

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Horry County  
Honorable Benjamin H. Culbertson, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

LESLIE DAVIS,

APPELLANT

APPELLATE CASE NO 2019-000071

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RECORD ON APPEAL

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INDEX

|                                                 |     |
|-------------------------------------------------|-----|
| INDEX .....                                     | i   |
| TRIAL TRANSCRIPT DATED JANUARY 7-10, 2019 ..... | 1   |
| MOTION TO AMEND INDICTMENT .....                | 3   |
| RULING BY THE COURT .....                       | 4   |
| JURY VOIR DIRE .....                            | 6   |
| CHALLENGE FOR CAUSE .....                       | 9   |
| RULING BY THE COURT .....                       | 11  |
| PRE-TRIAL MOTIONS .....                         | 13  |
| TESTIMONY (IN-CAMERA)                           |     |
| DIANNE NORDEEN                                  |     |
| Direct Examination by Ms. Andrew .....          | 34  |
| Cross-Examination by Ms. Wilson .....           | 39  |
| OPENING REMARKS BY THE COURT .....              | 64  |
| OPENING STATEMENT BY MS. ANDREW .....           | 70  |
| OPENING STATEMENT BY MS. WILSON .....           | 74  |
| TESTIMONY                                       |     |
| SHYLA DAVIS                                     |     |
| Direct Examination by Ms. Andrew .....          | 77  |
| Cross-Examination by Ms. Wilson .....           | 87  |
| Re-Direct Examination by Ms. Andrew .....       | 99  |
| MELESA BROOKE SQUIRES                           |     |
| Direct Examination by Ms. Andrew .....          | 100 |
| Cross-Examination by Ms. Wilson .....           | 113 |
| COLLOQUY .....                                  | 129 |

## TESTIMONY

## OWEN KELLIS

|                                           |     |
|-------------------------------------------|-----|
| Direct Examination by Ms. Walter .....    | 132 |
| Cross-Examination by Ms. Wilson .....     | 137 |
| Re-Direct Examination by Ms. Walter ..... | 139 |

## MICHAEL KEVILLE

|                                        |     |
|----------------------------------------|-----|
| Direct Examination by Ms. Walter ..... | 141 |
|----------------------------------------|-----|

|                                    |     |
|------------------------------------|-----|
| OBJECTION TO CRIMINAL RECORD ..... | 143 |
|------------------------------------|-----|

|                           |     |
|---------------------------|-----|
| RULING BY THE COURT ..... | 146 |
|---------------------------|-----|

## TESTIMONY

## MICHAEL KEVILLE

|                                        |     |
|----------------------------------------|-----|
| Direct Examination by Ms. Walter ..... | 147 |
| Cross-Examination by Ms. Wilson .....  | 152 |

## CHRISTOPHER GRAHAM

|                                        |     |
|----------------------------------------|-----|
| Direct Examination by Ms. Walter ..... | 163 |
| Cross-Examination by Ms. Wilson .....  | 166 |

## JANET MOORE

|                                        |     |
|----------------------------------------|-----|
| Direct Examination by Ms. Walter ..... | 168 |
| Cross-Examination by Ms. Wilson .....  | 176 |

## JUSTIN WYATT

|                                           |     |
|-------------------------------------------|-----|
| Direct Examination by Ms. Andrew .....    | 179 |
| Cross-Examination by Ms. Wilson .....     | 202 |
| Re-Direct Examination by Ms. Andrew ..... | 208 |

|                     |     |
|---------------------|-----|
| MATTER OF LAW ..... | 209 |
|---------------------|-----|

## TESTIMONY

## JUSTIN WYATT (CONT'D)

|                                        |     |
|----------------------------------------|-----|
| Direct Examination by Ms. Andrew ..... | 215 |
|----------------------------------------|-----|

## JESSICA STOWE

|                                           |     |
|-------------------------------------------|-----|
| Direct Examination by Ms. Walter .....    | 220 |
| Cross-Examination by Ms. Wilson .....     | 232 |
| Re-Direct Examination by Ms. Walter ..... | 235 |

|                                           |     |
|-------------------------------------------|-----|
| SARA GOODMAN                              |     |
| Direct Examination by Ms. Walter .....    | 237 |
| Cross-Examination by Ms. Wilson .....     | 244 |
| CAROL ANN RAHTER                          |     |
| Direct Examination by Ms. Walter .....    | 247 |
| Cross-Examination by Ms. Wilson .....     | 256 |
| DIANNE NORDEEN                            |     |
| Direct Examination by Ms. Andrew .....    | 263 |
| Cross-Examination by Ms. Wilson .....     | 268 |
| Re-Direct Examination by Ms. Andrew ..... | 270 |
| STATE RESTS .....                         | 272 |
| ADVICE OF RIGHTS .....                    | 275 |
| MOTION FOR DIRECTED VERDICT .....         | 280 |
| RULING BY THE COURT .....                 | 280 |
| ADVICE OF RIGHTS .....                    | 282 |
| ADVICE OF RIGHTS .....                    | 289 |
| CHARGE CONFERNECE .....                   | 293 |
| DEFENSE RESTS .....                       | 298 |
| CLOSING ARGUMENT BY MS. WALTER .....      | 303 |
| CLOSING ARGUMENT BY MS. WILSON .....      | 310 |
| MATTER OF LAW .....                       | 317 |
| CLOSING ARGUMENT BY MS. WILSON .....      | 321 |
| CHARGE ON THE LAW .....                   | 325 |
| VERDICT .....                             | 338 |
| JURY POLL .....                           | 339 |
| POST TRIAL MOTION .....                   | 342 |
| RULING BY THE COURT .....                 | 343 |



|                                                        |     |
|--------------------------------------------------------|-----|
| SENTENCING .....                                       | 346 |
| STATE'S EXHIBIT NO. 5 (CERTIFICATE OF CONVICTION)..... | 347 |
| INDICTMENT.....                                        | 348 |
| CERTIFICATE OF COUNSEL .....                           | 350 |

**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:  
STATE'S EXHIBIT NO. 17 (VIDEO RECORDING OF MINOR'S INTERVIEW)**

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY ) 2016-GS-26-3323

|               |   |                      |
|---------------|---|----------------------|
| The State,    | ) |                      |
|               | ) |                      |
| Plaintiff,    | ) | Transcript of Record |
|               | ) |                      |
| vs.           | ) | January 7-10, 2019   |
|               | ) |                      |
| Leslie Davis, | ) |                      |
|               | ) |                      |
| Defendant.    | ) |                      |

B E F O R E:

Honorable Benjamin H. Culbertson  
Horry County Courthouse  
Horry, South Carolina

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

C. Leigh Andrew, Esquire  
Mary-Ellen Walter, Esquire  
Attorneys for Plaintiff

Kia Wilson, Esquire  
Attorney for Defendant

Grace L. Hurley, CVR-CM-M  
Circuit Court Reporter

1 MS. WILSON: All right. Thank you, Your Honor.

2 THE COURT: Okay. Have you or any family member, close  
3 friend ever volunteered your services to any law enforcement  
4 agency? Yeah. I'll ask that.

5 Have you or any member of your family ever applied for a  
6 job in law enforcement, a prison, jail, detention center or  
7 court? Any objection?

8 MS. WALTER: Well, then, we should be --

9 THE COURT: I mean, my --

10 MS. WALTER: I, I don't think that it's relevant because  
11 then are we going to ask has anyone ever applied for a job at  
12 a prosecution office, at a defense office, at a --

13 THE COURT: Yeah. I'm not going to ask that. I agree.  
14 In general, when a person is charged with a crime do you have  
15 the opinion that he or she is probably guilty? I'm not going  
16 to ask that.

17 MS. WILSON: Your Honor, I would just like to renew all  
18 of my objections on each of the questions as listed that the  
19 Court or the State has objected to and, and excluded.

20 THE COURT: All right. So noted.

21 MS. WILSON: Thank you.

22 THE COURT: All right. It's 2:00 o'clock. Do we want to  
23 -- yeah, I guess we need to go ahead and address the motion to  
24 amend the indictment. I've, I've looked over -- well, let me  
25 just hear from the State. Let me go ahead and place your

Motions

31

1 --

2 MS. ANDREW: Your Honor, do you have a copy of the  
3 indictment?

4 THE COURT: I've got a copy of the motion. Yeah.

5 MS. ANDREW: Okay. Thank you. If you'll look at the  
6 indictment itself, there are a couple of what we consider are  
7 scrivener's errors on the face of the indictment. If you look  
8 at the first page under where it says arrest warrant number,  
9 it says CDR 385 and then it has a statutory section of 16-3-  
10 655(a)(1). That should read (a)(2). He is charge, actually,  
11 under subsection 2 which is the portion of the law that says  
12 criminal sexual conduct with a minor in the first degree is  
13 when a person commits a sexual battery on someone under the  
14 age of 16 and has been previously ordered to be listed on the  
15 sex offender registry. (a)(1) is the section of that statute  
16 that says that someone is guilty of criminal sexual conduct in  
17 the first degree when they rape a child or commit a sexual  
18 battery on a child under the age of 11. The primary  
19 difference in the two portions of the statute is what the  
20 State has to prove. For the second one we have to prove that  
21 the child's under 16 and the person has previously been  
22 ordered to be on the sex offender registry. If you read the  
23 language of the indictment itself, it's very clear that we're  
24 proceeding under the second section, (a)(2).

25 THE COURT: Okay.

1 MS. ANDREW: Additionally --

2 THE COURT: As a matter of a fact, the body, the body  
3 references subsection (a)(2) was well.

4 MS. ANDREW: It does, Your Honor. Additionally, this  
5 motion has been filed since August. So the Defendant had  
6 ample notice that that's the section the State was proceeding  
7 under. Also, just for your information, this section, the  
8 sentence if he is found guilty is 10 to 30 years. If we were  
9 to proceed under section (a)(1) because he is a sex offender  
10 his sentence would be a mandatory sentence of life without the  
11 possibility of parole. So even amending the indictment even  
12 benefits him to some degree. Also, the State could have nolle  
13 prossed this indictment and just re-filed a new indictment  
14 that's corrected. The reason we didn't proceed that way is  
15 just because I felt it was more transparent and more open from  
16 the State to go ahead and file a motion to amend the current  
17 indictment.

18 THE COURT: All right. And you're also seeking to amend  
19 the CDR code.

20 MS. WALTER: Yes, sir. The CDR code --

21 THE COURT: I'm assuming 30-22 matches subsection (a)(2)?

22 MS. ANDREW: It does, Your Honor.

23 THE COURT: Okay. All right. Ms. Wilson?

24 MS. WILSON: Your Honor, I don't have any objection.

25 THE COURT: Okay. I'll grant that. We'll amend the

## Motions

33

1 indictment to read that the alleged violation is of S.C. Code  
2 Section 16-3-655(a)(2) carrying a CDR code of 30-22, which is  
3 how it appears in the body of the allegations but not in the  
4 top, above that or on the first page. All right. Anything  
5 else we need to address before we bring the jury in?

6 MS. ANDREW: Nothing from the State.

7 MS. WILSON: Nothing from the Defense, Your Honor.

8 THE COURT: All right. How long will it take to get them  
9 up here? Five minutes. All right. Let's go ahead and take  
10 about a five-minute break, let them get the jurors up here and  
11 we'll come in and start voir dire.

12 MS. WILSON: Yes, sir. Thank you.

13 THE COURT: Thank you.

14 MS. WALTER: Your Honor.

15 THE COURT: Yes.

16 MS. WALTER: I have a clocked copy. I had sent Your  
17 Honor proposed jury instructions last week. This is a printed  
18 out copy.

19 THE COURT: Yeah. Okay. I got that. All right.

20 MS. WILSON: Your Honor, I haven't seen any of those. I  
21 may do so closer to --

22 THE COURT: Well, I'm going to be honest with you, I've  
23 looked at them and, and they're, they're pretty close to what  
24 I usually charge. There's one on circumstantial and direct  
25 evidence that's a little bit different.

1 the Defense in the presence but out of the hearing of the jury  
2 panel. Excused by Court.)

3 THE COURT: Anyone else, either personally, a family  
4 member or close personal friend been accused of a sexually  
5 related offense? If so, please stand.

6 Yes, ma'am, your name and number?

7 JUROR NUMBER 357: Sylvia Todd, 357.

8 THE COURT: All right. Ms. Todd, if you'd come forward,  
9 please.

10 (Whereupon, an off-the-record bench conference is held  
11 with Juror Number 357, counsel for the State and counsel for  
12 the Defense in the presence but out of the hearing of the jury  
13 panel.)

14 THE COURT: All right. Anyone else?

15 (No response.)

16 THE COURT: Has any member of the jury panel or a close  
17 family member or friend ever been charged with a sexually-  
18 related offense?

19 (No response.)

20 THE COURT: Has any member of the jury panel or a close  
21 family member or friend ever been the victim of a sexually-  
22 related offense?

23 All right. We'll start here on the front row. Yes, sir,  
24 your name and number?

25 JUROR NUMBER 170: Howard Johnson, 170.

Voir Dire

42

1           THE COURT: Hold for one second. Okay. Mr. Johnson, if  
2 you'd come forward, please.

3           (Whereupon, an off-the-record bench conference is held  
4 with Juror Number 170, counsel for the State and counsel for  
5 the Defense in the presence but out of the hearing of the jury  
6 panel. Excused by Court.)

7           THE COURT: All right. Your name and number?

8           JUROR NUMBER 352: Shannon Thompson, 352.

9           THE COURT: All right. Ms. Thompson, if you'd come  
10 forward, please.

11          (Whereupon, an off-the-record bench conference is held  
12 with Juror Number 352, counsel for the State and counsel for  
13 the Defense in the presence but out of the hearing of the jury  
14 panel.)

15          THE COURT: All right. Ma'am, your name and number?

16          JUROR NUMBER 338: Tracy Nettles, 238 [sic].

17          THE COURT: 338. All right. Ms. Nettles, if you'd come  
18 forward, please.

19          (Whereupon, an off-the-record bench conference is held  
20 with Juror Number 338, counsel for the State and counsel for  
21 the Defense in the presence but out of the hearing of the jury  
22 panel. Excused by Court.)

23          THE COURT: All right. Your name and number?

24          JUROR NUMBER 370: Trace Vereen, 370.

25          THE COURT: All right. Ms. Vereen, come forward, please.



1           (Whereupon, an off-the-record bench conference is held  
2 with Juror Number 370, counsel for the State and counsel for  
3 the Defense in the presence but out of the hearing of the jury  
4 panel. Excused by Court.)

5           THE COURT: All right. Yes, ma'am, your name and number?

6           JUROR NUMBER 283: Patricia Prybeck, 283.

7           THE COURT: All right. Ms. Prybeck, if you'd come  
8 forward, please.

9           (Whereupon, an off-the-record bench conference is held  
10 with Juror Number 283, counsel for the State and counsel for  
11 the Defense in the presence but out of the hearing of the jury  
12 panel. Excused by Court.)

13          THE COURT: All right. Any member of the jury panel,  
14 close family member or friend ever been the victim of a  
15 sexually-related offense. Anyone else?

16          (No response.)

17          THE COURT: Has any member of the jury panel ever served  
18 as a juror in a criminal trial before?

19          Yes, sir, your name and number?

20          JUROR NUMBER 364: Ron Tutone, 364.

21          THE COURT: Excuse me. All right. Mr. Tutone, would  
22 your experience as a juror in a criminal trial affect your  
23 ability to be fair and impartial, not only to the State, but  
24 to the Defendant in this case?

25          JUROR NUMBER 364: No.

## Jury Selection

69

1           (Whereupon, the remaining jury panel is excused by the  
2 Court with call-in instructions.)

3           THE COURT: All right. Ms. Wilson, I understand you had  
4 a challenge for cause?

5           MS. WILSON: Yes, sir, Your Honor. My concern, Your  
6 Honor, was about number 352. If the Court recalls, she came  
7 up to the bench when we asked in the voir dire about -- I  
8 think it was about her or family members ever having been the  
9 victims of or having to participate in any kind of trial or  
10 anything about a sexual assault, and she stated at the bench  
11 that she actually was a witness to a sexual assault and  
12 testified at a trial where I think she said she and the  
13 alleged Defendant were 12 years old. I wasn't clear if it was  
14 her or the victim.

15           MS. WALTER: The victim was 12.

16           MS. WILSON: She and the victim were both 12.

17           THE COURT: Well, I -- I thought they were the same age  
18 and that she was --

19           MS. WILSON: Right.

20           THE COURT: -- young and she witnessed it and testified  
21 --

22           MS. WILSON: Yes.

23           THE COURT: -- on behalf.

24           MS. WILSON: And Your Honor, certainly, I feel it's  
25 necessary to bring this before the Court. Certainly I would

1 have struck her if I had had the opportunity, but I had no  
2 more strikes, and she was still in the panel and, of course,  
3 that is the number that came up. So I was unable to strike  
4 her of my own volition, but I am asking the Court to do so  
5 given the fact that I think the nature of, of the case that  
6 she participated in, the circumstances, the fact that she was  
7 of a young age all could contribute, despite the fact that she  
8 says that she can be impartial, I think it might contribute to  
9 her inability to be impartial in deciding this case, and since  
10 she is now the number 12 juror on this panel I think it's a  
11 concern.

12 THE COURT: All right. Hear from the State.

13 MS. ANDREW: Your Honor, you asked her the curative  
14 question when we approached the bench, if she could be a fair  
15 and impartial juror in light of the fact that she was a  
16 witness to her friend being assaulted at the age of 12. She  
17 unequivocally said yes. There was no objection made at the  
18 time that she said yes, and she remained on the panel and was  
19 chosen. I don't see any reason to strike her.

20 THE COURT: All right. Anything in reply?

21 MS. WILSON: Your Honor, I certainly don't think that I  
22 had to say, no, she couldn't be on the panel at that moment.  
23 I'm certainly bringing it to the Court's attention at this  
24 moment, and the Court did actually attempt to cure. I am  
25 saying that I don't believe that that curative instruction is

## Jury Selection

71

1 actually going to be enough given the circumstances and given  
2 the nature of this case.

3 THE COURT: All right. All right. I'm going to deny  
4 your motion to strike her for cause. Juror 352, I do remember  
5 her coming forward. It was, I think, it was under the  
6 question have you or a family member or close personal friend  
7 ever been the victim of a sexual related offense or a sex  
8 offense. She came forward, said at a young age, you all said  
9 12. I thought she said seven. Was it 12?

10 MS. ANDREW: She was 12.

11 THE COURT: Okay.

12 MS. ANDREW: And her friend was 12 is my recollection.

13 MS. WILSON: Right.

14 THE COURT: Well, when she was 12 and her friend was  
15 sexually molested and she witnessed it and testified on behalf  
16 of the friend at the prosecution of that case. Be that as it  
17 may, I asked her --

18 MS. WILSON: Yes, sir.

19 THE COURT: -- would that affect her ability to be fair  
20 and impartial in this case. She said no. I asked her if she  
21 could set aside all of the facts and circumstances regarding  
22 that incident and base her decision in this case exclusively  
23 on the testimony and evidence in this case and she said she  
24 could. Therefore, I'm convinced that she can be fair and  
25 impartial in this case and that she's not influenced by that.

## Jury Selection

72

1 MS. WILSON: Yes, sir.

2 THE COURT: So based upon that, we've now got it on the  
3 record, and I'm denying your motion.

4 MS. WILSON: Yes, sir. Thank you, Your Honor.

5 THE COURT: All right. Any other challenges or anything  
6 else you want to put on the record?

7 MS. WILSON: Not as far as jury selection, Your Honor.

8 THE COURT: All right. Anything from the State before we  
9 -- I think we've agreed that we're just going to bring the  
10 jury in. We won't swear them in now. I'll excuse them for  
11 the remainder of the day, come back and get started tomorrow  
12 morning. We'll take up pretrial matters this afternoon. Is  
13 that correct?

14 MS. ANDREW: Yes, Your Honor.

15 MS. WILSON: Yes, sir.

16 THE COURT: All bright. Anything from the State before  
17 we bring the jury in?

18 MS. ANDREW: Nothing, Your Honor.

19 THE COURT: Anything from the Defense?

20 MS. WILSON: No, sir, Your Honor.

21 THE COURT: All right. Let's go ahead and bring the jury  
22 in.

23 (Whereupon, the following takes place in the presence of  
24 the jury.)

25 THE COURT: All right. Ladies and gentlemen, welcome

## Motions

101

1 MS. WALTER: You're welcome.

2 THE COURT: Okay. So, and, and I don't know that it  
3 falls within the rape shield statute or not because I think  
4 that all -- I think that dealt -- see, I -- what I was getting  
5 ready to do was look up the definition of sexual conduct and  
6 sexual activity because that's what the rape shield statute  
7 addresses. I don't know that that includes being the victim  
8 of a sexual assault.

9 MS. WILSON: And I, I, Your Honor, I totally understand  
10 --

11 THE COURT: But --

12 MS. WILSON: -- where the Court's going with that.  
13 However, I'm not even going to argue that issue. I'm going to  
14 withdraw that, that objection.

15 THE COURT: All right. So State's motion for compliance  
16 with the rape shield statute is granted with consent. All  
17 right. Defendant's motion to suppress.

18 MS. WILSON: I'm so sorry, Your Honor?

19 THE COURT: All right. Defendant's motion to suppress.

20 MS. WILSON: Yes, sir. All right. Your Honor, in order  
21 -- I'm obviously requesting to suppress the written Children's  
22 Recovery Center forensic interviewer's report, Minor  
23 interview notes and doodles, the CRC medical examiner, Dr.  
24 Carol Rahter's written report and statement of her findings,  
25 and of course, the disclosure of, of the Defendant's rape

1 first, intercourse with a person less than 11 years old  
2 conviction. Your Honor, as far as the written reports, it's  
3 my understanding that they are not allowed. However, out of  
4 an abundance of caution and because there are some things that  
5 I know based on our prior discussion that the State intends to  
6 try to enter into evidence that I feel technically are a part  
7 but that they are still trying to get in anyway, I felt that  
8 this motion to suppress was important. So to the extent that  
9 the State doesn't intend to offer the written CRC report, you  
10 know, the Defense is willing to concede that and there's no  
11 further argument.

12 THE COURT: All right. What's -- are you all going to  
13 try to introduce the written report?

14 MS. ANDREW: Your Honor, the State is not trying to  
15 introduce the forensic interviewer's written report. Those  
16 are merely her notes about what happened at the interview. We  
17 feel that the videotape and audiotape of the interview speaks  
18 for itself in that regard. However, during the course of the  
19 interview the child victim did respond to questions the  
20 interviewer asked her by drawing on a piece of paper and  
21 writing words down. You can clearly see that occurring when  
22 you watch the interview. I have a copy of what the child  
23 actually drew that I can pass up and we would seek to allow  
24 the jury to see those because it's helpful.

25 THE COURT: Is that what you're talking about the notes

## Motions

103

1 and doodles?

2 MS. ANDREW: The doodles, Your Honor.

3 MS. WILSON: The doodles and the notes. Yes, sir.

4 THE COURT: All right. Let me -- all right. So I'm going  
5 to grant the written -- suppression of the written report.

6 MS. WILSON: Yes, sir.

7 THE COURT: All right. Let me hear from you Ms. Wilson,  
8 on the doodles.

9 MS. WILSON: All right, Your Honor, the doodles are a  
10 part of the written CRC interview report, and as part -- as  
11 such, because it comes part and parcel of that report. I  
12 would argue that it's inadmissible because it's in there.  
13 They're not used to assist -- they're not used for any purpose  
14 other than to assist this interviewer. They are the  
15 interviewer's notes with the child at the time that this, this  
16 video was done. I feel like those doodles are more  
17 prejudicial than anything else. They're not probative of  
18 anything. She's going to take the stand and testify. They're  
19 going to watch a video of her, you know, talking to this  
20 interviewer with, of course, some redactions once those are  
21 agreed upon, but the notes are -- the doodles and the notes  
22 are unorganized. Are disorganized. There's no way to know  
23 which answer relates to which question. It was used to aid  
24 the interviewer, and by the State's own admission it was kept  
25 in the normal course of business for this interviewer at the



1 CRC, at the Children's Recovery Center. I think it's well  
2 established that interview notes, which these doodles are a  
3 part of, are not admissible, and that that scratchpad in and  
4 of itself is only good for bolstering. I don't think there's  
5 any other point or purpose for them to be admitted in other  
6 than to bolster what the child is saying on the stand when she  
7 testifies. I think that the only reason for admitting them is  
8 to underscore to the jury the veracity of the child's  
9 statement while she testifies. I don't think it's necessary,  
10 and I think it actually would hurt more than it would help  
11 anything. I think that there's the video where I think the  
12 interviewer talks about what she's giving to the child, and  
13 that the child can write down little things, but those are  
14 interview notes and they shouldn't be allowed as a separate  
15 exhibit as a part of the State's case.

16 THE COURT: All right. Let me hear from the State.

17 MS. WILSON: I'm sorry. I need to add one more thing and  
18 I apologize.

19 THE COURT: All right.

20 MS. WILSON: I have a lot of notes on this particular  
21 issue. Your Honor, in addition, I think that -- the things  
22 that I think that the State is likely to want to elicit from  
23 these, from these doodles and notes are able to be elicited  
24 through direct examination, which is what I assume they're  
25 going to do. I think that the words, and I'm going to use the

Motions

105

1 slang as it's written dick is one word, bird was the other. I  
2 think that that stuff amongst the scribbles and the  
3 cartoonlike drawings are somewhat inflammatory, and I just  
4 think it would be a problem for them to be admitted. I think  
5 that Kromah is controlling on this issue because I think that  
6 without proper context they just don't fit into what's  
7 appropriate in the State's presentation as far as physical  
8 evidence. That does it. Thank you.

9 THE COURT: All right.

10 MS. ANDREW: Your Honor, the, the case she references  
11 Kromah deals with forensic interviewers bolstering a child's  
12 statement in some way, usually by the way the question or  
13 things that they say to the child or getting on the stand and  
14 being qualified as an expert and then bolstering the child's  
15 testimony by saying they're credible. That is not at all what  
16 the State seeks to do with these doodles. The doodles were  
17 solely the product of the child witness, the child victim.  
18 She sat there and wrote those things down in response to the  
19 interviewer's questions. You can clearly see that on the  
20 tape. The context that we're going to admit that as part of  
21 the tape. If you --

22 THE COURT: So in other words, the interviewer asked a  
23 question, she wrote the answer.

24 MS. ANDREW: Yes, sir.

25 THE COURT: All right. So she never did give a verbal

1 response to the question. She never did do anything. She  
2 just said, "I'm going to ask you some questions and you write  
3 the answer," she asked the questions, then she wrote them.

4 MS. ANDREW: That just happened, that just happened to be  
5 the way this child responded. The interviewer would write a  
6 question and she just was nervous and rather than say it she  
7 would write it down. If the tape would actually show, if you  
8 had a tape over her shoulder and you could see what she was  
9 writing down I could see why we wouldn't need this exhibit.

10 THE COURT: But there's -- is there any --

11 MS. ANDREW: But you can't see it.

12 THE COURT: -- is there any further questioning or  
13 expansion on -- I mean, because I'm going to tell you I look  
14 at this it doesn't mean anything to me.

15 MS. ANDREW: There -- if you view it in context of the  
16 video you can understand it. You see her write down and then  
17 the interviewer will actually repeat what she writes down  
18 sometimes and say, "You wrote bird. What do you mean by  
19 that?"

20 THE COURT: See, I, I agree. If she's doing an  
21 interpretation of the answer I don't know that she can do  
22 that.

23 MS. ANDREW: Well, she's -- she's just -- she's just --  
24 the reason she does that is because she knows it's being taped  
25 and she doesn't always do it but she'll say, "You wrote bird.

Motions

107

1   What does that mean?" She's not giving the child the answers  
2   or telling her to write these things down.

3           THE COURT:   Okay.

4           MS. ANDREW:   They give the child a piece of paper to  
5   doodle while they interview and they don't really say, "Write  
6   down your answers." This child just started doing that.

7           THE COURT:   Okay.

8           MS. ANDREW:   And you can see it on the tape though.

9           THE COURT:   Well, I'm going to take your motion under  
10  advisement until I see the interview.

11          MS. WILSON:   Okay. Yes, sir.

12          THE COURT:   And we'll see what kind of context they come  
13  up. Okay?

14          MS. WILSON:   Your Honor, next, and, again, back to the  
15  suppression motion with Dr. Rahter's written notes, again, my  
16  understanding is the State's not seeking to introduce those;  
17  is that correct?

18          MS. ANDREW:   That's correct. We are not seeking to  
19  introduce Dr. Rahter's written report. We are seeking to  
20  introduce Dr. Rahter's testimony as an expert, Your Honor.

21          MS. WILSON:   So I don't have any objection to -- I  
22  withdraw that motion since they say they're not going to  
23  submit the written report. Your Honor, my final --

24          THE COURT:   Well, wait a minute. So --

25          MS. WILSON:   I'm sorry.

1 THE COURT: -- the written -- the written CRC forensic  
2 interview report, number one, the CRC medical examiner, Dr.  
3 Rahter's written report, that's one in the same.

4 MS. ANDREW: It's two -- the Dr. Rahter's report is a  
5 one-page report --

6 MS. WILSON: Right.

7 MS. ANDREW: -- and the CRC is just a summary of the  
8 interview.

9 MS. WILSON: Right.

10 THE COURT: Oh, I see. Okay.

11 MS. ANDREW: So it's two separate things.

12 THE COURT: All right. So Dr. Rahter's written report is  
13 excluded by consent.

14 MS. WILSON: And just to make sure I'm on the page, I  
15 don't want to leave any stone unturned.

16 MS. ANDREW: Uh-huh.

17 MS. WILSON: We are agreeing that all written reports are  
18 out; correct for CRC?

19 MS. ANDREW: We are not seeking to introduce the Dianne  
20 Nordeen's written report or Dr. Rahter's one-page medical  
21 report.

22 MS. WILSON: Okay. And the summary report?

23 MS. ANDREW: The summary, what do you mean by that?

24 MS. WILSON: You were talking about the one with Dr.  
25 Rahter. I have just one page for her.

## Motions

109

1 MS. ANDREW: That's all I have, too.

2 MS. WILSON: Okay. All right.

3 MS. ANDREW: Yeah. That's all I have, too.

4 MS. WILSON: So we're on the same page.

5 MS. ANDREW: That's all she generates. Yeah.

6 MS. WILSON: Okay. And Your Honor, I'll tell you in  
7 advance, my final motion as far as suppression is concerned is  
8 a little bit lengthy but I feel it's necessary to put this,  
9 the entirety of this objection on the record.

10 THE COURT: Okay. Well, wait a minute. So we just  
11 finished -- and what did you all just discuss?

12 MS. WILSON: Your Honor, I was clarifying about the  
13 number of pages --

14 THE COURT: I got you.

15 MS. WILSON: -- in Dr. Rahter's written report and I  
16 think we're clear that she just has the, the one page  
17 document.

18 THE COURT: All right. So next is exclusion of  
19 Defendant's prior rape conviction.

20 MS. WILSON: Yes, sir, and again, as I stated before, I'm  
21 very clear about what the law says, but I'm still going to ask  
22 the Court for a ruling on this matter, in this instance. I  
23 feel that the prior conviction for rape first shouldn't be  
24 allowed into the jury's hearing. There's a number of reasons  
25 for this, Your Honor. One is that it's unconstitutional in my

1 eyes. I believe that established case law, it's established  
2 case law that the name and nature of a prior offense raises a  
3 risk of a verdict tainted by improper considerations. There  
4 can be no question that evidence of the name or nature of the  
5 prior offense generally carries a risk of unfair prejudice to  
6 the Defendant. That risk will vary from case to case but will  
7 be substantial whenever the official record offered by the  
8 government would be arresting enough to lure a juror into a  
9 sequence of bad character reasoning, and Your Honor, that's a  
10 quote from Old Chief versus United States, and I have that  
11 cite if the Court's interested. Also, Your Honor, I feel the  
12 admission of the prior conviction in this case does more than  
13 raise a concern about jury taint. The admission of the  
14 Defendant's prior CSC first conviction improperly shifts the  
15 burden to the Defense. It is well established that the State  
16 is to bear the burden of proof in a criminal case, and the  
17 Defendant is wrongly required to rebut that presumption of  
18 guilt to the jury in light of the prejudicial admission of the  
19 Defendant's prior conviction and required sex offender  
20 registry.

21 The second part of that or prong of that is, Your Honor,  
22 I feel that the admission of the prior conviction as required  
23 under the statute violates Defendant's Fifth Amendment Right  
24 to remain silent as his prior CSC conviction does all of the  
25 speaking for him in this instance. It's a denial of a fair

## Motions

111

1 trial and the enormity of the prejudice that attaches once the  
2 jury is made aware of the Defendant's prior conviction is  
3 insurmountable in some cases. It definitely is incredibly  
4 difficult. It inflames the jury to a degree that the  
5 resulting prejudice does outweigh any probative value and any  
6 claim to the contrary is ridiculous. The statutory  
7 requirement of the criminal conviction disclosure also  
8 violates Defendant's right to innocent until proven guilty  
9 under the Sixth Amendment, and finally, despite the proposal  
10 under State v. Benton that due process does doesn't bar  
11 admission of prior crimes simply because there's an  
12 accompanying prejudicial effect, the bottom line is that the  
13 State could very simply choose to try the Defendant under 16-  
14 3-655(a)(1), but it's proceeding under (a)(2) because it is  
15 prejudicial and everyone is aware of the resulting bias  
16 against the Defendant, including the legislature authorizing  
17 this admission. The admission in front of the jury sours the  
18 panel and suggests to the jury the very thing which Benton  
19 claims that it does not, that the Defendant is a bad person  
20 and has done this before. It is wrong and through legislative  
21 action deprives the Defendant of a fundamental right to a fair  
22 trial. After all, there is a simple reason that this is  
23 coming in, and it is to in some way let the jury know that  
24 this is not the first go around for this client. I am asking  
25 the Court to rule that this is, this prior conviction of rape



1 first is not admissible in this trial so that the Defendant  
2 might have a shot at a fair trial in this case. Thank you.

3 THE COURT: Let me ask you this, how could the State ever  
4 prove a person guilty of 16-3-655(a)(2) without getting the  
5 prior conviction in?

6 MS. WILSON: Well, and Your Honor, that's actually the  
7 crux of my argument. The -- by the legislature making it a  
8 requirement it's actually an element of the offense.

9 THE COURT: That's right.

10 MS. WILSON: They've made in an element. It is not  
11 possible for them to do it without the element unless, and  
12 I've actually given this a lot of thought because I've been  
13 very frustrated in my preparation for this case, but certainly  
14 it would not be unreasonable for the Court as an element to  
15 decide that issue. The Court is made aware of it and it's a  
16 sentencing matter. If we agree to it and admit to it in  
17 advance we could stipulate to it and the Court could then rule  
18 on it. Now, they don't have to do it that way, and again, I  
19 have just gone through so much case law trying to find  
20 something to support my position. All of the case law is, is  
21 relatively old that talks about a Defendant's right to a fair  
22 trial and a right to avoid taint. What the current case law  
23 says is that we're upholding what the legislature's done, and  
24 my argument is just that it's, it's unfair to the client and  
25 it's wrong, and that the taint exists simply by virtue of the

Motions

113

1 fact that the legislature has required that it be an element  
2 of the offense and that the State doesn't have to stipulate to  
3 anything and they get to bring it in front of the jury. That  
4 --

5 THE COURT: Let me ask you this.

6 MS. WILSON: Yes, sir.

7 THE COURT: Excuse me for interrupting.

8 MS. WILSON: No, sir. It's no problem.

9 THE COURT: If they charged your client with violating  
10 this statute, subsection (a)(2) --

11 MS. WILSON: Yes, sir.

12 THE COURT: -- and your client had no prior criminal  
13 conviction, wouldn't you then want them to prove that prior  
14 criminal conviction to convict him of that crime?

15 MS. WILSON: And, yes, sir, I would and again, in order  
16 to do that my argument is it still doesn't have to be  
17 presented to the jury. If they showed you that prior  
18 conviction prior to the trial starting the same issue is still  
19 present.

20 THE COURT: But you don't think that he's entitled to a  
21 jury trial on the issue of whether or not he had a prior  
22 conviction?

23 MS. WILSON: If he doesn't take that stand, that prior  
24 conviction never comes in, and that's my point. He -- because  
25 -- whether he takes the stand at this trial or not, that prior

1 is coming in, and I'm saying that that taint, that results in  
2 taint that's wrong and is not curable unless it's left out,  
3 and again, I'm putting this in the record and I'm asking the  
4 Court to rule because I would like this to become more of an  
5 issue, but I think it's a problem. This was one of those  
6 truly just legal issues, has, you know, obviously has a lot to  
7 do with my client's case because I'm --

8 THE COURT: Yeah.

9 MS. WILSON: -- standing here arguing it, but again, I'm  
10 very much aware that the case law is staggeringly against me  
11 in this instance --

12 THE COURT: Right.

13 MS. WILSON: -- but I'm asking the Court to rule because  
14 I don't think changes come about unless we make the arguments.

15 THE COURT: I understand. Okay. Let me hear from the  
16 State.

17 MS. ANDREW: Your Honor, I would like to pass up some  
18 case law for you. First of all, I'd like to say the jury is  
19 the finder of fact, and as you pointed out, and as Ms. Wilson  
20 has pointed out, this conviction is an element of the crime  
21 that the State is seeking to prove at trial. It has to be  
22 presented to the jury for the jury to find the Defendant  
23 guilty. In State v. Benton, which is a South Carolina Supreme  
24 Court case at 338 S.C. 151 our court noted that the U.S.  
25 Supreme Court found that when you include -- this was in the,

Motions

115

1 the realm of burglary that including a prior burglary to prove  
2 a subsequent one does not violate due process. They went on  
3 to say that the State is not required to stipulate to that.  
4 They're allowed to put up a witness and prove that as trial --  
5 part of their case. Additionally, our Appellate Court in  
6 State versus Lott found that the trial court did not err in  
7 refusing to require the State to stipulate that Lott had a  
8 prior conviction for a sex crime. It was a criminal sexual  
9 conduct with a minor case. It's an unpublished opinion, but I  
10 have a copy of it even though it's not binding.

11 THE COURT: That's all right.

12 MS. ANDREW: It's instructive.

13 THE COURT: I think Ms. Wilson acknowledges that the law  
14 on the appellant decisions are against you. She just wants to  
15 get her reasoning on the --

16 MS. ANDREW: On the record.

17 THE COURT: -- on the record so she can challenge it  
18 again as to whether or not it's an unconstitutional statute  
19 so. All right. Anything in reply?

20 MS. WILSON: No, Your Honor. We're just asking the Court  
21 to please rule on that matter.

22 THE COURT: Okay. All right. I'm going to deny your  
23 motion. I think it is an element of the crime as written by  
24 the legislature. Therefore, it's something that has to be  
25 proved beyond a reasonable doubt by the State. They're going

1 to have to prove it. So it comes in. I understand your  
2 argument, but quite frankly, the Appellate Courts have, have  
3 ruled against you thus far, but it's on the record so you can  
4 address it. Okay?

5 MS. WILSON: Thank you, Your Honor.

6 MS. ANDREW: Your Honor.

7 THE COURT: Yes.

8 MS. ANDREW: In relation to this motion I would just like  
9 to present to the Court how the State intends to present that  
10 information to the jury --

11 THE COURT: That's --

12 MS. ANDREW: -- just to make sure that everybody is okay  
13 with it.

14 THE COURT: Well, I mean, I've ruled that you can present  
15 it.

16 MS. ANDREW: Okay.

17 THE COURT: I -- it's an element of the crime. The  
18 State's going to have to prove beyond a reasonable doubt that  
19 he has a prior conviction or pled guilty or pled nolo  
20 contendere to an adjudicated delinquent offense listed in  
21 Section 23-3-430(C) or has been ordered to be included in the  
22 sex offender registry pursuant to 23-3-430(D). So that's what  
23 you've got to prove and that's what I'm, I'm going to allow  
24 you to introduce. All right.

25 MS. WILSON: And Your Honor, I have one final thing and

## Motions

117

1 it's really not a part of the suppression motion. It's really  
2 just a motion in limine.

3 THE COURT: All right.

4 MS. WILSON: I'd ask the Court to automatically renew any  
5 of my objections whenever the State introduces and mentions  
6 the Defendant's prior conviction or that he's on the sex  
7 offender registry that way, I mean, I'll probably still say it  
8 at pertinent points when the State rests and but just so I'm  
9 not jumping up every single time it comes up.

10 THE COURT: All right. I'm going to deny.

11 MS. WILSON: Hoping that's sufficient for the record.

12 THE COURT: I'm going to deny the motion. All right.

13 MS. WILSON: Okay. So I have to actually get up each  
14 time?

15 THE COURT: What -- if, if -- when they introduce it,  
16 yeah. You're going to --

17 MS. WILSON: I mean, even after that, I mean, each time  
18 they mention it I would technically need to object to  
19 preserve.

20 MS. ANDREW: Or it's not preserved for appellate review.

21 THE COURT: Well --

22 MS. WILSON: Right, it's not preserved, which is why I'm  
23 asking.

24 MS. ANDREW: So you have to do it.

25 THE COURT: If --

1 MS. ANDREW: Yeah.

2 MS. WILSON: Okay. I'll do it.

3 THE COURT: You -- yours is a motion in limine.

4 MS. WILSON: Yes.

5 THE COURT: Okay. For me to suppress it as a motion in  
6 limine I have to rule as a matter of law that it cannot be  
7 presented.

8 MS. WILSON: Oh, no, no, no, no, no. I'm talking about  
9 when they -- when they actually present it.

10 MS. ANDREW: You want to not make a contemporaneous  
11 objection.

12 MS. WILSON: I just want a contemporaneous objection,  
13 continuously renew the objection so I don't have to keep  
14 getting up every time it comes up. Am I -- I'm sorry.

15 MS. ANDREW: It's -- it was my understanding if you don't  
16 make a contemporaneous objection at the time the evidence is  
17 presented that it's not preserved for appellate review. I  
18 think you run a big risk doing that.

19 THE COURT: Exactly. Exactly. In other words --

20 MS. ANDREW: The State would prefer you not do that.

21 THE COURT: -- when they -- I'm ruling in a pretrial  
22 motion.

23 MS. WILSON: Right.

24 THE COURT: I'm denying your motion to suppress your  
25 client's prior convictions --

## Motions

119

1 MS. WILSON: Right.

2 THE COURT: -- or sex offender registry.

3 MS. WILSON: Yes.

4 THE COURT: You've got that.

5 MS. WILSON: Right.

6 THE COURT: Now, when they go -- in other words you're  
7 saying that she has to raise it again when you go to introduce  
8 it?

9 MS. ANDREW: That's my understanding of the Appellate  
10 Court rules, Your Honor.

11 MS. WILSON: I don't necessarily disagree with that part.  
12 I'm just saying that each time therein I don't think I should  
13 have to get up and object, and so I was asking.

14 MS. ANDREW: Just as a contemporaneous objection when we  
15 offer it should be sufficient.

16 MS. WILSON: Right. That's what I'm saying. That's what  
17 I'm saying. So --

18 THE COURT: Well, the fact, and this is where you get  
19 into the gray area.

20 MS. WILSON: Right.

21 THE COURT: It depends on the grounds of your, your, your  
22 objection. If you are objecting because you say the statute  
23 is unconstitutional, I think you've preserved that because  
24 you've argued it. It's there for appellate review.

25 MS. WILSON: Right.



1           THE COURT: Now, if you, you have an objection because  
2 they haven't properly laid the foundation and you are  
3 objecting because on some grounds that you have not yet  
4 argued, then you're going to need to raise your objection. In  
5 other words, just because I deny your motion to suppress it --

6           MS. WILSON: Uh-huh.

7           THE COURT: -- doesn't mean it's automatically  
8 admissible. They're still going to have to lay the  
9 foundation. They're going to have to still present whatever  
10 they need to get it into evidence.

11          MS. WILSON: Yes, sir.

12          THE COURT: And if they don't do that you're going to  
13 need to raise your objection.

14          MS. WILSON: And I'm totally fine with that. I would  
15 definitely raise it for that reason. I meant specifically on  
16 the issue of its admission, it's actually being allowed in at  
17 all, so I will just -- I'll just --

18          THE COURT: Well, I'm not ruling that it's -- I'm not  
19 ruling that it's admissible. I'm ruling that I -- I am  
20 denying your motion to suppress.

21          MS. WILSON: Okay. Thank you.

22          THE COURT: Okay. In other words I'm saying they can try  
23 to admit it into evidence.

24          MS. WILSON: I got you.

25          THE COURT: And if they follow the rules of evidence it

## Motions

121

1 will probably be admitted.

2 MS. WILSON: Yes, sir.

3 THE COURT: If they don't follow the rules of evidence  
4 then I'll suppress it at that time if you raise your  
5 objection.

6 MS. WILSON: Yes, sir. Thank you.

7 THE COURT: All right. All right. I'm making notes.  
8 Excuse me for a second. All right. Anything else from the  
9 Defense?

10 MS. WILSON: Your Honor, I don't believe there's anything  
11 else from the Defendant.

12 THE COURT: All right. So I guess now we will address  
13 the State's motion to admit the hearsay or the out-of-court  
14 statement; is that correct?

15 MS. ANDREW: Yes, sir.

16 THE COURT: All right. Anything we need to place on the  
17 record before we review the --

18 MS. ANDREW: I have the forensic interviewer. I'd like  
19 to place her testimony on the record before we review the  
20 tape.

21 THE COURT: All right.

22 MS. ANDREW: So the State would call Dianne Nordeen to  
23 the stand.

24 THE COURT: All right.

25 MS. ANDREW: The Court's indulgence.

1           Whereupon, Dianne Nordeen is called to the stand, duly  
2   sworn by the clerk and testified as follows:

3           MS. ANDREW:    The Court's indulgence.

4           THE CLERK:    State your name and spell your name.

5           MS. NORDEEN:   Dianne Nordeen, D-I-A-N-N-E, N-O-R-D-E-E-N.

6                           EXAMINATION

7   BY MS. ANDREW:

8   Q       Ms. Nordeen, where are you currently employed?

9   A       Children's Recovery Center.

10   Q       And were you employed at the Children's Recovery Center  
11   back in March of 2016?

12   A       I was.

13   Q       Where is the Children's Recovery Center located?

14   A       It's located in Myrtle Beach.

15   Q       To your knowledge, does the center having any  
16   accreditations or certifications?

17   A       Yes.   Children's Recovery Center is accredited by the  
18   National Children's Alliance.

19   Q       And what is your position at the Children's Recovery  
20   Center?

21   A       I am a forensic interviewer.

22   Q       And can you tell me what the Children's Recovery Center  
23   is, how it kind of operates and what it does?

24   A       Children's Recovery Center is a safe, child friendly  
25   place for kids to come and talk about something they

## Motions

123

1 experienced in a comfortable setting as opposed to having to  
2 go to the police department to do that.

3 Q Okay. And how are the children normally referred to the  
4 Children's Recovery Center?

5 A Through law enforcement or the Department of Social  
6 Services.

7 Q Okay. And you said you were a forensic interviewer there?

8 A Yes.

9 Q How long have you held that position?

10 A 12 years.

11 Q And what does that position entail?

12 A I conduct forensic interviews of children. I manage and  
13 maintain the files generated by those interviews, and I manage  
14 and maintain the audio and video recordings of the interviews.

15 Q And can you tell me a little bit what is forensic  
16 interviewing exactly.

17 A A forensic interview is an investigative interview, and  
18 it's used to elicit a detailed and factual statement from a  
19 child, and we do it in a, in a manner that's developmentally  
20 appropriate for the child, and then to determine if something  
21 has happened and if the child is in immediate danger.

22 Q Okay. You said you had worked there 12 years?

23 A Yes.

24 Q And in the course of your 12 years of work there, how  
25 many children would you estimate you've interviewed?

- 1 A I've interviewed over 1700 children.
- 2 Q Did you have a chance to conduct an interview with the
- 3 victim in this case, Minor
- 4 A I did.
- 5 Q Do you remember the date of that interview?
- 6 A March 16<sup>th</sup>, 2016.
- 7 Q And can you recall how old Minor was on the date of that
- 8 interview?
- 9 A She was eight years old.
- 10 Q Okay. How did you come to interview Minor that day?
- 11 A Minor was referred to Children's Recovery Center by
- 12 Detective Wyatt of the Horry County Police Department.
- 13 Q Okay. Where did the interview take place?
- 14 A It took place in the interview room at Children's
- 15 Recovery Center in Myrtle Beach.
- 16 Q Who was present in the interview room?
- 17 A Myself and Minor
- 18 Q Okay. What if any equipment was used to preserve the
- 19 interview that day?
- 20 A We recorded it on -- we audio and video recorded it.
- 21 Q Okay. And you said earlier you conduct a forensic
- 22 interview and you use techniques to do that. What if any
- 23 techniques did you use with Minor during the course of her
- 24 interview? What types of questions did you ask?
- 25 A Well, I started -- well, I generally use is free recall

Motions

125

1 and focused recall questions that allows the child to give a  
2 more natural narrative of what they've experienced. Some  
3 children have difficulty with that due to personality, due to  
4 developmental issues, due to age, number of reasons. I then  
5 went to multiple choice and yes or no questions following  
6 that. All of these questions are acceptable in questioning  
7 that we learned during our forensic interview training.

8 Q And are those questions leading or non-leading type  
9 questions?

10 A They are non-leading questions.

11 Q Can you tell me during the course of the interview did  
12 Minor provide any details of the alleged sexual abuse she  
13 sustained at the hands of the Defendant?

14 A She did.

15 Q And when she gave that disclosure did the details appear  
16 to be consistent?

17 A They were consistent with, with the information that we  
18 already had.

19 Q And were the -- were her statements consistent with one  
20 another?

21 A Her statements were consistent with one another.

22 Q Did she appear to be responsive to the questions that you  
23 asked her? Were her answers responsive to the questions that  
24 you asked?

25 A Yes. They were.

1 Q Did her statement appear to be logically connected?

2 A Yes.

3 Q Okay. I'm going to show you what's -- I'm going to mark.

4 MS. ANDREW: This is the original.

5 MS. WILSON: Okay.

6 BY MS. ANDREW:

7 Q This is a DVD that's been marked as State's Exhibit One.

8 Can you identify this for me?

9 A Yes. This is the recording of the interview that I

10 conducted with Minor

11 Q And did you review that recording prior to coming to

12 court?

13 A I did and signed and dated the back.

14 Q You signed and dated the back?

15 A Yes.

16 MS. ANDREW: Your Honor, we would like to -- the State

17 would like to admit this interview into evidence.

18 THE COURT: All right. Any objection?

19 MS. WILSON: Your Honor, I actually have a question.

20 MS. ANDREW: Yes.

21 THE COURT: All right.

22 MS. WILSON: A couple of questions.

23 MS. ANDREW: You want to wait or you want to watch it and

24 then question her or you want to --

25 MS. WILSON: Well, I want to talk about where it came

Motions

127

1 from. I know she says it comes from the CRC but I want to  
2 know who gave it to her -- was -- who was recording.

