STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Robin B. Stilwell, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

SHANNON EARL GARLAND,

APPELLANT

APPELLATE CASE NO. 2018-002085

RECORD ON APPEAL

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PURSUANT TO THIS COURT'S ORDER OF MARCH 27, 2020, THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT #1 AND STATE'S EXHIBIT #2 (DVD RECORDINGS OF FORENSIC INTERVIEWS)

STATE OF SOUTH CAROLINA	)
	) COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE	) 2016-GS-23-10154;
	) 2018-GS-23-01757; 07848A
	)
	) ORIGINAL
	)
STATE OF SOUTH CAROLINA	)
PLAINTIFF	)
vs.	) TRANSCRIPT OF RECORD
	)
SHANNON EARL GARLAND	)
DEFENDANT	)

November 13-15, 2018
Greenville, South Carolina

B E F O R E:

THE HONORABLE ROBIN B. STILWELL, Judge; and a jury.

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APRIL HERRON
Official Court Reporter

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THE COURT: Go back downstairs and take instruction from her. Thank y'all for coming up this afternoon. Hope y'all have a good week and a good day.

(WHEREUPON, the jury venire was excused at approximately 2:57 p.m.)

THE COURT: All right, ladies and gentlemen, I look forward to working with you. Congratulations on getting selected. It occurs to me that before we begin a trial, it's helpful for me to have a discussion with the jury before we get started to let you know a couple of things. First thing is go ahead and let you know what your role is as jurors in the trial of the case. Then secondly, to explain the process of a trial so that you will know what we're doing. You'll know where we stand in the case and what comes next and, most importantly, what the end game is, what you can expect, okay.

So, let's go ahead and start by restating something that I've already told you, okay. That as we sit here, the Defendant, Mr. Garland, is presumed innocent. He will retain that presumption of innocence until 12 deliberating jurors determine whether the State has met its burden of proving each and every element of each and every offense beyond a

reasonable doubt.

So, if you'll imagine -- just so you conceptualize it a little bit better, just imagine that Mr. Garland is wearing a robe just like I am and that robe signifies innocence. And he retains that robe until such time as 12 of you determine that it should be taken off, whether it should or whether it should not. And again, the standard is to determine whether the State has met its burden of proving each and every element of each offense beyond a reasonable doubt.

Now, you'll determine whether they've met that burden of proof in your role as the finders of the facts. You are the finders of the facts in this case. You have the sole and exclusive authority and jurisdiction to determine what the facts are. Each of the parties has an opinion about what the facts are and is going to try to convince you to their respective sides. However, they're going to present evidence, and that's all they can do. They can't tell you what to think about that evidence. You'll take that evidence, you'll analyze it and weigh it and from that, you will determine what the facts are. After you determine what those facts are, then you will apply those facts to the law as I give it to you

at the end of the case and determine whether the State has met its burden of proof.

Now, as distinguished from you as the judges of the facts, I'm the judge of the law. What that means generally is that I'm the objective referee, the umpire, calling the balls and strikes, making sure that we're following the rules of court, we're following the law. I don't have an opinion about the facts of this case and under the law, I'm not allowed to. So, if you hear me at any time say anything that gives you the impression that I have an opinion about what the facts are or what your ultimate decision should be in this case, disregard that. Because, honestly, I don't have -- I don't have an opinion and I don't have any stake in the outcome of this trial. It is not important to me what your ultimate determination is in this case. That is entirely up to you and I trust you to make that decision.

During the course of the trial, in my capacity as judge of the law, I'll be ruling on motions that come up, I'll be ruling on objections. And understand that when we've got two parties and an objection is posed, then I'm going to rule in favor of one party and against another party. Please don't take that as any indication that I have a preference

or bias for or against either side. Because I truly don't. When those issues come up, I'm just making an objective determination based on my understanding of the law and my understanding of the rules of evidence. Also, don't hold it against the attorneys when they make objections or they make motions because that's their job. Their jobs are to advocate for their respective clients.

Now, ladies and gentlemen, the way that we'll start in this case is after I've given you this brief opening instruction, each party will have the opportunity to make opening statements. Now, those statements are generally short. And they're just intended for the attorneys to introduce themselves and their theories of the case. They're not argument, they're just introductory statements. After you've heard those introductory statements from each of the parties, then we'll begin with the presentation of evidence.

Now, the State goes first. The State goes first because, as I told you, the State has the burden of proof. So generally, what will happen is the State will begin with its presentation of evidence by calling the witness to the stand. That witness will come up, take the oath of a witness and the State

will examine or ask that witness questions. After the State has asked all the questions and introduced all of the evidence into the record that it intends to introduce, then the Defense will have the opportunity to cross-examine that same witness. After all the questions have been exhausted on that witness, that witness will be excused, then the State will call their next witness. They'll proceed in that fashion until they've introduced all of their evidence and called all of their witnesses to the stand.

After the State rest, then the Defense has the right to call witnesses to the stand and introduce evidence as well. But I'll remind you, the Defense does not have to call any witnesses or present any evidence because the Defense has a presumption of innocence. The Defense doesn't have to prove anything. The State has the burden of proof. So, it often comes to past that Defendants don't introduce any evidence or bring any witnesses to the stand.

And that's the Defense's prerogative. They may or may not in this case. We'll find out together at the same time whether they intend to offer any evidence or any witnesses. If they do, then they'll follow the same procedure. Call the witness to the

stand, examine that witness, State then cross-examines that witness. Then once all the questions are exhausted, that witness steps down. Then after the Defense rests and after all of the evidence has been presented in the case, then we will turn to and move to closing arguments.

Now, understand that closing arguments, just like opening statements, are not evidence. Closing arguments is the opportunity for each side to comment upon the evidence, to argue to you in an attempt to persuade you to their respective sides. Closing arguments is advocacy. They're advocating their positions. Each side will have the opportunity to make those closing arguments to you, then I will give you a closing charge on the law.

Now, the reason I wait until the very end to give you a closing charge on the law is because, just like you, I'm seeing all these witnesses for the first time. I haven't heard them, I haven't looked at any of this evidence, I haven't seen the witnesses get up and testify. So, I'll be seeing it for the first time as well. And it's important for me to see the evidence before I give you a charge on the law. Because the charge that I give you should relate to the evidence that's been presented. So, I'll wait

until the very end to give you that charge.

After I've given you a charge on the law, then I'll ask you to return to your jury room and begin your deliberations. Now, please don't begin any deliberations, any conversations with anyone regarding the case until I give you very specific instructions to do so. And that will be at the end of the case. After I've given you a charge, it will be a very clear signal that it's time to begin your deliberations.

Now, you know just from your common sense while it's important for you to wait. But at the risk of insulting your intelligence, I'm going to tell you. Okay. You know that in your lifetime, you've never been able to make a decision about anything important in your life unless and until you've heard everything that bears upon the matter to be decided. A trial is the same way. It's important that you listen to everything before you begin to make up your mind. And you should wait until you hear everything, including the charge on the law before you start to make up your mind about the case.

When I say don't deliberate about the case, don't talk about the case, I mean just that, okay. That means when we take a break -- some people have

strange ideas about what that means, so I have to tell you. When we take a break -- and we'll take breaks. When we take a break, when you're walking out of the courtroom and you get in your jury room or you're walking out of the courthouse, you know, don't look at your friend or your buddy and say, did you believe what that witness said? That witness was very credible or that witness was absolutely not to be believed. He was good bad, crazy, indifferent. Don't have those conversations. Don't have conversations about can you believe that bit of evidence? That was important or that wasn't important. Just keep your powder dry. Because you're going to have as much time to deliberate and talk about it as you want to once you have received all the evidence and the charge, I promise you will.

So, that also, that also applies to conversations with other people. When you go home tonight, your significant other, your spouse, your friend, your parents, your kids may invite you to have a conversation about what you did today and about the case. And those conversations start out very innocently. But after you answer one question, if your spouse is like mine, they will never be satisfied with one. And you will have another

question and another question. So, what I will tell you is just resist the temptation to discuss it and then after the case is over, you can discuss it as much as you want, as much as you want. But just again, keep your powder dry, you'll get the opportunity to discuss it, okay.

Now, during the case, we will take routine breaks. I like to take a break about every hour to hour and a half, depends on where we stand with witnesses. I don't intend to keep you as hostages in the jury box. I know those chairs aren't real comfortable and I know that you need to take a break routinely. So, we'll be taking those routine breaks. But I do want you to understand that right now, y'all are the 14 most important people in the courtroom. It's important that you pay attention and you have the capacity to pay attention to what's happening on the witness stand. So, if at any point during the trial, anyone of you needs to take a break, let me or let the bailiff know, just raise your hand or make eye contact or something and we'll take a break. Even if we've only been back on the record for five minutes.

Because really, it's more important to me that you're able to sit there and concentrate and listen

to what's being said as opposed to thinking when are we going to take another break, when is he going to take another break. Let me know and we'll take a break and we'll come back in when you're ready and when you're refreshed.

Okay. We'll also be taking breaks in the evenings and for lunch. We'll keep a general business day. That is, start at 9:00 and end at 5:00. If we're going to vary from that at all, I'll try to let you know in advance so that you can make arrangements. But I don't anticipate us having to do that because I think we've got enough time to try this case.

You heard at the beginning, I read out the names of 13 witnesses. I don't think we're going to hear from 13 witnesses. I think it will be less than that. Based on my conversations with the State and the Defense, it may be -- probably will be less than 10. I'm not sure about that, probably less than 10. Some shorter than others, some longer than others. But my anticipation is that we will be able to start today, take a break at or around 5:00, come back tomorrow probably at 9:30. And I prefer to start at 9:00 or even 8:30 if I can, but the rest of the world doesn't like that. So, I give you time to get kids

to school and take care of everything you need to take care of and then we'll start at 9:30 tomorrow.

