended.

3 Count 2 of the indictment charges Mr. Smith with the
4 charge of criminal sexual conduct with a minor in the third
5 degree, and that allegation is as follows.

6 That Courtney Anthony Smith, being over 14 years of age,
7 did in Marion County on or about June the 8th of 2018
8 willfully and lewdly commit a lewd or lascivious act upon or
9 with the body of a child less than 16 years of age, to wit: a
10 10-year-old male, with the intent of arousing, appealing to
11 or gratifying the lust or passions or sexual desires of said
12 defendant or of the victim, including but not limited to
13 touching the penis of the child in violation of 16-3-655(c)
14 of the South Carolina Code of Laws, 1976, as amended.

15 These are the allegations contained in this indictment.
16 To these charges or to these allegations, Mr. Smith has pled
17 not guilty. That not guilty plea places upon him the
18 presumption of innocence and upon the State the burden of
19 proof.

20 Now, based on the information that I have given you
21 regarding these charges and these allegations, is there any
22 member of the jury panel who knows anything about this case?
23 If so, please stand.

24 (WHEREUPON, there was no response.)

25 THE COURT: Thank you. There are none.

1 I'm going to ask the attorneys to introduce themselves
2 so you'll get to know them and then I'll have questions to
3 ask you regarding the attorneys, and we'll begin with the
4 State.

5 MR. RICHARDSON: Thank you, Judge.

6 Good morning. My name is David Richardson and I'm a
7 prosecutor or assistant solicitor with the Twelfth Judicial
8 Circuit Solicitor's Office. Our elected solicitor is Ed
9 Clements, who is seated behind me. And assisting me with the
10 trial of this case is Emily Nellermoe.

11 THE COURT: All right.

12 MR. RICHARDSON: And Susan McGill also.

13 THE COURT: Ladies and gentlemen, is there any member of
14 the jury panel who is related by blood, connected by
15 marriage, or who has any close business or personal
16 relationship with or who has ever been either prosecuted by
17 or represented by either Mr. Richardson, Mr. Clements, Ms.
18 Nellermoe, Ms. McGill, or any member of the Solicitor's
19 Office staff? If so, please stand.

20 (WHEREUPON, there was no response.)

21 THE COURT: Thank you. There are none.

22 Mr. Meetze?

23 MR. MEETZE: Good morning. My name is Vick Meetze and I
24 work in the Twelfth Circuit Public Defender's Office. That's
25 Florence and Marion Counties. Our office consists of full-

1 time attorney, Franklin Chandler, our circuit-wide head
2 circuit defender, Scott Floyd. Hank Anderson is also an
3 attorney who works in our office. Our office has got a
4 manager, who is Ms. Molly Sloan.

5 THE COURT: All right. And if you'd introduce Mr. Smith
6 for me.

7 MR. MEETZE: Sure. And we represent and are happy to
8 represent Courtney Smith in this case.

9 THE COURT: All right. Thank you, gentlemen. You may
10 have a seat.

11 Ladies and gentlemen, is there any member of the jury
12 panel who is related by blood, connected by marriage, or who
13 has any close business or personal relationship with either
14 Mr. Meetze, Mr. Floyd, Mr. Anderson, Mr. Chandler, Ms. Sloan,
15 any member of the Public Defender's Office or who has ever
16 been represented by any of these attorneys? If so, please
17 stand.

18 (WHEREUPON, there was no response.)

19 THE COURT: Thank you. There are none.

20 You've met Mr. Smith. Is there any member of the jury
21 panel who is related by blood, connected by marriage, or who
22 has any close business or personal relationship with Mr.
23 Courtney Anthony Smith? If so, please stand.

24 (WHEREUPON, two people stood.)

25 THE COURT: All right, folks. Let me -- let me grab my

1 list here. I'm going to start on this side.

2 Ma'am, your name or -- yeah.

3 JUROR NUMBER 2: Vonzie Alston.

4 THE COURT: All right, Ms. Alston. This is Juror Number
5 2. Ms. Alston, how do you know Mr. Smith?

6 JUROR NUMBER 2: I met him through my job and I went to
7 his church.

8 THE COURT: Okay.

9 JUROR NUMBER 2: My husband is his friend.

10 THE COURT: He's an acquaintance? So you know him.

11 Ma'am, the fact that you know Mr. Smith in that fashion,
12 would that in any way affect your ability to give both the
13 State and the defense a fair and impartial trial?

14 JUROR NUMBER 2: I could give an impartial trial.

15 THE COURT: You could do that?

16 JUROR NUMBER 2: Yeah, I could.

17 THE COURT: Okay. Great. Thank you very much. You may
18 have a seat.

19 Ma'am, your name, please?

20 JUROR NUMBER 32: Wanda Cooper.

21 THE COURT: All right. And this is Juror Number 32.

22 Ms. Cooper, how do you know Mr. Smith?

23 JUROR NUMBER 32: I've known his entire family for about
24 20 years.

25 THE COURT: All right. The fact that you've known Mr.

1 Smith and his family for that period of time, would that in
2 any way affect your ability to give both the State and the
3 defense a fair and impartial trial?

4 JUROR NUMBER 32: I can give a fair trial.

5 THE COURT: You could?

6 JUROR NUMBER 32: Yes.

7 THE COURT: Thank you very much, ma'am. I appreciate
8 that.

9 All right. Now, I am going to call out a couple of
10 names. Well, several names. These are folks that are
11 possible witnesses. These are folks that may appear during
12 the course of this trial as witnesses.

13 That question that I asked you regarding with Mr. Smith
14 that are you related by blood, connected by marriage, or have
15 any close business or personal relationship, that's the
16 question that I'll be asking as it relates to these names, to
17 these folks.

18 So keeping that question in mind as I go through these
19 names, if you hear a name that you recognize and that
20 question would apply to you, I would ask you to stand. I've
21 got several names that I'm going to call; so if you do stand,
22 please continue to listen carefully because it may be that
23 you know more than one of these individuals.

24 The following people are listed as possible or potential
25 witnesses that may or may not testify during the course of

1 this trial, and if any of these witnesses are in court, I
2 would ask that they stand.

3 Mattie Smith.

4 Minor

5 Betty Woodbury.

6 Mike Hartson.

7 Bobby Bethea.

8 Meg Temple.

9 Any member of the jury related by blood, connected by
10 marriage, or have any close business or personal relationship
11 with any of these folks?

12 (WHEREUPON, there was no response.)

13 THE COURT: All right. Thank you. There are none.

14 Thank you, gentlemen.

15 Is there any member of the jury panel or member of your
16 family or close circle of friends who is employed by any
17 city, county, state or federal law enforcement agency? And
18 when I ask whether or not you or a member of your family or
19 close circle of friends is employed in that fashion, I am
20 referring either to presently or in the past has been
21 employed by any of these types of law enforcement agencies.
22 If so, please stand.

23 (WHEREUPON, several people stood.)

24 THE COURT: All right. Sir, your name, please?

25 JUROR NUMBER 78: 78, Marvin Hammond.

1 THE COURT: All right. Mr. Hammond, how does that
2 question apply, sir?

3 JUROR NUMBER 78: My son-in-law is a SLED agent.

4 THE COURT: All right. The fact that your son-in-law
5 works for SLED, would that in any way affect your ability to
6 be fair and impartial?

7 JUROR NUMBER 78: No.

8 THE COURT: Thank you, sir. You may have a seat.
9 Ma'am, your name, please?

10 JUROR NUMBER 146: Mary Lynn Suggs.

11 THE COURT: Okay.

12 THE LAW CLERK: 146.

13 THE COURT: 146. All right. Ms. Suggs?

14 JUROR NUMBER 146: My son is Highway Patrol.

15 THE COURT: All right. And the fact that you have that
16 relationship in your family, would that in any way affect
17 your ability to be fair and impartial to both the State and
18 the defense?

19 JUROR NUMBER 146: No, sir.

20 THE COURT: Thank you, ma'am. You may have a seat.

21 Sir, your name, please?

22 JUROR NUMBER 27: Max Shane Clark.

23 THE COURT: All right. Let me see.

24 THE LAW CLERK: 27.

25 THE COURT: Do what?

1 THE LAW CLERK: 27.

2 THE COURT: Mr. Clark, how does that question apply,
3 sir?

4 JUROR NUMBER 27: My son-in-law is a deputy sheriff in
5 Horry County.

6 THE COURT: All right, sir. The fact that you have that
7 relationship in your family, would that in any way affect
8 your ability to be fair and impartial?

9 JUROR NUMBER 27: No.

10 THE COURT: Thank you, sir. You may have a seat.

11 All right. I'm going to start over here and work my way
12 across. Yes, ma'am?

13 JUROR NUMBER 68: Marla Graham.

14 THE COURT: All right. Juror Number 68: Yes, ma'am?

15 JUROR NUMBER 68: My ex-brother-in-law is Capt. Chris
16 Smith.

17 THE COURT: All right. And, ma'am, the fact that you
18 have that relationship, would that in any way affect your
19 ability to give both the State and the defense a fair trial?

20 JUROR NUMBER 68: No.

21 THE COURT: Thank you very much. You may have a seat.
22 Yes, ma'am?

23 JUROR NUMBER 32: Wanda Cooper.

24 THE COURT: Ms. Cooper? All right. And we are back up
25 to here. This is -- Ms. Cooper is Juror Number 32.

1 JUROR NUMBER 32: My brother is on the Sheriff's
2 Department in Horry County.

3 THE COURT: All right. And, ma'am, would that in any
4 way affect your ability to give both the State and the
5 defense a fair trial and impartial trial?

6 JUROR NUMBER 32: No.

7 THE COURT: Thank you, ma'am. You may have a seat.

8 Yes, ma'am?

9 JUROR NUMBER 152: Tamara Turner. My son-in-law is a
10 police officer in the City of Mullins.

11 THE COURT: Okay. And --

12 THE LAW CLERK: 152.

13 THE COURT: This is Juror 152. Ms. Turner, would that
14 in any way affect your ability to give both the State and the
15 defense a fair and impartial trial?

16 JUROR NUMBER 152: No, sir.

17 THE COURT: Thank you, ma'am. You may have a seat.

18 JUROR NUMBER 2: I have a question.

19 THE COURT: Yes, ma'am.

20 JUROR NUMBER 2: My sister is a former Port Authority,
21 but outside of South Carolina. Does that matter?

22 THE COURT: Yeah, it -- yeah, it doesn't matter, no
23 matter where they work.

24 JUROR NUMBER 2: Okay.

25 THE COURT: So she works for the Port Authority in New

1 York?

2 JUROR NUMBER 2: Yes, New York and Jersey.

3 THE COURT: All right. And, ma'am, the fact that you
4 have that relationship in your family, would that in any way
5 affect your ability to be fair and impartial?

6 JUROR NUMBER 2: No, sir.

7 THE COURT: Thank you very much. And that was Ms.
8 Alston, Juror Number 2.

9 Is there any member of the jury panel, either yourself,
10 a member of your family or close circle of friends, who has
11 either in the past or currently ever been employed with any
12 city, county, state or federal prosecutor's office? If so,
13 please stand.

14 (WHEREUPON, there was no response.)

15 THE COURT: Thank you. There are none.

16 Is there any member of the jury panel or member of your
17 immediate family or close circle of friends who has
18 volunteered to work or volunteered their time to work with
19 any state, federal or county law enforcement agency or
20 prosecutor's office? If so, please stand.

21 (WHEREUPON, one person stood.)

22 THE COURT: All right. Ma'am, your name, please?

23 JUROR NUMBER 94: 94, Patricia Link.

24 THE COURT: All right. All right. Ms. Link, was it
25 yourself or a member of your family?

1 JUROR NUMBER 94: Myself.

2 THE COURT: All right. The fact that you've had that
3 experience of volunteering, would that in any way affect your
4 ability to give both the State and the defense a fair and
5 impartial trial?

6 JUROR NUMBER 94: No, sir.

7 THE COURT: Thank you very much, Ms. Link. You may have
8 a seat.

9 Is there any member of the jury panel who either in the
10 past or currently is a contributor -- and when I say a
11 contributor, I mean either by way of money or by way of
12 volunteering of your time. Is there any member of the panel
13 who is a contributor to any organizations such as MADD,
14 Mothers Against Drunk Drivers, SADD, Students Against Drunk
15 Driving, CAV, Citizens Against Violence, or any other type of
16 organization which lobbies on behalf of victims' rights or
17 for tougher criminal penalties? If so, please stand.

18 (WHEREUPON, two people stood.)

19 THE COURT: And, ma'am, your name, please?

20 JUROR NUMBER 65: Laurie Godbolt.

21 THE COURT: All right. And this is Juror Number 65.
22 And that was for who, ma'am?

23 JUROR NUMBER 65: Maury Howells [ph].

24 THE COURT: All right. And --

25 JUROR NUMBER 65: CAV [ph].

1 THE COURT: The fact that you are a contributor, would
2 that in any way affect your ability to give both the State
3 and the defense a fair trial?

4 JUROR NUMBER 65: No.

5 THE COURT: All right. Thank you very much, ma'am.

6 And then Juror 94, Ms. Link. Ms. Link, you indicated
7 earlier that you volunteered. Would that, again, in any way
8 affect your ability to be fair and impartial?

9 JUROR NUMBER 94: No.

10 THE COURT: Thank you, ma'am. You may have a seat.

11 Is there any member of the jury panel or member of your
12 immediate family or close circle of friends who is a
13 contributor to -- and again, I mean either by financially or
14 volunteering of your time -- any type of law enforcement
15 agency, such as the Fraternal Order of Police, the South
16 Carolina Law Enforcement Officers Association, the South
17 Carolina Troopers Association, the South Carolina Sheriffs'
18 Association? And it doesn't have to be all South Carolina.
19 It can be any -- or any national group that is supportive of
20 law enforcement agencies. If so, please stand.

21 (WHEREUPON, there was no response.)

22 THE COURT: Thank you. There are none.

23 Are there any other -- any additional or further
24 questions or voir dire from the State?

25 MR. RICHARDSON: No, Your Honor.

1 THE COURT: Anything additional from the defense?

2 MR. MEETZE: No, Your Honor.

3 THE COURT: All right. You want to go ahead and produce
4 the strike sheet?

5 THE CLERK: Yes, sir.

6 THE COURT: Okay. All right. Ladies and gentlemen, let
7 me tell you how we go about drawing our juries here in
8 General Sessions Court.

9 Your names all appear on this -- this jury roster and,
10 on this roster, essentially your names are listed here in
11 alphabetical order. Madam Clerk has a computer program and
12 what she's going to do is she's going to do a few keystrokes
13 here and it's going to take this jury list and it's going to
14 completely and randomly reorder this list.

15 In other words, I may be on this list as Tommy Russo,
16 Juror Number 134, and I may show up on this new list as Tommy
17 Russo, Juror Number 14. It's completely random. There's no
18 rhyme or reason to it, but it will create this new list.

19 Once that's done, she'll take that new list and from
20 that list she'll start at the top and she'll call the first
21 name. If your name is called, I would ask you to please
22 stand and just -- just stand where you're at.

23 And what Madam Clerk will do is she'll first inquire of
24 the State words to this effect, what say you for the State.
25 The State either can -- they have two options. They can

1 excuse you and, if they excuse you, you'll just have a seat.
2 Or they can present you. If they present you, you'll just
3 remain standing.

4 She'll then look to the defense with words to the same
5 effect, what say you for the defense. The defense has two
6 options. They can either excuse you and, if they excuse you,
7 you'll have a seat. Or they can seat you and, if they seat
8 you, you'll come around and have a seat over here in the jury
9 box.

10 Now, we'll go through that process until we've selected
11 our jury. All right.

12 And we're 5 and 10 on the strikes. All right. Y'all
13 concur with that, 5 and 10 on the strikes? All right.

14 Ladies and gentlemen, we're going to proceed now.

15 Is the State ready to proceed to jury selection?

16 MR. RICHARDSON: Yes, sir, Your Honor.

17 THE COURT: Is the defense ready to proceed to jury
18 selection? Y'all ready to proceed to jury selection?

19 MR. MEETZE: Yes.

20 THE COURT: Okay. All right. Ladies and gentlemen,
21 please listen up.

22 Madam Clerk?

23 THE CLERK: Juror Number 77, Sheena Hamilton.

24 (WHEREUPON, a black female stood.)

25 THE CLERK: What say the State?

1 MR. RICHARDSON: Please excuse the juror for this trial.

2 THE CLERK: Thank you, Ms. Hamilton. You can take a

3 seat.

4 Juror Number 94, Patricia Link.

5 (WHEREUPON, a white female stood.)

6 THE CLERK: What say the State?

7 MR. RICHARDSON: Please present the juror.

8 THE CLERK: What say the defense?

9 MR. MEETZE: Please excuse Ms. Link.

10 THE CLERK: Ms. Link, you can take a seat for me,

11 please.

12 Juror Number 26, Jessica Clark.

13 (WHEREUPON, a white female stood.)

14 THE CLERK: What say the State?

15 MR. RICHARDSON: Please present the juror.

16 THE CLERK: What say the defense?

17 MR. MEETZE: Please seat the juror.

18 THE CLERK: Excuse me?

19 THE COURT: What was that?

20 MR. MEETZE: Please swear -- I'm sorry -- Ms. Clark.

21 THE COURT: All right. Ms. Clark, if you'd come

22 forward, please.

23 THE CLERK: Juror Number 72, Penny Graves.

24 (WHEREUPON, a black female stood.)

25 THE CLERK: What say the State?

1 MR. RICHARDSON: Please present the juror.
2 THE CLERK: What say the defense?
3 MR. MEETZÉ: Please seat Ms. Graves.
4 THE CLERK: Ms. Graves, if you'll come up front, please.
5 Juror Number 152, Tamara Turner.
6 (WHEREUPON, a white female stood.)
7 THE CLERK: What say the State?
8 MR. RICHARDSON: Please present the juror.
9 THE CLERK: What say the defense?
10 MR. MEETZE: Please excuse Ms. Turner.
11 THE CLERK: Ms. Turner, you can take a seat for me,
12 please.
13 Juror Number 137, Carla Samuel.
14 (WHEREUPON, a black female stood.)
15 THE CLERK: What say the State?
16 MR. RICHARDSON: Please present the juror.
17 THE CLERK: What say the defense?
18 MR. MEETZE: Could we ask -- I'm sorry. Could we have
19 Ms. Samuel repeat her employment and her --
20 THE COURT: Yeah. Ms. Samuel, do you work outside the
21 home, ma'am?
22 JUROR NUMBER 137: Yes, sir.
23 THE COURT: What type of work do you do?
24 JUROR NUMBER 137: I work at Strongarm Industries. It
25 used to be AVM Industries.

1 THE COURT: Yes, ma'am. All right. Thank you.

2 MR. MEETZE: That -- we're good with that. Please seat
3 Ms. Samuel.

4 THE COURT: All right.

5 THE CLERK: Ms. Samuel, if you'll come up front, please.
6 Juror Number 78, Marvin Hammond.

7 (WHEREUPON, a white male stood.)

8 THE CLERK: What say the State?

9 MR. RICHARDSON: Please present the juror.

10 THE CLERK: What say the defense?

11 MR. MEETZE: Please excuse Mr. Hammond.

12 THE CLERK: You can take a seat, Mr. Hammond. Thank
13 you.

14 Juror Number 34, Brandon Covington.

15 (WHEREUPON, a black male stood.)

16 THE CLERK: What say the State?

17 MR. RICHARDSON: Please present the juror.

18 THE CLERK: What say the defense?

19 MR. MEETZE: Please seat Mr. Covington.

20 THE CLERK: Mr. Covington, if you'll come up front,
21 please.

22 Juror Number 58, Stacy Freeman.

23 (WHEREUPON, a white female stood.)

24 THE CLERK: What say the State?

25 MR. RICHARDSON: Please present the juror.

1 THE CLERK: What say the defense?

2 MR. MEETZE: Please seat Ms. Freeman.

3 THE CLERK: Ms. Freeman, if you'll come up front,
4 please.

5 Juror Number 122, He'lencia Page.

6 (WHEREUPON, a black female stood.)

7 THE CLERK: What say the State?

8 MR. RICHARDSON: Please excuse the juror.

9 THE CLERK: Thank you, Ms. Page.

10 Juror Number 65, Laurie Godbolt.

11 (WHEREUPON, a black female stood.)

12 THE CLERK: What say the State?

13 MR. RICHARDSON: Please excuse the juror.

14 THE CLERK: Thank you, Ms. Godbolt.

15 Juror Number 9, April Boatwright.

16 (WHEREUPON, a black female stood.)

17 THE CLERK: What say the State?

18 MR. RICHARDSON: Please present the juror.

19 THE CLERK: What say the defense?

20 MR. MEETZE: Please excuse Ms. Boatwright.

21 THE CLERK: Ms. Boatwright, you can take a seat. Thank
22 you.

23 Juror Number 70, Shemar Grant.

24 (WHEREUPON, a black male stood.)

25 THE CLERK: What say the State?

1 MR. RICHARDSON: Please present the juror.
2 THE CLERK: What say the defense?
3 MR. MEETZE: Please seat Mr. Grant.
4 THE CLERK: Mr. Grant, if you'll come up front, please.
5 Juror Number 38, Cynethia Davis.
6 (WHEREUPON, a black female stood.)
7 THE CLERK: What say the State?
8 MR. RICHARDSON: Please present the juror.
9 THE CLERK: What say the defense?
10 MR. MEETZE: Please seat Ms. Davis.
11 THE CLERK: Ms. Davis, if you'll come up front, please.
12 Juror Number 11, Bobby Brown.
13 (WHEREUPON, a black male stood.)
14 THE CLERK: What say the State?
15 MR. RICHARDSON: Please present the juror.
16 THE CLERK: What say the defense?
17 MR. MEETZE: Please seat Mr. Brown.
18 THE CLERK: Mr. Brown, if you'll come up front, please.
19 Juror Number 17, Hannah Bullard.
20 (WHEREUPON, a white female stood.)
21 THE CLERK: What say the State?
22 MR. RICHARDSON: Please present the juror.
23 THE CLERK: What say the defense?
24 MR. MEETZE: Please seat Ms. Bullard.
25 THE CLERK: Ms. Bullard, if you'll come up front,

1 please.

2 Juror 153, Cappie Vereen.

3 (WHEREUPON, a black female stood.)

4 THE CLERK: What say the State?

5 MR. RICHARDSON: Please present the juror.

6 THE CLERK: What say the defense?

7 MR. MEETZE: Please excuse Ms. Vereen.

8 THE CLERK: Ms. Vereen, you can take a seat. Thank you.

9 MR. MEETZE: May we approach, Your Honor?

10 THE COURT: Yes, sir.

11 (WHEREUPON, a bench conference was held in the presence
12 of the jury panel but out of the hearing of the jury
13 panel off the record, after which the proceedings
14 resumed as follows.)

15 THE COURT: All right.

16 THE CLERK: We're good?

17 THE COURT: Yeah.

18 THE CLERK: Juror Number 85, Linda Howard.

19 (WHEREUPON, a black female stood.)

20 THE CLERK: What say the State?

21 MR. RICHARDSON: Please present the juror.

22 THE CLERK: What say the defense?

23 MR. MEETZE: Please excuse Ms. Howard.

24 THE CLERK: Thank you, Ms. Howard.

25 Juror Number 20, Tracy Burroughs.

1 (WHEREUPON, a white female stood.)
2 THE CLERK: What say the State?
3 MR. RICHARDSON: Please present the juror.
4 THE CLERK: What say the defense?
5 MR. MEETZE: Please seat Ms. Burroughs.
6 THE CLERK: Ms. Burroughs, if you can come up front,
7 please.
8 Juror Number 102, Katie McDowell.
9 (WHEREUPON, a white female stood.)
10 THE CLERK: What say the State?
11 MR. RICHARDSON: Please present the juror.
12 THE CLERK: What say the defense?
13 MR. MEETZE: Please seat Ms. McDowell.
14 THE CLERK: Ms. McDowell, please come up front, please.
15 Number 175, Cody Wriglesworth.
16 (WHEREUPON, a white male stood.)
17 THE CLERK: What say the State?
18 MR. RICHARDSON: Please present the juror.
19 THE CLERK: What say the defense?
20 MR. MEETZE: Please seat Mr. Wriglesworth.
21 THE CLERK: Mr. Wriglesworth, if you'll come up front,
22 please.
23 THE COURT: All right. We'll do two alternates.
24 THE CLERK: For our alternates, Number 56, Charlie
25 Foley.

1 (WHEREUPON, a white male stood.)
2 THE CLERK: What say the State?
3 MR. RICHARDSON: Please excuse the juror.
4 THE CLERK: You can take a seat, Mr. Foley. Thank you.
5 Juror Number 83, Joyce Hewett.
6 (WHEREUPON, a white female stood.)
7 THE CLERK: What say the State?
8 MR. RICHARDSON: Please present the juror.
9 THE CLERK: What say the defense?
10 MR. MEETZE: Please seat Ms. Hewett.
11 THE CLERK: Ms. Hewett, if you'll come up front, please.
12 Juror Number 49, Catherine England --
13 THE COURT: Plisiewicz.
14 JUROR NUMBER 49: Plisiewicz.
15 THE CLERK: Plisiewicz.
16 (WHEREUPON, a white female stood.)
17 THE CLERK: What say the State?
18 MR. RICHARDSON: Please present the juror.
19 THE CLERK: What say the defense?
20 MR. MEETZE: Please seat the juror.
21 THE CLERK: Ms. Plisiewicz, if you'll come up front,
22 please.
23 THE COURT: All right. Are there any motions regarding
24 jury selection from the State?
25 MR. RICHARDSON: No objections, Judge.

1 THE COURT: Any motions from the defense?

2 MR. MEETZE: No, Your Honor.

3 THE COURT: All right. Ladies and gentlemen, for the
4 balance of the panel, I'm going to excuse you at this time.
5 I'm going to -- they have the number on the card?

6 THE CLERK: Yes, sir.

7 THE COURT: You've got the phone number on -- on your
8 card there. I am going to ask you, if you would, to call
9 that number after 6 o'clock this evening. There will be a
10 recording on there and, if you will, just follow the
11 instructions on the recording.

12 It may be -- it may tell you to be back tomorrow. It
13 may tell you to call back tomorrow. I don't know what the
14 instruction will be at this point, but whatever it is, please
15 follow that instruction that you get on that recording.

16 Please do yourself a favor. Now, don't forget to call
17 that number this evening. We've had folks -- because I'll
18 just tell you what's going to happen. If you don't call the
19 number and the message is to be back tomorrow and you don't
20 show up, then you might get embarrassed because we're going
21 to send a sheriff's deputy out to find you and probably the
22 first place they'll look is your home and then the second
23 place they're going to go to is where you're employed.

24 So it can be embarrassing if you innocently forget to
25 call and go to work tomorrow and the next thing you know

1 you've got a deputy saying I need you to come with me. So
2 don't forget to call. Just call that number. Follow
3 whatever the instructions are and -- and you'll be in good
4 shape then. Okay?

5 Now, I want everyone else to please remain seated while
6 the members of the jury are excused for the balance of the
7 day.

8 (WHEREUPON, the jury panel was excused and exited the
9 courtroom at 11:50 a.m.)

10 THE COURT: Folks, let me go head and address you while
11 they're filing out. In just a minute, I'm going to excuse
12 you for the balance of the day. We're going to start this
13 case tomorrow. Okay?

14 What I need you to do is -- your instructions are going
15 to be a little bit different. Actually, a lot different.

16 You're going to be the panel that is going to hear this
17 case. It's very important that you do everything within your
18 power to maintain your ability to be fair and impartial. And
19 what that means is when you leave here, you are not to have
20 any conversation with anybody about this case. Do not allow
21 anyone to address you and talk to you about the case. It's
22 very important that you do that.