3 MS. ANDREW: Okay.

4 THE COURT: Okay. Go ahead.

5 MS. WILSON: Just quickly. Thank you.

6 THE COURT: I'll allow that.

7 MS. ANDREW: I'll get this started while you do that.

8 MS. WILSON: Okay.

9 THE COURT: All right.

10 EXAMINATION

11 BY MS. WILSON:

12 Q Ms. Nordeen, you weren't the one actually doing the  
13 recording; were you?

14 A Yes. I have a computer system with a monitor in my  
15 office. I turn that on prior to going to the interview room.  
16 Then when I complete the interview I go back to my office and  
17 turn that recording system off.

18 Q So this recording system is actually something that you  
19 operate?

20 A Yes.

21 Q All by your lonesome?

22 A Yes.

23 Q So --

24 A When I'm conducting my -- the interviews I conduct I  
25 operate the machine.



1 Q Okay. So then after you finish this interview you went  
2 back to the room and got this tape out and then --

3 A Yes. What it is it's a, a DVD box --

4 Q Yes, ma'am.

5 A -- burner, and it's -- it burns the DVD while the  
6 interview is taking place.

7 Q Got you. And do you make more than one copy of that?

8 A We make one copy at the time to put in our file cabinet  
9 and more copies of that, of the original DVD which is kept in  
10 our file as requested by the Solicitor's Office.

11 Q And that DVD is in its entirety the very beginning and  
12 till the very end of any conversation or interview that you  
13 have with this child; correct?

14 A Yes.

15 Q Okay.

16 MS. WILSON: No further questions.

17 THE COURT: All right. Any objection?

18 MS. WILSON: No objection, Your Honor.

19 THE COURT: All right. For the purposes of this hearing  
20 I'll admit State's Exhibit One into evidence.

21 (State's Exhibit Number One [CD - CRC interview] admitted  
22 into evidence for purpose of motion hearing and appropriately  
23 marked.)

24 MS. ANDREW: The Court's indulgence for a moment.

25 THE COURT: All right.

## Motions

129

1 MS. ANDREW: And I'm going to pass up a copy of this,  
2 Your Honor. This is, prior to the last trial Judge John asked  
3 Ms. Wilson and I to get together and agree on redactions.  
4 This is a list of what we agreed to and what the Defense wants  
5 and the State does not agree to.

6 THE COURT: Okay. I got you.

7 (State's Exhibit Number One played in open court.)

8 THE COURT: Excuse me. Can you turn it up just a little?

9 (State's Exhibit Number One played in open court.)

10 MS. ANDREW: Your Honor --

11 THE COURT: All right.

12 MS. ANDREW: -- I can read the portions into the record  
13 that the State and the Defense have agreed to be redacted if  
14 you like and then we could play the portions the Defense would  
15 like redacted so you can rule on those.

16 THE COURT: Okay. Well, I mean, so was that time counter  
17 that I was looking at not accurate or was that the accurate?

18 MS. ANDREW: That was accurate. That was the entire  
19 video from start to finish --

20 THE COURT: Yeah.

21 MS. ANDREW: -- with no redactions.

22 MS. WILSON: Without redactions.

23 THE COURT: Okay. Well, and, and I was watching the  
24 timer and going down the Defense.

25 MS. ANDREW: Okay.

1           THE COURT: Let me -- because I've got that the Defense  
2 -- well, I'm going to be honest with you, I picked up with the  
3 11:38:35 to 11:38:44.

4           MS. ANDREW: Okay.

5           THE COURT: The one before that the only thing that I,  
6 and I did not get it because the time did not pop up until we  
7 were a couple of minutes in. There was an initial, and I  
8 don't know if this is what you were talking about or not, Ms.  
9 Wilson, initially when she was saying, "We've got the  
10 microphone here. We've got the camera here in case anything  
11 important that we need to show the investigators or the  
12 police."

13          MS. ANDREW: Okay.

14          THE COURT: I think that's to be excluded when she  
15 references anything important to show investigators or police.

16          MS. ANDREW: Okay.

17          THE COURT: And I don't remember -- and I -- and there  
18 was not a time sequence there to show that. So I think we're  
19 going to need to go back and exclude that and I'm not sure.  
20 It's, it's in the very first part when they're first sitting  
21 down and she says, "We've got a camera up here. We've got a  
22 microphone on the wall. We're recording everything," and  
23 it's, it's that brief statement where she says --

24          MS. ANDREW: I have a transcript of the -- just for my  
25 purposes. Would you like to look at this and tell me what

Motions

131

1 took --

2 THE COURT: Well, I can tell you, I put it in quotation  
3 marks.

4 MS. ANDREW: Okay.

5 THE COURT: She said, "It's because it's important so we  
6 can show something that might be important to the investigator  
7 or police." I just think where she referenced law enforcement  
8 --

9 MS. ANDREW: Okay.

10 THE COURT: -- is inadmissible.

11 MS. ANDREW: "I'm going to tell you" -- she says, "I'm  
12 I'm going to tell you a couple of things about this room. I  
13 have this recorder and there's a camera up here that's  
14 connected to the camera, and the reason for it is it's  
15 important for the police to know or an investigator or someone  
16 else."

17 THE COURT: Yeah.

18 MS. ANDREW: Okay.

19 THE COURT: So that --- she -- where she says it's  
20 important.

21 MS. ANDREW: Okay. We'll start with, "And also there's a  
22 camera in the corner."

23 THE COURT: Okay. And then I kept up with the others. I  
24 mean, if you want to make an argument as to what -- I did not  
25 see anything else what the Defense wanted redirected that I

1 found should be redacted unless you want to make an argument,  
2 Ms. Wilson.

3 MS. WILSON: Yes, sir. I'm trying to go back and  
4 piecemeal individual arguments, and I'm sorry about that.

5 THE COURT: And I don't remember specifically what these  
6 time schedules reference. I do remember watching the clock  
7 and when it came up. I said, "Okay, the Defense is objecting  
8 to this part."

9 MS. WILSON: Yes, sir. There is a segment that I've  
10 listed 12:01:05 to 12:01:36 where Minor talks about Jada  
11 Tucker telling her that she shouldn't tell and the questioning  
12 about because she thought that they get -- that she would get  
13 in trouble and I think when asked she says something about  
14 that Jada thought she would get in trouble, and I assume that  
15 based on the way it said that she meant Jada. I want to  
16 exclude that. I just don't know that has anything to do with  
17 what's going on here, and it's not something apparently that  
18 we agreed to.

19 THE COURT: Well, and, and what is the probative value?  
20 I mean, to me that was a hearsay. I do remember that part.  
21 It was hearsay where she said and I'm assuming that was a  
22 friend. She said, "Did you tell anybody?" "Yes. I told,"  
23 whoever it was, "and she told me not to say anything."

24 MS. ANDREW: Yes, sir. I think we -- if -- we would like  
25 to leave in the part where she says she told her friend Jada

Motions

133

1 Tucker and then after that she says, "Did she tell you why you  
2 shouldn't tell anyone?" "She said because she thought she  
3 would get in trouble," and then the interviewer repeats that  
4 and then it says, "Tell me why she thought she would get in  
5 trouble," and Minor says, "Because she thought he was bad."

6 THE COURT: Okay.

7 MS. ANDREW: I can redact that part where it starts out,  
8 "Tell me why -- did she tell you why you shouldn't tell  
9 anyone?"

10 THE COURT: Well, I'm going to go ahead and grant it.  
11 I'm going to redact it. I mean, it's, it's, it's kind of  
12 hearsay.

13 MS. ANDREW: So do you want me to start where she says,  
14 "Did" --

15 THE COURT: Well, where she's got the 12:01:05 to the  
16 12:01:36.

17 MS. ANDREW: Okay. Take that one out?

18 THE COURT: Yeah.

19 MS. ANDREW: Okay.

20 THE COURT: So I'm going to grant that.

21 MS. WILSON: All right. Thank you, Your Honor, and  
22 there's about 14 seconds after that that are unaccounted for.  
23 I don't think anything important is said, but between 12:01:36  
24 and 12:01:50 I don't remember what's there. It might have  
25 been dead air. It could have been -- I don't remember what it

1 was, but we agreed to redact starting at 12:01:50 to 12:03.

2 THE COURT: Yeah. I've got that you all have agreed to  
3 redacted that.

4 MS. WILSON: So I was just -- I don't recall is there  
5 something pertinent you think that's in that last 14 seconds?

6 THE COURT: Well, I mean, as I understand -- what I was  
7 going to do, she has handed me this sheet that says that the  
8 State and Defense agreed to redact 11 minutes, I mean, 11:21  
9 to 11:23:24, 11:23:48 to 11:24:08, 11:37 to 11:38:35, 11:38:45  
10 to 11:39:08, 11:39:14 to 11:40:08, 11:44:41 to 11:45:03,  
11 12:01:50 to 12:03:29, 12:31:49 to 12:52:55 and 12:53:55 to the  
12 end. Now, because they have agreed to I'm assuming we were  
13 going to go ahead and redact all of those.

14 MS. WILSON: Right.

15 MS. ANDREW: Yes, sir.

16 THE COURT: Okay.

17 MS. WILSON: I'm just asking about that timeframe in  
18 there.

19 MS. ANDREW: Do you want me to play it? I don't --  
20 that's the only thing I know to do.

21 MS. WILSON: Well, if you can read it. If you'd just  
22 tell me what's after she says that part about Jada.

23 MS. ANDREW: I don't have timestamps on the transcript is  
24 the problem.

25 THE COURT: Yeah.

Motions

135

1 MS. WILSON: It's okay. If it's after that part where  
2 we're talking about what she says to Jada --

3 MS. WALTER: Yeah.

4 MS. ANDREW: Okay. She says --

5 MS. WILSON: -- which is after -- because that entire  
6 part about Jada we just agreed to keep out.

7 MS. ANDREW: And then it said, "Did you see your dad  
8 doing that to anyone else, doing that to anyone else?" "My  
9 babysitter said he done it to his sister." I know we redacted  
10 that part.

11 MS. WILSON: Right. So then we should be good. I have  
12 -- it's just I've got a 14-second lapse and it could just be  
13 my own numbers but it would have been based on the counter.  
14 So that's why I was asking.

15 THE COURT: Okay.

16 MS. WILSON: So when we look at -- I'll double check the  
17 redacted copy tonight anyway just to make sure, but --

18 MS. ANDREW: Well, we'll have to make -- we've already  
19 redacted the agreed to portions. We'll have to make these  
20 couple of new redactions.

21 MS. WILSON: Okay. Okay.

22 MS. ANDREW: Tonya will do that tonight.

23 MS. WILSON: Okay.

24 THE COURT: Okay.

25 MS. WILSON: So it'll be right. Okay.



1 MS. ANDREW: But we shouldn't play that until day after  
2 tomorrow for the trial.

3 MS. WILSON: Okay. So we'll have time.

4 MS. ANDREW: So you'll have time.

5 MS. WILSON: Okay. And then I think the other thing I  
6 was concerned about was I marked down 12:09:58 to 12:10:47 and  
7 it looks like it's right around the time that Ms. Nordeen  
8 asked if he said something to her while he was inserting the  
9 hot dog and he said -- apparently he said -- she says, "Well,  
10 he told me don't tell anyone because he'd probably get  
11 arrested."

12 MS. ANDREW: I'm trying to figure out what that portion  
13 is.

14 MS. WILSON: Okay.

15 THE COURT: I remember making -- but, but I don't  
16 remember being it -- anything that I would sustain the  
17 objection to but let me listen to it again if you can get to  
18 it.

19 MS. ANDREW: That's it.

20 THE COURT: It's 12 -- yeah, 12:09:58. Well, it's in  
21 about 20 seconds. Just let that run there.

22 (State's Exhibit Number One played in open court.)

23 THE COURT: Oh, yeah, the -- where he called her stupid.

24 MS. WILSON: Yeah.

25 (State's Exhibit Number One played in open court.)

## Motions

137

1 MS. WILSON: And that would have ended it right there.

2 MS. ANDREW: That's the end.

3 THE COURT: Yeah. What is the grounds for the objection?

4 MS. WILSON: Your Honor, and apparently, again, my marks  
5 I have this timeframe but I have it listed about the hot dog  
6 insertion and her saying that he told her don't tell anyone.  
7 So apparently I've got that part the timeframe mismarked, but  
8 of course, I certainly don't want that part.

9 THE COURT: Well, and what you might be because I jotted  
10 down. I did not have a -- it's not listed on what was given  
11 to me as your objections, but at the end it's between -- well,  
12 you all have agreed to redact 12:31:49 to 12:52:55.

13 MS. WILSON: Uh-huh.

14 THE COURT: Now, in that 12:52:55 to 12:53:55 in that  
15 area is where she asks, "Is there anything else you think is  
16 important that the police should know or that we should tell  
17 police," and she writes something and references a hot dog.  
18 Now, I did not see where the Defense had objected to that but  
19 because she says, "Is there anything else important we should  
20 tell police or that the police should know or however she  
21 phrased it," I think we need to redact that as well.

22 MS. WILSON: Yes, sir, and I would concur in that  
23 request.

24 THE COURT: Yeah. Is that the part you were talking  
25 about you think or --

1 MS. WILSON: May be because I definitely have the hot dog  
2 noted as one of my pieces. I just have it during that 12:09  
3 timeframe and maybe I just got it mixed up or something.

4 MS. ANDREW: So the portion.

5 MS. WALTER: There's like a one-minute portion.

6 MS. ANDREW: There's a, there's a interviewer it says,  
7 "Okay. All right. Can you think of something else at your  
8 dad's house that would -- that might be important for the  
9 police to know if it's there like some other -- anything else  
10 that he has or he used that," and then Minor says, "I don't  
11 remember," and then after that she says, "Besides the Vaseline  
12 if there's anything else besides the Vaseline that would be  
13 important for them to know about."

14 THE COURT: And somewhere in there she writes something  
15 and then --

16 MS. ANDREW: And then she writes hot dog.

17 THE COURT: And then the interviewer repeats hot dog.

18 MS. ANDREW: Uh-huh.

19 THE COURT: Yeah. Okay. And I'm going to -- let's  
20 exclude that portion where she says anything about --  
21 basically saying, "Is there anything important the police  
22 should know about?"

23 MS. ANDREW: Okay.

24 THE COURT: Because that shows an inclination to contact  
25 law enforcement and it's kind of bolstering.

## Motions

139

1 MS. ANDREW: What about the, the second part it says,  
2 "Besides the Vaseline, if there's anything else besides the  
3 Vaseline that would be important for them to know about," do  
4 you want me to redact that as well?

5 THE COURT: Yeah. Redact that as well.

6 MS. ANDREW: And then leave in hot dog?

7 THE COURT: No.

8 MS. ANDREW: Take out hot dog.

9 THE COURT: Delete. Yeah. Delete all that. Really,  
10 what I was inclined to do because you've got -- you all have  
11 agreed to delete from 12:53:55 to the end. So we're talking  
12 about one minute there from 12:52:55 to 12:53:55. I would  
13 just delete --

14 MS. ANDREW: Redact the whole thing.

15 THE COURT: -- the whole thing from 12:31:49 to the end.

16 MS. ANDREW: Okay. Thank you.

17 MS. WILSON: Thank you, Your Honor.

18 MS. ANDREW: 12:31:49 to the end.

19 THE COURT: All right. All right. Now, is there any  
20 further questioning of this witness from the State?

21 MS. ANDREW: Nothing from the State Your Honor.

22 THE COURT: All right. Ms. Wilson, anything you want to  
23 cross examine her on in this hearing.

24 MS. WILSON: Your Honor, not at this time. No, sir.

25 Thank you.

1 THE COURT: All right. You can step down. Thank you.

2 All right. Anything further from the State in this  
3 regard?

4 MS. ANDREW: Nothing, Your Honor.

5 THE COURT: All right. I find that subject to the  
6 redacted portions that we've discussed that the interview is  
7 admissible. Now, back to the, the Defendant's motion to  
8 suppress the doodles, some of these I think are admissible  
9 because I think they do follow. Some of them though are  
10 referenced in redacted portions of the forensic interview,  
11 particularly I noticed the, the -- what's marked -- what's  
12 been handed up to me as attachment six, name people that you  
13 can trust, name people that would protect you. Well, that's  
14 all in an area that everybody has agreed to be redacted.

15 MS. ANDREW: Yes, sir.

16 THE COURT: So that would --

17 MS. ANDREW: We'll -- we're happy to take that one off.

18 THE COURT: Yeah. So go back through here and before we  
19 get started I'll readdress this issue, but I'm going to grant  
20 Ms. Wilson's motion to suppress any of these doodles that are  
21 the result of redacted portions of the interview.

22 MS. ANDREW: The only one that -- this one, number four,  
23 has her friends, it says best friend Jada Tucker, but we're  
24 redacting the portion where Jada tells her not to tell, not  
25 where she said, "I told my friend what happened."

Motions

141

1 THE COURT: Yeah. If it -- if it references any other  
2 portion of the interview that is admissible --

3 MS. ANDREW: Okay.

4 THE COURT: -- we'll readdress it. I just want to make  
5 sure that -- you all go back through, and if there is any one  
6 that is -- pertains to a redacted portion of the interview,  
7 let's go ahead and take it out.

8 MS. ANDREW: Okay.

9 THE COURT: If there's anything, anything else -- if it's  
10 a portion of a redacted portion that's not redacted then we'll  
11 readdress that.

12 MS. ANDREW: Okay, Your Honor.

13 THE COURT: My, my decision is if it pertains to a  
14 portion of the interview that is admissible or that it's going  
15 to be admissible I'm going to let them in. If it is portions  
16 of the interview that were redacted, I'm going to exclude  
17 them. If part of it is redacted and part of it is admissible  
18 bring it back in front of me and let's take a look at it.

19 MS. ANDREW: Okay.

20 MS. WILSON: Okay. I'm sorry. I want to make sure I got  
21 that right. So if it's not excluded from -- if we haven't  
22 agreed to redact it are you saying it's definitely coming in  
23 or you just are going to deal with it.

24 THE COURT: No. I'm just denying your motion to suppress  
25 it.

1 MS. WILSON: At this -- okay.

2 THE COURT: At this point in time.

3 MS. WILSON: Okay.

4 THE COURT: Yeah.

5 MS. WILSON: And Your Honor, at this time I would just  
6 ask the Court to please preserve my objection.

7 THE COURT: Yeah.

8 MS. WILSON: All right. Thank you.

9 THE COURT: And I guess another question that we're going  
10 to need to address is why do we need to put these in where you  
11 have the interviewer just repeat what she's written down? So  
12 if it had been like her just answering the question rather  
13 than writing it down.

14 MS. ANDREW: Well, she is writing it down and you can't  
15 see what she actually writes down. I wouldn't ask to put  
16 these in if the camera had actually captured her writing. I  
17 realize that the interviewer repeats it so that it's more  
18 clear, but she doesn't always repeat it.

19 THE COURT: Okay.

20 MS. ANDREW: And I think when you actually -- you can  
21 actually see that she was, in fact, writing those words down  
22 and you could believe what Minor says and not what the  
23 interviewer says.

24 THE COURT: I see.

25 MS. ANDREW: It's, it's the child's words versus the

## Motions

143

1 interviewer's words, Your Honor.

2 THE COURT: I see.

3 MS. WILSON: And Your Honor, I --

4 THE COURT: Yeah.

5 MS. WILSON: You know, just to be clear, the video is  
6 very clear. You see her writing. You see the interviewer  
7 taking notes. These notes were not taken home by this child  
8 and then turned over. They are part of the CRC interview  
9 notes --

10 THE COURT: Yeah.

11 MS. WILSON: -- that Dianne Nordeen had, but more to the  
12 point, Dianne Nordeen reflects each and every time that the  
13 child writes something she says it out loud and reflects it  
14 back. There's not a single time on this video where it's not  
15 reflected back to her.

16 THE COURT: Well, I mean, was -- will the Defendant and  
17 I'm not going to -- I'm going to have to take this under  
18 advisement, will the Defendant stipulate that Ms. Nordeen's  
19 recitation of what was written is accurate?

20 MS. WILSON: Oh, yes. I'm not trying to say that she's  
21 --

22 MS. ANDREW: In front of, I mean, do we tell the jury --

23 THE COURT: Yeah.

24 MS. ANDREW: -- that everyone agrees that what she wrote  
25 down is what the child wrote down?



1 THE COURT: Or what Ms. Nordeen says is what the child  
2 wrote down.

3 MS. WILSON: I, I guess I'm trying to understand why that  
4 would even be necessary. It's clear from the video.

5 THE COURT: Because the -- I mean, I'm -- put it this  
6 way, I'm not going to allow the Defense to -- I'm not going to  
7 exclude these doodles if part of the Defense is or if the  
8 Defendant wants to put to the jury that what Ms. Nordeen is  
9 reading what the child wrote down is not accurate.

10 MS. WILSON: Okay. I don't know -- that's not what I'm  
11 presenting. I am --

12 MS. ANDREW: Well, I just want to make sure the jury sees  
13 the child's --

14 THE COURT: That's right.

15 MS. ANDREW: -- the child's interview, the child's words,  
16 not the forensic interviewer, and all the case law is very  
17 careful to differentiate between the forensic interviewer's  
18 words and the child's words. That's what bolstering's all  
19 about. These are not Dianne Nordeen's notes.

20 THE COURT: Well, and I understand that.

21 MS. ANDREW: These are what the child wrote. Yeah.

22 THE COURT: And that's why I think that the State is  
23 entitled to a stipulation to the jury by the Defendant that  
24 everything Ms. Nordeen repeats or everything Ms. Nordeen says  
25 is written down by the child, when the child writes something

## Motions

145

1 down and hands it up and she reads it that it's accurate.

2 MS. WILSON: Well, I don't feel that I can actually  
3 stipulate to that. I will say that that was never a part of  
4 any presentation I was going to make to the jury, that somehow  
5 whatever the child wrote is not what was being actually  
6 recorded --

7 THE COURT: Okay.

8 MS. WILSON: -- on the tape by Ms. Nordeen.

9 THE COURT: Well, and, and at this juncture I am inclined  
10 to allow it in. I'm not going to grant your motion to  
11 suppress because it is the child's answers to the questions.  
12 She wrote them instead of giving a verbal response, and so I  
13 think they are. However, whatever is redacted doesn't come in  
14 --

15 MS. ANDREW: Uh-huh.

16 THE COURT: -- because it would be the same as if she had  
17 answered it and we redacted it.

18 MS. ANDREW: I understand.

19 THE COURT: All right. All right. Anything further from  
20 the State at this point?

21 MS. ANDREW: Nothing, Your Honor.

22 THE COURT: Anything from the Defense?

23 MS. WILSON: No, sir, Your Honor, just preserving and I  
24 guess renewing any objections from today's motions.

25 THE COURT: Okay.

1 MS. WILSON: Thank you.

2 THE COURT: All right. Anything else we need to address  
3 before we recess?

4 MS. ANDREW: I can't think of anything, Your Honor.

5 THE COURT: All right.

6 MS. WILSON: Nothing else from me.

7 THE COURT: All right. We'll be in recess -- the jury is  
8 coming in at 9:15 but I probably won't take the bench until  
9 9:30.

10 MS. ANDREW: Okay.

11 THE COURT: Okay. I mean, I have them get here at 9:15  
12 so they can get a cup of coffee, eat a biscuit or a doughnut  
13 or whatever the clerk of court decides to get for them so.

14 MS. ANDREW: Okay.

15 THE COURT: All right. We'll be in recess until 9:30  
16 tomorrow morning.

17 (Adjourned for the day.)

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State v. Davis

147

1           (On the record, January 8, 2019. The following takes  
2 place outside the presence of the jury.)

3           THE COURT: All right. The jury has selected Juror  
4 Number 364, Ronald Tutone, as the foreperson. Wrote it  
5 down. So I'm going to mark that as Court's Exhibit  
6 One.

7           (Court's Exhibit Number One [Foreperson Selection]  
8 appropriately marked.)

9           THE COURT: All right. Now, before we bring the jury in,  
10 Juror Number 15, Afanador Alejandro Ayala, told the bailiff  
11 that in 2000 -- why he didn't bring it up, I don't know --  
12 said in 2016 he worked for J. Reuben Long Detention Center. I  
13 can bring him out and question him or if you want me to go  
14 ahead and seat an alternate or if we're going to just leave as  
15 is, however you want to handle it.

16           MS. WALTER: Seat the alternate.

17           MS. ANDREW: Your Honor, the State would like you to seat  
18 an alternate. The Defendant was in -- locked up at J. Reuben  
19 in 2016.

20           THE COURT: Okay.

21           MS. ANDREW: It's my understanding he was.

22           MS. WILSON: Your Honor, I think that that would probably  
23 be appropriate.

24           THE COURT: Okay.

25           MS. WILSON: Is replacing that juror with an alternate.

1           THE COURT: All right. Let me -- all right. The way we  
2 do the alternates in General Sessions, let me see, we put the  
3 names in a hat and draw unlike Common Pleas you take the first  
4 alternate and second alternate. This one I think we, we have  
5 to put in a hat and draw out. Do we have a cup or anything  
6 anywhere? Hand me one of those little cups. Here. Oh, she's  
7 got one right here. There we go. All right. Who wants to  
8 draw?

9           MS. WALTER: Tony'll draw.

10          MS. WILSON: That's fine by me, too.

11          THE COURT: Juror 203, Taire P. Lewis. Okay. All right.  
12 Let's go ahead and bring Juror Number 15, Mr. Ayala in, okay.

13          (Whereupon, Juror Number 15 enters courtroom.)

14          THE COURT: Mr. Ayala.

15          JUROR NUMBER 15: Yes, sir.

16          THE COURT: Hi. I understand that you worked at J.  
17 Reuben Long Detention Center; is that correct, in 2016?

18          JUROR NUMBER 15: Yes, sir.

19          THE COURT: Okay. I'm going to go ahead and excuse you  
20 from this particular case. Okay? You're free to go, or if  
21 you want to stay, whichever you'd prefer, but you're free  
22 -- have you got anything in the jury room?

23          JUROR NUMBER 15: Just my cell phone.

24          THE COURT: Okay. Let's -- let him go get his cell  
25 phone. I'm going to excuse you for the remainder of the day.

State v. Davis

149

1 You should have been given a number for the clerk of court's  
2 office.

3 JUROR NUMBER 15: Okay.

4 THE COURT: You'll need to call that after 6 p.m. today.  
5 Okay?

6 JUROR NUMBER 15: All right. Yes, sir.

7 THE COURT: And that'll give you some further directions  
8 as to what you need to do.

9 JUROR NUMBER 15: Thank you, sir.

10 THE COURT: Thank you very much. All right.

11 (Whereupon, Juror Number 15 exits courtroom.)

12 THE COURT: All right. Anything from the State before we  
13 bring the jury in?

14 MS. ANDREW: Your Honor, just as a -- for your  
15 information because some judges have asked us to tell the  
16 court this in advance before trial, the Defendant did make a  
17 statement to the detective, Justin Wyatt. It was not video or  
18 audio recorded because the equipment malfunctioned. The State  
19 does not seek in any way to admit that statement into evidence  
20 but I just wanted you to make -- make you aware that it  
21 exists.

22 THE COURT: Okay. All right. As I understand, we're  
23 going to have to have a Jackson v. Denno if you're going to  
24 use it, but if you're not going to use it I don't know that  
25 that's required.

1 MS. WILSON: Yes, sir.

2 THE COURT: All right.

3 MS. ANDREW: Thank you, Your Honor.

4 MS. WILSON: Thank you, Your Honor.

5 THE COURT: Anything further from the State?

6 MS. ANDREW: Nothing from the State, Your Honor.

7 THE COURT: Anything from the Defense?

8 MS. WILSON: I don't believe there's anything from the  
9 Defense, Your Honor. I -- no. I think that's it. I felt  
10 like there was something I was forgetting, but I think maybe I  
11 --

12 THE COURT: All right.

13 MS. WILSON: -- just have leftover fatigue from  
14 yesterday's motions. Okay.

15 THE COURT: All right. So we'll bring the jury in.  
16 We'll swear the jury. I'll do opening charges. We'll go into  
17 opening statements and then we'll start, start calling  
18 witnesses. All right. Let's go ahead and bring the, the jury  
19 in.

20 (Whereupon, the following takes place in the presence of  
21 the jury.)

22 THE COURT: All right. Ladies and gentlemen, welcome  
23 back. We're ready to begin the trial of the case. First of  
24 all, I want to thank you for being prompt and being on time  
25 this morning. That's a great assistance to the Court and I

## Opening Instructions by Court

151

1 appreciate it. Number two, I'll remind you if you  
2 inadvertently brought any cell phones or pagers into the  
3 courtroom make sure you turn them off now. All right. I  
4 understand, Mr. -- is it Tutone?

5 JUROR NUMBER 364: Yes.

6 THE COURT: All right. Mr. Tutone, you've been selected  
7 as foreperson; is that correct?

8 JUROR NUMBER 364: That is correct.

9 THE COURT: All right, sir. Thank you for serving in  
10 that capacity and performing that service, and if you would  
11 always sit where you are now sitting throughout the trial of  
12 this case. Now, I have decided to excuse one of the jurors in  
13 this case, and therefore, we have seated one of the  
14 alternates. Mr. Lewis, you are now part of the 12-panel jury,  
15 okay. So you can -- I'll let you stay where you are right now  
16 or if you want to occupy the first seat, whichever makes you  
17 feel more comfortable. Our other alternate, Mr. Wright, if  
18 you would always occupy your seat. The rest of you are at  
19 liberty to sit in whatever seat you like, whether it be the  
20 same seat throughout the trial of the case or different seats  
21 or whichever you prefer. All right.

22 As I told you during qualifications and voir dire jurors  
23 are constantly taking oaths. So I need all members of the  
24 jury to please stand and raise your hand while the clerk of  
25 court administers the oath for you to serve as jurors on this



## Opening Instructions by Court

152

1 specific case. All right.

2 (Whereupon, the jury is sworn by the clerk.)

3 THE COURT: All right. Is there any member of the jury  
4 that did not respond to the oath by saying I do; if so please  
5 stand?

6 JUROR: I do.

7 THE COURT: Did you say, "I do"?

8 JUROR: I said yes. Sorry about that.

9 THE COURT: Oh, well, that's fine. Okay. Thank you very  
10 much.

11 JUROR: All right.

12 THE COURT: I appreciate that. All right. Anyone else  
13 that did not respond to the oath by saying yes or "I do"?

14 (No response.)

15 THE COURT: Good.

16 All right. Ladies and gentlemen, we are getting ready to  
17 start the trial of the case of the State of South Carolina  
18 versus Leslie Davis. Now, before we begin the trial I just  
19 need to go over some preliminary instructions with you. This  
20 trial might be different from what you're accustomed to or  
21 what you might expect. A lot of people don't get to witness  
22 trials like you are now, and I know from watching movies,  
23 reading books, watching television shows and things like that  
24 trials are often full of a lot of excitement, a lot of  
25 anxiety, a lot of suspense, and while that might be the case

## Opening Instructions by Court

153

1 in this trial it probably won't be. The primary function of  
2 this trial is for you to determine whether or not the State  
3 proves beyond a reasonable doubt the Defendant's guilt.  
4 That's often a slow, repetitive process, the exact opposite of  
5 what you might be accustomed to when you watch trials on TV or  
6 read it, books for entertainment and things of that nature,  
7 but I hope you do find the trial educational. I hope you find  
8 it entertaining, and I want to thank you from the outset for  
9 serving as jurors in this case.

10 The attorneys appearing before you are advocates for the  
11 parties they represent, but first and foremost, they are  
12 officers of the court, excuse me, the court. They're sworn to  
13 uphold the integrity and the fairness of our judicial system  
14 and to help you in a search for what happened in this case.  
15 You should expect them to be professional, competent and  
16 ethical in the representation of their clients' interests.  
17 What I will now say is intended to serve as an introduction to  
18 the trial of this case. These remarks are not a charge on the  
19 law of this case. I will instruct you on the law applicable  
20 to this case at the end of the trial before you retire to  
21 consider your verdict. This is merely an explanation of the  
22 procedure that we will follow in this trial so that you can  
23 better understand what might be happening.

24 Now, the Defendant is charged by an indictment filed in  
25 the court with the crime of criminal sexual conduct with a

1 minor in the first degree. Now, the elements of that crime  
2 I'll explain to you at a later time. The indictment, this is  
3 the indictment right here, is simply the charge by which this  
4 case is brought into court. It is not in any sense evidence  
5 of any of the allegations it contains. The Defendant has pled  
6 not guilty to this indictment. The State, therefore, has the  
7 burden of proving each of the elements of the indictment  
8 beyond a reasonable doubt. It will be your duty, ladies and  
9 gentlemen, to decide whether or not the State has met that  
10 burden. Your purpose as jurors is to find and determine the  
11 facts of this case. You are the sole judge of the facts of  
12 this case. If at any time I make any comment regarding the  
13 facts you must disregard my comments. You are to determine  
14 the facts from the testimony you hear and other evidence  
15 introduced in court. It is up to you to determine the  
16 inferences which you feel may properly be drawn from that  
17 evidence. It is especially important that you perform your  
18 duty of determining the facts diligently and conscientiously  
19 because ordinarily there is no way to correct an erroneous  
20 determination of the facts by a jury. On the other hand and  
21 with equal emphasis, the same law that makes you the judge of  
22 the facts makes me the judge of the law. The law as given to  
23 you by the Court is the only law that you can consider. You  
24 must accept and follow the law as I give it to you even though  
25 you may disagree with it. Just as I cannot tell you what the

## Opening Instructions by Court

155

1 facts of this case are, you cannot disagree with me about the  
2 law to be applied in this case. Your job is to take the law  
3 as I give it to you and apply it to the facts as you find  
4 those facts to be from the testimony of witnesses and any  
5 other evidence that is introduced. After doing that, you will  
6 then render your verdict, a true and just verdict under the  
7 solemn oath that you just took as jurors.

8 Now, until I advise you to begin your deliberations you  
9 must not discuss this case with anyone, including your fellow  
10 jurors. Do not discuss it with any friends, family members or  
11 anyone involved in the case. After the case is submitted to  
12 you, you must then discuss but only in the jury room with your  
13 fellow jurors. The attorneys and parties in this case have  
14 been advised that they're not to talk to you at all. So if  
15 you see anyone involved in the case and they don't speak to  
16 you they're not being rude they're just following the  
17 instructions of the Court.

18 Now, during this trial, you are not to read, listen to or  
19 watch any news reports about the case if there is any. This  
20 includes anything that may be in the newspaper or on the  
21 Internet, the radio or television. You must not consider  
22 anything you may have read or heard about the case outside of  
23 the courtroom whether that be before or during the trial of  
24 this case. It is important that you keep an open mind and not  
25 decide any issue in this case until all of the evidence has

1   been presented, the parties have made their closing arguments  
2   and I have instructed you on the law to be applied in this  
3   case. It is your solemn responsibility to determine the guilt  
4   or innocence of the Defendant, and your verdict must be based  
5   solely on the evidence as it is presented to you in this trial  
6   and on the law as I instruct you during and at the close of  
7   the trial.

8       Now, in just a moment the Solicitor will make what's  
9   called an opening statement in which the Solicitor will  
10   explain to you the issues in this case or at least what the  
11   Solicitor thinks the issues in this case are. The attorney  
12   for the Defendant may also make an opening statement, although  
13   she is not required to do so. What the attorneys tell you  
14   during their opening statements is not evidence in this case.  
15   It is only their contention as to what the issues in this case  
16   are. The evidence in this case will be presented to you by  
17   testimony of sworn witnesses from the witness stand and any  
18   other exhibits that may be introduced into evidence.

19       Now, in determining what the true facts are in this case  
20   you must decide whether or not the testimony of a witness is  
21   believable. It is my responsibility to rule as a matter of  
22   law as to whether certain testimony is admissible at all or  
23   not. However, once testimony is admitted into evidence  
24   whether or not you believe it is solely for you to determine.  
25   In deciding whether to believe a witness you have the right to

## Opening Instructions by Court

157

1 consider the interest of any witness, the bias of any witness,  
2 the prejudice of any witness, the opportunity for the witness  
3 to have seen the matters and things about which the witness  
4 may testify and the way the witness acts on the witness stand.  
5 You have the right to consider anything that is in the record  
6 that will help you evaluate the testimony of the witnesses.  
7 That means that it is your duty to pay close attention to  
8 these witnesses, to observe the witnesses, to listen to the  
9 witnesses and pay close attention to the attorneys and to the  
10 Court. Don't let your thoughts wander but give strict  
11 attention to the testimony in this case so that at the end of  
12 all the testimony and after the arguments of counsel and a  
13 charge on the law by the Court you will then be in a position  
14 to determine what the true facts are and to apply the law to  
15 those facts and thus render a true and just verdict.

16 All right. Now, are there any additional charges or  
17 challenges to the opening charges by the State?

18 MS. ANDREW: Nothing from the State.

19 THE COURT: Any from the Defense?

20 MS. WILSON: Nothing from the Defense, Your Honor.

21 THE COURT: All right. Ladies and gentlemen, we'll now  
22 begin the trial of the case with the attorneys' opening  
23 statements, and as I told you in my opening charges, these  
24 opening statements are not evidence. It's just their  
25 contention as to what they feel the issues in this case are.

1 All right.

2 MS. ANDREW: Good morning. Minor , Minor is  
3 the victim in this case, and she's actually sitting in the  
4 courtroom with us right now at her request. She wanted to  
5 watch this trial. Minor in many ways, is a typical 11-year-  
6 old little girl. She goes to Shikellamy Middle School in  
7 Pennsylvania where she's in the sixth grade. She likes to  
8 read. She loves gym class because they play all kinds of  
9 games and they actually in Pennsylvania still play dodge ball,  
10 which she likes and is a surprise to me. She's also the kind  
11 of kid if you hand her an electronic like many kids, an iPhone  
12 or an iPad that can occupy her for a while. So she likes that  
13 as well.

14 But today she's going to do something that most 11-year-  
15 old little girls never have to do, something I personally  
16 think is extraordinary and very brave. She's going to walk up  
17 here and sit on this witness stand and she's going to tell you  
18 about the worst thing that ever happened to her. She's going  
19 to tell you what her father Leslie Davis did to her back in  
20 2016.

21 Back in 2016 Minor was eight-years-old and in the third  
22 grade. Her mother sent her here to South Carolina to live  
23 with her father and she moved in with him. She enrolled at  
24 Pee Dee Elementary School, which some of you may know. She  
25 was in the third grade, and if you had met her at school you'd

Opening Statement by Ms. Andrew

159

1 probably think she was a typical third grader, so a typical  
2 little kid. She liked to read back then, too, just like she  
3 does now. She did kind of the same thing, but if you looked a  
4 little further into her life you'd find that she wasn't as  
5 typical as she seemed. Aside from what we're here today for,  
6 she had a pretty bad home life already. Her father worked for  
7 a lady she called Ms. Marilyn. Ms. Marilyn owned a mobile  
8 home park, and they lived in that mobile home park, and she  
9 lived in one of those mobile homes, and it just wasn't a very  
10 clean or good environment for a child.

11 Ms. Marilyn had a granddaughter named Brooke Squires.  
12 Brooke, I'll tell you right out the gate, was a heroin addict.  
13 She was strung out back in 2016 to the point that her family  
14 wouldn't allow her to live with them. So she made an  
15 agreement with the Defendant that she would babysit Minor in  
16 exchange for a place to stay. So that's what she did, and  
17 Brooke and Minor can both tell you that when Brooke was  
18 babysitting Minor she would use drugs in front of her. So she  
19 had a bad home life to begin with, and I'll tell you, Brooke's  
20 going to testify today because she has information that I  
21 think you need to hear, and I think you'll see what I see.  
22 She's cleaned herself up a lot, but she still struggles with  
23 addiction, but she has a heart, and she came to care about  
24 Kayla [sic], and Kayla [sic] came to trust Brooke.

25 So back in 2016, on March 14<sup>th</sup>, Minor finally got up the



1 courage to tell Brooke what had been happening to her, and  
2 what Minor will tell you on the stand and what you'll see is  
3 that what had been happening to her is that her father, not  
4 her uncle or not a stranger, but her biological father would  
5 take her into his bedroom. Sometimes he would lie her on her  
6 back. Sometimes he would bend her over. Sometimes he would  
7 use Vaseline and he would anally and vaginally rape her on  
8 more than one occasion.

9 Brooke, although she had her issues, did the right thing  
10 when Minor told her that. She called 911. 911 sent an  
11 ambulance out to the house that then transported Minor to the  
12 hospital. On the ride there she met an EMT named Owen Kellis  
13 who you're also going to hear from today. He is going to tell  
14 you about that ride and about what she told him. Now, because  
15 of our court rules, they can't tell you, Brooke, neither  
16 Brooke nor Owen can tell you who, who Minor said assaulted  
17 her, but they can tell you that she said she was sexually  
18 assaulted and where that occurred, and they'll do that, and  
19 Owen Kellis can tell you what her demeanor was like on the way  
20 to the hospital.

21 You'll also hear from now Lieutenant but then Detective  
22 Wyatt who interviewed Minor at the hospital, and you'll hear  
23 what she told him, the same thing as well.

24 Now, as I've said, as we sit here today Minor is 11-  
25 years-old and in the sixth grade. When this assault occurred

Opening Statement by Ms. Andrew

161

1 she was in third grade. You're going to get to hear what she  
2 has to say today, but of course, that's been several years  
3 ago, and her memory may not be perfect. So she may not  
4 remember all the details, but luckily, just a couple of days  
5 after she reported the assault, she was interviewed at what we  
6 call the Children's Recovery Center in Myrtle Beach. That  
7 interview was audio and video recorded and you're going to get  
8 to see Minor recount what happened to her back then in her  
9 eight-year-old voice because you're going to see her talk  
10 about what happened on that video just a couple of days after  
11 it was reported.

12 Now, the Defendant is charged with criminal sexual  
13 conduct with a minor in the first degree, and what that means  
14 is probably exactly what you think it means. It's the rape of  
15 a child. In this case it's the rape of a child under the age  
16 of 16, and rape is defined in one way as sexual intercourse  
17 which I've described to you.

18 I've told you Minor is going to get on this stand and  
19 talk frankly and in detail about what happened to her. That's  
20 a very brave thing to do and a very difficult thing to do and  
21 the reason she's doing that is for two reasons.

22 MS. WILSON: Your Honor, I need to object.

23 (Whereupon, a bench conference is held in the presence  
24 but out of the hearing of the jury.)

25 MS. ANDREW: As I've said to you, Minor is going to get

1 on the stand. She is going to tell you about the worst thing  
2 that's ever happened to her in detail and in front of  
3 strangers, and the reason she's doing that is for two reasons  
4 because she wants you to believe her and she wants justice,  
5 and you guys can do that with one word, guilty. Thank you.

6 THE COURT: All right. Ms. Wilson.

7 MS. WILSON: Thank you, Your Honor.

8 Good morning, ladies and gentlemen. My name is Kia  
9 Wilson. I represent Mr. Leslie Davis who is the accused in  
10 this case, not the guilty, not the person that's already been  
11 adjudicated responsible for the allegations that are being  
12 made by the State in this case, but the person who is accused.  
13 He sits over there wearing what the Court commonly refers to  
14 as a cloak of innocence, just like the jacket that you may  
15 have put on this morning. He wears it. He's no different  
16 than anybody else sitting in here, innocent of this offense at  
17 this time, and the only way that he can be found guilty is if  
18 you are convinced beyond a reasonable doubt that he's actually  
19 guilty of doing what the State says he did.

20 Now, yes, the State's correct. You're going to hear from  
21 lots of witnesses. They're going to tell you various things,  
22 and it's your job to determine if you find that information  
23 credible, if you find it believable. It's not a guarantee  
24 that you're going to. I'm asking you today to listen  
25 carefully to all of the information that gets presented.

## Opening Statement by Ms. Wilson

163

1        Now, in a case like this, there is often lots of  
2 information that could potentially be presented. It's a  
3 sexual assault case. The allegations are ugly. It's hard to  
4 listen to sometimes, but that's kind of the function of this  
5 jury today, to hear those things and to think critically about  
6 what you hear. Don't just accept what you hear as the gospel.  
7 You get to decide how much credit you give and credibility you  
8 give to the person on that stand. Don't let the State tell  
9 you you have to believe them. You don't. You decide that.  
10 That's your function as a juror. It's your job. That's what  
11 the Judge has just told you this morning you're here to do.

12        Now, in a sexual assault case where there is allegations  
13 like this there's lots of things that might be presented in  
14 this case. There could be evidence of DNA. There could be  
15 sexual assault or sometimes commonly referred to as a rape  
16 kit. Those things could become part of the evidence in this  
17 case, but what I want you to think about is whether or not you  
18 hear those things today, whether or not you hear them during  
19 this trial. It's important to know what's there and what's  
20 not being put in. Also, there could be photos. There might  
21 be videos. There might be sketches of the scene. These types  
22 of evidence are not guaranteed to be in, in, presented in the  
23 case, but they often are, and part of your critical thinking  
24 about what you hear and see in this court this week during the  
25 pendency of this trial is thinking about what evidence is

1 presented, what they could present that they're not presenting  
2 because they have the burden of proving that he is guilty  
3 beyond a reasonable doubt. It's not my job to prove anything.  
4 I don't have to tell you anything. I don't have to say  
5 anything right now, but I think that it's important for you to  
6 understand that they have a job to do and it's their job. It  
7 is not mine and it's not yours. Okay. It's their job to  
8 present it. If you don't hear something, you don't see  
9 something that convinces you beyond a reasonable doubt you get  
10 to decide what weight you give that, and the Judge will talk  
11 to you more about that at the end of the case, but I want to  
12 make clear, I'm asking you to just do what you are here to do.  
13 Listen carefully. Think critically, and I urge you to be open  
14 to what this is really about, and it is that my client is  
15 innocent. He is innocent until you find otherwise, and you  
16 cannot find otherwise until you've heard everything that you  
17 need to hear and know to make a decision in this case.

18 The final thing I'd like to say is that it's clear to me  
19 that the allegations are of a nature that give most people  
20 pause just immediately. It's not a simple matter to deal  
21 with, to talk about, to hear about, and I'm not telling you  
22 it's going to be easy to listen, to see these witnesses. I'm  
23 asking you not to be moved by emotional displays. I'm asking  
24 you to just focus in on what the facts are, what can actually  
25 be proven before you make a decision in this case. Thank you

Minor

- Direct by Ms. Andrew

165

1 very much.

2 THE COURT: All right. Ladies and gentlemen, we'll now  
3 begin the evidentiary portion of the trial with the State's  
4 case. The State can call your first witness.

5 MS. ANDREW: Your Honor, the State calls Minor

6 THE COURT: All right.

7 Whereupon, Minor is called to the stand, duly sworn  
8 by the clerk and testified as follows:

9 THE CLERK: State your name and spell your name.

10 THE COURT: Your name?

11 MS. DAVIS: My name is Minor

12 THE COURT: All right. Can you spell your name?

13 MS. DAVIS: S-H-Y-L-A.

14 THE COURT: All right. And your last name?

15 MS. DAVIS: Davis.

16 THE COURT: And how do you spell it?

17 MS. DAVIS: D-A-V-I-S.

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

19 You can ask your questions.

20 DIRECT EXAMINATION

21 BY MS. ANDREW:

22 Q Good morning, Minor

23 A Good morning.

24 Q How old are you right now?

25 A 11.

Minor

- Direct by Ms. Andrew

166

- 1 Q And when is your birthday?
- 2 A [REDACTED], 2007.
- 3 Q And if I said to you right now that I'm wearing red pants
- 4 what would you say?
- 5 A That's a lie.
- 6 Q Where do you currently live?
- 7 A In Pennsylvania.
- 8 Q Who do you live with in Pennsylvania?
- 9 A My foster parents.
- 10 Q Does anybody else live there?
- 11 A My foster siblings.
- 12 Q Do you go to school?
- 13 A Yes.
- 14 Q Where do you go to school?
- 15 A Shikellamy Middle School.
- 16 Q And what grade are you in now?
- 17 A Sixth.
- 18 Q What's your favorite thing to do in school?
- 19 A Reading.
- 20 Q Reading. What kind of books do you like to read?
- 21 A Chapter books.
- 22 Q Do you remember when you moved from South Carolina to
- 23 Pennsylvania?
- 24 A No.
- 25 Q No. Do you remember when you lived in South Carolina?

Minor

- Direct by Ms. Andrew

167

1 A Yes.

2 Q Do you remember what grade you were in when you lived in  
3 South Carolina?

4 A Third grade.

5 Q And do you remember who you lived with when you lived in  
6 South Carolina?

7 A My dad.

8 Q Did anyone else live with you?

9 A No.

10 Q And where did you live? Do you remember?

11 A In Conway.

12 Q In Conway. Do you remember what kind of house you lived  
13 in?

14 A A trailer.

15 Q A trailer. Do you know who owned the trailer?

16 A Ms. Marilyn.

17 Q Did you have your own bedroom in the house?

18 A Yes.

19 Q And did your dad have his own bedroom in the house?

20 A Yes.

21 Q Okay. And did your father work when he lived in South  
22 Carolina?

23 A Yes.

24 Q Okay. So when he was at work who did you stay with?

25 A My babysitter Brooke Squires.



Minor

- Direct by Ms. Andrew

168

1 Q And your babysitter Brooke Squires was she nice to you?

2 A Yes.

3 Q Yes. Did she ever do any things that weren't nice?

4 A Yes.

5 Q And can you tell me what those are?

6 A Well, she did drugs.

7 Q Okay. Do you remember telling Brooke about something bad  
8 that was happening to you?

9 A Yes.

10 Q And can you tell me what you told her was happening to  
11 you?

12 A That I was raped.

13 Q That you were raped. Okay. I'm going to show you some  
14 pictures. Okay?

15 MS. ANDREW: May I approach the witness?

16 THE COURT: Yes.

17 MS. ANDREW: I'm going to mark them first. Okay. I'm  
18 going to mark this one as State's Number Two, this one as  
19 State's Number Three.

20 MS. WILSON: Your Honor, could we approach?

21 THE COURT: All right.

22 MS. WILSON: I have an objection.

23 (Whereupon, a bench conference is held in the presence  
24 but out of the hearing of the jury.)

25 BY MS. ANDREW:

Minor

- Direct by Ms. Andrew

169

1 Q Okay. Minor I'm going to show you what's been marked  
2 for identification purposes as State's Exhibit Number Two.  
3 Okay? Okay. And this is a picture of a little girl who's  
4 nude. When you say someone raped you, can you tell me what  
5 body part was involved? Can you point to it? Point to it.  
6 Do you mind? Okay. Let the record reflect she pointed to the  
7 vagina.