Hopefully, we will be able to get all of the evidence in tomorrow. Maybe we'll go to argument and charge, but as we sit here right now, I kind of think that we probably will argue and charge on Thursday morning. I'm not sure, but that's what I think. If we can move quickly enough that we can do it tomorrow, then we'll try. But I think it will probably be Thursday morning.

Okay. All right. Ladies and gentlemen, we will start with opening statements in this case. Before we begin with opening statements, I'm going to ask the clerk of court to swear you in. Now, when we started jury qualification, you took the oath to tell the truth. This is a different oath. This is an oath to truly and verily try the case in accordance with the law and accordance with the evidence.

So, Ms. White.

THE CLERK: Ladies and gentlemen, please stand and raise your right hand for oath in this case.

(WHEREUPON, the jury was sworn.)

THE COURT: All right, Ms. Kluska, Ms. Hodge.

MR. GRAVLEE: Your Honor, before we begin, can I take up a brief matter outside the presence of the

your argument, ma'am.

MS. KLUSKA: Thank you, Your Honor.

THE COURT: Yes, ma'am.

OPENING STATEMENT

MS. KLUSKA: May it please the Court?

THE COURT: Yes, ma'am.

MS. KLUSKA: This case is about the sexual abuse of a child. Throughout the evidence, the testimony that you hear, you will see that this Defendant sexually abused the victim, Minor [redacted]. You will hear that this abuse took place in secret for about two years when Minor [redacted] was about nine and 10 years old. The Defendant was Minor [redacted] mom's boyfriend at the time of the abuse.

You'll hear that at first, Minor [redacted] made one disclosure, recounting one specific instance of sexual abuse at the hands of the Defendant. Investigator Robertson got a DSS referral in which he then investigated this abuse. You'll hear that he was able to speak with the Defendant. At the conclusion of which, he sought an arrest warrant and charged the Defendant.

But unfortunately, that was not all Minor [redacted] had to tell. She came forward again in January of 2017 and recounted even more sexual abuse at the hands of

the Defendant. That time, Minor had told her grandma, who then told her therapist, who again told Investigator Robertson. Investigator Robertson thoroughly investigated that allegation. And when he did so, he then charged and arrested the Defendant on that additional charge.

The Defendant sits before you today charged with criminal sexual conduct with a minor in the first degree, criminal sexual conduct with a minor in the third degree and the exposure of private parts in a lewd and lascivious manner. At the conclusion of the trial, Judge Stilwell will go over the law with you in great detail, so I'm not going to do it now. But what I do want you to know are just a few important bullet points that you can listen for important facts throughout the course of this trial.

For criminal sexual conduct with a minor in the first degree, we first have to prove to you that Minor was a minor. That one is pretty straightforward. You will hear testimony today that Minor is 13 years old today. You will hear testimony that at the time of the abuse, Minor would have been about nine and 10. That's when the Defendant had access to her.

We also have to prove that a sexual battery was

performed on Minor . A sexual battery is cunnilingus, fellatio, intercourse, penetration by the Defendant into any opening of Minor body.

Next, criminal sexual conduct with a minor in the third degree. We have to prove to you that the Defendant willfully and lewdly committed or attempted to commit, that will be important in this case, a sexual battery on Minor , and she was under the age of 16. For exposure of private parts in a lewd and lascivious manner, we have to prove to you that the Defendant exposed himself to another person willfully, in this case, Minor

In order to prove our case to you here today, you're going to hear from several witnesses. You're going to hear from Investigator Robertson. Investigator Robertson will tell you about the investigation that he did in this case, the conversations that he had with the Defendant.

You're going to hear from Wilma Smith. Wilma Smith is Minor grandma. And she's going to tell you about Minor s chaotic childhood. She'll tell you that Minor was bounced between her mom's house and her dad's house. Sometimes they bounced between where they lived. Sometimes they even faced eviction. You'll hear that this chaotic childhood is

exactly what gave this Defendant the opportunity to do what he did.

One person who you won't hear from is Minor mom, Ms. Marty Padgett. For whatever reason, Minor mom has chosen not to support her throughout this process. We're not sure why exactly that is, but you will hear that that is a source of great pain for Minor and that affects her greatly. And we're not really sure why that is, but what we do know is that despite losing her mom over this, Minor has maintained her story about what happened to her since day one.

You're also going to hear from Dr. Mary Fran Crosswell. Dr. Crosswell is a doctor that completed the physical exam of Minor when she disclosed sexual abuse. You'll also hear from Amber Hiott. Amber Hiott is a forensic interviewer at the Julie Valentine Center. You'll hear what a forensic interview is, why we use them in cases like this. And you'll hear that she conducted two forensic interviews of Minor When you hear those interviews, because you'll have a chance to view them yourself, when you do, pay attention to the level of detail that Minor uses when she discloses the abuse that she suffered at the hands of the Defendant.

And members of the jury, we will also call for you Minor herself. She's only 13 years old, but she is going to be brave enough to take this stand in front of a courtroom of all these people and tell you the sexual abuse that she suffered for years at the hands of the Defendant.

Some things you might hear in this case may be difficult to listen to. It's hard to wrap your mind around the fact that this is happening right here in Greenville County to kids like Minor But I ask that you pay attention to the evidence, you listen to the testimony and I am confident that when you hear from Minor, you will find the Defendant guilty on all charges. Thank you.

THE COURT: Mr. Propst.

Mr. Gravlee.

OPENING STATEMENT

MR. GRAVLEE: I'm more of a podium guy, so I'm going to swing this around. This case is about a cry for help. No doubt this is a tragic story. Everyone in this courtroom will feel sorry and should feel sorry for Minor She's a victim in this case. Not of sexual abuse, but she's a victim of a home that was torn apart by separation, by drug addiction and by abandonment. This is a girl who struggled with

mental health issues early on and seeing a counselor for any allegations that supposedly arose.

After you learn of Minor tragic childhood experience, as the State shared with you, the real reasons of why she would make up a story makes sense. The facts, the family history and the records will show that you can sympathize with Minor and you should because it's understandable in light of the horrendous early childhood that she's been forced to grow up in. Let's be clear, these allegations are a cry for help.

The story that you're going to hear is something terrible, there's no way around it. But these manipulative allegations make sense. The allegations are born of a gut-wrenching story of a child who desperately sought the love and affection of an emotionally and physically absent mother. In the years leading up to the abuse and around that time that it's alleged, Minor lived in no less than five different places. She was kicked out of two homes with her family, lived in, at least, one motel, lived with her grandmother sporadically, also, lived with her father and her father's girlfriend. Meanwhile, her mother came and left.

In this trial, you will likely hear from

witnesses who can say Mr. Garland lived here. He lived there. And those were places where Minor and her mother were living. We don't dispute that. The State told you to pay attention to the details and we ask you to do that. These witnesses can confirm that Mr. Garland lived in those places. But so what? Just because she can point to where he lived or the different details or specific location where these allegations supposedly took place, doesn't mean that her story is real. Let me put it this way, just because somebody can place you at your home with your family this past weekend doesn't mean you abused your family this past weekend.

In this case, Minor wanted stability. She wanted comfort and, most of all, she wanted her mother's love and affection. She did everything she could to try to get her mother's attention, including taking drastic measures to attempt to get that love and affection. Minor cried for help.

With these initial allegations, she assumed her mother would come to her rescue. But you know what? Her mother is lost, she's depressed, addicted to pills and physically and emotionally absent from her child. Minor cry for help did not work. The evidence will show that Minor in her initial

disclosure, that when she was questioned about any additional sexual abuse or any other prior instances, she said there wasn't any. There's no other instances of sexual abuse. She was seeing a counselor at school, she was seeing a counselor outside of school, but never any other allegation.

Then time passed after the initial disclosure. Minor repeated attempts to win her mother's heart had failed. The evidence will show that Minor was acting up in school, she was lying and she was being manipulative. She was back and forth from living with her grandmother and living with her father and his girlfriend and, occasionally, living in a motel with her mother and Mr. Garland.

Also, during this time, Mr. Garland had a stint in prison. It was not related to Minor or any child in any other way, whether it was sexual or physical. He's not perfect. They were property crimes. But his incarceration threw another wrench in Minor life.

And it's this chaos, just like the State told you, that defined her life. She was angry. Minor was torn and she was crushed. Her mother is still away and only occasionally contacted Minor when she battled her own addiction and depression. Adding

insult to injury, her mother still showed that she didn't care about Minor initial allegations.

In 2016, Minor began living with her father and her father's girlfriend. Either it's a vengeful act against her mother so she could remain with her father or maybe in a last attempt to get her mother's love and affection and maybe turn her against Mr. Garland. Minor upped the ante. She realized the first cry for help was not enough.

Eight months after that first cry, in February -- or January of 2017, Minor decides to tell an even more explosive story. Despite previously assuring a counselor in August of 2015 that she was not sexually abused in any way, she changed her story to reveal drastic new allegations. Minor makes this story when she was living with her father. She said Mr. Garland abused her somewhere around the time when she was nine or 10 years old. Of course, Minor father believed her in full. He did not have full custody of her at the time. But he believed her hook, line and sinker. In 2013 before the allegations supposedly took place, you will hear that the father was planning to get full custody, but did not have it. She was still living with her mother.

Not surprisingly, once the allegations arose in 2016 and 2017, Minor father took the opportunity and ran with it.

MS. KLUSKA: Objection, Your Honor. These facts are not yet in evidence. This is sounding more like a closing than an opening.

THE COURT: All right, ladies and gentlemen, I've told you before, arguments and statements are not evidence. So, unless it appears in evidence, it's not to be considered by you as evidence in the case.

So, Mr. Gravlee, I'll ask you to continue. I don't know whether that's going to be in evidence or not --

MR. GRAVLEE: We believe it will, Your Honor.

THE COURT: Okay. All right, you may continue, sir.

MR. GRAVLEE: Thank you, Your Honor.

So, as you can see, this is a tragic family story. And it's from this chaotic family life and terrible childhood experience that this cry for help arose.