23 Now, it's going to be a little bit harder than if you
24 were just going to be leaving here and going and grabbing a
25 bite of lunch and coming back, but it's a little bit more

1 difficult because I'm going to excuse you for the balance of
2 the day and, more than likely when you go home, you're going
3 to have family or friends that are going to be curious as to
4 whether or not you've been selected and, if you have been
5 selected, what kind of case is it.

6 It's very important that you tell them -- you can tell
7 them you have been selected and that you'll have to be back
8 tomorrow, but that's where it needs to end. Telling them
9 what kind of case it is or telling them the little bit you
10 know could possibly bring up a response that might compromise
11 your ability to stay fair and impartial.. So it's very
12 important that you have no conversation.

13 Tell folks that may be curious, family, friends or loved
14 ones, that you do have to be back. You're not allowed to
15 talk about the case and they need to understand that, but
16 that you can tell them to be patient. If they'll be patient,
17 when it's over, you can tell them everything. There will be
18 no restrictions. But until that time, it is very important
19 that you have no conversation.

20 It is also very important that -- and I guess the
21 simplest way to say this is to say when you come back
22 tomorrow, you should not know one more thing about this case
23 than you know right now. Okay?

24 In other words, don't try to do any personal or private
25 investigation. That would be highly improper. You're going

1 to take an oath to try this case and to decide this case
2 based solely upon the evidence that is presented here in this
3 courtroom and so it's very important that you don't try to do
4 any independent investigation on your own.

5 I would suggest that when you leave here, you just have
6 a good day. Have a good balance of the day. Relax. If you
7 can, before you come back tomorrow, try to get a good night's
8 rest. There have been countless studies that show that our
9 minds are more efficient and more alert when we're well
10 rested. So if you can do that, do that for me.

11 Now, here's what we're going to do. We've got a lot of
12 matters that we're going to take up that have nothing to do
13 with this case today. In the morning, I'm going to get with
14 the attorneys on this case and we're going to cover some pre-
15 trial matters. These are matters that we're going to get
16 resolved, legal matters, so that once we start the trial,
17 things will go a lot smoother and a lot faster.

18 So I'm going to ask you not to be back until 2 o'clock
19 tomorrow. Okay? So when you leave here in just a moment,
20 you just do everything within your power to protect that
21 ability to remain fair and impartial, and I would ask you to
22 please be back here -- leave yourself enough time to travel
23 and find a parking space and then if you could be back here,
24 there will be bailiffs here that will show you to your jury
25 room and, if you'll be back here ready to go at 2 o'clock,

1 we'll start tomorrow afternoon at 2 o'clock. Okay?

2 So everyone else please remain seated.

3 Ladies and gentlemen, we'll see you at 2 o'clock
4 tomorrow.

5 Yes, ma'am?

6 UNKNOWN JUROR: Do we need ID or anything like that with
7 us?

8 THE COURT: If you'll just bring with you that tag,
9 you'll -- that'll be fine. Okay? Thank you.

10 All right. We'll see you then at 2 o'clock tomorrow.

11 (WHEREUPON, the jury exited the courtroom at 11:55 a.m.)

12 THE COURT: All right.

13 (WHEREUPON, the proceedings adjourned for the day at
14 11:56 a.m.)

15 MAY 15, 2019

16 (WHEREUPON, the proceedings resumed at 10:13 a.m.)

17 THE COURT: All right, folks. What do we have?

18 MR. RICHARDSON: Judge, I believe the first order of
19 business this morning will be a Jackson v. Denno hearing.

20 THE COURT: Okay.

21 MR. RICHARDSON: We're ready to roll on.

22 THE COURT: All right. Vick, are y'all ready?

23 MR. MEETZE: We're ready, Judge.

24 THE COURT: All right. You may proceed. Ms. Neller-moe?

25 MS. NELLERMOE: Thank you, Your Honor. The State would

MIKE HARTSON - DIRECT BY MS. NELLERMOE

1 call Detective Mike Hartson to the stand.

2 THE COURT: All right. Detective Hartson, if you'd come
3 around to be sworn, please.

4 THE CLERK: Do you swear to tell the truth, the whole
5 truth, and nothing but the truth, so help you God?

6 THE WITNESS: Yes, I do.

7 THE CLERK: Thank you. Please have a seat.

8 MIKE HARTSON, being first duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. NELLERMOE:

12 Q: Good morning, Detective Hartson.

13 A: Good morning.

14 Q: Can you tell us where you're employed?

15 A: Mullins Police Department.

16 Q: And what is your role there?

17 A: Detective, lieutenant over investigations.

18 Q: How long have you been in that role?

19 A: Approximately five years.

20 Q: And how long have you worked for Mullins Police
21 Department?

22 A: Approximately five-and-a-half years.

23 Q: Okay. So you were working in your capacity as a
24 detective back in June of 2018?

25 A: Yes.

MIKE HARTSON - DIRECT BY MS. NELLERMOE

1 Q: Did you have an occasion to interview the defendant in
2 this case, Mr. Courtney Smith?

3 A: Yes, I did.

4 Q: And what was the date of that interview?

5 A: If you'll bear with me just a moment? June 27th, 2018.

6 Q: Okay. Was the defendant in custody at that time?

7 A: Yes, he was.

8 Q: What, if anything, did you do before you began your
9 interview?

10 A: He was read a waiver of Miranda warning, which was
11 voluntarily signed by him.

12 Q: Okay. Detective, I'm going to hand you what's been pre-
13 marked as Court's Exhibit 1. If you could, just take a look
14 at that. Do you recognize that document?

15 A: Yes, I do.

16 Q: And how do you recognize it?

17 A: This is the Advisement of Miranda Rights Form that he
18 was read.

19 Q: Okay.

20 MS. NELLERMOE: At this time, the State would move the
21 Advisement of Miranda Rights Form into evidence as Court's
22 Exhibit 1.

23 THE COURT: Any objection?

24 MR. MEETZE: No, Your Honor.

25 THE COURT: All right. That is in evidence without

MIKE HARTSON - DIRECT BY MS. NELLERMOE

1 objection.

2 (WHEREUPON, the Miranda form was marked and entered as
3 Court's Exhibit Number 1.)

4 BY MS. NELLERMOE:

5 Q: Detective Hartson, could you please read into the record
6 the rights as they are listed on that form?

7 A: You have the right to remain silent. Anything you say
8 can and will be held against you in a court of law. You have
9 a right to talk to a lawyer and have him or her present with
10 you before any questioning, if you wish. If you cannot
11 afford to hire a lawyer, one will be appointed to represent
12 you before any questioning, if you wish. You can decide at
13 any time to exercise these rights and not answer any
14 questions or make any statements. And do you understand each
15 of these rights as I've explained them to you?

16 Q: Okay. And would you have gone over those rights with
17 the defendant?

18 A: Yes.

19 Q: And how would he have indicated yes or no?

20 A: He would initial in each box beside each one and then
21 check yes, that he understands it, and then sign below that.

22 Q: Did Mr. Smith do all of that on this form?

23 A: Yes, he did.

24 Q: Okay. Who else signed it?

25 A: I did as a witness.

MIKE HARTSON - DIRECT BY MS. NELLERMOE

1 Q: And at the bottom, the waiver of rights portion, what --
2 what does that say?

3 A: I have read this statement of my rights and I understand
4 what my rights are. I am willing to make a statement and
5 answer questions. I do not want a lawyer at this time. I
6 understand and know what I am doing. No promises or threats
7 have been made to me and no pressure of any kind has been
8 used against me by anyone in exchange for my statement.

9 Q: And did the defendant initial his understanding of that?

10 A: Yes, he did. Before and after that -- that waiver.

11 Q: Okay. Who was present when the defendant signed this
12 form?

13 A: I was.

14 Q: Were you aware of what level of education the defendant
15 may have had at the time?

16 A: I was not. I did ask him if he could read well and he
17 stated yes.

18 Q: Okay. Was the signing of this document recorded in any
19 way?

20 A: Was it what?

21 Q: Was it recorded in any way?

22 A: Yes.

23 Q: And what was that way?

24 A: Audio and video recorded.

25 Q: Okay. Did the defendant appear to be under the

MIKE HARTSON - DIRECT BY MS. NELLERMOE

1 influence of alcohol at the time?

2 A: No, he did not.

3 Q: How about under the influence of any drugs?

4 A: No, he did not.

5 Q: Did he appear to have any physical or mental disability?

6 A: No.

7 Q: So he seemed to understand what he was doing?

8 A: Yes.

9 Q: Did he know where he was?

10 A: Yes.

11 Q: Was he oriented to the time and place and his
12 surroundings?

13 A: As far as I could tell, yes.

14 Q: Were any threats made toward the defendant?

15 A: No, they were not.

16 Q: Was he coerced in any way?

17 A: No.

18 Q: To either sign this form or give a statement?

19 A: No.

20 Q: Did you or anyone else prevent the defendant from using
21 the restroom?

22 A: No, we did not.

23 Q: Did you withhold food from him?

24 A: No.

25 Q: Or withhold drink from him?

MIKE HARTSON - DIRECT BY MS. NELLERMOE

- 1 A: No.
- 2 Q: At any time during the statement?
- 3 A: No, we did not.
- 4 Q: Where was the interview conducted?
- 5 A: We have a conference room/interview room in the police
6 department, seated at a large table.
- 7 Q: Okay. And how long did the interview last?
- 8 A: I would say approximately an hour and a half.
- 9 Q: Did y'all take any breaks?
- 10 A: Yes. At one point, he did exit to go to a court
11 proceeding. I believe it was a bond hearing.
- 12 Q: Okay.
- 13 A: At another point, he did request to use the restroom and
14 he was allowed to do so.
- 15 Q: Okay. Did the defendant ever request the questioning to
16 stop?
- 17 A: No, he did not.
- 18 Q: Did he ever appear overly emotional during the
19 interview?
- 20 A: At one point, he broke down crying prior to confessing.
- 21 Q: Do you think he was so emotional that he lost his
22 rational ability to answer questions or understand what was
23 going on?
- 24 A: No.
- 25 Q: To the best of your knowledge, Detective, was the

MIKE HARTSON - DIRECT BY MS. NELLERMOE

1 defendant's statement freely and voluntarily given?

2 A: Absolutely, yes.

3 Q: And was the entire interview recorded?

4 A: Yes.

5 Q: Detective, I'm going to show you what's been pre-marked
6 as Court's Exhibit 3. If you could, just take a look at that
7 for a second. Do you recognize that?

8 A: Yes, I do.

9 Q: And how do you recognize it?

10 A: From previously viewing it and looking at the disk
11 itself.

12 Q: Okay. And what is it a disk of?

13 A: It is a disk recording of the interview that we're
14 speaking about.

15 Q: And you said you did have an opportunity to review the
16 video before today?

17 A: Yes.

18 Q: Or before now? Do you believe the video accurately
19 captures the interview as it happened on that day?

20 A: Yes.

21 MS. NELLERMOE: Your Honor, at this time, the State
22 would move this disk into evidence as Court's -- or move it
23 as a Court's exhibit, Court's Exhibit 2.

24 THE COURT: Any objections?

25 MR. MEETZE: No objection as a Court's exhibit just for

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1 this.

2 THE COURT: All right. That'll be Court's Exhibit 2?

3 THE COURT REPORTER: 3.

4 MS. NELLERMOE: Oh, I'm sorry.

5 THE COURT: 3?

6 MS. NELLERMOE: Court's Exhibit 3.

7 THE COURT: 3. Okay.

8 (WHEREUPON, the defendant's statement on DVD was marked
9 and admitted as Court's Exhibit Number 3.)

10 BY MS. NELLERMOE:

11 Q: Detective, was the defendant given the opportunity to
12 provide a written statement in this case?

13 A: Yes, he was.

14 Q: Detective, I'm handing you what's been previously marked
15 as Court's Exhibit 2. Do you recognize that?

16 A: Yes, I do.

17 Q: And how do you recognize it?

18 A: This is the statement that he wrote during the
19 interview.

20 Q: Okay. When you say he --

21 A: Courtney Smith.

22 Q: Okay.

23 MS. NELLERMOE: Your Honor, at this time, the State
24 would move this document into evidence as Court's Exhibit
25 Number 2.

MIKE HARTSON - DIRECT BY MS. NELLERMOE

1 THE COURT: Any objection?

2 MR. MEETZE: No objection as a Court's exhibit only at
3 this point.

4 THE COURT: All right. It's in as Court's Exhibit 2
5 without objection.

6 (WHEREUPON, the written statement was marked and
7 admitted as Court's Exhibit Number 2.)

8 BY MS. NELLERMOE:

9 Q: Detective, did the defendant write the statement
10 himself?

11 A: Yes, he did.

12 Q: And did he sign that statement?

13 A: Yes, he did.

14 MS. NELLERMOE: Your Honor, at this time, the State
15 would publish State's -- Court's Exhibit Number 3.

16 THE COURT: All right.

17 MR. RICHARDSON: Your Honor, if I may, before we publish
18 it?

19 Yesterday afternoon, Mr. Meetze and I briefly discussed
20 some issues about objectionable things on the original tape.
21 Ms. Nellermoe and I spent the better part of yesterday
22 afternoon going through and redacting or making marks to
23 redact a number of things from the original tape, of which
24 Mr. Meetze and I discussed broadly.

25 So what we'll play would be our redacted version of

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1 that, and Mr. Meetze has been provided a copy. I don't think
2 he's had an opportunity to take a look at it yet this
3 morning, but we'll address any issues that stem from that.

4 THE COURT: All right. Mr. Meetze, you haven't had an
5 opportunity to review the redacted version; is that correct?

6 MR. MEETZE: I have not. No, sir.

7 THE COURT: Okay. Well, just as we --

8 MR. MEETZE: I will in just a second though.

9 THE COURT: As we go through it, you know, just take
10 whatever notes you need to take to see if there's anything
11 that we need to address later.

12 All right. Ms. Nellermoe, you may play that.

13 MR. RICHARDSON: Judge, it goes for a few minutes before
14 the microphone gets turned on. I just left this first part
15 in here so the jury sees, so they can see how the defendant
16 is brought into the room.

17 THE COURT: Gotcha.

18 MR. RICHARDSON: And is treated ahead of time.

19 THE COURT: Okay. So we're not expecting to have sound
20 here anyway?

21 MR. RICHARDSON: Right.

22 THE COURT: Okay. All right.

23 MR. RICHARDSON: Judge, I believe this whole thing is
24 about 52 minutes.

25 THE COURT: Okay. And I was going to ask. Are the date

MIKE HARTSON - DIRECT BY MS. NELLERMOE

1 and time stamps correct?

2 THE WITNESS: Yes, Your Honor.

3 THE COURT: As far as for that day?

4 THE WITNESS: Yes, they are.

5 THE COURT: Okay.

6 (WHEREUPON, Court's Exhibit Number 3 was played in open
7 court. Not transcribed herein. At the conclusion of
8 the recording being played, the proceedings resumed as
9 follows.)

10 MS. NELLERMOE: Detective Hartson, please answer any
11 questions defense counsel may have for you.

12 THE COURT: All right. Mr. Meetze?

13 CROSS-EXAMINATION

14 BY MR. MEETZE:

15 Q: Detective Hartson, do you have -- I saw you brought your
16 file with you. Do you have the original copy of the Miranda
17 form that y'all went over?

18 A: Yes.

19 Q: Do you mind if I see that? I know it's a pain to get
20 out of there. Thank you. Just a few questions. You --
21 prior to interviewing Mr. Smith -- I think you indicated that
22 this interview was done on the 27th of June?

23 A: Yes.

24 Q: The case was a couple weeks old or so? Maybe not a
25 couple weeks, but 10 days or so old at that point in time as

MIKE HARTSON - CROSS BY MR. MEETZE

- 1 far as y'all's involvement?
- 2 A: It would be 12 days old.
- 3 Q: Twelve days? You had spoken to other witnesses?
- 4 A: Yes.
- 5 Q: And spoken with the child's mother; is that right?
- 6 A: That's correct.
- 7 Q: And the grandmother?
- 8 A: Yes.
- 9 Q: And had you ever spoken with the child in regards to the
10 incident?
- 11 A: No, I did not.
- 12 Q: Okay. You indicated that you had asked Mr. Smith
13 whether he could read or not before you went over the Miranda
14 form with him?
- 15 A: Yes, I did.
- 16 Q: You didn't inquire as any sort of education level or
17 anything like that?
- 18 A: No, I did not.
- 19 Q: Okay. That part was not on the recording?
- 20 A: Which part?
- 21 Q: The asking him whether he could read? Did you --
- 22 A: Yes, it was.
- 23 Q: Was it before or after you turned the microphone on?
- 24 A: After.
- 25 Q: Okay?

MIKE HARTSON - CROSS BY MR. MEETZE

1 A: It was recorded audio and video.

2 Q: I'm going to ask if you remember one aspect that was not
3 played here. You indicated earlier that one of the breaks
4 y'all took was for him to go to a bond hearing?

5 A: Yes.

6 Q: When y'all came back and reinitiated the interview after
7 his bond hearing, there was a little while where he asked
8 y'all some questions about bond and bondsmen and putting up
9 property and things like that?

10 A: If I recall correctly, yes.

11 Q: Do you recall that? And you had indicated you reviewed
12 the tape?

13 A: Yes.

14 Q: The recording before court?

15 A: I did.

16 Q: Also, during that conversation, do you recall him
17 indicating to you that he took care of his grandmother and
18 uncle?

19 A: I don't recall that specifically.

20 Q: Gotcha. But it's possible he said that?

21 A: It's possible, yes.

22 Q: He mentioned something about his grandmother at the end
23 of the recording here when he sort of -- probably within the
24 last five minutes of the recording?

25 A: I recall that, yes.

MIKE HARTSON - CROSS BY MR. MEETZE

1 Q: Okay.

2 MR. MEETZE: Judge, I don't have anything further. I
3 just have a motion to make.

4 THE COURT: All right. Anything further from the State?

5 MS. NELLERMOE: No, Your Honor.

6 THE COURT: This witness -- okay. Thank you, sir. You
7 may step down.

8 Is there anything further from the State as to this
9 issue?

10 MS. NELLERMOE: No, sir.

11 THE COURT: All right. Mr. Meetze?

12 MR. MEETZE: Thank you, Your Honor.

13 Judge, we would make a motion that Mr. Smith's statement
14 be excluded as evidence in this case, and I'm going to base
15 that on -- and, of course, we didn't show it to the Court and
16 probably should have. I reviewed the original of the
17 Advisement of Rights Form, and all of these things were gone
18 over with Mr. Smith and read to him and then when it got to
19 the actual waiver of these rights part, Detective Hartson
20 just says read that to yourself and initial or whatever.

21 And it's -- it's very unclear. It's not a perfect copy.
22 You can tell when Detective Hartson read it that he's
23 somebody who has probably read it a bunch of times. He
24 couldn't read it as smoothly as you would read and so I would
25 just submit that Mr. Smith, not having experience reading

1 that, would have a difficult time reading it and, therefore,
2 understanding the waiver of rights part. And based on that,
3 Judge, we would ask that the statement be excluded as a
4 Miranda violation in that regard.

5 THE COURT: Ms. Nellermoe, do you wish to be heard on
6 that?

7 MS. NELLERMOE: Your Honor, I don't believe that the
8 section that Mr. Meetze is referring to is dispositive of
9 whether he can freely and voluntarily give a statement. A
10 couple of those things were actually specifically enumerated
11 above and, Your Honor, I think you've seen -- you've heard
12 the testimony and you've seen the video.

13 I think this statement was freely and voluntarily given.
14 There was no threats, no coercion. They did specifically
15 discuss the right to hire a lawyer. There was no indication
16 given by the defendant that he did not understand what was
17 going on.

18 And so for that reason, Your Honor, we would argue that
19 the statement would still be admissible. And one more thing,
20 Your Honor.

21 THE COURT: Okay.

22 MS. NELLERMOE: I believe that the law states all that
23 law enforcement has to communicate to the defendant are those
24 items that are specifically enumerated in that box.

25 THE COURT: Okay. I'm going to respectfully deny the

1 motion. I think Ms. Nellermoe is correct. I think the law
2 requires that the defendant be advised of his Miranda rights.

3 The last thing that is at the bottom there is do you
4 understand each of these rights as I -- as I have explained
5 them to you, and he -- it's marked yes and that's -- that's
6 signed. And then at that point -- and then, of course, one
7 of the rights says you can decide at any time to exercise
8 these rights and not answer any questions or make any
9 statements. That's all clearly legible. It's been marked
10 and signed by Mr. Smith.

11 I do not disagree with you, Mr. Meetze. The waiver of
12 rights -- that looks like hieroglyphics and I would -- just
13 as an aside, I would tell law enforcement don't ever use this
14 form again like this. This is clearly -- it's not legible at
15 all. There's just absolutely no excuse for that.

16 But I don't think that makes the issue of the Jackson v.
17 Denno dispositive. I think that -- and, of course, all I'm
18 ruling is that I think the State has shown that the statement
19 was -- for purposes of admissibility is admissible for the
20 jury to decide whether or not the statement was given freely
21 and voluntarily. That's -- that's a jury question. But as
22 far as the admissibility of the statement, I think that that
23 has been shown and so I'm going to allow it in.

24 Anything else on that issue?

25 MR. RICHARDSON: No, sir. Not as to the admissibility.

1 I guess the only thing I would bring up is now that we've all
2 had an opportunity to watch the redacted copy --

3 THE COURT: Yeah, I was going to ask regarding that.

4 Mr. Meetze, what we saw here, I guess first, did that
5 encompass the issues that you and Mr. Richardson felt should
6 have been left out and is there anything else or anything
7 about that that needs to be addressed?

8 MR. MEETZE: Judge, I don't think so. I think that
9 anything else that's in there -- I mean I think everything
10 that's in there I don't have any -- any objection to.

11 The only thing is I would say he might've gone a little
12 bit too far in one instance and I don't think it requires
13 doing another recording to add it, but I asked Detective
14 Hartson about the statements that he made with regards to his
15 grandmother and uncle, and we just ask that I be allowed just
16 to question Detective Hartson about that during his testimony
17 without, you know, having to add that part back onto the
18 video or anything. It wouldn't be necessary, but I would
19 just like to ask him about that specific thing that Mr. Smith
20 thought of when they were talking.

21 THE COURT: Okay. Do you know what he's talking about
22 as far as the --

23 MR. RICHARDSON: Yes, sir. There was a portion in there
24 where the defendant asked the investigator specifically about
25 matters of bond and how all that worked, and it was a

1 complete aside from the statement for purposes of why they
2 were there.

3 THE COURT: Yeah.

4 MR. RICHARDSON: So, you know, just to tighten it up a
5 little bit, I cut that part out because it was irrelevant to
6 the actual statement. But I know that they -- I think that's
7 the part where he must've mentioned family members.

8 MR. MEETZE: Right. And I won't specifically go into
9 bond per se, just to mention the concerns for family members
10 and things like that.

11 THE COURT: Yeah. That's fine.

12 MR. RICHARDSON: I don't have a problem with it.

13 THE COURT: Okay. All right. All right. So then with
14 that -- with that addition as far as your questioning of the
15 witness, is there any objection to that?

16 MR. MEETZE: Judge, obviously the objection I have is to
17 the admissibility.

18 THE COURT: Sure. Obviously.

19 MR. MEETZE: And we'll try to remember to renew that
20 when the time comes.

21 THE COURT: I'll remind you.

22 MR. MEETZE: But as far as -- as far as the redactions
23 that Mr. Richardson and I have discussed and what's been
24 presented to the Court, that encompasses all of those.

25 THE COURT: So -- and let me -- I just want the record

1 to be clear. And I certainly understand your objection and
2 will continue to note it as we go through, but in light of
3 the Court's ruling, overruling that and allowing the disk,
4 the disk as we saw here is acceptable under what you all have
5 discussed? Obviously, preserving your objection to it at
6 all.

7 MR. MEETZE: That's correct, Judge.

8 THE COURT: Okay.

9 MR. RICHARDSON: And, Judge, I would ask, as I do in all
10 these cases where have to do a lot of redactions to tapes, of
11 course, when you watch it for the first time and the jury
12 gets to see it, there will be obvious cuts where, you know,
13 it jumps forward in time and people are in different
14 positions, and I always ask the Court to just advise the jury
15 or tell them that, you know, what they're going to see here
16 is subject to prior evidentiary rulings --

17 THE COURT: Sure.

18 MR. RICHARDSON: -- and things by the parties so they
19 don't think somebody is trying to hide something from them.

20 THE COURT: Sure. And I'll make it clear to them that
21 where they see jumps or changes in time that that was --
22 those were matters that the Court ruled earlier on that those
23 matters were going to be removed. We'll make it clear.
24 Okay?

25 All right. Anything else as regarding the statement and

1 all this that we just heard?

2 MR. MEETZE: Nothing from us, Judge.

3 THE COURT: Okay. Is there anything else that we need
4 to go through?

5 MR. MEETZE: Nothing that I can think of that we need to
6 go over now.

7 THE COURT: Okay.

8 MR. MEETZE: I spoke with Mr. Richardson and he's going
9 to get me any record of any non-law enforcement witnesses to
10 review. And so if there's anything in regards to any prior
11 record that could be used for impeachment, we'll -- we can
12 talk about that prior to that witness' testimony.

13 THE COURT: Okay.

14 MR. MEETZE: And then any -- anything else I think we
15 can deal with witnesses and we can take up any issues with
16 regard to that prior to any witness testifying.

17 THE COURT: Okay. All right. It looks like we have
18 about -- what? -- three, maybe four non-law enforcement
19 witnesses?

20 MR. RICHARDSON: Yes, sir. I think that's right.

21 THE COURT: Ms. Smith, Ms. Williams, Woodbury, and
22 Temple?

23 MR. RICHARDSON: Yes, sir.

24 THE COURT: Okay. All right. Anything further then
25 from the State that needs to be addressed at this time?

1 MR. RICHARDSON: No, sir, not at this time.

2 THE COURT: Okay. I think we told the jury 2 o'clock.

3 MR. MEETZE: That's correct.

4 THE COURT: So if y'all would be ready to go at that
5 point.

6 (WHEREUPON, there was a break in the proceedings from
7 11:31 a.m. until 2:13 p.m., after which the proceedings
8 resumed as follows.)

9 THE COURT: Okay. Is the State ready to proceed?

10 MR. RICHARDSON: Yes, sir.

11 THE COURT: Is the defense ready to proceed?

12 MR. MEETZE: Yes, Your Honor.

13 THE COURT: Okay. Anything that we need to take up
14 before we bring the jury out?

15 MR. RICHARDSON: I don't think so, Judge.

16 MR. MEETZE: No, Your Honor.

17 THE COURT: All right. Let's bring them out, please.

18 (WHEREUPON, the jury entered the courtroom at 2:15 p.m.)

19 THE COURT: All right. Ladies and gentlemen, welcome
20 back. I hope everyone had a good day yesterday and a good
21 day today and are ready to get to work.

22 Let me -- I want to say a few things before we get
23 started, just some preliminary matters as far as --
24 throughout the case, it's going to be very important that you
25 hear everything that goes on. I've never been accused of

1 being soft-spoken; so I'm pretty confident you'll be able to
2 hear me most of the time. But if any of the attorneys or the
3 witnesses or myself -- if any of us say anything or speak and
4 you don't catch what it is we've said or you can't hear, let
5 me know and we'll have them repeat what was said. It's very
6 important that you hear everything that is said during the
7 course of the trial.

8 I -- I will do everything within my power to make it
9 comfortable in here. Some people are a little more hot-
10 natured. Some people are cold-natured. So we try to get the
11 temperature kind of in a mid-range that would suit everybody,
12 but if you -- if you're uncomfortably cold or uncomfortably
13 warm, let me know and we'll see if we can adjust that.

14 And then the final thing regarding the preliminary
15 matters, as I said earlier, it's important that you hear
16 everything that is presented during the course of the trial
17 and that you're able to focus on what is being presented.
18 Now, there are times they'll be -- we'll be going and it may
19 be that you need a break and I might not pick up on that or
20 whatever.