8 THE COURT: Well, I mean, I didn't see it. It --

9 MS. ANDREW: Okay. Sorry.

10 THE COURT: You're going -- okay.

11 BY MS. ANDREW:

12 Q Okay. Now, I'm going to show you what's been marked as  
13 State's Exhibit Number Three and it's a picture of a boy, and  
14 can you show me what body part on the boy were involved in a  
15 rape? Okay.

16 MS. ANDREW: And let the record reflect she pointed to  
17 the penis and the buttocks.

18 BY MS. ANDREW:

19 Q SO when you say you were raped, what body part -- can you  
20 tell me which body part on Exhibit Number Three was used?

21 THE COURT: See, now, the problem you're having is the  
22 jury's not seeing any of this.

23 MS. ANDREW: Right.

24 THE COURT: Okay.

25 MS. ANDREW: I can turn it this way, Your Honor.

Minor

- Direct by Ms. Andrew

170

1 THE COURT: You can. That's fine.

2 MS. ANDREW: Okay. I'm sorry.

3 BY MS. ANDREW:

4 Q I'm sorry, Minor Just -- thank you. So when you say  
5 rape do you mean a penis on a man and the vagina on the girl  
6 and can you tell me what happened to those two body parts?

7 A Can you repeat that?

8 Q Can you tell me what was involved in the rape? What  
9 happened? Where was the penis during the rape? You want to  
10 point?

11 A Yeah.

12 Q I'll let her point both. Okay. And again for the Judge.  
13 Okay.

14 MS. ANDREW: She pointed to the vagina and the buttock  
15 on the State's Exhibit Number Two, Your Honor.

16 MS. WILSON: I think, and Your Honor, again.

17 THE COURT: Yeah. You can't give the commentary.

18 MS. WILSON: I'm objecting.

19 THE COURT: You just ask her. She points and if she --

20 MS. ANDREW: Well, I was just doing that for the record.

21 THE COURT: But you can't do that.

22 MS. ANDREW: Okay.

23 THE COURT: She has to give the verbal response.

24 MS. ANDREW: Okay.

25 THE COURT: You can't testify for her.

Minor

- Direct by Ms. Andrew

171

1 MS. ANDREW: Okay.

2 THE COURT: All right.

3 MS. WILSON: So Your Honor, that's sustained.

4 THE COURT: Yeah. I sustain that objection. Disregard  
5 anything the Solicitor said. It has to come from the witness.

6 MS. ANDREW: Okay.

7 THE COURT: All right. Go ahead.

8 BY MS. ANDREW:.

9 Q Thank you, Minor And can you tell me who was doing that  
10 to you? Who was raping you?

11 A My dad.

12 Q And what's his name?

13 A Leslie.

14 Q Leslie. Do you see him in the courtroom today?

15 A Yes.

16 Q He's seated at the table?

17 A Yes.

18 Q Okay. And can you tell me where that occurred?

19 A In his bedroom.

20 Q In his bedroom. Can you be more specific and tell me  
21 where it occurred in the bedroom?

22 A On his bed.

23 Q Okay. And did that occur one time or more than one time?

24 A More than one time.

25 Q Okay. Do you recall if he put anything on you or himself

Minor

- Direct by Ms. Andrew

172

- 1 before he did that?
- 2 A Vaseline.
- 3 Q Do you know where he got the Vaseline?
- 4 A Walmart.
- 5 Q Do you remember if he said anything to you when he was
- 6 doing that?
- 7 A No.
- 8 Q Do you remember what it felt like?
- 9 A No.
- 10 Q Do you remember what it felt like afterwards when you
- 11 went to the bathroom?
- 12 A It hurt.
- 13 Q Can you describe that for me? What do you mean by hurt?
- 14 A So when I went down -- like when I was using the bathroom
- 15 and when I went to wipe it hurt like when I wiped.
- 16 Q Thank you. Did you tell anyone about what was happening
- 17 to you at home?
- 18 A My friend.
- 19 Q And who is that?
- 20 A Jada.
- 21 Q Did you tell anyone else?
- 22 A My babysitter.
- 23 Q And who's your babysitter?
- 24 A Brooke.
- 25 Q And do you remember what Brooke did after you told her?

Minor

- Direct by Ms. Andrew

173

1 A She called 911.

2 Q And what happened after she called 911?

3 A The ambulance came.

4 Q Do you remember riding in the ambulance?

5 A Yes.

6 Q Do you remember talking to the person in the ambulance?

7 A No.

8 Q Do you remember going to the hospital?

9 A Yes.

10 Q And do you remember talking to anyone at the hospital?

11 A The investigator.

12 Q After that what happened?

13 A I got placed in a foster home.

14 Q In South Carolina?

15 A Yes.

16 Q Did you eventually move back to Pennsylvania?

17 A Yes.

18 Q Did Leslie -- did you tell -- I'm sorry. Have you seen  
19 your father, Leslie Davis, since that day?

20 A No.

21 Q Until today?

22 A Yeah.

23 MS. ANDREW: The Court's indulgence for one moment.

24 BY MS. ANDREW:

25 Q Okay. Minor I'm going to back up for a minute; okay? I

Minor

- Direct by Ms. Andrew

174

1 just want to make sure that it's very clear to everyone in the  
2 courtroom what you're talking about when you talk about rape;  
3 okay? I understand what you mean, but we need you to be a  
4 little more specific. Can you use your words to tell me what  
5 occurred when you were raped, what body parts were involved?

6 A The dick, the bird and the butt.

7 Q Okay. And when you say bird, I'm going to have to show  
8 you what's been marked as State's Exhibit Number Two. Can you  
9 point to the bird? Okay. And did something touch your bird  
10 or your butt during the rape?

11 A The dick.

12 Q The dick. Okay. And where did it touch your bird?

13 A Inside.

14 Q Okay. And where did it touch your butt?

15 A Inside.

16 Q And where was the Vaseline when that happened?

17 A In my Dad's drawer.

18 Q Okay. What part of his body part or your body part or  
19 anywhere did he put it?

20 A On his dick.

21 Q Did anything come out of his dick when it touched you?

22 A White stuff.

23 Q And where did that go?

24 A On my stomach.

25 MS. ANDREW: The Court's indulgence for one moment.

Minor - Cross by Ms. Wilson

175

1 THE COURT: All right.

2 BY MS. ANDREW:

3 Q Okay. Minor that's all the questions I have for you  
4 right now. Please answer any questions Ms. Wilson has. Okay?

5 THE COURT: All right. Cross examination.

6 MS. WILSON: Thank you, Your Honor.

7 CROSS EXAMINATION

8 BY MS. WILSON:

9 Q Minor I'm Kia. I have a few questions for you. I'm  
10 going to try to not make them too difficult for you; okay?  
11 Now, you went over your testimony today with the Solicitors  
12 in preparation for court; right?

13 A Yes.

14 Q And about how many times do you think you did that, more  
15 than one time, more than two times, maybe less than five  
16 times, what do you think?

17 A More than one time.

18 Q More than one time. You're not sure exactly how many  
19 though?

20 A Yeah.

21 Q Kind of hard to remember that? Okay. And you came to  
22 South Carolina but you, you really didn't come want to come  
23 here; did you? You like living in Pennsylvania?

24 A Yes.

25 Q Okay. Your mom was there?



Minor

- Cross by Ms. Wilson

176

1 A Yes.

2 Q And you had a sibling there?

3 A Yes.

4 Q And so you weren't happy that you had to come live here  
5 with your dad; were you?

6 A Yeah.

7 Q So not the best thing that you want? Is not the thing  
8 that you really wanted; right?

9 A Yeah.

10 Q Now, you talked to a lot of people; didn't you --

11 A Yes.

12 Q -- about this? So you talk to, as the State mentioned  
13 earlier, I think they said you talk to Owen Kellis, he's the  
14 guy from Horry County Fire and Rescue?

15 A Yes.

16 Q And but you say you don't remember much about that  
17 conversation; right?

18 A Yeah.

19 Q You think you remember anything about it?

20 A We were watching SpongeBob.

21 Q I'm so sorry. What was that?

22 A Watching SpongeBob and that's it.

23 Q You were watching SpongeBob. That was a fun part I'm  
24 sure. Do you remember telling him something about waking up  
25 covered in blood? Do you remember that?

Minor

- Cross by Ms. Wilson

177

1 A No.

2 Q You don't remember telling anybody that?

3 A No.

4 Q Okay. Now, you told Brooke Squires about what you said  
5 was happening to you; didn't you?

6 A Yes.

7 Q And if I remember based on the dates that was a Monday  
8 morning. It was a school day; right?

9 A Yes.

10 Q And you were home and Brooke was already there or did she  
11 come in?

12 A She was already there.

13 Q So I know you said earlier though that Brooke didn't live  
14 with you, that it was just you and your dad, but Brooke was  
15 actually staying there; right?

16 A Yes.

17 Q Was living there, too. So you guys weren't the only two  
18 people who lived in the house; right?

19 A Yes.

20 Q Is that, is that a yes?

21 A Yes.

22 Q Okay. So Brooke was actually staying there and that  
23 morning Brooke came into your room; correct?

24 A Yes.

25 Q All right. So when Brooke comes in she's -- you tell her

1 that your Dad has been assaulting you; correct?

2 A Yes.

3 Q And then Brooke calls the police?

4 A Yes.

5 Q Now, Brooke was there the day before?

6 A I don't remember.

7 Q Was there a time when Brooke wasn't there? I mean, there  
8 wasn't a time like that; was it? She was living there; right?

9 A Well, she babysitted me.

10 Q Right.

11 A So when she's there.

12 Q So she was your babysitter and she was living at the  
13 house; is that correct?

14 A Yes.

15 Q So Brooke was actually there all the time; right?

16 A Yes.

17 Q I mean, obviously, she might run out to the store or  
18 maybe she went out with her friends, but she stayed in the  
19 house; correct?

20 A Yes.

21 Q All right. But you didn't tell Brooke anything before  
22 this particular day; correct?

23 A No.

24 Q Or that Monday or the 14th?

25 A No.

Minor

- Cross by Ms. Wilson

179

1 Q Okay. Now, as I said, you talked to a lot of people. So  
2 I'm sure it's hard to keep everybody straight, but let's try  
3 to see if we can remember what everybody that you talked to.  
4 I think that you talked to the fire and rescue, but you also  
5 talked to Detective Wyatt; didn't you?

6 A Yes.

7 Q From the Horry County Police Department?

8 A Yes.

9 Q And so you had to tell the Horry County Fire and Rescue  
10 guy what's happening. Then you talked to Justin Wyatt and  
11 told him about what you said happened; correct?

12 A Yes.

13 Q And this is after you've already told Brooke what you  
14 said was happening to you; right?

15 A Yes.

16 Q So after you talk to Detective Wyatt you then -- it's not  
17 done. You had to talk to some more people; didn't you?

18 A Yes.

19 Q Kind of a long list there of people that you had to keep  
20 talking to; right?

21 A Yeah.

22 Q So after Wyatt then you had to -- I think you -- did you  
23 do a rape kit at Conway Medical Center? So they -- you, you  
24 know what I'm talking about? You looked confused for a  
25 second?

Minor

- Cross by Ms. Wilson

180

1 A Yeah.

2 Q All right. So I want to make sure, did they perform a --  
3 basically a kit on you for sexual assault. Do you remember  
4 that test?

5 A Yes.

6 Q Okay. So and you remember them taking that?

7 A Yes.

8 Q Okay. And in addition, after that was done, you probably  
9 talked to some of the nurses and the doctors there?

10 A Yes.

11 Q And after all of that you then had to go and you went, I  
12 believe, to the Children's Recovery Center; is that right?

13 A Yes.

14 Q Where you then had to speak to a couple of people there?

15 A Yes.

16 Q So you had to talk to a list of people before you  
17 actually got to the Children's Recovery Center; right?

18 A Yes.

19 Q So you told this story a lot of times; didn't you?

20 A Yes.

21 Q Okay. Now, when you got to the Children's Recovery  
22 Center at one point I think you had mentioned that, and I  
23 don't know if you remember that, do you remember Miss Dianne  
24 Nordeen, that's the lady who did your interview at the  
25 Children's Recovery Center?

Minor

- Cross by Ms. Wilson

181

1 A Yes.

2 Q Okay. Do you remember saying anything to her about not  
3 having seen a man without his clothes on? Do you remember  
4 that?

5 A No.

6 Q You don't remember that. Okay. So then you don't recall  
7 saying that you did see somebody -- a man without his clothes  
8 on?

9 A I did.

10 Q You're saying you did now; right?

11 A Yes.

12 Q But at the time you don't recall saying something  
13 slightly different. Okay. Okay. It's okay. I mean, it's  
14 possible that you don't remember it, but would you be  
15 surprised then that I tell you that there's a statement that  
16 you made to her where you said you had never seen a man with  
17 his clothes off but then you describe seeing one?

18 A Yes.

19 Q Okay. Now, I wanted to talk about Brooke a little bit,  
20 and I hope that, you know, these questions aren't  
21 uncomfortable for you, but I need to ask these things. Okay?  
22 Brooke is your babysitter and she's living at the house and  
23 you at some point disclose that you had seen her with a needle  
24 in her arm; is that correct?

25 A Yes.

Minor

- Cross by Ms. Wilson

182

1 Q And you understood that to be drug use; correct?

2 A Yes.

3 Q And you don't, you don't recall whether you see -- you  
4 saw her using anything the day before or that morning; do you?

5 A No.

6 Q You don't recall that. Is that a -- I'm sorry?

7 A No.

8 Q Okay. You said that Brooke did things that were not  
9 nice?

10 A Yes.

11 Q On occasion?

12 A Yes.

13 Q And would that mean that she just punished you or, or you  
14 just talking about the fact that she used drugs?

15 A The fact that she used drugs.

16 Q Otherwise you say she was pretty much in your corner;  
17 right?

18 A Yes.

19 Q She was always there for you?

20 A Yes.

21 Q Okay. The morning that you told Brooke about the sexual  
22 assault that you said happened to you, what did Brooke do  
23 after she called the police?

24 A I don't remember.

25 Q You don't remember anything about that. So did you

Minor

- Cross by Ms. Wilson

183

1 remember the police getting there? Yes?

2 A Yes.

3 Q And you remember Horry County Fire and Rescue coming?

4 A Yes.

5 Q But you don't recall anything about what happened in the  
6 moments after you told her that you were being sexually  
7 assaulted? You don't remember any of that?

8 A No.

9 Q Okay. Did Brooke cry?

10 A Yes. When they got there.

11 Q Okay. So you remember that and do you recall whether she  
12 screamed in outrage?

13 A No.

14 Q Was she yelling? So she just cried?

15 A Yes.

16 Q All right. And when you talked to Brooke did she tell  
17 you that she was going to help, everything would be okay? Was  
18 she going to try to help you in some way?

19 A Yeah.

20 Q You said yes?

21 A Yes.

22 Q Okay. So Brooke is wanting to help you. She is wanting  
23 to help fix this problem and she's apparently sad on your  
24 behalf is what you're telling me; right?

25 A Yes.



Minor

- Cross by Ms. Wilson

184

1 Q Okay. And you don't know if Brooke -- did you get  
2 dressed at this point?

3 A I was dressed.

4 Q So you were already dressed? When Brooke came you were  
5 dressed?

6 A No. She was there.

7 Q So when Brooke came in your room and you told her, were  
8 you dressed or not?

9 A I don't remember.

10 Q Okay. Let me, let me go back a little bit because maybe  
11 I'm confusing you. So you said you were dressed. Okay.  
12 That's what you just said; correct?

13 A (Nods head.)

14 Q So I'm asking you if Brooke helped you get dressed or if  
15 you were already dressed because you were dressed at the time  
16 that you told Brooke this information; correct?

17 A Yes. I'm pretty sure.

18 Q All right. So you already had on clothes and in addition  
19 to having on clothes what is it -- I don't know if you recall  
20 but you told Brooke this because you just, I mean, you needed  
21 to share it with her? You decided it was time to tell her  
22 what was going on or did she ask you?

23 A No. I told her.

24 Q Okay. All right.

25 MS. WILSON: The Court's indulgence for one second.

Minor - Cross by Ms. Wilson

185

1 THE COURT: All right.

2 BY MS. WILSON:

3 Q When you woke up that morning, when you woke up that  
4 morning, did you get yourself dressed or Brooke got you  
5 dressed?

6 A I don't remember.

7 Q But you had on clothes when you talked to Brooke?

8 A Yes.

9 Q For the first time. Okay. And was it -- were, were you  
10 guys in the habit of, I mean, you guys weren't in the habit of  
11 having Brooke pick out your clothes for you; were you?

12 A No.

13 Q You, you would pick out your own clothes and things?

14 A Yes.

15 Q And Brooke wasn't in the habit of helping you get dressed  
16 or helping you wash up in the morning; was she?

17 A No.

18 MS. WILSON: I'm sorry. I'm asking for the Court's  
19 indulgence one more second.

20 THE COURT: All right.

21 BY MS. WILSON:

22 Q So, and I -- I'm -- I hope I'm not being too repetitive,  
23 but you talk to -- after you talked -- you told Brooke, Brooke  
24 calls the police, you speak to Horry County Fire and Rescue,  
25 then you talk to Detective Wyatt.

Minor

- Cross by Ms. Wilson

186

1 A Yes.

2 Q Then you go to the hospital. Okay. Or does Detective  
3 Wyatt talk to you at the hospital; correct?

4 A He talks to me at the hospital.

5 Q Okay. I'm glad I'm getting something right here. All  
6 right. And after you talk to Detective Wyatt at the hospital  
7 what happened; do you remember? Were you finished at the  
8 hospital?

9 A I went to a foster home.

10 Q Okay. So you never went back home. You went to a foster  
11 home, and subsequently -- well, after you went to the foster  
12 home at some point you went back to Pennsylvania; is that  
13 correct?

14 A Yes.

15 Q Which is where you like to be because your people are  
16 there; right?

17 A Yeah.

18 Q And is that where you still are today? You still live in  
19 Pennsylvania?

20 A Yes.

21 MS. WILSON: All right. No further questions at this  
22 time, Your Honor.

23 THE COURT: All right. Let me see the attorneys for one  
24 second.

25 (Whereupon, a bench conference is held in the presence

Minor - Cross by Ms. Wilson

187

1 but out of the hearing of the jury.)

2 THE COURT: All right. Redirect?

3 MS. ANDREW: Thank you, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. ANDREW:

6 Q Minor I just have a couple of more questions for you;  
7 okay? Okay. You just said that after this happened you went  
8 back to Pennsylvania.

9 A Yes.

10 Q Do you currently live with your family in Pennsylvania?

11 A No.

12 Q Who do you live with in Pennsylvania?

13 A Foster parents.

14 Q And you said earlier that this occurred when you were  
15 eight?

16 A Yes.

17 Q You're now 11. So it's been a couple of years. Is it  
18 safe to say that you don't have a perfect memory of what  
19 occurred the day that you told what happened to you?

20 A Yes.

21 Q But you recall in detail and with clarity being raped by  
22 your father?

23 A Yes.

24 Q Thank you.

25 THE COURT: All right. You may step down. All right.

1 The State can call your next witness.

2 MS. ANDREW: Your Honor, the State calls Brooke Squires.

3 Whereupon, Brooke Squires is called to the stand, duly  
4 sworn by the clerk and testified as follows:

5 THE CLERK: Please state your name and spell your name  
6 for the record.

7 MS. SQUIRES: Hello. My name is Melesa Brooke Squires.  
8 You want me to spell it all?

9 THE CLERK: Yes.

10 MS. SQUIRES: Melesa, M-E-L-E-S-A, Brooke, B-R-O-O-K-E,  
11 and it's Squires, S-Q-U-I-R-E-S.

12 DIRECT EXAMINATION

13 BY MS. ANDREW:

14 Q Ms. Squires?

15 A Yes, ma'am.

16 Q Where do you currently reside?

17 A In Conway. I live in Conway.

18 Q Have you lived in Conway your whole life?

19 A Yes, ma'am, for 26 years.

20 Q Okay. So you're 26 years old?

21 A Yes, ma'am.

22 Q Okay. Can you tell me how you came to know the or, let's  
23 see, do you know the Defendant, Leslie Davis?

24 A Yes, ma'am.

25 Q And can you tell me how you came to know him?

Brooke Squires - Direct by Ms. Andrew

189

1 A He rented a trailer from my grandparents, Charles and  
2 Marilyn Squires. They -- him and his daughter Minor lived in  
3 Cedar Grove Mobile Home Park off 378 and he worked for my  
4 grandparents.

5 Q Okay. Is that mobile home park located in Horry County?

6 A Yes, ma'am.

7 Q Okay. And back in 2016, March of 2016, can you tell me  
8 what your life was like?

9 A I wasn't stable. I was currently a drug addict. I have  
10 been recently clean a year and I had been on drugs for two  
11 years.

12 Q Okay. When you say drugs do you mean -- what kind of  
13 drugs were you on?

14 A I was getting prescription pain pills and I got addicted  
15 to heroin.

16 Q Okay.

17 A And I went to rehab and stayed there eight months in  
18 California and --

19 Q And when was that?

20 A This past year.

21 Q Okay. So that's after the events that we're talking  
22 about?

23 A Yes, ma'am.

24 Q Okay. So back in 2016 you were a heroin addict. Did you  
25 have occasion to start staying over at Leslie Davis'

1 house?

2 A Yes, ma'am. I was watching his daughter Minor and at  
3 the time I was going through a divorce. So I was right -- I  
4 lived right beside Minor in my own dad's house.

5 Q Uh-huh.

6 A And he worked for my grandparents, like I said. So I  
7 mean, he had a small daughter, and he had mentioned that he  
8 needed somebody to babysit to my grandparents. So she said,  
9 "Well, I have a granddaughter that lives right beside you,"  
10 and I didn't have a job at the time. So I started babysitting  
11 Minor and I was getting paid to start with, but then we  
12 traded out like if I'd stay the night because he'd work late  
13 that, you know, that was fine.

14 Q Okay.

15 A And then I just took Minor in and I started taking care  
16 of her.

17 Q Okay. And why'd you do that?

18 A Because she had nothing or nobody.

19 Q And so tell me about -- when you say you were her  
20 babysitter, you would watch her when she came home from  
21 school?

22 A Yes, ma'am. I'd wash her. I'd feed her. I'd watch her.  
23 I would do -- anything she needed I would do.

24 Q Okay. And did you say that you spent the night at the  
25 house?

Brooke Squires - Direct by Ms. Andrew

191

1 A Yeah. But like I said, I was here nor there, but yeah, I  
2 was there most of the time.

3 Q Okay.

4 A Four nights out of seven I was probably there.

5 Q Okay. And did you have any sort of romantic relationship  
6 with the Defendant, Leslie Davis?

7 A No, ma'am. Not at all.

8 Q Okay. You were solely there because you needed -- he  
9 needed a babysitter and you sometimes needed a place to stay  
10 or --

11 A I wasn't there for him period. If it was -- if I could  
12 have got her I would. I was there because she needed me.

13 Q Okay.

14 A And that's the truth.

15 Q Okay. And do you remember ever noticing Minor behave in  
16 any way you considered strange?

17 A Yes.

18 Q Okay. Can you tell me about that, please?

19 A Okay. She -- I knew that something had been going on.

20 The -- I knew that something had been going on with Minor

21 the, the, the Defendant but she wouldn't never tell me. I

22 didn't never have no evidence to prove it. She was very --

23 she always wanted clothes on, you know, she wanted to be fully

24 dressed. I'd give her a bath, she wanted a towel, towel. She

25 wanted to be fully dressed all the time, and then one morning



1 I was going to work and her bedroom light was on and I stopped  
2 by and she was sick. So I went in, and she didn't have no  
3 clothes on, and I knew something was wrong there that moment,  
4 and a few days before that I had fount [sic] some bloody  
5 underwear in the room and Minor had told me that she had got,  
6 she had got cut, and I didn't pay no attention to it. I  
7 didn't, you know, I didn't -- I knew but I didn't want to  
8 believe it, and I threw the underwear in the trash, and I  
9 didn't say anything about it, and she would get real mad at me  
10 if I'd ask her anything. Like I'd say, "Minor you know, you  
11 can talk to me if anything's wrong or somebody is messing with  
12 you or something like that," and she said, "Brooke, just stop  
13 asking me that."

14 MS. WILSON: Your Honor, I'm going to object. Hearsay.

15 THE COURT: Overruled. Go ahead.

16 A Anyways, she would -- I would ask her and I would tell  
17 her, you know, "You can tell me if anybody is messing with you  
18 or you can tell me anything like that," and she said she knew  
19 but she wanted me to stop asking that. So I did, and like I  
20 said, I think it was maybe two days before she was -- when I  
21 walked in the house that morning and because she was supposed  
22 to be on the school bus. I mean, she had already like 30  
23 minutes before the bus -- after the bus had arrived, she --  
24 her bedroom light was still on. So that's the reason why I  
25 even stopped, and then when I did stop she was laying there

Brooke Squires - Direct by Ms. Andrew

193

1   naked in her bed face down with no clothes on. So I asked her  
2   -- I tried to get her up. I couldn't get her up, and then  
3   tried to wake Leslie up. He wouldn't get up, and I went back  
4   in there and she was throwing up, throwing up. She was sick.  
5   Okay. And so I just said, "Leslie" -- he did. When he  
6   finally got up to go to work for my grandparents, I said, "I'm  
7   going to stay here and I'm going to keep her home today," and  
8   he said, "Okay. That's fine." Then he just walked out the  
9   house, and so I was -- I went shopping with my friend, me,  
10  Minor and Britney, a friend of mine went shopping that day,  
11  and, and I had a very good time with her, one of my last times  
12  with her, but I had a good time, and she finally that day she  
13  broke down when we got back to the house, and she said, "I  
14  need to talk to you about something." We were still in the  
15  car, and I said, "Well, go ahead. Tell me. You know, what is  
16  it," and I had my friend there, and she kind of got upset  
17  because she said I embarrassed her in front of Britney. So  
18  she walked, stormed inside. So I said, "All right. Well,  
19  I'll be in there in a minute." Well, I went and checked on  
20  her because she didn't come back out and help me, and then  
21  when I went in there she told me that, she told me that she  
22  was being messed with so.

23  Q   Okay. Let me back you up a little bit to -- and go over  
24  a few things. So when you saw her that morning in the bed  
25  nude, did it look like she had just gotten out of the shower

1 or she had just bathed or anything like that?

2 A No, ma'am. Her hair wasn't wet. She -- there was no  
3 towel there where she -- she was not getting out the shower.  
4 She was laying there like she was hurt.

5 Q Okay. And was --

6 A I mean, I, I could barely even get her up to talk to me.

7 Q Okay. Was that unusual for Minor

8 A Very unusual.

9 Q Okay.

10 A Like I stated earlier, she always wanted to be dressed.  
11 If any piece of your body could be clothed she wanted it on  
12 her, socks, long pants, pajamas, anything like that.

13 Q Okay. And you said that you went shopping and came home  
14 and then she told you someone was messing with her. Without  
15 saying who she said, tell me what you understood that to mean  
16 or what she meant by that?

17 A Well, when she said it I tried to make the best out of it  
18 because, I mean, like I told you earlier, I knew that she had  
19 -- I knew that she -- you know when a child something's wrong,  
20 you know, if somebody's been sexually abused, you know, if  
21 they're being abused, you know as an adult, but she -- you  
22 can't get somebody to tell you or you can't do anything until  
23 you have evidence, and when people is making you dress a  
24 certain type of way or they're making you do things, I  
25 indicated that she needed me and she -- but she would never

Brooke Squires - Direct by Ms. Andrew

195

1 tell me.

2 Q Well, let me ask you a question. You just said when  
3 someone's making you dress a certain way or do certain things.  
4 Did you ever personally witness anyone make her dress a  
5 certain way or do certain --

6 A Yes. I would have her dressed and her dad would ask her  
7 to go -- I can say that. Yeah. Her dad would ask her to go  
8 in there and put other clothes on and this is when I first got  
9 in the house. I mean, it -- I was there a year before she  
10 would even tell me anything, where she would even get close to  
11 me to even confide in me.

12 Q So what was -- I'm sorry to interrupt. What was unusual  
13 about the clothes he would ask her to put on, her dad?

14 A They're nothing that an eight-year-old should be wearing.  
15 I mean, you don't put on a topless bikini shirt like a halter  
16 top with no sleeves.

17 MS. WILSON: Your Honor, I'm going to object. I think we  
18 need to approach.

19 (Whereupon, a bench conference is held in the presence  
20 but out of the hearing of the jury.)

21 Q Okay. Thank you. I think you were talking about you  
22 witnessing Minor being asked to put on different clothes.

23 A Yes. She was.

24 Q I couldn't remember exactly where we stopped so?

25 A Yes, ma'am.

1 Q Okay. And did you ever witness her behaving  
2 inappropriately?

3 A Yes. When he would ask her to change her clothes or go  
4 put on something a little sexual that he would tell -- he  
5 would get home, sit on the couch and pat on his leg for her to  
6 come sit there and she'd kiss him in the face and stuff like  
7 that.

8 Q And did you find that to be uncomfortable?

9 A Very.

10 Q Okay. So you -- you've said that you had suspicions  
11 about that something was going on.

12 A Uh-huh.

13 Q Why didn't you act on those suspicions? Why didn't you  
14 do something?

15 A I mean, because you can't, you can't go off hearsay;  
16 right? I mean, you just can't, you can't -- if I don't have  
17 evidence to prove anything I can't. I want to help -- I  
18 wanted to help her so bad but I just can't go around accusing  
19 people of things that's not true unless you have full evidence  
20 they did it, and then, without, without her telling me as out  
21 of her own mouth that somebody had done it I couldn't do  
22 anything about it.

23 Q Okay.

24 A I mean, what leg did I have to stand on, you know.  
25 Without her, without her telling me there's nothing I could've

Brooke Squires - Direct by Ms. Andrew

197

1 done.

2 Q Okay.

3 A But then she finally did.

4 Q When she finally did tell you do you remember what time  
5 of day that was?

6 A It was right before it was getting dark. I mean, I was  
7 going to, I was even going to start cooking her supper, we  
8 were going to go out and get something to eat but I only  
9 remember that because it was two years ago -- it's been a  
10 while -- because when the ambulance got there after I had  
11 called and reported it in, it was right -- they -- it was  
12 right before it was turning dark.

13 Q Okay.

14 A So it was dark by the time I got out the hospital with  
15 her.

16 Q And do you remember what you did when she told you this?

17 A Yeah. I was trying to make the best out the  
18 conversation, you know, that somebody was making her take her  
19 -- her dad was making her take her clothes off and all this,  
20 and I was trying to change it that -- it was going south very  
21 quick, the conversation. I knew where it was headed but I was  
22 trying to indicate other things and it just -- she come right  
23 out and said what I had been waiting to hear, and then grabbed  
24 the phone, called my grandmother and said, "I don't know what  
25 I need to do but I might be a lot of things but I've got to

1 get this little girl some help," and that was it, and I called  
2 the law and --

3 Q When you say you called the law, what did you -- number  
4 did you call?

5 A 911.

6 Q Okay. And what happened after that?

7 A No. I don't -- I can't -- I don't really know. I ain't  
8 going to tell you I did, excuse me, I don't mean to put that  
9 on any record or anything, but I don't know if I called 911.  
10 I called my grandmother first and asked her what I should do  
11 and she said, "Well, call the law," and I don't know if she  
12 gave me like the State's number. I called -- the law got  
13 there with an ambulance so.

14 Q Okay. So you called the authorities?

15 A Yeah. Basically.

16 Q And then the police showed up at the house?

17 A Yes, ma'am. Two officers and an ambulance and they took  
18 her from me right then and they took her and, I guess, did a  
19 rape kit on her or whatever they do at the hospital and they  
20 --

21 Q Were you present for that?

22 A No, ma'am. I mean, I was -- I got in my car and followed  
23 them to the hospital but they took her out of my care and the  
24 authorities took her then because she had -- they -- the man  
25 -- the officer told me that he had -- she had to be

Brooke Squires - Direct by Ms. Andrew

199

1 interviewed and they had to do some tests on her and stuff  
2 like that.

3 Q Okay. So you did not ride in the ambulance with her to  
4 the hospital?

5 A Huh-uh. I got in my car and followed them.

6 Q Did you see her after you got to the hospital?

7 A No, ma'am, because they had called her mother which was  
8 in Pennsylvania and she come down here and got her and I  
9 didn't get to see her after that.

10 Q Okay. And Brooke, can we talk about you for a minute?  
11 You've already told us that, that you're a recovering heroin  
12 addict?

13 A Yes, ma'am.

14 Q You've had a lot of problems with drugs?

15 A No, ma'am, only -- well, I mean, I am a drug -- I have an  
16 addictive personality. I was on drugs two years.

17 Q Okay.

18 A The first time I ever tried drugs was two years ago.

19 Q Okay.

20 A Three, three because I been clean one year.

21 Q Okay. But as part of that you've had your share of  
22 scrapes with the law?

23 A Yes, ma'am.

24 Q Okay.

25 A I've been to jail. I'm currently on probation for drug



1 charges. I've only had one drug charge, but and I haven't  
2 been to jail but one time in one year since I've been  
3 recovering and it was for open containers so.

4 Q Okay. You also have charges on your record for forgery;  
5 is that correct?

6 A Checks. I mean, you still -- you do things that you  
7 don't think your own mother should want you to do when you're  
8 a struggling drug addict, you know.

9 Q It's all part of your drug addiction?

10 A It's all part of the addiction. It's one ride that  
11 you're going to ride when it ever gets you.

12 Q And then you also have a charge, I think, for giving  
13 false information?

14 A To the police or to 911.

15 Q So you freely admit those things?

16 A Yes, ma'am. You could -- it's public knowledge. You can  
17 look it up.

18 Q Okay.

19 MS. ANDREW: The Court's indulgence one moment.

20 THE COURT: All right

21 BY MS. ANDREW:

22 Q Okay. I don't have any further questions for you right  
23 now. Please answer any questions Ms. Wilson has.

24 A Yes, ma'am.

25 THE COURT: Cross examination.

Brooke Squires - Cross by Ms. Wilson

201

1 MS. WILSON: Thank you.

2 CROSS EXAMINATION

3 BY MS. WILSON:

4 Q Ms. Squires.

5 A Yes, ma'am.

6 Q So since the State just brought it out, let's talk about  
7 that a little bit.

8 A Yes, ma'am.

9 Q The forgery and false statement to police.

10 A Them were years ago.

11 Q 2017?

12 A Which one was that?

13 Q That would have been, I believe, the forgery. Does that  
14 sound right to you?

15 A Yes, ma'am. It was, and, and if you can read that it is  
16 for forgery, but why I got charged with forgery is --

17 Q No. No. I'm not trying to get into why.

18 A Okay. Well, carry on.

19 Q Thank you. The 2017 forgery considered a crime of  
20 dishonesty; correct?

21 A Yes, ma'am.

22 Q And --

23 A I mean, it's for signing a check that's not yours is what  
24 it is for.

25 Q Falsely; right?

- 1 A Yes.
- 2 Q Okay. And --
- 3 A But it wasn't stolen.
- 4 Q Okay.
- 5 A I just charged -- I just forged a name to a check.
- 6 Q Yes, ma'am. All right. And I believe that filing a
- 7 false report was around 2015; does that sound about right?
- 8 A I don't -- no, I wouldn't say. It's been four or five
- 9 years ago, about five years ago. I filed a report that the --
- 10 MS. ANDREW: Objection, Your Honor. May we approach?
- 11 THE COURT: Yes.
- 12 (Whereupon, a bench conference is held in the presence
- 13 but out of the hearing of the jury.)
- 14 Q I need to make a correction, Ms. Squires.
- 15 A Yes, ma'am.
- 16 Q It is for giving false information to police?
- 17 A Yes, ma'am.
- 18 Q Correct?
- 19 A I told the police something and then the jury found that
- 20 to be not what it was, but I mean, the person -- I, I told
- 21 what, what happened.
- 22 Q All right. But so, but that, I'm sorry, that date was
- 23 actually 2016; correct?
- 24 A Yeah. Five years ago.
- 25 Q All right.

Brooke Squires - Cross by Ms. Wilson

203

- 1 A No.
- 2 Q Three?
- 3 A Four, yeah, three.
- 4 Q 2015?
- 5 A So '15. Yeah.
- 6 Q So, yeah, that looks like it was about October of 2016?
- 7 A Yes, ma'am.
- 8 Q That giving false information. So and I apologize for
- 9 that mistake.
- 10 A That's fine.
- 11 Q Giving false info.
- 12 A Yes, ma'am.
- 13 Q So in two instances we're talking about you being accused
- 14 of and convicted of crimes of some kind of dishonesty;
- 15 correct?
- 16 A Yes, ma'am. Minor crimes.
- 17 Q All right. I'm sorry?
- 18 A Minor crimes.
- 19 Q Crimes nonetheless; correct?
- 20 A Yes, ma'am. Yes, ma'am.
- 21 Q All right. And now, moving away from that, that's been
- 22 established here, you actually were -- you said that you
- 23 stayed at the house probably four days out of seven?
- 24 A I would say so. I would say so.
- 25 Q All right. Okay. So you were there a lot?

- 1 A A lot.
- 2 Q You stayed -- all right. And while you were there you
- 3 said you were charged with, with babysitting, taking care of
- 4 the child, of Minor the child, excuse me?
- 5 A Yes, ma'am.
- 6 Q All right. And in taking care of Minor you would make
- 7 sure she ate?
- 8 A No. Basically I was her parent because it wasn't a
- 9 babysitting job. I took on a full responsibility of being her
- 10 mother.
- 11 Q Okay. So you were financially supporting her?
- 12 A Yes. I was taking her at -- yes. Because I had -- I
- 13 wasn't working at first and then it got to where I was having
- 14 to take care of her so I had to pick up a job at River City
- 15 Café in Conway.
- 16 Q Okay. So let me be clear --
- 17 A I mean, I did have a car, car insurance. I mean, I, yes.
- 18 Q So --
- 19 A I was feeding her. I did go buy her clothes. Yes.
- 20 Q So you were -- you're saying that you weren't living
- 21 there because you couldn't live anywhere else?
- 22 A At first.
- 23 Q You were living there --
- 24 A At first.
- 25 Q So -- okay. So then let me clarify, let, let me go back

Brooke Squires - Cross by Ms. Wilson

205

1 and be really clear.

2 A Okay.

3 Q When you moved in there --

4 A I was on drugs, fully, didn't have nowhere to go, you  
5 know.

6 Q That's what I --

7 A And then I took a opportunity for I could make money for  
8 somebody else that needed my assistance because, you know.

9 Q Is that during the time when you couldn't take care of  
10 yourself?

11 A No. I started taking care of myself when I noticed I had  
12 to take care of a child that I took on responsibility for and  
13 I had to get a job because her daddy was not there to take  
14 care of her, feed her, nothing. So I had to -- in the middle  
15 -- I admit I was there a while. Like we're not just saying  
16 from one week to another week. We're talking about I, I was  
17 with this child almost a year and a half.

18 Q But for --

19 A I mean, a lot can happen from one month to another month.

20 Q Agreed. But for --

21 A So.

22 Q -- quite a period of time you were living there because  
23 you could --

24 A Four months.

25 Q -- not take care of yourself?

1 A Three months. That's it.

2 Q Those are the months you couldn't care for yourself;  
3 correct?

4 A Yes, ma'am, out of a year and a half.

5 Q Okay. And in those three months when you're living there  
6 with someone else and they are paying the bills and taking  
7 care of the house and their child, you contributed babysitting  
8 to that household; is that correct?

9 A If that's what you want to call it, that's fine, but it's  
10 -- that's not what I was doing. I was their babysitter. Yes,  
11 ma'am. That's what I got hired to do. I got -- I was there  
12 babysitting to him, but that's not my duties of what I done.

13 Q I'm asking --

14 A You're trying to put a label on something that I took  
15 care of and I took care of that child.

16 Q I, I am not saying, ma'am, that you didn't take care of  
17 the child. I asked a very specific question.

18 A And was I the babysitter, yes, ma'am, I was.

19 Q Okay. And in being the babysitter, as I just established  
20 through the last question, you were living there and he was  
21 taking care of the household bills and the child and you were  
22 living there --

23 A He got a check from the State and my grandparents paid  
24 him for what he worked every day.

25 MS. WILSON: Your --

Brooke Squires - Cross by Ms. Wilson

207

1 THE COURT: All right. Ma'am, I'm sorry. You've got to  
2 let her finish asking her question.

3 A Yes, ma'am. Yes, sir.

4 THE COURT: Don't start answering until she completes her  
5 question; okay?

6 A Yes, sir.

7 THE COURT: All right. Go ahead.

8 BY MS. WILSON:

9 Q Ms. Squires, were you intoxicated -- or let, let me  
10 rephrase that. Clearly, there were times when you were  
11 intoxicated in the presence of Minor correct?

12 A When she would go to bed, yes.

13 Q Minor I think, has stated and you have stated that you  
14 were on drugs at a period of time when you were charged with  
15 her care; correct?

16 A I was not on -- yes, ma'am.

17 Q Okay. And at times Minor witnessed you using drugs; is  
18 that correct?

19 A No, ma'am.

20 Q So Minor statement that she watched you use drugs is  
21 incorrect?

22 A She -- did Minor say that she watched me do drugs?

23 Q I'm asking you a question. Did -- if, if there's a  
24 statement that Minor --

25 MS. ANDREW: Objection, Your Honor.



1 THE COURT: Okay.

2 A I don't -- yeah.

3 THE COURT: Can't pit one witness against the other. The  
4 jury has heard the testimonies of the witnesses.

5 MS. WILSON: Your Honor, I'm sorry. Could we approach  
6 one second?

7 THE COURT: All right.

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

10 THE COURT: All right.

11 BY MS. WILSON:

12 Q Ms. Squires, your answer is that you never used drugs in  
13 front of Minor correct?

14 A No, ma'am. I have been intoxicated with alcohol in front  
15 of Minor yes, ma'am, I have, but I have never used drugs.

16 Q Okay. Thank you.

17 A Or done drugs in front of her like physically.

18 Q Thank you. Now, the weekend of March 11<sup>th</sup> were you -- you  
19 weren't coming in every day and taking care of Minor were  
20 you?

21 A I'm not going to answer that because I don't really know  
22 because, see, I don't know if I -- I don't know what I said.  
23 I don't know -- March the 11th of two years ago I don't know  
24 exactly what I was doing or when or -- I, I wouldn't know, so.

25 Q Okay. So you don't recall the events of that weekend?

Brooke Squires - Cross by Ms. Wilson

209

1 That is the weekend leading up to the 14<sup>th</sup> which is the date  
2 that you say that Minor told you --

3 A Yes, ma'am.

4 Q -- okay, that she was being assaulted. So you remember  
5 the 14<sup>th</sup>?

6 A I, I mean, I remember the day she told me. I don't -- I  
7 can't tell you what time or what date or anything like that.

8 Q Okay. And when she told you you say you got her dressed  
9 that morning; correct?

10 A Yes.

11 Q And that when you went in she was undressed?

12 A Yes.

13 Q All right. If I remember correctly you testified that --

14 A Or I don't -- go.

15 Q I'm sorry.

16 A I, I don't, I don't know what if I got her -- I'm pretty  
17 sure we left the house. So if she was undressed she would  
18 have needed to put clothes on. I don't know if I done it  
19 specifically or she done it. I was trying to get Leslie up.  
20 I don't know if she had already just went and dressed herself  
21 or I went and dressed her. I don't really recall. I don't  
22 recall. I'm sorry.

23 Q Okay. No. That's okay. But you do recall going in and  
24 she was undressed?

25 A Yes, ma'am.

1 Q All right. And at that time did you wash her or bathe  
2 her yourself?

3 A No, ma'am.

4 Q And you weren't in the habit of doing that; where you?

5 A I would at nighttime she needed to take a bath I would  
6 tell her, "Minor go get in the bathtub or go take a shower."  
7 "Oh, okay." "Do you need me to help?" She'd always, she'd  
8 shake her head like that, and then if I would need to take her  
9 a towel or something like that I would go in there and help  
10 her or if she needed me to wash her hair or something like  
11 that, yes, I would help that, but I wouldn't stand there and  
12 watch her bathe herself, no, ma'am. That's --

13 Q Okay. So on that morning did you observe that she was  
14 covered in anything? Was there blood on the bed?

15 A There --

16 Q Because I think you said specifically that --

17 A There was blood on the bed a few days before that when I  
18 had found the panties but I didn't think nothing of it, like I  
19 told you, because Minor told me she had had a cut.

20 Q Okay. And you said just a little while ago that you as  
21 an adult knew that something was wrong?

22 A I did, but I couldn't prove it, I mean.

23 Q You couldn't prove it?

24 A No, ma'am.

25 Q But you had bloody underwear and you say you threw those

Brooke Squires - Cross by Ms. Wilson

211

1 out; right?

2 A Yeah. Because Minor had told me she had got hurt the day  
3 before that.

4 Q Hurt so that she would bleed in her underwear?

5 A Well, I mean, when you're living the way that you live  
6 like when people live with clothes in their floor, you're  
7 kicking clothes out the way, socks, clothes, I mean, it was  
8 just pure nastiness. She, she had her -- she had one mattress  
9 that was laid on the ground on the floor in a bedroom with  
10 clothes. You couldn't even walk to a closet or walk to a  
11 nightstand or she didn't even have none of that. It was just  
12 clothes in bags everywhere, trash bags, I mean, I mean, nasty,  
13 I mean, I don't know she could have picked it up and wiped her  
14 leg and threw it down. I, I didn't get into it with her. I  
15 didn't want to know. If it -- that's the truth, I didn't want  
16 to know. I just picked them up and threw them away, and  
17 hopefully, she would have told me, confided in me like she did  
18 the next day.

19 Q So bloody underwear, you say you knew something but you  
20 just threw it away and you didn't really want to know anything  
21 is what you're saying?

22 A Yes.

23 Q So, in essence, you're telling me that you suspected  
24 something but you just let it go because you weren't  
25 concerned?

1 A Well, when you don't -- I'm sorry. I didn't mean to  
2 interrupt you.

3 Q That's okay.

4 A When you don't have proof you can't go around, you can't  
5 have hearsay like you stated before. You can't go from one,  
6 one word-of-mouth to another word-of-mouth it's like we're  
7 going out to eat at a restaurant. "Oh, it's good. Let's go  
8 try it," but when you're accusing somebody of a, of a charge  
9 like you said where you can go to prison or that's indicating  
10 that you've done something wrong, a convicted felon or  
11 anything you can get convicted of a crime for, you can't go  
12 around accusing people of that without evidence.

13 Q So --

14 A I mean, that's like that false police report, you can't  
15 go around saying that kind of stuff about people if you don't  
16 have nothing to prove it with.

17 Q Okay. Fair enough. So then you would agree based on  
18 what you just said that there should be some physical evidence  
19 to corroborate?

20 A There should. That's why I called it in and then I let  
21 the law handle it. I mean, I don't know. He asked me for my  
22 testimony and I gave it to him and I let them do it -- examine  
23 her. I just want justice to be served. If it -- if she was  
24 messed with that's all, that's all I wanted.

25 Q But you personally weren't able to find any physical

Brooke Squires - Cross by Ms. Wilson

213

1 evidence; right?

2 A Well, I'm not going to ask her to lay on her bed and let  
3 me check her down there. No, ma'am. I'm not. I'm not a  
4 doctor. I'm not her mother. I'm not going to -- I'm just not  
5 going to do that. That's disgusting. No.

6 Q You wouldn't do it?

7 A No. That's why --

8 Q But I asked you if you found any physical evidence other  
9 than the --

10 A What is physical evidence? What are you indicating that  
11 is?

12 Q Do you have -- did you --

13 A You want me to check her put my fingers in there?

14 Q I'm sorry. Would you have kept those underwear?

15 A If I would have known that she was being sexually abused  
16 I would have kept them and gave them to the law.

17 Q And you did think it but you still threw them out;  
18 correct?

19 A Because she had -- she told me she had got hurt.

20 Q Okay.

21 MS. WILSON: The Court's indulgence.

22 A Thank you.

23 BY MS. WILSON:

24 Q Now, you said you --

25 A I'm sorry. What, what did you say?

- 1 Q You said -- I hadn't finished.
- 2 A Okay.
- 3 Q I don't recall you telling the police anything about
- 4 Minor throwing up that morning. Did you tell them that?
- 5 A No. She was sick. I, I -- in my statement if you would
- 6 -- if you had read it, excuse me, I don't mean to be rude, I
- 7 -- she had the flu. I -- when at the end of the conversation
- 8 he said, "Do you have anything else to say," and as my
- 9 statement indicates I said, "Well, she was sick."
- 10 Q Okay.
- 11 A I mean, I didn't know I -- I didn't get into detail. No,
- 12 ma'am. I did not.
- 13 Q Okay. And do you normally take sick children out
- 14 shopping?
- 15 A Well, when I have to go somewhere to get her medicine,
- 16 Yes.
- 17 Q I'm sorry. I thought you told the State earlier --
- 18 A I went to Walmart. I mean, I went shopping. I went to
- 19 Walmart and bought some things. I mean, I had to get a
- 20 thermometer. I had to get some stuff to get throw up off the
- 21 floor with. I had -- I mean, I just went out and grabbed a
- 22 few things while my friend sat in the car with her. That's
- 23 all I done. I mean, she's got to have medicine. She's sick.
- 24 She's running a fever.
- 25 Q So shopping wasn't shopping is what you're saying now?

Brooke Squires - Cross by Ms. Wilson

215

1 It was actually just running to get supplies?

2 A I went in a store to purchase something with bags. So I  
3 was shopping. I was in Walmart.

4 Q Okay.

5 A Excuse me, I was in Walmart buying things. My God.

6 Q Now, when you spoke with the police and you gave a  
7 statement you did say, however, and previously you said  
8 something about you wouldn't insert your hands or, or look at  
9 her while she bathed; correct?

10 A Yeah.

11 Q But you did say in one of the police reports or it was  
12 something that you gave to fire and rescue that you saw blood;  
13 didn't you; correct?

14 A I told them. I, I -- no. I don't, I don't know, ma'am.  
15 I can't recall, but I told the law everything that I found,  
16 everything that she told me and I -- that's when they took her  
17 and examined her.

18 Q Okay. And --

19 A And that's their job. That's what they do and that's  
20 what --

21 Q And I appreciate that you understand what their job is,  
22 but I'm asking you a specific question, and you -- it sounds  
23 like you're telling us that you don't remember, but I'm asking  
24 for --

25 A I do not recall. That's what I just said.



1 Q Do not recall telling the police that you checked Minor 's  
2 rectum --

3 A I hadn't --

4 Q -- that there was blood around it; is that correct?

5 A No. I do not remember that at all.

6 Q Okay.

7 MS. WILSON: No further questions, Your Honor.

8 THE COURT: All right. Redirect?

9 MS. ANDREW: No further questions from the State, Your  
10 Honor.

11 A Thank you.

12 THE COURT: All right. You may step down.

13 A Thank you, sir.

14 THE COURT: Let's take a break. All right. Ladies and  
15 gentlemen, we're going to take a short break, about a 10 or  
16 15-minute break, give you an opportunity to stretch your legs,  
17 use the restroom, get something to drink, whatever the case  
18 may be. Do not discuss the case even among yourselves. It's  
19 too early for deliberations. Don't conduct any independent  
20 investigations. We'll take about a 15-minute break and we'll  
21 come back in just a minute. Thank you.