Your job as jurors this week is to determine the credibility of witnesses. The Judge talked to you about that, the State talked to you about that. We

want you to listen to their stories. Take mental notes, take physical notes. Listen to the inconsistencies and listen to the testimony that doesn't add up. And pay close attention to Minor [redacted] cry for help.

Mr. Garland was charged with these crimes over a year ago. And in the United States, like any other human being here, since his arrest, Mr. Garland is presumed innocent. Just as Judge Stilwell told you, he walked into this courtroom today presumed innocent. And he wears that presumption of innocence like a cloak of protection that can only be removed after he's -- if he's proved guilty beyond a reasonable doubt. But we are confident that this cloak of protection is going to remain with him and on him as he walks out this courtroom against these unproven allegations.

Anyone can make allegations as a hit job to try to have it their way, whether it be to manipulate the political system or one's personal circumstances. But the privilege of being an American allows the protections that the United States Constitution provides. An accuser simply doesn't get to have their way by just making an allegation. The prosecution has to prove to you in the highest burden

of proof in our legal system, that Mr. Garland is guilty beyond a reasonable doubt. That standard's up here. It's not some evidence that this American committed a crime. It's not I'm pretty sure he may have committed a crime or probably. They have to prove to you that Mr. Garland, beyond a reasonable doubt, committed a crime. He's presumed innocent here today.

Guilt beyond a reasonable doubt is the kind of doubt that makes you hesitate to act. We're confident here today that these -- that you will have plenty of reasons to hesitate to act in this case. These allegations are simply a cry for help. There are too many questions, motives to lie and manipulative circumstances for the State to meet its extremely high burden of proof.

Ladies and gentlemen, on behalf of Mr. Garland, thank you for your time and undivided attention this week. Because once you hear all the evidence and the testimony this week, we know the State won't meet their burden, they can't. And we are certain that you will find Mr. Garland not guilty on all counts. Thank you.

THE COURT: Call your first witness.

MS. HODGE: Yes, Your Honor, the State calls

Wilma Smith.

THE CLERK: Ms. Smith, please place your left hand on the Bible and raise your right hand.

WILMA SMITH, after being duly sworn, testified as follows:

THE WITNESS: Yes, ma'am.

THE CLERK: Thank you, you may be seated. Please state your name full name for the record.

THE WITNESS: Wilma Smith.

DIRECT EXAMINATION

BY MS. HODGE:

Q Ms. Smith, if you'll just direct your attention this way when I speak to you, make sure you answer loud enough for everybody in the jury to hear you, all right?

A Yes, ma'am.

Q Just like that. Can you say that louder?

A Yes, ma'am.

Q Perfect. You can adjust the microphone if you need to. Okay. So, tell me a little bit about yourself; are you married?

A Yes, ma'am.

Q All right. Who are you married to?

A Harry Smith, Jr.

Q How long have y'all been married?

A Married 27 years, together for 32.

WILMA SMITH-DIRECT BY MS. HODGE

Q Do you and Mr. Smith have any children together?
A No, we don't.
Q Did you have children from a previous marriage or relationship?
A Yes, my daughter Erin.
Q What is Erin's full name?
A Marty Erin Caldwell Watford.
Q What does she go by?
A Erin.
Q Erin. That's you're only child?
A Yes, ma'am.
Q And does Erin have any children, do you have any grandchildren?
A My granddaughter, Minor
Q How old is Minor right now?
A She's 13.
Q Are you currently employed or do you work anywhere?
A No, I'm not.
Q Have you worked in the past?
A Yes, ma'am.
Q What kind of work have you done?
A Waitress.
Q Where have you waitressed?
A K & S, Bill's, Ted's.

Q A few different places?
A Yes, ma'am.
Q Okay. Do you live in Greenville County?
A Yes, I do.
Q Have you lived here most of your life?
A Yes, ma'am.
Q All right. Let's talk about your granddaughter, Minor Is that your only grandchild?
A Yes, ma'am.
Q When is her birthday?
A [redacted]
Q [redacted] Were you involved in her life from the time she was born?
A Yes, ma'am, before she was born.
Q All right. Tell me about that.
A Her mom came home when she was -- to live back at home, her and Minor dad was having problem. She moved back home when she was six months pregnant. Then she stayed with us until Minor turned three months old.
Q Now, Minor 's dad, who is her dad?
A Brad Watford.
Q Were Brad and Erin married?
A Yes.
Q When did they get married?
A November 7th of '05.

WILMA SMITH-DIRECT BY MS. HODGE

Q So, shortly after Minor was born?
A Yes, ma'am.
Q Okay. And you stated that she was living at your home, I think, until Minor was about three months?
A Three months, yes.
Q Then where did Minor and her mom and dad end up moving?
A They lived in an apartment in Mauldin.
Q All right. Do you know how long they were together?
A A little over a year and a half.
Q And when they split up, when Minor parents split up, where did Minor and her mom go?
A They moved to Moonville.
Q Was there any reason they moved to Moonville?
A Erin had met someone else after they had separated.
Q Do you recall -- did you know who that person was?
A His name was Andy, Andy Starick.
Q Okay. About how long did she, Erin, stay with Andy?
A About four years.
Q Did they ever get married?
A No, they did not.

Q And Minor was with her during that time frame?
A Yes, she was.
Q Were you able to maintain a relationship with Minor
A Yes.
Q Did you see her often?
A Yes.
Q Did she ever come over to your house or stay with you?
A Yes, spend the weekend, yeah.
Q So now, Minor about how old when Erin and Andy stopped seeing each other?
A She was in the first grade, so Minor would have been six.
Q Okay. Do you remember where Minor went to school for first grade?
A First grade was Ellen Woodside in Moonville.
Q Okay. All right. And at some -- tell me, after Erin and Andy broke up, where were Minor and her mom staying?
A Erin has epilepsy and she had a few problems and didn't have a car, so she asked me would I start picking up Minor at school, so Minor came to stay with me.
Q When you picked her up from school, did she just spend the night?

A No, she ended up living with me.
Q Okay. Where was Erin during this time?
A Erin had problems and she had moved on and wasn't in Minor life much after that.
Q So, she just started living -- Minor just started living with you?
A Yes, ma'am.
Q Did you provide for her and take her to school?
A Yes, ma'am, yeah. She stayed with me through first grade and her mom saw her some. Then she came back about three or four months into second grade and got Minor to come back with her.
Q So, for a year or more, you had Minor living with you?
A Yes, ma'am.
Q Did her dad, Brad, did he have any opinion about that?
A No, he didn't have a car or anything. And he was fine with it. And she would go see her dad on weekends.
Q Okay. How -- did you facilitate that or how did that work out?
A Well, we've always been -- you know, talked on the phone and been close. So, you know, there was no problem with me taking care of Minor.

Q Did you take her to see her dad?
A Uh-huh, yes, I would.
Q Then what about mom?
A Mom would come and see her at my house.
Q All right. And did you ever have any court order to that effect?
A No.
Q Okay. Who had legal custody?
A Her mother had custody of her.
Q But this was just an arrangement that just worked out? Nobody seem to mind?
A No.
Q How would you describe you and Minor relationship?
A We're very close.
Q Have you been her steady person?
A Yes, I have.
Q I think you mentioned that at some point, Erin came back for her.
A When she was about in the second grade, three months into the second grade, she came back.
Q When she came back, what was she going to do or what did Erin do?
A She was going to have a life with a man she had met. And she took Minor and moved and started her in

second grade at Alexander Elementary.

Q Okay. And who was the man at this point?

A Shannon Garland.

Q Okay. Is that the Defendant?

A Yes, ma'am.

Q And so, you're saying this was some point in second grade --

A Yes, ma'am.

Q -- roughly for Minor Did you get to meet Shannon and have any kind of communications?

A Yes, we did.

Q How did that go at first?

A It was good. It was good. I was hoping it was good thing for Erin and Minor

Q Do you know where they moved in together or lived together?

A I'm not sure where they were living when they first got Minor back, but they did end up coming back to live on a piece of property that me and my husband owned.

Q How long had they been gone before they came back?

A About a year, year and a half, until Minor was in, I believe it was third grade.

Q Okay. And so, you said you let them come back to live on a piece of property?

A Yes, ma'am.

Q Where was that located?

A Next door to where me and my husband lived?

Q Is there a building on it, a home?

A There is a mobile home.

Q Who provided that, who paid for that?

A Me and my husband did. We had bought it and then told Erin that -- you know, her and Minor needed a place to live and she had met Shannon. And they came and lived there.

Q All right. So, they're very close to your property?

A Yes, ma'am.

Q Close in distance?

A Yes, ma'am.

Q Did you see Erin and Shannon and Minor regularly?

A I saw Minor everyday.

Q How would that happen?

A She'd always come home up to my house and all after she got home from school. Just come spend the night or I'd walk down there, you know.

Q Okay. What were the -- what was the agreement or what were the arrangements for them living in your --

A That they had to pay the utilities and that he

had to pay $100 a month.

Q Okay. For the rent, I guess?

A Yes, ma'am.

Q Okay. And did that happen?

A No, ma'am.

Q How long did it go on before it had to come to an end?

A They lived there, I'm going to say, from August until July the next year. So, right at a year.

Q So, over the course of a year, did you get $100 a month rent?

A No, ma'am.

Q How about the utilities?

A No, ma'am.

Q Who paid the bills?

A Me and my husband.

Q Did you have a conversation with the Defendant or Erin about this?

A Yes, I did.

Q Okay. And tell me what you said.

A That the power was -- they had left us -- at the time, it was just $200 dollars a month power bill or better and they would not pay any of the bills and Shannon wouldn't work.

Q How did they have money to live?

A I'm not sure. I'm not sure what they were doing. My daughter had food stamps and she draws a disability check for epilepsy, but other than that, I don't know. Other than me and my husband giving her money.

Q So, have you been a financial provider as well as far as Minor is concerned?

A Yes, I have.