21 If at any time anyone needs to take a break, please
22 don't hesitate to get my attention or get the bailiffs'
23 attention and let me know. We can stop and take a break at
24 any time, even if we're in the middle of a witness'
25 testimony, because we can always pick up where we left off.

1 If you need a break just mentally because you've been
2 listening for a while and you need that break or if you need
3 a bathroom break or whatever, don't hesitate to let me know.
4 I would rather take a break and then start back and let you
5 be refreshed and refocused rather than have you sit there
6 thinking, you know, I don't know how long this witness is
7 going to go, but I really need to use the restroom. We need
8 -- we need a break here soon.

9 Rather than that being on your mind, I'd rather you just
10 get my attention, we'll stop, we'll take that break, and then
11 we'll start back. Okay?

12 So having said those things, I'm going to ask you to
13 give Madam Clerk your attention. She's going to place you
14 want your oath for your role as jurors in this case. Okay?

15 THE CLERK: Do I need to go over there?

16 THE COURT: No. You can do it from there.

17 THE CLERK: Okay. Can you please stand and raise your
18 right hand?

19 You shall well and truly try and a true deliverance make
20 between the State of South Carolina and the prisoner at the
21 bar, whom you shall have in charge, and a true verdict give
22 according to the law and the evidence, so help you God. Say
23 I will.

24 THE JURORS: I will.

25 THE CLERK: Thank you.

1 THE COURT: Thank you, ladies and gentlemen.

2 Now, before we get started, I want to share a few things
3 with you. I don't know how many of you have ever sat in on a
4 real jury trial. In this case, we have the State of South
5 Carolina versus Courtney Anthony Smith, a real jury trial
6 involving real folks.

7 Most people do not have the opportunity that you're
8 going to have this week to participate in an actual jury
9 trial. Most folks' experience regarding jury trials deals
10 mainly with television, movies or books and, of course, we
11 know that those trials are always full of high drama and
12 intense action and riveting circumstances because that's
13 Hollywood or the entertainment industry's efforts to
14 entertain us.

15 Now, while during the course of this trial any one of
16 those things could occur, what's important to keep in mind is
17 that this trial is not for your entertainment. This trial is
18 a fundamental part of our democracy and, unlike movies,
19 books, and television, this trial may be fast; it may be
20 slow. It may be very deliberate. It may be repetitive. In
21 other words, it's going to be different than what you see in
22 movies, books, and television.

23 This courtroom is a place of honor that is dedicated to
24 the protection and to the preservation of citizens' rights
25 through what many have called the greatest justice system

1 ever created. The attorneys that appear before you are
2 advocates for the parties that they represent, but, first and
3 foremost, they are officers of the Court sworn to uphold the
4 integrity and the fairness of our justice system. You should
5 expect them to be professional, competent, and ethical in the
6 performance of their duties and their representation.

7 You've just taken an oath to try this case and to reach
8 a fair and a just verdict and so you are also expected to be
9 professional, reasonable, and ethical in the performance of
10 your duties. I have absolutely no doubt you will do just
11 that and I want to thank you for your contribution to our
12 system of justice here in Marion County.

13 Now, I'm going to share a few things with you that are
14 going to serve basically just as an introduction to the trial
15 of this case. This is not a charge on the law. I will give
16 you the law at the end of the case before you begin your
17 deliberations, but I'm going to just basically give you kind
18 of an explanation of the procedure that we're going to follow
19 during the course of this trial so that you can better follow
20 along with what's going on.

21 Mr. Smith is charged by that indictment that I read to
22 you yesterday and, if you recall, he's charged with two
23 offenses: one, criminal sexual conduct with a minor in the
24 first degree and, two, criminal sexual conduct with a minor
25 in the third degree. I will explain the elements of those

1 crimes to you later when I give you the charge on the law.

2 But as I told you yesterday, the indictment is simply
3 the charge which brings this case into this court. It is not
4 in any sense evidence of any of the allegations that it
5 contains.

6 To these charges or to this indictment, Mr. Smith has
7 pled not guilty and that plea places upon the State the
8 burden of proving each of the elements of these crimes beyond
9 a reasonable doubt. It will be your duty, ladies and
10 gentlemen, to decide whether or not the State has met that
11 burden.

12 Your purpose as jurors is to find and to determine the
13 facts of this case. As I told you yesterday, you are the
14 sole judges of the facts in this case. If at any time I make
15 any comment about the evidence or the facts, you must
16 disregard those comments because only you, the jury, are
17 allowed to make that determination as it relates to the facts
18 in this case.

19 You determine those facts from the testimony that you
20 hear and any other evidence that may be entered into evidence
21 during the course of this trial. It is going to be up to you
22 to determine what inferences that you feel may be properly
23 drawn from that evidence. It is especially important that
24 you perform your duty of determining the facts in this case
25 diligently and conscientiously because ordinarily there is no

1 way that the Court can correct an erroneous determination of
2 facts by a jury.

3 Now, on the other hand but with equal emphasis, the same
4 law that makes you the judges of the facts makes me the judge
5 of the law. The law as given to you by the Court is the only
6 law that you may consider. You must accept it and you must
7 follow it, even though you may disagree with it. I'm not
8 allowed to tell you what I think about the facts of this case
9 or the evidence in this case and you're not allowed to
10 disagree with me about what the law is or what the law -- or
11 what you think the law should be. Your duty is to take the
12 law as I give it to you and apply it to the facts as you find
13 the facts to be from the testimony and the evidence that is
14 introduced during the course of this trial.

15 Now, as I told you yesterday and will continue to
16 emphasize to you throughout the trial, until you begin your
17 deliberations -- and I'll tell you when it's appropriate to
18 begin those, but until you begin your deliberations, it's
19 very important that you do not discuss this case with anyone,
20 and that includes amongst yourselves.

21 During the course of the trial, we'll take breaks and,
22 when you're back in the jury room, you're not to discuss the
23 case. There will come a time when it is appropriate for you
24 to discuss the case and I will let you know when that is, but
25 until that time it's important that you do not have any

1 discussion with anyone about this trial.

2 It is important that throughout this case, starting from
3 right now to the end, that you keep an open mind and that you
4 do not decide any issue in this case until all of the
5 evidence has been presented, the parties have had an
6 opportunity to make their closing remarks to you, and I've
7 given you the instruction on the law. Only then would it be
8 appropriate for you to begin your deliberations. It is your
9 solemn responsibility to determine the guilt or innocence of
10 the defendant, and your verdict in this case must be based
11 solely upon the evidence as it is presented in this case in
12 this trial and on the law that I instruct you during the
13 close of the trial.

14 Now, in just a moment, I'm going to recognize the
15 solicitor for their opening remarks. We typically refer to
16 that as an opening statement. In that statement, I don't
17 know what they will share with you, but I imagine it would be
18 something regarding what they believe that they will -- the
19 evidence will show in this case or what they intend to
20 present.

21 Once the State has made its opening remarks, then I'll
22 recognize the defense. They may make an opening remark, if
23 they wish to. They're not required to, but they certainly
24 would have that opportunity, if they chose to.

25 The thing that's important to understand, ladies and

1 gentlemen, about their opening statements, whatever it is
2 they share with you, whatever they tell you is not evidence.
3 They are not under oath. But it is their contention or their
4 belief as to what they think the evidence in this case will
5 show. The evidence in this case is going to come to you and
6 be presented to you through witnesses that are placed under
7 oath and take the witness stand and testify, as well as any
8 other exhibits or items that may come in during the course of
9 the trial.

10 Now, during the trial, from time to time you may hear
11 one of the attorneys say something along these lines. Judge,
12 we have a matter of law we need to take up with the Court or
13 may we approach the bench. If I can resolve a matter of law
14 up here at the bench, I'll do that, but there may be times
15 that it takes more than simply a bench conference. If I have
16 to deal with a matter of law, I may ask you to step back into
17 your jury room.

18 If I do that, the only reason I would do that is this.
19 As I told you earlier, I'm not to have any influence over you
20 regarding the facts of this case. Well, sometimes when I'm
21 having to deal with a matter of law, it requires me to make a
22 comment about either the evidence or some factual issue in
23 the case in connection with a ruling that I have to make. To
24 protect you from those comments so that I don't influence you
25 as the factfinders, I may ask you to step back into the jury

1 room, let me resolve that issue of law and, once we resolve
2 that issue, bring you back out and pick up where we left off.
3 Okay?

4 It is -- in determining what the true facts are in this
5 case, you are going to have to decide as a -- as a jury
6 whether or not the testimony of a witness is believable.
7 It's going to be my job to rule as a matter of law whether
8 certain testimony is allowed into this record at all or not,
9 but once testimony is allowed into this record, whether or
10 not you believe it is solely up for you to decide.

11 In deciding to believe a witness, you have the right to
12 consider the interest of a witness, the bias of any witness,
13 the opportunity for that witness to have seen the matters and
14 the things about which they testify, the way the witness acts
15 on the witness stand. You will have the right, ladies and
16 gentlemen, to consider anything in this record that will help
17 you to evaluate the testimony of the witnesses.

18 That means that it's extremely important that you pay
19 close attention to the witnesses, listen carefully to the
20 attorneys, as well as to the Court. Please try not to let
21 your thoughts wander, but pay strict attention to all of the
22 testimony and the evidence so that at the end of the
23 testimony and the close of the evidence, after the attorneys
24 have had an opportunity to address you with their closing
25 remarks and I've given you the charge on the law, after all

1 of that, you will then be in a position to go back into the
2 jury room and to begin your deliberations.

3 Now, before I turn it over to the attorneys, let me
4 first inquire from the State are there any objections or
5 exceptions to the Court's opening remarks?

6 MR. RICHARDSON: No, sir.

7 THE COURT: Anything from the defense?

8 MR. MEETZE: No, Your Honor.

9 THE COURT: All right. Ladies and gentlemen, now, if
10 you would, please give the attorneys your close and undivided
11 attention as they address you with their opening statements.

12 Mr. Richardson?

13 MR. RICHARDSON: Thank you, Your Honor. Mr. Meetze.

14 OPENING STATEMENT ON BEHALF OF THE STATE

15 MR. RICHARDSON: Folks, as this case comes to you here
16 on a Wednesday of the week right after Mother's Day, I was
17 contemplating that holiday heavily as I prepared for this
18 case and to make these remarks to you because this case, you
19 know, while it talks about an act on a minor, it has -- it
20 has a lot to do with a mother as well.

21 And I think this Mother's Day holiday, you know, made me
22 think a lot about how much mothers mean to their children,
23 how much they do for children, and I don't think we can fully
24 appreciate what mothers do until we've lost one and, you
25 know, the reality of life comes down full force on us. I

1 think moms kind of shelter us and make us feel like
2 everything's going to be all right. They serve that role,
3 and I had all that in mind as I was thinking about this case.

4 The mother in this case is a lady named Mattie Smith and
5 she has a son, who you'll meet here shortly, named Minor .
6 And Ms. Mattie was a single mother for quite a while during
7 the early parts of Minor 's life, and I imagine -- of course,
8 I imagine being a mother is difficult in and of itself and I
9 imagine being a single mother, you know, that difficulty gets
10 compounded quite a bit. You pretty much have to serve both
11 roles and do double work, you know, than if you've got a
12 mother who's got somebody else to help them do it.

13 So I imagine that Mattie was kind of up against it as
14 Minor grew and, as all mothers do, I'm sure she wanted him
15 to have the best possible situation he could have, have all
16 the things he needed to have to grow and to thrive, and I
17 think one thing that's probably important, that most people
18 consider to be important in a child's life, would be to have
19 a strong, positive male role model and I think this is
20 something that Mattie had to consider.

21 And a few years back, probably about three years or so
22 ago now, she ended up finding that person who she thought and
23 she got married to the defendant in this case, Courtney
24 Smith, and they formed a family and they had a baby of their
25 own.

1 And Minor was an integral part of that family unit and
2 for a couple of years I imagine Ms. Mattie thought she had it
3 made. She'd done the right thing. She had done what a
4 mother is supposed to do. She had her son protected. She
5 had him in a solid home, had a solid male role model in his
6 life.

7 And on around June the 8th, 2018, I bet she went to bed
8 thinking all those things at least in the back of her mind
9 probably weren't bothering her. But in the early morning
10 hours, all those years of effort to accomplish those things
11 blew up in her face.

12 She woke up that morning at her address on Parrish Drive
13 in Mullins to find that she was in bed by herself. We're
14 talking early morning hours here, around 3 o'clock or
15 somewhere, oh dark 30 if you will. No Courtney in the bed.

16 She gets up and I guess mother's instinct kicked in. She
17 went nearby to the kids' room to look in on Minor. She
18 looks in and finds in the bed with Minor her husband,
19 Courtney Smith. She jerks the covers off of them and that
20 would be the explosion, I guess. She sees her baby boy, who
21 is 10 years old at the time, with his underwear pulled down,
22 and she sees her husband of a couple of years that she's
23 entrusted to help her protect this boy with his underwear
24 pulled all the way down.

25 And here we are. We find ourselves sitting here to deal

1 with the aftermath of that explosion in her life, and you're
2 going to hear from her about what she did in response to
3 this, which I think any rational person would do. She got
4 her babies up and she got the heck out of there.

5 She went to stay with her mom and she ultimately
6 reported this situation to the police, the Mullins Police
7 Department got involved, and they conducted their
8 investigation. You're going to hear all about that.

9 And unfortunately, the way we have to do these things,
10 you're going to hear from Minor as well. So he's going to
11 come in in front of a room full of people he doesn't know and
12 he's going to have to tell you what he remembers. And I ask
13 you to be patient with him because he's, you know, a young
14 fellow.

15 I imagine if you remember back when you were in school
16 having to give talks in front of the class, how bad that was.
17 Imagine how nerve racking this must be for him; so I'm
18 probably going to have to tell him a few times to speak up so
19 everybody can hear him. I'm probably going to have to tell
20 him a few times to answer out loud so everybody can hear him
21 and the court reporter can take it down and all that sort of
22 stuff.

23 You're going to hear from Minor and his family members
24 and law enforcement. By the time you hear from all of them,
25 I think you're going to have as accurate a picture as we can

1 provide to you as to what happened in that bedroom that
2 night. And I imagine -- you know, I imagine Mattie has
3 fallen asleep at times after this, of course, but I bet she
4 hasn't gotten much rest after she woke up that night in that
5 bedroom alone.

6 So at the conclusion of this case when you've heard all
7 of the evidence, I'm going to ask you to find this man guilty
8 of these crimes so justice can be done in this case,
9 especially justice for Mattie and her little boy so finally
10 maybe at the end of this trial she can get some rest.

11 Thank you.

12 THE COURT: Thank you Mr. Richardson.

13 Mr. Meetze?

14 MR. MEETZE: Thank you, Your Honor. May it please the
15 Court.

16 THE COURT: Yes, sir.

17 MR. MEETZE: Mr. Richardson.

18 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

19 MR. MEETZE: As I told y'all yesterday, my name is Vick
20 Meetze and I work for the Public Defender's Office and I
21 represent Courtney Smith in this case.

22 And I'm going to reiterate a few things to you here that
23 you've already heard and may hear again. And we don't
24 reiterate things and repeat things just for our health or
25 just because we like to hear ourselves talk, even though that

1 may be true as well, but we reiterate things particularly in
2 criminal court because they're just that important.

3 And one thing I'm going to remind you of is that what
4 I'm telling you now and what Mr. Richardson told you is not
5 evidence. Nothing that the lawyers tell you in a trial is
6 evidence at all. As the judge indicated to you, either side
7 can get up before you in opening statement and tell you what
8 they expect the evidence may see, but sometimes the
9 expectations are just that and then it turns out reality is
10 something completely different.

11 And that can happen even when you think you know every
12 little thing about a case. You can have a trial and, lo and
13 behold, a witness gets up there and testifies to something
14 that you've never heard before. I'm not saying that I expect
15 that to happen. It's just an example of things that can
16 happen and there's a reason why what we tell you is not
17 evidence because what we tell you here, you may end up
18 hearing something from the witness stand about that or along
19 those lines, but there's no guarantee of that. There's no
20 promise of that.

21 So as we speak to you, it's always best to remember that
22 what we tell you is not evidence. As you've already heard,
23 the evidence is going to come from this witness stand. The
24 witnesses talk, by whichever side calls them. They testify
25 as to what they may have seen or perceived in some manner,

1 and there's also a possibility of actual physical evidence
2 for you to hold and look at and possibly watch. And only
3 then will you have the evidence to consider at all in this
4 case.

5 Another thing that I want to talk to you about is a
6 couple of legal principles that we have in our law, and they
7 are principles that you've all heard and they're principles
8 that a lot of us take for granted, but they are things that
9 apply to everybody. But you never really realize it until
10 you find yourself in the situation that Courtney Smith finds
11 himself in, and that's being charged with violating criminal
12 laws in this case in the State of South Carolina.

13 The first of those two principles is the presumption of
14 innocence. In this country, we are all presumed innocent
15 until proven guilty. The judge gave you -- in his opening
16 statement, he commented as part of that that it has often
17 been said or it's paraphrased and often said we have the
18 greatest justice system in the world and, when I say we, I
19 mean this country, the United States of America, and that
20 presumption of innocence is one of the reasons why many
21 people have said that.

22 And that is a fundamental principle. It's not fake.
23 It's as real as it gets. And what that means is Courtney
24 Smith, as he sits right over there next to me while I'm
25 there, he's as innocent as anybody else in this room, and he

1 cannot be -- you can think of him as being cloaked in it, so
2 to speak, and that cloak cannot be removed unless and until
3 the State is able to prove his guilt to each of you beyond a
4 reasonable doubt.

5 Which brings us to principle number two, which is the
6 burden of proof in a criminal case, and that is proof beyond
7 a reasonable doubt and that's another thing that you're going
8 to hear more than just now. You will hear it multiple times
9 and, again, it's because these principles are just that
10 important.

11 And the burden of proof is the burden that the State has
12 to prove someone guilty. And we're in criminal court,
13 General Sessions Court, so that proof here is proof beyond a
14 reasonable doubt, and you will hear definitions of that and
15 be charged as to exactly what that is later on in this case.

16 But just to sort of give you a little bit of an
17 illustration as to that standard of proof and how powerful it
18 is, we are in, like I said, General Sessions Court. It is a
19 branch of Circuit Court in South Carolina, and there are two
20 branches of Circuit Court.

21 One is the Court of Common Pleas and that's civil court.
22 That's where folks who get in a car wreck or something like
23 that and there's injuries sustained and someone else is at
24 fault for breaching their duty or something along those
25 lines. There's a number of reasons why somebody can sue

1 somebody else. Those disputes are heard in Common Pleas or
2 civil court.

3 There are similarities between the two courts. They
4 both have jury trials. They both pick jurors that sit right
5 where you're sitting. They listen to evidence presented by
6 the sides in those disputes and, at the close of the case,
7 those jurors decide whether or not someone is at fault and
8 needs to be held liable for whatever they've been dealing
9 with.

10 Both juries, here in criminal court and in civil court,
11 their decision has to be unanimous, but one of the big
12 differences between the two is the burden of proof. And the
13 difference is in Common Pleas or civil court, the burden of
14 proof is called by a preponderance of the evidence, and
15 another way to say that is whether something is more likely
16 than not. Okay? It's sort of a 51 percent to 49 percent
17 situation, if you want to think of it that way.

18 In other words, if you think of the scales of justice
19 and Lady Justice sitting there and these are the scales and
20 in a civil case each side can pile their evidence onto those
21 scales and after all the evidence has been piled onto those
22 scales, if the scales tip ever so slightly to one side in one
23 side's favor, then that's the side that the jury in a Common
24 Pleas case would have to side with.

25 The burden of proof is different. The burden of proof

1 is a much more powerful burden and there's a good reason for
2 that. In civil court, you're dealing with a lot of important
3 issues, don't get me wrong, but a lot of times it comes down
4 to financial, money damages, which is -- like I said, don't
5 get me wrong, it's very important.

6 But in General Sessions court, in criminal court, we're
7 dealing with people's lives. We're dealing with their very
8 liberties, and the stakes don't get any higher than that. It
9 doesn't get any more important than that and that's why the
10 burden of proof in a criminal case is that much more
11 powerful. On those same scales, the State has to produce
12 evidence and produce evidence to tilt those scales extremely
13 in the State's favor before a jury would be able to render a
14 verdict that would meet the burden of proof beyond a
15 reasonable doubt.

16 So please keep that in mind as well as we go through
17 this case because I submit to you that you're going to hear a
18 lot of evidence in this case. I don't expect the case to
19 take very long and I don't mean a lot as far as volumes, but
20 I think there's going to be and I submit to you there will be
21 conflicting evidence, a lot of things that will end up
22 raising more questions than answers. And I submit to you
23 that once you've heard all of these, that's still all you're
24 going to be left with is questions, and that's not proof
25 beyond a reasonable doubt.

1 And when I come back before you later, I'm going to get
2 to talk to you again, as will Mr. Richardson, and I'm going
3 to ask that you find in this case the only verdict that
4 speaks the truth and that's a verdict of not guilty. Thank
5 you.

6 THE COURT: Thank you, Mr. Meetze.

7 All right. You may call your first witness.

8 MR. RICHARDSON: Yes, sir. Your Honor, we'd call Minor
9 . I think they're bringing him up now.

10 THE COURT: Sure.

11 MR. RICHARDSON: Excuse me. Minor , Your
12 Honor.

13 (WHEREUPON, there was a pause in the proceedings until
14 the witness entered the courtroom, after which the
15 proceedings resumed as follows.)

16 THE COURT: All right. Minor , if you'll just
17 come right here and put your left hand on the Bible right
18 here and raise your right hand and Madam Clerk will put you
19 under oath. Okay?

20 THE CLERK: Do you solemnly swear or affirm to tell the
21 truth, the whole truth, and nothing but the truth, so help
22 you God?

23 THE WITNESS: I swear.

24 THE CLERK: Thank you.

25 THE COURT: All right. And just have a seat up here,

Minor - DIRECT BY MR. RICHARDSON

1 sir. Thank you.

2 Minor , being first
3 duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. RICHARDSON:

6 Q: Minor , does this room like the picture I drew?

7 A: (No verbal response.)

8 Q: It does? I have a future as an artist. All right. I
9 don't? I didn't think so. All right. I'm going to remind
10 you, if you will, when I ask you a question, if you'll say
11 your answer out loud. Okay? All right?

12 A: Okay.

13 Q: Okay. Minor , can you tell me how old you are right
14 now?

15 A: I'm 11.

16 Q: 11?

17 A: Uh-huh.

18 Q: All right. And what grade are you in at school?

19 A: Fifth.

20 Q: Fifth grade? Okay. So last year around this time, you
21 would've been 10 years of age?

22 A: Yes, sir.

23 Q: All right. What's your date of birth?

24 A: [REDACTED].

25 Q: Okay. All right. So last year, back last summer I

Minor

- DIRECT BY MR. RICHARDSON

1 guess in -- let's say June before you moved in with your
2 grandma, where did you live? Do you remember your address?

3 A: (No verbal response.)

4 Q: Do you member what street you lived on?

5 A: Parrish Drive, I think.

6 Q: Can you say it a little louder for me?

7 A: Parrish Drive.

8 Q: Parrish?

9 A: (No verbal response.)

10 Q: Okay.

11 THE COURT: Is that microphone working? Is it on?

12 THE BAILIFF: I turned it on.

13 THE COURT: Just tap it and see if it's on.

14 THE BAILIFF: It's on.

15 THE COURT: If you could just speak into that, Minor
16 that'll help you.

17 THE WITNESS: Yes, sir.

18 BY MR. RICHARDSON:

19 Q: All right. So Parrish Drive; is that right?

20 A: Yes, sir.

21 Q: Okay. When you lived on Parrish Drive, who all lived in
22 the house with you?

23 A: My mama, my sister, my brother, Mr. Marvin, and Ms.
24 Cindy.

25 Q: Who's that? The last two you said? Could you say it a

Minor

- DIRECT BY MR. RICHARDSON

- 1 little louder for me?
- 2 A: Mr. Marvin and Ms. Cindy.
- 3 Q: All right. Who is Mr. Marvin?
- 4 A: Courtney's uncle.
- 5 Q: Courtney's uncle?
- 6 A: (No verbal response.)
- 7 Q: And who is Ms. Cindy?
- 8 A: His grandma.
- 9 Q: Courtney's grandma?
- 10 A: (No verbal response.)
- 11 Q: Okay. Did Courtney also live in the house with you on
- 12 Parrish?
- 13 A: Yes, sir.
- 14 Q: Okay. How old -- you said you have a sister and a
- 15 brother?
- 16 A: Yes, sir.
- 17 Q: How old is your sister?
- 18 A: She's 5.
- 19 Q: Okay. How old is your brother?
- 20 A: He's 2.
- 21 Q: Okay. In the house that you lived on -- lived in on
- 22 Parrish Street or Drive, how many floors or levels did that
- 23 house have?
- 24 A: One.
- 25 Q: Okay. So it was one-story house?

Minor

- DIRECT BY MR. RICHARDSON

- 1 A: (No verbal response.)
- 2 Q: And how many bedrooms did it have in that house?
- 3 A: Four.
- 4 Q: Four? Okay. Did you have a bedroom all to yourself or
- 5 did you share one with somebody?
- 6 A: I shared a bedroom with my sister and brother.
- 7 Q: Okay. Now, take us to that bedroom. What -- where did
- 8 you and your sister and brother sleep in there?
- 9 A: My brother slept in a crib, and me and my sister slept
- 10 on a bed.
- 11 Q: All right. So your brother was in a crib. So he's two
- 12 now?
- 13 A: Yes, sir.
- 14 Q: So back a year ago, he'd have just been one?
- 15 A: Yes, sir.
- 16 Q: So kind of a baby?
- 17 A: (No verbal response.)
- 18 Q: All right. So you and your sister shared the bed and
- 19 how -- kind of how big was the bed?
- 20 A: Like, a queen-sized.
- 21 Q: Like, a queen-sized bed?
- 22 A: Yes, sir.
- 23 Q: Okay. And so you and your sister slept in the same bed
- 24 pretty much every night?
- 25 A: Yes, sir.

Minor

- DIRECT BY MR. RICHARDSON

- 1 Q: All right. Where was your mom and Courtney's room in
2 comparison to yours, as far as location in the house?
- 3 A: Right next to us.
- 4 Q: Right next to you?
- 5 A: (No verbal response.)
- 6 Q: Okay. Now, was it across the hallway or next to you?
- 7 A: It's, like, a corner?
- 8 Q: Oh, so there's a corner, but close by?
- 9 A: Yes, sir.
- 10 Q: All right. So back on June the 8th when all this stuff
11 happened, what do you remember about going to bed that night
12 as far as your sister being around?
- 13 A: I was in my pajamas, checkerboard pajamas.
- 14 Q: You were wearing checkerboard pajamas?
- 15 A: Yes, sir.
- 16 Q: All right. Was your sister in the bedroom too?
- 17 A: Yes, sir.
- 18 Q: All right. Now, tell me about these checkerboard
19 pajamas you said you were wearing. Are they long pants?
20 Short pants?
- 21 A: They were long blue pajamas.
- 22 Q: Long what?
- 23 A: They was -- they was long blue pants.
- 24 Q: Long blue pants?
- 25 A: (No verbal response.)

Minor

- DIRECT BY MR. RICHARDSON

1 Q: All right. How about the shirt?

2 A: The same.

3 Q: Long-sleeved?

4 A: Yes, sir.

5 Q: Did you have any underwear or undershirt or anything
6 underneath your pajamas?

7 A: I had an undershirt on.

8 Q: Undershirt?

9 A: And underpants.

10 Q: And underpants?

11 A: (No verbal response.)

12 Q: Okay. So when you went to bed that night, you had on
13 blue pajamas?

14 A: Yes, sir.

15 Q: And your sister was in there in the bed?

16 A: Yes, sir.

17 Q: Okay. Now, we'll get to the other stuff here in a
18 minute, but when you -- when you woke up eventually, was your
19 sister still in there?