22 (Whereupon, the following take place outside the presence  
23 of the jury.)

24 THE COURT: All right. Anything from the State before we  
25 recess?

State v. Davis

217

1 MS. ANDREW: Nothing from the State, Your Honor.

2 THE COURT: All right. I think you had an objection you  
3 wanted to place on the record?

4 MS. WILSON: Yes, sir. I think there were a couple of  
5 things, and I've got to find where I noted them. The  
6 original, Your Honor, was to the, to the pointing by the  
7 witness, Minor to the Exhibits Number Two and Three  
8 that the State presented. My issue there is that the child  
9 was not actually saying anything and the Judge -- the Court  
10 did sustain that objection for the State actually reflecting  
11 back and testifying on behalf of the child. However,  
12 subsequently, the child was pointing again, and I think at  
13 that point there was not actually anything verbal that was  
14 placed into the record, but the jury would have seen the  
15 pointing and I'm, you know, I, I still find that that's  
16 objectionable. The child's testimony was not on the record at  
17 that point.

18 THE COURT: Well, and I understand with regard to State's  
19 Exhibits Two and Three, I let them use -- they were marked for  
20 identification. I let them use them for demonstrative  
21 purposes. I did sustain your objection when the State started  
22 testifying for the child --

23 MS. WILSON: Yes, sir.

24 THE COURT: -- because the child was not giving verbal  
25 responses but was pointing, but I think that's sufficient.

1 The child was on the stand. She pointed to what she asked and  
2 she responded. So I overrule any objection you have in that  
3 regard with the exception of sustaining the State's recitation  
4 of what the testimony was.

5 MS. WILSON: And Your Honor, the final objection --

6 MS. ANDREW: I'd like to respond to that just to put it  
7 on the record, Your Honor, briefly, and you've --

8 THE COURT: Well, I've -- yeah. I've already ruled.

9 MS. WILSON: Right. Finally, Your Honor, I think the  
10 other objection and I'm having to go back and try to remember.  
11 I tried to write it down, was when Brooke Squires was saying  
12 what my client said.

13 THE COURT: Right.

14 MS. WILSON: I certainly understand that she gets to  
15 testify about what she and Minor discussed because she is the  
16 outcry witness. My problem there is that she doesn't get to  
17 get up and testify to what my client, what she is saying my  
18 client was saying to another person. Now, she can say that --  
19 I don't have any objection to the fact that she gets to say  
20 that the child was made to wear certain clothes, but she  
21 doesn't get to say that my client said this or that. I think  
22 that was improper hearsay testimony that was entered in.

23 THE COURT: All right.

24 MS. WILSON: Again, I understand this witness's right to  
25 testify about what she observed, but when she gets into a

State v. Davis

219

1 statement that she is saying that my client made, I think it's  
2 inappropriate.

3 THE COURT: All right.

4 MS. WILSON: And that was the basis of my objection  
5 there, what she said he said, not that it happened but what  
6 she says that he said when she's literally quoting him on the  
7 stand.

8 THE COURT: All right. Well, your client is the  
9 Defendant. It's not hearsay. It was a statement against  
10 interest, and she was present when it was said. So I  
11 overruled your objection on that, and I allowed it.

12 MS. WILSON: Yes, sir. Thank you, Your Honor.

13 THE COURT: All right. Anything else?

14 MS. WILSON: I don't believe so. I don't know if I had  
15 anything else.

16 MS. ANDREW: Nothing from the State.

17 THE COURT: Okay. Those are the only two I had.

18 MS. WILSON: Okay. Thank you.

19 THE COURT: All right. All right. Anything from the  
20 Defense before we take a recess?

21 MS. WILSON: No, sir.

22 THE COURT: All right. We'll be in recess for about 15  
23 minutes.

24 MS. WILSON: All right. Thank you, Your Honor.

25 THE COURT: All right. Thank you.

1 OFF THE RECORD

2 (On the record. The following takes place outside the  
3 presence of the jury.)

4 THE COURT: Thank you very much. Please be seated. All  
5 right. Anything from the State before we bring the jury in?

6 MS. ANDREW: Nothing from the State, Your Honor.

7 THE COURT: Anything from the Defense?

8 MS. WILSON: No, sir, Your Honor.

9 THE COURT: All right. Let's bring the jury in.

10 (Whereupon, the following takes place in the presence of  
11 the jury.)

12 THE COURT: All right. Ladies and gentlemen, welcome  
13 back. We're ready to resume the trial of the case. Ms.  
14 Andrew, Ms. Walter, the State can call your next witness.

15 MS. WALTER: Your Honor, the State calls Owen Kellis.

16 THE COURT: All right.

17 Whereupon, Owen Kellis is called to the stand, duly sworn  
18 by the clerk and testified as follows:

19 THE CLERK: Please state your name and spell your name  
20 for the Court.

21 MR. KELLIS: May name is Owen Kellis, O-W-E-N, K-E-L-L-I-  
22 S.

23 MS. WALTER: May I, Your Honor?

24 THE COURT: Yes. Go ahead.

25 DIRECT EXAMINATION

Owen Kellis - Direct by Ms. Walter

221

1 BY MS. WALTER:

2 Q Good morning, Mr. Kellis. First of all, well, where do  
3 you -- can you tell the jury where you work?

4 A I work with Horry County Fire Rescue.

5 Q And what is your position there?

6 A I'm a firefighter paramedic. I'm currently assigned to  
7 station eight.

8 Q And you're actually currently on family leave because  
9 your wife just had a baby?

10 A Yes.

11 Q Well, thank you very much.

12 A That's why I have this.

13 Q Thank you for coming in. Can you tell us what your  
14 duties are as a firefighter EMT for Horry County?

15 A As a paramedic I always -- I'm always on the ambulance  
16 with an EMT partner and then we respond to both medical calls  
17 and any sort of fire-related calls as a firefighter, and we  
18 transport people to the hospital whenever they get hurt or  
19 want to go to the hospital for evaluation.

20 Q How long have you worked for Horry County?

21 A Since 2014.

22 Q So it's safe to say that you were working back in March  
23 of 2016?

24 A Yes.

25 Q Directing your attention specifically to March 14<sup>th</sup> of

1 2016, did you receive a call that took you to [REDACTED]  
2 within Horry County?

3 A Yes. We did.

4 Q Can you tell us what that call was?

5 A It was for a sexual assault or a reported sexual assault  
6 of a minor.

7 Q Did you, in fact, go to that address?

8 A Yes. We did.

9 Q And when you got there what did you see?

10 A If you have a copy of my chart I could read off of it or  
11 refresh my memory to get it more accurate.

12 Q Okay.

13 MS. WALTER: And Your Honor, I've marked this as State's  
14 Exhibit Four for identification only.

15 MS. WILSON: No objection, Your Honor.

16 THE COURT: What are we, putting it in evidence or --

17 MS. WILSON: It's for identification.

18 MS. WALTER: No. This is just for identification so he  
19 can refresh his recollection.

20 THE COURT: Identification. Okay. All right.

21 BY MS. WALTER:

22 Q So if you want to just use that to refresh your  
23 recollection and then turn it over and we can continue.

24 A I'm sorry. What was the question?

25 Q What did you see when you got to that location?

Owen Kellis - Direct by Ms. Walter

223

1 A When we got there we'd, we'd initially staged for the  
2 police to show up just to make sure the scene was secure and  
3 we got there and there was an Horry County Police Officer and  
4 an eight-year-old female minor and the babysitter was there.

5 Q And do you see that eight-year-old minor in court with us  
6 today?

7 A Yes. I do.

8 Q Okay. And when you got there did you speak with Minor

9 A Yes. I did.

10 Q Without -- did you ask her what had happened?

11 A She told me what had happened.

12 Q And without telling us any names that she gave you, can  
13 you tell us what she said had happened to her?

14 A She said someone had stuck their dinky in her front and  
15 back since January, and the last, the last time it had  
16 happened was March 11<sup>th</sup>.

17 Q And did Minor indicate any particular part of her body  
18 that was bothering her?

19 A She was complaining of pain in her rectum.

20 Q Did you try to question Minor further about what had  
21 happened?

22 A Yeah. I tried to get some more details to better  
23 understand the pain she was having and, and what, just to  
24 describe it a little bit better and she started to kind of  
25 hyperventilate and get a little anxious and kind of shut down



1 and didn't answer any other questions for me.

2 Q So what did you do when Minor shut down?

3 A I tried to calm her down a little bit. I gave her my  
4 phone and let her watch SpongeBob on YouTube.

5 Q And were you able to have any further conversation with  
6 Minor at that point?

7 A Not really. No. She didn't, she didn't answer very many  
8 other questions beyond those two.

9 Q Did you, in fact, do any type of physical exam on her?

10 A I did notice, I believe she had a bruise to her left  
11 knee, but because she was a minor I chose to let the experts  
12 in this type of call handle it at the hospital. So I didn't,  
13 I didn't really examine her much beyond what I could visually  
14 see in the clothes she was wearing.

15 Q Okay. Did you, in fact, take her to the hospital?

16 A Yes. We took her to Conway Hospital.

17 Q Once you got her to the hospital what further involvement  
18 did you have with her?

19 A I gave a report to the SANE nurse that was working that  
20 day and told her everything that Minor had told me and what I  
21 had found and her vital signs and then we cleared up and went  
22 back in service for another call.

23 MS. WALTER: Nothing further at this time, Your Honor.

24 THE COURT: All right. Cross examination?

25 MS. WILSON: Thank you, Your Honor.

Owen Kellis - Cross by Ms. Wilson

225

1 CROSS EXAMINATION

2 BY MS. WILSON:

3 Q Should I call you Officer Kellis or Mr. Kellis?

4 A You can call me Mr. Kellis. That's fine.

5 Q All right. Thank you.

6 A You can call me Owen, if you want.

7 Q Okay. Thank you. You noted that the assault was alleged  
8 to have occurred on March 11<sup>th</sup>; correct?

9 A That was the -- that was the timeframe that I had written  
10 down in my chart that she said it had happened.

11 Q Okay. Yes, sir. And now, when this complaint was made  
12 it was that the child was having pain in her rectum; is that  
13 what you were told? I'm, I'm --

14 A That's what she, that's what she told me.

15 Q That's --

16 A If I can read this will quick I can just refresh --

17 Q Yes, sir. Please take your time.

18 A -- a little bit more. So I'm sorry. What was the  
19 question again?

20 Q That the complaint was that there was pain in the rectum;  
21 correct?

22 A Yes. That's what she was -- she told me that she --  
23 where she was hurting.

24 Q And did you have any complaint from the nanny about there  
25 being blood found at the rectum site?

- 1 A The nanny said that -- this whole call came in when, when  
2 the nanny told Minor that she was -- her father was coming  
3 home, and she told them everything that had happened and the  
4 nanny did tell me that she had found her panties to be inside  
5 out and that she found some blood on them earlier.
- 6 Q Okay.
- 7 A Which was unusual.
- 8 Q On the panties or in the rectum?
- 9 A On the panties.
- 10 Q Okay. Now, do you recall making a note about blood being  
11 noticed around the rectum that morning per the nanny?
- 12 A Let me double check again what I wrote down.
- 13 Q Yes, sir. It would be on page two.
- 14 A Okay.
- 15 Q So then your notes reflect that the nanny told you at  
16 that time that she had found blood at the child's rectum; is  
17 that correct?
- 18 A Yes.
- 19 Q All right.
- 20 A Along with the panties being inside out.
- 21 Q Yes, sir.
- 22 A Which was unusual.
- 23 Q And, all right. Now, you don't have any firsthand  
24 knowledge of anything in this case; correct?
- 25 A As referred to what?

Owen Kellis - Redirect by Ms. Walter

227

1 MS. WALTER: Objection. He's already testified as to  
2 first-hand knowledge if we could get more specific perhaps.

3 MS. WILSON: I guess I --

4 THE COURT: Well, I mean, I think the question was did he  
5 witness any abuse.

6 MS. WILSON: Yes.

7 THE COURT: All right.

8 MS. WILSON: Thank you.

9 A No, no, I did not witness any abuse.

10 Q Okay.

11 MS. WILSON: The Court's indulgence.

12 BY MS. WILSON:

13 Q You said you took, you took the child to the hospital?

14 A Correct. In the back of our ambulance.

15 Q And you said the only thing you physically observed other  
16 than just general vitals was the bruise to the knee?

17 A Correct. I didn't -- I didn't feel it was prudent to  
18 undress her in the back. I let the SANE nurse do that at the  
19 hospital.

20 Q Okay. All right. No further questions.

21 THE COURT: Redirect?

22 MS. WALTER: Just very briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. WALTER:

25 Q I just want to clarify something, counsel asked -- said

1 to you that assault took place on March 11<sup>th</sup>, but didn't you  
2 testify that Minor actually told you she had been assaulted  
3 since January of that year?

4 A Yes. She did. She said it started in January.

5 Q March 11<sup>th</sup>, what was the significance of the March 11<sup>th</sup>  
6 date?

7 A She said, she said the last time it happened was three  
8 days ago. So that would put it at the 11th.

9 Q And counsel also asked you about some physical  
10 observations. Would those physical observations include, I  
11 believe, you described the hyperventilating?

12 A Yes.

13 Q And distress?

14 A Yes. She, she appeared to be very anxious and  
15 hyperventilated and started -- refused to answer other  
16 questions.

17 Q Okay. Thank you very much.

18 MS. WALTER: Nothing further, Your Honor.

19 THE COURT: All right. You may step down.

20 A Thank you.

21 THE COURT: All right. The State can call your next  
22 witness.

23 MS. WALTER: The State calls Michael, excuse me, Your  
24 Honor, Keville.

25 Whereupon, Michel Keville is called to the stand, duly

Michael Keville - Direct by Ms. Walter

229

1 sworn by the clerk and testified as follows:

2 THE CLERK: Please state your name and spell your name  
3 for the Court.

4 MR. KEVILLE: My name is Michael Keville, M-I-C-H-A-E-L,  
5 K-E-V-I-L-L-E.

6 MS. WALTER: May I, Your Honor?

7 THE COURT: Yes.

8 DIRECT EXAMINATION

9 BY MS. WALTER:

10 Q Still good morning, Mr. Keville. How are you?

11 A Good morning. Good. Thank you.

12 Q Can you tell the jury where you work?

13 A I work in upstate New York in Madison County, which is  
14 just east of the City of Syracuse.

15 Q What do you do there?

16 A Last November, November of 2017, I was elected to be the  
17 county clerk for Madison County.

18 Q What are your duties as the county clerk?

19 A As county clerk I have three main functions. I'm in  
20 charge of -- I'm the custodian for all civil and criminal  
21 court cases. I'm in charge of the department of motor  
22 vehicle, and my office handles all of the recording of land  
23 records, so mortgages and deeds.

24 Q So let's focus just on the criminal records part of your  
25 job. As part -- are part of your duties the maintenance of

1 records of criminal convictions that have occurred in Madison  
2 County?

3 A Yes.

4 Q Do you maintain those records in the normal course of  
5 business?

6 A Yes. We have filing cabinets, and in our main office and  
7 the downstairs in the basement of our county building we have  
8 shelves and shelves and shelves and boxes and boxes and boxes  
9 of criminal case files and civil case files.

10 Q Those records would contain records of any conviction  
11 that occurred in Madison County?

12 A Correct.

13 Q At some point did you receive a request from the  
14 Solicitor's Office to search for a record of conviction for  
15 the Defendant, Leslie Davis?

16 A Yes. My office was asked to search the criminal case  
17 files that we have and see if we had a record of conviction  
18 for the Defendant.

19 MS. WILSON: Excuse me. Could we approach? Your Honor,  
20 I have an issue.

21 THE COURT: All right.

22 MS. WILSON: An objection.

23 (Whereupon, a bench conference is held in the presence,  
24 but out of the hearing of the jury.)

25 THE COURT: All right. Ladies and gentlemen, I need to

Michael Keville - Direct by Ms. Walter

231

1   excuse you to the jury room for just a minute while we take up  
2   a matter of law, and I'll tell you why we excuse you to the  
3   jury room. It's not that we're hiding anything from you or  
4   keeping anything from you, but as I told you in the opening  
5   charges, you, and you alone decide the facts of the case. I  
6   decide the law to be applied in the case. Well, we've reached  
7   a point in the trial where there is a question of law as to  
8   what's to be applied. Well, oftentimes, when I discuss the  
9   law with the attorneys or the attorneys make their argument on  
10   which law to be applied it requires us to reference factual  
11   issues. Well, what I say and what the attorneys say is not  
12   evidence. So we don't want you to be influenced by anything  
13   that I might say or anything that the attorneys might say. We  
14   don't want that to influence your decision on what the facts  
15   are and that's why we excuse you to the jury room. So I'm  
16   going to excuse you to the jury room for just a few minutes  
17   and we'll bring you back out in just a second. Okay.

18       (Whereupon, the following takes place outside the  
19   presence of the jury.)

20       THE COURT: All right. Ms. Wilson, what's your  
21   objection?

22       MS. WILSON: Your Honor, my objection is that I  
23   appreciate -- I understand the Court has clearly ruled about  
24   the entry of this conviction into or being allowed to be  
25   presented in this case. My concern here and my problem with



Michael Keville - Direct by Ms. Walter

232

1 it is that while Mr. Keville is here to basically establish  
2 that my client does have a record, this certificate of  
3 conviction, Your Honor, is not signed by him. It is  
4 apparently certified by someone who is not present. It is a  
5 clocked copy it appears from 2002, October 25<sup>th</sup>, 2002, and  
6 while it does certify the conviction, it is not  
7 contemporaneous with this clerk's, I guess, testimony.  
8 Certainly it should not have been difficult to bring down an  
9 actual certificate that reflects this current date and time to  
10 be presented to this jury, and I don't really understand why  
11 there's an old copy but a current clerk.

12 THE COURT: All right.

13 MS. WILSON: And I'm saying that it would be insufficient  
14 to -- I -- the testimony is what it is, but certainly the  
15 actual certificate I think is lacking.

16 THE COURT: All right. What's the State's position?

17 MS. WALTER: Your Honor, I have a number of responses to  
18 that. Number one by Ms. Kia's logic, we would have to,  
19 essentially, resurrect long gone clerks anytime we wanted to  
20 prove a conviction that occurred after their term of office or  
21 after they passed. That's simply not what the law requires.  
22 Mr. Keville is a custodian of records as the clerk for Madison  
23 County, and I can pass up either a copy if Your Honor wants a  
24 copy, but this is State's Exhibit Five. If Your Honor looks  
25 at the certification, it is certified by this witness.

Michael Keville - Direct by Ms. Walter

233

1 THE COURT: Okay. Anything in reply?

2 MS. WILSON: Your Honor --

3 MS. WALTER: And I can also address the 2002 issue.

4 THE COURT: Hold for a second. All right. Finish your  
5 arguments.

6 MS. WALTER: It's just more of a factual explanation.  
7 There was a change in the law in New York, and they just  
8 needed a different form and the -- I was planning on having  
9 Mr. Keville testify to this, but they just needed a different  
10 form. He actually brought with him today the original, what  
11 would you call it, like a sentencing sheet, for lack of a  
12 better word, with him, but this is what was required by New  
13 York law after the change in the law, and that's why it's a  
14 dated 2002 for a 1986 conviction.

15 THE COURT: All right. Anything in reply?

16 MS. WILSON: And again, Your Honor, certainly I don't  
17 expect that the Solicitor's Office has life-restoring powers.  
18 I do, however, expect that this clerk, who has the authority  
19 to certify, and I know they're saying this is certified,  
20 certainly this is not a copy signed by him.

21 MS. WALTER: It is.

22 MS. ANDREW: It is signed by him.

23 MS. WILSON: I need to finish my sentence. Thank you.  
24 The deputy clerk is Charlene Brissett [spelled phonetically].  
25 He does have a, a -- I guess, I don't know how you would.

1 MS. WALTER: Certification.

2 MS. WILSON: Stamp on here with his signature saying that  
3 he is verifying -- however -- that it's the same thing in the  
4 court of record. My problem, Your Honor, is that I don't  
5 understand why it's not current, and I don't understand why  
6 this clerk wouldn't bring a current copy clocked recently or  
7 at least in preparation for this trial. Why are we using a  
8 2002 copy to be certified? I'm unclear about that.

9 MS. WALTER: Because it ==

10 THE COURT: No. She makes her argument.

11 MS. WALTER: Okay.

12 THE COURT: You argue against. She gets a reply. That's  
13 it.

14 MS. WALTER: I am standing quiet.

15 THE COURT: All right. Anything further?

16 MS. WILSON: Your Honor, just that, again, I don't have  
17 any problem with the testimony. I understand he gets to talk  
18 about what his job is and what he's saying my client's record  
19 is. I'm just asking and arguing against the sufficiency of  
20 this particular document.

21 THE COURT: All right. I'm going to overrule it.

22 MS. WILSON: Yes, sir.

23 THE COURT: I'm going to allow her to continue with her  
24 questioning.

25 MS. WILSON: Yes, sir.

Michael Keville - Direct by Ms. Walter

235

1 MS. WALTER: Thank you, Your Honor.

2 MS. WILSON: Thank you, Your Honor.

3 THE COURT: All right. Anything from the State before we  
4 bring the jury in?

5 MS. WALTER: No, Your Honor.

6 THE COURT: Anything from the Defense?

7 MS. WILSON: Nothing else, Your Honor. Thank you.

8 THE COURT: All right. Let's bring the jury back in.

9 (The following takes place in the presence of jury.)

10 THE COURT: All right. Ladies and gentlemen, welcome  
11 back. Ms. Walter, you can continue with your questioning.

12 MS. WALTER: Thank you, Your Honor. Just so that we can  
13 get back to where we were.

14 BY MS. WALTER:

15 Q I think I had asked you if you -- if we requested that  
16 you conduct a search for a certified record of conviction for  
17 the Defendant, Leslie Davis?

18 A Yes. My office was asked to search our criminal case  
19 files and find the, the record that showed that he had been  
20 convicted.

21 Q Did you, in fact, find a record that indicated he had  
22 been convicted?

23 A One of my staff found the record, and it was certified  
24 with my signature, and it was sent to your office.

25 Q And that certification is done in your position as the

1    custodian of all of those records?

2    A     That's correct. I'm the county clerk, and I have five  
3    acting deputy county clerks who have authorization to use my  
4    signature for the signature stamp for records that need to be  
5    certified. So if somebody needs a certified copy of a deed  
6    they'll put my stamped signature on it after they make a copy  
7    of the deed, the same thing with criminal case records. When  
8    civil case records get filed in our office, when somebody sues  
9    someone, it gets stamped into the office and that -- and my  
10   signature is, is placed there as well.

11   Q     Okay.

12           MS. WALTER: And Your Honor, I'm going to approach with  
13   State's Exhibit Five which has already been shown and provided  
14   to the Defense.

15           THE COURT: All right.

16   BY MS. WALTER:

17   Q     I'm showing you State's Exhibit Five. Do you recognize  
18   that?

19   A     Yes. This is a photocopy of the certificate of conviction  
20   that was in the case file for Leslie Davis's 1986 case.

21   Q     And that orange stamp on the bottom is that the stamp  
22   that your office put on?

23   A     It's a red stamp at the bottom.

24   Q     Red stamp, sorry.

25   A     And yes. That's the stamp that was put on there by one

Michael Keville - Direct by Ms. Walter

237

1 of my staff --

2 Q Okay.

3 A -- or one of my acting deputy clerks.

4 MS. WALTER: And Your Honor, at this time I would ask  
5 that State's Exhibit Five be admitted into evidence and  
6 publish to the jury.

7 THE COURT: All right. Objection?

8 MS. WILSON: Your Honor, just with my prior objection  
9 noted. Thank you.

10 THE COURT: All right. State's Exhibit Five admitted  
11 into evidence over Defendant's objection. You can go ahead  
12 and publish it.

13 MS. WALTER: Thank you.

14 (State's Exhibit Number Five [Conviction Record] admitted  
15 into evidence and appropriately marked.)

16 BY MS. WALTER:

17 Q Well, before I publish it --

18 THE COURT: Okay.

19 Q -- there is also a timestamp on the side of this  
20 certificate of conviction that is dated 2002?

21 A Correct.

22 Q What's the date of the Defendant's conviction in this  
23 case?

24 A So am I allowed to read from --

25 Q Yes.

1 A -- can I read from this? This says Leslie Davis was  
2 convicted in Madison County of rape in the first degree. The  
3 Defendant was sentenced by the Honorable Hugh C. Humphreys  
4 [spelled phonetically] on October 1<sup>st</sup> -- on October 21<sup>st</sup>, 1986.  
5 The Defendant received a sentence of five to 15 years in state  
6 prison.

7 Q Okay. So 1986 was the date of the conviction?

8 A Correct. And then this, this document was created and  
9 stamped in in 2002 ==

10 Q And can you tell us --

11 A -- and added to the file.

12 Q You guys can look at that. Just pass it around. Can you  
13 tell us why the certificate of conviction is dated 2002 or  
14 stamped 2002 for the 1986 conviction?

15 A So in 1986 it was not standard protocol for this  
16 particular type of document to be added to all of our criminal  
17 conviction cases. At the time the record that was in the  
18 file, and I brought a certified copy with me today as well if  
19 it's needed by the Court, would have -- was what was called a,  
20 a commitment order. So the judge would sign a triplicate form  
21 that said where the Defendant, who had been convicted at that  
22 point, where he was going to be serving his time, and that  
23 form said whether or not it was a jury trial or a guilty plea  
24 and what the terms were and where they were going to be  
25 serving their time, which is why it's called a commitment

Michael Keville - Direct by Ms. Walter

239

1 order. In 2002, they went back into this case and added this  
2 so that if anybody needed something out of the file in the  
3 future that would be there. They would do this regularly if,  
4 if somebody had another arrest for something else and they  
5 needed to furnish proof rather than sending the certified copy  
6 of the triplicate form, they would produce this record. It  
7 would be created by the court. It would be added to the file  
8 and then they would send a certified copy like we did in this  
9 case.

10 Q And based on your functions and duties as the county  
11 clerk, do you know whether this conviction for rape in the  
12 first degree required the Defendant to register as a sex  
13 offender?

14 A Yes. It did. In reviewing the file in total, there are  
15 two different sex offender registry evaluations in the case  
16 file, one that was done at the time of his release. He was  
17 released in 1996, and he was put at a level III at that point.  
18 In New York State there was a lawsuit and in the early 2000s  
19 that challenged our methodology of creating what they call a  
20 SORA score. The state lost the case. So the state was forced  
21 to go through and county district attorneys had to open up  
22 case files for some sex offenders and reevaluate their, their  
23 SORA score. Leslie Davis was one of those that was  
24 reevaluated, and when he was reevaluated his second score was  
25 also included in the case file, which I reviewed, and he even



1 after that second review was still a level III sex offender.

2 Q And when you say SORA score that's the sex offender  
3 registry?

4 A Yes.

5 Q And so the fact that he was classified as a level III  
6 means he was required certainly by New York to register as a  
7 sex offender?

8 A Correct.

9 MS. WALTER: Nothing further at this time, Your Honor.

10 THE COURT: All right. Cross examination?

11 MS. WILSON: Just very briefly, Your Honor.

12 CROSS EXAMINATION

13 BY MS. WILSON:

14 Q Mr. Keville or should I call you clerk? I don't -- Clerk  
15 Keville?

16 A Sure.

17 Q You clearly are just reciting information that you're  
18 aware of; correct?

19 A Correct.

20 Q And you have no firsthand knowledge about the actual  
21 allegations of assault in this case; do you?

22 A For this case?

23 Q For the one that you're here --

24 A That we're here testifying about. I do not have any  
25 firsthand knowledge. No.

Michael Keville - Cross by Ms. Wilson

241

1 Q Okay. And you -- actually, you don't have any firsthand  
2 knowledge about what happened back then either; do you? Did  
3 you witness something in that case?

4 A I didn't witness anything. I reviewed all of the signed  
5 and most of the records that I've reviewed in the case were  
6 either signed by an official or were notarized.

7 Q Actually, I'm talking about the actual base for the  
8 allegations, you don't have any firsthand knowledge about  
9 that?

10 A The event. No. I wasn't involved in the event.

11 Q All right. Thank you.

12 MS. WILSON: No further questions, Your Honor.

13 THE COURT: Redirect.

14 MS. WALTER: No, Your Honor.

15 THE COURT: All right. You may step down.

16 A Thank you very much.

17 THE COURT: Thank you.

18 MS. WALTER: Your Honor, may we approach momentarily?

19 THE COURT: All right.

20 (Whereupon, bench conference was held in the presence but  
21 out of the hearing of the jury.)

22 THE COURT: All right. Ladies and gentlemen, we're going  
23 to go ahead and break for lunch. I'm going to allow you to go  
24 to lunch on your own today. I'm going to give you an hour and  
25 a half. Please be back at 1:30. Okay? Do not discuss the

1 case. Do not discuss it even among yourselves. It's too  
2 early for deliberations. Don't conduct any independent  
3 investigations. I hope everybody has a good lunch and we'll  
4 see you back at 1:30. Thank you very much.

5 (Whereupon, the following takes place outside the  
6 presence of the jury.)

7 THE COURT: All right. Anything from the State before we  
8 break for lunch?

9 MS. ANDREW: Nothing, Your Honor.

10 THE COURT: Anything from the Defense?

11 MS. WILSON: Your Honor, just renewing any and all  
12 motions, excuse me, motions and objections that were overruled  
13 prior to in pretrial motions and, of course, now again at the  
14 time of this admission. I objected, but I want to make sure I  
15 preserved it.

16 THE COURT: All right. Well, I'm letting my prior  
17 rulings stand.

18 MS. WILSON: Yes, sir.

19 THE COURT: All right.

20 MS. WILSON: Thank you.

21 THE COURT: All right. We'll be in recess till 1:30.

22 MS. WILSON: Yes, sir. Thank you.

23 THE COURT: Thank you.

24 OFF THE RECORD

25 (Whereupon, the following takes place outside the

State v. Davis

243

1 presence of the jury.)

2 THE COURT: Thank you very much. Please be seated.

3 Thank you.

4 (Court and bailiff confer.)

5 THE COURT: All right. The bailiff just informed me that  
6 there's some of the jurors that want to take notes. So I'm  
7 going to allow them to take notes. I'll give them some  
8 preliminary instructions, but we need to get the notepads and  
9 stuff together first.

10 MS. WILSON: Yes, sir.

11 MS. WALTER: Yes, Your Honor. If we can just address two  
12 quick matters.

13 THE COURT: All right.

14 MS. WALTER: The first is more of a scheduling matter.  
15 We have three witnesses that are present here that can testify  
16 this afternoon, but we're just letting you know that we may  
17 end early --

18 THE COURT: Okay.

19 MS. WALTER: -- which gives Ms. Wilson time to review  
20 the CD with the redactions of the CRC interview. So hopefully  
21 that's not a problem with Your Honor.

22 THE COURT: All right. That'll be fine.

23 MS. WALTER: And then Ms. Wilson is not objecting to the  
24 chain of custody for the items of evidence, the rape kit, the  
25 buccal swabs and there are two sheets. So we just wanted to

1 let you know that -- that that --

2 THE COURT: All right. Have we already -- have you  
3 already marked those for ID?

4 MS. ANDREW: We have.

5 MS. WALTER: We've marked them -- we've pre-marked them  
6 and they'll -- most of them will come in this afternoon.

7 THE COURT: All right. Well, so just we'll have a  
8 record, what are the, what are the identification numbers?

9 MS. WALTER: It'll be --

10 THE COURT: What are those, State's Exhibits what?

11 MS. WALTER: State's Exhibit Six --

12 THE COURT: All right.

13 MS. WALTER: --- will be -- I'm sorry --

14 THE COURT: All right. State's Exhibit Six.

15 MS. WALTER: Will be the rape kit box.

16 THE COURT: All right.

17 MS. WALTER: State's Exhibit Seven will be the vaginal  
18 swab and slides.

19 THE COURT: All right.

20 MS. WALTER: Exhibit Number Eight will be the Defendant  
21 buccal swab.

22 THE COURT: All right.

23 MS. WALTER: Number Nine will be the victim buccal swab.

24 MS. ANDREW: Those are not open. We need gloves.

25 MS. WILSON: That doesn't actually say victim buccal

1 swab; does it?

2 MS. WALTER: No.

3 MS. WILSON: Okay.

4 THE COURT: All right.

5 MS. WALTER: No. I'm just -- that -- I'm reading my  
6 note.

7 MS. WILSON: Right. I got you.

8 THE COURT: Okay.

9 MS. WALTER: We're going to be opening this box.  
10 There'll be two sheets. So we can just say right now let's  
11 see 10 will be a white sheet and 11 would be a green sheet and  
12 then it -- there are other items that will be coming in  
13 through SLED tomorrow. Do you want me to go through and mark  
14 them now?

15 THE COURT: No. I'm just trying to get a handle of what  
16 and get Ms. Wilson to acknowledge that she is not objecting to  
17 the chain of custody. That's all I wanted to --

18 MS. WILSON: Yes, sir, and I want to check one more  
19 thing, Your Honor.

20 THE COURT: In other words, before we bring the jury in,  
21 I just wanted to get a list of exhibits or, or whatever that  
22 would otherwise require a chain of custody, but that the  
23 Defense is stipulating to so we'll have that on the record.

24 MS. WALTER: All right. Well then, why don't we just go  
25 through.

1 THE COURT: I mean, right now I've got Plaintiff's Six,  
2 Seven, Eight, Nine, 10 and 11.

3 MS. WALTER: Okay. And they'll be -- we just need to  
4 open up the box, but we want gloves --

5 THE COURT: Okay.

6 MS. WALTER: -- because of the nature of the items.

7 THE COURT: All right. Let's go ahead and get that done.  
8 Yeah. Let's go ahead and whatever -- now, I -- have you  
9 already marked these?

10 REPORTER: I have not 10 and 11.

11 THE COURT: Okay. Let's go --

12 MS. WALTER: No. They're -- we have to open up the box  
13 and use gloves.

14 THE COURT: Okay. All right. Let's go ahead and do  
15 that. That's good.

16 MS. WALTER: All right. So Number 12, let me just  
17 verify this. I think this is the cutting from the green  
18 sheet.

19 (Reporter and Court confer.)

20 MS. WILSON: And that's the green sheet is 11 and the  
21 white is --

22 MS. WALTER: Is 10.

23 MS. WILSON: -- 10, okay, and what was number 12?

24 MS. WALTER: And then -- pardon me.

25 THE COURT: That's good.

State v. Davis

247

1 MS. WILSON: You said 12?

2 MS. WALTER: Oh, 12, Your Honor, is going to be a cutting  
3 from the green sheet.

4 THE COURT: Have we got that or is that in the box?

5 MS. WALTER: That's here.

6 THE COURT: Okay.

7 MS. WALTER: So this would be 12.

8 THE COURT: All right.

9 (Court and reporter confer.)

10 THE COURT: All right.

11 MS. WALTER: So it should be, Your Honor, Six, Seven,  
12 Eight, Nine, Ten, 11 and 12.

13 THE COURT: All right. And I understand, Ms. Wilson,  
14 that you do not object to the chain of custody on those?

15 MS. WILSON: That, Your Honor, that is correct, and to be  
16 specific it is the chain involving the, the SLED report that I  
17 received from Sarah Goodman and where she tests the buccal  
18 swabs from Leslie Davis and the saliva standards from Minor  
19 Davis and the vaginal and rectal swabs, as well as a cutting  
20 from the edge of the green bed sheet. In addition to that,  
21 Your Honor, I also received a report from SLED from forensic  
22 serologist named Jessica Stowe, and in that instance she  
23 tested the green bed sheet, a cutting from the edge of the  
24 green bed sheet and the white bed sheet, and those are the  
25 items and the things that I am consenting to the chain for.



1 MS. ANDREW: And for the standards as well.

2 MS. WALTER: Yeah. She said that.

3 MS. WILSON: Yeah. I don't have a problem with the  
4 standards.

5 MS. WALTER: And Your Honor, we will have the SLED  
6 witnesses here tomorrow and we plan to introduce the SLED  
7 chain of custody which we, we usually do.

8 MS. WILSON: That's fine.

9 MS. WALTER: So that should complete it.

10 THE COURT: Okay. So the Defendant does not object to  
11 the chain of custody or standard of testing for State's  
12 Exhibits Six, Seven, Eight, Nine, Ten, 11 and 12?

13 MS. WILSON: Well, Your Honor, I may question about how  
14 they tested. I don't -- I'm not objecting to what they got or  
15 how they received it --

16 THE COURT: I got you.

17 MS. WILSON: -- and the chain.

18 THE COURT: Okay.

19 MS. WILSON: Okay.

20 THE COURT: Got you. All right. Anything further from  
21 the State before we bring the jury in?

22 MS. WALTER: No, Your Honor.

23 THE COURT: Anything from the Defense?

24 MS. WILSON: No, Your Honor.

25 THE COURT: All right. Let's bring the jury in.

1           THE COURT: Oh, so, it'd be the standard for obtaining  
2 the --

3           MS. WILSON: Yes, sir. How they actually received it,  
4 where they got it from, who gave it to them, I'm not  
5 questioning those things.

6           THE COURT: I got you.

7           MS. WILSON: Yes, sir. I figured that would save us some  
8 time.

9           (Whereupon, the following takes place in the presence of  
10 the jury.)

11          THE COURT: All right. Ladies and gentlemen, welcome  
12 back. We're ready to resume the trial of the case. I  
13 apologize for keeping you in the jury room for so long but  
14 there were some matters we needed to tend to, number one of  
15 which I understand that there are one or more of you who have  
16 asked about taking notes. So if you wish to take notes I will  
17 allow you to do so, but I've got to give you some preliminary  
18 instructions and I'll give you some more instructions on note-  
19 taking when I charge you on the law in this case. Number one,  
20 if you want to take notes you will be permitted to take notes.  
21 You are not required to take notes. If you want to you can,  
22 but you are not required to, number one. Number two, each of  
23 you will be provided a pad and a writing utensil on which to  
24 take notes. Everyone must write his or her name on the first  
25 page of that notepad because your notes are personal to you.

1 You cannot review anybody else's notes. You cannot show your  
2 notes to anyone else. So when you leave the courtroom you'll  
3 be required to leave your notes in the jury box, and when you  
4 return to the courtroom you will be given your notepad back.  
5 So write your name on the front page of each notepad that you  
6 receive.

7 Next, the purpose of note-taking is to refresh your  
8 memory of some testimony or some exhibit that you feel is  
9 important and you want to remember at a later time. So if  
10 something is said or testimony given or an exhibit introduced  
11 and you want to refresh your memory jot down a quick note to  
12 refresh your memory. Do not try to write down everything a  
13 witness says. If you try to write down everything a witness  
14 says you're not going to get all of the testimony and you're  
15 not going to be able to observe the witness while on the  
16 witness stand. So don't try to wait -- write down everything,  
17 but you will be allowed to take notes. Your notes are  
18 personal to you. Jot down things that you think might be  
19 important to refresh your memory if that's the way you want to  
20 do it. Don't try to write down everything a witness says and  
21 when you leave the courtroom you'll need to leave your notes  
22 in the jury box.

23 Now, during deliberations you'll be allowed to take them  
24 with you and I'll give you some instructions before you take  
25 them outside of the courtroom. All right.

Christopher Graham - Direct by Ms. Walter

251

1        So let's go ahead and hand out the pads. Everybody will  
2    get a pad. Everybody will get something to write with.  
3    Everybody must write his or her name on the first sheet so  
4    that you get your own notepad back. You're permitted to take  
5    notes, but not required to take notes.

6 All right. Everybody ready?

7 All right. Ms. Andrew, Ms. Walter, the State can call  
8 your next witness.

9 MS. WALTER: The State calls Chris Graham.

10 THE COURT: All right.

11       Whereupon, Christopher Graham is called to the stand,  
12   duly sworn by the clerk and testifies as follows:

13 THE CLERK: State your name and spell your name for the  
14 Court, please.

15 MR. GRAHAM: Christopher Graham, C-H-R-I-S-T-O-P-H-E-R,  
16 Graham, G-R-A-H-A-M.

17 MS. WALTER: You ready, Your Honor?

18 THE COURT: Yes, ma'am.

19 MS. WALTER: Thank you.

20 DIRECT EXAMINATION

21 BY MS. WALTER:

22 Q Can you tell the jury for whom you work?

23 A I work with the Horry County Sheriff's Office as a  
24 sergeant.

25 Q And how long have you been with the Horry County

1 Sheriff's Office?

2 A A little over 19 years.

3 Q What is your current assignment?

4 A Currently I am the sergeant over our sex offender  
5 registry and tracking division.

6 Q As part of your duties as the sergeant over the sex  
7 offender registry and tracking, do you maintain files for  
8 those individuals who reside in Horry County who are required  
9 to register as a sex offender?

10 A That's correct.

11 Q And at some point did you receive a request from our  
12 office to search your records for the registration file of the  
13 Defendant Leslie Davis?

14 A I received a subpoena, yes, about a month ago.

15 Q Okay. Now, can you describe for the jury just a little  
16 bit about how do you know if someone is required to register  
17 in Horry County?

18 A Based on what they have been convicted of in the past,  
19 whatever that charge is, we take that charge if it's out of  
20 state or -- and cross reference it with the State of South  
21 Carolina's charges and then it will indicate if they need to  
22 register as a sex offender in our state or if they've been  
23 convicted of a crime that they're convicted of that requires  
24 them to register as a sex offender, then they're required to  
25 register in our, in our state, also, which is if they reside

Christopher Graham - Direct by Ms. Walter

253

1 in this county they're required to register with the sheriff's  
2 office of that particular county.

3 Q Okay. And so in this case did the sheriff's department  
4 receive information that Mr. Davis had been convicted of rape  
5 in the first degree in New York?

6 A Correct.

7 Q And was that comparison done to see whether or not he was  
8 required to register in South Carolina?

9 A Yes. Upon receiving a file and the information, we run a  
10 criminal history of the subject and make sure that the charge  
11 that he has -- he was convicted of. We cross reference that  
12 with the State of South Carolina's statute or the charge and  
13 if we need additional help on that we contact the law  
14 enforcement, the South Carolina Law Enforcement Division and  
15 them, as well as us, we'll make that -- they'll make that  
16 determination based on what criterias we determine, whether he  
17 is required to register.

18 Q Was it determined that Mr. Davis did, in fact, have to  
19 register in South Carolina?

20 A Yes.

21 Q When did he first register?

22 A I don't know the exact -- well, I do know the exact date.  
23 It was -- I think it was June the 22<sup>nd</sup> of 2015.

24 Q Are there different levels of registration -- I'm not  
25 going to go too far into the weeds with this, but are there

1 different levels of registration requirements, tier three and  
2 others?

3 A Yeah. Basically there's a -- there's two of the most  
4 common. One is they have to register twice a year as a tier  
5 one or tier two, and a tier three they have to register  
6 quarterly, which is about every three months.

7 Q Which tier is Mr. Davis in?

8 A He is a tier three, which requires him to come in every  
9 90 days or every three months.

10 Q And prior to March 14<sup>th</sup> of 2016, when was the last time  
11 that he had registered?

12 A The last time that we -- he registered in our office was  
13 January the 12<sup>th</sup> of 2016.

14 Q So he was on schedule at that point?

15 A Yes.

16 Q And he had registered from -- June 22<sup>nd</sup>, 2015, through  
17 January of 2016?

18 A That's correct.

19 MS. WALTER: Nothing further at this time, Your Honor.

20 THE COURT: All right. Cross examination?

21 MS. WILSON: Thank you, Your Honor.

22 CROSS EXAMINATION

23 BY MS. WILSON:

24 Q Sergeant Graham.

25 A Yes, ma'am.

Christopher Graham - Cross by Ms. Wilson

255

1 Q You are testifying about what you have first-hand  
2 knowledge of here --

3 A Correct.

4 Q -- which is what you do for a living right now, which is  
5 you're in charge of the sex offender registry?

6 A Correct.

7 Q Correct? And that's your sole purpose; right, here  
8 today; correct?

9 A Here today, yes, ma'am.

10 Q And that means that you were not present nor did you  
11 witness any sexual assault; correct?

12 A I know nothing about it.

13 MS. WILSON: Thank you, Your Honor. No further  
14 questions.

15 THE COURT: Redirect?

16 MS. WALTER: None, Your Honor.

17 THE COURT: All right. You may step down.

18 MS. WALTER: Your Honor, our next witness is in the  
19 waiting room.

20 THE COURT: All right.

21 MS. WALTER: So if I may step out. The State will be  
22 calling Janet Moore.

23 THE COURT: All right.

24 Whereupon, Janet Moore is called to the stand, duly sworn  
25 by the clerk and testified as follows:



1 THE CLERK: Please state your name and spell your name  
2 for the Court.

3 MS. MOORE: Janet Moore, J-A-N-E-T, M-O-O-R-E.

4 MS. WALTER: You ready, Your Honor?

5 THE COURT: Yes.

6 DIRECT EXAMINATION

7 BY MS. WALTER:

8 Q And Ms. Moore, while it's obvious from your attire today,  
9 can you tell us what you do for a living?

10 A I'm a nurse.

11 Q And where are you currently employed?

12 A Conway Medical Center.

13 Q How long have you been with Conway Medical Center?

14 A 19 years.

15 Q So it's safe to say that you were working there back on  
16 March 14<sup>th</sup> of 2016?

17 A Yes.

18 Q Where, in fact, which part of the hospital were you  
19 working in at that time?

20 A The emergency department.

21 Q And what were your duties as an ER nurse?

22 A Direct patient care, medications, wound care.

23 Q And when you say direct patient care, you mean are you  
24 talking that you direct others to do patient care or you have  
25 direct contact with patients?

Janet Moore - Direct by Ms. Walter

257

1 A Both.

2 Q Okay. And on that do you ever have any special  
3 responsibilities if a person comes in who's -- claims to be  
4 the victim of a sexual assault?

5 A Yes.

6 Q What are those responsibilities? What do you do?

7 A I have been trained back in 2011 I was trained as a  
8 sexual assault nurse examiner.

9 Q Okay. And what does a sexual assault nurse examiner do?

10 A Basically we assess the patient, do head-to-toe triage  
11 and then if it's warranted we do a sexual assault kit.

12 Q And where do you get the sexual assault kit? Is that  
13 provided by the police officers?

14 A Yes.

15 MS. WALTER: Your Honor, I'm going to show Ms. Moore  
16 what's been marked as State's Exhibit Six.

17 THE COURT: All right.

18 MS. WALTER: May I approach the witness, Your Honor?

19 THE COURT: Yes.

20 BY MS. WALTER:

21 Q I'm showing you what's been marked State's Exhibit Six.  
22 Do you recognize that?

23 A Yes.

24 Q And what do you recognize it to be?

25 A It is a protocol kit for a sexual assault.

1 Q Okay. And I'm just going to leave this here for a  
2 second. Back on March 14<sup>th</sup> of 2016 did you, in fact, come into  
3 contact with a Ms. Minor who was the victim of a sexual  
4 assault?

5 A According to my notes, yes.

6 Q Okay. Is that the rape kit that was used on Ms. Davis?

7 A Yes.

8 MS. WALTER: And Your Honor, at this time I'd ask that  
9 Exhibit Six be entered into evidence.

10 THE COURT: Any objection?

11 MS. WILSON: Without objection, Your Honor.

12 THE COURT: All right. State's Exhibit Six admitted into  
13 evidence without objection.

14 (State's Exhibit Number Six [Protocol Kit] admitted into  
15 evidence and appropriately marked.)

16 BY MS. WALTER:

17 Q Can you tell us what happens, what do you do with that  
18 kit?

19 A Well, inside the kit there is a number of swabs and  
20 envelopes. We take swabs starting from the head and we work  
21 our way down. We do -- when a person comes in that has been  
22 sexually assaulted, the first thing we do is the head-to-toe  
23 assessment, vital signs and that kind of thing, and if we  
24 don't see any outward injuries we then ask them to stand on a  
25 debris sheet and undress, and when they're undressed we offer

Janet Moore - Direct by Ms. Walter

259

1   them a gown, of course, so they don't stand there naked, but  
2   it allows us to look at the entire body and get a good look.  
3   Once that is completed, if there is any sign of injury, we  
4   would either have the police officers take pictures or we will  
5   take pictures ourselves. Then we will start at the head and  
6   work our way down. We do oral swabs in the mouth. We do  
7   known buccal swabs, which is inside the mouth we swab the  
8   teeth, upper and lower, and that's looking for any kind of  
9   evidence and then we do a side cheek swab on either side that  
10   is known DNA which means it belongs to the alleged victim.

11       After that we go on down. We examine the neck. We  
12   examine the breasts. We examine the arms. We do nail  
13   scrapings. If we see any bite marks, any bruising, any  
14   thumbprints, fingerprints, any kind of what we would suspect  
15   would be we can do swabs on those. Those are dried DNA swabs  
16   where you would dampen the swab and then roll over and then  
17   roll over another swab. It'll actually pick up DNA if the  
18   person hasn't had a shower, and then, of course, we go on down  
19   to do vaginal and rectal swabs as well. So it's pretty  
20   thorough.

21   Q    Okay. And the kit, the SLED kit comes with the different  
22   envelopes telling you what to put in each envelope?

23   A    Yes.

24   Q    When -- does the SLED kit include what we call a sexual  
25   assault examination protocol, sort of a fill in the blank form

1 that you use?

2 A Yes.

3 Q Do you recall filling one out in this case?

4 A No.

5 Q Okay. And were you asked to locate one?

6 A Yes.

7 Q Were you able to find one?

8 A No.

9 Q What record do you have of the fact that you examined Ms.  
10 Davis?

11 A Just the nursing record.

12 Q The medical records?

13 A Yes.

14 Q Okay. Can you tell us, when you examined Ms. Davis,  
15 what, if anything, you noted physically?

16 A Well, according to my notes, physically, the labia majora  
17 was reddened. Physically, she didn't seem to be any, you  
18 know, there were no bruises or cuts or rashes or anything like  
19 that, but the labia majora, which is the outside of the  
20 vaginal area, was red.

21 Q And did you collect all of the samples that you normally  
22 do with a rape kit?

23 A No.

24 Q What sample did you collect from Ms. Davis?

25 A We collected a vaginal swab.

Janet Moore - Direct by Ms. Walter

261

1 Q Can you describe what happened, and for the record Ms.  
2 Davis was eight years old at the time that this was done?

3 A Correct.

4 Q Okay. Can you describe what happened when you did the  
5 vaginal swab?

6 A Well, according to my notes when I inserted the vaginal  
7 swab the patient screamed.

8 Q And would that be a reason to stop the collection of  
9 evidence at that point?

10 A It would be, not always, but for a child, yes.

11 MS. WALTER: Nothing further at this time, Your Honor.

12 Oh, I'm sorry. Excuse me, Your Honor.

13 BY MS. WALTER:

14 Q Once you collected the vaginal swab and you had that rape  
15 kit box, what do you do with it?

16 A We have a protocol where we sign it. The, the box is  
17 sealed. You can see on the side with the red tapes it is  
18 sealed and then I put my initials on the tape. That just  
19 verifies that they've been sealed and then back here on the  
20 back I print my name and sign it and time it as to when I've  
21 turned it over to the police officer. The police officer then  
22 takes it and they sign it and time it as well.