Q Do you buy her school clothes?

A Yes, ma'am, I have.

Q How about birthdays?

A Birthdays, Christmas. Me and my husband have pretty much done most of it. Even when they -- Shannon was living with her, we still provided Christmas.

Q Did you get Shannon a Christmas present?

A Yes, ma'am, I did. And I gave him something for his daughter.

Q So, at the time before they had to move out, were you --

A That was the Christmas before they were asked to move -- well, he was asked to move or to get a job and pay the bills. He decided to leave and my daughter decided that if he left, she was leaving with him and took Minor too.

Q Do you condone anything that your daughter has

done that we have discussed up to this point?

A No, ma'am.

Q Are you approving of any of that?

A No, ma'am, I don't.

Q Is that difficult for you as a grandmother/mother?

A Yes, ma'am, it was.

Q She decided to leave -- Erin decided to leave with the Defendant?

A Yes.

Q And they took Minor as well?

A Yes, ma'am.

Q Okay. And do you know how old Minor was or what -- I think you said what grade?

A She was nine years old, I believe, at the time, in the third grade.

Q All right. And do you know where they moved once they left your property?

A They moved to Edgemont Avenue off of Cedar Lane.

Q Did you ever go over there to visit or see Minor

A No, ma'am, I went over there to take some money one time, a couple times to them. But I was never asked to the house after I left.

Q So, did that put a rift between you and Erin

when you asked for him to move out or pay bills?

A Yes, ma'am, it did. Me and my daughter had a rift a few times before that because of a few problems she had.

Q And so, you were aware of the location where they lived?

A Yes, I know where she was, yes, ma'am.

Q And do you know who they lived with? Do you know the people they lived with?

A They rented a doublewide from somebody named Tony. I don't know who he was. They lived there for about three months and got evicted. Then they moved in with the nextdoor neighbor, a lady name Sylvia, I believe.

Q Okay. When you say next door, do you mean literally?

A Yes, ma'am, right next door.

Q Okay. Now, are you still communicating with Minor during this time even though you're not invited over?

A Not at much. I would have to call and ask to speak to her. They didn't let her come see me. They wouldn't let her come spend the night for about a year, year and a half.

Q How did that make you feel?

A Terrible. We were used to seeing each other a

lot. In fact, when me and my husband go on vacation, we take Minor with us. You know, the fair is in town, we take Minor to the fair. Because they never had enough money to do anything seem like with her or for her.

Q Did you just keep trying then?

A Yes, ma'am.

Q At some point, did they stop living either -- well, from the trailer to now the home, did that living arrangement blow up?

A Yes, ma'am. And I'm not sure, I think Shannon might have got locked up at the time and Erin went to live with some friends. And she called me again and asked me if I would start picking Minor up a school and she could come stay at my house. And, of course, I did.

Q All right. And what grade would this have been, still the same?

A That was the end of third grade.

Q Okay. End of third grade. All right. What school was she at?

A Monaview, that was at Monaview Elementary.

Q Okay. So, towards the end of her third grade year, she comes back --

A Three months before school was out, yes, ma'am.

Q All right. Once she comes back to you, starts living with you, is dad okay with this?

A Yes.

Q Brad's okay with this?

A Yes.

Q Does she still get to see her dad during the time I guess she'd been at Edgemont?

A She saw her dad, yes, some because Erin would go get child support from him.

Q Then she would visit her dad?

A Uh-huh.

Q Then once she moved back in with you, Minor moved back in with you, her dad was okay with that, her mom was okay with that?

A Yeah, they were fine with it.

Q Did she start going to school while she lived in your house for fourth grade?

A Yes, ma'am. I enrolled her in fourth grade. Couldn't get special permission to get her back in Monaview, so I went got -- I wanted her to be familiar, so she went back the Alexander where she had been before in second.

Q So, about how many schools did Minor go to in this timeframe?

A Three schools, two of them twice. So, a total of four. Ellen Woodside, Grove, Alexander, Monaview, Alexander.

Q And how did she do in school? Were you aware, were you in contact with the school?

A Yes, ma'am. First grade, she did real good, made good grades. Third, fourth grade, she was on A/B Honor Roll. Fourth grade, she was on A/B Honor Roll for a while, then her grades dropped.

Q Did you have -- did she have any personality changes or any issues?

A Yes, she started having what I call rage issues and she got to where she couldn't sleep at night. She had insomnia and just her personality changed. She stopped going to church. Didn't want to go to church anymore. Just instead of being the happy kid she used to be, she was just mad. Seemed to be mad all the time.

Q Did she take any or go to any counseling through the school or private counselor?

A She saw a counselor at school.

Q Was that for what you're describing?

A Somewhat, yes. Her issues in class as far as being mad and her rage is what it started out being, talking to a school counselor.

Q Now, she's in fourth grade with you?

A Yes, ma'am.

Q Okay. How often would you say her mom came to visit?

A Not much at that point. She wasn't seeing her mom much.

Q Was that upsetting to Minor

A Yes, it was.

Q Did she want her mom in her life?

A Yes, she did.

Q About her dad, what was her feelings?

A Her and her dad had a good relationship?

Q Tell me, did you ever take Minor to see her mom? Whether she came to her, did you ever take Minor to see her mom?

A Yes, I did.

Q Where was her mom staying, do you know?

A They were staying at the Super Lodge Motel and there was another motel they stayed off the side of 85.

Q Who was -- who was mom with at the time?

A Shannon Garland.

Q Okay. Did Minor ever live in the hotel with them?

A No, ma'am.

Q When they got evicted from Sylvia's home, she came to live with you?

A Yes, ma'am.

Q Minor came to live with you?

A Yes, ma'am.

Q Then at some point --

A She might have stayed with them some during the summer. At that time, Erin was supposed to come and got Minor back, but I didn't see her. I didn't know they were living in a motel at that time. When I found out, I got Minor back with me.

Q That was before fourth grade then?

A Yes, ma'am. Just a little patch in the summer.

Q So, talk to me about Mother's Day while she was in fourth grade.

A I took her to see her mom for Mother's Day. She wanted to see her mom. So, I took her to the motel.

Q Okay.

A Took her there and she spent a few hours and I went back and got her.

Q Is that -- did you want to do that? Did she really want to do that?

A Not particularly, but I don't want to keep her for her mom. She loves her momma.

Q So, you picked her up. Did Minor say anything to you about the visit?

A She was just quiet. She didn't have much to say. She didn't say a whole lot. But she usually was pretty happy when she got to see her mom, but always cried because she hated to leave. And she just didn't have much

to say.

Q Okay. Did she go to school the following Monday?

A Yes, ma'am, that's when the counselor --

MR. PROPST: Judge, we object. I think we're getting into some questionable issues right now.

THE COURT: Okay. All right. Her response to the question.

MR. PROPST: I think the line of questioning is going somewhere that we will take issue with.

THE COURT: Okay, well, I don't know exactly what your issue is, but I think what you're objecting to is anticipating some hearsay testimony, is that correct?

MR. PROPST: Yes, sir.

THE COURT: Okay. All right. And I'll sustain any hearsay.

I don't know where the line of questioning is going, just be careful with respect to hearsay as to what any counselor or third person may have said.

MS. HODGE: Yes, sir.

BY MS. HODGE:

Q [redacted] goes back to school during that week after Mother's Day?

A Yes, ma'am. The school counselor calls me and

tells --

Q Hang on a second. Don't tell me what the school counselor says, but the school counselor calls you?

A Yes, ma'am.

Q Was there a problem?

A Yes, ma'am.

Q Were you asked to come up to the school?

A Yes.

Q Had DSS or law enforcement been called?

A The counselor told me she would be calling them.

Q Okay. That she would be calling one of those or both of those?

A Both.

Q All right. And this is only in response to Minor because you have no other grandchildren?

A Yes, ma'am, correct.

Q And is this -- do you go up to the school?

A Yes, I did.

Q Now, you don't have legal custody?

A No, I don't.

Q So, is there a problem? Were they able to talk to you about -- don't tell me what they said, but were they able to talk to you?

A Yes, ma'am. All the people at the school knew who I was. I was a volunteer at the school.

Q They explained --

A They explained to me what [redacted] had said, what [redacted] had told them.

Q So, [redacted] told them something which prompted them to call you?

A Yes, ma'am.

Q And you came up and met with them about what [redacted] had said?

A Yes, ma'am.

Q From that point, did law enforcement become involved as well?

A Yes, ma'am.

Q Okay. Did you take [redacted] home from school that day?

A Yes, I did.

Q Did [redacted] disclose anything to you that day in regard to any sexual abuse allegation?

A Yes.

Q Did she tell you where that sexual abuse may have taken place?

A Yes, ma'am.

Q Where did she say it took place?

A At the motel.

Q Did she say when it took place?

A Mother's Day.

MR. PROPST: Your Honor, we're getting back into the hearsay realm.

MS. HODGE: There's an exception for time and place under the hearsay exception.

THE COURT: I understand. You asked those two questions. Are you done?

MS. HODGE: Yes, I'm done with those two questions.

THE COURT: All right, good enough.

BY MS. HODGE:

Q After you had that conversation with Minor and I think you said in the motel room, Mother's Day visit; is that correct?

A Yes, ma'am.

Q Did that then start a process that you had to take Minor on to the Julie Valentine Center?

A Yes, ma'am. She went to the Julie Valentine Center and she started counseling.

Q Did she also have to talk to Investigator Robertson?

A Yes, I took her to see Mr. Robertson.

Q And did law enforcement or Investigator Robertson want to talk to you as well?

A Yes, he did.

Q Did you help facilitate those things as far as

getting Minor where she needed to be?

A Yes.

Q Tell me -- how about Erin, her mom?

A Her mom didn't believe her.

Q Okay. Was her mom still with the Defendant?

A Yes, she was.

Q Even after Minor made allegations, mom stayed with the Defendant?

A Yes.

Q How did that affect Minor Did you see anything? Did you notice anything about her?