20 A: No, sir.

21 Q: All right. Did you have any idea where she was?

22 A: She was on the couch.

23 Q: The couch? And where was -- where was the couch
24 located?

25 A: In the living room.

Minor

- DIRECT BY MR. RICHARDSON

- 1 Q: In the living room? Okay. How did you -- how did you
2 find she was on the couch?
- 3 A: Because when I woke up -- when I woke up, I got out of
4 the bed and I went in there and I seen her.
- 5 Q: Oh, so you saw her on the couch after you got up? Okay.
6 Do you have any idea how she came to leave the bed and go to
7 the couch?
- 8 A: No, sir.
- 9 Q: Is that at no?
- 10 A: (No verbal response.)
- 11 Q: What's the first thing you remember waking up to in that
12 bedroom that night?
- 13 A: My pajamas was on the -- my pajamas was on the suitcase.
- 14 Q: Could you say that a little louder for me?
- 15 A: My pajamas was on the suitcase.
- 16 Q: Now, you say a suitcase?
- 17 A: Yes, sir.
- 18 Q: Your pajamas were on a suitcase? All right. What --
19 what parts or part of your pajamas?
- 20 A: My pants.
- 21 Q: Okay. And tell me about the suitcase. Where was that
22 located?
- 23 A: It was near the bed, probably in front of my dresser.
- 24 Q: In front of your dresser? All right. Did you take
25 those pants off?

Minor

- DIRECT BY MR. RICHARDSON

- 1 A: No, sir.
- 2 Q: All right. Do you have any idea how they came off?
- 3 A: No, sir.
- 4 MR. MEETZE: I'm sorry. I didn't hear that answer.
- 5 Q: Could you say -- did you have any idea how those pants
- 6 came off?
- 7 A: No, sir.
- 8 Q: Okay. All right. So how about your undershirt and your
- 9 shirt?
- 10 A: They was still on.
- 11 Q: They were on? How about your underwear?
- 12 A: They was pulled down to my knees.
- 13 Q: Pulled down to where?
- 14 A: My knees.
- 15 Q: Okay. What woke you up?
- 16 A: My mama came in and she cut the light on.
- 17 Q: Your mom turned the light on?
- 18 A: (No verbal response.)
- 19 Q: Who was in the bed with you when you woke up?
- 20 A: Mr. Courtney.
- 21 Q: Courtney?
- 22 A: (No verbal response.)
- 23 Q: Had he been in the bed with you when you went to sleep?
- 24 A: No, sir.
- 25 Q: What happened when the light came on?

Minor

- DIRECT BY MR. RICHARDSON

1 A: My mama told him to get out the bed and, at first, he
2 wouldn't get out, but he got out and that was when my mom
3 talked to him.

4 Q: Okay. Did you -- when the lights came on, did you get
5 to -- did you see what Mr. Courtney had on?

6 A: No, sir.

7 Q: Okay. Did you hear Mr. Courtney say anything in the
8 room at all?

9 A: No, sir.

10 Q: When your mom cut the lights on and, I guess, Courtney
11 got out of the bed, did they stay in the room in there? Did
12 they leave the room? What happened?

13 A: My mom walked out and she told us to pack our clothes.

14 Q: She told you to pack your clothes?

15 A: (No verbal response.)

16 Q: At any point in time in the bed there before your mom
17 cut the light on, do you remember feeling or seeing Courtney
18 do anything to any part of your body?

19 A: One -- one time. It wasn't -- it wasn't the same night,
20 but one time.

21 MR. MEETZE: Objection, Your Honor.

22 THE WITNESS: But one time, I did.

23 MR. RICHARDSON: Hang on a second for me.

24 MR. MEETZE: Can we approach?

25 MR. RICHARDSON: Sure.

Minor

- DIRECT BY MR. RICHARDSON

1 THE COURT: Yes.

2 (WHEREUPON, a bench conference was held in the presence
3 of the jury but out of the hearing of the jury off the
4 record, after which the proceedings resumed as follows.)

5 BY MR. RICHARDSON:

6 Q: All right, Minor . On this particular night we're
7 talking about where your mom came in and cut the lights on,
8 that night in the bed, do you remember Mr. Courtney --

9 A: No, sir.

10 Q: -- touching you in any way or doing --

11 A: No, sir.

12 Q: -- anything to your body?

13 A: No, sir.

14 Q: Is that a no?

15 A: No, sir.

16 Q: Okay. So did you -- did you follow your mom's
17 instructions and pack your stuff?

18 A: Yes, sir.

19 Q: Okay. And did you -- did you talk to your mom while you
20 were at the house or right after you left the house about
21 what happened?

22 A: No, sir. I talked to my grandma.

23 Q: Okay. So you don't remember telling your mom anything?

24 A: No, sir.

25 Q: About any of it?

Minor

- DIRECT BY MR. RICHARDSON

- 1 A: No, sir.
- 2 Q: You don't remember telling your mom that Courtney
3 touched your private part and kissed it?
- 4 A: No, sir.
- 5 Q: Okay. That night right after it happened, either at
6 your house or on the way to grandma's, you don't remember
7 telling her any of that?
- 8 A: No, sir.
- 9 Q: Okay. So where did you go when y'all left the house?
- 10 A: My grandma's house.
- 11 Q: Your grandma's house?
- 12 A: (No verbal response.)
- 13 Q: What's your grandma's name?
- 14 A: Betty Woodbury.
- 15 Q: Betty Woodbury? Okay. Now, when y'all got to her
16 house, was it still dark outside?
- 17 A: Yes, sir.
- 18 Q: And was she awake when you got there, waiting for you?
- 19 A: Yes, sir.
- 20 Q: Now, you mentioned a second ago saying something to your
21 grandma about what happened?
- 22 A: Yes, sir.
- 23 Q: All right. Where were you at grandma's house when you
24 talked to her about what took place?
- 25 A: Out the door on the porch.

Minor

- DIRECT BY MR. RICHARDSON

1 Q: On the porch?

2 A: (No verbal response.)

3 Q: And do you remember what you told her?

4 A: That I was asleep and my mama -- my mama had came in the
5 room and cut the light on and my drawers was down to my knees
6 and Courtney was in the bed with me and he got out the bed
7 and went in the room and they was talking.

8 Q: Okay. Do you remember telling your grandma at any point
9 there on the porch in the early morning hours of, I guess,
10 June 8th right after this happened that -- that Courtney had
11 been touching and sucking your thing?

12 A: No, sir.

13 Q: You don't remember that?

14 A: (No verbal response.)

15 Q: Okay. Could you have said it and just not remember it
16 or you -- you didn't say it?

17 A: I don't know. I can't remember.

18 Q: Okay. Do you remember going over to Florence to a place
19 called the Care House?

20 A: Yes, sir.

21 Q: All right. And what did you do there?

22 A: I talked to some people.

23 Q: You talked to somebody about what happened in this case?

24 A: Yes, sir.

25 Q: Okay. Have you told anybody else about the stuff that

Minor

- DIRECT BY MR. RICHARDSON

1 went on in this case that you're telling us now other than
2 the folks we've talked about?

3 A: My dad.

4 Q: Okay. But he wasn't there that night, was he?

5 A: No, sir.

6 Q: Okay.

7 MR. RICHARDSON: All right. Please answer any questions
8 that Mr. Meetze may have for you. Okay?

9 THE WITNESS: Yes, sir.

10

CROSS-EXAMINATION

11 BY MR. MEETZE:

12 Q: Hey, Minor. My name is Vick Meetze, and I'm going to
13 ask you a few questions. Okay?

14 A: Yes, sir.

15 Q: And you probably -- probably never thought you would
16 find a place less fun than school, did you? You might have
17 succeeded, I guess. But anyway, please forgive my poor
18 attempt at lightening the mood and relaxing you a little bit
19 to be able to talk to you here today.

20 You just testified or you just answered questions that
21 Mr. Richardson asked you; correct?

22 A: Yes, sir.

23 Q: And you had met Mr. Richardson before today; is that
24 right?

25 A: What did you say? I didn't hear you.

Minor

- CROSS BY MR. MEETZE

1 Q: Mr. Richardson, the gentleman that was just asking you
2 some questions?

3 A: Yes, sir.

4 Q: You had met him before today; is that right?

5 A: (No verbal response.)

6 Q: Okay. And I'm going to ask you to answer out loud.

7 Just sort of try to remember to answer out loud. I know what
8 you mean when you shake your head one way or the other, but
9 there has to be a verbal response as well. Okay?

10 A: Yes, sir.

11 Q: All right. Now, you testified now you don't remember
12 Mr. Courtney touching you in any way that night of June the
13 8th; is that right?

14 A: Yes, sir.

15 Q: And you testified just a little bit ago in answering
16 questions that you remembered going over to Florence and
17 speaking to somebody over there at the Care House; is that
18 right?

19 A: Yes, sir.

20 Q: Okay. And you don't remember her name, do you?

21 A: Ms. Meg.

22 Q: Ms. Meg? Okay. And Ms. Meg asked you some questions;
23 correct?

24 A: Yes, sir.

25 Q: All right. And you told --

Minor

- CROSS BY MR. MEETZE

1 THE COURT REPORTER: Please tell him to put his hand
2 down.

3 THE COURT: Okay.

4 BY MR. MEETZE:

5 Q: You told Ms. Meg in the interview with -- when you
6 talked to her that you didn't know anything until your mother
7 woke you up; is that right?

8 A: Yes, sir.

9 Q: I'm sorry. Is that a yes?

10 A: Yes, sir.

11 Q: Okay. And you told that to Meg -- Ms. Meg; correct?

12 A: Yes, sir.

13 Q: Okay. And you also -- you -- again, she was asking you
14 questions with regards to any memories you had from this
15 evening and you said that you -- you told her that you didn't
16 remember anything, that you were asleep; is that right?

17 A: Yes, sir.

18 Q: Do you remember telling her that?

19 A: I think.

20 Q: Okay. And she asked you what you told your mom about
21 that night. Do you remember her asking you that?

22 A: No, sir.

23 Q: Okay. Do you remember telling her that you didn't tell
24 your mother anything, that your mother told you what
25 happened? Do you remember telling her that?

Minor

- CROSS BY MR. MEETZE

1 A: No, sir.

2 Q: You do not? Okay. All right. And as you testified
3 here a little bit ago, you've spoken to Ms. Meg and your
4 mother and your grandmother and your father are the only two
5 people you've spoken about this evening; correct?

6 A: Yes, sir.

7 Q: And you don't remember telling any of them anything
8 about Mr. Courtney touching you; correct?

9 A: Yes, sir.

10 Q: Is that a yes, sir?

11 A: Yes, sir.

12 Q: Okay.

13 MR. MEETZE: I don't have anything further, Your Honor.

14 THE COURT: Any redirect?

15 MR. RICHARDSON: Nothing further, Judge.

16 THE COURT: All right. Minor, thank you very much,
17 buddy. You can step down. Okay?

18 THE WITNESS: Yes, sir.

19 THE COURT: You may call your next witness.

20 MR. RICHARDSON: Yes, sir, Judge. We would call Mattie
21 Smith.

22 THE CLERK: Please place your left hand on the Bible and
23 raise your right hand. Do you solemnly swear or affirm to
24 tell the truth, the whole truth, and nothing but the truth,
25 so help you God?

26

MATTIE SMITH - DIRECT BY MR. RICHARDSON

1 THE WITNESS: Yes, ma'am.

2 THE CLERK: Thank you. You can have a seat up there.

3 MATTIE SMITH, being first duly
4 sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. RICHARDSON:

7 Q: All right. Ms. Smith, could you tell me the -- the
8 address where you lived with Courtney Smith?

9 A: [REDACTED] Parrish Drive.

10 Q: And what town is that in?

11 A: Mullins.

12 Q: All right. And what county is that in?

13 A: Marion County.

14 Q: Okay. All right. So if you would, tell us about how
15 you came to marry Courtney and set up this family that you
16 had?

17 A: I had met Courtney at a Christmas party. He was in the
18 Lodge with my stepdad and I was pregnant with my son, and we
19 just started talking from there and we was dating for about
20 four or five months and we decided to get married and he
21 decided to raise my son as his because my son's daddy wasn't
22 in his life. He didn't have a father.

23 Q: Okay. Which son are you talking about?

24 A: The baby.

25 Q: The baby? Okay. So how many kids do you have?

MATTIE SMITH - DIRECT BY MR. RICHARDSON

1 A: Three.

2 Q: Three? And where does Minor fall in that group as far
3 as age?

4 A: He's the oldest.

5 Q: He's the oldest? All right. So is his dad still
6 around?

7 A: Yes, sir.

8 Q: Okay. Y'all just aren't together?

9 A: Yes, sir.

10 Q: Okay. And I think Minor gave us the ages of your kids,
11 but if you'd tell us kind of one more time where they are?

12 A: Minor is 11, S.W. [ph] is 6 and Z.W. [ph] is 2.
13 He'll be 3 next week.

14 Q: Okay. And I hate to call you out on this, but do you
15 remember the date you got married to Courtney?

16 A: April the -- I think it was April the 27th.

17 Q: And what -- what year?

18 A: 2016.

19 Q: Okay. And do you see Courtney in the courtroom today?

20 A: Yes.

21 Q: Okay. Could you kind of point to where he is?

22 A: Right there.

23 Q: Okay.

24 MR. RICHARDSON: Your Honor, I'd ask the record reflect
25 she pointed over to the defendant in the case.

MATTIE SMITH - DIRECT BY MR. RICHARDSON

1 THE COURT: All right. So reflected.

2 BY MR. RICHARDSON:

3 Q: All right. Ms. Smith, let's talk about the -- the house
4 over at Parrish Drive. How long had you been living there
5 when -- when everything happened that night?

6 A: We had probably just moved there about two or three
7 months.

8 Q: Okay. So not very long?

9 A: No.

10 Q: All right. Who all was living in that house with you?

11 A: It was me, my three kids, Courtney, his grandmama,
12 Cindy, and his uncle, Marvin.

13 Q: Okay. So you and Courtney had been married for a little
14 while before y'all moved in that house?

15 A: Yes.

16 Q: Okay.

17 A: We was married for, like, two years.

18 Q: All right. So this wasn't, like, the first family home?

19 A: Huh-uh.

20 Q: Y'all just had an opportunity to move into another
21 place?

22 A: We was all staying with his grandmama.

23 Q: Okay.

24 A: In his grandmother's house.

25 Q: Oh, prior to this?

MATTIE SMITH - DIRECT BY MR. RICHARDSON

1 A: Yes.

2 Q: Okay. All right. So Minor told us you had four
3 bedrooms in the house?

4 A: Yes.

5 Q: All right. Now, help us understand a little bit better
6 how -- how the bedrooms were arranged, I guess, just your
7 bedroom and the kids' bedroom. How close together were they?

8 A: They was real close. If you leave out of my room and
9 it's, like, a little corner, the kids' room is right there,
10 and then it was the bathroom across from the kids' room.

11 Q: On this particular evening on or about June the 8th of
12 last year, tell us what you remember about going to bed that
13 night?

14 A: I remember when I went to bed, me and Mr. Courtney -- we
15 both went to bed together. When I woke up to go to the
16 bathroom, I did stayed in the bed a little while because he
17 wasn't in there. So I thought he was in the bathroom and
18 when I realized that he wasn't never coming out the bathroom,
19 I went in there to check on the kids. When I went in there
20 to check on my kids, he was in the bed with my son.

21 Q: Okay?

22 A: I kept telling him to come on and get in the bed. He
23 told me he was coming. And so my mind told me to pop the
24 light on. Once I popped the light on and I looked, I seen
25 Mr. Courtney's boxers down to his ankle and that's when I,

MATTIE SMITH - DIRECT BY MR. RICHARDSON

1 you know, pulled the covers off of him and I seen Minor 's
2 boxers was down to his buttocks. I asked him did he touch my
3 child, did he mess with my child. He told me, no, he didn't
4 mess with my kid -- my child.

5 So I went in there because I went in there and got a
6 pliers and a knife, and Minor begged me to put it down and
7 then when I did put it down, Minor called me in the room and
8 he talked to me and he told me that he remember Courtney
9 touching him and put his mouth down there, but he don't know.
10 He believed he was dreaming and he don't know.

11 Q: Okay.

12 A: And that's when I asked Courtney did he, you know, suck
13 my child and mess with him. He told me no, but he did admit
14 it that he touched him, but he don't remember touching him.
15 And I left.

16 Q: Okay. And do you remember writing a statement --

17 A: Yes.

18 Q: -- for the police about this?

19 A: Yes.

20 Q: Now, do you remember specifically what you told them in
21 your statement about what Minor told you?

22 A: Yes.

23 Q: All right. And do you -- can you tell us what you said?
24 Would you like to see your statement to refresh your
25 recollection?

MATTIE SMITH - DIRECT BY MR. RICHARDSON

1 A: No.

2 Q: Okay.

3 A: I told them that Minor had said that he thought that --
4 that Courtney had -- you know, he thought he felt Courtney's
5 mouth and Courtney touching him down there.

6 Q: Okay. So after you get this information from Minor ,
7 you talked to Courtney again?

8 A: Yes.

9 Q: Okay. And after you talked to him, what did you do?

10 A: I left.

11 Q: Okay. You had all three kids with you?

12 A: Yes.

13 Q: Okay. And where did you go?

14 A: To my mother's house.

15 Q: And do you have an idea kind about what time in the
16 morning this was thereabouts? I know --

17 A: It was, like, about 3 o'clock in the morning.

18 Q: Is that when it all started?

19 A: Yes.

20 Q: Okay. So when you packed up all the kids, all their
21 stuff and your stuff, and head over to your mom's house, what
22 goes on then? About -- do you remember about what time you
23 got over there?

24 A: It probably was, like, about five because me and
25 Courtney -- we was arguing and he was begging me not to leave

MATTIE SMITH - DIRECT BY MR. RICHARDSON

1 because we was a family, and I told him that I was going to
2 leave to cool my -- you know, cool down and then that's when
3 I took all our clothes and I went to my mother's house.

4 Q: Okay. Did you let your mother know what was going on?

5 A: Yes, sir.

6 Q: Okay. Were you aware that she had talked to Minor
7 about it?

8 A: Yes, sir.

9 Q: All right. So when do you remember reporting this to
10 the police?

11 A: It probably was about two or three weeks.

12 Q: So a little -- a little time went by?

13 A: Yes.

14 Q: All right. So tell me kind of your thought process in
15 that, letting some time go by before you reported it?

16 A: Because I was scared and I was nervous and I didn't want
17 to believe that the man that I had married and loved and we
18 had a family that would have did this to me.

19 Q: What were you scared of?

20 A: Because I didn't want to think that he had did that to
21 my child.

22 Q: In the period of time that passed between it happening
23 and you reporting it, did you have any contact with Courtney
24 during that time?

25 A: Yes.

MATTIE SMITH - DIRECT BY MR. RICHARDSON

1 Q: Did you ever see him or talk to him?

2 A: Yes.

3 Q: Okay. Where did you see him?

4 A: I would take the baby, you know, to him. Minor didn't
5 go. It was just me and the baby.

6 Q: You'd just take the baby to visit?

7 A: Yes, sir.

8 Q: Did you talk to him about this situation while you were
9 visiting?

10 A: Not -- we really -- really didn't talk about it.

11 Q: Okay. Would you --

12 A: Because basically I was -- like, the last time I told
13 him it wasn't about -- basically, he was talking about, you
14 know, we working it out and going to marriage counseling or
15 whatever and I was telling him it wasn't about us, it was
16 just about our child, about Z.W.

17 Q: Yeah. Why did you feel like you needed to take the baby
18 over there to visit with him?

19 A: Because he signed the birth certificate and the baby --
20 he's the only daddy the baby knows. He was there ever since
21 the baby was born.

22 Q: Okay.

23 A: That's all the baby know, him as his daddy.

24 Q: Okay. About how long would these visits last do you
25 think?

MATTIE SMITH - DIRECT BY MR. RICHARDSON

1 A: The baby would stay the night with him and his grandmama
2 and his uncle.

3 Q: Okay. Would you get the baby the next day?

4 A: Yeah. Like, after church.

5 Q: Okay. Let's talk about church a little bit. Were you
6 all church-going folks?

7 A: Yes. We went to church every Sunday.

8 Q: Okay. Did that belief system or the idea of counseling
9 or that sort of thing -- did that have any impact on whether
10 you wanted to report it or not?

11 A: A little.

12 Q: Tell us about that?

13 A: Like, we went and talked to the -- the preacher. The
14 preacher had talked to us because the preacher called me and
15 asked me about, you know, the situation, and he wanted to
16 give me and Courtney marriage counseling. And that's when I
17 called -- I told him -- when I went there, I told him what
18 really happened and he talked to Mr. Courtney and he asked
19 Courtney did he -- if that's what he did and Courtney told
20 him yeah and the next thing I know, the police had called me
21 and told me to come in for questions.

22 Q: Okay. So you heard something from the police
23 department?

24 A: Yes, sir.

25 Q: Okay. And when you heard something from them, what did

MATTIE SMITH - DIRECT BY MR. RICHARDSON

1 you do?

2 A: I went up there and I talked to them and they asked me
3 why did it take me so long and I explained it to them that
4 because Courtney was my husband and they said that they had
5 understood and they said that they had reported because of
6 the simple fact it was a child.

7 Q: Right. So given the circumstances of everything, did
8 you feel conflicted over what to do?

9 A: Yeah.

10 Q: Where did you live during this whole time?

11 A: With my mother.

12 Q: Okay. And do you still live there?

13 A: Uh-huh.

14 Q: All right. Has -- have you ever had Minor back around
15 Courtney?

16 A: No.

17 Q: All right. When the -- you met with the police, do you
18 remember who you met with?

19 A: I can't remember his name.

20 Q: You can't remember his name?

21 A: (No verbal response.)

22 Q: All right. And is he the one that you provided the --
23 or gave the written statement to that we alluded to earlier?

24 A: Yes.

25 Q: Okay. And did you answer all the questions he had for

MATTIE SMITH - DIRECT BY MR. RICHARDSON

1 you?

2 A: Yes, sir.

3 Q: Okay. And did you tell him everything that you knew?

4 A: Yes, sir.

5 Q: Okay.

6 MR. RICHARDSON: All right. Please answer any questions
7 that Mr. Meetze may have for you.

8 MR. MEETZE: May we approach briefly, Judge?

9 THE COURT: Yes, sir.

10 (WHEREUPON, a bench conference was held in the presence
11 of the jury but out of the hearing of the jury off the
12 record, after which the proceedings resumed as follows.)

13 CROSS-EXAMINATION

14 BY MR. MEETZE:

15 Q: Ms. Williams, I wanted to clear up a few things just to
16 make sure I understand what you've testified to earlier.

17 Your youngest child's name is Z.W. ?

18 A: Yes.

19 Q: And Z.W. is 2?

20 A: Yes. He'll be 3 next week.

21 Q: Three next week? Okay. And -- and again, I'm just
22 trying to get clear in my mind all the situation. Courtney
23 is not the biological father of Z.W. ?

24 A: No.

25 Q: No? He signed the birth certificate, however?

MATTIE SMITH - CROSS BY MR. MEETZE

1 A: Yes.

2 Q: And when y'all were married agreed to raise the child as
3 his is what --

4 A: Yes.

5 Q: -- you testified to, but was not the biological father?

6 A: Yes.

7 Q: Okay. I just wanted to make sure I understood all of
8 that correctly. You testified that after June the 8th of 2018
9 that you -- there were times when you took Z.W. over to
10 Courtney's house?

11 A: Yes.

12 Q: He stayed with Courtney?

13 A: Yes.

14 Q: Without you there?

15 A: Yes.

16 Q: And you did that multiple times?

17 A: It was, like, a few. He probably stayed there -- I
18 probably took him, like, three -- three times.

19 Q: To spend the night?

20 A: Huh?

21 Q: To spend the night?

22 A: Yes.

23 Q: Okay.

24 A: Because his grandmama and his uncle, Marvin, was always
25 asking about the baby and wanting to see the baby.

MATTIE SMITH - CROSS BY MR. MEETZE

1 Q: And you also testified that you eventually spoke with
2 detectives with the Mullins Police Department or at least a
3 detective with the Mullins Police Department?

4 A: Yes.

5 Q: And did I understand you to say that they -- your
6 conversation with them -- they actually got in touch with you
7 first, that you did not report anything to them?

8 A: No. Marion got in touch with me.

9 Q: I'm sorry?

10 A: It had went to Marion. Marion had got in touch with me.
11 Marion Police Department got in touch with me. They said
12 that because it happened in the city of Mullins, I had to go
13 to Mullins, and that's when they sent me to Mullins to talk
14 to them.

15 Q: And Marion got in touch with you?

16 A: Yes.

17 Q: Through your preacher?

18 A: I guess, because the only thing I know Marion County
19 police called me and told me to come up there. When they
20 asked me where did it happen at, I gave them the address.
21 They said because since it happened in the city of Mullins, I
22 had to go to the department -- the police department in
23 Mullins and that's when they sent me to the police department
24 in Mullins to talk to them.

25 Q: But you didn't call the Marion police either?

MATTIE SMITH - CROSS BY MR. MEETZE

1 A: No, sir.

2 Q: They called you?

3 A: (No verbal response.)

4 Q: Okay. Now, back in 2015, Ms. Williams, you got
5 convicted for a grand larceny?

6 A: Yes.

7 Q: Okay. As you testified to just a little bit ago, you
8 ended up speaking with a detective with the Mullins Police
9 Department; correct?

10 A: Yes.

11 Q: You -- you don't remember that detective's name?

12 A: No.

13 Q: Do you recall how long you talked with him?

14 A: I can't remember.

15 Q: Do you -- do you recall telling him --

16 A: What happened.

17 Q: -- what happened that night?

18 A: What I saw that happened.

19 Q: Okay. And do you remember writing a statement?

20 A: Yes.

21 Q: All right. And do you remember writing that statement
22 as to both what you saw --

23 A: And what --

24 Q: -- and what you say that --

25 A: Minor told me.

MATTIE SMITH - CROSS BY MR. MEETZE

1 Q: -- Minor told you? I'm sorry. I don't mean to talk
2 over you, but if you'll let me ask the questions and then you
3 answer and then I'll try to do the same to you. When you're
4 answering, I'll try not to talk over you, but I know that's
5 sort of hard to do, particularly when you know the answer
6 before you're done with the question. But if we can do it
7 that way.

8 And you wrote the statement out yourself; correct?

9 A: Yes.

10 Q: And it's in your own handwriting; correct?

11 A: Yes.

12 Q: And they gave you as much time to write that as you
13 needed?

14 A: Yes.

15 Q: Is that right? They gave you an opportunity to make any
16 corrections that needed to be made, if any needed to be made?

17 A: Yes.

18 Q: They didn't rush you along?

19 A: No.

20 Q: Hurry you, too fast for you to really be able to think
21 and think about what you wanted to say; is that right?

22 A: No, sir.

23 Q: Okay. And you wrote in that statement that when you got
24 up, you saw that your -- your husband was in the bed with
25 your child?

MATTIE SMITH - CROSS BY MR. MEETZE

1 A: Yes.

2 Q: Correct? And asked him to come back to bed; correct?

3 A: Uh-huh.

4 Q: That he said he was coming?

5 A: Yes.

6 Q: Is that right? And then you say you turned the light
7 on?

8 A: Yes.

9 Q: Okay. And you turned the light on and you said you saw
10 his boxers down to his feet?

11 A: Uh-huh.

12 Q: Now, when you say his in that regard, you're talking
13 about Courtney; correct?

14 A: Yes.

15 Q: Okay. And then you say you snatched the covers off;
16 correct?

17 A: Yes.

18 Q: And that's when you say the cover off -- I'm sorry.

19 I've got to see where I'm at. Snatched the covers off of him
20 and he had no drawers on. Now, when you say snatched the
21 covers off of him, you're talking about Minor ?

22 A: Yeah. Both of them.

23 Q: Okay. Well, but up here in your statement, you said you
24 turned the light on and you already saw the husband in the
25 bed with his boxers down?