23 Q Okay. And I'm also showing you State's Exhibit Seven.  
24 Are those the vaginal swabs and slides that you prepared in  
25 this case?

1 A It would be, yes.

2 Q And this would also have been turned over to the police?

3 A Yes. That would have been inside the kit.

4 MS. WALTER: Your Honor, at this time I would ask that  
5 State's Exhibit Seven be admitted.

6 THE COURT: Any objection?

7 MS. WILSON: Your Honor, I do need to approach. I have a  
8 question.

9 THE COURT: All right.

10 (Whereupon, a bench conference is held in the presence,  
11 but out of the hearing of the jury.)

12 THE COURT: All right. Go ahead and continue.

13 BY MS. WALTER:

14 Q Did you -- did you do any swabbing, and if you need to  
15 refer to your notes let me know, did you do any swabbing other  
16 than the vaginal swab?

17 A Not according to my notes. If I did they would have been  
18 in that box. There's two large envelopes that we usually put  
19 them in. This, this one and then one that's green.

20 Q Okay.

21 A Yeah. And so if -- this would have been for toxicology  
22 for blood.

23 Q Okay.

24 A So any of the swabs that we did would have been in this  
25 envelope.

Janet Moore - Direct by Ms. Walter

263

1 Q Okay. And would that one envelope contain both vaginal  
2 swabs and rectal swabs?

3 A Yes. It would have.

4 Q Okay. So if you -- and would there have been markings  
5 inside? We don't want to open this up because of the nature  
6 of it, but would there have been markings inside as to --

7 A Which one?

8 Q -- which was the vaginal and which was the rectal swab?

9 A Yes. And these -- we don't do these anymore with our  
10 kits, but there's also a rectal slide --

11 Q Okay.

12 A -- in there.

13 Q Okay. But that's not something you do anymore, but you  
14 did back then?

15 A Right.

16 Q Okay.

17 MS. WALTER: Is that -- for admission?

18 MS. WILSON: For admission that's fine.

19 THE COURT: All right. State's Exhibit Seven admitted  
20 into evidence without objection.

21 (State's Exhibits Number Seven [Kit -- Vaginal Swabs and  
22 Slides] admitted into evidence and appropriately marked.)

23 MS. WALTER: The Court's indulgence for one moment.

24 THE COURT: All right.

25 MS. WALTER: Nothing further at this time, Your Honor.



1 THE COURT: All right. Cross examination

2 MS. WILSON: Thank you, Your Honor.

3 CROSS EXAMINATION

4 BY MS. WILSON:

5 Q Nurse Moore, Ms. Moore?

6 A Yes.

7 Q Which would you prefer, Nurse Moore?

8 A It don't matter.

9 Q All right. I know you said that you were the person who  
10 kind of had the primary nurse position when Minor came in;  
11 correct?

12 A Correct.

13 Q And at that time you said you did the examination, if you  
14 will, making sure that you said you followed certain  
15 procedures in order to get the rape kit done; correct, the  
16 sexual assault kit?

17 A Right.

18 Q All right. And in doing that were you -- I assume that  
19 you were the person who had to actually perform the vaginal  
20 exam?

21 A Right.

22 Q Now, in doing that, the vaginal exam, and then normally  
23 you said you would do a rectal exam?

24 A Normally if there's reason to believe that they were  
25 rectally penetrated. Yes.

Janet Moore - Cross by Ms. Wilson

265

1 Q Okay. So at the time that you completed the sexual  
2 assault kit you had no reason to believe that a rectal exam  
3 was necessary?

4 A I can't answer that. I don't know.

5 Q But you say you did not do one; correct?

6 A I, I would -- is it okay if I look inside the box?

7 Q I don't have any objection to that.

8 MS. WALTER: That's fine. She'll actually need to look  
9 in State's Exhibit Seven but here are gloves.

10 Q Let me give -- let them give you the gloves.

11 MS. WALTER: I don't want to open, open up a knife so.  
12 Does anybody have scissors for State's Exhibit Seven?

13 A Well, I can look inside the box. If the, if the rectal  
14 swab is in there it would be in here. Okay. The rectal swab  
15 is here. So, yes. It was done.

16 Q So then -- okay. So rectal swab completed, vaginal swab  
17 completed and you then packaged those items to send to or to  
18 give back to the officer in this case?

19 A Correct.

20 Q All right.

21 MS. WALTER: Your Honor, when we're done with this  
22 witness perhaps we'll mark those as sub-items since there are  
23 two different items in that.

24 THE COURT: Well, I mean, if you want to do it now or if  
25 we want to go ahead and wait until you get done.

1 MS. WALTER: Yeah.

2 THE COURT: All right. Go ahead.

3 MS. WILSON: Okay.

4 BY MS. WILSON:

5 Q And I'm sorry about that. So you did a rectal exam. Did  
6 you -- and your notes don't reflect that you saw any blood or  
7 anything; correct?

8 A It doesn't reflect it, no.

9 Q And you would have written that down; correct, if you had  
10 seen it?

11 A Probably, yes.

12 Q And you also noted no bruises or cuts or rashes; correct?

13 A Correct.

14 Q And that's something also that you said would be protocol  
15 for you to put in your notes and to write it down?

16 A Yes.

17 Q And you said you have some special training as a sexual  
18 assault nurse?

19 A Yes.

20 Q Because and they call it a SANE, S-A-N-E, but that's --  
21 you get training so you know how to perform these kits and how  
22 to follow certain procedure --

23 A Correct.

24 Q -- in order to send that information off --

25 A Yes.

Janet Moore - Cross by Ms. Wilson

267

1 Q -- for testing. Okay.

2 MS. WILSON: The Court's indulgence.

3 THE COURT: All right.

4 MS. WILSON: All right. No further questions.

5 THE COURT: Redirect?

6 MS. WALTER: No, Your Honor.

7 THE COURT: All right. You may step down.

8 A Thank you.

9 MS. WALTER: And Your Honor, may this witness be released  
10 from her subpoena and go about her --

11 THE COURT: Any objection?

12 MS. WILSON: No objection.

13 THE COURT: She's free to go.

14 MS. WALTER: Thank you.

15 THE COURT: The State can call your next witness.

16 MS. ANDREW: Your Honor, the State calls Lieutenant  
17 Justin Wyatt.

18 THE COURT: All right.

19 Whereupon, Justin Wyatt is called to the stand, duly  
20 sworn by the clerk and testified as follows:

21 THE CLERK: Please state and spell your full name for the  
22 record.

23 MR. WYATT: Yes, ma'am. Justin Wyatt, and it's J-U-S-T-  
24 I-N, last name Wyatt, W-Y-A-T-T.

25 DIRECT EXAMINATION

1 BY MS. ANDREW:

2 Q Lieutenant Wyatt, can you tell me where you're currently  
3 employed?

4 A The Horry County Police Department.

5 Q And how long have you been employed at the Horry County  
6 Police Department?

7 A Approximately 15 years.

8 Q Okay. What are your current duties at the Horry County  
9 Police Department?

10 A My current assignment is -- I'm the lieutenant over the  
11 training unit.

12 Q Okay. Back in March of 2016 you were working at the  
13 Horry County Police Department. What were your duties back  
14 then?

15 A Back then I was a detective assigned to the criminal  
16 investigation division.

17 Q And what was the criminal investigation division?

18 A That division is responsible for all major crimes that  
19 are committed to be investigated, robberies, homicides, sexual  
20 assaults, anything that would require further investigation  
21 that a patrolman would need help with.

22 Q Okay. And what were your duties then as a detective?  
23 What did you do?

24 A I was primarily assigned to white collar and sexual  
25 crimes at the time. So that's mainly the things I worked on.

Justin Wyatt - Direct by Ms. Andrew

269

1 Q Okay. And when you say you worked on them, you -- what  
2 kind of investigation did you do of those crimes?

3 A After an initial police report was wrote or written by a  
4 patrol officer they would be assigned the next day if it was  
5 not an immediate call out. On certain days we are on call,  
6 and if it's something arises that needs immediate detective  
7 assistance then we'd be paged out and we would go to the scene  
8 of the incident.

9 Q Okay. And do you recall getting a call on March 14<sup>th</sup>,  
10 2016, in relation to this case?

11 A I did. I was called out to Conway Hospital for a  
12 possible CSC.

13 Q Okay. And so does that mean you were on call that night?

14 A I was.

15 Q And who would have called you to go out to Conway  
16 Hospital?

17 A My immediate supervisor would have done that.

18 Q Okay. And did you, in fact, respond to Conway Hospital?

19 A I did.

20 Q Okay. When you got there who did you speak to?

21 A I initially spoke to the officer that was at the hospital  
22 just to get a quick synopsis, not an in-depth, anything, just  
23 a quick why am I here --

24 Q Uh-huh.

25 A -- and then from there I believe I spoke with Ms. Brooke?

- 1 Q Okay.
- 2 A And then after that I spoke with the victim.
- 3 Q Did you find out from the officer at the hospital how the  
4 call came into the police?
- 5 A It just said a call had come in. I wasn't aware at that  
6 point in time how the call came in, whether by 911 or whether  
7 ten digits. I'm not sure but at that time.
- 8 Q Okay. Okay. And you said that you got there you spoke  
9 to Brooke.
- 10 A I did.
- 11 Q And can you tell me Brooke's entire, full name?
- 12 A It was Brooke Squires, and she used the last name  
13 Squires-Brown at the time.
- 14 Q Okay. And what did you learn after speaking to Ms.  
15 Squires?
- 16 A She had said that she had spent the day with the victim,  
17 with Minor and that she had been sick and that they've had a  
18 long relationship together and that she considers herself a  
19 caregiver for Minor in, in my words, and that Minor disclosed  
20 to her that she has been sexually assaulted.
- 21 Q Okay. And can you tell me what time of day it was when  
22 you responded to the hospital?
- 23 A It was approximately 5:00 o'clock in the afternoon. 6:53  
24 according to dispatch notes --
- 25 Q Okay.

Justin Wyatt - Direct by Ms. Andrew

271

1 A -- was the original call for service. So there's a  
2 little bit of lag time for response and getting there and  
3 making phone calls. So approximately 5:00 o'clock, 5:15,  
4 5:30.

5 Q Okay. And after you spoke to Brooke Squires, who did you  
6 speak to next?

7 A Spoke with Minor

8 Q Okay. And without saying who, please tell me what Minor  
9 told you had happened to her.

10 A .Minor told me that she had been sexually assaulted,  
11 penetrated both anally and vaginally.

12 Q Uh-huh.

13 A She was -- says it's been happening since early in the  
14 year, approximately January. She did not have specific dates  
15 other than the last recorded incident which she said sometime  
16 around March 11<sup>th</sup> and she used the day of the week not the date  
17 of the 11<sup>th</sup>.

18 Q Okay. Where did Minor tell you the assaults occurred?

19 A At her residence.

20 Q Okay. Do you recall the location where her residence  
21 was?

22 A I'd have to refer to my notes to get the actual address,  
23 but it is the mobile home park off of Highway 378 that was --

24 Q Okay. That's in Horry County?

25 A It is.



1 Q Okay. And as a result did you speak to anyone else at  
2 the hospital?

3 A I spoke briefly with Nurse Moore just to confirm that a  
4 rape kit was being done.

5 Q Okay.

6 A And asked her just the basic questions, you know, is  
7 there any major health concerns I need to know about or  
8 anything that she saw that I needed to know about right then  
9 and there.

10 Q Okay. And let me just ask you, back up a little bit,  
11 when you were speaking to Brooke Squires what was her demeanor  
12 like at the hospital?

13 A Brooke was highly upset at the time. She felt -- she was  
14 crying, holding back tears. She, she was, in my opinion, she  
15 was, she was worried for Minor

16 Q Okay. And what was Minor demeanor when you were  
17 speaking with her?

18 A Minor was upset. She is -- she wasn't hysterical but she  
19 was -- obviously had signs of distress --

20 Q Uh-huh.

21 A -- crying. She was kind of closing herself off as I've  
22 seen with other victims.

23 Q Uh-huh.

24 A She was able to talk but she -- it wasn't like she was  
25 just outwardly wanting to talk but she was -- you have to kind

Justin Wyatt - Direct by Ms. Andrew

273

1 of talk to her a little bit to get her comfortable with you  
2 when you're, when you're trying to describe a sexual assault  
3 like that.

4 Q So would, would you say that your interview with her was  
5 brief?

6 A It was very brief. Knowing that our standard protocol is  
7 to refer them to the CRC, Children's Recovery Center, and  
8 because of that I wanted to get just enough information to  
9 start my case. If I needed to go further I could get further  
10 later from the CRC but I wanted to get enough information to  
11 do what I needed to do, but I didn't want to traumatize her  
12 again knowing the fact that she's going to have to tell this  
13 story and she's already told the story. I felt like at that  
14 point in time the best thing to do was to keep it brief, to  
15 the point, but yet get enough information to gather what I  
16 needed.

17 Q Okay. And just for the jury's information so we're  
18 clear, you, you referenced the Children's Recovery Center.  
19 Can you tell me what that is?

20 A Sure. That is an entity within Horry County. They're  
21 trained, and what they do is they do a forensic interview on  
22 victims of -- with children of sexual assaults. They do that  
23 because they have professionals who have been trained in how  
24 to talk to children and how to handle sexual assaults with  
25 them. It minimizes --

1 Q And can -- that's, that's sufficient. Can you tell me is  
2 it the police department's standard protocol to refer child  
3 victims of assault to the Children's Recovery Center to be  
4 interviewed more fully?

5 A It is.

6 Q Okay. And while you were speaking to Minor at the  
7 hospital did she express any concerns to you?

8 A She did. She was worried about foster care. She was  
9 concerned about where she would go, what would happen to her  
10 next, jut general concerns like that.

11 Q Okay. And after you spoke to Brooke and Minor were you  
12 able to identify a suspect in the case?

13 A I was.

14 Q Okay. And what did you do as a result of that?

15 A At that point in time it was shortly after I identified a  
16 suspect I received a phone call stating that the identified  
17 suspect had returned and that he was with a police officer at  
18 the time and we asked him to come to the police department, do  
19 a standard interview.

20 Q Okay. And who did you identify as the suspect?

21 A The Defendant Mr. Leslie Davis.

22 Q Okay. And did you send a patrol officer or engage any  
23 other officer in helping you locate him? You said you spoke  
24 to him.

25 A Due to the fact that the residence was the place of the

Justin Wyatt - Direct by Ms. Andrew

275

1 incidents, the house was secured so that no one could enter or  
2 leave as a crime scene to, to maintain the integrity of it.

3 So when he returned to the residence he was met by my officers  
4 there and they informed me that he had returned home.

5 Q Okay. And when you say that the scene was secured what  
6 do you mean by that?

7 A I mean that we limited access. Basically no one would  
8 enter or leave the house until a search warrant could be  
9 obtained. Now, at that point in time standard protocol, once  
10 again, would be to get a search warrant for any incident  
11 location where a major crime occurs and so I knew that I was  
12 going to be getting a search warrant. So with that in mind, I  
13 had patrol units stand by to make sure that no evidence could  
14 leave the house or no evidence could be entered into the house  
15 prior to me getting there with a search warrant.

16 Q So did you direct a patrol officer to go to that location  
17 which I have as [REDACTED]?

18 A That's correct.

19 Q Until someone else could get there?

20 A I did. Actually, the original responding officer  
21 actually stayed there.

22 Q Okay.

23 A There were, there were two responding officers. One went  
24 to the hospital and one stayed at the scene because that's  
25 standard protocol for patrol units when detectives are called

1 out to lock everything down, to hold the scene until a  
2 detective can arrive.

3 Q Okay. So the original -- one of the original responding  
4 officers was at the scene when the suspect, Leslie Davis,  
5 showed up?

6 A Correct.

7 Q Okay. So did you get a call that the suspect had showed  
8 up at the scene?

9 A I did.

10 Q And what did you do as a result of that?

11 A I instructed the patrol officer to ask Mr. Davis if he'd  
12 be willing to come to the police department for a standard  
13 interview so we can talk about what's going on. He agreed and  
14 the patrol -- another patrol officer took him to the police  
15 department and placed him in the interview room until my  
16 arrival a short time later.

17 Q Okay. And so you met him at the police department?

18 A I did.

19 Q Okay. And without -- you said they placed him into an  
20 interview room. Were those interview rooms equipped with  
21 audio and video recording equipment?

22 A They are equipped with them, yes.

23 Q And is it standard protocol for the Horry County Police  
24 Department to record any interviews with a suspect in a case?

25 A It is standard, yes, ma'am.

Justin Wyatt - Direct by Ms. Andrew

277

1 Q Okay. And without going into what was said, did the  
2 Defendant give an interview?

3 A A short one.

4 Q Okay. Was that interview audio and video-recorded?

5 A Unfortunately we thought it was. However there was some  
6 technical difficulties and there was actually no recording,  
7 neither audio or video at the time. We had a malfunction in  
8 the equipment.

9 Q Okay. Are you familiar with what would be called a self-  
10 serving statement?

11 A I am familiar with it.

12 Q Would you characterize your interview in that manner?

13 A I would.

14 MS. WILSON: Your Honor, I have an objection, and we need  
15 to approach.

16 THE COURT: All right.

17 MS. WILSON: Please. Thank you.

18 (Whereupon, a bench conference is held in the presence,  
19 but out of the hearing of the jury.)

20 THE COURT: All right. Strike the last question and last  
21 response from the record. The jury will disregard it.

22 BY MS. ANDREW:

23 Q Okay. After that what did you do next?

24 A After that I started the process of securing the search  
25 warrant for the residence.

- 1 Q Okay. Did you obtain a search warrant for the residence?
- 2 A I did.
- 3 Q And when did you obtain that search warrant?
- 4 A Approximately -- do you mind if I look at my notes?
- 5 Q Yeah. If you need look at your file to refresh your
- 6 recollection, do that. Just turn it over when you're finished
- 7 looking.
- 8 A Approximately 9:30 at night the search warrant was signed
- 9 by Judge Mayers.
- 10 Q That same day.
- 11 A The same night.
- 12 Q Okay. And when did you execute the search warrant?
- 13 A Right after it was signed.
- 14 Q Okay. So you -- did anyone go with you?
- 15 A Detective Hardwick was there and along with the original
- 16 patrol officer that was stationed there. We relieved him once
- 17 we arrived.
- 18 Q Okay.
- 19 A There was no need to, to tie him up any longer and then
- 20 we conducted our search.
- 21 Q Okay. Tell me about what you saw when you arrived there.
- 22 What was the outside of the dwelling, what did it look like?
- 23 A It was a single-wide mobile home, aged, an older looking.
- 24 There was trash piled up to the point of it being piled around
- 25 the deck of the house going up. There was a small little

Justin Wyatt - Direct by Ms. Andrew

279

1 landing deck going into the trailer. You could tell that it  
2 was not well-kept, maintained. The underpinning was coming  
3 off, the, the moldy outside, just general dirtiness on the  
4 outside.

5 Q And so once you arrived did you go inside the residence?

6 A I did. As this was unlocked we was able to get inside  
7 the residence without any forced entry. Once inside the first  
8 thing we noticed was the horrid conditions on the inside of  
9 the house.

10 Q Could you slow down just a tiny bit so I can --

11 A Sorry.

12 Q I'm sorry. Yeah. Thank you.

13 A The conditions inside the house were deplorable in my  
14 opinion, dished piled up. I distinctly remember flies and  
15 other type of insects coming out of the sink area where the  
16 dirty dishes had been piled. The couches were torn and  
17 tethered. The bedrooms had no real furniture in them. There  
18 was a mattress laying on the floor in what appeared to be a  
19 young girl's room. I identified as Minor 's room, so general  
20 unsanitary conditions. The food in the house was minimal at  
21 best. It did not look like it was good living conditions at  
22 all.

23 Q And when you arrived you knew the allegations. What kind  
24 of items were you searching for with your search warrant?

25 A Sure. I normally search for the standard evidence you



1 would look for any sexual assault. You're looking for sexual  
2 toys. You're looking for sexual lube. You're looking for any  
3 type of recording devices, mobile phones, laptops, video  
4 recorders, any type of bondage type of equipment, anything  
5 that would lend to a sexual assault.

6 Q Okay. And so during the execution of the search warrant  
7 what did you actually find?

8 A Did not find any noticeable sex toys or anything along  
9 those lines. During the search warrants we did do a black  
10 light test over the sheets and over the beds since she had  
11 said that's where she was assaulted. There was obvious signs  
12 of fluid on both beds. So, therefore, I did collect the bed  
13 sheets.

14 Q Okay. And when you say a black light test can you tell  
15 us what that means?

16 A Sure. Whenever there is bodily fluids that are ejected  
17 out of the human body, to the normal eye and normal lighting  
18 you would not be able to tell them, you may or may not would  
19 be able to. When you turn the lights off and you turn on a  
20 black light they luminesce so that you can see, hey, there is  
21 definitely some type of fluid in that area.

22 Q Okay.

23 A It doesn't tell us what but that there is fluid.

24 Q So based on your test with the black light you collected  
25 bed sheets?

Justin Wyatt - Direct by Ms. Andrew

281

1 A Correct.

2 Q When you were in the residence do you recall if there was  
3 -- which bedroom had a bigger bed or which one had a smaller  
4 bed?

5 A The smaller room and what I described as a child's room  
6 had the smaller bed and then what I described as the master  
7 bedroom, the larger room, it had the larger bed.

8 Q And did you take bed sheets from both beds?

9 A I did take bed sheets from both beds.

10 Q And can you tell me how you described those bed sheets on  
11 your evidence form?

12 A Sure. One was green and one was white.

13 Q And do you recall which one of the sheets was the larger  
14 sheet and which was the smaller sheet?

15 A The, the green one was described as the larger one.

16 Q But you didn't note on your evidence sheet where you --  
17 what location in the house you took those sheets from?

18 A I did not. No.

19 Q Okay. And, and why not?

20 A It was an error on my part. It should have been notated,  
21 and it -- I could not find it in my notes where I had notated  
22 it.

23 Q Okay. And after you collected those sheets what did you  
24 do with them?

25 A I submitted them into our evidence department, bagged

1   them in our proper containers, paper bags in this instance,  
2   and submitted them per our protocol into the evidence  
3   department.

4   Q     Well, how do you submit them into the evidence department  
5   at the police department?

6   A     So after using gloves, obviously, to make sure that  
7   there's no contamination, we bag them into paper bags so that  
8   the air can breath and so that it doesn't deteriorate the  
9   samples, and then we take them directly to the police  
10  department and we lock them into lockers since if it was after  
11  hours, and then the next morning the evidence custodians come  
12  out and retrieve them from the lockers and then they do their  
13  presumptive tests.

14       MS. ANDREW:   May I approach the witness, Your Honor?

15       THE COURT:   Yes.

16   BY MS. ANDREW:

17   Q     I'm going to show you what's been marked as State's  
18   Exhibits Numbers 10 and 11, and you can read the label.  Can  
19   you tell me what this box contains?

20   A     According to the labels it contains a bag with a green  
21   bed sheet and a bag with a white bed sheet.

22       MS. ANDREW:   And Your Honor, we're not going to open the  
23   box because of the biohazard, but the State moves to enter  
24   them into evidence.

25       THE COURT:   Any objection?

Justin Wyatt - Direct by Ms. Andrew

283

1 MS. WILSON: Without objection.

2 THE COURT: All right. State's Exhibits 10 and 11 are  
3 admitted into evidence without objection.

4 MS. ANDREW: Thank you.

5 (State's Exhibit Number Ten [White Bed Sheet] and State's  
6 Exhibit Number 11 [Green Bed Sheet] admitted into evidence and  
7 appropriately marked.)

8 A Excuse me.

9 Q Okay. Did you collect any other evidence from the scene  
10 at that time?

11 A No, ma'am.

12 Q At the time that you executed your search warrant had  
13 Minor been interviewed at the Children's Recovery Center?

14 A No.

15 Q After she was interviewed at the Children's Recovery  
16 Center did you go back out to the residence and look for  
17 anything else based on her interview?

18 A I did not. Enough time had passed where we could no  
19 longer guarantee the integrity of the crime scene. So,  
20 therefore, I felt that it would not be in the best interest of  
21 justice to go back out there.

22 Q Okay. And how -- we looked earlier at what was marked as  
23 State's Exhibit Six, the rape kit.

24 A Yes, ma'am.

25 Q Did you collect this rape kit from Conway Medical Center?

1 A From Nurse Moore, yes, ma'am.

2 Q Okay. And then what did you do with it?

3 A I entered it into our evidence department per our normal  
4 protocol which is going back to the evidence department. We  
5 have mini refrigerators there because they want to kept cool  
6 until they can be tested properly, placed in the refrigerator,  
7 locked it with the padlock and submitted it as per our  
8 protocol.

9 Q Okay. And at some point did you get an arrest warrant?

10 A I did.

11 Q Okay. What did you get it for?

12 A I got the arrest warrant the next, the next morning, if  
13 you don't mind me looking at the notes.

14 Q That's fine.

15 A I'm sorry, not the next morning. The arrest warrant was  
16 sought and served on the 16<sup>th</sup>.

17 Q Okay. When you were executing your search warrant did  
18 you take any photographs of the outside or the inside of the  
19 residence?

20 A I did not, or I take it back, I did but I do not have  
21 those photographs. I normally -- in normal -- my normal  
22 protocol is to upload them directly to my computer. However,  
23 in this case I cannot find where the uploaded files exist. I  
24 do remember taking pictures. I remember photographing  
25 everything as what I normally do. However, in this case I do

Justin Wyatt - Direct by Ms. Andrew

285

1 not know where the pictures went on my computer once I  
2 uploaded them onto the hard drive.

3 Q So the, the photographs are lost as far as you know?

4 A Correct.

5 Q What about Minor 's clothes that she was wearing to the  
6 hospital, did you collect those clothing items?

7 A We did not collect them because at that point in time a  
8 -- the sexual assault was several days old, and on top of that  
9 she had already changed clothes that -- earlier that morning.  
10 So I felt that there was no forensic, I needed to collect the  
11 clothes and traumatize her more.

12 Q Okay. Did you at some point refer Minor to the  
13 Children's Recovery Center for an interview?

14 A I did. The next working day I filled out the paperwork  
15 and had it submitted over to the CRC.

16 Q And did you attend her interview at the Children's  
17 Recovery Center?

18 A I did not. It is not required for our detectives to  
19 always attend them because we have no interaction at the CRC  
20 and we get a full video of it after the fact.

21 Q So you reviewed it later?

22 A I reviewed it later.

23 Q Okay. Do you know what date she attended the Children's  
24 Recovery Center?

25 A If you don't mind me looking at my notes I can tell you

1 exactly.

2 Q That's fine.

3 A The date of service was the 16<sup>th</sup>.

4 Q Okay.

5 A Of March.

6 Q The same day you got the arrest warrant?

7 A Yes.

8 Q And served it. Okay. And at some point after Mr. Davis  
9 was arrested, did you request that he submit to what we call a  
10 buccal swab or a DNA standard?

11 A A good time later, yes.

12 Q Okay. I'm going to show you what's been marked as  
13 State's Exhibit Number Eight. Is that Mr. Davis' suspect  
14 standard or buccal swabs?

15 A According to the tags, yes.

16 MS. ANDREW: Your Honor, the State moves to enter Exhibit  
17 Eight into evidence.

18 THE COURT: Any objection?

19 MS. WILSON: No objection, Your Honor.

20 THE COURT: All right. State's Exhibit Eight admitted  
21 into evidence without objection.

22 (State's Exhibit Number Eight [Defendant Buccal Swabs]  
23 entered into evidence and appropriately marked.)

24 BY MS. ANDREW:

25 Q Okay. And at some later point after your investigation

Justin Wyatt - Direct by Ms. Andrew

287

1 did you also request a suspect standard from the victim in  
2 this case Minor

3 A Yes.

4 Q I'm going to show you what's been marked as State's  
5 Exhibit Number Nine.

6 MS. ANDREW: The Court's indulgence for one moment.

7 THE COURT: All right.

8 BY MS. ANDREW:

9 Q I'm going to show you what's been marked as State's  
10 Exhibit Number Nine. Just going to let you -- because it's  
11 not notated on the outside you'll have to match it up with the  
12 chain of custody what item number. There's an item number on  
13 there. What item number is on that, that package?

14 A It says item number seven.

15 Q Now, what is item number seven?

16 A It is the victim's buccal swab.

17 MS. ANDREW: Your Honor, the State moves to enter Exhibit  
18 Number Nine into evidence.

19 THE COURT: Any objection?

20 MS. WILSON: Without objection, Your Honor.

21 THE COURT: All right. State's Exhibit Nine admitted  
22 into evidence without objection.

23 (State's Exhibit Number Nine [Victim Buccal Swabs]  
24 admitted into evidence and appropriately marked.)

25 MS. ANDREW: Your Honor, the State has no further



1 questions for this witness at this time.

2 THE COURT: All right. Cross examination.

3 MS. WILSON: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MS. WILSON:

6 Q Lieutenant Wyatt --

7 JUROR: Excuse me. Can we have a bathroom break?

8 MS. WILSON: Oh, I'm sorry.

9 THE COURT: Okay. All right. Ladies and gentlemen,  
10 we'll go ahead and we'll take a short break. Leave your  
11 notepads in the jury box. Do not discuss the case even among  
12 yourselves. We'll take about a 10-minute break and come back  
13 and get started. Thank you very much.

14 (Whereupon, the following takes place outside the  
15 presence of the jury.)

16 THE COURT: All right. Officer Wyatt, we're still in  
17 the middle of your testimony, so the law mandates you cannot  
18 discuss your testimony with anyone, even the State's  
19 attorneys, whether that be what you've testified to thus far  
20 or what you anticipate testifying to in the future. I'll  
21 allow you to step off the witness stand but don't discuss any  
22 of your testimony with anyone. Okay?

23 A Yes, Your Honor.

24 THE COURT: All right. Anything from the State before we  
25 take a break?

Justin Wyatt - Cross by Ms. Wilson

289

1 MS. ANDREW: Your Honor, I do have a couple of more  
2 questions for this witness, just realized I left something  
3 out. I can do it on redirect if I need to.

4 THE COURT: Well, yeah --

5 MS. WILSON: But he would only be able to do it on --

6 THE COURT: You've already stopped.

7 MS. ANDREW: If he brings it up, if she brings it up.

8 THE COURT: Yeah. If she brings it up.

9 MS. ANDREW: If she doesn't it doesn't matter.

10 THE COURT: That's right.

11 MS. ANDREW: Yeah.

12 THE COURT: All right. Anything further?

13 MS. ANDREW: Nothing further.

14 THE COURT: Anything from the Defense?

15 MS. WILSON: Nothing, Your Honor.

16 THE COURT: All right. Let's take about a 15-minute  
17 break and we'll come back and get started.

18 OFF THE RECORD

19 (On the record. The following takes place outside the  
20 presence of the jury.)

21 THE COURT: All right. Anything from the State before we  
22 bring the jury back in?

23 MS. ANDREW: Nothing from the State, Your Honor.

24 THE COURT: All right. Anything from the Defense?

25 MS. WILSON: Nothing, Your Honor.

1 THE COURT: All right. Let's bring the jury in.

2 (Whereupon, the following takes place in the presence of  
3 the jury.)

4 THE COURT: All right. Ladies and gentlemen, welcome  
5 back. Please make sure you have your own notepads and do not  
6 have anybody else's notepad. All right.

7 All right. Ms. Wilson, cross examination.

8 MS. WILSON: Thank you, Your Honor.

9 CROSS EXAMINATION

10 BY MS. WILSON:

11 Q Lieutenant Wyatt.

12 A Yes, ma'am.

13 Q Now, I know you said you went straight to the hospital;  
14 correct?

15 A Correct.

16 Q So you were not the first officer on the scene at the  
17 actual home?

18 A No, ma'am.

19 Q All right. And I know you said it was later on in the  
20 evening when you got the search warrant and you went back to  
21 the house; correct?

22 A Correct.

23 Q Went to the house for the first time?

24 A For the first time with the search warrant.

25 Q Okay. And at that time you talked about the black light,

Justin Wyatt - Cross by Ms. Wilson

291

1 and you saw evidence of fluid on the sheets on both beds?

2 A Yes, ma'am.

3 Q And you then -- and just for clarification, the purpose  
4 of a black light you said is because fluids will glow.

5 A Correct.

6 Q And there's an exception to that; isn't there? There's a  
7 fluid that shows up under black light that won't glow; isn't  
8 it?

9 A I'm not familiar with it. There may be, but I'm not  
10 familiar with it.

11 Q Okay. So then what you saw was you said luminescent. So  
12 it had a glow?

13 A It did.

14 Q All right. And so you pulled both bed sheets?

15 A Yes, ma'am.

16 Q And you said it was accidental that you didn't document  
17 --

18 A Which bed.

19 Q -- which came from which. Okay. You talked a lot about  
20 the actual location and the condition of the house but you  
21 said you also lost those photographs somehow and you just lost  
22 them in the computer?

23 A Yes, ma'am.

24 Q So did they accidentally -- you're saying they were  
25 accidentally deleted or you don't know how you stored them or

1   you're not sure you uploaded them?

2   A     It was either a failed upload or, or it -- the data was  
3   corrupted and it just did not appear in the drive where I  
4   would normally keep the photos at. I'm not exactly sure. I  
5   can't say for certain why they weren't where they should have  
6   been in my file system.

7   Q     Okay.

8   A     The only thing I can tell you for sure is that they're  
9   not there.

10  Q     All right. And did you -- I didn't see in your note  
11  anything about documenting that you took photographs. You  
12  didn't put that in any kind of report or anything about this  
13  case; did you?

14  A     No, ma'am. It's just for -- it's my standard -- that's  
15  what I do. I take photographs when I go to a scene.

16  Q     Okay. And you didn't think it was important to document  
17  those photos? I'm just curious,

18  A     Absolutely. I normally would document it when I, when I  
19  -- after I get them, look at them, prepare the case file.

20  Case files aren't exactly put together right afterwards. It  
21  could be a couple of weeks, a couple of months after that --  
22  the actual incident, but I normally don't say I took photos if  
23  I -- if -- when I do take photos I just put them, attach them  
24  to the case.

25  Q     Okay. Now, you said you were out there with another

Justin Wyatt - Cross by Ms. Wilson

293

1 officer and that the two of you executed the search warrant.

2 A Yes, ma'am.

3 Q And at that time you use a black light on the beds. Did  
4 you -- you didn't say that you looked for anything else in  
5 particular; did you?

6 A We looked for standard type of sex toys, anything that  
7 would lead to a standard for a type of sexual assault,  
8 something along the lines of specific lube, anything along  
9 those lines we looked for as well.

10 Q And you didn't document finding anything like that;  
11 correct?

12 A We did not, no, ma'am.

13 Q All right. And I know you said that you went to the  
14 hospital where you spoke with Minor and then you collected  
15 the, the sexual assault kit; correct?

16 A I collected it from Nurse Moore after it was completed.

17 Q All right. And I mean, you actually transported that to  
18 evidence.

19 A Correct.

20 Q Now, you also talked about the Children's Recovery Center  
21 and I just want to touch on that briefly because you said that  
22 it's pretty standard for you -- for a detective or for an  
23 investigator to contact them about a child sexual assault  
24 case; is that correct?

25 A Correct. Yes, ma'am.

1 Q All right. And in essence that's what you -- usually  
2 that's what you always do?

3 A Correct.

4 Q Is there some written protocol for referring children  
5 cases like this one to CRC?

6 A There was none at the time. I'm not sure if there is now  
7 or not.

8 Q So is it up to each individual officer then is what  
9 you're saying?

10 A It is.

11 Q All right. And but just as a matter of course you all  
12 tend to do it?

13 A Correct.

14 Q Now --

15 MS. WILSON: If I could just have the Court's indulgence  
16 for a second.

17 THE COURT: All right.

18 BY MS. WILSON:

19 Q Now, in addition to some of the other things that weren't  
20 documented, you said that Minor was concerned about foster  
21 care. You didn't document that either; did you, that concern  
22 in your notes?

23 A As far as in my notes it -- I --

24 Q In your report.

25 A No. I didn't find it relevant.

Justin Wyatt - Cross by Ms. Wilson

295

1 Q The process of the investigation at the hospital where  
2 the sexual assault kit is actually obtained and the procedure  
3 is performed, you said that you didn't want to collect clothes  
4 because you felt that it was going to be further trauma to  
5 Minor

6 A Well, there was, there was several reasons why. That was  
7 one of the reasons, but the other reason I said was that due  
8 to the fact that the last assault was several days earlier and  
9 the fact that, you know, she had already changed clothes that  
10 morning that the clothes that she was currently wearing would  
11 have no evidentiary value.

12 Q And so as a part of your investigation you didn't seek  
13 the underwear or anything that were apparently of concern at  
14 the time that this call was made to the police?

15 A At that -- during the interview and talking to Brooke at  
16 the hospital she had said that she had taken the bloody  
17 underwear and she had thrown them in the dumpster and that --  
18 or thrown in a trashcan and then the trash had been taken to  
19 the dumpster at that point in time.

20 Q Well, I'm actually referring to the underwear that Minor  
21 was supposed to have been wearing that day.

22 A No. I -- we did not -- the nurse did not collect them.

23 Q As a normal process and procedure wouldn't underwear  
24 normally be placed into a brown paper bag for collection? I'm  
25 just curious.



1 A It would, once again, depend on if they've changed  
2 clothes or not, if -- how long the timeframe had been since  
3 the actual assault.

4 Q Okay. Now, the bed sheets here, you said that the house  
5 was in disarray and you found it to be unclean.

6 A Yes, ma'am.

7 Q The bed sheets were clean?

8 A No, ma'am.

9 Q So you would also describe them as not being fresh  
10 sheets?

11 A Correct.

12 Q Okay. And my final question is that I guess it's pretty  
13 basic but you personally never witnessed any sexual assault;  
14 did you?

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

16 Q Not in this case?

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

18 Q Okay. Thank you.

19 MS. WILSON: No further questions.

20 THE COURT: Redirect?

21 MS. ANDREW: Briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MS. ANDREW:

24 Q Defense counsel asked you about Minor 's statements to you  
25 at the hospital and what she said to you. I think you

Justin Wyatt - Redirect by Ms. Andrew

297

1 testified earlier that her interview, the interview conducted  
2 with her was audio-recorded.

3 A It was.

4 Q Okay. So did you attach the audio-recording of that  
5 interview to your case file?

6 A I did attach those, yes.

7 Q Okay. And does that interview, in fact, speak for  
8 itself?

9 A I believe it does.

10 Q So you could listen to it and determine whether or not  
11 she expressed concerns to you?

12 A Correct.

13 MS. WILSON: And Your Honor --

14 Q Do you --

15 MS. WILSON: I'm sorry.

16 MS. ANDREW: I'm sorry.

17 MS. WILSON: We need to approach.

18 THE COURT: All right.

19 (Whereupon, a bench conference is held in the presence,  
20 but out of the hearing of the jury.)

21 THE COURT: All right. Ladies and gentlemen, we've got a  
22 matter of law we need to address. I'm going to excuse you  
23 back to the jury room. Please leave your notepads in the jury  
24 box. Do not discuss the case even among yourselves. Thank  
25 you very much.

1           (Whereupon, the following takes place outside the  
2   presence of the jury.)

3           THE COURT: All right. Ms. Wilson, what's your  
4   objection?

5           MS. WILSON: Your Honor, my objection is that I -- when  
6   the State was on redirect talking about him refreshing his  
7   recollection from a recording, I was under the impression  
8   there was no recording, a recorded statement. Now, I -- I am  
9   not telling this Court that the State's done something wrong.  
10   I'm not trying to put them in that position.

11          THE COURT: Well, you said you never got it in discovery.

12          MS. WILSON: I don't have that, and I don't recall  
13   receiving it.

14          THE COURT: Okay.

15          MS. WILSON: And I'm going to call my office and find out  
16   in the actual file, because obviously I've been using my own  
17   trial notebook, but I'm going to look back to see if that  
18   actual recording's in there, and apparently there's also a  
19   recording from Brooke on there. I am not privy to recorded  
20   statements of those people.

21          THE COURT: Okay. The -- all right. From the sidebar  
22   you said you did not get any recorded statements --

23          MS. WILSON: That is correct.

24          THE COURT: -- from the State in discovery from --

25          MS. WILSON: For Brooke or Minor

Justin Wyatt - Redirect by Ms. Andrew

299

1 THE COURT: All right. The State says you did produce it  
2 in discovery. Let's find out because either you produced it  
3 or you didn't produce it.

4 MS. WILSON: Yes. And I'm going to -- if the Court  
5 doesn't mind I'm going to call my office to find out if it's  
6 something in there because I want to make sure I'm not --

7 THE COURT: Well, no, you said you didn't get it.

8 MS. WILSON: Well, I am saying that, Your Honor.

9 THE COURT: You said you didn't get it.

10 MS. WILSON: I'm not familiar with the statement.

11 THE COURT: So we're going to find out if they produced  
12 it.

13 MS. WILSON: Okay.

14 MS. ANDREW: We just sent somebody across the street to  
15 get the whole file.

16 THE COURT: There you go.

17 MS. WILSON: All right.

18 THE COURT: In other words, you said you didn't get it.

19 MS. WILSON: Yes, sir.

20 THE COURT: They're --

21 MS. WILSON: But to be clear, Your Honor.

22 THE COURT: -- getting verification.

23 MS. WILSON: And I want to be clear because I'm not  
24 trying to say that they're withholding from me. What I am  
25 saying is I don't have any knowledge of that and it's very

1 possible, maybe it's my fault that I don't have any knowledge,  
2 maybe I missed something, but I do want to make sure that I am  
3 not just missing it and that it's something that I didn't  
4 receive, but I'm not certain.

5 THE COURT: Well, the fact of the matter is is we've got  
6 it on record you didn't get it. It's inadmissible if it was  
7 not produced in discovery.

8 MS. WILSON: Yes, sir. I understand that.

9 THE COURT: But it was produced in discovery I overrule  
10 your objection.

11 MS. WILSON: Yes, sir.

12 THE COURT: And we move on.

13 MS. WILSON: Okay. Thank you.

14 THE COURT: All right. How long do you think it's going  
15 to take for them to do that?

16 MS. ANDREW: She has to go across the street because  
17 that's where my office is, but it shouldn't take her more than  
18 five or 10 minutes.

19 THE COURT: Okay. All right. Well, let's go ahead and  
20 take about a 10-minute break and we'll come back when you find  
21 out.

22 MS. WILSON: Okay. All right. Thank you.

23 OFF THE RECORD

24 (On the record. The following takes place outside the  
25 presence of the jury.)

Justin Wyatt - Redirect by Ms. Andrew

301

1           THE COURT: All right. Ms. Andrew, Ms. Walter, was it  
2 produced?

3           MS. ANDREW: Your Honor, it's -- from the best we can  
4 tell on October 24<sup>th</sup> of 2016, we sent supplemental discovery  
5 containing a DVD to Ms. Wilson's office. The transmittal for  
6 the discovery has Ed Chrisco's name on it instead of Ms.  
7 Wilson's and it references the wrong file. So I think that's  
8 where the confusion came from.

9           THE COURT: Well, I mean, is he -- was he the attorney at  
10 the time?

11          MS. ANDREW: Ms. Wilson was the attorney at the time, I  
12 believe.

13          MS. WILSON: And I do not recall. I've inherited a lot  
14 of cases and I don't have that initial file.

15          THE COURT: Well, I don't know. I mean, you all got to  
16 tell me what to do because if you produce it it comes in.

17          MS. ANDREW: We've crafted a remedy.

18          THE COURT: If you didn't produce it it stays out. So we  
19 got to get this settled. Did the State provide discovery to  
20 the Defendant that included the disc?

21          MS. ANDREW: I think so, but I can't tell, but we have  
22 come up with a consensual remedy, Your Honor.

23          THE COURT: Okay.

24          MS. WILSON: All right.

25          MS. ANDREW: If you don't -- so I'm willing to --

1 THE COURT: All right.

2 MS. ANDREW: -- strike the last part.

3 MS. WILSON: Which is --

4 MS. ANDREW: We're not seeking to introduce the interview  
5 in any way. We can strike the last part of his testimony.  
6 I've given her copies of both interviews with transcriptions  
7 that she can review tonight and see if she has any issues  
8 based on what she sees in there.

9 MS. WILSON: And, and to be frank, if we're -- if the  
10 State's agreeing to just strike that portion I don't -- I'm  
11 not bringing this up myself and I'm done with it so.

12 THE COURT: All right.

13 MS. WILSON: That works for me, and I apologize, I,  
14 again, and I'm sorry. I want to say this on the record. I'm  
15 not trying to cast aspersions about wrongdoing by the State in  
16 this instance. I understand the Court's position, but I want  
17 to make that clear. I was surprised because I had not  
18 listened to that, and I thought I had all of the evidence,  
19 which is why I raised the objection, and I feel the objection  
20 was appropriate in that moment because it was about something  
21 that I did not have possession of. That's still my position.  
22 I understand what the State is saying about the delivery, and  
23 on that basis I am in agreement with them just striking that  
24 from the record if the Court agrees.

25 THE COURT: All right. All right.

Justin Wyatt - Redirect by Ms. Andrew

303

1 MS. WILSON: Thank you.

2 THE COURT: Well, we're in redirect. So we'll strike the  
3 last question, strike the last answer and move on. All  
4 right. Anything from the State before we bring the jury in?

5 MS. ANDREW: I just -- I have one final question for  
6 the, the witness on redirect, which I've told Ms. Kia what  
7 it's going to be.

8 THE COURT: Okay. All right. Anything before we bring  
9 the jury in, Ms. Wilson?

10 MS. WILSON: Nothing, Your Honor.

11 THE COURT: All right. Let's bring the jury in.

12 (Whereupon, the following takes place in the presence of  
13 the jury.)

14 THE COURT: Ladies and gentlemen, welcome back. Please  
15 make sure you have your own notepads and do not have anybody  
16 else's notepads. We were in the redirect examination of this  
17 witness. The jury is directed to disregard the last question  
18 by the State and disregard the last answer by the witness in  
19 this case before we took a recess.

20 All right. You can continue.

21 BY MS. ANDREW:

22 Q Lieutenant Wyatt, when you were at the hospital, did you  
23 take Minor into emergency protective custody?

24 A I did. I felt that it was in the best interest of her to  
25 be placed in emergency protective custody.



1 Q And can you explain to the jury what emergency protective  
2 custody is?

3 A Absolutely. Emergency protective custody is a way that  
4 the law enforcement or the State can make sure and remove a  
5 child in this instance from harm, from any type of harm, and  
6 place them into DSS custody and for them to make arrangements  
7 for a safe place to stay until whatever the emergency is can  
8 be handled and dealt with by the courts.

9 Q And you did that for Minor

10 A I did that for Minor

11 Q Thank you.

12 MS. ANDREW: No further questions, Your Honor.

13 THE COURT: All right. You may step down.

14 A Thank you.

15 THE COURT: Thank you.

16 All right. The State can call your next witness.

17 MS. ANDREW: Your Honor, that concludes the State's case  
18 for today.

19 THE COURT: All right.

20 All right. Ladies and gentlemen, we're going to break a  
21 little bit earlier today. That happens occasionally when you  
22 have witnesses that you're lined up over a number of days and  
23 you have certain witnesses coming in on certain days trying to  
24 anticipate how long the testimony of certain witnesses will  
25 take. So we're going to go ahead and break early for today.

Justin Wyatt - Redirect by Ms. Andrew

305

1 I'm going to let you go home. Be back at 9:15 tomorrow  
2 morning. Do not discuss the case even among yourselves.  
3 Don't listen to any reports. Don't conduct any independent  
4 investigations. Leave your notepads in the jury box and we'll  
5 see you back at 9:15 tomorrow morning. Thank you very much.

6 (Whereupon, the following takes place outside the  
7 presence of the jury.)

8 THE COURT: All right. Anything from the State before we  
9 recess?

10 MS. ANDREW: Nothing from the State, or I'm sorry.

11 THE COURT: Anything --

12 MS. ANDREW: Yeah. She does have something. I  
13 apologize.

14 THE COURT: All right.

15 MS. WALTER: Your Honor, this is just to prevent any  
16 evidence shenanigans. This is State's Exhibit 12 which Ms.  
17 Wilson has said that she was going to not object to the  
18 admission of, and it's our --

19 THE COURT: No. She said she was not objecting --

20 MS. WALTER: To the chain of --

21 THE COURT: -- or requiring the chain --

22 MS. WALTER: Right. Okay.

23 THE COURT: -- of title.

24 MS. WILSON: Right. I don't have any problem with the  
25 chain.

1 THE COURT: Chain of custody.

2 MS. WALTER: Okay. Do you want me to send it back with  
3 the detective to Horry County custody to come back here or the  
4 court clerk?

5 THE COURT: No. If it's already been marked we have to  
6 keep it here.

7 MS. WALTER: Okay. I just wanted to know what we needed  
8 to do with it. I didn't --

9 THE COURT: Anything that's been marked by the court  
10 reporter needs to stay here with the court reporter.

11 MS. WALTER: Okay. That's -- I just wanted to make sure  
12 that it was where it was supposed to.

13 THE COURT: All right. All right.

14 Anything else from the State before we recess?

15 MS. WALTER: No, Your Honor.

16 THE COURT: Anything from the Defense?

17 MS. WILSON: Nothing from the Defense, Your Honor.

18 THE COURT: All right. We'll be in recess. I'll try to  
19 take the bench at 9:30 tomorrow morning. All right.

20 MS. WILSON: Yes, sir. Thank you.

21 THE COURT: All right. Thank you very much.

22 (Adjourned for day.)

23

24

25

State v. Davis

307

1           (On the record, January 9, 2019. The following takes  
2 place outside the presence of the jury.)

3           THE COURT: Ready to move forward? Anything from the  
4 State before we bring the jury in?

5           MS. ANDREW: Nothing from the State, Your Honor.

6           THE COURT: Anything from the Defense?

7           MS. WILSON: Just briefly, Your Honor. I reviewed the  
8 redacted CRC interview yesterday evening, and there was one  
9 portion in there that I thought also needed to come out where  
10 and I can't remember the time, Leigh, what was it?