A She was very hurt that her mom didn't believe her.

Q Did she continue to live with you, Minor continue to live with you?

A Yes, she did.

Q And how about her dad, did he want to take custody at that point or was it okay for her to live with you?

A It was okay with them both that she lived with me, but they -- Erin lost her custody of Minor at that time.

Q And how long did Minor stay with you after Erin lost her custody?

A Until Brad got through DSS, she stayed with me

the year that she was in counseling and everything and until her dad got custody of her when she started the fifth grade.

Q When she started fifth grade?

A Uh-huh.

Q Where did she start going to fifth grade?

A Was also at Alexander.

Q Stayed at Alexander through elementary school?

A Yes.

Q Would you still get to see her or visit or weekends or anything like that?

A I was still picking her up from school. After her dad got custody and she moved in with her dad and his girlfriend, they would take her to school. I would still pick her up in the afternoons, take her to my house, take her back to them when they got off work.

Q Did you also take her for fun stuff?

A Yes, I did.

Q What did she like to do?

A She likes to roller skate. She likes to go to the park, she walks the dogs. She does a lot, you know, she was active. Played softball.

Q So again, even though she's living at Brad's, y'all were still in close contact?

A Yes, ma'am.

Q Did Minor ever initiate a conversation with you in addition to that first disclosure she made?

A Yes, ma'am, she did.

Q Is that something that you would ask her questions about or how would that happen?

A She would come to me with a question and yeah, I would ask her questions of why she was asking me certain things or certain things she wanted to know about.

Q Okay. All right. And do you recall in January of 2017 her starting a conversation with you about sexual assault?

A Yes, ma'am, I do.

Q Did she ask you what that was?

A She asked me what rape was.

Q The word rape specifically?

A Yes, ma'am.

Q What did you say in response to that?

A I told her what it was.

Q What did you tell her it was? Some people have different --

A It was an attack upon a person when they had said no against them sexually involving a certain part of your body.

Q Did you specify the body part?

A Yes, ma'am, I did.

Q What did you say? I know it's slightly embarrassing, but, again, some people have different definitions. What did you say what the body parts were involved in this?

A The male and the female private parts. I told her the words for them.

Q Okay.

A I even told her penetration, what happened during rape.

Q Any time that she would bring up a question or something like that, were you making yourself available to hear it?

A Yes, ma'am.

Q Would you tell her the truth about any question she asked?

A Yes, ma'am, I do.

Q Okay. All right. At that point, did she disclose sexual abuse different than she had already disclosed?

A Yes, ma'am. And at a different place.

Q Okay. That's my next question. Did she tell you where the sexual abuse took place?

A Yes, ma'am.

Q This new stuff?

A Yes, ma'am.

Q Where did it take place?

A At the doublewide trailer. And then after they moved out of our place next door, the trailer that they moved to and the next door neighbor's house.

Q The Edgemont Avenue places?

A Yes, ma'am.

Q So, that's the time it happened, when they were living there and the place it happened?

A Yes, ma'am. At the time, I just thought it was one time at the motel.

Q Okay. When you learned this -- when she disclosed the second allegation, what did you do with that information?

A I called Erica because Minor was so upset that I thought maybe she needed to talk to somebody else besides me.

Q Who is Erica?

A Erica is the mental health counselor for Greenville Mental Health.

Q When did Minor start seeing Erica, specifically?

A She started seeing her after she went to the Julie Valentine Center. When she started there, they recommended that she talk to Erica Van --

Q Erica Van Wagner?

A Yes. Sorry, just nervous.

Q Of course. Do you need some water or anything?

A No, I'm okay.

Q So, from the first disclosure she made, she started some counseling with Erica. Now, we're a few months down the road and you decided you should probably call Erica with this information?

A Yes, ma'am.

Q To assist Minor

A Yes.

Q Did you think that you needed to call the police about this or?

A I didn't know. Because they had already been involved, if I just told Erica or somebody at the Julie Valentine Center about it that that would just come to them knowing about it, too, I guess. I didn't think to call because I know the officers had already been, you know, called and been interviewed.

Q But there was already a case opened?

A Yes, ma'am.

Q All right. And so, how about Minor mom, did you contact her? Did she learn of this?

A Yeah, she would actually come to the house and see Minor and get her mail. We told her what was going on, what Minor had said.

Q Was her response the same?
A Yes, ma'am.
Q Was she still with the Defendant at the time?
A Yes, she was.
Q So, she was still --
A No, I don't think they were together. They may have broken up a little bit before that.
Q But did not --
A Did not believe her.
Q Did not believe her. Did not support her?
A No, ma'am.
Q And what about Brad, the dad, did he find out about this as well?
A Yes, ma'am, he did.
Q Okay.
A The school also called him.
Q Okay. You mean the first time around?
A Yes, ma'am.
Q How about this other conversation you had --
A I told him. I told him.
Q Did Minor continue on with Erica and go to a counseling session right after that?
A Yes, ma'am, she did.
Q And did she continue on with that kind of on and off since this case started?

A Yes, ma'am. And DSS interviews and coming to the house until the DSS case and all went to court and her dad got custody of her. That was in December of 2016.

Q Okay. Before any of that happened, was Brad ever trying to get custody of Minor

A No, ma'am.

Q Does Brad have a driver's license?

A He's never had a driver's license. He tried to get his permit and failed the test and never went back.

Q Did he work?

A Yes, ma'am, he took the bus everywhere he went.

Q As far as trying to get Minor to come live with him, was there ever some plan or some hope or dream about that?

A No, ma'am.

Q He was fine with her living with you?

A Yes, ma'am. Because he didn't have a girlfriend, didn't have nobody. He was just by himself and he rented a trailer. He lived by himself and thought it was just better that Minor grow up more around a woman, have some influence from a woman if her mom wasn't going to be in the picture.

Q Okay. Are you the one that brought Minor today?

A Yes, ma'am. I've taken her to every counseling,

every Julie Valentine Center appointment.

Q Okay. Has Minor ever recanted or told you none of this was true?

A No, ma'am.

Q I made all this up?

A No, ma'am.

Q She ever told you I just want to live with you, so I'm going to make this up?

A No, ma'am.

Q Has she ever said I just want to live with my mom, so I've got to get him out of the picture?

A No, ma'am.

Q Is her mom currently with the Defendant?

A No, ma'am.

Q So that -- they're just not together anymore any way, that wouldn't matter?

A Right.

Q But Erin still doesn't have custody back with her?

A No, she doesn't.

Q Because you did not care for the Defendant or maybe had -- not didn't care for him, but had a parting of the ways when he didn't pay any of his bills, did that cause you in any way to tell Minor to say these things?

A No, ma'am.

Q Okay. Would you do anything like that?

A No, ma'am.

Q Why not?

A Because I teach Minor not to lie. And I -- it's a too important thing. You know, she might tell me she didn't do her homework, but she's not going to lie about that.

MS. HODGE: Thank you. Please answer any defense questions.

CROSS-EXAMINATION

BY MR. PROPST:

Q Ms. Smith, you spoke for a while with Ms. Hodge, so I want to go back over some of the stuff that y'all spoke about. And starting with the little bit about the timeline that you gave us. So -- now, you're going to have to tell me, my handwriting is not very good. So, Erin moves in with you when she's pregnant with Minor

A Yes.

Q Okay. And they move out after about three months?

A When Minor is three months old, yes.

Q And they move out to go live with Andy?

A No, she marries Minor dad.

Q Oh, excuse me, marries Minor 's dad.

A They had been living together when she got

pregnant.

Q Then after a couple years, they split up?

A Yes.

Q Then that's when Minor and Erin moved to Moonville with Andy, right?

A Yes, sir, that's true.

Q They stayed there about four years?

A Uh-huh.

Q Now, after that, Minor is taken to live with you?

A My daughter calls me and asked me if I would take Minor back and forth to school, that she was leaving Andy.

Q So, she's still with Andy at that point?

A And was going to leave him.

Q Was going to leave him, but she dropped Minor off with you to live for a while?

A Yes.

Q Okay. How long did she stay with you at that point?

A She stayed with me the last three months of kindergarten, through the beginning of three months in the second grade.

Q Was Erin living with you at that time?

A No, she wasn't.

Q She was -- at some point during that period of time, she met Mr. Garland?

A She had actually moved staying with a friend of hers and she met a guy name Stephen and lived with him for a little while. Then when she came back, I guess the friend that she was living with lived next door to Shannon and that's when she met Shannon.

Q So, she meets Shannon and they began living together?

A Yes, I guess so.

Q She wasn't living with you?

A No.

Q And [redacted] was living with you?

A Yes, she was.

Q So then after that, Erin contacts you and wants [redacted] to come back and live with her, right?

A No, she wanted us to meet Shannon first. [redacted] stayed with us a pretty good while after she first met him.

Q Mr. Garland?

A Yes.

Q Then [redacted] eventually moves in with Mr. Garland, Erin and [redacted] move in with him?

A Yes.

Q And they live together before they move to your

property?

A Yes, they did.

Q How long do you think they lived together before they moved to your property?

A Maybe six months, I'm not sure.

Q And that was the three of them, Erin, Shannon and Minor

A I believe so.

Q Okay. So, then they moved to your rental trailer?

A It was just a trailer on a piece of property.

Q That y'all bought?

A We had bought, yes, just in case, my daughter -- after she had left Brad and Andy, we knew her life, so we went ahead and bought it just in case they needed a place to live.

Q Okay. And the agreement was that all they had to do was pay the bills?

A Pay the utilities.

Q And pay -- Shannon had to pay $100?

A Had to pay $100 a month.

Q But you said that you never got that payment? The monthly payment never came in?

A He might have paid one or two, a hundred dollars once or twice, but no.