MATTIE SMITH - CROSS BY MR. MEETZE

- 1 A: Yes. ~
- 2 Q: Right? Then you pulled the covers off; correct?
- 3 A: Uh-huh.
- 4 Q: And that's when you saw Minor ?
- 5 A: Yes.
- 6 Q: And your statement says his drawers were down?
- 7 A: Yes.
- 8 Q: Now, when you refer to drawers -- because he had
- 9 testified he wore pajamas. Is that what you refer to as
- 10 pajamas?
- 11 A: No.
- 12 Q: Okay. All right. Then after you said his drawers were
- 13 down, you say that his drawers were down and his boxers were
- 14 halfway his butt?
- 15 A: Yes.
- 16 Q: Okay. So boxers is his underwear; correct?
- 17 A: Uh-huh.
- 18 Q: So drawers would be?
- 19 A: The boxers.
- 20 Q: Okay. Well, it says drawers. It says in your statement
- 21 and you wrote that his drawers -- he had no drawers on is
- 22 what you wrote?
- 23 A: Yes.
- 24 Q: At all, but you said his boxers were halfway his butt?
- 25 A: Yes.

MATTIE SMITH - CROSS BY MR. MEETZE

1 Q: Is that correct? Okay.

2 A: Courtney didn't have no drawers on. They -- they had
3 the covers on. Courtney -- how I seen where Courtney didn't
4 have on any boxers because one of his feet was sticking out
5 the covers.

6 Q: Uh-huh.

7 A: And the drawers was down to his feet. That's what made
8 me pull the covers back.

9 Q: Okay. You didn't write any of that in your statement;
10 correct?

11 A: No.

12 Q: Okay. And like you had testified to, he gave you all
13 the time you needed to write the statement; correct?

14 A: Yes.

15 Q: And gave you as much time to write it as accurately as
16 you needed it to be; correct?

17 A: Yes.

18 Q: And that's not what it says; correct?

19 A: No.

20 Q: Okay.

21 A: But that's what I told the police.

22 Q: And it says that Minor 's boxers were halfway his butt;
23 correct?

24 A: Yes.

25 Q: Okay. You also wrote that Minor said he was asleep and

MATTIE SMITH - CROSS BY MR. MEETZE

1 thought he was dreaming?

2 A: Yes.

3 Q: Correct? And that when he thought he was dreaming
4 Courtney might have touched him?

5 A: Yes.

6 Q: And I think your statement says kissed him down there?

7 A: Yes.

8 Q: Okay.

9 MR. MEETZE: I don't have anything further, Judge.

10 THE COURT: Thank you. Anything on redirect?

11 MR. RICHARDSON: Briefly, Judge.

12 REDIRECT EXAMINATION

13 BY MR. RICHARDSON:

14 Q: Ms. Mattie, back when all this took place, how old were
15 you?

16 A: I'm 31. I was, like, 30.

17 Q: Okay. And how about Mr. Courtney? How old was he?

18 A: He was 34.

19 Q: Okay. He was 34 back that?

20 A: No. He was, like, 33. Yeah. He was 33.

21 Q: 33 years old back then? Okay. All right. Very good.

22 MR. RICHARDSON: Thank you. I believe that's all the
23 questions I have.

24 THE COURT: Anything further, Mr. Meetze?

25 MR. MEETZE: No, Your Honor.

1 THE COURT: Thank you very much, ma'am. You may step
2 down.

3 Ladies and gentlemen, we're going to take a short break.
4 If you need anything while you're back there, just let the
5 bailiffs know. Please have no conversation about the case
6 and we'll get started back in just a few minutes. Okay?

7 (WHEREUPON, the jury exited the courtroom at 3:34 p.m.)

8 THE COURT: All right. We'll be in recess for a couple
9 minutes.

10 (WHEREUPON, there was a break in the proceedings from
11 3:34 p.m. until 3:55 p.m., after which the proceedings
12 resumed as follows.)

13 THE COURT: Anything that we need to take up before we
14 start back?

15 MR. MEETZE: I don't think so.

16 MR. RICHARDSON: Your Honor, the next witness will be
17 the investigator; so we'll get to the point where I try to
18 admit the statements. I don't know if just want me to
19 approach and ask for you to give the jury, you know, the
20 thing about --

21 THE COURT: Well, I'll do that before you play it.

22 MR. RICHARDSON: Okay. That'll work.

23 THE COURT: You're talking about explaining to them why
24 it --

25 MR. RICHARDSON: Why it's choppy.

1 THE COURT: Yeah. I'll do that. Whenever you get
2 ready, whenever you're going to play it, you know, when you
3 ask for permission to publish it, I'll tell you, you know,
4 that's good and then I'll at that point --

5 MR. RICHARDSON: Okay.

6 THE COURT: -- instruct them on that.

7 MR. RICHARDSON: Yes, sir.

8 THE COURT: All right. Are you ready to go?

9 MR. RICHARDSON: Yes, sir.

10 THE COURT: Ready?

11 MR. MEETZE: Ready.

12 THE COURT: Let's bring them in.

13 (WHEREUPON, the jury entered the courtroom at 3:56 p.m.)

14 THE COURT: All right. Ladies and gentlemen, if you'll
15 recall when we took that break, we were on the State's case,
16 and we will pick up where we left off and recognize Mr.
17 Richardson for the State's next witness.

18 MR. RICHARDSON: Thank you, Your Honor. We would call
19 Detective Mike Hartson.

20 THE COURT: All right. Detective Hartson, if you'd
21 please come around to be sworn, sir.

22 THE CLERK: Do you solemnly swear or affirm to tell the
23 truth, the whole truth, and nothing but the truth, so help
24 you God?

25 THE WITNESS: Yes, I do.

MIKE HARTSON - DIRECT BY MR. RICHARDSON

1 THE CLERK: Thank you, sir.

2 MR. RICHARDSON: All right.

3 MIKE HARTSON, being first duly
4 sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. RICHARDSON:

7 Q: Detective Hartson, where do you work?

8 A: Mullins Police Department.

9 Q: How long have you been employed there?

10 A: Approximately five-and-a-half years.

11 Q: And what is your job there?

12 A: I'm a detective. I'm actually the supervisor in CID.

13 Q: And were you in that capacity back in June of last year?

14 A: I was a detective, yes.

15 Q: Okay. And back in June of last year, did you have an
16 opportunity to investigate this case involving the defendant,
17 Courtney Smith?

18 A: Yes, I did.

19 Q: Okay. Now, how did you first become aware of this case?

20 A: The victim's mother, Ms. Mattie Smith, arrived at the
21 police department to file an incident report.

22 Q: Okay. Had you gotten any notice ahead of time from any
23 other police department that she was coming?

24 A: No, I did not.

25 Q: All right. So she showed up and met with you?

MIKE HARTSON - DIRECT BY MR. RICHARDSON

- 1 A: Yes.
- 2 Q: Okay. So you -- did you take the initial report in the
3 case?
- 4 A: Yes, I did.
- 5 Q: Okay. What -- after you took this report -- well, let
6 me ask you what date is your initial report dated?
- 7 A: June 15th.
- 8 Q: June the 15th?
- 9 A: Yes.
- 10 Q: And what is the incident report -- excuse me -- the
11 incident date, the day this event took place?
- 12 A: June 8th.
- 13 Q: Okay. So that would be about a seven-day difference?
- 14 A: That's correct.
- 15 Q: Okay. What did you do upon taking this report?
- 16 A: I spoke with the complainant, who was the victim's
17 mother, Ms. Mattie Smith. Obviously, took down the details
18 in an incident report regarding what -- what she said took
19 place and obtained a written statement from her.
- 20 Q: Okay. Did you look into the information on the suspect
21 as far as his date of birth, location, and that sort of
22 stuff?
- 23 A: Yes.
- 24 Q: All right. What date of birth did you have for him?
- 25 A: Bear with me just a moment. [REDACTED], 1984.

MIKE HARTSON - DIRECT BY MR. RICHARDSON

1 Q: All right. And after you spoke with the mother and got
2 her information and her written statement, who did you talk
3 to after that?

4 A: Bear with me again, please.

5 Q: Sure.

6 A: Let me reference my notes. I first contacted the Care
7 House and scheduled an interview and then contacted DSS and
8 made them aware and then on June 22nd, I met with Mattie
9 Smith's mother, Betty Woodbury.

10 Q: All right. Let's go back a second. You said something
11 about calling the Care House. For those who don't know what
12 that is or what that means, could you explain kind of what
13 the Care House is and why you would call them?

14 A: Yes, sir. Typically, with juvenile victims, we don't
15 speak with them ourselves. There are professionals that are
16 trained to speak with juvenile victims, and we at Mullins
17 Police Department use the Care House in Florence. They
18 employ several individuals that do that.

19 Q: Okay. So you -- do you get, like, a report back from
20 the Care House?

21 A: Yes.

22 Q: Okay. So instead of talking to that child yourself, you
23 get these other folks to do the interview and you get the
24 information?

25 A: That's correct.

MIKE HARTSON - DIRECT BY MR. RICHARDSON

1 Q: Okay. So you mentioned I think on the 22nd of June you
2 talked with whom?

3 A: Ms. Betty Woodbury, who would be Mattie Smith's mother,
4 the victim's grandmother.

5 Q: Okay. And where did you meet with her?

6 A: At Mullins Police Department.

7 Q: Did you give her the opportunity to give a written
8 statement?

9 A: Yes, I did.

10 Q: All right. And did you record her talking to you in any
11 way?

12 A: Yes, I did.

13 Q: Okay.

14 A: Audio and video.

15 Q: Okay. And after you spoke with her, what was the next
16 step in your case?

17 A: Courtney Smith, the suspect, was arrested and we
18 conducted a videotaped -- audio and videotaped interview with
19 him on June 27th.

20 Q: June 27th? Let me show you --

21 MR. RICHARDSON: I need to have this pre-marked as
22 State's Exhibit 1 for identification purposes at this time.

23 BY MR. RICHARDSON:

24 Q: I think you mentioned that Mr. Smith had been arrested?

25 A: That's correct.

MIKE HARTSON - DIRECT BY MR. RICHARDSON

1 Q: Already?

2 A: Yes.

3 Q: And how many -- on how many warrants?

4 A: Two, if I recall correctly.

5 Q: Okay. So he was in custody?

6 A: Yes.

7 Q: All right. Prior to asking him any questions, what did
8 you do?

9 A: He was advised of his Miranda rights. A Miranda form
10 was filled out. He voluntarily waived the -- his Miranda
11 rights and signed the form voluntarily, agreeing to speak
12 with law enforcement.

13 Q: Okay. I want to show you what's been marked as State's
14 Exhibit 1 for identification only at this point.

15 MR. MEETZE: No objection to that form.

16 THE COURT: All right. Without objection, that's
17 State's --

18 MR. RICHARDSON: 1.

19 THE COURT: -- 1.

20 MR. RICHARDSON: All right. So it's in evidence?

21 THE COURT: It is.

22 MR. RICHARDSON: Yes, sir. Okay.

23 (WHEREUPON, State's Exhibit Number 1, Miranda Form, was
24 admitted into evidence.)

25 BY MR. RICHARDSON:

MIKE HARTSON - DIRECT BY MR. RICHARDSON

1 Q: Detective Hartson, could you take a look at that and
2 just tell us what that is and why it's significant?

3 A: This is an Advisement of Miranda Rights Form. I'm sure
4 you've all seen that read on television on police shows and
5 all. You know, you have the right to remain silent.
6 Anything you say can and will be held against you in a court
7 of law.

8 As opposed to reading it, typically in a formal setting
9 like that, we would actually let them read it. We'd go over
10 it with them and read it to them and have them sign it and
11 initial, and that would be essentially them waiving the right
12 to an attorney and agreeing to speak with us without an
13 attorney.

14 Q: Okay. Can you tell -- can you kind of reproduce for us
15 how you went through that form with him?

16 A: Yes. I would place this form in front of him, allow him
17 to utilize a pen, and read him you have the right to remain
18 silent. Anything you say can and will be held against you in
19 a court of law. You have a right to talk to a lawyer and
20 have him or her present with you before any questioning, if
21 you wish. If you cannot afford to hire a lawyer, one will be
22 appointed to represent you before any questioning, if you
23 wish. You can decide at any time to exercise these rights
24 and not answer any questions or make any statements. Do you
25 understand each of these rights as I've explained them to

MIKE HARTSON - DIRECT BY MR. RICHARDSON

1 you?

2 And as we read each one of those, we would ask him to
3 initial next to each line. And then he would check yes or no
4 if he fully understood his rights and then sign also. I
5 would witness next to that with my signature.

6 Then we would -- typically, I ask if the defendant reads
7 well -- the suspect reads well. If they answer yes, I allow
8 them to read the bottom portion to themselves. That's called
9 a waiver of the rights. If they do agree to waive their
10 rights and speak with us, they would initial before and after
11 that paragraph and then sign the bottom. I would apply the
12 times that it was read and the time that we ended, and then I
13 would also witness that.

14 Q: Okay. So you did go over the actual rights themselves
15 in that box and he initialed them?

16 A: Yes.

17 Q: Okay. At any point in time when you were doing this,
18 going over this information with him, did he give you any
19 reason to pause in terms of -- or give you any concern that
20 he didn't understand what was happening?

21 A: Absolutely not.

22 Q: All right. So he indicated he understood what was going
23 on?

24 A: Yes.

25 Q: All right. Where was -- what kind of setting were y'all

MIKE HARTSON - DIRECT BY MR. RICHARDSON

1 in when you are going over this information?

2 A: It's a large conference room area. It has a large
3 table. It's kind of a relaxed setting. We just have a
4 camera mounted in there to record not only functions like
5 that but other city functions.

6 Q: Is that the same room you talked to Grandma Betty in?

7 A: Yes, it is.

8 Q: Okay. At any point in time during your interview with
9 him, did you deny him the opportunity to use the bathroom or
10 get food or drink?

11 A: No, I did not. In fact, one time he did get up to use
12 the bathroom. There's an attached bathroom in that room.

13 Q: Okay. Did he appear to you at all to be under the
14 influence of any substances, whether it be alcohol, drugs or
15 anything that would have impaired his ability to understand
16 what y'all were doing?

17 A: No, he did not.

18 Q: Who all was present in that room with you when you
19 talked with Mr. Smith?

20 A: Initially, I was alone with him. A few minutes into the
21 interview, Detective Bethea entered and sat in as well.

22 Q: Okay. And about how long did this whole process last?

23 A: If I recall correctly, approximately an hour and a half.

24 Q: Okay. And you mentioned that that room has camera
25 equipment in it?

MIKE HARTSON - DIRECT BY MR. RICHARDSON

1 A: Yes.

2 Q: Did you record the -- the interview you had with Mr.
3 Smith?

4 A: Yes, I did.

5 Q: All right.

6 MR. RICHARDSON: I want to mark this as State's Number 3
7 for identification.

8 BY MR. RICHARDSON:

9 Q: I'm going to show you what's been marked as State's 3
10 for identification only at this point. Do you recognize that
11 item?

12 A: Yes, I do.

13 Q: What is it?

14 A: That is a recorded interview on a DVD disk of the
15 defendant, Courtney Smith, speaking with us.

16 Q: Okay. With the exception of any evidentiary rulings or
17 agreements by the parties, is that the -- does that comprise
18 the interview in total with Mr. Smith?

19 A: Yes, it does.

20 Q: Okay.

21 MR. RICHARDSON: Your Honor, I'd ask to move State's 3
22 into evidence.

23 MR. MEETZE: Judge, for the record, I would object.

24 THE COURT: All right. All right. I'm going to
25 overrule the objection and allow it in over objection.

MIKE HARTSON - DIRECT BY MR. RICHARDSON

1 (WHEREUPON, State's Exhibit Number 3, DVD containing
2 recorded interview of defendant, was admitted into
3 evidence.)

4 BY MR. RICHARDSON:

5 Q: During the course of the interview with Mr. Smith, did
6 you give him an opportunity to do a handwritten statement as
7 you had with the other witnesses in the case?

8 A: Yes, I did.

9 Q: Okay. And did he do that?

10 A: Yes.

11 MR. RICHARDSON: I'd like to have this item marked as
12 State's 2 for identification.

13 BY MR. RICHARDSON:

14 Q: I'm going to show you what's been marked as State's 2
15 for identification. It's not yet into evidence. If you'd
16 just take a look at that and tell me if you can identify
17 that?

18 A: Yes.

19 Q: Okay. And what is that?

20 A: That is the written statement written by the defendant,
21 Courtney Smith --

22 Q: All right.

23 A: -- during the interview process.

24 MR. RICHARDSON: I'd ask for State's 2 to be entered
25 into evidence.

MIKE HARTSON - DIRECT BY MR. RICHARDSON

1 THE COURT: Any objection?

2 MR. MEETZE: Subject to the same objection.

3 THE COURT: Overruled. I'm going to allow it in.

4 (WHEREUPON, State's Exhibit Number 2, handwritten
5 statement of the defendant, was admitted into evidence.)

6 MR. RICHARDSON: Okay. Thank you.

7 BY MR. RICHARDSON:

8 Q: I want to ask you, Detective Hartson, the address of the
9 incident location, just to go back to that for a second. Do
10 you have that with you?

11 A: Yes, I do. [REDACTED] Parrish Drive in Mullins.

12 Q: All right. And what county is that in?

13 A: In Marion County.

14 Q: All right.

15 MR. RICHARDSON: I beg the Court's indulgence one
16 moment.

17 Your Honor, at this time, if we may publish the video?

18 THE COURT: All right. Yes, sir. You can go ahead and
19 set that up.

20 Ladies and gentlemen, let me instruct you on something
21 regarding the video.

22 And, Keith, you can go ahead and you can be setting that
23 up while I mention this to the jury.

24 As you heard from the testimony, this is a videotape of
25 an interview that occurred with Mr. Smith. The interview --

MIKE HARTSON - DIRECT BY MR. RICHARDSON

1 prior to -- one of the pretrial matters that we dealt with
2 early on was the contents of the interview.

3 Throughout -- and this happens with almost all
4 interviews and tapes. There was a lot of -- a lot of
5 discussion in there. There were some things that were
6 discussed in there that there were objections to and,
7 according to the law, things that were inadmissible. And so
8 there -- there were things that were irrelevant that had
9 nothing to do with this case. Those things have been
10 redacted out or taken out.

11 So as you watch this tape, as you -- as it goes through,
12 you may see where there's a conversation and then there's a
13 little timestamp and you may see that it actually jumps
14 forward. You don't really see it in the video itself, but
15 the time -- you might see the timestamp jump forward. That's
16 because there was a portion there that was either objected to
17 and removed or it was irrelevant and removed.

18 So I wanted to bring that to your attention so you would
19 be aware of that and not think that we were trying to hide
20 anything from you or that it was doctored up. Both sides
21 have reviewed the -- the portion that you're going to hear
22 here and agree that the redactions were appropriate. So I
23 just wanted to give you that heads up.

24 And with that being said, go ahead and play the tape.

25 Oh, can you hold it for a second?

MIKE HARTSON - DIRECT BY MR. RICHARDSON

1 We're going to -- yes, sir?

2 A JUROR: Can you cut the air down a little?

3 THE COURT: Yeah. You need it warmer or colder?

4 A JUROR: Warmer.

5 THE COURT: Warmer? We'll see what we can do.

6 I'm trying to remember what I was going to tell you.

7 Oh, we will turn the volume up as loud as you need it or as
8 softer as you need it, but there's nothing we can do about --
9 for example, you know, the microphone is not right here where
10 he's speaking into it. It's more of a room microphone type
11 situation.

12 So if you can't understand something, I guess there's
13 nothing we can do about that. The tape is going to be in
14 evidence. You will have it available when you do begin your
15 deliberations and so you can certainly replay it if you need
16 to, but I just wanted you to know that if you need it turned
17 up or down, if you'll just let Keith know and he'll adjust it
18 for you. Okay?

19 And the first part of it, there's no sound, but we know
20 there's no sound because what is going to happen is you'll
21 see -- you'll see the investigator go over to the wall and
22 flip a switch. That's the switch that turns on the
23 microphone. So nothing is occurring prior to him turning on
24 the microphone.

25 (WHEREUPON, State's Exhibit Number 3, videotaped

MIKE HARTSON - DIRECT BY MR. RICHARDSON

1 interview of the defendant, was played in open court.

2 Not transcribed herein. When the tape ended, the
3 proceedings resumed as follows.)

4 MR. RICHARDSON: Judge, if I could briefly publish the
5 written statement --

6 THE COURT: Yes, sir.

7 MR. RICHARDSON: -- to the jury?

8 (WHEREUPON, State's Exhibit Number 2, written statement
9 of the defendant, was placed on a screen in front of the
10 jury.)

11 KEITH GODBOLT: Can everyone see it?

12 (WHEREUPON, there was a pause in the proceedings, after
13 which the proceedings resumed as follows.)

14 MR. RICHARDSON: Judge, that's all the questions I have
15 for Detective Hartson at this time.

16 THE COURT: All right. Mr. Meetze?

17 MR. MEETZE: Thank you.

18 CROSS-EXAMINATION

19 BY MR. MEETZE:

20 Q: Detective Hartson, you would be considered to be the
21 lead investigator in this case?

22 A: Yes.

23 Q: All right. And along with that come a lot of
24 responsibilities; correct?

25 A: Yes.

MIKE HARTSON - CROSS BY MR. MEETZE

1 Q: And as you said, you've been with the Mullins Police
2 Department for five-and-a-half years and about all of that
3 has been as a detective; correct?

4 A: Yes.

5 Q: And as a law enforcement officer, you go through a lot
6 of training; correct?

7 A: That is correct.

8 Q: And you've got to go through training at the police
9 academy to even become a law enforcement officer; correct?

10 A: Yes.

11 Q: And like a lot of jobs, yours is a job to where once you
12 become a police officer, there is continued education in your
13 profession; correct?

14 A: Yes.

15 Q: Always got to be learning things; correct?

16 A: Yes.

17 Q: Because laws change?

18 A: Yes.

19 Q: And that's the kind of thing you have to be able to stay
20 on top of; correct?

21 A: Yes, sir.

22 Q: Now, training that you go through includes how to fill
23 out reports; correct?

24 A: Yes.

25 Q: Because at least I would say a large part, but whether

MIKE HARTSON - CROSS BY MR. MEETZE

1 you would or not I don't know. But a good bit of your job
2 and a lot of responsibility deals with preserving evidence;
3 correct? It can --

4 A: Depending on the situation, yes.

5 Q: Sure. And incident reports and things like that are a
6 way to preserve evidence; correct?

7 A: Yes.

8 Q: Because you don't make a case one week and have to go to
9 court the next week; correct?

10 A: Yes. We use that to reference back.

11 Q: Right. You need to be as accurate as possible so that
12 your memory and maybe others' memories will be able to be as
13 fresh as possible when it comes time to -- time to recall
14 what happened in a particular situation; correct?

15 A: Correct.

16 Q: And an incident report is not the only way to preserve
17 evidence; correct?

18 A: That's correct.

19 Q: You go through training on how to interview witnesses;
20 correct?

21 A: Uh-huh. Yes.

22 Q: How to take statements from witnesses?

23 A: Yes.

24 Q: And you did all of those things in this case; correct?

25 A: Yes, I did.

MIKE HARTSON - CROSS BY MR. MEETZE

1 Q: And even though you took oral and written statements
2 from the witnesses you spoke with, you also memorialized it
3 in your report what they said; correct?

4 A: Yeah. A brief rundown.

5 Q: Sure.

6 A: Correct.

7 Q: Right. But you've indicated who you spoke with and what
8 they said and you made a notation that they made a written
9 statement as well; correct? Generally?

10 A: That's correct.

11 Q: All right. And when -- also, you obviously interviewed
12 Courtney Smith in this case; correct?

13 A: Yes, I did.

14 Q: And you go through training on how to interview folks
15 charged with crimes; correct?

16 A: Yes.

17 Q: There's various interrogation techniques that you've
18 learned over your career as a law enforcement officer;
19 correct?

20 A: Sure.

21 Q: Because there's a design towards an interrogation;
22 correct? You have a goal in mind when you start an
23 interrogation; correct?

24 A: Absolutely. Obtain the truth.

25 Q: Okay. And you have an idea of what the truth is;

MIKE HARTSON - CROSS BY MR. MEETZE

1 correct?

2 A: I know what is reported to us initially.

3 Q: Okay. Now, let's talk about that. Well, let's talk
4 more about interrogation techniques. Law enforcement are
5 even in interrogation techniques allowed to mislead folks
6 charged with crimes during interrogations; correct?

7 A: To a certain extent, yes.

8 Q: Sure. For example, in this case, one thing you said to
9 Courtney Smith was what do you think the child is saying;
10 correct?

11 A: Correct.

12 Q: And then you said what do you think the child told his
13 mother, what do you think the child told his grandmother, and
14 what do you think the child told us; correct?

15 A: I'm sure, yes.

16 Q: Okay. You weren't there when the child said anything to
17 his mother; correct?

18 A: Correct. I was not.

19 Q: And you were not there when the child said anything to
20 the grandmother; correct?

21 A: That's correct. I was not.

22 Q: And you never spoke to the child?

23 A: No, I did not.

24 Q: So that would be one of those instances?

25 A: Elaborate on that.

MIKE HARTSON - CROSS BY MR. MEETZE

1 Q: Where you misled the person on the subject you're
2 talking about?

3 A: No.

4 Q: Okay. Well, what the child told us is -- you asked him
5 what's -- you know, what do you think the child is telling
6 us; correct? You asked him that question?

7 A: I'm not really sure if I did say us. Maybe I did say
8 that.

9 Q: Okay. Well, it's in evidence.

10 A: Okay.

11 Q: And it'll be able to be played if requested. But it is
12 a fact that you did not speak to the child?

13 A: That is correct.

14 Q: Okay.

15 A: I gained information from the mother and the
16 grandmother.

17 Q: I understand.

18 A: Based on what the child told them.

19 Q: What they said the child told them?

20 A: Correct.

21 Q: Right. You -- during a portion of the interview that
22 was not on the recording, Mr. Smith indicates to you that he
23 wanted to get home to his grandmother; correct?

24 A: I don't recall that specifically.

25 Q: You're not saying he didn't say it; correct?

MIKE HARTSON - CROSS BY MR. MEETZE

1 A: I'm not saying he did not say that, but I do not recall
2 that specifically.

3 Q: But then there was a portion of the video toward the end
4 where he did mention his grandmother; correct?

5 A: Yes, I believe so during the end.

6 Q: Okay. Part -- you also testified that part of your
7 investigation in this case was to set up the interview with
8 the Care House?

9 A: That's correct.

10 Q: And that was set up and was done on June -- the
11 interview was conducted on June the 20th; is that right?

12 A: Let me reference --

13 Q: Sure.

14 A: -- the report. Yes.

15 Q: And your interview with Courtney Smith was June 27th; is
16 that right?

17 A: That's correct.

18 Q: Okay. And you've got -- you first found out anything
19 about all of this on June the 15th?

20 A: Yes.

21 MR. MEETZE: I don't have anything further, Your Honor.

22 THE COURT: Anything further of this witness?

23 MR. RICHARDSON: No, sir.

24 THE COURT: All right. Thank you very much, sir. You
25 can step down.

1 THE WITNESS: Thank you, Your Honor.

2 MR. RICHARDSON: Judge, our next witness will be
3 available in the morning.

4 THE COURT: All right. That sounds good.

5 Ladies and gentlemen, we're going to recess at this
6 time. Now, as I instructed you yesterday and will continue
7 to instruct you throughout this trial, please have no
8 conversation with anyone about this case. Obviously, you
9 know more. You've heard evidence that you did not know
10 yesterday.

11 Again, family, friends, and loved ones may be curious,
12 but just ask them to be patient and you're not allowed to
13 discuss it and that you will certainly share with them
14 whatever they want to know once the trial is over. But at
15 this point, you still are under orders to not discuss the
16 case with anyone. Again, if you can get a good night's rest,
17 do that.