11          MS. ANDREW: It's 12:18:31.

12          MS. WILSON: Okay. Where the child is identifying the  
13 pornhub website and the interviewer in what I felt was a  
14 bolstering statement says, "Pornhub, oh, I know about," or,  
15 "I'm familiar with or I'm aware of that website." So I  
16 contacted Leigh. We agreed that it should come out, and we  
17 are, I think, in the process now of redacting it --

18          THE COURT: Is that correct?

19          MS. WILSON: -- that, that line.

20          MS. ANDREW: Yes, Your Honor. We just consented to that  
21 and had it redacted.

22          THE COURT: Okay.

23          MS. WILSON: And that's, that's it. Thank you.

24          THE COURT: All right. Anything else from the Defense  
25 before we bring the jury in?

1 MS. WILSON: No, sir.

2 THE COURT: Okay. Let's go ahead and bring the jury in,  
3 and I need to let you all know, I don't know what the schedule  
4 is.

5 (Scheduling [not related to case] discussed.)

6 (Whereupon, the following takes place in the presence of  
7 the jury.)

8 THE COURT: All right. Ladies and gentlemen, welcome  
9 back. We're ready to resume the trial of the case. Please  
10 make sure you have your own notepads, don't have anyone else's  
11 notepads. If you inadvertently brought a cell phone or a  
12 pager into the courtroom, please turn it off now. Again, I  
13 want to thank you for being prompt and being on time this  
14 morning. That is a great assistance to the Court. I don't  
15 think jurors really recognize how much of an assistance that  
16 is but I do appreciate it and I want to thank you for that.

17 All right. The State can call your next witness.

18 MS. WALTER: The State calls Jessica Stowe.

19 THE COURT: All right.

20 Whereupon, Jessica Stowe is called to the stand, duly  
21 sworn by the clerk and testified as follows:

22 THE CLERK: Please state your name and spell your name  
23 for the record.

24 MS. WALTER: Now, Your Honor?

25 MS. STOWE: My name is Jessica Stowe, S-T-O-W-E.

Jessica Stowe - Direct by Ms. Walter

309

1 THE COURT: All right. Go ahead.

2 MS. WALTER: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MS. WALTER:

5 Q And Ms. Stowe, can you tell the jury, please where you  
6 work?

7 A Yes. I work for SLED, which is the South Carolina Law  
8 Enforcement Division.

9 Q What does SLED do?

10 A SLED is a forensics lab, and we have several different  
11 departments that can do a number of things for DNA analysis,  
12 toxicology, firearms analysis, and we service the entire  
13 state.

14 Q And how long have you worked for SLED?

15 A Almost seven years.

16 Q What is your current position with SLED?

17 A I am a forensic serologist.

18 Q What does a serologist do?

19 A Serology is the identification of body fluids such as  
20 blood, semen and saliva. So the first thing we would do is  
21 determine through documentation and paperwork that gets  
22 submitted what body fluid are we looking for, and then we have  
23 certain tests specific to those body fluids that we can start  
24 and screen evidence from bed sheets, sexual assault kits,  
25 knives, guns, you name it, we process it.

1 Q What type of -- first, tell us your educational  
2 background, please.

3 A I have a bachelor's of science from the University of  
4 South Carolina in biology with a minor in chemistry. I have a  
5 master's of science from the University of Florida in  
6 microbiology and cellular science with a concentration in  
7 medical microbiology and biochemistry.

8 Q And did you receive any additional training in order to  
9 become a forensic serologist for SLED?

10 A Yes. Upon being hired at SLED I was trained by SLED's  
11 in-house training program. That consisted of being trained by  
12 a court-qualified DNA analyst and evidence processing  
13 technician. The training lasted for about a year and upon  
14 completion of the training I took a five-part test that  
15 consisted of all aspects of being a forensic serologist. Upon  
16 passing that test I was deemed qualified to perform  
17 independent case work.

18 Q Have you ever been qualified as an expert in forensic  
19 serology?

20 A Yes.

21 Q How many times have you now?

22 A I'd say roughly 20.

23 Q Have any of those times been in General Sessions Court?

24 A Yes.

25 Q Do you know how many?

Jessica Stowe - Direct by Ms. Walter

311

1 A I would say most of them, maybe one didn't, but --

2 Q One was not in General Sessions?

3 A Right.

4 Q Okay.

5 A Yeah. That I can think of right now.

6 MS. WALTER: Your Honor, at this we would proffer Ms.  
7 Stowe as an expert in forensic serology.

8 THE COURT: Any questions or challenges?

9 MS. WILSON: Without objection.

10 THE COURT: All right. All right. I find this witness  
11 to be an expert in the field of forensic serology.

12 Now, ladies and gentlemen of the jury, I will charge you  
13 on the law regarding expert testimony when I charge you with  
14 the law in this case, but all you need to know for right now  
15 is that ordinarily a person can only testify to his or her  
16 personal knowledge, what they observed, what they smelled,  
17 what they tasted, what they felt, things of that nature.  
18 There is an exception for witnesses who are qualified as  
19 experts, which means that in addition to her personal  
20 observations, this witness will be allowed to render an  
21 opinion in the field in which she is qualified as an expert.

22 All right. Go ahead.

23 MS. WALTER: Thank you, Your Honor.

24 BY MS. WALTER:

25 Q And Ms. Stowe, did you -- were you assigned -- well, I'll



1 actually back up. How are cases assigned at SLED?

2 A Essentially we have a spreadsheet and there are  
3 designated people who put the cases as we get them on the  
4 spreadsheet and whatever's next that's what we pull unless  
5 it's like a rush or a priority but that's typically the way it  
6 goes.

7 Q So were you assigned to conduct a serology analysis for  
8 SLED lab identification number L16-06211?

9 A Yes. I was.

10 Q And that is the SLED lab number that correlates with the  
11 State versus Leslie Davis?

12 A That is correct.

13 Q Okay. And when evidence is -- strike that. How is  
14 evidence brought to SLED?

15 A Okay. So evidence when it's brought to SLED it is  
16 secured in a location that is accessed by only a select few  
17 people. Whenever I need evidence I submit a formal request to  
18 these individuals and they retrieve it and then they give it  
19 from their custody into my custody.

20 Q Is there a document that is created that we call a chain  
21 of custody that just shows how the evidence first comes in  
22 from the police department all the way through analysis and  
23 then back?

24 A The -- we have our own chain of custody. It starts with  
25 whoever brings it to the lab and then it ends with once it

Jessica Stowe - Direct by Ms. Walter

313

1 leaves the lab. So we don't really see what happens before or  
2 after, but the internal chain that we can always see where the  
3 evidence is currently, where it has been, etcetera.

4 MS. WALTER: And I am going to approach if I may, Your  
5 Honor.

6 THE COURT: All right.

7 MS. WALTER: State's Exhibit 13 which I've shown to Ms.  
8 Wilson and she has a copy.

9 BY MS. WALTER:

10 Q Do you recognize that?

11 A Yes. This appears to be a copy of our chain of custody  
12 for the lab number that she just spoke of.

13 Q And is that a fair and accurate or copy of the chain of  
14 custody from SLED?

15 A It appears so, yes.

16 MS. WALTER: Your Honor, I would ask that State's Exhibit  
17 13 be admitted.

18 THE COURT: Any objection?

19 MS. WILSON: Without objection, Your Honor.

20 THE COURT: State's Exhibit 13 is admitted into evidence  
21 without objection.

22 (State's Exhibit Number 13 [SLED Chain of Custody]  
23 admitted into evidence and appropriately marked.)

24 BY MS. WALTER:

25 Q Let's first deal with -- did you do two separate sort of

1 sets of analysis in this case?

2 A Yes. That is correct.

3 Q All right. Let's deal with the first analysis. Did you  
4 do a serology analysis on the sexual assault evidence  
5 collection kit in this matter?

6 A Yes. I did.

7 Q Okay. And I'm going to show you --

8 MS. WALTER: Again, if I may approach, Your Honor.

9 THE COURT: All right.

10 BY MS. WALTER:

11 Q And that's just -- we had opened it yesterday. So it's  
12 stapled. So if you need to open it to look at it any further  
13 you can. Do you recognize State's Exhibit Seven?

14 A Yes. State's Exhibit Seven is our item number one for  
15 L16-6211 a CSC kit from Minor and I also recognize it  
16 through the presence of my initials and the date and also on  
17 the heat-sealed pouch as well.

18 Q And so SLED will assign its own item numbers to evidence  
19 that comes in?

20 A Yes. That is correct.

21 Q All right. Can you tell us about the examination that  
22 you did on this sexual assault, the items in it, Exhibit  
23 Seven?

24 A Yes. So the very first thing we do whenever we receive a  
25 sexual assault kit is the envelopes come in this bigger

Jessica Stowe - Direct by Ms. Walter

315

1 envelope right here, and so I open it up and I take an  
2 inventory of what is present. Within this envelope was  
3 smears, which are just glass stains with the sample, vaginal  
4 and rectal smears, vaginal swabs and rectal swabs. The body  
5 fluid that I was looking for for this case was semen. So I  
6 performed a series of tests that determined if semen was  
7 present or not.

8 Q Okay. And what were your conclusions as to whether or  
9 not there was semen present in either the vaginal swab or the  
10 rectal swab?

11 A There was no semen identified.

12 Q And then turning to -- I'm handing you State's Exhibit 10  
13 and 11 which was kept in a box.

14 A Uh-huh.

15 Q And then also State's Exhibit 12. These have been  
16 admitted already. Do you recognize those exhibits?

17 A Yes. This right here is again the L16-6211 container A.  
18 This contains two bed sheets. I also recognize it through the  
19 presence of my initials, oh, sorry, right here, and this would  
20 be --

21 Q And just for the record, that, that box is State's  
22 Exhibit 10 and 11?

23 A Yes. That is correct.

24 Q Thank you.

25 A And then State's Exhibit 12 is a cutting that I

1 personally made off of the bed sheet, one of the bed sheets  
2 that is in this box, and then I performed further analysis.

3 Q Okay. So let's turn to the sheets. What type of  
4 examination or analysis did you do for the sheets?

5 A For the sheets, again, I was looking for semen. I  
6 started with a quick screening test where in the presence of  
7 semen is a color change test, and on one of those sheets it  
8 was positive and then I took that a bit further, was looking  
9 for a protein specific to semen and then I did a microscopic  
10 analysis for the sperm cell.

11 Q All right. So just and I'm -- I won't get too far into  
12 the weeds, but the first thing you do with both sheets is do  
13 that screening test for an acid phosphatase.

14 A Yes. Acid phosphatase is an enzyme that's found in high  
15 concentrations in semen. So the test is a quick 60-second  
16 test. It allows me to focus more on what turns that purple  
17 color and to even figure out what spots I need to test I use a  
18 light and those areas that fluoresce on those sheets that will  
19 get tested for the acid phosphatase, the presence of that  
20 enzyme and then that will get taken forward, if positive, and  
21 tested for the prostate-specific antigen. That's a protein  
22 that's also found in high concentrations in semen and then the  
23 microscopic analysis for the sperm cell.

24 Q And so if you don't -- if it doesn't change color to the  
25 purple and there's no acid phosphatase then you can stop your

Jessica Stowe - Direct by Ms. Walter

317

1 examination at that point?

2 A Yes. There's nothing else to be tested.

3 Q And there's been testimony that the white sheet, which is  
4 State's Exhibit 10, and I believe it's SLED's exhibit six --

5 A Uh-huh.

6 Q -- was the smaller of the sheets and had been recovered  
7 from the victim's bedroom. What was the result on that sheet  
8 specifically?

9 A For the white bed sheet the examination for component of  
10 semen, acid phosphatase was negative.

11 Q And so that ended your examination of that item?

12 A That is correct.

13 Q Now, turning to SLED's item number five, which would be  
14 State's Exhibit 11, the green bed sheet from the Defendant's  
15 bedroom --

16 A Uh-huh.

17 Q -- did you do that sort of three-part examination first  
18 for acid phosphatase, then for P30 and then a microscopic?

19 A That is correct. The acid phosphatase test on this sheet  
20 was positive. So I took a cutting, which would be in this  
21 pouch that I just showed.

22 Q And that's State's Exhibit 12?

23 A That is State's Exhibit 12, yes. Took a cutting and then  
24 tested that area a bit more. The protein test and the sperm  
25 cell search with my microscopic was positive. So semen was

1 identified.

2 Q On the green sheet.

3 A On the green sheet.

4 Q Did you reduce your findings for both the rape kit and  
5 the sheets to serology reports?

6 A Yes. I did.

7 Q Okay.

8 MS. WALTER: And I'm going to approach.

9 THE COURT: All right.

10 MS. WALTER: And I've shown them to Ms. Wilson, Your  
11 Honor, what is State's Exhibit 14 and 15.

12 A State's Exhibit 14 and 15 appear to be copies of both of  
13 my serology reports.

14 Q Okay. Thank you.

15 MS. WALTER: Your Honor, I would ask that State's 14 and  
16 15 be admitted.

17 THE COURT: Any objection?

18 MS. WILSON: Without objection, Your Honor.

19 THE COURT: All right. And I understand you said 12 was  
20 in evidence, but I don't think it is.

21 MS. WALTER: Oh, I'm sorry. Okay. 12 -- thank you, Your  
22 Honor.

23 BY MS. WALTER:

24 Q 12 is the cutting that you did from the green sheet,  
25 State's Exhibit 12 I'm sorry?

Jessica Stowe - Direct by Ms. Walter

319

1 A Yes. That is correct.

2 Q Okay.

3 MS. WALTER: Your Honor, at this time I believe she has  
4 testified to it, but I would ask that State's Exhibit 12 be  
5 admitted.

6 THE COURT: Any objection?

7 MS. WILSON: Without objection, Your Honor.

8 MS. WALTER: Thank you, Your Honor.

9 THE COURT: All right. State's Exhibits 14, 15 and 12  
10 are admitted into evidence without objection.

11 (State's Exhibit 12 [Cutting From Green Sheet] and  
12 State's 14 and 15 [SLED Reports] entered into evidence and  
13 appropriately marked.)

14 BY MS. WALTER:

15 Q So with -- what did you do with the items of evidence  
16 after you were done with your analysis?

17 A Okay. So the purpose of serology is to figure out the  
18 body fluids. The body fluids potentially have DNA profiles in  
19 those cells in the body fluid that I've identified. So I take  
20 a small cutting of this cutting, put it into clear tubes as we  
21 can see here if you see it real closely, and then this gets  
22 forwarded to the DNA analyst and then she will take a -- and  
23 then do whatever she does past that, but that's the extent of  
24 it.

25 Q So you forward those items to the DNA section?



1 A Uh-huh. Uh-huh.

2 Q Okay. Great. Thank you.

3 MS. WALTER: I have nothing further for this witness at  
4 this time.

5 THE COURT: All right. Cross examination.

6 MS. WILSON: Just briefly, Your Honor.

7 CROSS EXAMINATION

8 BY MS. WILSON:

9 Q Good morning, Ms. Stowe.

10 A Good morning.

11 Q Now, just a few quick questions and it's really just for  
12 clarification.

13 A Uh-huh.

14 Q You never tested for any other substances; correct, other  
15 than semen?

16 A That would be correct.

17 Q And the request for the substances tested comes from the  
18 State; correct?

19 A It comes from the submitting agency.

20 Q Okay. And that submitting agency is usually the local  
21 police; correct?

22 A Yes.

23 Q All right.

24 A We also have the discretion to add other tests if the  
25 case information suggests we should, but in this case I just

Jessica Stowe - Cross by Ms. Wilson

321

1 stuck with semen.

2 Q Okay. Well, let me ask you about that, in this  
3 particular instance there's an allegation, of course, of  
4 criminal sexual conduct and you are aware of the type of  
5 offense; correct?

6 A That's correct.

7 Q And in an allegation where a child -- sheet -- bed sheets  
8 are being tested, and a child has said that, "I was assaulted  
9 in this bed," would you not also check for fluids or blood  
10 from the child normally? Shouldn't you?

11 A Depending on the body fluid. So in this case, semen was  
12 suggested. That would be the only body fluid that I tested  
13 for. With blood, unless we had some details that said we  
14 should, then no.

15 Q Okay. So and when you say details you mean from the  
16 police or from the Solicitor's Office?

17 A Or from the incident report and documentation because we  
18 review all of that.

19 Q Okay. And, and you're saying you didn't have anything  
20 that indicated that there was actually blood present or would  
21 have been present in this instance; is that correct?

22 A That would be correct. Yeah. I did not believe so.

23 Q All right. And now, no testing for any blood, no testing  
24 for any body fluids other than just the semen; correct?

25 A That'd be correct.

1 Q All right. And you said that the, the green cutting and  
2 I want to make sure I'm getting it correct --

3 A Uh-huh.

4 Q -- I've got this correct, you took a cutting from the  
5 green bed sheet, which was the larger bed sheet, and I believe  
6 you said that that one actually was positive for semen.

7 A Yes.

8 Q All right. And it being positive for semen that's not  
9 dispositive, obviously, of any act; is it? It's just positive  
10 for semen? It's just -- you just find -- your testing just  
11 shows that it's there?

12 A That is correct.

13 Q All right. And you don't have any idea about how it got  
14 there?

15 A Right. We do not know when or how it got there, just  
16 that it's there through our tests.

17 Q Just that it's present.

18 A Uh-huh.

19 Q All right.

20 MS. WILSON: The Court's indulgence.

21 THE COURT: All right.

22 BY MS. WILSON:

23 Q And to be clear, the white sheet, which I believe was  
24 also tested, was negative for anything, there was no semen,  
25 there was no nothing there; correct --

Jessica Stowe - Redirect by Ms. Walter

323

1 A I --

2 Q -- that you tested for?

3 A I only tested for semen. I can't --

4 Q Right. So there was definitely no semen on the white  
5 sheet at all; right?

6 A My test for that was negative.

7 Q All right. Thank you.

8 MS. WILSON: No further questions, Your Honor.

9 THE COURT: Redirect.

10 MS. WALTER: Very briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. WALTER:

13 Q First let me start, you do -- I believe you told us that  
14 you do a visual examination of both sheets prior to doing any  
15 further testing; correct?

16 A Correct.

17 Q And would that visual examination typically show if there  
18 was a bloodstain on it? Would that be something that you  
19 would be able to see during that visual examination?

20 A In the past if I do visual examinations for blood I can  
21 see possible areas, but then I would need to test, yes.

22 Q Right. So you, you could see something that you might  
23 suspect was blood and if so then you could do further testing?

24 A Yes. If that would be probative to the case.

25 Q Okay. And in this case based on your review of the

1 incident report and all of the paperwork that was submitted --

2 A Uh-huh.

3 Q -- there was no need to test for blood; correct?

4 A Right. I -- there was limited documentation in the  
5 beginning that we were trying to get a hold of, and so I spoke  
6 with the Solicitor's Office and who was able to provide a bit  
7 more case information, and it was determined with that  
8 conversation as well that semen would be the body fluid to  
9 test for.

10 Q And did you test every square inch of both sheets or just  
11 where you got perhaps a fluoresce and the acid phosphatase?

12 A So with the white sheet, that was negative. The first  
13 step is shining that light where everything fluoresces and  
14 then where -- not everything, but the spots that fluoresced I  
15 would test every single spot, and because everything that I  
16 was testing was coming up negative I had to keep testing every  
17 single spot. Now, that was not the case with the green bed  
18 sheet that was positive. Once I get those positive tests,  
19 those positive results, I can stop there because once we find  
20 a positive we don't need to keep going necessarily for more  
21 positives.

22 Q Okay. Thank you.

23 MS. WALTER: Nothing further, Your Honor.

24 THE COURT: All right. You may step down.

25 MS. WALTER: Your Honor, the State next calls Sara

Sara Goodman - Direct by Ms. Walter

325

1 Goodman.

2 THE COURT: All right.

3 Whereupon, Sara Goodman is called to the stand, duly  
4 sworn by the clerk and testified as follows:

5 THE CLERK: Please state your name and spell your name  
6 for the record.

7 MS. GOODMAN: Okay. My name is Sara Goodman, last name  
8 is G-O-O-D-M-A-N.

9 DIRECT EXAMINATION

10 BY MS. WALTER:

11 Q And can you just spell your first name as well?

12 A Sure. Sorry. S-A-R-A.

13 Q Thank you. And can you tell the jury where you work?

14 A I work at the South Carolina Law Enforcement Division,  
15 commonly referred to as SLED.

16 Q So for the same organization that Ms. Stowe works for?

17 A Yes.

18 Q How long have you worked for SLED?

19 A Three and a half years.

20 Q What is your current position at SLED?

21 A I am a forensic scientist assigned to the DNA case work  
22 department.

23 Q What do you do in that department?

24 A So we receive items of evidence from local law  
25 enforcement agencies as well as known standards. So I will

1 generate DNA profiles from evidence and compare it to any DNA  
2 profiles that I generate from the known standards.

3 Q What is your educational background?

4 A I have a bachelor of science degree in biology from  
5 Erskine College and I have a master's of science in forensic  
6 science from Arcadia University, which is in Pennsylvania.

7 Q Did you receive additional training for your position at  
8 SLED?

9 A Yes.

10 Q Can you tell us about that training?

11 A Sure. So upon employment at SLED I went through a  
12 training program that lasted for a little over a year with  
13 another court qualified analyst. So that included some  
14 classroom and laboratory instruction, and then we have to  
15 successfully complete a series of competency tests, both in  
16 laboratory and report writing before we are certified to do  
17 case work.

18 Q And can I presume that you passed all of that work?

19 A Yes.

20 Q Have you ever been qualified in a court as an expert in  
21 forensic DNA analysis?

22 A Yes. I have.

23 Q Can you give us an approximate number of times?

24 A About five times before this.

25 Q Have any of those times been in General Sessions court?

Sara Goodman - Direct by Ms. Walter

327

1 A All of them.

2 Q Okay. Have --

3 MS. WALTER: And I -- at this time, Your Honor, I would  
4 proffer her as an expert in forensic DNA analysis.

5 THE COURT: All right. Any challenges or objections?

6 MS. WILSON: No objection, Your Honor.

7 THE COURT: All right. I find this witness to be an  
8 expert in the field of forensic DNA analysis.

9 MS. WALTER: Okay. And Your Honor, if I can just  
10 approach. I just want to get the exhibits lined up.

11 THE COURT: All right.

12 BY MS. WALTER:

13 Q Were you assigned to do DNA analysis related to SLED,  
14 SLED, excuse me, lab ID L16-06211?

15 A Yes. I was.

16 Q And that relates to State versus Leslie Davis?

17 A Yes.

18 Q Okay. Can you tell us what items you received and what  
19 analysis you performed?

20 A Sure. So I received items from a sexual assault kit. So  
21 I tested items 1.2, which were vaginal swabs, and 1.3, which  
22 were rectal swabs from the kit. I received a cutting from the  
23 edge of a green bed sheet and then I also received two known  
24 standards, one from buccal swabs from Leslie Davis and then a  
25 saliva standard from Minor



1 Q And when you say DNA standard or saliva standard, what  
2 does that mean?

3 A That means that it is a known standard from those  
4 individuals. So they typically will take swabs that kind of  
5 look like a large q-tip and rub them on the inside of their  
6 cheeks and that just means that we know it is that person's  
7 DNA when I generate that profile.

8 Q Why do you need the known standards?

9 A We use them to compare to the evidence so that we can say  
10 whether or not the DNA profile matches that person.

11 Q What types of conclusions can you make after your DNA  
12 analysis?

13 A So we usually can either exclude a person, which means  
14 that DNA profile does not match up with that person. We can  
15 match it to someone or say that it's an unidentified person if  
16 we don't have any standards or sometimes if we don't have  
17 enough information or data we will say that it's insufficient  
18 for comparison or interpretation.

19 Q Now directing your attention let's start with your item  
20 1.2, the vaginal swabs.

21 A Okay.

22 Q Can you tell us what your findings were with respect to  
23 that item?

24 A Sure. So the DNA profile is consistent with the DNA  
25 profile of Minor

Sara Goodman - Direct by Ms. Walter

329

1 Q So if the vaginal swab was taken from Minor is that  
2 a result that you would expect?

3 A Yes.

4 Q All right. And then your item 1.3, the rectal swabs,  
5 what was your conclusion with that?

6 A The DNA profile is consistent with the DNA profile of  
7 Minor

8 Q And again, if that was a swab taken from Minor  
9 would you expect the DNA profile to be consistent with her?

10 A Yes.

11 Q If there was an allegation that there had been a sexual  
12 assault on March 11<sup>th</sup> and the swabs were done on March 14<sup>th</sup>,  
13 would that passage of time potentially effect whether or not  
14 you would find a second DNA in those swabs?

15 A Yes. It could.

16 Q And actually I should back up, based on your findings you  
17 only found the DNA profile of the victim in both of those;  
18 correct?

19 A Correct. Yes.

20 Q All right. So the passage of time could potentially  
21 effect whether or not you would find any additional DNA  
22 profiles in those swabs?

23 A Yes. It could.

24 Q Can you tell us what about the passage of time might  
25 affect that?

1 A Sure. So there's a few different factors that can effect  
2 whether, I guess, how long DNA sticks around. So depending on  
3 the type of DNA if -- sperm cells can stay around a little bit  
4 longer than say touch DNA just from skin cells from touching  
5 something. So bathing can get rid of touch DNA pretty quickly  
6 and even other types of DNA. Also for sexual assault cases,  
7 there are different, I guess, chemicals that we call enzymes  
8 in the vaginal cavity that can break down DNA or other types  
9 of cells like sperm cells as well or things like gravity,  
10 those can all effect the amount of DNA that's left.

11 Q Okay. And again, even -- your findings don't necessarily  
12 indicate -- obviously we're here on a sexual assault kit, so  
13 even if you found DNA, which we'll talk about next for the  
14 cutting of the bed sheet, that doesn't indicate whether or not  
15 there was a sexual assault. You're simply trying to find out  
16 whether there's a DNA profile present.

17 A Correct. Yes.

18 Q So then if we can turn to your item 5.1, which is the  
19 cutting from the edge of the green bed sheet.

20 A Sure.

21 Q Did you perform DNA analysis on that?

22 A Yes. I did.

23 Q And what were the results of your examination?

24 A The DNA profile from the semen matches the DNA profile of  
25 Leslie Davis. The probability of randomly selecting an

Sara Goodman - Direct by Ms. Walter

331

1 unrelated individual having a DNA profile matching the semen  
2 on this item is approximately one in 640 octillion.

3 Q Again, if this was Leslie Davis' bed sheet, it's not  
4 unusual to find a DNA profile that matches his on his own bed  
5 sheet; correct?

6 A No. Not necessarily.

7 Q Okay. Did you create a report in this case detailing  
8 your findings?

9 A Yes. I did.

10 MS. WALTER: And if I may approach with State's 16?

11 THE COURT: All right.

12 A Yes. This is my report.

13 Q Okay. And that's an accurate copy of the report?

14 A Yes.

15 MS. WALTER: Your Honor, I'd ask that State's 16 be  
16 admitted.

17 THE COURT: Any objection?

18 MS. WILSON: Without objection, Your Honor.

19 THE COURT: All right. State's Exhibit 16 is admitted  
20 into evidence without objection.

21 (State's Exhibit Number 16 [Goodman Report] entered into  
22 evidence and appropriately marked.)

23 MS. WALTER: Nothing further at this time, Your Honor.

24 THE COURT: All right. Cross examination.

25 MS. WILSON: Very briefly, Your Honor.

1 CROSS EXAMINATION

2 BY MS. WILSON:

3 Q Good morning.

4 A Good morning.

5 Q You said that the testing took place -- that you did the  
6 testing and it was approximately two years after the actual  
7 alleged -- allegation of this offense; right?

8 A Yeah.

9 Q Does that sound about right?

10 A Yes.

11 Q And at that time you said you compared saliva from Minor  
12 Davis --

13 A Uh-huh.

14 Q -- who was the alleged victim in this case, as well as a  
15 buccal swab, the swabbing from the cheek; correct --

16 A Correct.

17 Q -- of Mr. Leslie Davis.

18 A Correct.

19 Q And everything that you found DNA-wise in the vaginal  
20 testing and in the rectal testing belonged to Minor

21 A Correct.

22 Q And that means that there was no DNA present from the  
23 other person's standard, Mr. Leslie Davis; correct?

24 A Correct. Yes.

25 Q And when you talked about the possibility with the State

Sara Goodman - Cross by Ms. Wilson

333

1 about how long DNA can survive, you said that semen could  
2 actually survive a little longer than maybe touch DNA which  
3 would just be -- you mean like I touch the table and  
4 potentially might have left some DNA there on the table.  
5 Clearly, somebody comes and wipes that away, it's gone. If I  
6 wash it away or wash the table down it's gone, but semen would  
7 probably stick around a little bit longer; correct?

8 A Yes.

9 Q And if it's sticking around a little bit longer and I  
10 think you also referred to vaginal enzymes affecting whether  
11 or not there might possibly be some DNA left, would those same  
12 enzymes be in the rectum?

13 A Some of them possibly, not -- it doesn't have all of the  
14 same enzymes.

15 Q Okay. So is it possible that the semen might be present  
16 slightly longer in the rectum than it might be available in  
17 the vaginal area?

18 A It depends on different conditions but possibly.

19 Q Understood.

20 MS. WILSON: The Court's indulgence.

21 THE COURT: All right.

22 BY MS. WILSON:

23 Q And as far as the green sheet is concerned, the cutting,  
24 you did not actually test the entirety of the sheet or either  
25 of the other sheets, you only tested the cuttings; is that

1 correct?

2 A Correct. I tested the cutting I received from Ms. Stowe.

3 Q Okay. And in testing that cutting you say you found DNA  
4 belonging to Leslie Davis and that's all that you found on  
5 that cutting; is that correct?

6 A Yes.

7 Q All right. Thank you. No further questions.

8 THE COURT: All right. Redirect.

9 MS. WALTER: Nothing further, Your Honor, and if I may,  
10 if these witnesses can be released from their subpoenas. I  
11 believe Ms. Wilson had also subpoenaed them. I just want to  
12 make sure that they can go.

13 THE COURT: All right.

14 MS. WILSON: I'm, I'm fine with them going. I don't  
15 expect to have any issues.

16 THE COURT: All right.

17 MS. WILSON: Thank you.

18 THE COURT: You may step down and you all are free to go.  
19 Thank you.

20 MS. WALTER: And Your Honor, did you --

21 THE COURT: You can call your next witness.

22 MS. WALTER: Okay. The State's going to call Dr. Carol  
23 Rahter.

24 THE COURT: All right.

25 Whereupon, Carol Rahter is called to the stand, duly

Carol Rahter - Direct by Ms. Walter

335

1 sworn by the clerk and testified as follows:

2 THE CLERK: Please state your name and spell your name  
3 for the Court, please.

4 MS. RAHTER: Carol Ann Rahter, R-A-H-T-E-R, D.O.

5 BY MS. WALTER: And Ms. Grace, do you need her to spell  
6 her first name, also?

7 REPORTER: I've got it. Thank you.

8 THE COURT: Okay.

9 MS. WALTER: May I, Your Honor?

10 THE COURT: Yes. Go ahead.

11 MS. WALTER: Thank you.

12 DIRECT EXAMINATION

13 BY MS. WALTER:

14 Q Dr. Rahter, if you can tell the jury, please, where you  
15 work.

16 A Currently I work as an emergency physician at North  
17 Strand Hospital and South Strand Hospital, but I'm also the  
18 medical director of the Children's Recovery Center.

19 Q How, how long have you been a doctor? Sorry, I'm sorry,  
20 I had to ask.

21 A Since 1982.

22 Q Okay. And can you just give us very briefly your  
23 educational background?

24 A Sure. I went to college in St. Louis, Missouri, at St.  
25 Louis University. I went to medical school in Kansas City at



1 the University of Health Sciences. I did a one-year rotating  
2 internship at Dallas Family Hospital in Dallas, Texas. I did  
3 a two-year emergency medicine residency in Pontiac, Michigan.  
4 I moved to Conway in 1990 and became board -- and started  
5 working at Conway Hospital as an emergency physician and then  
6 became board certified in 1993 in emergency medicine.

7 Q And you indicated that you're the medical director of the  
8 Children's Recovery Center. We've heard a little bit about  
9 it, but can you just tell us what you do at the Children's  
10 Recovery Center?

11 A Yes. So the Children's Recovery Center is a child  
12 advocacy center where we get referrals from DSS and law  
13 enforcement. I do the medical exams there and then they have  
14 a forensic interview there by qualified forensic interviewers.  
15 I used to do the forensic interviews, also, but now we have  
16 lots of other people to do them. So I do all the medical  
17 exams there. So we use a colposcope, which is kind of like a  
18 microscope hooked to a TV, and I examine the child from head  
19 to toe to see if there's any abnormalities anywhere on their  
20 body, including a genital exam.

21 Q Did you receive any specialized training for examinations  
22 related to allegations of sexual assault?

23 A Yes. I have.

24 Q And can you tell us about that training?

25 A APSAC is a national organization that provides training

Carol Rahter - Direct by Ms. Walter

337

1 for physicians and nurse practitioners on the exam of children  
2 who have been maltreated in any form, and it's a twice yearly  
3 conference. It's like 40 hours of training, and I try to go  
4 to at least once a year and have since 1993.

5 Q Have you ever been qualified as an expert in the  
6 evaluation and treatment of child physical, sexual and  
7 emotional abuse?

8 A Yes. I have in both federal court, criminal court and  
9 family court.

10 Q Can you give us an approximation of how many times?

11 A I would say 60 to 70.

12 MS. WALTER: Your Honor, at this time I would proffer  
13 Dr. Rahter, excuse me, as an expert in the evaluation and  
14 treatment of child physical sexual and emotional abuse.

15 THE COURT: Any objections or --

16 MS. WILSON: Without objection, Your Honor.

17 THE COURT: All right. So qualified.

18 BY MS. WALTER:

19 Q So in this case did you -- were you -- I guess did you  
20 speak, first, with Minor on March 16<sup>th</sup> of 2016?

21 A Yes. I did. I did her medical exam on March 16<sup>th</sup>, 2016,  
22 and her forensic interview followed the medical exam.

23 Q What do you -- do you have any type of conversation with  
24 the child prior to doing the medical exam?

25 A Well, it's all done in the medical exam room, but yes, I

1 talk to the child about anything that's occurred to them.  
2 It's basically obtaining a medical history of the child to  
3 find out what has occurred which allows me to know what kind  
4 of testing I need to do besides what I need to actually look  
5 for.

6 Q So in this case without telling us anyone that Minor may  
7 have identified, can you tell us what she told you happened to  
8 her that helped guide your medical exam?

9 A Yes. She told me that a penis was put in both her anus  
10 and her vagina and that it burned when she urinated  
11 afterwards, which required me to do sexual -- sexually  
12 transmitted disease testing on her. She also talked about  
13 some emotional abuse of being -- someone saying really nasty  
14 things to her. She also talked about being exposed to drug  
15 abuse, specifically injection of drugs into somebody's arm,  
16 and she also talked about this person who was placing their  
17 penis in her anus and her vagina, putting Vaseline on it first  
18 before he put it in her vagina and her anus.

19 Q And just to be clear, did Minor use the words penis,  
20 vagina and anus?

21 A No.

22 Q Okay.

23 A With me we -- she identified them as front and back part.

24 Q Okay. And after having that conversation with Minor did  
25 you then, in fact, perform the medical exam?

Carol Rahter - Direct by Ms. Walter

339

- 1 A Correct.
- 2 Q Can you tell us what you did as a --
- 3 A Yes.
- 4 Q -- as a part of that?
- 5 A So we weigh them and we see how tall they are. We get
- 6 their blood pressure, their respiratory rate, their heart
- 7 rate. I listen to their lungs and palpate their abdomen. I
- 8 look for any scars anywhere on their body, front, back, legs,
- 9 arms, scalp, and then we do the genital exam which is the last
- 10 part of the exam. I always start the exam by -- this
- 11 colposcope's really magnified. So the child gets to see
- 12 everything. So we start the exam by looking at their finger,
- 13 nails, talking about whether or not they bite their
- 14 fingernails. We look at their fingerprints. So by the time
- 15 we get to the genital exam it's right at the end. They're
- 16 pretty comfortable with it because they've been looking at
- 17 their whole body on TV through the whole thing, and the
- 18 genital exam is they're placed in what we call frog leg
- 19 position, which means they're on their back and their knees
- 20 are bent and their feet are together so their knees kind of
- 21 flop out, which exposes the genital area without having to put
- 22 anything inside of them. I do a little bit of traction on the
- 23 external lips of the vagina, which is called the labia majora,
- 24 which opens up and allows me to see the hymen, and that's all
- 25 videotaped, and then the last part of the exam is we look at

1 their anus in the same way, just kind of some traction.

2 Q And can you tell us what if anything you found during the  
3 examination of Minor

4 A She had a totally normal exam.

5 Q Is -- does that in your mind rule in or rule out sexual  
6 abuse?

7 A It does not. This tissue --

8 MS. WILSON: Objection. I think we might want to  
9 approach.

10 (Whereupon, a bench conference is held in the presence,  
11 but out of the hearing of the jury.)

12 THE COURT: All right. Go ahead.

13 MS. WALTER: Thank you, Your Honor.

14 BY MS. WALTER:

15 Q So the absence of physical injury does not rule in or  
16 rule out sexual abuse?

17 A That's correct.

18 Q Is there anything about the body of a child Minor age  
19 that affects whether or not you might find physical findings?

20 A Yes. The tissue down in the genital area is very similar  
21 to the tissue on the inside of your cheek, which is called  
22 mucosal tissue, and I'm sure all of us at some point bit the  
23 inside of our cheek and it hurts and you get a little ridge  
24 there. The next day you don't have a ridge there. Three days  
25 later you don't have a ridge there. You have no abnormalities

Carol Rahter - Direct by Ms. Walter

341

1 noted because that tissue heals very rapidly. So children  
2 that are physically injured by sexual abuse, unless you see  
3 them within 72 hours of the time that the injury has occurred,  
4 you oftentimes don't see anything because it heals so rapidly.  
5 Now, sometimes it heals rapidly and there's a scar there, and  
6 sometimes we do see that, but it's very frequent that children  
7 that are sexually abused have a totally normal physical exam  
8 despite what has occurred to them.

9 Q Would you always -- say you had that exam within the  
10 first 72 hours, would you always expect to see physical injury  
11 if a child had been sexually assaulted?

12 A No. It depends on whether or not lubricant is used. It  
13 depends on exactly what they were sexually abused with. It  
14 depends -- it depends -- and then there's different kinds of  
15 injuries that you see. So sometimes all you see is little  
16 broken blood vessels like we call them petechia. Sometimes  
17 you just see bruising but no tearing. Sometimes you do see,  
18 if you see them right afterwards, sometimes you will see a  
19 laceration of the hymen or of the vaginal wall or of the anal  
20 area, but frequently there's -- the majority of the time there  
21 is no physical abnormalities at all, and if there are it's  
22 usually when you see them within 72 hours.

23 Q So if the allegations in this case, that if the victim  
24 indicated that Vaseline had been used both on her and by the  
25 perpetrator, that could potentially lead to no physical

1 injury?

2 A Correct. Because any kind of lubricant decreases the  
3 chance of injury to the vaginal tissue or anal tissue.

4 Q And would the -- you mentioned that it might also -- the  
5 tool or the object that was used to perpetrate the assault  
6 might also have some effect on that. So that could also be  
7 the size of whatever was inserted into the child's vagina and  
8 anus?

9 A Yeah. For, for instance some people sexually abuse  
10 children with a digit. So it's much less chance of seeing an  
11 abnormality if it's a finger than if it's a foreign object or  
12 a penis.

13 Q And then in this case if there was an examination done at  
14 the -- the allegation is that the last assault took place on  
15 March 11<sup>th</sup>.

16 A Okay

17 Q There was an examination at the hospital on March 14<sup>th</sup> and  
18 we've heard testimony about this. During that examination on  
19 March 14<sup>th</sup>, the nurse noted redness to the labia majora. Would  
20 you -- you then examined Minor two days later. Would you  
21 expect to still see that redness or not?

22 A It depends on what -- redness is pretty non-specific.  
23 You can have redness from irritation, from having bubble  
24 baths, from masturbating. You can have redness from lots of  
25 different things. If you have redness of the labia majora or

Carol Rahter - Direct by Ms. Walter

343

1 the labia minora from sexual abuse that's going to resolve  
2 really rapidly.

3 Q And are you familiar with the term dysuria?

4 A Yes.

5 Q Can you tell us what that is?

6 A Yes. So dysuria is something that frequently children  
7 that are sexually abused, whether it's with a finger or  
8 another object, describe which is the first time they urinate  
9 after that sexual abuse it hurts. So they will describe it as  
10 burning, stinging. I have some children tell me it felt like  
11 there was a needle down there, it felt like there was a knife  
12 down there. It's something that people -- adults that are  
13 outside of the medical field don't know happens to children,  
14 and it's because that area gets irritated and then when the  
15 urine hits that area it burns or stings. So it's very  
16 important for me if a child explains to me what it felt like  
17 when they urinated the first time after what occurred to them,  
18 if they say it burned or stings that's pretty concerning to  
19 me.

20 Q Did you make any notations or conclusions in your report  
21 based on what Minor told you about urinating after an assault?

22 A Yes. She told me that it -- let's see what she actually  
23 -- it burned when she urinated afterwards.

24 Q So that would be consistent with dysuria?

25 A Correct. That's the same thing. Dysuria is pain with



1    urination.

2    Q     All right.  Thank you.

3           MS. WALTER:  Nothing further for Dr. Rahter at this time.

4           THE COURT:  All right.  Cross examination

5           MS. WILSON:  Thank you, Your Honor.

6                               CROSS EXAMINATION

7    BY MS. WILSON:

8    Q     Good morning, Dr. Rahter.

9    A     Good morning.

10   Q     Now, your work centers primarily on child abuse cases;  
11   correct?

12   A     Correct.

13   Q     That is what you do; correct?

14   A     It -- the Children's Recovery Center, yes.

15   Q     Yes, ma'am.  And your physical exams are routinely turned  
16   over to police for prosecution; correct?

17   A     If we get a subpoena from DSS or law enforcement, so it  
18   can be either.

19   Q     Yes, ma'am.  And but I guess my question there kind of is  
20   leading into this, the -- in large part, the purpose for your  
21   medical exam and your report and then, for example, like today  
22   your subsequent testimony is because it's probable that it  
23   will be used as a part of the prosecution of the case;  
24   correct?

25   A     Very rarely do these cases go to court.  So I wouldn't

Carol Rahter - Cross by Ms. Wilson

345

1 say it's highly probable, no. The exam is done to make sure  
2 the child is healthy, that they don't need any medical  
3 treatment, that they don't have any physical injury of any  
4 kind, and if they do, to treat that problem that they have.  
5 That's why we do the medical exam.

6 Q Okay. Well, let me, let me try it this way then. When  
7 the State refers a child to Children's Recovery Center or the  
8 police do --

9 A Okay.

10 Q -- you understand who is referring the child?

11 A Yes.

12 Q All right. And so you know then that it's likely to be  
13 used for prosecution purposes at that point; correct?

14 A If it's prosecuted.

15 Q Or at least turned over to police for their  
16 investigation; correct?

17 A It's, it's turned over to whoever referred, whether it's  
18 DSS or law enforcement, yes.

19 Q Okay. All right. Now, your physical exam you said  
20 encompasses the entirety of the body; correct?

21 A Correct.

22 Q All right. And you said you videotaped everything. No  
23 actual photos but just videotape of the exam itself?

24 A The genital exam is always done with a colposcope because  
25 it's magnified --

1 Q Yes, ma'am.

2 A -- about 15 times and that is videotaped. We do use a  
3 digital camera, not necessarily on the genital area, but for  
4 areas where there's belt marks, scars, burn scars. Those  
5 really look better on a digital camera. So we, we actually  
6 use both.

7 Q Got you.

8 A Depending on the case.

9 Q All right. And now, I know that you said that the  
10 dysuria is usually indicative to you of abuse, but you don't  
11 have a way to independently verify whether or not dysuria  
12 actually exists; do you?

13 A It's part of the history that we take, that I take from  
14 the child. It can mean, you know, you can have burning with  
15 urination if you have a urinary tract infection. You can have  
16 burning with urination if you have chlamydia, but if they  
17 explain to me that they had burning with urination the first  
18 time they urinated after the assault and then it resolved  
19 that's more indicative of irritation of that tissue that hurts  
20 when the urine hits it.

21 Q But my question is you don't have a method to  
22 independently verify that; do you, other than what you're  
23 told?

24 A Well, that's --

25 Q Correct?

Carol Rahter - Cross by Ms. Wilson

347

1 A -- it's something personally that somebody feels, so no,  
2 I don't have a way to find out.

3 Q Thank you. No further questions, Your Honor.

4 THE COURT: All right. Redirect.

5 MS. WALTER: Nothing further for Dr. Rahter, Your Honor.

6 THE COURT: All right. You may step down.

7 A Thank you.

8 MS. WALTER: Your Honor, I would ask that she be released  
9 from her subpoena.

10 MS. WILSON: Without objection, Your Honor.

11 THE COURT: All right.

12 A Thank you.

13 THE COURT: You may step down.

14 MS. WILSON: And Your Honor, I have a, a brief matter I  
15 think we need to take up briefly.

16 THE COURT: Okay. All right. Let her -- Dr. Rahter step  
17 down.

18 A Thank you.

19 THE COURT: All right. Ladies and gentlemen, I'm going  
20 to excuse you to the jury room while we take up this brief  
21 matter of law. Please leave your notepads in the jury box.  
22 Do not discuss the case even among yourselves. We'll take  
23 about a 10 or 15-minute break and bring you back in just a  
24 minute.

25 (Whereupon, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right. Ms. Wilson.

3 MS. WILSON: Thank you, Your Honor. I'm sorry to have to  
4 call for the break, but I realized that when we had our  
5 sidebar I didn't actually get the Court to make an official  
6 ruling. Now, you did tell the State to proceed, but you  
7 didn't overrule me, and I wanted to make sure that I preserved  
8 my objection to that language on the record.

9 THE COURT: All right. Go ahead and place your objection  
10 on the record.

11 MS. WILSON: Thank you, Your Honor. At the time Dr.  
12 Rahter was testifying about her findings and she found that  
13 there were no abnormalities in the medical exam, but then she  
14 used language which I objected to at the time that she was  
15 saying it of it did not rule in or rule out abuse. Now, my  
16 argument, my argument and objection to that language is that I  
17 feel that it is bolstering language. Certainly she is  
18 entitled to -- as an expert to get up there and say that there  
19 were no abnormalities and explain why that did not matter, but  
20 I feel that the language -- the specific language to -- does  
21 not rule in or rule out abuse is intended to give credibility  
22 to the child's statement where there is no actual physical  
23 support for that. Any statement she makes after the fact  
24 about how it may have played out and why it could have been  
25 this way or that way I think is perfectly fine, but I think

State v. Davis

349

1   that particular phrasing which I find attached to every CRC  
2   report just about where there is no evidence of abuse that  
3   language is there and I think that it's only for the purpose  
4   of trying to lend credibility to the child's claims of abuse.  
5   That is my issue and argument there.

6           THE COURT: All right. All right. And I overruled your  
7   motion to suppress it.

8           MS. WILSON: Yes, sir. Thank you.

9           THE COURT: And I allowed her to testify.

10          MS. WILSON: Thank you very much, Your Honor.

11          THE COURT: All right.

12          MS. WILSON: All right.

13          THE COURT: All right.

14          MS. WILSON: And that was it.

15          THE COURT: All right. Anything further?

16          MS. ANDREW: Your Honor, the next witness we're going to  
17   call is Dianne Nordeen. That's where we're going to play the  
18   CRC video.

19          THE COURT: Right.

20          MS. ANDREW: We just need a few minutes to get that set  
21   up or --

22          THE COURT: All right.

23          MS. ANDREW: -- it'll be about an hour long I think.

24          THE COURT: That'll be fine.

25          MS. ANDREW: If that's fine.

1 MS. WILSON: And then as housekeeping then if the State  
2 finishes up I'm assuming around lunchtime I would ask the  
3 Court to give me just a brief moment with my client prior to  
4 the lunch break to know if he is going to testify or not.

5 THE COURT: That'll be fine.

6 MS. WILSON: That's something we're still discussing and  
7 that way if we're -- we might end up closing today. I would  
8 like to have a lunch break to --

9 THE COURT: All right. That won't be a problem.

10 MS. WILSON: -- gather myself. All right. Thank you.

11 THE COURT: All right. All right. Let's take about a  
12 10, 15-minutes break.

13 OFF THE RECORD.

14 (On the record. The following takes place outside the  
15 presence of the jury.)

16 THE COURT: All right. Anything from the State before we  
17 bring the jury in?

18 MS. ANDREW: Nothing from the State, Your Honor.

19 THE COURT: Anything from the Defense?

20 MS. WILSON: Nothing, Your Honor.

21 THE COURT: All right. Let's go ahead and bring the jury  
22 in.

23 (Whereupon, the following takes place in the presence of  
24 the jury.)

25 THE COURT: All right. Ladies and gentlemen, welcome

Dianne Nordeen - Direct by Ms. Andrew

351

1 back. We're ready to resume the trial of the case. Make sure  
2 you have your own notepads and do not have anybody else's  
3 notepads. The State can call your next witness.

4 MS. ANDREW: Your Honor, the State calls Dianne Nordeen.

5 THE COURT: All right.

6 Whereupon, Dianne Nordeen is called to the stand, duly  
7 sworn by the clerk and testified as follows:

8 THE CLERK: Please state your name and spell your name  
9 for the record.

10 MS. NORDEEN: Dianne Nordeen, N-O-R-D-E-E-N.

11 THE COURT: All right.

12 DIRECT EXAMINATION

13 BY MS. ANDREW:

14 Q Ms. Nordeen, where are you currently employed?

15 A Children's Recovery Center.

16 Q And how long have you been at the Children's Recovery  
17 Center?

18 A 12 years.

19 Q What is the Children's Recovery Center?

20 A The Children's Recovery Center is a place where children  
21 can come to talk about things that happened to them rather  
22 than having to go to a police department to do that.

23 Q Okay. And what is your job at the Children's Recovery  
24 Center?

25 A I'm a forensic interviewer.



1 Q What do you do as a forensic interviewer?

2 A I interview children. I talk with children one on one  
3 in, in -- just the child and I in a comfortable setting.

4 Q Okay. And did you have a chance to interview the victim  
5 in this case, Minor

6 A I did.

7 Q How did you come to interview Minor

8 A She was referred to Children's Recovery Center by  
9 Detective Justin Wyatt of the Horry County Police Department.

10 Q Okay. And where did that interview take place?

11 A At Children's Recovery Center in Myrtle Beach.

12 Q When did the interview take place?

13 A March 16<sup>th</sup>, 2016.

14 Q Do you know how old Minor was at the time of the  
15 interview?

16 A She was eight years old at that time.

17 Q And who was present for the interview?

18 A Just Minor and myself.

19 Q What equipment was used to record the interview?

20 A We have an audio and video recorder that we use.

21 MS. ANDREW: May I approach, Your Honor?

22 THE COURT: Yes.

23 By MS. ANDREW:

24 Q Did you provide a copy of the interview to the  
25 Solicitor's Office --

Dianne Nordeen - Direct by Ms. Andrew

353

1 A Yes.

2 Q -- of the child's --

3 A I did.

4 Q Okay. I'm going to show you what's been marked as  
5 State's Exhibit Number 17. Was the copy that you provided to  
6 the Solicitor's Office a fair and accurate representation of  
7 what actually occurred during the interview?