Q And the bills weren't being paid?
A No, they weren't.
Q So, your husband was paying the bills?
A Yes, he was.
Q Okay. And that's because Mr. Garland wasn't working?
A No, he wasn't.
Q So, at some point, you were fed up and --
A Yes, we were.
Q -- you asked him to move out?
A Yes, we were.
Q And when you asked him to move out, Erin followed him?
A Yes, she did.
Q So, then they moved to Edgemont Avenue?
A Yes.
Q And occasionally, you'd come over and bring money?
A Uh-huh.
Q But as far as you know, neither Erin nor Mr. Garland were working?
A He usually worked construction under the table, I understand, sometimes, but more or less, they were living off Erin's disability check.
Q Okay. And you find out they're evicted from

that place?

A Yeah, and moved next door.

Q Then they moved next door to Sylvia's house?

A Yes.

Q And they weren't the only three living with Sylvia, right?

A I assume -- Sylvia, she had kids and her husband lived there, also.

Q Okay. So, after Sylvia's house, Minor comes back and lives with you?

A Yes.

Q And Erin kind of disappears for a while?

A I think Shannon had got locked up again.

Q So, Erin is just floating around at that point?

A Living with friends. She ended up with some other lady that lived down the street from there. And she was just living with friends as far as I could see.

Q Okay.

A And waiting on him to get out of jail.

Q Okay. Then when he gets out, they get back together?

A Yes.

Q Okay. And at that point, I guess, they're living in and out of motels?

A I think that's when they started living in

motels.

Q Okay. Now, you started taking Minor to some sort of -- to see some sort of counselor back in 2013?

A Julie Valentine Center -- no, she was seeing just the school counselor at that time.

Q The school counselor?

A Yeah, just the school counselor.

Q Okay. So, in 2015 -- and I may skip around a little here, so bear with me. If you have any questions, let me know. 2015, you take her to see a counselor, a mental health clinician?

A That was after the school counselor had called me and told me that Minor had been to her office and said.

Q No, this was back in October 13th of 2015?

A That was when -- after Julie Valentine Center had her set up --

Q With --

A -- for mental health.

Q With Ms. Alana Olegot, do you remember that name?

A I don't know who that is.

Q Okay.

A Erica is the only counselor.

Q Okay, so this must have been before that?

A That may have been one of the school counselors because there were two of them there.

Q And you -- according to information you gave, at that point in October of 2015, you thought that Erin was overmedicated by pills?

A Yes, sir. She came -- she had a C-section when [redacted] was born and became addicted to Lortabs.

Q And that lasted over the course of about 10 years to today?

A No, she's drug free today.

Q Okay.

A Has been for a year or so, two years.

Q But this pills addiction was still going on in 2015?

A Yes, it was.

Q Okay. You said she also had some mental health disorder?

A No.

Q You thought she had some sort of depression?

A No.

Q You never said that?

A I didn't say that. But she had been in rehab.

Q Well, excuse me, you didn't say that to Ms. Hodge, but you've explained that to people in the past, correct?

A She did suffer from depression after her father passed away, yes.

Q Did she receive treatment?

A I'm not sure if she did.

Q Okay. Give me one second. Okay, so yeah, you told somebody at the Julie Valentine Center that Erin had some issues. I think she was diagnosed with anxiety or depression or something?

A Uh-huh.

Q Okay. And like you said, these are ongoing issues over the course of about 10 years, from when Minor was born until recently?

A When Minor was born until she was probably 10.

Q Okay.

A Nine or 10, 10 I'd say.

Q Okay. Now, you said Minor changed schools in elementary school for about five times, roughly?

A She went to Ellen Woodside, that was kindergarten, first grade at Grove, second grade at Alexander, which she repeated, and third grade at Monaview and then back to Alexander.

Q Okay.

MR. PROPST: I don't believe I have any further questions right now.

THE COURT: Redirect?

MS. HODGE: No, Your Honor.

THE COURT: Thank you, ma'am. I appreciate you being here.

MS. HODGE: May she be excused, Your Honor?

THE COURT: Any objection to excusing this witness?

MR. PROPST: No, sir.

THE COURT: Certainly, she may. Thank you.

You may call your next witness.

MS. KLUSKA: Thank you, Your Honor. The State calls Amber Hiott.

THE CLERK: Ms. Hiott, please raise your right hand.

AMBER HIOTT, after being duly sworn, testified as follows:

THE CLERK: Thank you. You may be seated. Please state your full name for the record.

THE WITNESS: Amber Nichole Hiott.

DIRECT EXAMINATION

BY MS. KLUSKA:

Q Ms. Hiott, where do you work?

A At the Julie Valentine Center.

Q How are you employed there?

A I currently serve as an adult therapist.

Q Before you became an adult therapist, what did

you do?

A I'm a former forensic interviewer for the agency.

Q What type of education and training do you have for your position?

A So, I have my Bachelor's of Psychology from Winthrop University. I graduated in 2011. I also have my Master's of Education with a specialization in clinical mental health counseling from Winthrop University. I graduated in 2014. After I graduated in 2014, I went on through my licensure process through the State of South Carolina as a licensed professional counselor. So, I have been fully licensed as a professional counselor in South Carolina since 2016.

Q And are you affiliated with any organizations that deals with child sexual abuse or forensic interviewing?

A I am, yes, ma'am. So, the Julie Valentine Center helps people who have experienced child sexual abuse and also helps with conducting forensic interviews for investigation purposes. And I'm also involved with other community partners who deal with the same things.

Q Do you have any special training in forensic interviewing?

A Yes, ma'am, I do. So, when I was hired by the

Julie Valentine Center in 2016, I was sent to Child First South Carolina in Columbia, South Carolina for their 40-hour training process to become a forensic interviewer.

Q Do you consult with other professionals in your field related to forensic interviewing and child sexual abuse?

A Yes, ma'am. So, there are other professionals at the Julie Valentine Center that I work with who deal with the same types of cases that I have been part of. I'm also part of peer reviews where I can talk to people on the statewide level or the national level.

Q Okay. Have any of your interviews been peer reviewed?

A They have. I've been peer reviewed statewide in the State of South Carolina and I've also participated in nationwide peer reviews.

Q Do you attend any trainings or seminars on these topics?

A I do. As part of my continuing education as a licensed professional counselor, I continue to go to different trainings that deal with trauma, sexual abuse specifically or childhood sexual abuse.

Q Are there any articles, journals or case studies that you review to keep you aware of new information in this field?

A Certainly. I would say that that's a difficult question to totally give you all the information for. I have been studying this for quite some time, but the maintain article or the main journal that I use is the American Professional Society of Abused Children.

Q So, tell us exactly, what is a forensic interview?

A Certainly. A forensic interview is a neutral, objective, fact-finding interview that's done in a child-friendly way, normally, at a child advocacy center by a trained professional who adheres to nationally-recognized protocols.

Q When you say child-friendly, what does that mean?

A So, child-friendly, I mean that it's done in an environment that a child would be comfortable in. So, by a friendly person, that environment is welcoming, it's not to really a cold or hostile environment.

Q What are the scientifically-based standard that you use to conduct a forensic interview?

A So, forensic interviewers are trained to use a continuum of non-leading questions based on the child's developmental capacity and age. And we do that, like I said, in a child-friendly way.

Q So, how do you take the child's age into account

when you're asking them the non-leading questions?

A So, basically, you -- as a forensic interviewer, you are trained to understand a child's developmental age and their ability to answer certain questions. So, when you are given a case that you're going to be interviewing that child, you would recognize, okay, this child is this old, this child is able to answer these types of questions. And you also take other things into account for that child, like if they have a disability, if they have special needs, those types of things.

Q Are there standard protocols that you use when conducting a forensic interview?

A Yes, ma'am.

Q What are they?

A So, I'm trained in Child First South Carolina.

Q What is Child First South Carolina?

A So, Child First South Carolina is a protocol that is recognized by the State of South Carolina as the standard interview protocol to use when interviewing children for allegations of abuse.

Q Can you estimate how many children you've seen to conduct forensic interviews?

A It been over 225.

Q Did you conduct a forensic interview of the victim in this case?

A I did.
Q How many?
A Two.
Q How did you become involved in these cases?
A So, as I mentioned before, I was working at Julie Valentine Center as a forensic interviewer. So, we received a referral from the Greenville County Sheriff's Office as part of an investigation process.
Q You mentioned earlier she had two interviews, why is that?
A So, children can have multiple interviews, depending on their disclosure process. So, she would have had that interview because she made one disclosure and then later on made additional disclosures.
Q In your experience, is it common to do a separate interview for each separate disclosure?
A It can be. It really depends on the child, their ability and what they are comfortable sharing in the interview process. But I would like to say that disclosure is a process, not a one-time incident.
Q And during those two interviews, did you follow the protocols you mentioned earlier for each of them?
A I did.
Q So, I want to talk to you first about Minor [redacted] first interview that you did with her. When and where did

this forensic interview take place?

A It happened at the Julie Valentine Center in one of our designated forensic interview rooms. And that was on June 6th of 2016.

Q How old was she?

A She was 10 at the time.

Q And during that interview, did you utilize Child First South Carolina protocol?

A Yes, ma'am, I did.

Q Did you utilize the non-leading questions with Minor

A Yes, ma'am.

Q Did you take her age into account when you asked her those questions?

A Yes, ma'am.

Q Without telling us exactly what she said, did she disclose to you that she had been sexually abused during that interview?

A Yes, she did.

Q And when she did so, did she do it in an age-appropriate way?

A Yes, ma'am.

Q What, if anything, did she relate to you about the time of the sexual abuse?

A She stated that it happened on Mother's Day

weekend.

Q What, if anything, did she tell you about the place that the sexual abuse occurred?

A She said it happened at a hotel.

Q How do you normally end your interviews?

A So, according to Child First South Carolina protocol, the very last step is called the closure process. So, that's where you, basically, wrap up the interview, ask if there's any additional information and you help -- talk about safety concerns with the child, if they have any other information, who they can talk to, trusted people in their life.

Q I want to talk to you about Minor second interview. When and where did this one take place?

A It also happened at the Julie Valentine Center in the designated interview room.