18 We're going to start at 9:30 in the morning. So if you
19 would, please be here in the jury room ready to go and, once
20 everyone's reconvened, we'll get started at 9:30. Okay?

21 If everyone else will please remain seated while the
22 members of the jury are excused.

23 (WHEREUPON, the jury exited the courtroom at 5:18 p.m.)

24 THE COURT: Okay. All right. Anything we need to take
25 up before we adjourn for the evening?

1 MR. RICHARDSON: Not from the State, Judge.

2 MR. MEETZE: No, Your Honor.

3 THE COURT: Let me make -- address, just briefly, Mr.
4 Smith.

5 Now that the -- now that the jury has been sworn,
6 jeopardy has attached, and I know that you have a bond in
7 this matter. I'm going to you allow you to remain on that.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: But I just want to -- and I -- just so that
10 you'll understand, I share this in every case. Okay?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: This isn't particular to you. I'm confident
13 you'll be back tomorrow morning, but I just wanted you to
14 understand and know that if you -- if you were to not return
15 that the trial would go forward in your absence. Do you
16 understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: So the fact that you certainly need to be
19 here or should be here, but if you choose not to be here,
20 that would not prevent the trial from going forward. It
21 would proceed in your absence. Do you understand?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Okay. All right. Well, we're going to then
24 start back at 9:30. I'll be here before then if y'all need
25 anything, but we'll look to tee it up at 9:30.

1 MR. MEETZE: Thank you.

2 MR. RICHARDSON: Yes, sir.

3 THE COURT: All right.

4 (WHEREUPON, the proceedings adjourned for the day at
5 5:20 p.m.)

6 MAY 16, 2019

7 (WHEREUPON, the proceedings resumed at 10:09 a.m.)

8 THE COURT: All right. Are you all ready? Is the State
9 ready to proceed?

10 MR. RICHARDSON: Yes, sir.

11 THE COURT: Is the defense ready to proceed?

12 MR. MEETZE: We are.

13 THE COURT: All right. If you would, let's please bring
14 the jury out.

15 (WHEREUPON, the jury entered the courtroom at 10:10
16 a.m.)

17 THE COURT: All right. Ladies and gentlemen, I don't
18 know if y'all heard me screaming when you were in there. We
19 were a little delayed in getting you out here because I had
20 another matter I had to take up with, and the poor attorney
21 that was representing the defendant had lost both of his
22 hearing aids in the lake.

23 I didn't get any details on that. Anyway, I had to
24 scream and I didn't know if y'all could hear all that back
25 there and was wondering what's going on out here.

BETTY WOODBURY - DIRECT BY MR. RICHARDSON

1 All right. Well, as you recall yesterday when we
2 recessed for the afternoon, the State was on their case and
3 we're going to ask Mr. Richardson to call his next witness
4 and we're going to pick up where we left off yesterday.

5 Mr. Richardson?

6 MR. RICHARDSON: Yes, sir, Your Honor. Thank you. We'd
7 call Betty Woodbury.

8 THE COURT: All right. Ms. Woodberry, if you would,
9 please come around to be sworn, ma'am. Come around the front
10 here and then after you're sworn in, you can have a seat up
11 here at the jury box or the witness box.

12 THE CLERK: Ms. Woodbury, put your left hand on the
13 Bible and raise your right hand. Do you swear or affirm to
14 tell the truth, the whole truth, and nothing but the truth,
15 so help you God?

16 THE WITNESS: Yes.

17 THE CLERK: Thank you. You can go ahead and take a
18 seat. Watch your step.

19 BETTY WOODBURY, being first
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. RICHARDSON:

23 Q: Ms. Woodbury, how are you related to Mattie Smith?

24 A: My daughter.

25 Q: And that would make you Minor

BETTY WOODBURY - DIRECT BY MR. RICHARDSON

- 1 A: Grandmother.
- 2 Q: Grandmother? All right. Do they live with you now?
- 3 A: Yes.
- 4 Q: Okay. And how long have they lived with you?
- 5 A: It's over a year now.
- 6 Q: About a year?
- 7 A: I think over a year.
- 8 Q: Okay. Well, back on or about June the 8th of 2018, do
- 9 you recall a time where Mattie and your grandchildren came to
- 10 your house kind of in the early morning hours?
- 11 A: Yes.
- 12 Q: Okay. Were you made aware of why they were coming over
- 13 to your house? Did --
- 14 A: After she got there.
- 15 Q: Okay. So they explained you what happened?
- 16 A: Uh-huh.
- 17 Q: All right. During your -- I guess all the chaos I guess
- 18 of them coming in and what was going on, did you have a
- 19 chance to talk with your grandson, Minor , about what had
- 20 happened?
- 21 A: Yes.
- 22 Q: And where did you have a conversation with him?
- 23 A: When my daughter told me what happened, I called him
- 24 outside to his self and I talked to him on the porch.
- 25 Q: It was just the two of y'all?

BETTY WOODBURY - DIRECT BY MR. RICHARDSON

1 A: Yes.

2 Q: Okay. And what -- what did he tell you? Well, before

3 we get into that, eventually did -- did you meet with the

4 police department in Mullins?

5 A: Yes.

6 Q: And did you give them a statement?

7 A: Yes.

8 Q: About what Minor told you?

9 A: Yes.

10 Q: All right. Now, what did Minor tell you on the porch

11 that -- that morning?

12 A: I asked him what had happened and he said that his mama

13 came into the room and caught Courtney in the bed with him.

14 And I said what had happened and he said, you know. I said,

15 no, you tell me what happened and he said -- well, he said --

16 I had -- you know, down there. He put his mouth down there.

17 I said put his mouth down there. He said yeah. He said, you

18 know, like that. I said sucking. I said the word sucking,

19 but he just said "yeah" when I asked him.

20 Q: Okay. And was there any discussion of touching?

21 A: That's all he had told me. Yeah, he touched down there,

22 you know, his mouth down there, and I said what happened and

23 he said sucking like that and I said this is the first time

24 this happened or had it ever happened before. And then he

25 said yeah.

BETTY WOODBURY - DIRECT BY MR. RICHARDSON

1 MR. MEETZE: Objection, Your Honor.

2 THE COURT: Oh, I'm sorry.

3 MR. MEETZE: May we approach?

4 (WHEREUPON, a bench conference was held in the presence
5 of the jury but out of the hearing of the jury off the
6 record, after which the proceedings resumed as follows.)

7 THE COURT: All right. I'm going to sustain Mr.

8 Meetze's objection. You may proceed with your testimony.

9 MR. RICHARDSON: All right.

10 BY MR. RICHARDSON:

11 Q: So after you talked to Minor , you ended up going to the
12 police department later on and talked to the detective about
13 it?

14 A: The -- I think they had called me up there when I had
15 went up there.

16 Q: Okay. And is that all you did in the case as far as the
17 police were concerned?

18 A: Yeah.

19 Q: Okay.

20 MR. RICHARDSON: Please answer any questions that Mr.
21 Meetze may have for you.

22 CROSS-EXAMINATION

23 BY MR. MEETZE:

24 Q: Ms. Woodbury, so you -- the police called you and asked
25 you to come to the police; is that correct?

BETTY WOODBURY - CROSS BY MR. MEETZE

1 A: Uh-huh.

2 Q: I'm sorry. I didn't --

3 A: Yes.

4 Q: Okay. And as you just indicated, you talked to them

5 when you were there?

6 A: Uh-huh.

7 Q: And they allowed you to give a written statement?

8 A: Statement. Uh-huh.

9 Q: Correct?

10 A: Uh-huh.

11 Q: Your husband was with you; is that correct?

12 A: Uh-huh.

13 Q: He actually wrote your statement for you; is that right?

14 A: Yes.

15 Q: Okay. And it was your statement. He just was the one

16 that actually wrote --

17 A: Right.

18 Q: -- the words down?

19 A: Uh-huh.

20 Q: Okay. And with regards to what you told them Minor

21 told you about that night, you said that Minor told me

22 Courtney was touching and sucking his thing. That was what

23 you had -- that's what you wrote as your statement regarding

24 June the 8th?

25 A: I did.

BETTY WOODBURY - CROSS BY MR. MEETZE

1 Q: Correct?

2 A: Uh-huh.

3 Q: Now, you actually testified here today you were the one
4 that used the word sucking?

5 A: Yeah. I used the word sucking because he said, you
6 know, like that.

7 Q: But he didn't use the word sucking?

8 A: No, he didn't use the word sucking. I used the word
9 sucking because I assumed that's what he was saying when I
10 was asking him what happened.

11 Q: And that was after -- that day at the police office,
12 that was the last time you spoke with them about this
13 incident or matter at all?

14 A: The only thing I told him just -- just to be honest and
15 just tell the truth, whatever. That's all I told him.

16 Q: I understand. All right.

17 MR. MEETZE: Judge, I don't have anything further.

18 MR. RICHARDSON: Just a brief redirect, Judge.

19 REDIRECT EXAMINATION

20 BY MR. RICHARDSON:

21 Q: Ms. Woodbury, when you used the word sucking in that
22 discussion with your grandson, did he correct you in any way
23 and say, no, that's not what I meant?

24 A: No. He just said, you know what -- he said you know
25 with his mouth down there like -- like that. I said, oh,

BETTY WOODBURY - REDIRECT BY MR. RICHARDSON

1 what you're saying? Sucking? You know, he just reacted to
2 try to show me what was going on, but he didn't want to use
3 that word. I used the word sucking.

4 Q: Okay.

5 MR. RICHARDSON: Thank you. That's all.

6 THE COURT: All right. Thank you, Ms. Woodbury. You
7 may step down. Thank you very much.

8 MR. RICHARDSON: Judge, the State rests.

9 THE COURT: All right. Ladies and gentlemen, the State
10 has rested their case and so at the -- in every trial when
11 the State has concluded their case, then I have to take up
12 matters of law before we proceed. So I'm going to get you to
13 step back into your jury room while I do that. I don't think
14 that's going to be a terribly lengthy process, but let me
15 mention something before I send you back. I meant to do this
16 earlier and just hadn't gotten to it.

17 Ms. Carla Samuel?

18 Ms. Samuel, would you be willing to serve as the
19 forelady of the jury for me? I know you're thinking, well, I
20 don't know. What does that mean? Anytime we have a group of
21 folks, it's -- it's just easier to deal with one person on
22 behalf of a group rather than have to deal with everybody
23 individually and so what the foreperson's main role is is to
24 be the communicator between the jury panel and the Court.

25 So that if anytime you have any questions about

1 anything, if you have any questions, the fore -- in this
2 case, the forelady would write out that question and pass it
3 to me. Depending on the question, I may just write my answer
4 and send it back to you or I may bring you out as a group and
5 respond to you orally. But that's the main role of the
6 foreperson so that the Court has one person to deal with on
7 behalf of the group.

8 The other thing I would tell you though in every case
9 tried in this court, whether it's a civil case or a criminal
10 case, the verdict of the jury must be unanimous. You must
11 all agree on your verdict, whatever it is. I tell you that
12 to say so you are all equal members of the jury. The
13 forelady or the foreperson has no more authority or their
14 vote carries no more weight than anyone else. You're all
15 equal members of the jury.

16 I tell juries all the time when you do begin your
17 deliberations, whenever we get to that -- we're not there
18 yet, but that, you know, you should be very open-minded and
19 listen to everybody and listen carefully to everyone's
20 thoughts and opinions and weigh those thoughts and opinions
21 against your own in arriving at your verdict.

22 So you're all equal members of the jury, but it's just
23 that we find it's just an easier situation to have one person
24 that the Court can deal with. So if you would do that for
25 me, I would appreciate it.

1 And so the only change that we typically would do is if
2 you -- when you come back out, if you could occupy this first
3 seat right here and then we'll be good to go. All right?

4 So if you would, step back into the jury room. Don't
5 have any conversation about the case, but let me take up
6 these matters of law and then we'll revisit and come back out
7 and start back.

8 (WHEREUPON, the jury exited the courtroom at 10:23 a.m.)

9 THE COURT: All right. At this time, I'll be happy to
10 take up any motions at the close of the State's case.

11 MR. MEETZE: Judge, on Mr. Smith's behalf, I would make
12 a motion for a directed verdict as to both of these charges
13 and make that motion based on our view of the evidence being
14 that there is not any direct evidence or enough direct
15 evidence or substantial circumstantial evidence to which a
16 jury could find Mr. Smith guilty of either of these offenses,
17 and we'll make our motion on that basis.

18 THE COURT: All right. I'm going to respectfully deny
19 the motion, Mr. Meetze. I think it is a jury question. I
20 think it depends on how the jury views the evidence and,
21 since they are the factfinders, I think there are -- there is
22 testimony in evidence, depending how they view it, whereby
23 they could -- they could find against Mr. Smith, depending on
24 their view of the evidence. So I'm going to respectfully
25 deny that motion.

1 Have you talked with Mr. Smith regarding the defendant's
2 case and what you intend to do?

3 MR. MEETZE: I have, Judge.

4 THE COURT: All right. Mr. Smith, if I can address you
5 briefly?

6 The State has rested their case and so now we come to
7 the defense's case and a person -- every person who is
8 charged with a criminal offense, they have the right to
9 remain silent. They also have the right to testify, and I'm
10 just going to go over those two rights with you at this time.

11 First, with regards to your right to testify, you
12 understand that you have the right to testify or to present
13 any other witnesses in your defense. Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. And if you did choose to testify, of
16 course, you would answer whatever questions that were posed
17 by Mr. Meetze, but you understand you would also be subject
18 to answering any questions by the State's attorney. Do you
19 understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: I don't know if you have -- we talked about
22 -- I think you had a prior conviction for an assault and
23 battery back in 1999. Is that -- excuse me. I mean 2009.
24 Is that correct?

25 THE DEFENDANT: I think it was 2008. It may have been

1 '09.

2 THE COURT: Okay. But in any case, you understand that,
3 if you were to testify, that either Mr. Meetze or the State's
4 attorney could ask you about that conviction?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Now, all they'd be able to do is to simply
7 ask, you know, and if it was assault and battery -- I think
8 it was assault and battery high and aggravated. They would
9 simply be allowed to ask you is it true that you -- that you
10 were convicted of assault and battery of a high and
11 aggravated nature back in 2000 and whenever it was, and then
12 you would have to respond to that. And you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Other than just simply asking you that
15 question, they would have to move on. They would not be
16 allowed to ask you any details about that or anything of that
17 nature. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Okay. Now, the other side of that
20 constitutional right is you have the right to testify. You
21 also have the right to remain silent. In a criminal case,
22 the burden of proof is on the State to prove guilt. A person
23 charged with a criminal offense is never required to prove
24 themselves innocent. You can remain silent and, if you did
25 choose to do that, when it comes time for me to instruct the

1 jury on the law --

2 THE DEFENDANT: Yes, sir.

3 THE COURT: -- I would tell the members of the jury that
4 that is your constitutional right. That -- that the fact
5 that you've chosen to exercise that right cannot be
6 considered by them in their deliberations.

7 As a matter of fact, I would tell them that the fact
8 that you chose to remain silent could not even be discussed
9 in the jury room. They are to give it no consideration
10 whatsoever because a person charged with a criminal offense
11 has no burden to prove anything. You are presumed innocent.
12 The burden of proof rests on the State, and I would instruct
13 them that. Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. Now, have you had enough time to
16 discuss with Mr. Meetze and to go over it yourself as to
17 whether or not you wish to testify?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. And what is that decision?

20 THE DEFENDANT: I choose not to testify.

21 THE COURT: You're going to exercise your right to
22 remain silent?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. Mr. Meetze, would you have any
25 other witnesses?

1 MR. MEETZE: No, Your Honor.

2 THE COURT: Mr. Smith, let me ask you is the decision
3 that you've made -- and I'm certainly going to honor the
4 decision. Has that been your decision, sir?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Has anyone forced you or coerced you or
7 pressured you in any way to make that decision?

8 THE DEFENDANT: No, sir.

9 THE COURT: Okay. All right. And you fully understand
10 these rights and your options regarding them?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. All right. Well, we'll certainly
13 honor that.

14 Now, because the defense would be resting, Mr. Meetze,
15 if you want to, I would go ahead and let you make any
16 motions. I'll take up motions at the close of the evidence
17 so that once we bring the jury back out, we'll be ready to
18 proceed to closing arguments. So I'll hear from you with any
19 motions at the close of the evidence.

20 MR. MEETZE: Thank you, Your Honor. At this point in
21 time, seeing as how all the evidence is now in, we would just
22 renew our previous directed verdict motions that we -- that
23 we made at the close of the State's case.

24 THE COURT: All right. And I'm, again, respectfully
25 going to deny that in light of the fact that I think it's a

1 jury question for the jury to decide.

2 Folks, I've got -- as far as the charge, I've just got
3 the boilerplate language about -- let's see. Presumption of
4 innocence. That the defendant is presumed innocent.

5 Reasonable doubt is -- I'm going to use the language of
6 the doubt that leaves you firmly convinced of the defendant's
7 guilt.

8 We'll talk about the duties of the jury and the trial
9 judge and that the jury is the judges of the facts and the
10 Court is the judge of the law.

11 Direct and circumstantial evidence. I have the charge
12 regarding that, and I'll let y'all look at this before we
13 make any final call.

14 I'll talk about the credibility of witnesses.

15 That the arguments of counsel are beneficial. However,
16 they are not evidence.

17 I have a charge regarding the testimony of children.
18 I'll let you look at that and see what you think regarding
19 that.

20 The statement of the defendant. That the defendant is
21 alleged to have made a statement and that, although the Court
22 has determined that the statement is admissible, that is the
23 jury's ultimate decision as to whether or not that statement
24 was made freely and voluntarily by the defendant, and they
25 are to give that whatever consideration that they think it

1 deserves.

2 I have the charge regarding the defendant's decision to
3 -- not to testify and to remain silent.

4 I have a charge on multiple charges, telling the jury
5 that each charge is a separate and a distinct offense and
6 that you must decide each count separately on the evidence
7 applicable to it, uninfluenced by your decision as to the
8 other charge.

9 The sexual conduct with a minor in the first degree is
10 basically -- it's basically the statute and that the State
11 must prove a sexual battery and must prove beyond a
12 reasonable doubt the age of the victim being less than 11
13 years of age at the time.

14 And with regards to -- oh, and it defines, of course,
15 sexual battery as sexual intercourse, cunnilingus, fellatio,
16 oral sex, anal intercourse, or any other intrusion, however
17 slight, in any part of the person's body or of any object
18 into the genital or anal openings of another person, except
19 when the intrusion is done by way of medically-recognized
20 treatment.

21 Then -- then criminal sexual conduct with a minor in the
22 third degree. That the State has to prove beyond a
23 reasonable doubt that the defendant is over 14 years of age,
24 that the minor is under 16 years of age, and that there was
25 an unlawful touching with the intent of arousing, appealing

1 to or to gratify the lust, passions or sexual desires of the
2 defendant or the child, and that a minor's consent,
3 willingness, indifference or ignorance, if any, as to what
4 was taking place does not affect that charge.

5 That's essentially what I've got here in broad strokes,
6 and I'll give y'all a copy to look at so you can look at the
7 fine print, so to speak.

8 Is there anything that the State -- any specific
9 requests the State has made that -- and again, subject to
10 y'all looking at this and making some changes, anything
11 further from the State or anything else from the State?

12 MR. RICHARDSON: No, sir, Your Honor.

13 THE COURT: Anything from the defense in that regard?

14 MR. MEETZE: No, Your Honor.

15 THE COURT: All right. Now, so we can all be on the
16 same page when the jury comes back out, I will recognize Mr.
17 Meetze. I'll recognize the defense, I'll let you rest on the
18 record before the jury, and then I'll explain to them that
19 we're ready to proceed with closing arguments. The State
20 will then open or close in full and then, Mr. Meetze, I'll
21 allow you to wrap it up.

22 All right. We're going to be at ease for a few minutes
23 then.

24 Oh, the verdict form, and I'll show that to you before.
25 It's just simply as to CSC with a minor in the first degree,

1 we, the jury, find, and then the next one would be as to CSC
2 with a minor third degree, we, the jury find, and then
3 there's two choices. Okay?

4 (WHEREUPON, there was a pause in the proceedings, after
5 which the proceedings resumed as follows.)

6 MR. RICHARDSON: Judge, I think we only have one issue
7 in there on page 10 up at the top on number 2, criminal
8 sexual conduct with a minor. It says second degree. It
9 should read third degree.

10 THE COURT: All right. We certainly will correct that.
11 Is that it then?

12 MR. RICHARDSON: That was it. Yes, sir.

13 THE COURT: All right. Any -- any other -- anything in
14 addition to or any other changes?

15 MR. RICHARDSON: No other changes.

16 THE COURT: All right.

17 MR. MEETZE: No, sir.

18 THE COURT: Everything good?

19 MR. MEETZE: Yes, sir.

20 THE COURT: All right. Well, if y'all want to just take
21 a -- well, I think I already told you the verdict form is
22 simply -- on Count 1 and Count 2, it has as to CSC with a
23 minor first, we, the jury, find, and as to CSC with a minor
24 second -- third, we, the jury, find.

25 All right. If y'all want to take a minute to use the

1 restroom and get something to drink or whatever and then
2 we'll be ready to go.

3 MR. MEETZE: I can do that.

4 THE COURT: All right. We'll just take a couple minutes
5 and then bring the jury out and get ready.

6 (WHEREUPON, there was a break in the proceedings from
7 10:48 a.m. until 11:04 a.m., after which the proceedings
8 resumed as follows.)

9 THE COURT: All right. Is the State ready to proceed?

10 MR. RICHARDSON: Yes, sir.

11 THE COURT: Is the defense ready?

12 MR. MEETZE: Yes, Your Honor.

13 THE COURT: Folks, we're about to bring the jury out and
14 we're going to start closing arguments and then charge. So
15 no one in or out. You need to lock that door and we don't
16 want anybody coming in or out during the attorneys'
17 arguments, please, or the -- or the jury charge.

18 Let's bring the jury out, please.

19 (WHEREUPON, the jury entered the courtroom at 11:05
20 a.m.)

21 THE COURT: All right. Ladies and gentlemen, thank you
22 for your patience. We're ready to proceed at this time. I
23 would recognize Mr. Meetze on behalf of the defense.

24 MR. MEETZE: Your Honor, the defense rests.

25 THE COURT: All right. Thank you, Mr. Meetze.

1 Folks, we took a little more time during that break
2 because, as I told you when we took a break at the close of
3 the State's case, I have to take up matters of law before we
4 proceed, and we did that. Mr. Meetze was kind enough to let
5 the Court know that the defense would be resting when we
6 started back, and I also have to take up matters of law at
7 the close of the defense's case.

8 So rather than bring you out, let you get seated, have
9 the defense rest, and then tell you to go back out while I
10 take up these other matters of law, we went ahead and took up
11 all that while you were already out. So we're done with --
12 with all of that. All of the evidence is in, both sides have
13 rested their case, and we're ready to proceed now.

14 And so that brings us to the portion of the case where
15 the attorneys have the right to address you with what we
16 typically refer to as closing arguments or final summation.
17 This is their opportunity to talk with you about what they
18 believe the evidence has shown. As I told you when we
19 started this case, before they addressed you with their
20 opening remarks, that also holds true with their closing
21 arguments. If you recall, I mentioned to you that what the
22 attorneys tell you is not evidence, and that holds true with
23 their closing arguments.

24 They are going to discuss the evidence with you. They
25 are going to talk about it, but what they're telling -- what

1 they're sharing with you is not evidence. It is their --
2 their argument as to what they believe the evidence in this
3 case has shown.

4 Since the State has the burden of proof, they are going
5 to go first and then when they've concluded their remarks,
6 then Mr. Meetze will address you on behalf of the defense.
7 Once the attorneys have concluded their closing remarks, I
8 will then give you the charge on the law and, at that point,
9 it will be your case and you can finally begin to discuss and
10 deliberate and talk about the case. All right?

11 So if you please would give the attorneys your undivided
12 attention as they address you with their closing remarks.

13 Mr. Richardson?

14 MR. RICHARDSON: Thank you, Your Honor. Mr. Meetze.

15 CLOSING ARGUMENT ON BEHALF OF THE STATE

16 MR. RICHARDSON: All right. Folks, we've heard all the
17 evidence in the case and now it's going to be time for y'all
18 to make some decisions.

19 So I want to go over a little bit with you the evidence
20 that we've heard from the witness stand and the exhibits and
21 apply that to the two crimes for which Mr. Smith is charged
22 so that y'all will have, you know, the knowledge and sort of,
23 you know, what to do with it. We'll go in order of the
24 charges that you heard.

25 Count 1 is criminal sexual conduct with a minor in the

1 first degree. So first degree is what we'll talk about
2 first.

3 And what makes a criminal sexual conduct charge a first-
4 degree charge is something called a sexual battery. Now,
5 you're going to hear the definition of that from the judge,
6 and it's a bit of a long definition that's inclusive of a
7 bunch of things, but for our purposes in this trial, the
8 sexual battery is oral sex or also known as fellatio.

9 And specifically, from the testimony, the putting of
10 Minor ' penis into Courtney Smith's mouth. That's
11 the sexual battery that is alleged and that's why there's
12 this first degree. Okay? So let's talk about the evidence
13 with respect to that sexual battery.

14 You've heard from a number of witnesses here and all of
15 it together, you know, it's kind of puzzle pieces that we put
16 together and if you take from each witness what you -- what
17 you think makes sense, what doesn't make sense, and try to
18 put it all together. So let's do that.

19 Minor , the child, he testified that the -- you know,
20 his date of birth I think was in [REDACTED] and another part of
21 this charge is that the child involved has to be under 11.
22 So he was under 11 at the time this happened. I think he said
23 his birthday was in [REDACTED] of [REDACTED]; so that would make him
24 -- made him 10 years old when this went down.

25 He testified to you that what he remembered was going to

1 bed with his sister in the bed. He was wearing pajama pants
2 and underwear, a pajama shirt and an undershirt. The next
3 thing he remembers is the light coming on and his mom
4 hollering and his pajama pants are completely off and laying
5 on a suitcase nearby and his underwear are pulled down.

6 He didn't remember at all talking to his mom about what
7 happened and he remembered talking to his grandma about it on
8 the front porch, but didn't remember telling her the parts
9 about anything about the touching or sucking or anything like
10 that.

11 Mattie Smith, his mother, she testified that once she
12 turned the lights on and all that went down in the bedroom,
13 she got Minor to herself, asked him what happened, and I
14 think the testimony from her statement was the Minor told
15 her something to the effect of he put his hand on it and
16 kissed it.

17 And then you end up at grandma's house and grandma
18 testified this morning, Ms. Woodbury, and she corroborates
19 Minor saying, you know, I did take him out on the front --
20 on the front porch of the house. When he got there, we
21 talked about it, and she indicated that Minor told her that
22 the hand went down and touched it and also he may not have --
23 she used the word sucking based on his description of what
24 happened, but he didn't use that actual word. I think you
25 could see from the witness stand she made sort of a mouth

1 movement while pointing, you know, his mouth was down there.

2 So we have discrepancy here. You've got Minor telling
3 you one thing, but, you know, I just kind of remember waking
4 up, and you've got mom and grandma saying, no, Minor told us
5 the night of this, this, and this happened.

6 So who do we believe? I think the tiebreaker in this
7 thing goes to the defendant himself in his statement to you
8 where -- and he says eventually that he did put his hand down
9 there and touch it or he estimated it to be up to three
10 seconds and then he did -- and I don't think -- I don't think
11 he went necessarily -- the investigators, you know, they did
12 a fantastic job. They kept working at it and working at it
13 and working at it and he finally -- you know, chipping away
14 at coming off of things. I don't know that they ever got to
15 the finish line, you know, with what they would think really
16 happened, but they did get him to admit that he even had it
17 up to his face and was sniffing it. Right? And that's what
18 he says on the video.