8 A It was.

9 Q I'm going to show you what's been marked as State's  
10 Exhibit Number 17. I'm going to represent to you that this is  
11 a copy that you provided with redactions made for this  
12 proceeding. Do you recognize that?

13 A I do.

14 Q Okay. And is that -- would that be a fair and accurate  
15 representation of the interview you conducted with Minor

16 A Yes.

17 MS. ANDREW: Your Honor, the State moves to enter  
18 Exhibit Number 17 into evidence and publish to the jury.

19 THE COURT: Any objection?

20 MS. WILSON: Without objection, Your Honor.

21 THE COURT: All right. State's Exhibit 17 is admitted  
22 into evidence without objection.

23 (State's Exhibit Number 17 [CRC Interview - Redacted]  
24 entered into evidence and appropriately marked.)

25 (State's Exhibit Number 17 played in open court.)

1 MS. ANDREW: Your Honor, may we, may we approach?

2 THE COURT: Yes.

3 (Whereupon, a bench conference is held in the presence,  
4 but out of the hearing of the jury.)

5 BY MS. ANDREW:

6 Q Ms. Nordeen, was that video that we just played a fair  
7 and accurate representation of the interview you gave with  
8 Minor minus redactions?

9 A Yes.

10 Q Okay. During the course of that interview we saw Minor  
11 writing things down and you couldn't see what she was writing  
12 in the video but you often repeated it. Did you repeat what  
13 she actually wrote down?

14 A I did.

15 MS. ANDREW: May I approach, Your Honor?

16 THE COURT: Yes.

17 BY MS. ANDREW:

18 Q I'm going to show you what's been marked as State's  
19 Exhibit Number 18. Can you review this and identify what that  
20 is?

21 A These are the words and drawings that Minor wrote during  
22 the forensic interview.

23 Q During the interview we just viewed?

24 A During the interview that was just viewed.

25 Q Have you made any additions or alterations to those

Dianne Nordeen - Direct by Ms. Andrew

355

1 drawings?

2 A No.

3 Q Will you look at the bottom? I think there is something  
4 written.

5 A The -- what I did write is her name, the date of the  
6 interview and each page numbered as she wrote it.

7 Q Okay. So you did that to preserve it in your file?

8 A Yes.

9 Q Okay. And are those drawings a fair and accurate  
10 representation of what she actually drew that day during the  
11 interview?

12 A They are.

13 MS. ANDREW: Your Honor, the States moves to enter  
14 Exhibit Number 18 into evidence and publish to the jury.

15 THE COURT: All right. State's Exhibit 18 is admitted  
16 into evidence over the Defendant's objection.

17 MS. WILSON: Thank you, Your Honor.

18 THE COURT: All right.

19 (State's Exhibit Number 18 [Drawings] admitted into  
20 evidence and appropriately marked.)

21 MS. ANDREW: Your Honor, the State has no further  
22 questions for this witness at this time.

23 THE COURT: All right. Ms. Wilson, cross examination.

24 MS. WILSON: Thank you, Your Honor, very briefly.

25 CROSS EXAMINATION

- 1 BY MS. WILSON:
- 2 Q Ms. Nordeen, how are you today?
- 3 A Fine. Thank you.
- 4 Q Now, the CRC works closely with police; correct?
- 5 A We work with several agencies, yes.
- 6 Q Are they typically law enforcement agents; right?
- 7 A We also work with the Department of Social Services,
- 8 doctors' offices and therapists.
- 9 Q Okay. And do you receive funding from police agencies?
- 10 A We do not.
- 11 Q You do not. So you are funded by grants solely?
- 12 A We are funded by grants and donations and fundraisers.
- 13 Q So you don't receive any donations from police or law
- 14 enforcement agencies?
- 15 A No.
- 16 Q All right. And they just choose to refer all -- a lot of
- 17 their cases to you at CRC; correct?
- 18 A It's a standard procedure across the United States,
- 19 across the world, really now that a child advocacy center is
- 20 used for interviewing a child because it's more
- 21 developmentally appropriate and more comfortable for a child
- 22 to share the details rather than doing it at the police
- 23 department.
- 24 Q So you're, you're not an independent agency; are you,
- 25 then in that sense I guess?

Dianne Nordeen - Cross by Ms. Wilson

357

1 A We are independent but child advocacy centers exist  
2 throughout the country.

3 Q For child advocacy, but not just to --

4 A For forensic interviewing.

5 Q Thank you. And when you are testifying and when you are  
6 interviewing a child you are understanding that there's great  
7 potential for your information to be used by the prosecution  
8 and by police; correct? I mean, it's -- do you understand  
9 that when a child --

10 A I don't really know how to answer that.

11 Q Okay. Let me try it again. Would -- you wouldn't have  
12 an interview with a child that doesn't go anywhere; would you?

13 A The purpose of the interview is it's an investigative  
14 interview to elicit a factual and detailed statement from a  
15 child at their developmental level and to determine if  
16 something happened and to determine if the child is in  
17 immediate danger.

18 Q And so I guess what I'm asking you is more specifically  
19 then you're saying that it is to elicit information for  
20 prosecution?

21 A The -- not necessarily for prosecution. The referral is  
22 made if an allegation of abuse has surfaced about a child.

23 Q Okay. And now those doodles are actually a part of the  
24 notes that you kept about this case; correct?

25 A That's correct.

1 Q And, and you said the only adjustment that you made to it  
2 was to actually I think you said to date and note it?

3 A I wrote her name, the date of the interview and the page  
4 numbers on them as she had written them in order.

5 Q Okay.

6 MS. WILSON: The Court's indulgence.

7 THE COURT: All right.

8 BY MS. WILSON:

9 Q And to be clear, you said that your function is to elicit  
10 the child's statement.

11 A Yes.

12 Q But you don't have any knowledge about any assault in  
13 this case; do you, actual knowledge, meaning did you witness  
14 anything?

15 A I did not witness anything for myself.

16 Q Thank you.

17 MS. WILSON: No further questions.

18 THE COURT: All right. Redirect.

19 REDIRECT EXAMINATION

20 BY MS. ANDREW:

21 Q Ms. Nordeen, you mentioned that child advocacy centers  
22 like the CRC are in use all around the country. Do you have  
23 any personal knowledge about whether or not they're in use  
24 throughout the State of South Carolina?

25 A Yes. There's a South Carolina network of child advocacy

Dianne Nordeen - Redirect by Ms. Andrew

359

1 centers. The goal is to have an advocacy center set up in  
2 every county just for the purpose of a child not having to  
3 travel more than 50 miles in any direction to go to their --  
4 to be interviewed. It's for -- the center is with the child  
5 in mind for the child's comfort and for the child's ability to  
6 provide their statement without having to provide it at the  
7 police department.

8 Q And for example, there's a Children's Recovery Center  
9 child advocacy center in Myrtle Beach that you work at?

10 A Yes.

11 Q One in Florence, Greenville, Columbia?

12 A Yes.

13 Q All throughout the state.

14 A Yes. There are.

15 Q Thank you.

16 A You're welcome.

17 MS. ANDREW: No further questions for this witness.

18 THE COURT: All right. You may step down.

19 A Okay. Thank you.

20 THE COURT: All right. Let me see the attorneys for a  
21 second.

22 (Whereupon, a bench conference is held in the presence,  
23 but out of the hearing of the jury.)

24 THE COURT: All right. The State can call your next  
25 witness.



1 MS. ANDREW: Your Honor, the State rests at this time.

2 THE COURT: All right. Ladies and gentlemen of the jury,  
3 the State has rested their case, and so --

4 JUROR: I'm, I'm sorry.

5 THE COURT: Yes, sir.

6 JUROR: We wanted to take a short break if possible.

7 THE COURT: No. No. I'm getting ready to let you go to  
8 lunch. Okay.

9 All right. The State has rested their case. So now is  
10 the time of trial where I have to take up some matters of law  
11 with the attorneys, and you always do that at the close of the  
12 State's case. So given the time of day I'm going to go ahead  
13 and we're not only going to take a break, I'm going to let you  
14 go ahead and go to lunch. Okay? I'm going to ask that you  
15 please be back at -- let's be back at 2:00 o'clock. Okay? Do  
16 not discuss the case. It's still too early for any  
17 deliberations. Leave your notepads in the jury box. Don't  
18 conduct any independent investigations. I hope everybody has  
19 a good lunch.

20 JUROR: Your Honor, everyone has not had a chance to look  
21 at those drawings.

22 THE COURT: Okay. We'll give you an opportunity a little  
23 bit later to finish looking at them since everybody hadn't had  
24 an opportunity to. Okay? And so we'll let you do that. All  
25 right. Let's just hand those back to the court reporter.

State v. Davis

361

1   There we go, and I -- and we'll give you an opportunity to  
2   review them before we proceed any further. Okay? All right.  
3   I hope you have a good lunch and we'll see you back at 2:00  
4   o'clock. Thank you very much.

5           (Whereupon, the following takes place outside the  
6   presence of the jury.)

7           THE COURT: All right. I understand, Ms. Wilson, you  
8   want to speak with your client a little while beforehand?

9           MS. WILSON: Yes, sir.

10          THE COURT: Okay.

11          MS. WILSON: I, and basically, Your Honor, because I am  
12   not certain yet how we're going to proceed, I wanted a chance  
13   to speak to him prior to our breaking for lunch so I could at  
14   least inform the Court and know if I needed to come back  
15   prepared to do my closing or come back for questions.

16          THE COURT: Okay. All right. Well, do you want me to go  
17   ahead and go over his rights with him now or do you want to  
18   talk to him first and --

19          MS. WILSON: I'd like to speak to him briefly --

20          THE COURT: Okay.

21          MS. WILSON: -- just to make sure we're on the same page  
22   because I've explained to him he has the right and I know the  
23   Court's going to ultimately --

24          THE COURT: Yeah.

25          MS. WILSON: -- do it, but I want to know his answer

1 before.

2 THE COURT: All right. Well, let's talk about a 10 or  
3 15-minute break and then we'll come back and proceed from  
4 there; okay?

5 MS. WILSON: Thank you, Your Honor.

6 THE COURT: All right. Thank you.

7 OFF THE RECORD

8 (On the record. The following takes place outside the  
9 presence of the jury.)

10 THE COURT: All right. I'm just going to go ahead and go  
11 over these --

12 MS. WILSON: Your Honor, I'm --

13 THE COURT: -- rights right now but --

14 MS. WILSON: -- I'm sorry. I forgot. I haven't done my  
15 DV motion.

16 THE COURT: I know.

17 MS. WILSON: Okay.

18 THE COURT: What I was going to do is go over -- what I'm  
19 going to do is go over these rights, then we'll break for  
20 lunch and then when we come back from lunch we'll do your  
21 motions.

22 MS. WILSON: Okay.

23 THE COURT: And then we'll, we'll -- I'm just going to --  
24 I'm not going to ask him whether or not he wants to testify  
25 now. I just want to make sure he understands it.

## Advisement of Rights

363

1 MS. WILSON: Yes, sir.

2 THE COURT: So it'll give him lunch to --

3 MS. WILSON: Okay.

4 THE COURT: -- to consider it. All right.

5 All right. Sir, if I could get you to raise your right  
6 hand, please.

7 (Defendant sworn by the Court.)

8 THE COURT: All right. Sir, your name is Leslie Davis?

9 MR. DAVIS: Yes, sir. Yes, sir.

10 THE COURT: All right. You can put your hand down. All  
11 right. Mr. Davis, I'm going to explain to you certain rights  
12 that you have. If you do not understand anything I'm saying  
13 or some things that I don't say please let me know, and if you  
14 want me to explain anything in more detail, please let me  
15 know. Now, do you understand that?

16 MR. DAVIS: Yes, sir.

17 THE COURT: All right. Now, we still have some matters  
18 we need to address first, but we are approaching a part of the  
19 trial where you may be allowed to present a defense in this  
20 case. You have the right to claim the protections given to  
21 you by the Fifth Amendment to the United States Constitution  
22 which states in part that no person shall be compelled in any  
23 criminal case to be a witness against himself. This means  
24 that you cannot be required to testify in this case. You have  
25 the right to testify on your own behalf. However, no one can

1 make you testify. This is a personal right, and no one can  
2 waive this right except for you. If you decide to testify you  
3 will be subject to the same rules that govern other witnesses,  
4 and you may be examined and cross examined on any relevant  
5 issue in this case. In addition, if you have any convictions  
6 involving dishonesty or false statement or for crimes  
7 punishable by imprisonment for more than one year and this  
8 Court determines that the probative value of admitting this  
9 evidence outweighs its prejudicial effect, the Solicitor will  
10 be able to introduce your record to attack your credibility.

11 Now, is there any criminal record that the State would  
12 use to challenge his credibility if he testified?

13 MS. ANDREW: Your Honor, there's that conviction from  
14 1986. Let me just briefly, Your Honor. That's it, Your  
15 Honor.

16 THE COURT: Okay. So that's the one that he's required  
17 to register as a sex offender?

18 MS. ANDREW: It is, Your Honor.

19 THE COURT: All right. So what would be the probative  
20 value? You've already gotten into evidence that he's got to  
21 register as a sex offender and, and I don't know that he's  
22 contesting that or it wasn't very -- challenged very much.

23 MR. DAVIS: I'm not contesting, Your Honor.

24 THE COURT: I --

25 MS. WILSON: Well, hold on.

## Advisement of Rights

365

1 MS. ANDREW: If it's a felony, it's a felony conviction.  
2 So it'll go to his credibility. So we would like to just say  
3 that he has a conviction. It goes to his credibility.

4 MS. WILSON: I don't think he --

5 THE COURT: But I mean the jury already knows that.

6 MS. ANDREW: Yeah. They do.

7 MS. WILSON: And I don't think they can use that to  
8 impeach him. That's from '86. So it's well outside of the  
9 normal time.

10 THE COURT: Well, when was he released from jail?

11 MS. ANDREW: I'm not sure. His sentence was five to 15  
12 years, but I don't know when he was released.

13 THE COURT: Okay. If it was --

14 MS. ANDREW: It was from '86.

15 THE COURT: Okay. If it was -- if he was released from  
16 jail less than ten years ago or if it occurred less than 10  
17 years ago then I've got to judge the probative value versus  
18 the prejudicial effect.

19 MS. ANDREW: It's okay with us. It's already in the  
20 record, Your Honor. So they've heard it.

21 THE COURT: Yeah. It's already in there. I'm not going  
22 to allow you to bring that back up.

23 MS. WILSON: And -- thank you, and my only issue there  
24 was it's not impeachable given the timeframe, and he would  
25 have been out in around '96.

## Advisement of Rights

366

1 THE COURT: Okay.

2 MS. WILSON: So it's definitely outside of that time  
3 range, but clearly it's in the record, and over our objection.

4 THE COURT: All right. Well, I'm not going to allow you  
5 to use that conviction and you say there are no other  
6 convictions?

7 MS. ANDREW: There's nothing else, Your Honor.

8 THE COURT: All right. So Mr. Davis, there is no prior  
9 criminal conviction that they could challenge your credibility  
10 on if you testified. You understand that?

11 MR. DAVIS: Yes, sir.

12 THE COURT: All right. If you decide to testify this  
13 decision on your part must be freely, voluntarily and  
14 intelligently made with knowledge of the protections given to  
15 you by the Fifth Amendment and the consequences of your  
16 decision to testify. If you decide not to testify I will  
17 instruct the jurors that they cannot give the fact that you  
18 did not testify any consideration whatsoever and that there is  
19 to be absolutely no prejudice to you because you did not  
20 testify. It is left entirely up to you whether or not you  
21 testify. You may talk with your attorney, your family and  
22 friends or anyone else, but the final decision will be left  
23 entirely up to you. Now, do you understand what I've  
24 explained to you?

25 MR. DAVIS: Yes.

## Advisement of Rights

367

1 THE COURT: Do you have any questions about what I've  
2 explained to you?

3 MR. DAVIS: Not right now, sir.

4 THE COURT: Okay. What we're going to do is go ahead and  
5 break for lunch so you can think about it over lunchtime.  
6 When we come back after lunch, I've got to hear some motions,  
7 and then after hearing those motions, if the trial proceeds  
8 from that point on, then I'm going to need to find out from  
9 you if you wish to testify. Okay?

10 MR. DAVIS: Yes, sir.

11 THE COURT: All right. Anything further you want placed  
12 on the record, Ms. Wilson?

13 MS. WILSON: Not at this moment, Your Honor.

14 THE COURT: All right. Anything further the State wants  
15 on the record in that regard?

16 MS. ANDREW: Nothing, Your Honor.

17 THE COURT: All right. Thank you very much.

18 MS. WILSON: Thank you, Your Honor.

19 THE COURT: All right. Let's go ahead, let's get back  
20 together, I've got the jury coming back in at 2:00 o'clock.  
21 Let's go ahead at 2 because they'll just be getting back at 2  
22 and, and so I'll take the bench at 2:00 o'clock, and we'll  
23 address any pending motions. Okay?

24 MS. WALTER: Okay.

25 MS. WILSON: All right. Thank you.



1 THE COURT: All right. Thank you.

2 OFF THE RECORD

3 (On the record. The following takes place outside the  
4 presence of the jury.)

5 THE COURT: All right. Do we have any motions?

6 MS. WILSON: Yes, sir, Your Honor. I would move at this  
7 time for a directed verdict, and the basis for my request is  
8 that the evidence presented here today merely raises a  
9 suspicion of guilt of the accused, that this evidence is not  
10 direct and that the circumstantial evidence presented doesn't  
11 reasonably tend to prove the Defendant's guilt in this case.  
12 I am citing State v. Shrock, and I have a cite if the Court is  
13 interested, but we are asking the Court to, in addition to my  
14 directed verdict motion, I would also be asking the Court to  
15 renew any and all other objections and denied motions made in  
16 pretrial motions and during the pendency of the State's  
17 case.

18 THE COURT: All right. I'm going to deny your motion for  
19 a directed verdict. I think there's enough to at least go to  
20 the jury on the issue. Also, I'm going to stand by my prior  
21 rulings on all other motions.

22 MS. WILSON: Yes, sir. Thank you, Your Honor.

23 THE COURT: All right. Anything further from the  
24 Defense?

25 MS. WILSON: Your Honor, at this time it is my

## Advisement of Rights

369

1 understanding that my client intends to offer testimony.

2 THE COURT: Okay. Anything from the State motion-wise or  
3 that we need to address?

4 MS. ANDREW: Nothing, Your Honor.

5 THE COURT: All right. All right. Sir, if I could get  
6 you to stand, please.

7 (Defendant sworn by the Court.)

8 THE COURT: All right. All right. Sir, your name's  
9 Leslie Davis?

10 MR. DAVIS: Yes.

11 THE COURT: All right. Mr. Davis, do you remember the  
12 rights -- your rights under the Fifth Amendment to the United  
13 States Constitution as I explained them to you?

14 MR. DAVIS: I -- I'm familiar with the, with the wording,  
15 but I've never actually used them.

16 THE COURT: Okay. All right. Well, let me go over them  
17 with you again; okay? At this time I'm going to explain to  
18 you certain rights that you have. If you do not understand  
19 anything I'm saying, please let me know. If you want me to  
20 explain anything in more detail, please let me know. Now, do  
21 you understand that?

22 MR. DAVIS: Yes, sir.

23 THE COURT: Okay. We've now reached the stage of the  
24 trial where you may present your defense. You have the right  
25 to claim the protections given to you by the Fifth Amendment

1 to the United States Constitution, which states in part that  
2 no person shall be compelled in any criminal case to be a  
3 witness against himself. This means that you cannot be  
4 required to testify in this case. You have the right to  
5 testify on your own behalf. However, no one can make you  
6 testify. This is a personal right, and no one can waive this  
7 right except for you. If you decide to testify you will be  
8 subject to the same rules that govern other witnesses, and you  
9 may be examined and cross examined on any relevant issue in  
10 this case.

11 Now, I understand that there are no convictions that  
12 would be used against you to attack your credibility in this  
13 case. If you decide to testify this decision on your part  
14 must be freely, voluntarily and intelligently made with the  
15 knowledge of the protections given to you by the Fifth  
16 Amendment of the United States Constitution and the  
17 consequences of your decision to testify.

18 If you decide not to testify I will instruct the jurors  
19 that they cannot give the fact that you did not testify any  
20 consideration whatsoever and that there is to be absolutely no  
21 prejudice to you because you did not testify. It's left  
22 entirely up to you whether or not you testify. You can talk  
23 to your lawyer, your family, anybody you want to talk to but  
24 the final decision is exclusively left up to you. Now, do you  
25 understand that?

## Advisement of Rights

371

1 MR. DAVIS: Yes, sir.

2 THE COURT: All right. And do you understand your  
3 rights?

4 MR. DAVIS: Yes.

5 THE COURT: Okay.

6 MR. DAVIS: Now, sir, I do.

7 THE COURT: Do what?

8 MR. DAVIS: Now, sir, I do.

9 THE COURT: Okay. Do you have any questions about what  
10 I've explained to you?

11 MR. DAVIS: No.

12 THE COURT: All right.

13 MR. DAVIS: Or I should say not at this time.

14 THE COURT: Okay. Well, do you wish to testify in this  
15 case?

16 MR. DAVIS: Yes. I do, Your Honor.

17 THE COURT: All right. Is that your decision?

18 MR. DAVIS: Yes. It's my decision.

19 THE COURT: Has anybody forced you to testify?

20 MR. DAVIS: No.

21 THE COURT: Okay. Anything you want to add in that  
22 regard, Ms. Wilson?

23 MS. WILSON: No, sir. I did -- well, I guess I do, just  
24 briefly, I've spoken to my client starting at the outset of  
25 this trial. Obviously prior to trial I had informed him that

1 he would have an opportunity to speak at a trial if he chose  
2 to do so, and then we covered that ground again on Monday at  
3 the start, and then of course I've been talking to him each  
4 day and I've told him to come to his own decision about  
5 whether or not he would speak. It's certainly not something  
6 that I can decide for him, and I've made that very clear. He  
7 has thought about it, and given our conversations, he has come  
8 to me and said that he does intend to go forward of his own  
9 volition with testimony today.

10 THE COURT: All right. All right. Mr. Davis, have you  
11 had an ample opportunity to talk to your attorney regarding  
12 your right to testify?

13 MR. DAVIS: Yes, some.

14 THE COURT: Okay. Has she answered all of your  
15 questions?

16 MR. DAVIS: Yes, some.

17 MS. WILSON: I'm sorry. And I, I noted that he qualified  
18 the first answer with a some and I want to be clear that I  
19 just left out of there again a few minutes ago, which was the  
20 reason for the additional ten-minute delay because I did go  
21 over it and I was going over what could happen and the types  
22 of questions. So there's no question that we've been covering  
23 this non-stop since, especially since this trial has begun.

24 THE COURT: All right. All right. Mr. Davis, your  
25 attorney can advise you whether or not to testify, but she

## Advisement of Rights

373

1 certainly can't make you testify if you don't want to and she  
2 can't keep you from testifying if you want to. Do you  
3 understand that?

4 MR. DAVIS: Yes, sir.

5 THE COURT: All right. But she can give you advice as to  
6 what you should do. Have you had an ample opportunity to  
7 discuss with her your right to testify?

8 (Ms. Wilson and Mr. Davis confer.)

9 MS. WILSON: Your Honor, can we just have a few more  
10 minutes, and I apologize to the Court but --

11 THE COURT: Well, wait a minute. Let me find out. Do  
12 you need to ask your attorney anything else?

13 MR. DAVIS: I mean, I -- it's -- I, I have a hard time  
14 understanding things.

15 THE COURT: What do you not understand?

16 MR. DAVIS: I, I grew, I, I grew up with a learning  
17 disorder and, and --

18 THE COURT: Okay.

19 MR. DAVIS: -- and it, it effect, you know, certain  
20 things I can remember, certain things I can't remember.

21 THE COURT: Okay. That's why we go over this. So what  
22 questions do you have? What --

23 MR. DAVIS: I mean, I understand what she's -- where  
24 she's coming at with the time I can get or if, if this, if  
25 this trial -- if -- if this box and I end up, I, I, I

1 understand that part of it, but my saying what I -- saying  
2 what my side of the story it, it's, it's, it's different than,  
3 you know. In other words, what, what that -- this is -- that  
4 person's saying I, I have conflicting thoughts in my -- on my  
5 head and on that stuff.

6 THE COURT: So what's your question?

7 MR. DAVIS: That basically just, just that, just that I  
8 -- could, could she go on explain more better.

9 MS. WILSON: Your Honor, he --

10 THE COURT: Hold for a second.

11 MS. WILSON: Okay.

12 THE COURT: Explain more better what?

13 MR. DAVIS: How to, how to approach the stand, how to,  
14 you know, how to, you know, I know you -- the speaking the  
15 truth is beyond a shadow of a doubt that's what I do, but I  
16 don't know how -- what the word is used to.

17 THE COURT: Well, all I can tell you is you have the  
18 right to testify and to tell the jury your side of the story,  
19 but if you do that you are subject to cross examination by the  
20 State.

21 MR. DAVIS: Okay.

22 THE COURT: They can ask you any relevant question they  
23 choose to ask you as well.

24 MR. DAVIS: Okay.

25 THE COURT: They bear the burden of proving your guilt

## Advisement of Rights

375

1 beyond a reasonable doubt. So therefore, the constitution  
2 says that you cannot be forced to testify because you don't  
3 have to give them any information. You can sit there and not  
4 do anything and say, "You all prove my guilt." So those are  
5 your options. The law says you do not have to testify. You  
6 can sit there and make them prove their case. However, if you  
7 want to testify, if you want to tell the jury something, you  
8 can do that, but you're subject to the same rules, the  
9 guidelines as any other witness who testifies in the case.  
10 Okay?

11 MR. DAVIS: Okay, sir.

12 THE COURT: All right. So let's take about a five-minute  
13 break.

14 MS. WILSON: Yes, sir. I'm sorry.

15 THE COURT: Let Ms. Wilson talk to you a little bit more  
16 and then we'll come back because you've already told me one  
17 time that you need -- that you wanted to testify.

18 MR. DAVIS: Yeah. I --

19 THE COURT: But then you hesitated. So I'm not sure what  
20 you want to do. Okay?

21 MR. DAVIS: Okay.

22 THE COURT: All right. Thank you.

23 MS. WILSON: Thank you, Your Honor.

24 THE COURT: Thank you.

25 OFF THE RECORD



1           (Whereupon, the following takes place outside the  
2   presence of the jury.)

3           MS. WILSON: Your Honor, I have spoken with my client  
4   again. We've gone back over his rights again, and I think  
5   that he has decided at this point that he does not wish to  
6   take the stand.

7           THE COURT: All right. Well, he first told me he did.  
8   So let's go over this again.

9           MS. WILSON: Yes, sir.

10          THE COURT: All right. Mr. Davis, you recall the rights  
11   as I explained them to you before you went -- left to go talk  
12   with Ms. Wilson?

13          MR. DAVIS: Um --

14          MS. WILSON: He's --

15          THE COURT: Let --

16          MS. WILSON: Yes, sir. All right.

17          THE COURT: I've got to convince --

18          MS. WILSON: Yes, sir.

19          THE COURT: -- be convinced that this is his decision.

20          MS. WILSON: Yes, sir.

21          THE COURT: Now, what's happened is I've gone over his  
22   rights, he's come back and said he wants to testify.

23          MS. WILSON: Yes, sir.

24          THE COURT: Then he went out and talked with his lawyer  
25   and comes back and says he does not want to testify.

## Advisement of Rights

377

1 MS. WILSON: Yes, sir.

2 THE COURT: So I've got to find out what he wants to do.

3 Okay?

4 MS. WILSON: Absolutely, Your Honor.

5 MR. DAVIS: Not at -- not, not this -- no, sir. I don't  
6 want.

7 REPORTER: Can you push that mike down in front of him?

8 MS. WILSON: Yes, ma'am.

9 THE COURT: Yeah.

10 MR. DAVIS: No, sir, I don't want to.

11 THE COURT: You don't want to testify?

12 MR. DAVIS: No.

13 THE COURT: All right. Do you remember the rights that I  
14 explained to you?

15 MR. DAVIS: No. Like I said I have a short.

16 THE COURT: Okay. Let's do it again. Okay?

17 MR. DAVIS: Okay.

18 THE COURT: All right. Mr. Davis, we've reached the  
19 stage of the trial where can present your defense. Okay? Do  
20 you understand that?

21 MR. DAVIS: Yes.

22 THE COURT: All right. Now, in presenting that defense  
23 you have the right to claim the rights granted to you under  
24 the Fifth Amendment of the United States Constitution which  
25 says that no person shall be compelled in any criminal case to

1 be a witness against himself. This means that nobody can make  
2 you testify if you do not want to testify. Nobody can keep  
3 you from testifying if you do want to testify. You have the  
4 right to testify and nobody can keep you from testifying, but  
5 you cannot be made to testify if you do not want to. That's a  
6 decision that you and you alone have to make. You can talk to  
7 your lawyer or anybody you want to but you have the final  
8 decision. Do you understand that?

9 MR. DAVIS: Yes, sir.

10 THE COURT: All right. Now, if you testify you're going  
11 to be subject to the same rules and regulations as anybody  
12 else who testifies. You can be questioned and cross examined  
13 on any issue relevant in this case. If you choose not to  
14 testify I will instruct the jury that they cannot give the  
15 fact that you did not testify any consideration whatsoever,  
16 and that there is to be absolutely no prejudice to you in any  
17 way, shape or form due to the fact that you did not testify.  
18 Do you understand that?

19 MR. DAVIS: Yes, sir.

20 THE COURT: Do you have any questions about that?

21 MR. DAVIS: No, sir.

22 THE COURT: All right. Have you had an ample opportunity  
23 to discuss the matter with your lawyer and anybody else you  
24 want to talk to?

25 MR. DAVIS: Yes, sir.

## Advisement of Rights

379

1 THE COURT: Okay. Have you reached a decision on whether  
2 or not you wish to testify?

3 MR. DAVIS: At this time I wish not to.

4 THE COURT: Okay. Well, you say at this time it means  
5 you're not going to testify or you're going to testify if you  
6 choose to.

7 MR. DAVIS: I, I choose not to.

8 THE COURT: Okay. Now, is this your decision?

9 MR. DAVIS: Yes, sir.

10 THE COURT: Has anybody forced you or coerced you or  
11 tricked you in any way to not testify?

12 MR. DAVIS: No, sir.

13 THE COURT: Okay. Is this what you want to do?

14 MR. DAVIS: Yes, sir.

15 THE COURT: All right. Now, you understand that if you  
16 do not testify in this case you can't come back later and say,  
17 "I wish I had testified," and try to get a new trial to allow  
18 you to testify because if you want to testify now is the time  
19 to do it. Do you understand that?

20 MR. DAVIS: Yes, sir.

21 THE COURT: Okay. So you wish not to -- you wish not to  
22 testify; is that correct?

23 MR. DAVIS: Yes, sir.

24 THE COURT: All right. Anything further you want placed  
25 on the record, Ms. Wilson?

1 MS. WILSON: Yes, sir.

2 THE COURT: Okay.

3 MS. WILSON: I want to be clear that we went into lockup  
4 to discuss what his rights were again to make sure that he  
5 understood that the right to speak or not to speak lay solely  
6 with him, that I can give him advice about what I think but  
7 that that is not controlling and I can't make him do anything,  
8 I can't make him not speak or make him speak. He indicated to  
9 me that he understood that and that he made the decision not  
10 to speak today and I want to be clear that that was the --  
11 pretty much the sum total of our discussion, but I think it's  
12 important given, as you said, the back and forth nature of the  
13 decision about speaking today.

14 THE COURT: All right. Is that correct, Mr. Davis?

15 MR. DAVIS: Yes, sir.

16 THE COURT: All right. Anything further you want on the  
17 record, Ms. Wilson?

18 MS. WILSON: Nothing else, Your Honor.

19 THE COURT: Anything the State wants on the record in  
20 that regard?

21 MS. ANDREW: Nothing, Your Honor.

22 THE COURT: Okay. All right. Is there any -- no, you  
23 can be seated. Thank you. Is there any witnesses to be  
24 called by the Defense?

25 MS. WILSON: No, sir. At this time the Defense would

## Charges Discussed

381

1 rest.

2 THE COURT: Okay. Then what I suggest we do is let's  
3 bring the jury in, I'll let you go ahead and rest on the  
4 record.

5 MS. WILSON: Yes, sir.

6 THE COURT: And then we'll cut them loose today. We'll  
7 come back tomorrow morning. I'll have the charges ready.  
8 I'll give you my proposed charges and we'll do closing  
9 arguments, charges and deliberation.

10 MS. WILSON: Okay.

11 THE COURT: Is that correct?

12 MS. WALTER: That's fine. No. I was just -- are we  
13 going to discuss the State's proposed jury instructions? Are  
14 you just making those decisions?

15 THE COURT: I've got a majority of those in there. The  
16 only ones that I did not put in there and they're -- it's not  
17 verbatim but I could tell the majority of the ones you all  
18 went were by the, the charge book --

19 MS. WALTER: Right.

20 THE COURT: -- which coincides with mine. I do have a  
21 little bit different direct and circumstantial evidence charge  
22 that I want you to look at. Ms. Wilson, they've got this  
23 charge on redacted exhibits.

24 MS. WILSON: Yes.

25 THE COURT: And I don't know if there's anything going to

1   them that shows a redaction. I know that there were some  
2   redactions.

3       MS. WALTER: The, the CRC video will show it and because  
4   there's the time clock, the time clock will show jumps in  
5   time, and it skips where the redactions were made. So the  
6   fact that it is not a complete copy will be obvious.

7       MS. WILSON: My, my only concern about that law, and I  
8   haven't actually seen it. I've just been told about what --  
9   that it's an Arizona based.

10       THE COURT: No. This is something else. I don't know  
11   where it's from.

12       MS. WILSON: Okay.

13       MS. WALTER: No. This is from the Ragee [spelled  
14   phonetically], also, Your Honor, but I did send Ms. Wilson --

15       THE COURT: Oh, okay.

16       MS. WALTER: -- a copy.

17       MS. WILSON: Okay. I haven't seen it.

18       MS. WALTER: And I gave --

19       MS. WILSON: I'm not, I'm --

20       THE COURT: And all it says, what it -- and I -- put it  
21   this way --

22       MS. WILSON: Yes, sir.

23       THE COURT: -- I'll do whatever the Defense wants on this  
24   one because I've never included it in there.

25       MS. WILSON: Yes, sir. And I know normally --

## Charges Discussed

383

1 THE COURT: And it is --

2 MS. WILSON: -- it would not be and I'm actually opposed  
3 to it, but I'll take another look at it and then tomorrow  
4 morning I will --

5 THE COURT: Okay. Well --

6 MS. WILSON: -- be prepared to --

7 THE COURT: -- take a look at it.

8 MS. WILSON: Yes, sir.

9 THE COURT: I've never charged it before. Therefore, if  
10 the Defense does not want it in there I'm not going to charge  
11 it. Okay?

12 MS. WILSON: Thank you, Your Honor.

13 THE COURT: There was something else.

14 MS. WALTER: Your Honor, I had created the or sort of  
15 amended the prior record of the Defendant because the one that  
16 I found --

17 THE COURT: Yeah.

18 MS. WALTER: -- for South Carolina didn't really address  
19 this situation where it's an element of the crime. So that  
20 may have been one that you changed a little bit.

21 THE COURT: I changed one and, and I go over that with  
22 you all. Basically what I did in dealing with the Defendant's  
23 prior record, you can read it, when I charge them with the law  
24 on the elements of criminal sexual conduct in the first degree  
25 and I have in there one of the elements is that he must be



1 required to register as a sex offender or something of that  
2 nature, and what I've put in there is that they cannot  
3 consider the conviction requiring him to register, they cannot  
4 consider that on whether or not he's guilty or innocent in  
5 this case. The sole purpose of it, and I've, and I've worded  
6 it a little bit more artfully, the sole purpose of that --

7 MS. WALTER: Right.

8 THE COURT: -- is because his registry is required as an  
9 element of this crime.

10 MS. WALTER: Right.

11 THE COURT: And that they can't consider the conviction  
12 which required his registry as evidence of his guilt in his  
13 case.

14 MS. WALTER: That's fine. I agree.

15 THE COURT: And so and I'll let you take look at --

16 MS. WALTER: No. It was difficult to phrase that I  
17 thought.

18 THE COURT: Now, the other thing that I have left out  
19 because quite honestly and this might be my fault, you've got  
20 a request to charge for prior inconsistent statements. It  
21 says if applicable.

22 MS. WALTER: I think I said just if, if applicable.

23 THE COURT: Yeah. And I don't know that there is any  
24 prior inconsistent.

25 MS. WILSON: I don't think so.

## Charges Discussed

385

1 MS. WALTER: I don't believe there is because I do these  
2 at the beginning of trial --

3 THE COURT: Yeah.

4 MS. WALTER: -- I put things in figuring we can always  
5 take them out.

6 THE COURT: Which is good, and that's, that's a good way  
7 to do it. All right. Well, I'll have you all my proposed  
8 charges tomorrow morning. Also, unless you all agree to the  
9 contrary, since we amended the indictment -- well, first, let  
10 me ask, is this just a guilty or not guilty? I'm not aware of  
11 any lesser included. Yeah.

12 MS. WILSON: Yeah. I'm going to -- yes, sir. I don't  
13 think it can be anything less, but I'm going to double check  
14 that just in case.

15 THE COURT: Okay. Double check that, but -- so typically  
16 when it's just a guilty or not guilty I'll send the indictment  
17 and have them write the verdict on the back, but with, with us  
18 amending the indictment I was going to do a verdict form where  
19 they check guilty or not guilty and do it that way.

20 MS. WALTER: That's fine.

21 THE COURT: All right. All right. Anything from the  
22 State before we bring the jury in and cut them loose?

23 MS. WALTER: No, Your Honor.

24 THE COURT: Anything from the Defense?

25 MS. WILSON: No, sir, Your Honor.

1           THE COURT: All right. Let's go ahead and bring the jury  
2 in.

3           (Whereupon, the following takes place in the presence of  
4 the jury.)

5           THE COURT: All right. Ladies and gentlemen, welcome  
6 back. I apologize for keeping you in the jury room for so  
7 long, but we had some matters we needed to address before we  
8 brought you back in. We're ready to resume the trial of the  
9 case. The State has rested their case, and now is the time  
10 where the Defense can present a defense if they choose to do  
11 so. They're not required to, but they can if they wish  
12 to.

13           Does the Defense wish to present anything?

14           MS. WILSON: No, sir, Your Honor.

15           THE COURT: All right.

16           MS. WILSON: At this time the Defense rests.

17           THE COURT: All right. The Defense has rested their  
18 case. So all of the evidence to be presented in this case has  
19 been presented to you and now is the time of the trial where  
20 the attorneys will make their closing arguments, I'll charge  
21 you on the law and you'll begin your deliberations. However,  
22 that's going to take some time for us to get these closing  
23 arguments together and jury charges together. So given the  
24 time of day I'm going to excuse you for the remainder of the  
25 day, and I'm going to ask that you please be back at 9:15

State v. Davis

387

1 tomorrow morning. Okay? And when we get back at 9:15 we will  
2 resume with the closing arguments.

3 Now, I understand not everybody got to look at those  
4 exhibits when we broke. When you begin your deliberations all  
5 of the exhibits will be taken back to the jury room so you can  
6 review them at that time. Okay? So you can finish that up  
7 tomorrow morning.

8 Don't discuss the case. Please do not discuss it even  
9 among yourselves. It's still too early for deliberations  
10 because you have not been charged with the law to be applied  
11 in this case and you cannot adequately deliberate on a case  
12 until you have been charged with the law to be applied in this  
13 case. So do not discuss the case even among yourselves, don't  
14 watch any news reports if there are any. Don't do any  
15 independent research to try to find out anything about it.  
16 Please leave your notepads in the jury box. Hope everybody  
17 has a good evening and we'll see you back at 9:15 tomorrow  
18 morning. Thank you very much.

19 (Whereupon, the following takes place outside the  
20 presence of the jury.)

21 THE COURT: All right. Anything from the State before we  
22 recess for the day?

23 MS. ANDREW: Nothing from the State, Your Honor.

24 THE COURT: Anything from the Defense?

25 MS. WILSON: Nothing, Your Honor.

1           THE COURT: Okay. They're coming back at 9:15. I will  
2 have the proposed charges for you all to review by 9:15  
3 tomorrow morning. I'll, I'll bring them in here. Okay?

4           MS. WILSON: Yes, sir.

5           MS. WALTER: Thank you, Your Honor.

6           THE COURT: All right. Thank you very much.

7           MS. WILSON: Thank you.

8                               (Adjourned for day.)

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## Charges Discussed

389

1           (On the record, January 10, 2019. The following takes  
2 place outside the presence of the jury.)

3           THE COURT: All right. I've given you a copy of my  
4 proposed charges. I'll get any comments you have at this  
5 time. Also, after I charge the jury, I'll give you another  
6 opportunity to raise any objections or challenges because  
7 sometimes it does sound differently when you hear it --

8           MS. WILSON: Yes, sir.

9           THE COURT: -- read or charged to the jury versus reading  
10 it on paper, but at this point in time any challenges from the  
11 State?

12          MS. WALTER: No, Your Honor. Obviously, from our  
13 proposed instructions, we had requested an instruction on  
14 redacted exhibits. We understand your ruling on that, but the  
15 instructions that you've given are fine.

16          THE COURT: All right. Thank you. Anything from the  
17 Defense?

18          MS. WILSON: Your Honor, the only issue the Defense has  
19 is on page 11 where and I don't know if the Court actually  
20 reads into the jury's hearing the caption on the charge.

21          THE COURT: I do not.

22          MS. WILSON: Okay. So then I don't have a problem with  
23 the language of that charge. So then I am fine.

24          THE COURT: Okay.

25          MS. WILSON: No objections.

1 THE COURT: All right.

2 MS. WILSON: Thank you.

3 THE COURT: All right. Anything from the State before we  
4 bring the jury in?

5 MS. ANDREW: Nothing from the State, Your Honor.

6 THE COURT: All right. Anything from the Defense?

7 MS. WILSON: Nothing, Your Honor. Thank you.

8 THE COURT: All right. So as I -- we discussed  
9 yesterday, when we come in we'll go straight into closing  
10 arguments. The State will close in full. Then the Defense  
11 will close in full. I'll charge and then we'll start  
12 deliberations. Okay?

13 MS. WILSON: Yes, sir.

14 MS. WALTER: Yes, Your Honor.

15 MS. WILSON: Thank you.

16 THE COURT: All right. Let's go ahead and bring the jury  
17 in.

18 (Whereupon, the following takes place in the presence of  
19 the jury.)

20 THE COURT: All right. Ladies and gentlemen, welcome  
21 back. I hope everybody had a good evening. We're now ready  
22 to resume the trial of the case. Again, I want to thank you  
23 for being prompt this morning. That is a great assistance to  
24 the Court, and I apologize for keeping you back in the jury  
25 room.

Closing Argument by Ms. Walter

391

1           We've now reached the time of the trial where the  
2 attorneys will make their closing arguments. Now, just like  
3 their opening statements, these closing arguments are not  
4 evidence in this case. It is simply the attorneys'  
5 contentions or opinions as to what the evidence has shown and  
6 the law to be applied. If at any time an attorney makes  
7 reference to a factual issue that is different from the facts  
8 as you find them to be or references the law that is different  
9 from the law as I will charge you at the end of their  
10 arguments, then you're to disregard that portion of their  
11 closing arguments because this is not evidence. It's just  
12 their contention as to what they feel the facts are and the  
13 law to be applied. All right.

14           MS. WALTER: Thank you, Your Honor.

15           THE COURT: The State may make their closing argument.

16           MS. WALTER: Thank you, Your Honor.

17           An eight-year-old girl should not have to live the life  
18 that Minor led, sent from Pennsylvania to South Carolina to  
19 live with her father in what have been described as deplorable  
20 conditions, flies and other bugs crawling all over the dishes  
21 piled in the sink, trash piled everywhere, little to no food,  
22 in Brooke's words, "It was nastiness," and Minor had nothing  
23 and nobody, and even beyond that, she was vaginally and anally  
24 raped by her father repeatedly, but Minor did live that life,  
25 but luckily Minor survived that life and she survived to come



1 here to tell you, the jury, what she did survive, and to ask  
2 that you hold him responsible for stealing her childhood and  
3 you can do that by finding him guilty.

4 Now, the Defendant is charged with one crime, criminal  
5 sexual conduct of a minor in the first degree. To prove the  
6 Defendant guilty the State has to prove three things: number  
7 one, that the Defendant committed a sexual battery on Minor  
8 Davis; number two, that Minor was less than 16 years old at  
9 the time of the assault; and then three, that the Defendant  
10 was a registered sex offender at the time of the assault.

11 Excuse me. The State would submit to you that two of  
12 those things are proven beyond any doubt. Minor is only 11  
13 years old today. So certainly back in 2016 she was less than  
14 16 years old.

15 We've also proven beyond, the State would submit, any  
16 doubt that the Defendant was a registered sex offender at the  
17 time. How do we know this? We know this because Mike Keville  
18 came in and testified that the Defendant had been convicted in  
19 1986 of rape in the first degree in Hudson County, New York --  
20 Madison County, New York, excuse me, and he provided a record  
21 of conviction. He said that as a result of that conviction  
22 the Defendant was required to register as a tier three sex  
23 offender in New York State, and then you heard from Sergeant  
24 Chris Graham with the Horry County Sheriff's Department who  
25 told you that based on that conviction the Defendant was also

Closing Argument by Ms. Walter

393

1 required to register in South Carolina as a tier three sex  
2 offender and that he did, in fact, register. So that's two of  
3 the three elements proven.

4 So that leaves us with the question did the Defendant  
5 commit at least one sexual battery on Minor and the  
6 answer is yes.

7 It comes down to do you believe Minor and the State  
8 would submit that you should believe Minor . Minor came into  
9 this courtroom, a room full of strangers, sat in front of the  
10 man who repeatedly assaulted her and told you in her own words  
11 what happened, but more than that, she told you through other  
12 witnesses.

13 She told you what happened through Brooke Squires. She  
14 told you what happened through Owen Kellis. She told you what  
15 happened through Janet Moore, through Justin Wyatt, through  
16 Dr. Rahter, and then through Dianne Nordeen and the CRC  
17 interview, and think of all of the different situations in  
18 which Minor has had to tell some of the most personal and  
19 horrific details of her life, again, in front of a room full  
20 of strangers facing the man who did it to her, in the back of  
21 an ambulance with a strange man, in a hospital after being  
22 swabbed, to another strange but kind man in the hospital and  
23 then finally at the CRC. So let's go through what she did.

24 The first thing Minor was able to do is to tell Brooke  
25 and that was the beginning of Minor being saved. Minor told

1 Brooke that she had been raped repeatedly in her home, and  
2 Brooke called the law, as she said. Then when the ambulance  
3 and the police got there, Minor told Owen Kellis that he had  
4 been putting -- he had been putting his dinky in her front and  
5 back since January, but now picture an eight-year-old girl  
6 finally able to tell that her father has been repeatedly  
7 raping her and she's in the back of an ambulance separated  
8 from her only caretaker that she had had and with another  
9 strange man and she starts to hyperventilate and she can't  
10 answer any further questions. So Owen has her watch SpongeBob  
11 Squarepants to calm her down and takes her to the hospital  
12 where she tells Janet Moore enough that Janet knows to do a  
13 vaginal swab and a rectal swab. Imagine an eight-year-old  
14 girl who has been repeatedly assaulted having to then go to  
15 the hospital and have those swabs done, and Janet testified  
16 that Minor started to scream.

17 It still wasn't over. Minor then talked to Justin Wyatt  
18 and she gave Lieutenant Wyatt enough detail that Lieutenant  
19 Wyatt was able to arrest the Defendant, but Lieutenant Wyatt  
20 knew about the CRC and knew that the Children's Recovery  
21 Center is there specifically for cases like this. The  
22 Children's Recovery Center is designed to be a safe place for  
23 children to tell the horrors that are inflicted on them, and  
24 so two days after she initially told several people about the  
25 Defendant raping her, Minor went to the CRC, and first she met

Closing Argument by Ms. Walter

395

1 with Dr. Rahter, and she told Dr. Rahter that she had been  
2 raped anally and vaginally. She described to Dr. Rahter  
3 suffering from dysuria. Obviously, she didn't use those words.

4 Now, I need to digress here for just a moment because and  
5 I have to anticipate Ms. Wilson's arguments. She goes after  
6 me and I can't address you again. I'm thinking that one thing  
7 she might argue is, "Well, no injury, no rape," but what I  
8 want you to do if she asks you to make that conclusion is  
9 remember what Dr. Rahter testified to, that in most cases of  
10 child sexual abuse there is no physical injury, and it can be  
11 for a number of reasons. It can be because of the use of a  
12 lubricant. It can be the size of the object used to penetrate  
13 the child, and it can also just be the physiology of the child  
14 themselves. That area of our body tends to heal very quickly.  
15 So please don't let the absence of a physical injury sway your  
16 decision.

17 So after Dr. Rahter finished examining Minor , Minor gets  
18 to meet with Dianne Nordeen. Dianne, this is what Dianne  
19 does. She testified that she's interviewed over 1700  
20 children, and Dianne is able to in a very comfortable, safe  
21 environment, establish a rapport with Minor She's able to  
22 speak with Minor on her level. She lets Minor use the words  
23 that Minor wants to use for the parts of the body, boobs,  
24 bird, butt and dick, and even then sometimes it was so  
25 difficult for Minor that she chose to write and to draw her

1 answer, again, because she's being forced to talk about things  
2 that an adult shouldn't have to talk about, much less an  
3 eight-year-old child, but she told Dianne and by extension she  
4 told you about how that man took her into his bedroom, took  
5 her clothes off, took his clothes off and raped her anally and  
6 vaginally. In her words, first he put his dick in her butt,  
7 and then in her bird, and she told you about other times. She  
8 told you about times that he would use Vaseline, sometimes he  
9 would put it on him, sometime he would put it on her, Vaseline  
10 that he got from Walmart. She told you about different  
11 positions he made her take, both legs up, bent over so her  
12 back started to break, one leg up. She told you how at one  
13 point sperm came out of his penis. She said it was a white or  
14 a yellow liquid, and she told you how after she had been  
15 assaulted when she went to the bathroom it burned, it hurt to  
16 the point that she even cried about that still on the witness  
17 stand.