Q Do you know the date?

A That was February 7th of 2017.

Q How old was she at the time of this interview?

A She was 10 years old still.

Q So 10. And that was another law enforcement referral?

A Yes, ma'am.

Q Did you use the same protocols that we've already talked about?

A Yes, ma'am, I did.

Q And again, without telling us what she said, did she again disclose that she had been sexually abused?

A She did.

Q What, if anything, at this point, did she relate to you about the timing of that sexual abuse?

A She stated that this happened when she was living with her mom's friends in a house beside the mom's friend's house.

Q What, if anything, did she tell you -- or I'm sorry, you already talked about the place. Did you end that interview in the same way?

A I did.

Q Did you make an audio or video recordings of your interviews?

A For standard protocol, yes, ma'am.

Q I want to show you what has been premarked as State's Exhibit 1 and 2. What are those?

A These are the two interviews that I did with Minor [redacted]

Q Okay. And have you watched the interviews recently?

A I have.

Q Are they true and accurate depiction of the interviews?

A Yes, ma'am.

Q Are those your initials on them?

A Yes, ma'am. It has her name, the date of each interview, and then it has my initials and the date that I recently watched them.

Q Have these copies of the interviews been tampered with in any way?

A No, ma'am.

Q Have there been any alterations, additions or deletions to the interviews?

A No, ma'am.

MS. KLUSKA: Your Honor, at this time, the State offers State's 1 and 2 into evidence.

THE COURT: Objections?

MR. GRAVLEE: No objection, Your Honor.

THE COURT: Okay. Without objection, the same are admitted.

(WHEREUPON, State's Exhibits Nos. 1 & 2, having been marked and received into evidence in previous testimony.)

MS. KLUSKA: Thank you, Your Honor, nothing further at this time.

CROSS-EXAMINATION

BY MR. GRAVLEE:

Q Ms. Hiott, how you doing?

A I'm sorry, what did you say?

Q How are you doing?

A I'm doing great. How are you?

Q Good, thank you. So, you were talking about the -- that you utilized Child First protocol?

A Correct.

Q And the purpose of the forensic interviews in utilizing that is to be -- have a neutral and objective interview?

A Correct.

Q Correct. Okay. Now, how many times have you testified in General Sessions court before?

A It been over five, but less than 10. I'm not 100 percent sure.

Q Okay. In the times that you have testified, how many times has the State called you into court?

A All, but one.

Q Okay. And so, in these interviews, they're referred -- the children, at least, are referred to you by law enforcement?

A In this particular case, yes, but they can be referred in other ways as well.

Q Sure. So, in this particular case, law enforcement sent the child to you for an interview?

A Correct.

Q To be used in court?
A No, not necessarily.
Q Okay.
A I can explain if you'd like me to.
Q Okay. So, they -- you had the interview, correct?
A Correct, I had this interview and I had two.
Q And we're here in court today?
A Correct.
Q And you knew that when you are giving this interview that you may or likely going to be testifying in court?
A Actually, not likely. A lot of these cases don't go to trial, that's why the number of times I've testified is only five to 10. So, it's possible that they can go to trial if the solicitor and State thinks there's enough evidence to go to trial. But in most cases that I have done out of those 225, they have not went to trial.
Q Correct. And some result in different avenues, they get dismissed, they plead, or whatnot?
A Correct.
Q But when you're performing that interview, it's being used for prosecution, correct?
A It is part of evidence, so like I said before, a forensic interview is neutral, it's fact-finding. We're

also looking for alternative hypotheses. So, what I mean by that is if a child says that someone touched them, it could be that that child is being given a bath, it could be a lot of different explanations. So, a forensic interview --

Q In this case, did you see any --

MS. KLUSKA: Objection, Your Honor, I ask that she be allowed to explain her answer.

THE COURT: Okay.

MR. GRAVLEE: Your Honor, I think she's going outside the scope of my question.

THE COURT: Okay. Well, I'm going to let her --

If you need to expound, you can expound on the question.

THE WITNESS: Okay. So, basically, a forensic interview is, like I say, that neutral fact-finding, so it's, basically, just attempting to figure out more details about what has been presented and what has been disclosed to make the referral to our agency.

BY MR. GRAVLEE:

Q Okay. So, to be neutral, it's -- as a neutral interviewer, it's best not to know anything about that case, correct?

A That's not true, no.

AMBER HIOTT-CROSS BY MR. GRAVELEE

Q So, in this case, you gave two interviews, correct?

A Correct.

Q And that first -- the second interview was given after you had already -- by you, correct?

A Correct.

Q And the first interview was given by you?

A Correct.

Q So -- and that second one also was referred by law enforcement in this case, correct?

A Correct.

Q Okay. Now, you talk about that at the time that this second disclosure happened when she was living with her mom's friend and friends?

A So, I don't know where she was living at the time that she came to the interview, but she was staying at the time frame.

Q Okay. And at this house, did -- she told you who lived there, correct?

A Correct.

Q She told you there was several people that lived there?

A Correct.

Q Okay.

MR. GRAVLEE: No further questions.

THE COURT: Redirect, ma'am?

REDIRECT EXAMINATION

BY MS. KLUSKA:

Q What are the other ways that you get referrals to do interviews other than by law enforcement?

A Certainly. So, DSS can also refer cases to us. Basically, our interviews can be used for anywhere that we need to find out information about what has happened to a child. It's not always about like a legal matter.

Q So, your interviews are not done so you can cooperate with law enforcement?

A Correct. It's just to make sure children are safe and that they're in an environment where they are safe.

Q Is that the purpose of your interviews?

A Correct.

MS. KLUSKA: Thank you.

Nothing further, Your Honor.

THE COURT: Any recross limited to that redirect?

MR. GRAVLEE: No, sir, Your Honor.

THE COURT: Okay. Thank you. I appreciate your being here. You may step down.

THE WITNESS: Thank you.

MS. KLUSKA: Your Honor, may she please be

follows.

THE CLERK: Thank you, you may be seated.

Please state your name for the record.

THE WITNESS: Sylvia Rojas.

DIRECT EXAMINATION

BY MS. KLUSKA:

Q Ms. Rojas, are you employed?

A Yes, ma'am.

Q Where do you work?

A Zaxby's.

Q Do you have any children?

A Four, one on the way.

Q What street do you reside on?

A [redacted].

Q What number on [redacted]?

A [redacted]?

Q [redacted] Is that in Greenville County?

A Yes.

Q How long have you lived at [redacted]?

A Since I was 17.

Q Can you describe to us what your property looks like?

A It's a house. A tree house in the front. A garage, two-car garage. The house is white.

Q Ms. Rojas, if I showed you some photos of your

property, would you recognize them?

A Yes.

Q I'm showing you what's been marked as State's Exhibit 4, 5, 7 and 12. Do you recognize those?

A Yeah, my house and my mailbox.

Q Is your property in the pictures substantially in the same condition as it would have been in 2015 and 2016?

A Yeah.

MS. KLUSKA: At this time, The State offers 4, 5, 7 and 12 into evidence.

THE COURT: Any objections?

MR. GRAVLEE: No, sir, Your Honor.

THE COURT: All right, without objection, the same is entered into evidence.

MS. KLUSKA: Thank you, Your Honor.

(WHEREUPON, State's Exhibits Nos. 4, 5, 7 & 12 were marked for identification and received into evidence.)

BY MS. KLUSKA:

Q Ms. Rojas, I'm going to show you these pictures, I just want you to take a look at them and tell us if these are your property.

A Yeah, that's my house.

Q Is that the back of your house or front of your

house?

A The front.

Q Okay. What is this right here?

A The driveway.

Q What is this in the back?

A My garage.

Q What do you keep in your garage?

A Trash. It's just like no good. It just has like old tools.

Q Just storage?

A Yeah.

Q What about this one, is that the front of your house?

A Well, the front and the side.

Q Is that you standing in your driveway?

A Yeah.

Q Another view of the front of your house; is that right?

A The side and the garage.

Q Okay. And that's your mailbox?

A Yes.

Q For [redacted]?

A Yeah.

Q So, you mentioned that you have a storage building or a garage in the back of your house; is that

right?

A Yes.

Q You keep tools in there and store things?

A Yeah.

Q If you were standing in your garage, would you be able to see a car coming up your driveway?

A Oh, yeah.

Q Do you know the Defendant in this case?

A Yes.

Q How did you meet him?

A Through the neighbors.

Q Who are the neighbors?

A Tony and Desi Reeves?

Q Tony. Do you know if his full name is Anthony?

A Pretty sure it is. Because he named his son Anthony.

Q But he just goes by Tony?

A Yes.

Q And you said you lived next door; is that right?

A They lived next door. They no longer live there.

Q When did they move out?

A Last year.

Q What is Tony's address?

A [redacted]

SYLVIA ROJAS-DIRECT BY MS. KLUSKA

Q So, you're [redacted] they're [redacted]
A Yeah.
Q Is that correct?
A Yes.
Q Did you ever go inside Tony's house?
A Of course.
Q So, you're familiar with the inside of what his house looks like?
A Yeah.
Q I'm going to show you what has been marked as State's 11, 10, 13, 9, 8, 6 and 3. Do you recognize those?
A Yes.
Q What are they?
A His house, inside and outside.
Q How many times had you been in his house before he moved out?
A Well, lived there for 12 years, so we've been neighbors over 12 years. More than I can count.
Q And the rooms that are photographed, are they in substantially the same condition as it was when you saw it?
A When I would go over?
Q Yeah.
A No.

Q How is it different?

A Because it's dirty. They didn't have their house like that.

Q When did it change? Why was -- who was living there when those photos were taken?

A Him and his girlfriend and little kid.

Q But you're still aware that those are photos of Tony's house?

A The inside, yes.

MS. KLUSKA: Your Honor, at this time, the State offers 10, 13, 8, 6, 3, 9, and 11 into evidence.

THE COURT: Objection, sir?