19 So when you're thinking about Minor 's testimony versus
20 mom and grandma, you know, Minor is going to talk to the
21 people that he trusts the most in this world the night of and
22 those were the people sitting right there, and their
23 recollection of what he said independently -- and neither one
24 of them were with the other when he talked to them. So I
25 think you have enough evidence there to find that that sexual

1 battery occurred based on these witnesses.

2 So first degree, we have a child under 11, check, and
3 sexual battery, meaning fellatio or also known as oral sex,
4 penis in the mouth. All right? So that's -- that's first
5 degree.

6 Third degree, completely separate offense, but arises
7 out of the same course of conduct. All right? So with this
8 one, with third degree, it's a little bit of a longer
9 definition; so bear with me. You'll also hear it from the
10 judge.

11 That the defendant in this case, Courtney Smith, did
12 willfully and lewdly commit a lewd or lascivious act upon or
13 with the body of a child who was less than 16 years of age.

14 So in this case we have a 10-year-old, and the defendant
15 for this charge has to be over the age of 14 years old. Of
16 course, Courtney Smith -- we got the date of birth. I think
17 it was in the 1980s. So he's clearly over the age of 14.

18 So a lewd or lascivious act upon or with the body of a
19 child less than 16 years of age with the intent of arousing,
20 appealing to or gratifying the lust or passions or sexual
21 desires of the defendant or of the victim. And in this case,
22 this lewd or lascivious act we're talking about is the
23 manipulation with the hand.

24 We have testimony from mom and grandma that Minor told
25 them that happened. We also have the taped statement from

1 the defendant where he admits to doing it and the written
2 statement from the defendant where he admits to doing it.

3 Now, the second part of the definition here, with the
4 intent of arousing, appealing to or gratifying the lust or
5 passions or sexual desires, well, I mean it's impossible to
6 dive in somebody's brain and read their mind, but you can
7 reasonably infer from someone's conduct what they're getting
8 at.

9 Now, I challenge you in your discussions back there when
10 it's time for you to go back to find another rational reason
11 why this man would have his pants down, have this boy's pants
12 down, and have his hand and mouth down there other than to
13 gratify some sexual desire. Nothing else makes a lick of
14 sense in this world.

15 You know, if you can think of something else, I would
16 like to know, but feel free to write that somewhere. Okay?
17 But I think the evidence in this case is overwhelming, I mean
18 just from the defendant's statement in and of itself and his
19 written statement.

20 Now, you're going to have back there in the jury room
21 with you a paper copy of his written statement; so y'all can
22 read that as many times as you'd like. And if you want to
23 hear his audio/videotaped statement again, you can ask to do
24 that. We can play it for you again if you want to go back
25 over that.

1 The only other exhibit in evidence is the Waiver of
2 Rights Form that the officer had Mr. Smith fill out ahead of
3 time. I didn't show that already because you'll have it back
4 there and here's where he initialed saying he understood his
5 rights prior to, and you saw that happen on the video as
6 well.

7 So all the elements of both of these charges I think are
8 met by the evidence and you just have to determine if you
9 believe the evidence beyond a reasonable doubt in this case,
10 meaning that you're firmly convinced of the defendant's
11 guilt. And I submit that the evidence in this case, you
12 know, pieced together from witness to witness, and
13 understanding, you know, the mind of a child having to get up
14 here in front of strangers -- and what 10- or 11-year-old boy
15 wants to get up and talk about that kind of stuff happening
16 to his private part, you know?

17 But according to his mom and grandma, he did tell them
18 in the privacy of their homes what really happened to him,
19 and I think that bears out with the defendant's statement.
20 So I ask you to consider all of that and find what really the
21 only verdict in this case that makes sense and that Mr. Smith
22 is guilty of these two offenses. Thank you.

23 THE COURT: Thank you Mr. Richardson.

24 Mr. Meetze?

25 MR. MEETZE: Thank you, Your Honor. Mr. Richardson.

1 Ms. Nellermoe.

2 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

3 MR. MEETZE: Thank you, ladies and gentlemen. I'm just
4 asking for a little bit more of your attention. We certainly
5 appreciate all the attention you've given at this point in
6 time and it is certainly very important and very respectful
7 that y'all have shown to both sides and, certainly, everybody
8 appreciates -- appreciates that.

9 As I told you in my opening statement, once all the
10 evidence was in in this case that you were going to be left
11 with more questions than answers, and I think that the
12 evidence has proven that out. And we'll talk about that here
13 in just a little bit.

14 I also explained to you presumption of innocence, proof
15 beyond a reasonable doubt. Those principles still are in
16 place. Mr. Smith is just as innocent today as he was
17 yesterday, and that burden of proof is not relenting. It is
18 still as powerful as ever and as powerful as it was
19 yesterday, and the State has failed to meet that burden. And
20 again, you'll be hearing more about that when the judge
21 charges you on the law because he'll charge you with regards
22 to both of those principles.

23 With regards to proof beyond a reasonable doubt, again,
24 whatever the judge charges you on proof beyond a reasonable
25 doubt is the law and that's what you go with. You don't just

1 believe me because I'm telling you what my belief is of proof
2 beyond a reasonable doubt. You listen to the judge and
3 follow the judge's instructions on that.

4 But I submit to you that he's going to say something
5 along the lines of proof beyond a reasonable doubt does not
6 require proof that overcomes any and all doubt, but it does
7 require proof that would leave you to be firmly convinced of
8 the defendant's guilt. And we're going to talk about the
9 evidence in more detail and I'll explain to you exactly why
10 the evidence in this case proves nothing. It just leaves you
11 with more questions.

12 Now, there's only one witness. Mr. Richardson explained
13 the law to you and explained what's required, the proof
14 required to find somebody guilty of the two offenses Mr.
15 Smith is charged with. There's only one witness that could
16 testify that any of that stuff happened, whether it be on
17 this witness stand or having told somebody prior to this or
18 whatever, and that's Minor. All right?

19 And you heard during the course of this trial about
20 three statements he made outside of this courtroom and then
21 one that he made when he testified. So four total, three
22 sometime previous and then one was his testimony.

23 Of those four, two we know with absolute certainty
24 actually took place, when he testified yesterday and when he
25 was interviewed at the Care House. All right? Both of those

1 statements -- the Care House, you heard yesterday, that
2 interview happened June the 20th of 2018, twelve days after
3 this allegedly took place. All right? Very close in time to
4 when the allegations are alleged to have happened.

5 And then yesterday. Those two statements, the same.
6 What were they? I don't remember. I was asleep. I don't
7 remember what happened. That's what he said. He's been
8 saying it from the start. All right? He's been saying I
9 don't know what happened. I don't remember.

10 Now, he was asked if he remembered saying -- do you
11 remember the Care House interviewer asking you what you told
12 your mother and -- and he was asked if his response to that
13 was I didn't tell her anything, she told me what happened.
14 He was asked that as well.

15 Now -- but he's been consistent and there's nothing from
16 his testimony that you saw and heard that would indicate that
17 Minor is anything other than a well-adjusted, well-mannered
18 child who is perfectly capable of speaking the truth, telling
19 anybody who would want to listen what happened, and he did
20 exactly that.

21 He doesn't remember anything. I submit to you there's a
22 very good reason why he doesn't remember anything. Because
23 nothing that they're saying happened happened with regards to
24 any sort of sexual abuse.

25 And the evidence -- and there's not any evidence to show

1 that it did. The only person that can testify that it did
2 would be Minor . . . He said he doesn't remember anything. He
3 says he doesn't remember anything.

4 And let's look at other evidence because you've got to
5 remember you can find reasonable doubt in a lot of different
6 ways. Let's look at Ms. Mattie Williams' statement.

7 First off, she gave a statement to the police. She was
8 able to write her statement down, and she testified about
9 what she told the police. And this is a situation where she
10 wrote a statement that's, you know, a half a page or so.
11 Half of that deals with what she saw when she came in, turned
12 the light on, and what she actually did see, and then another
13 half, maybe seven or eight lines of it, is what she says
14 Minor told her, which is Minor said he might've been
15 dreaming, he might've touched me and maybe kissed it. All
16 right? First of all, that's very, very vague. Very, very
17 vague. Doesn't tell you much in the way of any kind of
18 detail.

19 And another thing that's very important and you've heard
20 as well is the credibility of witnesses. Who to believe?

21 So you've got this statement that Mattie Williams says
22 her son told her about possible sexual abuse that he incurred
23 and this is -- that's as much of a statement that we get, as
24 much as what you get to hear. There wasn't any testimony or
25 evidence that there was any follow-up questions to ask him.

1 Nothing. Did he make you touch him? Did he do this? Did
2 this happen? What happened? Did he say anything? Nothing.
3 Nothing follow-up. Nothing that shows any real concern over
4 these allegations at all. It's like that's it.

5 Very little in detail. Credibility comes with detail or
6 detail adds to credibility, but you don't have it here and I
7 submit to you that it's just not reasonable to expect that
8 that's the way it played out if there wouldn't been some
9 other follow-up.

10 You've heard nothing with regards to how Minor has been
11 since then. You got to observe him and see him and you can
12 form, you know, opinions just based on that, but this
13 supposedly happened last June and we know nothing else about
14 anything else that's been done from possibly him having been
15 sexually abused.

16 Has he been to counseling? What's going on in school?
17 Did anybody investigate any other potential witnesses?
18 Anybody else he may have said this to? A teacher or a
19 guidance counselor? Anybody?

20 Did anybody come in here and bring any kind of evidence
21 that would support any kind of sexual abuse? Did anybody
22 talk to you about symptoms that child -- children exhibit
23 whenever they've been sexually abused to try to corroborate
24 what they're saying he said?

25 Because trust me, there's only one person that

1 supposedly heard that statement that supposedly was made to
2 Mattie Williams, and that's Mattie Williams. There's only
3 one person that heard the statement that he supposedly made
4 to Ms. Woodbury, and that's Ms. Woodbury. Nobody else heard
5 those statements.

6 And when supposedly those statements were made, nothing
7 was done to try to help Minor , to include calling the
8 police. Neither one of them contacted law enforcement. Both
9 of them had to be contacted by law enforcement. It doesn't
10 appear that either one had any intention of bringing this to
11 anybody's attention of authority.

12 But still, back to other evidence that you didn't hear.
13 What has Minor been doing since then? Has he started acting
14 up? Misbehaving? Have his grades suffered? Is there
15 anything to indicate anything consistent with a child who's
16 been abused in this way? No. No.

17 And I can tell you there's nothing wrong with this
18 child's memory. I'll tell you that right now because I just
19 asked him one -- one question. I said do you remember
20 talking to the lady at the Care House and he said, yes, Ms.
21 Meg. He remembered her name. Everything. I asked his
22 mother. She remembered talking to the police detective. She
23 remembered talking to him but doesn't remember his name.

24 So nothing wrong with this child's memory. And he's
25 perfectly capable and willing to tell you anything that he's

1 aware of that happened to him. He's not, and I submit to you
2 that there's a good reason for that. He doesn't remember it
3 because it didn't happen.

4 Now, of course, that does beg the question why would his
5 mother and grandmother make up that it did? Well, that leads
6 to speculation. All right?

7 And as you've already been told, this is criminal court
8 in South Carolina in the United States of America, and it has
9 often been said that our system of justice is the greatest in
10 the world. I'm a bit prejudiced. I work in it and I'm
11 involved in it and so I'm prejudiced in that regard and I
12 tell you that's something that I agree with. And one of the
13 reasons I agree with it is because we don't convict folks on
14 speculation. We don't convict them unless there is hard
15 evidence to convince each of you beyond a reasonable doubt.

16 One thing we do know is Ms. Mattie Williams testified a
17 little bit about why she didn't contact law enforcement, why
18 it was that they had to contact her for any of this, and she
19 talked about, well, it was embarrassing and that kind of
20 thing. And I'm sorry, that's just not good enough in this
21 situation. That sort of reflects a "it's all about me" kind
22 of thing, as opposed to Minor. If he had suffered this
23 abuse, that's where the focus would be. There would be so
24 much more evidence of things done and investigations done and
25 other questions asked.

1 The statements that supposedly he gave to Ms. Mattie
2 Williams, his mother, and Ms. Woodbury, his grandmother, are
3 different. There's not even any indication that the
4 grandmother, Ms. Woodbury, went back to Ms. Williams to say,
5 well, this is what he told me. It's different than what he
6 told you. What do you think about that? Let's talk to
7 Minor about that. No.

8 I mean those are big differences and, of course, Minor
9 didn't use the words that Ms. Woodbury used in her statement
10 and, of course, that's something that's one of those examples
11 of why what we say up here is not evidence because there was
12 no indication until today that the use of the word sucking
13 was actually introduced by Ms. Woodbury and not by Minor ,
14 and that's a big difference. There's a big distinction there
15 that Minor didn't even use that word.

16 You are here to try to make a determination of whether
17 the State has proven beyond a reasonable doubt whether
18 Courtney Smith has committed a CSC with a minor in the first
19 degree, which requires a sexual battery, which the allegation
20 is oral sex on a minor under the age of 11, and/or a CSC with
21 a minor, third degree, and the only evidence that that
22 possibly could've happened is the statement from Ms.
23 Woodbury, who Ms. Williams stated said that he said that he
24 kissed it, might have dreamed it.

25 And certainly, we are saying that Mr. Smith did neither

1 of those things, but the evidence before you is that Minor
2 had made that statement to his mother because that statement
3 indicated a kiss, which does not rise to the level of sexual
4 battery. So the only evidence that would be of anybody, if
5 it were believed, that a sexual battery was committed is if
6 you believe Minor told his grandmother what she says he did.

7 And to think that -- and like I said, he didn't use the
8 word sucking, she did. He never said that. And to think
9 that that's something that he would have said and there
10 would've been nothing done to follow up on that, no more
11 questions about -- about that and what else might have
12 happened or what else might've been said or to, again, confer
13 with her daughter about what Minor had told her, which could
14 allow the mother to go back to Minor and say, now, Minor ,
15 what you told me and what you told your grandmother are
16 different and this is very important. Tell us. We need to
17 know what it is that happened.

18 But there's no indication at all that outside of these
19 statements, both on June the 8th of 2018, that there was
20 anything else at all done or spoken about in regards to this.
21 The police detectives never spoke to Minor at all. They
22 left that up to the Care House, which he went to the Care
23 House on the 20th of June and, again, told her the same thing
24 he told us. And age? Nothing. There's nothing at all for
25 you to think that he's too shy to tell you. No. Again,

1 that's speculation.

2 What we know, what is fact, the fact is two times we can
3 conclusively say he's given a statement about this night and
4 both times he's said the same thing. He's the one person
5 that's been consistent from the start.

6 Even Ms. Mattie Williams' statement when she talks about
7 what she saw, she pulled the covers back and said his pajamas
8 were off and his underwear was halfway down his butt. All
9 right. Well, again, is there any more detail to that? I
10 mean underwear halfway down your butt may not even mean that
11 it's down below someone's genitals. But we don't know that,
12 again, because we're left to speculation. Certainly, there
13 was no testimony as to that. There was nothing in the
14 statement about that. There's just not enough here. It
15 leaves you with more questions than answers.

16 It leaves more questions than answers. Now, when you
17 have more questions than answers, you certainly have
18 reasonable doubt. You certainly have reasonable doubt.

19 Now, certainly, Mr. Smith gave a statement and the
20 police -- as Detective Hartson indicated, they pulled out all
21 their stops. They used investigative techniques and
22 interrogation techniques in interviewing him and the
23 interview went on for quite a while.

24 And Mr. Smith's statement is sort of all over the place
25 and there's a lot of parts of it that are confusing and all

1 of that, but one thing I will say that I found interesting
2 with regards to that interrogation when I spoke and was
3 talking to Detective Hartson about it and I was talking to
4 him about those interrogation techniques and mentioned to him
5 that one of those interrogation techniques is to mislead the
6 subject in an effort to get them to say what you want them to
7 say. Let's make no mistake about it. They were in that room
8 interviewing a person they thought was guilty. There was
9 nothing that was going to change their mind about that. All
10 right?

11 And Detective Hartson said they were there to seek the
12 truth. Well, that's the truth they were seeking because
13 that's what they believed is the truth. All right? And they
14 were not open to any other possibilities, even though those
15 possibilities were staring them in the face.

16 Because if you will recall, the interrogation and
17 interview with Courtney Smith happened on June the 27th. The
18 Care House interview was June the 20th, seven days earlier.
19 So they already knew what Minor had said at the Care House.
20 They already knew that he told the Care House interviewer he
21 didn't remember anything.

22 But yet, he tells -- when he's asking and interrogating
23 Courtney Smith, he says to him -- when he denies doing
24 anything, he says, well, what do you think Minor is telling
25 his mother or what do you think Minor is saying about this?

1 What do you think Minor is telling his mother? What do you
2 think Minor is telling his grandmother? What do you think
3 Minor is telling us?

4 Well, of course, those interrogation techniques are
5 perfectly within the bounds of what's -- what law enforcement
6 is allowed to do. I'm not saying that's not the case, but we
7 know law enforcement wasn't there when he talked to his
8 mother, if he made a statement to his mother. The same thing
9 with the grandmother, and we know law enforcement did not
10 speak to Minor about this incident. All right?

11 So the only knowledge they had, actual knowledge of what
12 Minor was saying, was from that Care House interview a week
13 earlier where he said he didn't remember anything. He
14 couldn't say any of that stuff happened.

15 Of course, that's not anything that's mentioned and
16 that's not anything that would've led them to say I wonder
17 what we do have here. No. They were full bore at Courtney
18 Smith. He's guilty and we're going to stay in here hopefully
19 until we get him to say as much.

20 And, folks, again, a lot of stuff is up for speculation.
21 We've probably all at one time or another -- I know I have --
22 been in a conversation with somebody where you know that that
23 person is wrong about something, but you learn pretty quick
24 sometimes in those conversations that there's nothing you can
25 do to convince them otherwise, and you can react in different

1 ways under that circumstance and I've been on the other.
2 There's been plenty of times where I felt I was right about
3 something only to find out later that I wasn't. At the time,
4 I would've argued anybody down that I was right. Found out
5 later that I wasn't.

6 But Courtney Smith found himself in that situation and
7 as I talked to Detective Hartson -- and you can hear one
8 instance on the video -- he wanted to get home to his
9 grandmother and he knew continuing to do that wasn't going to
10 get him there. So he said different things, a lot of
11 confusing things, and I submit to you it was in hopes of
12 getting home, but again, that's speculation.

13 We're here to determine this case, determine whether
14 he's guilty or not guilty based on facts, based on evidence,
15 and the evidence in this case, it just raises more questions.
16 As I said, when you have more questions, all you've got is
17 doubt. And where there is doubt, there is only one verdict
18 that speaks the truth, and that's a verdict of not guilty.

19 Thank you.

20 THE COURT: Thank you, Mr. Meetze.

21 I'm going to come around. Can I get that podium right
22 there brought over here? Thank you. That's good.

23 CHARGE ON THE LAW

24 THE COURT: Folks, when we started this trial, I told
25 you that you were the judges of the facts and that I'm the

1 judge of the law. And so during the time of the trial when
2 the evidence or the facts were being presented to you, it was
3 appropriate for me to be up on the bench out of the way and
4 allow that to occur.

5 But we are now at the portion of this trial where you
6 and I are in this together, you as the judges of the facts
7 and me as the judge of the law. So I think it's appropriate
8 that I come down and be with you to give you the law that is
9 applicable in this case.

10 I'm going to read this to you verbatim because I don't
11 want to miss anything or misquote anything or leave anything
12 out. Okay? Just forgive me for reading it to you. I hate
13 to read to people, but I just don't -- I don't want to leave
14 anything out or misquote anything.

15 Madam Forelady and members of the jury, you have heard
16 all of the evidence and the arguments of both parties. I am
17 now going to explain to you the law which applies to this
18 action.

19 The indictment charges the defendant, Courtney Anthony
20 Smith, with the offense of criminal sexual conduct with a
21 minor in the first degree and criminal sexual conduct with a
22 minor in the third degree. I remind you that the fact that
23 the defendant was arrested, charged, and indicted in this
24 case is not evidence in this case and it cannot be considered
25 by you as evidence of guilt in this case, nor does it create

1 any presumption or inference of guilt.

2 The indictment is simply the formal written instrument
3 which contains the charge made against the defendant. It's
4 the formal document by which this case is brought into court.

5 Now, Mr. Smith has pled not guilty to that indictment
6 and to these charges, and that plea places the burden on the
7 State to prove the defendant guilty. A person charged with
8 committing a criminal offense in South Carolina is never
9 required to prove him or herself innocent.

10 I charge you that it is an important rule of law that
11 the defendant in a criminal trial, no matter what the
12 seriousness of the charge may be, will always be presumed to
13 be innocent of the crime for which the indictment was issued
14 unless guilt has been proven by evidence satisfying you of
15 that guilt beyond a reasonable doubt. This presumption of
16 innocence does not end when you begin your deliberations, but
17 it accompanies the defendant throughout the trial until you
18 reach a verdict of guilt based on evidence satisfying you of
19 that guilt beyond a reasonable doubt.

20 The presumption of innocence is not a mere legal theory.
21 It's not just a legal phrase, but it is a substantial right
22 to which every defendant is entitled unless you, the jury,
23 are satisfied from the evidence of the defendant's guilt
24 beyond a reasonable doubt.

25 So what is a reasonable doubt in the law? The State has

1 the burden of proving the defendant guilty beyond a
2 reasonable doubt. Now, some of you may have served as jurors
3 in civil cases where you were told that it is only necessary
4 to prove that a fact is more likely true than not true, such
5 as by the greater weight or the preponderance of the
6 evidence.

7 In criminal cases, the State's proof must be more
8 powerful than that. It must be beyond a reasonable doubt.
9 Proof beyond a reasonable doubt is proof that leaves you
10 firmly convinced of a defendant's guilt.

11 There are very few things in this world that we know
12 with absolute certainty and in criminal cases the law does
13 not require proof that overcomes every possible doubt. The
14 State's burden simply requires proof beyond any reasonable
15 doubt.

16 Now, I remind you that during this trial you and I have
17 certain duties to perform. As the trial judge, it is my
18 responsibility to preside over this trial, and I also have
19 the duty to rule on the admissibility of evidence offered
20 during the trial. You are to consider only the competent
21 evidence before you. You are to consider only the testimony
22 which has been presented from the witness stand and any
23 exhibits which may have been made a part of the record in
24 this case.

25 I have the additional duty to charge you the law

1 applicable to this case. As the presiding judge, I am the
2 sole judge of the law and it is your duty as jurors to accept
3 and to apply the law as I now state it to you. If you
4 already have any idea as to what the law is or what the law
5 ought to be and it does not agree with what I now tell you
6 the law is, you must abandon your idea because you are sworn
7 to accept the law and to apply the law exactly as I state it
8 to you.

9 In every case tried in this court before a jury, the
10 jury becomes the sole and the exclusive judge of the facts in
11 this case. A trial judge cannot intimate, state, comment on
12 or make any statement to a trial jury about the facts of a
13 case since you, the jury, are the sole judges of those facts.

14 You are not to infer from anything that I have said
15 during the progress of this trial in ruling upon the
16 admissibility of evidence or otherwise or anything that I say
17 now during the course of this instruction to you that I have
18 any opinion about the facts in this case. The law does not
19 allow me to have an opinion about the facts. It is a matter
20 solely for you, the members of the jury, to determine. As
21 jurors, it is your duty to give and determine the effect,
22 value, and weight of the evidence that is presented.

23 Now, during most trials, there are two types of evidence
24 which are generally presented. There's direct evidence and
25 there's circumstantial evidence.

1 Direct evidence is the testimony of a person who claims
2 to have actual knowledge of a fact, such as an eyewitness.
3 Circumstantial evidence is proof of a chain of facts and
4 circumstances which indicate the existence of a fact. Crimes
5 may be proven by circumstantial evidence just as it may by
6 direct evidence.

7 To the extent that the State relies on circumstantial
8 evidence, all of the circumstances must be consistent with
9 each other and when taken together point conclusively to the
10 guilt of the accused beyond a reasonable doubt. If these
11 circumstances merely portray the defendant's behavior as
12 suspicious, then that proof has failed.

13 Now, the law makes absolutely no distinction between the
14 weight or the value to be given to either direct or to
15 circumstantial evidence, nor is there a greater degree of
16 certainty required of circumstantial evidence than of direct
17 evidence. You should weigh all of the evidence in this case.

18 The State, as I told you earlier, has the burden of
19 proving the defendant guilty beyond a reasonable doubt, and
20 this burden rests with the State regardless of whether it
21 relies on direct evidence or circumstantial evidence or some
22 combination of the two.

23 So you must determine the credibility of the witnesses
24 who have testified in this case. Credibility simply means
25 believability. It becomes your duty as jurors to analyze and

1 to evaluate the evidence and determine which evidence
2 convinces you of its truth.

3 In evaluating eyewitness testimony, you should remember
4 that the State must prove the identity of the defendant as
5 the person who committed the crime beyond a reasonable doubt.
6 In determining the believability of witnesses who have
7 testified in this case, you may believe one witness over
8 several witnesses or several witnesses over one. You may
9 believe a part of the testimony of a witness and reject the
10 remaining part of that testimony. You may believe the
11 testimony of a witness in its entirety or reject that
12 testimony in its entirety.

13 You may consider whether any witness has exhibited to
14 you any bias or interest or other motive in this case. You
15 may consider whether the witness is seeking a personal gain.
16 You may also consider the manner of the witness while on the
17 witness stand and their appearance while on the stand. In
18 other words, you have the right, ladies and gentlemen, to
19 consider anything that is in this record that will help you
20 to evaluate the testimony of the witnesses.

21 Now, the argument of counsel is a beneficial part of
22 every trial and you should remember that the statements made
23 by the attorneys are not evidence. In representing and
24 presenting their arguments, counsel oftentimes will refer to
25 the evidence. However, you should base your verdict on the

1 evidence as you remember it. Therefore, if there's any
2 conflicts between the recollection of the attorneys about the
3 evidence and your own recollection, you should rely upon your
4 own understanding of the evidence.

5 Now, during this trial, you have heard testimony from a
6 child. Where a witness is a child, you must determine, as
7 with any witness, whether that testimony is believable. In
8 deciding believability, you may consider not only the matters
9 that I've already discussed with you, but you may also
10 consider the age of the child, the child's ability to observe
11 and to remember facts, and the child's ability to understand
12 and to answer questions.

13 Because young children may not fully understand what is
14 happening here, it is up to you to decide whether the child
15 understood the seriousness of appearing as a witness in a
16 criminal trial, whether the child understood the questions
17 asked, and whether the child has a good memory or not,
18 whether the child understands the difference between lying
19 and telling the truth. In addition, young children may be
20 influenced by the way that questions are asked. So it is up
21 to you to decide whether the child, in fact, understood the
22 questions asked.

23 Now, there is a statement that has been alleged to have
24 been made by the defendant in this case that has been
25 admitted into evidence. While the Court has determined that

1 the statement is admissible, I instruct you that you make the
2 ultimate decision as to whether or not the defendant made
3 that statement.

4 If the defendant did make the statement, you, the jury,
5 must determine whether that statement was made by the
6 defendant voluntarily and of his own free will. This means
7 that the statement was not caused by pressure, force, fear,
8 threats, coercion or intimidation or by the hope or the
9 promise of leniency or of a reward of any kind. In
10 determining whether the statement was voluntary, you should
11 consider both the characteristics of the defendant and the
12 details of the questioning.

13 The State has the burden of proving beyond a reasonable
14 doubt that the alleged statement was voluntary. If you
15 determine that it was, you may give that statement any
16 further consideration that you deem proper. However, if you
17 decide that the alleged statement was not free and voluntary,
18 that you should not consider it at all.

19 Now, I instruct you and I emphasize the fact that Mr.
20 Smith did not testify in this case is not a factor to be
21 considered by you in your deliberations and in your
22 consideration on the question of guilt or innocence. It must
23 not be considered by you in any manner whatsoever.