18 So she gave you these details and what's almost as  
19 important as the fact that she gave you details are the  
20 details that she gave you because again, and anticipating Ms.  
21 Wilson's argument, I expect she might tell you or ask you to  
22 believe that Minor made up this accusation so that she could  
23 go back home to Pennsylvania and not have to live with the  
24 Defendant, and let's set aside who could blame her for not  
25 wanting to live there, but think of the detail that she

Closing Argument by Ms. Walter

397

1 provides and as you think about each detail ask yourself is  
2 that something that an eight-year-old would think of, would  
3 know unless they had experienced it? So first of all, why  
4 would Minor an eight-year-old girl have chosen rape, repeated  
5 rape as the allegation? You know from her CRC interview that  
6 she had also been emotionally and physically abused. Why not  
7 just pick one of those? Why pick on a rape allegation if it  
8 hadn't happened to her? Would an eight-year-old girl know  
9 that Vaseline could be used as a lubricant or would she only  
10 know that because he did that to her? Would an eight-year-old  
11 girl know that sperm comes out of a man's penis if this  
12 Defendant hadn't ejaculated on her stomach? Would an eight-  
13 year-old girl know that after a child is sexually assaulted it  
14 burns to go to the bathroom? Would an eight-year-old girl  
15 know the different positions that she might have to be put in  
16 so that the Defendant could penetrate her? Would an eight-  
17 year-old girl know that a penis can be described as a stick  
18 unless she saw it and felt it as the Defendant penetrated her  
19 repeatedly? Minor knew those things because the Defendant  
20 taught them to her. He taught her about dicks, about rape,  
21 about Vaseline, about sperm, about horrible things, and now it  
22 is your turn to teach Minor something, teach her about  
23 justice, teach her about being held responsible for what you  
24 do and find him guilty.

25 THE COURT: Ms. Wilson.

1 MS. WILSON: Thank you, Your Honor.

2 Good morning, ladies and gentlemen. The State has tried  
3 to anticipate what I'm going to say and in part maybe it's  
4 because they know the failings of their own case. The theme  
5 for this trial could be what's missing from this evidence.

6 Now, the State has just presented you with an entire  
7 explanation for why you should just allow their emotional  
8 appeal to you to allow you to convict Mr. Leslie Davis. She's  
9 cute, pretty little girl, she's crying on the stand, got to be  
10 true because she's crying; right? That's what they're telling  
11 you. I'm submitting to you that that's not enough for a  
12 conviction. It is not your job as the jury to fill in gaps  
13 and holes in the State's case. That's not what you're here  
14 for. You're here to listen to the evidence, listen to the  
15 witnesses and then make a decision based on what you have  
16 heard, and in essence, what you haven't heard.

17 Now, in this instance you heard approximately 11  
18 witnesses from the State. Most of those people, as Ms. Mary-  
19 Ellen Walter just told you, were people that Minor talked to,  
20 Brooke, Horry County Fire and Rescue. There was the nurse at  
21 the hospital, Janet Moore, and a plethora of other people,  
22 Dianne Nordeen at the CRC, Dr. Rahter, talked to lots of  
23 people, variations on the same thing each time, "Yes, that did  
24 happen," very -- the basic same story, "I was sexually  
25 assaulted," but those people don't have any independent

Closing Argument by Ms. Wilson

399

1 knowledge about anything that happened here. They're coming  
2 in basically talking about what she told them, not, "I  
3 witnessed it." Not, "I have some documentation or proof of  
4 something that happened." "I'm telling you what she said to  
5 me."

6 Now, out of those 11 witnesses, there's still two people  
7 that have no actual contact with Minor and those would be the  
8 two witnesses from SLED. That would have been, I think, Ms.  
9 Goodman and Ms. Stowe. They did DNA and serology testing,  
10 didn't actually speak to Minor

11 Now, I think it's important here to kind of focus in on  
12 the various things and there are plenty that are missing,  
13 things that are not here, things -- or things that were  
14 presented but that don't actually show you that Leslie Davis  
15 committed this offense. Number one, green bed sheets,  
16 testified by Justin Wyatt that they -- the green bed sheets  
17 had semen on them. It's a grown man's bed. I think it would  
18 be unusual or shocking if there might not have been any semen  
19 on it, the point being, not a surprise that his DNA would be  
20 on his bed sheets. What is important there is whose DNA is  
21 not there and that's Minor's. Minor said she bled, fluid, I  
22 think she claimed Vaseline was used. There's no DNA from her  
23 on those green bed sheets, not, not anything. Serology expert  
24 and DNA expert got up and testified about that, not there,  
25 missing from this case.



1           The next thing, the Vaseline that we've heard about, not  
2   in evidence. Justin Wyatt went with a search warrant to the  
3   house, testified that the officers had secured the house. He  
4   was at the station, and he goes home, he's not allowed in  
5   there. Where's that Vaseline jar that was purchased allegedly  
6   at the Walmart? Not in evidence, not found at the house,  
7   missing from this case.

8           In addition to that, there was allegations of a hot dog  
9   or a sex toy potentially that was used to assault Minor in  
10   this case. A search warrant, the police go in with another  
11   detective. He's not by himself. He goes in with help, no sex  
12   toy, no hot dog, nothing like that found in the search, also  
13   missing from this case.

14          Now, we didn't get into blood around, that was noted  
15   around Minor 's rectum by Brooke who denied that on the stand,  
16   said she never said that to anyone. Owen Kellis reads it out  
17   of his notes, "Babysitter said blood noted around rectum," and  
18   I don't know if you guys remember Brooke's testimony, but she  
19   was really adamant that, you know, what was she going to do,  
20   stick her fingers in and look around? She said she did. She  
21   said she looked at the child's rectum, denied it on the stand  
22   and then had -- it had to be corrected by Owen Kellis who  
23   noted that she did say that. There is no blood noted at the  
24   hospital. There was no evidence of anything like that found  
25   anywhere by anyone else. Apparently she mentioned it to Owen

Closing Argument by Ms. Wilson

401

1 but didn't tell anybody else about it. Why, why is that  
2 missing from this case? Why is there no blood noted around  
3 the rectum in connection to what Brooke is saying? In  
4 addition to that, there's no bloody underwear.

5 Now, Brooke said a lot of things on the stand about how  
6 much she loves Minor and I don't really know if that's true.  
7 I'm not really concerned about that. What concerns me is she  
8 says she knew that Minor -- something was happening to her,  
9 but you find bloody underwear on an eight-year-old child and  
10 you just throw those into the trash? You don't even just  
11 leave them in the trash. You take them to the dumpster.  
12 They're not even at the house anymore? That doesn't make any  
13 sense. Just out of a general concern for the child's welfare  
14 I'm going to get into the details of why that happened and  
15 what happened there. How do you have bloody underwear? It  
16 certainly wouldn't have gone to the trash. Yet she threw them  
17 out and then was, I guess you could say, a little bit hostile  
18 about being questioned about having thrown them out and not  
19 having a good reason for having thrown them out, pertinent to  
20 what you're saying here, pertinent to what you're claiming  
21 about this child and what she's been through, but you don't  
22 have that evidence. Also missing in this case, there's no  
23 bloody sheets. A child who has been penetrated who says at  
24 various points that she woke up covered in blood or had  
25 bloodiness or experienced blood loss, it's not in the bed.

1 It's not on any of the sheets. There's no blood found  
2 anywhere, and we heard that multiple times from the State.  
3 Where, where -- how could you not have something with that  
4 blood on it? The bed sheets, by Justin Wyatt's own statement,  
5 were not fresh sheets. They weren't clean. They weren't --  
6 the -- they weren't new to the bed. So they had been there  
7 for a while by his own statement. If that's the case and she  
8 was bleeding from the rectum or anywhere else, shouldn't there  
9 have been some blood on that bed sheet, and if it was there,  
10 don't you believe then that the DNA would have shown that it  
11 was there, but it was not there, nothing showing that there  
12 was blood loss, nothing showing that there was blood anywhere  
13 in that location because I'm sure that if it had been there  
14 ideally they would have brought it to you; right. Not present  
15 because it's missing in this case.

16 In addition to that, there's no clothes taken as a part  
17 of the rape protocol at the, at the hospital. Now, I know the  
18 Officer Justin -- I'm sorry, Lieutenant Wyatt tried to say  
19 that he was concerned about additional trauma to the child,  
20 but the bottom line is they took her to the hospital for a  
21 rape kit to be performed and then sent her to a separate  
22 facility, the CRC, the Children's Recovery Center for an  
23 additional exam. Now, they say that it's a less intrusive  
24 exam there, but the bottom line is, they wanted her to go to  
25 CRC because it's not an independent organization, and that's

Closing Argument by Ms. Wilson

403

1 not just me making that up. Their function is to work with  
2 the State. That's what they're doing, and they wanted the  
3 exam done there because what they could have done was had that  
4 same exam performed at the hospital by the same doctor who  
5 came in and did that rape kit or the nurse who did it. Okay.  
6 That's not something that could not have occurred here. They  
7 could have minimized that trauma right there at Conway Medical  
8 Center. They didn't do that because they had a reason for  
9 wanting her to go, and they sent her there, and then put her  
10 through the process of that exam again.

11 Now, to be clear, I'm not arguing about whether or not  
12 they should have sent her there. I'm pointing out that in  
13 sending her there that's not a concern about trauma. Not  
14 getting those clothes is a neglectful act on the part of the  
15 State. They don't have them, and they don't have the inside  
16 out underwear that Brooke claimed the child was wearing, also  
17 an act of neglect by the State. Those are items that are  
18 missing in this case because those items could have been  
19 tested for DNA from either my client or for the victim and  
20 obviously we know it should have been her DNA on her own  
21 clothes and underwear, but my point is that is a failure on  
22 the part of the State and it's not your job to fix it.

23 The next point I want to make is that there is no semen  
24 in this rape kit, vaginal and anal swabs taken. Now, the  
25 State would have you believe that, you know, it doesn't matter

1   that there's no semen there. It's not critical. They're  
2   alleging multiple rapes in this case, not just vaginal but  
3   anal rapes, okay, and in alleging that they have a burden.  
4   It's their job to convince you that that's what happened here,  
5   and there is no semen in her vagina or in her rectum. There's  
6   none, and you heard that information from Sara Goodman who was  
7   the DNA analyst. This man's semen not present.

8           Now, I know the State asked the question of the analyst  
9   about whether or not the semen could survive after a few days  
10  in the vagina and the answer was that probably, you know,  
11  maybe not, enzymes are present there could affect the lifespan  
12  of the semen in the vagina, but in the rectum those enzymes  
13  aren't present. Arguably could have still been something  
14  there, but there's nothing, not any trace amounts of anything.  
15  That is evidence, and I think pretty important evidence that's  
16  missing in this case.

17          In addition to that, there's no physical abnormalities.  
18  Now, yes, Dr. Rahter did say that it doesn't change anything,  
19  but I think it's pretty significant. You're an eight-year-old  
20  girl and you've been by your own claim assaulted multiple  
21  times by a fully grown man. You claim you have bleeding, so  
22  which suggests at a minimum there's some injury or some tears.  
23  The hymen is in place. There is no injury to the inside of  
24  the rectum, no tears or injuries to the inside of the vagina.  
25  So exactly where is the blood coming from? If you've --

Closing Argument by Ms. Wilson

405

1   you've got an injury from one of those places and they state  
2   it was the rectum, there should at least be some kind of tear  
3   or abrasion that could have been the source of the blood, and  
4   I don't know that an abrasion, which would basically be like a  
5   rubbing type injury could cause bleeding, but there's no  
6   injury. There's nothing there. There is no tearing. There  
7   is nothing to suggest anything other than normal eight-year-  
8   old girl walking around. That's evidence that's missing in  
9   this case to support the State's claim.

10       Now, another thing that's missing in this case, they're  
11   talking about another person that Minor talked to, Jada. The  
12   State could have --

13       MS. WALTER: Objection, Your Honor.

14       MS. ANDREW: Objection, Your Honor.

15       MS. WALTER: May we approach?

16       MS. WILSON: Yes, please.

17       THE COURT: Yeah.

18       (Whereupon, a bench conference is held in the presence,  
19   but out of the hearing of the jury.)

20       THE COURT: Ladies and gentlemen, I'm going to need to  
21   excuse you back to the jury room for just a minute while I  
22   address this matter of law. Thank you very much.

23       (Whereupon, the following takes place outside the  
24   presence of the jury.)

25       THE COURT: All right. Ms. Wilson, what was your

1 argument now? What were you --

2 MS. WILSON: I was saying, Your Honor, and I'm just going  
3 to read it back to the Court, I was saying, I was about to  
4 talk about Jada not testifying, and the reason I was getting  
5 into it is because on direct the State asked her about  
6 disclosing this information to Jada, and she admitted on the  
7 stand that she did tell her friend Jada. They asked her that.  
8 That's why I put it in.

9 THE COURT: All right. What's the State's objection?

10 MS. ANDREW: Your Honor, it was my recollection that any  
11 mention of Jada was redacted from the CRC interview. I don't  
12 have any independent recollection of specifically asking her  
13 about asking Jada -- I, I do --

14 THE COURT: Whose testimony are you talking about where  
15 they opened it?

16 MS. WILSON: It was Minor s.

17 THE COURT: During Minor 's testimony?

18 MS. WILSON: Yes. It was, and I'm willing --

19 MS. ANDREW: So she --

20 THE COURT: Well, I don't recall.

21 MS. ANDREW: -- spontaneously said that?

22 MS. WILSON: No. It was asked about disclosure and I  
23 think she said she told her friend Jada. She mentioned Jada's  
24 name on the stand.

25 THE COURT: Shada [sic] is the young friend of hers?

Closing Argument by Ms. Wilson

407

1 MS. WILSON: The friend that she talked to, yes.

2 MS. ANDREW: She is, and that was in the CRC, but it was  
3 redacted out. So it was my recollection.

4 THE COURT: But she's saying that when --

5 MS. ANDREW: That Minor said it.

6 THE COURT: -- Minor testified --

7 MS. WILSON: Right.

8 THE COURT: -- under direct examination --

9 MS. WILSON: And if I'm wrong I'll be --

10 THE COURT: -- that she said she talked to, to Jada.

11 MS. ANDREW: I don't have any independent recollection of  
12 that.

13 THE COURT: Well --

14 MS. ANDREW: I wasn't trying to elicit that if I did, but  
15 I -- but honestly I just don't remember.

16 MS. WILSON: And if I'm wrong I'll take it out.

17 THE COURT: I --

18 MS. WILSON: I'm sorry.

19 MS. ANDREW: I'm sorry, Your Honor.

20 THE COURT: Well, and I knew that she talked to Jada.

21 MS. ANDREW: Right.

22 THE COURT: Now, whether I got that testimony from  
23 Minor testimony or whether it was when I first reviewed --

24 MS. WILSON: The CRC.

25 THE COURT: -- the entire CRC, I don't recall. So what



1 we're going to have to do is go back through Minor 's testimony  
2 to find out --

3 MS. WILSON: Yes, sir.

4 THE COURT: -- if that was ever said. Okay.

5 MS. WILSON: Okay. Yes, sir.

6 MS. ANDREW: Thank you, Your Honor.

7 THE COURT: All right. Tell the jury it's going to be a  
8 while.

9 (Court and Reporter confer.)

10 THE COURT: Oh, it won't be. Okay. Hold up. Hold up.  
11 That's fine.

12 (Page 172 line 16 through page 172 line 20 played in open  
13 court.)

14 MS. WILSON: Yeah.

15 MS. WALTER: I apologize, Your Honor.

16 MS. ANDREW: Your Honor, I apologize, too.

17 MS. WALTER: Neither one of us remembered that.

18 MS. ANDREW: Yeah. I didn't remember that either.

19 MS. WILSON: That's okay.

20 THE COURT: All right. Anything from the State before we  
21 bring the jury back in?

22 MS. WILSON: I'm sorry.

23 THE COURT: Excuse me, anything from the State?

24 MS. WALTER: No, Your Honor.

25 MS. ANDREW: Nothing.

Closing Argument by Ms. Wilson

409

1 THE COURT: Anything from the Defense?

2 MS. WILSON: No, sir, Your Honor.

3 THE COURT: All right. Let's bring the jury back in.

4 (Whereupon, the following takes place in the presence of  
5 the jury.)

6 THE COURT: All right. Ladies and gentlemen, welcome  
7 back. Ms. Wilson, you can continue with your closing  
8 arguments.

9 MS. WILSON: Thank you, Your Honor.

10 I'm sorry for that interruption. I was about to tell you  
11 something else that I felt was missing from this case. Jada  
12 didn't testify. Now, I don't know if you recall but during  
13 the direct examination of Minor she talks about having  
14 disclosed about this to a friend. That is a witness that the  
15 State clearly could have brought here to testify to  
16 corroborate that statement or to support that statement. They  
17 did not bring her, another item that's missing.

18 Then we get into the allegations of exposure to porn and  
19 there's some allegation about photos and videos being made.  
20 What's missing here is any documentation or proof of that.  
21 There's no browser histories. There's no phone search. None  
22 of those things are present in this case, also missing, and,  
23 and the reason, ladies and gentlemen, that I'm talking about  
24 these missing items is because these things are evidence that  
25 support the State's claim. This adds legitimacy to what

1 they're saying occurred here. In the absence of it what you  
2 have is what somebody said, with nothing else.

3 The final thing that's missing that I'm going to cover,  
4 and I mean, there's probably a dozen if not two dozen more  
5 things that are just inconsistencies or things that aren't  
6 clear.

7 The other thing that's missing from this case I feel  
8 that's important to tell you about is the lack of photo  
9 evidence, lack of sketches, lack, lack of any kind of  
10 documentation about this location. They're in there at  
11 nighttime apparently with a black light. They take photos  
12 according to Detective Wyatt, took pictures. It's his habit,  
13 but he loses them in a case where he's got serious allegations  
14 and then he comes in and tells you what he wants you  
15 ostensibly to know about the location and you're supposed to  
16 take that as gospel without any documentation, evidence that's  
17 missing from this case that the State could have provided, not  
18 to mention those photos don't appear anywhere in anything.  
19 There's no mention of them, but now the State hasn't gotten.  
20 You had them rather, just lost them, somehow in the computer.

21 Now, as I stated in my opening, my client is innocent and  
22 he has to be proven guilty beyond a reasonable doubt by the  
23 State, beyond a reasonable doubt. The State's burden is high  
24 on that. Okay? They can't just come in here and say, "We  
25 really want you to believe what we're saying. You know, we

Closing Argument by Ms. Wilson

411

1 have a witness and we really like what she's saying and  
2 believe what she's saying and you should, too." It shouldn't  
3 be enough to send anybody to prison, should never be enough  
4 and that's what they're wanting you to do here today.

5 Now, I know the State has gone over the elements of their  
6 offense, and yes, yes, he's on the sex offender registry.  
7 He's got a prior conviction for a CSC, a criminal sexual  
8 conduct, but guess what, you can't consider that as you are  
9 deliberating on his guilt for this crime, has nothing to do  
10 with the allegations that he's facing. So if you find  
11 yourselves as jurors, once the Judge tells you that you can  
12 deliberate about this case, if you find yourselves referring  
13 to that issue, thinking about that issue, being swayed by the  
14 fact that he has a prior conviction you're not doing your job  
15 as a juror. You should raise your hand, tell the bailiff,  
16 "I'm not able to complete my job as a juror," because that is  
17 wrong and it's inappropriate, and the Judge is going to tell  
18 you about that when he charges you on the law, not to be  
19 considered when you're deciding his guilt or innocence in this  
20 case, not a part of it, not a factor.

21 So what you're left with here lots of missing evidence,  
22 lots of things that don't help the State that you heard from  
23 witnesses about, lots of missing DNA and any supporting  
24 documentation or proof of what is being claimed.

25 Now, the Judge is going to talk to you about what

1 reasonable doubt is, and I mean, for a lot of people and even  
2 sometimes I think for us attorneys it can be a very nebulous  
3 concept. It can just be -- it's really it seems overly broad  
4 sometimes and hard to really get a handle on, but if I could  
5 leave you with one thing today, and I'm trying to leave with  
6 many things, but just one important thing about reasonable  
7 doubt. It's that everything that I'm outlining to you, that  
8 I'm taking the time to go through with you is reasonable  
9 doubt. If you find any of those things believable or credible  
10 that they should have been in evidence in order for you to  
11 find him guilty that is reasonable doubt.

12 I'm about to wrap up here, but I want to talk about,  
13 again, kind of what your function is here, and the Judge is  
14 going to instruct you on the law. So I don't want you to  
15 think that I'm trying to veer you off that path, but I think  
16 it's important to know that as jurors you are being called to  
17 make a decision as a group. Okay? But you are also  
18 individuals. You have your own thoughts and ideas about  
19 things, and when the Judge allows deliberation you get to  
20 decide how you view this evidence. Okay? No one person's  
21 opinion is more important than any others. No one person's  
22 belief is more important than anybody else's on this jury. If  
23 you are firmly convinced about anything you have the right to  
24 hold fast to what you believe, and you don't have to  
25 compromise that period for anyone.

Charge

413

1           Finally, I want to leave you with this. My client,  
2 Leslie Davis, sits there innocent. He's accused, but he is  
3 innocent. He wears the cloak of righteousness and innocence  
4 because the law says he does.

5           This week and in particular today, he is asking you to do  
6 your jobs as jurors to critically evaluate the evidence in  
7 accordance with what the law says and I believe that if you do  
8 that you will find him not guilty of this offense. I thank  
9 you for your time.

10          THE COURT: All right. Ladies and gentlemen, all of the  
11 evidence has been presented to you in this case and now is the  
12 time of the trial when I charge you with the law to be applied  
13 in this case.

14          The indictment in this case charges the Defendant with  
15 criminal sexual conduct with a minor in the first degree. I  
16 remind you that the fact the Defendant was arrested, charged  
17 and indicted in this case is not evidence in this case and  
18 cannot be considered by you as evidence of guilt in this case,  
19 nor does the Defendant's arrest, charge or indictment create  
20 any presumption or inference of guilt. This document is  
21 simply the formal written instrument which contains the charge  
22 made against the Defendant. It is the formal document by  
23 which this case is brought into this court.

24          The Defendant pleads not guilty to this indictment. That  
25 plea puts the burden on the State to prove the Defendant

1 guilty. A person charged with committing a criminal offense  
2 in South Carolina is never required to prove his innocence. I  
3 charge you that an important rule of the law is that the  
4 Defendant in a criminal trial, no matter what the seriousness  
5 of the charge may be, will always be presumed to be innocent  
6 of the crime for which the indictment was issued unless guilt  
7 has been proven by evidence satisfying you of that guilt  
8 beyond a reasonable doubt. This presumption of innocence does  
9 not end when you begin your deliberations, but it accompanies  
10 the Defendant throughout the trial until you reach a verdict  
11 of guilt based on evidence satisfying you of that guilt beyond  
12 a reasonable doubt. The presumption of innocence is like a  
13 robe of righteousness placed about the shoulders of the  
14 Defendant which remains with the Defendant until it has been  
15 stripped from the Defendant by evidence satisfying you of the  
16 Defendant's guilt beyond a reasonable doubt.

17 The presumption of innocence is not a mere legal theory.  
18 It is not just a legal phrase. It is a substantial right to  
19 which every Defendant is entitled unless you, the jury, are  
20 satisfied from the evidence of the Defendant's guilt beyond a  
21 reasonable doubt.

22 Now, what is a reasonable doubt in the law? A reasonable  
23 doubt is the kind of doubt that would cause a reasonable  
24 person to hesitate to act. Proof beyond a reasonable doubt is  
25 proof that leaves you firmly convinced of the Defendant's

Charge

415

1    guilt. We know very few things in this world with absolute  
2    certainty, and in criminal cases the law does not require  
3    proof that overcomes every possible doubt. If, based on your  
4    consideration of the evidence, you are firmly convinced that  
5    the Defendant is guilty of the crime charged, you must find  
6    the Defendant guilty. If on the other hand, you think a real  
7    possibility exists that the Defendant is not guilty, you must  
8    give the Defendant the benefit of that doubt and find the  
9    Defendant not guilty.

10       I remind you that, during this trial, you and I have  
11    certain duties to perform. As the trial judge, my  
12    responsibility is to preside over the trial of this case. I  
13    also have the duty to rule on the admissibility of the  
14    evidence offered during this trial. You are to consider only  
15    the competent evidence before you. If any testimony was  
16    ordered stricken from the record in this case during this  
17    trial, you must disregard that testimony. You are to consider  
18    only the testimony which has been presented from the witness  
19    stand, any exhibits which have been made a part of the record  
20    in this case, and any stipulations of counsel.

21       I have the additional duty to charge you the law  
22    applicable to this case. As the presiding judge, I am the  
23    sole judge of the law of this case. Your duty as jurors is to  
24    accept and apply the law as I now state it to you. If you  
25    have any idea as to what the law is or what the law ought to



1 be and your idea is different from what I now tell you the law  
2 is, you must disregard your idea of what the law is or ought  
3 to be because you are sworn to accept the law and apply the  
4 law exactly as I state it to you.

5 In every case tried in this court before a jury, the jury  
6 is the sole and exclusive judge of the facts in a case. A  
7 trial judge cannot intimate, state, comment on or make any  
8 statement to a trial jury about the facts in a case. Since  
9 you, the jury, are the sole judge of the facts in this case,  
10 you are not to infer from what I have said during the progress  
11 of this trial in ruling upon the admissibility of evidence, or  
12 otherwise, or anything that I say now during the course of  
13 this instruction to you, that I have any opinion about the  
14 facts in this case. The law does not allow me to have an  
15 opinion about the facts in this case. This is a matter solely  
16 for you, the jury, to determine. As jurors, your duty is to  
17 determine the effect, value, weight and truth of the evidence  
18 presented during this trial.

19 Now, two types of evidence are generally presented during  
20 a trial, direct evidence and circumstantial evidence. Direct  
21 evidence is evidence that directly proves the existence of a  
22 fact and does not require deduction. It is the testimony of a  
23 person who claims to have actual knowledge of a fact, such as  
24 an eyewitness. Circumstantial evidence is proof of a chain of  
25 facts and circumstances indicating the existence of a fact.

Charge

417

1 The law makes no distinction between the weight or value to be  
2 given to either direct or circumstantial evidence, nor is a  
3 greater degree of certainty required of circumstantial  
4 evidence than of direct evidence. Crimes may be proven by  
5 circumstantial evidence. However, to the extent the State  
6 relies on circumstantial evidence, all of the circumstances  
7 must be consistent with each other, and when taken together,  
8 point conclusively to the guilt of the accused beyond a  
9 reasonable doubt. If these circumstances merely portray the  
10 Defendant's behavior as suspicious, the proof has failed.  
11 The State has the burden of proving the Defendant guilty  
12 beyond a reasonable doubt. This burden rests with the State  
13 regardless of whether the State relies on direct evidence,  
14 circumstantial evidence or some combination of the two.  
15 You should weigh all of the evidence in the case. After  
16 weighing all of the evidence, if you are convinced of the  
17 guilt of the Defendant beyond a reasonable doubt, you must  
18 find the Defendant guilty. On the other hand, after weighing  
19 all of the evidence in this case, if you are not convinced of  
20 the guilt of the Defendant beyond a reasonable doubt, you must  
21 find the Defendant not guilty.

22 Necessarily, you must determine the credibility of  
23 witnesses who have testified in this case. Credibility simply  
24 means believability. Your duty as jurors is to analyze and to  
25 evaluate the evidence and determine which evidence convinces

1 you of its truth. In determining the believability of  
2 witnesses who have testified in this case, you may believe one  
3 witness over several witnesses or several witnesses over one  
4 witness. You may believe a part of the testimony of a witness  
5 and reject the remaining part of the testimony of that same  
6 witness. You may believe the testimony of a witness in its  
7 entirety or reject the testimony of a witness in its entirety.  
8 You may consider whether any witness has exhibited to you any  
9 interest, bias, prejudice or other motive in this case. You  
10 may also consider the appearance and manner of the witness  
11 while on the witness stand.

12 A witness in this case has a criminal record. A person  
13 who has a past criminal record is competent to testify during  
14 a trial. A past record does not affect the ability of that  
15 witness to testify. A witness' past record may only be  
16 considered by you, if at all, in determining the witness'  
17 believability. Remember, you are the sole judge of the facts  
18 in the case and of the believability of any and all of the  
19 witnesses.

20 The rules of evidence ordinarily do not permit witnesses  
21 to testify to opinions or conclusions. An exception to this  
22 rule exists for witnesses we call expert witnesses. A witness  
23 who, by education and experience, has become expert in some  
24 art, science, profession or calling may state an opinion as to  
25 relevant and material matter in which the witness claims to be

Charge

419

1 an expert, and may also state the reasons for the opinion.  
2 You should consider any expert opinion received in evidence in  
3 this case and, like any other evidence, give it the weight you  
4 think it deserves. If you decide that the opinion of an  
5 expert witness is not based on sufficient education and  
6 experience, or if you conclude that the reasons given in  
7 support of the opinion are not sound, or that the opinion is  
8 outweighed by other evidence, you may disregard the opinion  
9 entirely. An expert witness' testimony is to be given no  
10 greater weight than that of other witnesses simply because the  
11 witness is an expert. Further, you are not required to accept  
12 an expert's opinion, even though it is not contradicted.

13 Now, during this trial, you have heard testimony from a  
14 child. Where a witness is a child you must determine, as with  
15 any witness, whether that testimony is believable. In  
16 deciding believability, you may consider not only matters that  
17 I have already discussed with you, but you may also consider  
18 the age of the child, the child's ability to observe and  
19 remember facts and the child's ability to understand and  
20 answer questions. Because young children may not fully  
21 understand what is happening here, you must decide whether the  
22 child understood the seriousness of appearing as a witness at  
23 this criminal trial, whether the child understood the  
24 questions, whether the child has a good memory, and whether  
25 the child understands the difference between lying and telling

1 the truth. In addition, young children may be influenced by  
2 the way that questions are asked. You must decide whether the  
3 child understood the question asked.

4 I instruct you and emphasize that the fact the Defendant  
5 did not testify is not a factor to be considered by you in any  
6 way in your deliberation and in your consideration on the  
7 question of the guilt or innocence of the Defendant. The  
8 Defendant's decision not to testify must not be considered by  
9 you in any manner whatsoever. A Defendant has the  
10 constitutional right to remain silent, and the assertion of  
11 this right must not be considered by you in your  
12 deliberations. I repeat, under your oath, you are to draw no  
13 conclusion whatsoever from the fact that the Defendant in this  
14 case did not testify. The fact that this Defendant did not  
15 testify should not even be discussed in the jury room. The  
16 burden of proof, as I have stated to you, is on the State.  
17 The Defendant is not required to prove his innocence. The  
18 burden of proof remains on the State to prove guilt beyond a  
19 reasonable doubt.

20 Now, in order to establish criminal liability, criminal  
21 intent is required. For example, the mental state required to  
22 be proven by the State for a particular crime might be  
23 purpose, intent, knowledge, recklessness, or criminal  
24 negligence. Criminal intent must be proven by the State  
25 beyond a reasonable doubt. Criminal intent is always a matter

Charge

421

1 that must be determined by the jury from the circumstances  
2 surrounding the situation. There is no way to prove intent to  
3 a mathematical certainty. Medical science cannot dissect a  
4 person's brain and determine what the person had in mind, so  
5 the law says that criminal intent may be inferred from the  
6 circumstances shown to have existed. This is how you make a  
7 determination of whether or not the element requiring intent  
8 was present. Intent does not have to be established by direct  
9 and positive evidence. Intent may be established by inference  
10 in the same way as any other fact, by taking into  
11 consideration the acts of the parties and all the facts and  
12 circumstances of the case. Criminal intent is a mental state,  
13 a conscious wrongdoing. You must determine what the Defendant  
14 intended to do based on the circumstances shown to have  
15 existed. Criminal intent can arise from action or a failure  
16 to act. It may arise from negligence, recklessness or an  
17 indifference to duty or to consequences that is considered by  
18 law to be the equivalent of criminal intent.

19 Now, the Defendant is charged with criminal sexual  
20 conduct with a minor in the first degree. To convict the  
21 Defendant of this crime, the State must prove beyond a  
22 reasonable doubt that the Defendant engaged in a sexual  
23 battery with a victim. A sexual battery is sexual  
24 intercourse, cunnilingus, fellatio, anal intercourse or any  
25 intrusion, however slight, of any part of a person's body or

1 of any object into the genital or anal openings of another  
2 person's body, except when the intrusion is accomplished for  
3 medically recognized treatment or diagnostic purposes. The  
4 State must then prove beyond a reasonable doubt that the  
5 victim was less than 16 years old at the time of the sexual  
6 battery. Finally, the State must prove beyond a reasonable  
7 doubt that the Defendant was previously ordered to be included  
8 in the sex offender registry. The Defendant's prior  
9 conviction of a crime requiring his registry as a sex offender  
10 is not evidence of the Defendant's guilt in this case and  
11 cannot be considered by you as evidence of the Defendant's  
12 guilt in this case. However, one of the facts that the State  
13 must prove beyond a reasonable doubt to convict the Defendant  
14 of criminal sexual conduct with a minor in the first degree is  
15 that the Defendant was required to register as a sex offender  
16 at the time of the sexual battery.

17       There are two possible verdicts which you may find in  
18 this case. No significance whatsoever should be given to the  
19 order in which I state these possible verdicts to you. I  
20 simply have to state one first and one second. The possible  
21 verdicts in this case are either guilty or not guilty. Ladies  
22 and gentlemen, your verdict must be a unanimous one. Mr.  
23 Tutone, as foreperson, when the jury agrees on a verdict, you  
24 will check the appropriate verdict on the verdict form, then  
25 sign your name as the foreperson, then knock on the door and

Charge

423

1 let the bailiff know that the jury has reached a verdict.

2 Now, you were allowed to take notes during the trial of  
3 this case if you wanted to take notes. You will now be  
4 allowed to take your notes with you for reference during your  
5 deliberations. However, please remember that some people are  
6 better note takers than others. Some people can recall  
7 testimony and evidence adequately without taking notes. Juror  
8 notes should not be given any greater weight than the  
9 recollection of other jurors. The recollections of individual  
10 jurors should be considered as reliable as notes taken by any  
11 other juror.

12 Now, I'm going to excuse you back to the jury room. You  
13 can take your notepads with you, but please do not begin your  
14 deliberations yet. I've got to check with the attorneys to  
15 see if there are any challenges or additional charges I need  
16 to give you. If there are any corrections or additional  
17 charges I'll bring you back into the jury -- back into the  
18 courtroom and we'll make those additional charges or  
19 corrections. If there are none, the exhibits will be brought  
20 back to you in the jury room with the verdict form, and the  
21 bailiff will instruct you to begin your deliberations, but  
22 please do not begin your deliberations until you're instructed  
23 to do so by the bailiff. Thank you very much.

24 (Whereupon, the following takes place outside the  
25 presence of the jury.)



1           THE COURT: Any exceptions to the jury charges by the  
2 State?

3           MS. ANDREW: Nothing from the State.

4           THE COURT: Any by the Defense?

5           MS. WILSON: Nothing, Your Honor.

6           THE COURT: All right. Let's make sure we've got all the  
7 exhibits so that they can go back to the jury room.

8           MS. ANDREW: Your Honor, Exhibit 17 is the CRC interview.

9           THE COURT: Right.

10          MS. ANDREW: Do you care if we send back our laptop so  
11 they can view it if they wish?

12          THE COURT: Well, generally, what I do is I'll send the  
13 disc back and if they want to view it then I'll bring them  
14 back into the courtroom and we'll do it in here.

15          MS. ANDREW: Okay.

16          THE COURT: That's how I've always done it and if you all  
17 agree to do it some other way we'll do it some other way.

18          MS. WILSON: I prefer that way.

19          THE COURT: Okay. We'll do it that way.

20          MS. ANDREW: That's fine with us. We don't -- it  
21 doesn't matter.

22           (Exhibits reviewed by counsel for State and Defense and  
23 approved.)

24          MS. ANDREW: Thank you, Your Honor.

25          MS. WILSON: Thank you.

Verdict

425

1           THE COURT: All right. Here's the verdict form, put that  
2 -- all right. If we would take them all --

3           MS. ANDREW: We're taking --

4           THE COURT: -- take the, the exhibits and the verdict  
5 form back to the jury and you can tell the bailiff that they  
6 can -- to instruct the jury they can begin their deliberations  
7 and please bring Mr. Wright, the alternate out. All right.

8           (Alternate released by Court.)

9           THE COURT: All right. Anything from the State before we  
10 recess?

11          MS. ANDREW: Nothing from the State, Your Honor.

12          THE COURT: Anything from the Defense?

13          MS. WILSON: Nothing from the Defense, Your Honor.

14          THE COURT: All right. We'll be in recess until we get  
15 something from the jury.

16          MS. WILSON: Yes, sir. Thanks.

17          (Deliberations begin at 10:40 a.m.)

18                               OFF THE RECORD

19          (On the record. Verdict reached at 11:37 a.m. The  
20 following takes place outside the presence of the jury.)

21          THE COURT: All right. I understand the jury's reached a  
22 verdict. Anything from the State before we bring the jury in?

23          MS. ANDREW: Nothing from the State.

24          THE COURT: Anything from the Defense?

25          MS. WILSON: Nothing, Your Honor.

1 THE COURT: All right. Let's bring the jury in. Thank  
2 you.

3 (Whereupon, the following takes place in the presence of  
4 the jury.)

5 THE COURT: All right. Ladies and gentlemen, I  
6 understand the jury has reached a verdict; is that correct,  
7 Mr. Tutone?

8 FOREPERSON: Yes, Your Honor.

9 THE COURT: All right. And have you completed the  
10 verdict form and signed it?

11 FOREPERSON: Yes, we have.

12 THE COURT: All right. If you'd please hand it to the  
13 bailiff.

14 (Complies with request and Court reviews.)

15 THE COURT: All right. I'll ask the clerk if she'd  
16 please publish the verdict.

17 THE CLERK: Indictment number 2016-GS-26-03323, the State  
18 of South Carolina, County of Horry versus Leslie Davis, we,  
19 the jury, unanimously find the Defendant, Leslie Davis, guilty  
20 of criminal sexual conduct with a minor first degree, dated  
21 January the 17<sup>th</sup> [sic], 2019, signed by foreperson, Ronald  
22 Tutone.

23 THE COURT: All right. Any polling of the jury by the  
24 Defense?

25 MS. WILSON: Please, Your Honor, thank you.

## Polling of Jury

427

1           THE COURT: All right. Ladies and gentlemen, I'm going  
2 to poll the jury. Now, what that means is as I call your jury  
3 number I'm going to ask you to stand and I'm going to ask you  
4 two questions. Number one I'm going to ask you is this your  
5 verdict, and number two, I'm going to ask you is this still  
6 your verdict. All right. So please listen up and as I call  
7 your number please stand and answer those questions.

8           Juror 320, is this your verdict?

9           JUROR NUMBER 320: Yes.

10          THE COURT: Is it still your verdict?

11          JUROR NUMBER 320: Yes.

12          THE COURT: Thank you.

13          Juror 118, is this your verdict?

14          JUROR NUMBER 118: Yes.

15          THE COURT: Is it still your verdict?

16          JUROR NUMBER 118: Yes.

17          THE COURT: Thank you.

18          Juror 358, is this your verdict?

19          JUROR NUMBER 358: Yes, sir.

20          THE COURT: Is it still your verdict?

21          JUROR NUMBER 358: Yes, sir.

22          THE COURT: Thank you.

23          Juror 271, is this your verdict?

24          JUROR NUMBER 271: Yes, sir.

25          THE COURT: Is it still your verdict?

## Polling of Jury

428

1 JUROR NUMBER 271: Yes, sir.  
2 THE COURT: Thank you.  
3 Juror 247, is this your verdict?  
4 JUROR NUMBER 247: Yes, sir.  
5 THE COURT: Is it still your verdict?  
6 JUROR NUMBER 247: Yes, sir.  
7 THE COURT: Thank you.  
8 Juror 138, is this your verdict?  
9 JUROR NUMBER 138: Yes, sir.  
10 THE COURT: Is it still your verdict?  
11 JUROR NUMBER 138: Yes, sir.  
12 THE COURT: Thank you.  
13 Juror 364, is this your verdict?  
14 JUROR NUMBER 364: Yes.  
15 THE COURT: Is it still your verdict?  
16 JUROR NUMBER 364: Yes.  
17 THE COURT: Thank you.  
18 Juror 24, is this your verdict?  
19 JUROR NUMBER 24: Yes, sir.  
20 THE COURT: Is it still your verdict?  
21 JUROR NUMBER 24: Yes, sir.  
22 THE COURT: Thank you.  
23 Juror 350, is this your verdict?  
24 JUROR NUMBER 350: Yes, sir.  
25 THE COURT: Is it still your verdict?

## Polling of Jury

429

1 JUROR NUMBER 350: Yes, sir.

2 THE COURT: Thank you.

3 Juror 235, is this your verdict?

4 JUROR NUMBER 235: Yes, sir.

5 THE COURT: Is it still your verdict?

6 JUROR NUMBER 235: Yes, sir.

7 THE COURT: Thank you.

8 Juror 352, is this your verdict?

9 JUROR NUMBER 352: Yes, sir.

10 THE COURT: Is it still your verdict?

11 JUROR NUMBER 352: Yes, sir.

12 THE COURT: Thank you.

13 Juror 203, is this your verdict?

14 JUROR NUMBER 203: Yes, sir.

15 THE COURT: Is it still your verdict?

16 JUROR NUMBER 203: Yes, sir.

17 THE COURT: Thank you very much.

18 All right. Ladies and gentlemen, I want to thank you for

19 your service in this case. That will conclude your service

20 not only for this trial but for this week and I want to thank

21 you for your service. I know it's not a fun thing, it's time

22 consuming, but we do need good jurors and I want to thank you

23 for your service in this case and for this week. That will

24 conclude your duties in this case and for this week. You've

25 got a one-year exemption, I mean, a one-year disqualification

1 where you can't serve on juries. You've got a three-year  
2 exemption. I hope you don't use your exemption because we  
3 need good jurors and I want to thank you for your service.

4 Now, as I told you during jury qualifications you are not  
5 to discuss any of the Court's business with anyone. However,  
6 now your duties as jurors has concluded. So you are now at  
7 liberty to talk to whoever you want to about whatever you want  
8 to if you want to. You're not required to. You don't have  
9 to, but you are no longer required to remain silent and not  
10 say anything. You can talk if you want to.

11 You're free to go for the remainder of the day, for the  
12 remainder of the week and thank you for your service. All  
13 right.

14 (Whereupon, the following takes place outside the  
15 presence of the jury.)

16 THE COURT: All right. Any post-trial motions at this  
17 time?

18 MS. WILSON: Yes, sir, Your Honor. I would ask the Court  
19 to consider a judgment in arrest of verdict, the argument  
20 being that the jury's verdict is against the greater weight of  
21 the evidence presented at trial. Clearly, the testimony that  
22 the child witness gave was by itself, I think, insufficient  
23 to, to result in the verdict that the jury rendered, and I'm  
24 requesting that the Court vacate the jury's verdict in favor  
25 of a not guilty for the Defendant.

Motions

431

1 THE COURT: All right. I'm going to note your motion.  
2 I'm going to deny it. I'm going to let the verdict stand.  
3 Anything else?

4 MS. WILSON: No, sir. Your Honor, I would ask before  
5 sentencing that I would need a brief minute. If the jurors  
6 are willing to speak I'd like a chance to address them, but I  
7 also would like just a brief moment before sentencing to  
8 confer with my client.

9 THE COURT: Okay. You can confer with your client, but  
10 we're not going to delay sentencing for you to speak with  
11 jurors.

12 MS. WILSON: Okay. That's fine, Your Honor.

13 THE COURT: Okay?

14 MS. WILSON: That's fine.

15 THE COURT: Have we got a sentencing form?

16 MS. ANDREW: We're working on it right now, Your Honor.

17 THE COURT: Okay. All right. So you've got until we get  
18 the sentencing form. Okay?

19 MS. WILSON: Okay. Thank you.

20 THE COURT: All right. Let me know when you get that  
21 form, then we'll go ahead and proceed.

22 MS. ANDREW: Okay. Thank you, Your Honor.

23 THE COURT: Thank you.

24 OFF THE RECORD

25 (On the record. The following takes place outside the



1 presence of the jury.)

2 THE COURT: All right. Ms. Wilson, anything in  
3 mitigation before we impose the sentence?

4 MS. WILSON: Yes, sir, just very briefly.

5 Your Honor, my client is 49. He is divorced and has four  
6 children. He worked as a handyman and has led a relatively  
7 simple life for the most part. Your Honor, certainly the jury  
8 has returned a verdict here, and obviously I understand that  
9 this Court must abide by that. My client has, however,  
10 maintained his innocence from the outset, and despite the  
11 jury's verdict he still maintains his innocence at this time.  
12 We understand that the range on this offense is 10 to 30  
13 years. I've explained the ramifications and the collateral  
14 consequences of that conviction to my client on multiple  
15 occasions. He is and I concur in his request in asking the  
16 Court, begging the Court for any leniency that this Court  
17 might show to us in sentencing.

18 He has served approximately two years and probably just  
19 shy of ten months on this charge in jail the entire time that  
20 this case has been pending. With that being said, he would  
21 have less than three years credit that he would be entitled to  
22 and certainly at his age 49, not the oldest age that anybody  
23 could be, but certainly he's getting up there and any lengthy  
24 period of incarceration is virtually a life sentence for him.  
25 We are asking the Court to consider a 15-year sentence. It is

## Sentencing

433

1 within the range that is, is required by law. It is not the  
2 least that the Court could offer him as a sentence, which is  
3 the ten, and it's not the most. The mercy that we're asking  
4 the Court to show is not because we are saying that we have  
5 earned it somehow or that it's deserved, but mercy is given  
6 because of the grace of the person sentencing. We're asking  
7 the Court for that grace today.

8 THE COURT: All right.

9 MS. WILSON: Thank you.

10 THE COURT: Mr. Davis, anything you want to say?

11 MR. DAVIS: I just didn't, I didn't do this crime, sir,  
12 and I'm and, you know, the evidence proved it and, and I'm  
13 still being charged for it. It's -- I'll -- will maintain my  
14 innocence until I die, you know. I did not do this and I, I  
15 just don't understand this, this, this, this, this law the way  
16 things are. I'm innocent, I'm innocent of the crime. I have  
17 proof that I didn't commit the crime, but yet I'm sentenced  
18 and charged for a crime that I did not commit.

19 THE COURT: All right. Thank you. Does the victim wish  
20 to speak or say anything?

21 MS. ANDREW: Your Honor, the victim does not wish to  
22 speak. She's asked that I communicate some things to you and  
23 speak on her behalf.

24 THE COURT: All right.

25 MS. ANDREW: Your Honor, you've heard the evidence in this

1 case. This Defendant committed a violent crime against not  
2 only one of the most vulnerable members of our society, a very  
3 young child, his own biological daughter. She's going to live  
4 with this the rest of her life. She had to come into this  
5 courtroom which was very difficult for her and testify about a  
6 horrible private thing that happened to her and she's sitting  
7 here today. She's asked me to ask you to give him the maximum  
8 sentence.

9 I'd also like to bring to the Court's attention that he  
10 is a registered sex offender, and while we were not able to  
11 tell the jury what he did back in 1986 I can tell you now he  
12 raped his six-year-old sister in 1986. So this isn't even the  
13 first time he's done this. The State implores you to impose  
14 the maximum sentence in this case.

15 THE COURT: Okay. All right. Mr. Davis, you have been  
16 found guilty by a jury on the crime of criminal sexual conduct  
17 with a minor in the first degree. The sentence of the Court  
18 is that you be confined to the State Department of Corrections  
19 for 30 years. You'll receive credit for any time served thus  
20 far.

21 MS. WILSON: Thank you, Your Honor.

22 THE COURT: Thank you. All right. Anything further from  
23 the State?

24 MS. ANDREW: Nothing from the State, Your Honor.

25 THE COURT: All right.

# CERTIFICATE OF CONVICTION

STATE OF NEW YORK  
COUNTY COURT: COUNTY OF MADISON  
-----

The People of the State of New York

VS.

IND/SCI# 86-79

Leslie L. Davis

D/O/B: [REDACTED] 69  
-----

This is to certify that **Leslie L. Davis** was convicted in **Madison County Court of Rape** in the First Degree. The defendant was sentenced by Hon. Hugh C. Humphreys on October 21, 1986. The defendant received a sentence of five (5) to fifteen (15) years in State Prison.

Date: October 25, 2002

STATE OF NEW YORK, MADISON COUNTY, ss:

I, Michael T. Keville II, Clerk of said County, and of the Supreme and County Courts, therein, the same being Courts of Record

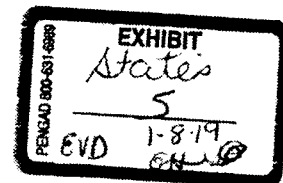
DO HEREBY CERTIFY that I have compared this copy with the original filed, recorded, or entered in this office and that the same is a correct transcript thereof and of this whole of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County and Courts, at the Village of Wampsville, in said County this 30 day of August 2018.

  
Clerk  
By 

Facsimile Signature Used Pursuant to Section 503 County Law

  
DEPUTY COURT CLERK



## WITNESSES

Fredrick Rash Horry County Police Department

*Demingway*

## ARREST WARRANT NUMBER

2016A2610700336

CDR: 0385 16-03-0855(A)(1)

DOA: 3/16/2016

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury  
Date: JUL 21 2016

## VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2016-GS-26-

03323

## The State of South Carolina

## County of Horry

Martin D. Spratlin

16HD1485

## COURT OF GENERAL SESSIONS

JULY, 2016 TERM

## THE STATE

VS.

Leslie Davis  
W/M  
5698 Hwy 378 Lot 7  
Conway, SC 29528  
DOB: 1969  
SSN:

ATTORNEY: Kia T. Wilson

## Indictment for

CRIMINAL SEXUAL CONDUCT WITH A MINOR,  
FIRST DEGREE

Jimmy A. Richardson, II, Solicitor

ORIGINAL

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JAN 17 2019  
SC Court of Appeals

STATE OF SOUTH CAROLINA )

COUNTY OF HORRY )

INDICTMENT

At a Court of General Sessions, convened on July 21, 2016, the Grand Jurors of Horry County present upon their oath:

**CRIMINAL SEXUAL CONDUCT WITH A MINOR**  
**FIRST DEGREE**

CDR: 0385 16-03-0655(A)(1)

That Leslie Davis did in Horry County, State of South Carolina, on or about March 11, 2016, 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 sixteen years of age, to wit: Minor whose date of birth is [REDACTED]/07 and the Defendant has previously been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for an offense listed in Section 23-3-430(C) or has been ordered to be included on the sex offender registry pursuant to Section 23-3-430(D), all in violation of Section 16-3-655(A)(2), 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.



JIMMY A. RICHARDSON, II  
FIFTEENTH CIRCUIT SOLICITOR

RENEE N. ELVIS  
CLERK OF COURT  
HORRY COUNTY, SC

CERTIFIED COPY

## 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,

s/Adam Ruffin

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 26th day of March, 2020.

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MAR 26 2020  
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