24 A defendant has the constitutional right to remain
25 silent and the assertion of this right must not be considered

1 by you in your deliberations. I repeat, under your oath, you
2 are to draw no conclusion whatsoever from the fact that Mr.
3 Smith did not testify in this case. The fact that he did not
4 testify should not even be discussed in the jury room.

5 The burden of proof, as I have stated to you throughout
6 this instruction, is on the State. The defendant is not
7 required to prove his innocence. The burden of proof remains
8 on the State to prove guilt beyond a reasonable doubt.

9 Now, as you're aware, the indictment in this case
10 alleges two different charges or offenses against Mr. Smith.
11 The first charge in the indictment is criminal sexual conduct
12 with a minor in the first degree. The second charge is
13 criminal sexual conduct with a minor in the third degree.

14 Each count or each charge charges a separate and
15 distinct offense. You must decide each count separately
16 based upon the evidence that is presented, as well as the
17 applicable law, uninfluenced by your decision as to any other
18 charge. The defendant may be convicted or acquitted on any
19 or all of the offenses charged. You will be asked to write a
20 separate verdict of guilty or not guilty based upon each
21 charge in the indictment.

22 Now, the first charge in the indictment charges Mr.
23 Smith with criminal sexual conduct with a minor in the first
24 degree. The State, in that charge, must prove beyond a
25 reasonable doubt that the defendant engaged in a sexual

1 battery with the victim.

2 A sexual battery is sexual intercourse or cunnilingus,
3 fellatio, oral sex, anal intercourse or any intrusion,
4 however slight, of any part of a person's body or of any
5 object into the genital or anal openings of another person
6 except when that intrusion is accomplished for a medically
7 recognized treatment or diagnostic purpose.

8 The State must prove beyond a reasonable doubt that the
9 victim in this case was less than 11 years of age at the time
10 of the sexual battery. A minor under the age of 16 is not
11 capable of voluntarily consenting to a sexual battery
12 committed by an older person.

13 Now, the second charge on the indictment charges Mr.
14 Smith with criminal sexual conduct with a minor in the third
15 degree. In that charge, the State must prove beyond a
16 reasonable doubt that the defendant is over 14 years of age
17 and the defendant willfully and lewdly committed or attempted
18 to commit a lewd or lascivious act upon or with the body or
19 its parts of a child under the age of 16 years of age with
20 the intent of arousing, appealing to or gratifying the lust,
21 passions or sexual desires either of the defendant himself or
22 of the child. A minor's consent, willingness, indifference
23 or ignorance, if any, as to what was taking place does not in
24 any way affect the charge of criminal sexual conduct with a
25 minor.

1 Now, Madam Forelady and members of the jury, as you
2 retire to begin your deliberations, I want to express to you
3 the hope that each of you will be mindful of the importance
4 of your responsibility. You are not called to serve as
5 jurors very often and the proper performance of this duty
6 requires each of you to reach the height of freeing your
7 minds of all improper influences.

8 As the presiding officer of this Court, I am vitally
9 concerned that whatever verdict you find will be the result
10 of your going into that jury room and confining your
11 consideration to the evidence and to the law that you have
12 heard in this courtroom, weighing it fairly and impartially,
13 as I have every confidence that you will do. Your verdict in
14 this case cannot be based on sympathy, compassion, prejudice
15 or emotion or some other consideration that is not found in
16 the evidence.

17 Now, remember, as I indicated to you earlier, your
18 verdict in this case must be unanimous. You must all agree
19 on the verdict, whatever that verdict is.

20 Now, Ms. Samuel, I'm going to -- in a minute, I'm going
21 to send you back into the jury room. And any evidence that
22 was admitted during the course of the trial -- we'll get that
23 together and send it back into the jury room and along with
24 that will be a verdict form.

25 This form is -- it sets forth the forms of verdict that

1 the jury is to consider, and I -- first, the top of it is
2 simply the caption of the case, the legal caption.

3 As to criminal sexual conduct with a minor in the first
4 degree, you will be asked as a jury what your verdict is as
5 to that charge, whether it's guilty or not guilty, and you'll
6 select whatever the verdict is of the jury. You'll then
7 consider the second charge as to criminal sexual conduct with
8 a minor in the third degree and, again, whatever verdict the
9 jury reaches, you'll just mark the appropriate slot.

10 Once you have reached a unanimous decision as to both
11 charges, if you'll let the bailiff know that you have a
12 verdict, we'll then bring you out and receive your verdict.
13 Okay?

14 So I'm going to ask you to step back into the jury room,
15 but don't begin your deliberations yet. I'm going to take
16 just a moment to ask -- to talk with the lawyers to make sure
17 I didn't leave anything out or misquote anything. If I need
18 to bring you back out and charge you something else or
19 correct something, I'll do that. If everything is fine,
20 we'll gather then any exhibits that came in during the course
21 of the trial and we'll send those back to you. When you
22 receive those exhibits and the verdict form, that'll be your
23 cue to begin deliberations.

24 Now, I know there's a videotape in this case. If you
25 wish to view that videotape or any portion of it, if you'll

1 just let us know, we'll set it up, bring you back out, and
2 let you -- let you view that. And it's up to you. If you
3 choose to view it at all, we'll fix it up. If you want to
4 see all of it, we'll play it all. If you want to see a
5 portion of it, we'll play -- you direct us into what you want
6 to see, if you choose to view that again. Okay? But you'll
7 just have to let us know about that.

8 So if you would, please step back into the jury room and
9 await these items before you begin your deliberations.

10 (WHEREUPON, the jury exited the courtroom at 12:03 p.m.)

11 THE COURT: All right. Are there any objections or
12 exceptions to the Court's instructions from the State?

13 MR. RICHARDSON: No, Your Honor.

14 THE COURT: Anything from the defense?

15 MR. MEETZE: No, Your Honor.

16 THE COURT: Okay. Is it just these three items that the
17 -- the tape, the -- or the disk, this, and this?

18 MR. MEETZE: I believe so.

19 THE COURT: Is that it?

20 MR. MEETZE: I think so.

21 THE COURT: Okay. Well, let me get you to send that
22 back to them and, if you would, ask the two alternates to
23 step out and tell the rest of them they can begin their
24 deliberations.

25 (WHEREUPON, the alternate jurors entered the courtroom.)

1 (WHEREUPON, the jury deliberations began at 12:05 p.m.)

2 THE COURT: All right. Ladies, I want to thank you for
3 your service. It's hard to be an alternate sometimes, I
4 would think. I've never been on jury duty; so I don't know.

5 But it's important that throughout the trial that you
6 participated just as the main twelve did because if anything
7 were to have occurred where we lost one of our main panel,
8 one of you would've had to step into that slot. And so, of
9 course, you would have to know and understand everything that
10 they saw.

11 But I think everybody is healthy and able to perform
12 their duties; so that ends your responsibility. I want to
13 thank you for your service. Now, there's no way anybody can
14 predict how long it takes a jury to deliberate. You're
15 welcome to hang around if you want, but you're certainly not
16 required to. You're free to go.

17 I would tell you that any restrictions that you had as
18 far as discussing the case have been lifted. You can talk,
19 about the case. And I will tell you -- and I -- you know, I
20 don't know if the attorneys would have any interest or not.
21 Sometimes lawyers like to talk to wit -- excuse me -- jurors
22 just to get an idea of what they did right or did wrong or
23 whatever.

24 I would tell you this. You can talk with anyone you
25 would like to talk with, if anyone wants to talk with you,

1 but you're also not required to do that. And if you don't
2 want to talk to anybody, you just let them know I'd rather
3 not discuss it and that'll -- that'll be the end of it.
4 Okay?

5 But you're free to go and I want to thank you again for
6 your service. If you could just give them your little juror
7 badge there? And we'll let them go.

8 Thank you very much, ladies. And like I said, you're
9 welcome to stay with us or you're free to go.

10 (WHEREUPON, the alternate jurors were released at 12:07
11 p.m.)

12 THE COURT: Folks, we'll be at ease and let the jury
13 deliberate.

14 (WHEREUPON, there was a break in the proceedings from
15 12:08 p.m. until 12:45 p.m., after which the proceedings
16 resumed as follows.)

17 THE COURT: All right. Ladies and gentlemen, I am told
18 that the jury has reached a verdict. I'm not told what it
19 is. So I sit here as you do.

20 I would ask that whatever the decision of the jury is --
21 I don't ever require -- I don't ever require anything, but I
22 don't ever ask anyone to agree with the jury. I just ask
23 that you receive their verdict in a professional way, and
24 that would be that we don't have any emotional outbursts or
25 any large displays of emotion.

1 I don't expect you to be robotic, but please try to
2 contain your emotions, whether you agree with their verdict
3 or whether you disagree with their verdict. I don't know
4 what it is, but obviously, there will be folks in here that
5 will be in agreement and then folks that will not be in
6 agreement.

7 So it's not a matter of agreeing or disagreeing with the
8 jury. It is just a matter of showing them the respect of
9 receiving their verdict in a professional way. All right?

10 So is the State ready to receive the jury's verdict?

11 MR. RICHARDSON: Yes, Your Honor.

12 THE COURT: Is the defense ready?

13 MR. MEETZE: Yes, sir.

14 THE COURT: All right. If you'd ask them to come out,
15 please, sir?

16 (WHEREUPON, the jury entered the courtroom at 12:46
17 p.m.)

18 THE COURT: Ms. Samuel, has the jury reached a unanimous
19 decision, ma'am?

20 THE FORELADY: Yes, we have, Your Honor.

21 THE COURT: Okay. If you would, please pass that to the
22 bailiff and he'll pass that up to me.

23 (WHEREUPON, the forelady and bailiff complied.)

24 THE COURT: Oh. Ms. Samuel, can I get you to do me a
25 favor? I just need you to sign the verdict for me. There's

1 a pen there.

2 (WHEREUPON, the forelady complied.)

3 THE COURT: Thank you, ma'am.

4 All right. Madam Clerk, if you would, please publish
5 the verdict of the jury for the Court.

6 THE CLERK: Yes, sir.

7 THE COURT: Thank you, ma'am.

8 VERDICT

9 THE CLERK: State of South Carolina, County of Marion,
10 State of South Carolina versus Courtney Anthony Smith in the
11 Court of General Sessions, Indictment Number 2018-GS-33-
12 00469.

13 As to criminal sexual conduct with a minor, first
14 degree, we find -- we, the jury, find the defendant, Courtney
15 Anthony Smith, not guilty.

16 As to criminal sexual conduct with a minor, third
17 degree, we, the jury, find the defendant, Courtney Anthony
18 Smith, guilty.

19 Dated May 16th, 2019, signed by Carla Samuel, forelady.

20 If this is your verdict, please signify by the raising
21 of your hand.

22 (WHEREUPON, all jurors complied.)

23 THE CLERK: Thank you.

24 THE COURT: All right. Ladies and gentlemen, I want to
25 thank you for your service. Time wouldn't allow it, but I'd

1 love to sit and talk with you to see -- well, let me first
2 ask is there any member of this panel that has ever served on
3 a case on jury duty on a case before? Anybody? You?
4 There's a couple.

5 I was just curious as to whether it was as you would
6 have expected it to be or whether it was something different
7 because we oftentimes -- you know, like I said to you in our
8 opening remarks, most people -- you know, their only
9 experience is television or movies.

10 But just I want to thank you for your service here this
11 week. This is why our -- our system of justice in this
12 country is better than everyone else in the world. It's
13 because we allow citizens, good citizens such as yourselves,
14 to resolve these issues and these disputes, and I think it's
15 -- you would be probably surprised.

16 You know, the only time you ever hear about jury
17 verdicts in the media is when something crazy happens. I
18 guess the media only wants things to be newsworthy that are
19 outside the norm. I would tell you it's been my experience
20 -- I've been on the bench now -- I've been practicing law for
21 almost 30 years, been on the bench for 14, but juries week in
22 and week out almost all the time get it right, and I want to
23 thank you for your service in this case.

24 Now, I typically do this and you've worked the case. In
25 just a moment, we're going to move into the sentencing phase.

1 You are more than welcome to stay and observe that, but you
2 are free to go. You have completed your service.

3 And I will tell you if -- I always -- almost always --
4 it's kind of a mix. Usually, we'll have some folks that want
5 to stay and I usually have some folks that are ready to go.
6 So it's up to you, completely up to you.

7 If you would like to stay, you can just remain seated
8 and we'll move to that phase. If you -- if you would like --
9 if you're done and you'd like to go, you're certainly welcome
10 to do that and you can give your -- your little badge there
11 to the bailiff as you go out.

12 But that has concluded your service. You don't have to
13 call back, you don't have to come back, and you've earned
14 that exemption I spoke about on Monday. So that for the rest
15 of this year, all of 2020, all of 2021, if you receive a
16 notice for jury duty here in Circuit Court and you would like
17 to be excused from that service, you've earned that exemption
18 and you can claim that exemption and be excused.

19 But it is just an exemption. It doesn't mean you're not
20 qualified to serve. So if you would like to serve again if
21 you receive another notice, I would encourage you to do so,
22 but that does conclude your service here.

23 I'm going to give the attorneys just a minute to gather
24 their -- their thoughts and stuff and then we're going to
25 proceed to the sentencing phase. Those of you that want to /

1 stay, just remain seated. If anyone is ready to go, feel
2 free to do that as well. Okay?

3 (WHEREUPON, the jury was excused at 12:53 p.m.)

4 THE COURT: All right. Mr. Richardson?

5 MR. RICHARDSON: Yes, sir.

6 MR. MEETZE: Judge, if I may?

7 THE COURT: Absolutely, Vick. I'll just grab this here.

8 All right. Mr. Meetze, I'll be happy to hear from you
9 regarding any post-trial, post-verdict motions.

10 MR. MEETZE: Thank you, Your Honor.

11 Your Honor, for the record, I would make a motion in
12 this case pertaining to the CSC with a minor in the third
13 degree for a new trial based on the evidence not being
14 sufficient to sustain the jury's verdict. At this time, I
15 would also renew all my previous objections and motions made
16 prior.

17 THE COURT: All right, sir. Thank you.

18 I'm going to respectfully deny the motion. As I
19 indicated earlier, I think this was a factual issue for the
20 jury as the judges of the facts. I think it was a factual
21 issue for the jury to decide and -- and I think that their
22 verdict is, in fact, consistent with the facts as -- as
23 presented.

24 All right. Mr. Richardson, anything further from the
25 State regarding sentencing, sir? Or if there's -- and I'll

1 be happy to hear from any victims who wish to address the
2 Court, if they wish to do so.

3 MR. RICHARDSON: Yes, sir, Your Honor. I think you're
4 familiar with the facts of the case. You sat through the
5 trial through all that and so I won't rehash that. I'll just
6 give you the defendant's prior record, which according to our
7 file shows that he had an assault and battery of a high and
8 aggravated nature conviction in January of 2009. It was a
9 plea, reduction in charge from a criminal sexual conduct,
10 third degree, offense.

11 He had a -- something out of the state of Georgia. I'm
12 not sure exactly what. There was some information here that
13 he may have been wanted by a sheriff's office in Georgia at
14 some point back in 2017. It's not immediately clear as to
15 what that's for.

16 THE COURT: That earlier criminal sexual conduct charge
17 that was pled to an assault, was that criminal sexual conduct
18 third or was that with a minor?

19 MR. RICHARDSON: It does not indicate minor --

20 THE COURT: Okay.

21 MR. RICHARDSON: -- on that sheet. It just says third.

22 THE COURT: Okay.

23 MR. RICHARDSON: It looks like the stuff out of Georgia
24 are driving offenses, driving without a license and driving
25 while suspended.

1 THE COURT: Okay.

2 MR. RICHARDSON: And I would ask -- I'm not sure if the
3 victim's mother or grandmother would like to address the
4 Court.

5 THE COURT: If -- no one is required to, but if you
6 would like to address the Court, I'll be more than happy to
7 hear from you. Ladies, anything?

8 MR. RICHARDSON: They've indicated to me they do not
9 wish to speak.

10 THE COURT: All right. Mr. Meetze, I'll be happy to
11 hear from you and then, of course, Mr. Smith, if he's -- if
12 he's inclined to. Again, he's not required to either, but if
13 there's anyone that would like to address the Court, I'll be
14 happy to hear from them.

15 MR. MEETZE: Thank you, Your Honor. May it please the
16 Court. Your Honor, as Mr. Richardson indicated, you've
17 certainly been here for the trial; so you're familiar with
18 the facts of this case as presented.

19 Judge, as far as prior record goes, the only thing of
20 any significance is a 10-year-old case that you've been told
21 about. He did receive probation on that case and all
22 indications are that he successfully completed that.

23 He lives in Mullins and he does -- he does live with and
24 care for an elderly and sick grandmother, as well as an uncle
25 that has some mental health issues as well. He does work in

1 Mullins as well.

2 And, Judge, obviously, the sentence is your purview and,
3 certainly, we respect whatever decision you make in that
4 regard. We would ask the Court to consider, obviously, that
5 one of the consequences of this conviction -- and certainly,
6 I've let Mr. Smith know of this prior to his trial that a
7 conviction of this offense will require that he register as a
8 sex offender and that registry will be mandatory and that
9 will be for the rest of his life.

10 And this charge also carries with it mandatory GPS
11 monitoring for the rest of his life, and he's informed of
12 that as a potential consequence should he be convicted as
13 well, and we also want to certainly ask the Court to take
14 that into consideration when issuing sentence.

15 Judge, we're just asking for whatever mercy you believe
16 is appropriate in this matter. He understands this function
17 and, again, is just asking for mercy.

18 THE COURT: All right. Thank you, Mr. Meetze.

19 Mr. Smith, anything further, sir?

20 THE DEFENDANT: I thank you for your time, sir, and just
21 beg the mercy of the Court because I did care for my elderly
22 grandmother and my uncle. My grandmother is 89 years old and
23 she suffers from dementia, among other health issues, and my
24 uncle has a little -- has a little problem. I take care --
25 I've been taking care of them for 10 years. Granted, they're

1 still here with me and I've been able to take care of them,
2 and I'm just asking the Court mercy on me so I can get back
3 to them before she passes.

4 THE COURT: All right. Thank you, sir.

5 Just -- which I normally wouldn't do during -- if this
6 was during a grouping of pleas, but just so the members of
7 the jury that are here understand.

8 The -- the charge that -- of which he was found not
9 guilty of, that being CSC with a minor in the first degree,
10 that charge had -- a person who is convicted of that charge,
11 that sentence carries -- and this is mandatory. It's a
12 mandatory 25 years to life, and that is -- and no part of
13 that can be suspended nor can probation be granted.

14 The charge for which Mr. Smith was, in fact, convicted
15 of carries a maximum penalty of up to 15 years. That's the
16 maximum penalty under this statute. Also, it would -- it
17 requires that he must register on the sex offender registry
18 and that he for the remainder of his life must be on GPS
19 monitoring as -- as a condition of this conviction.

20 Mr. Meetze, do you know or do you have any information
21 as to whether or not Mr. Smith -- I'm confident he served
22 some time in jail before bonding out? Do you know?

23 MR. MEETZE: Uh --

24 THE COURT: Mr. Smith, do you know how long you were
25 locked up before you bonded out, sir?

1 THE DEFENDANT: Yes, sir. I was in there three days.

2 THE COURT: Three?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Okay.

5 SENTENCE

6 THE COURT: All right. Under Indictment 2018-GS-33-469,
7 on that indictment under Count 2 of that indictment, criminal
8 sexual conduct with a minor in the third degree, the sentence
9 of the Court is that you be committed to the State Department
10 of Corrections for a period of 15 years. You are to be given
11 credit for the three days that you have served.

12 You must register on the sex offender registry and, once
13 released from confinement, be on GPS monitoring for the
14 remainder of your life.

15 Good luck to you, sir.

16 THE DEFENDANT: Thank you, sir.

17 MR. MEETZE: Thank you, Your Honor.

18 THE COURT: Ladies and gentlemen, as I told the -- as I
19 told the alternate jurors when I excused them, obviously your
20 service has ended for this week, but also, any restrictions
21 that I asked that you obey regarding discussing the case or
22 talking about the case, that's lifted.

23 So you are free to discuss the case or talk about the
24 case to anyone. However, you are also free to not talk about
25 the case if you don't want to. So if someone were to

1 approach you and just say, hey, you know, what -- anything,
2 if you don't want to talk about it, you just let them know
3 that you don't want to talk about it and that should end it.
4 If anyone does approach you and insists on talking to you,
5 you let me know and we'll stop that. Okay?

6 But you're free to discuss the case. You're free not
7 to. There's no further restrictions. All right?

8 So thank you very much for your service.

9 (WHEREUPON, the proceedings ended at 1:03 p.m.)

10

11 --- END REQUESTED TRANSCRIPT ---

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Marion County Circuit Court RANDOM STRIKE SHEET

5/14/19

JUDGE NAME: Russo, Thomas A.
TRIAL TYPE: Criminal
PANEL ID: 2018-GS-33-00469
COURTROOM CTRM

DESCRIPTION: State vs Courtney Smith

Sorted by: Random Nbr

Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1 Hamilton, Sheena N	77	B	F	(✓)	()	()	
2 Link, Patricia Z	94	W	F	()	(✓)	()	
3 Clark, Jessica L	26	W	F	()	()	()	1
4 Graves, Penny E	72	B	F	()	()	()	2
5 Turner, Tamara L	152	W	F	()	(✓)	()	
6 Samuel, Carla D	137	B	F	()	()	()	3
7 Hammond, Marvin D	78	W	M	()	(✓)	()	
8 Covington, Brandon J	34	B	M	()	()	()	4
9 Freeman, Stacy J	58	W	F	()	()	()	5
10 Page, He'lencia T	122	B	F	(✓)	()	()	
11 Godbolt, Laurie R	65	B	F	(✓)	()	()	
12 Boatwright, April P	9	B	F	()	(✓)	()	
13 Grant, Shemar A	70	B	M	()	()	()	6
14 Davis, Cynethia Y	38	B	F	()	()	()	7
15 Brown, Bobby Harold	11	B	M	()	()	()	8
16 Bullard, Hannah M	17	W	F	()	()	()	9
17 Vereen, Cappie A	153	B	F	()	(✓)	()	
18 Howard, Linda E	85	B	F	()	(✓)	()	
19 Burroughs, Tracy T	20	W	F	()	()	()	10
20 McDowell, Katie L	102	W	F	()	()	()	11
21 Wriglesworth, Cody R	175	W	M	()	()	()	12
22 Foley, Charlie C	56	W	M	(✓)	()	()	
23 Hewett, Joyce O	83	W	F	()	()	()	alt 1
24 England-plisiewicz, Catherine	49	W	F	()	()	()	alt 2

State of South Carolina)

) Certificate

County of Florence)

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 200, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of General Sessions for Marion County, South Carolina, on the 14th through 16th days of May, 2019.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

s/Krystal J. Smith

Court Reporter

Florence, South Carolina

August 18, 2019

MULLINS POLICE DEPARTMENT
151 E. FRONT STREET
P.O. DRAWER 405
MULLINS, SOUTH CAROLINA 29574



CHIEF OF POLICE MICHAEL J. BETHEA
PHONE: (843) 464-0707
FAX: (843) 464-0722

Advisement of Miranda Rights

Subject Name: Courtney Smith
Location: Mullins Pd.
Date: 6-27-18 Time: 0931

The Constitution of the United States requires me to inform you that:		Initials
1	YOU HAVE THE RIGHT TO REMAIN SILENT.	CS
2	ANYTHING YOU SAY CAN AND WILL BE HELD AGAINST YOU IN A COURT OF LAW.	CS
3	YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM OR HER PRESENT WITH YOU BEFORE ANY QUESTIONING IF YOU WISH.	CS
4	IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING IF YOU WISH.	CS
5	YOU CAN DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS AND NOT ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS.	CS
6	DO YOU UNDERSTAND EACH OF THESE RIGHTS AS I HAVE EXPLAINED THEM TO YOU? ☒ YES ☐ NO	CS

IF YOU FULLY UNDERSTAND YOUR RIGHTS PLEASE SIGN TO SHOW THAT YOU HAVE BEEN ADVISED OF YOUR RIGHTS

SIGNED: [Signature] RIGHTS READ BY: Det M. Hartson

WAIVER OF THESE RIGHTS

CS I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure of any kind has been used against me by anyone in exchange for my statement. CS

SIGNED: [Signature] TIME: 0933
WITNESS: Det M. Hartson WITNESS: _____

A CERTIFIED COPY OF THE
ORIGINAL FILED IN THIS OFFICE

BOOK _____ PAGE _____

Christy M. Gray
CLERK OF COURT, MARION COUNTY
SOUTH CAROLINA



STATE'S
EXHIBIT
No. 1
2
S15A9 US
PERGALD 800-433-6366

...am not under arrest for, nor am I being detained for any crime

Mullins Rd.

I am _____ years of age, and I live at _____

Parrish Dr.

~~I sent a 1/2 p. 5000 to the school took from~~

~~mother~~ I put my nose to his pines and smelled it and
touched it and then I just layed in the bed.

BOOK PAGE

Christy M. Gray

CLERK OF COURT, MARION COUNTY
SOUTH CAROLINA

ated at

1125 Hrs

, this

27

day of June

20 18

FITNESS:

Defm. Ut

ent l'

FILED

2018 NOV - 1 PM 2:02

MARION COUNTY SC
CHRISTY M. GRAY
CLERK OF COURT

A CERTIFIED COPY OF THE
ORIGINAL FILED IN THIS OFFICE
BOOK _____ PAGE _____
Christy M. Gray
CLERK OF COURT, MARION COUNTY
SOUTH CAROLINA

DOCKET NO. 2018-GS-33-00469
The State of South Carolina
County of
MARION

COURT OF GENERAL SESSIONS
NOVEMBER TERM 2018

THE STATE
vs.
COURTNEY ANTHONY SMITH

Indictment for
CRIMINAL SEXUAL CONDUCT WITH A
MINOR FIRST DEGREE &
CRIMINAL SEXUAL CONDUCT WITH A
MINOR THIRD DEGREE

WITNESSES

Michael J Hartson Mullins Police Department

David A Richardson

ARREST WARRANT NUMBER
2018A3320200121 ✓ 2018A3320200122 ✓

ACTION OF GRAND JURY

TRUE BILL
M. Sane
Foreperson of Grand Jury
Date: 11-1-18

VERDICT

Foreperson of Petit Jury Date:

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF MARION)

CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE &
CRIMINAL SEXUAL CONDUCT WITH A MINOR
THIRD DEGREE

At a Court of General Sessions, convened on NOVEMBER 1, 2018 the Grand Jurors of MARION County present upon their oath:

COUNT ONE- CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE

CDR: 0385 16-03-0655(A)(1)

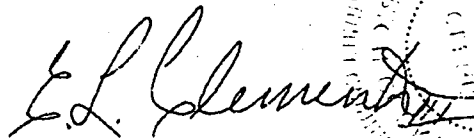
That Courtney Anthony Smith did in Marion County, State of South Carolina, on or about June 8, 2018, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the First Degree by engaging in sexual battery with a minor who is less than eleven (11) years of age, to wit: a ten-year-old male, by performing fellatio upon the child, in violation of Section 16-3-655(A)(1), S. C. Code of Laws, 1976, as amended.

COUNT TWO- CRIMINAL SEXUAL CONDUCT WITH A MINOR THIRD DEGREE

CDR: 3661 16-03-0655(C)

That Courtney Anthony Smith, being over fourteen years of age, did in Marion County on or about June 8, 2018, willfully and lewdly commit a lewd or lascivious act upon or with the body of a child, less than sixteen (16) years of age, to wit: a ten-year-old male, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of said defendant or of the victim, including but not limited to: touching the penis of the child, in violation of Section 16-03-0655(C), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



E.L. Clements, III
TWELFTH CIRCUIT 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,



Adam Sinclair Ruffin
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 20th day of February, 2020.

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,



Adam Sinclair Ruffin
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 20th day of February, 2020.

RECEIVED
FEB 20 2020
SC Court of Appeals