MR. GRAVLEE: No, sir, Your Honor.

THE COURT: All right, without objection, the same are admitted.

(WHEREUPON, State's Exhibits Nos. 3, 6, 8, 9, 10, 11 were marked for identification and received into evidence.)

(WHEREUPON, State's Exhibit No. 13 was admitted into evidence.)

BY MS. KLUSKA:

Q All right. I'm going to show you a couple of photos of Tony's house. Tell us what that is depicting?

A The front door.

Q And when you walk into the front door, what do

you see?

A Pool table.

Q Is that a photo of the pool table?

A Yeah.

Q On -- and that was State's Exhibit 13 that I just asked you about; is that correct?

A Yeah.

Q Now, I want you to look at State's Exhibit 8, the pool table is in there, but what's right in front of the pool table?

A The window.

Q So, you mentioned that you met the Defendant when he lived at Tony's house?

A Yes.

Q When he lived there, who did he live with?

A With the girlfriend and the kid. And Tony and the wife.

Q To your knowledge, how long did the Defendant live there with his girlfriend and the daughter?

A Not sure.

Q Do you know why they had to leave?

A From what Tony said, they weren't paying rent and they wouldn't clean up after themselves.

Q After they moved out, what happened?

A The girlfriend was telling me they had nowhere

to stay, they were staying in his truck. And it was in the winter, so I felt bad and let them stay in my living room.

Q Okay. Do you remember what year this would have been?

A End of 2014 into the middle of 2015, I think.

Q All right.

A Or '15 and '16.

Q So, you think it was the end of 2015 going into 2016?

A Yeah.

Q What kind of houseguest were they when they lived with you?

A At the beginning, they were good. As time passed, they didn't pick up after themselves. They smoked in the house. Horrible.

Q How long did they stay?

A I want to say maybe, if I can remember right, five months, six months.

Q Do you know approximately how old Minor the daughter, would have been at this time?

A I think she was nine.

Q Did you ever have a chance to see Minor interact with the Defendant?

A Not much. But they lived there, so.

Q From what you observed, tell us about their relationship.

MR. PROPST: Judge, I think we have potential objection to some Lyle-type evidence, just anticipating it. We can approach if you'd like.

THE COURT: Well, do you need to vet it on the record or not?

MR. PROPST: Yes, sir, I think so.

THE COURT: Okay. All right, ladies and gentlemen, we're going to take a very short break. I'm going to take up an evidentiary matter, then we'll come back in, okay?

(WHEREUPON, the jury left open court at approximately 9:48 a.m.)

THE COURT: All right, Mr. Propst.

MR. PROPST: Judge, I think the testimony that's going to come next based on an email exchange is that she saw Mr. Garland under a blanket with Minor and had her sit on his lap several times. I think they're using it as type of prior bad act to insinuate that because of that, this other stuff happened. I think it's improper and irrelevant for the allegations that we're here for. So, we -- I just don't want that to get out in front of the jury when it's improper.

THE COURT: Okay. All right, good enough.

Yes, ma'am. State's position?

MS. KLUSKA: Yes, Your Honor, the State's position is it's not a bad act. It wouldn't fall under Lyle. It's just testimony about the victim under a blanket or sitting on the lap of the Defendant. It's just what she observed. So, I'm not using it as a bad act. Even if I were to use it as a bad act, which I'm not, it still would fall under the Lyle exception. And the case law states continuing course of elicit conduct comes in. So, Your Honor, this testimony would be admissible as it's just what Ms. Rojas observed.

THE COURT: Okay. First question, was this during the relevant time enumerated on the indictment?

MS. KLUSKA: Yes, Your Honor.

THE COURT: All right. I'll respectfully deny the Defendant's motion. I don't think that it is -- based on what I'm hearing that it can be characterized as a bad act. It appears that it is simply testimony about her observed relationship between the Defendant and little girl. Based on what they've said, it's fairly innocuous.

Now, if you want me to give them a curative

instruction telling them that that is offered strictly for the purpose of demonstrating his relationship with her and not to demonstrate any nefarious conduct, then I'll do that. But again, I don't know whether you want that type of instruction or not pointed out to a jury. So, I'll leave that up to you.

Do you want any type of curative charge?

MR. PROPST: One second, Judge.

THE COURT: Yes, sir.

MR. PROPST: No, Judge, I don't think a curative instruction is necessary.

THE COURT: Okay. All right. Okay. Then I find that she can testify as to things she personally observed.

All right, bring them back in.

THE BAILIFF: May I approach?

THE COURT: Sure.

BAILIFF: The jurors are saying they have a hard time hearing the defense attorneys.

THE COURT: Okay. Speak up, defense attorneys. They're saying they can't hear you. Okay.

(WHEREUPON, the jury came into open court at approximately 9:52 a.m.)

THE COURT: All right, Ms. Kluska, you may

continue, ma'am.

MS. KLUSKA: Thank you, Your Honor.

BY MS. KLUSKA:

Q Ms. Rojas, I believe the last question I asked was did you ever have a chance to observe the Defendant and Minor [redacted] together?

A Yes.

Q From what you observed, tell us about the relationship.

A At first, I thought that was her dad, but come to find out, it was just her mom's boyfriend. I thought it was kind of weird because she would sit on his lap. Like when bedtime, I had two couches, she would sleep on one, mom would sleep on mom. Some nights she would sleep on the floor or whatever. I just thought it was weird because it was not her dad. Even it was her dad, you know, I -- that's just weird for me.

MS. KLUSKA: Thank you, Ms. Rojas, nothing further.

THE COURT: Cross-examination?

MR. PROPST: Yes, sir.

CROSS-EXAMINATION

BY MR. PROPST:

Q Ms. Rojas, you spoke with Investigator Robertson in March of 2017, do you remember that?

SYLVIA ROJAS-CROSS BY MR. PROPST

A Yeah.

Q And that's when he asked you about Mr. Garland and his family, correct?

A Yes.

Q You told him back then that they lived with you from around November 2014 to February 2015?

A I think it was more '15 to '16.

Q Okay, 2015 to 2016?

A Yes, the beginning of '16.

Q All right. So, they lived with you for some time, correct?

A Yes.

Q And how long do you think, roughly?

A Four or five months.

Q Four or five months?

A Yeah, it wasn't much.

Q You eventually made them move out?

A Well, they had problems in between themselves and they got into it one night. He left. Then she went following him, left the girl there. They came back for the girl. They weren't paying rent, they weren't buying their food, nothing. So, I was just like better to take your things, y'all need to move out, it's too much drama. And they left my living room a diaster.

Q So, you had them move out.

A I had to clean it out, put their stuff on the curb. I contact the sheriff, give them, text them, talk to somebody to let them know their things were on the curb. If they don't come within 24 hours, you can throw it out. And that's what happened. They didn't come back, they didn't clean, they didn't pay their bills, nothing.

Q Okay. So, that -- you mentioned one night where things got heated between Mr. Garland and his girlfriend, Erin?

A Yes.

Q Mr. Garland leaves?

A Yeah.

Q Erin stays with --

A For a little while, then she went looking for him.

Q Okay. When you say a little while, you mean the night, a couple of days?

A Like an hour or two hours.

Q Okay. Now, you told Investigator Robertson some of the stuff you just said, when they left, the house was a mess?

A Yes.

Q I think you told him there was feces all over the place?

A Yeah, they had a dog. There was dog poop in

between their toes, on the couches, on the floor, just everywhere. It was disgusting.

Q And when they lived with you, you also lived in that house?

A Yeah.

Q You lived in that house with your -- I think you had three children at the time?

A Yes.

Q A daughter?

A One daughter, two sons.

Q One daughter two sons.

A Uh-huh.

Q How old is your daughter?

A She's 12 now.

Q She's 12. So, around this time, she would have been nine, ten?

A Yeah.

Q Where would Mr. Garland and Erin sleep?

A In the living room.

Q Would Minor sleep in the living, too?

A Yes.

Q Okay. Did she ever share a room with your daughter?

A She stayed in there one or two nights, but like --

Q Not regularly?
A Not regular.
Q Okay. Now, they would still -- when they moved out, they left the house a mess, kind of left abruptly?
A Yes.
Q You put their stuff on the curb?
A Yes.
Q You told the sheriff?
A Yes.
Q So, would you say you're still owed some rent, right?
A Oh, yeah.
Q And money for bills?
A Yes.
Q Sorry, I skipped ahead. You lived there with your three children?
A Uh-huh.
Q Did you have anyone else living in the house at that time?
A No, my boyfriend would visit.
Q Your boyfriend would visit?
A Yeah.
Q And he'd spend the night?
A Yeah.
Q Fairly often, he would spend the night?

A Yeah.
Q What about any -- like a sister-in-law, brother-in-law, anything like that?
A No.
Q Okay. Anyone else live in the house at that time?
A No.
Q So, boyfriend would come over, often stay the night and your three children. Any of them here today?
A No, they're in school. Well, my two-year-old is, but she wasn't born then.
Q Okay. Now, you told me -- you remember talking to the investigator and he told you why he was there?
A Uh-huh.
Q And when you talked to him, you -- basically, your whole statement is what we just talked about, right?
A Yes.
Q You didn't mention anything about Mr. Garland's interaction with Minor ?
A No, he didn't ask him.
Q Didn't tell him you saw anything questionable?
A He didn't ask me, no.
Q You didn't say anything related to any sexual abuse?
A No, he didn't ask.

Q You didn't tell him anything about Mr. Garland's conduct at all?

A No, because he didn't ask.

Q You didn't report any allegations of sexual abuse to the police?

A No, but when --

Q I'm talking about did you report any allegations --

A When they did finally leave, I did call DSS to have her get checked on and they said they were going to look into it. And, obviously, nothing ever got done.

Q When was that?

A When they left.

Q Okay. Which was -- okay.

A To be nine years old, she knew a whole lot of things that she shouldn't have known. Drugs, pills, sex. At nine years old, she's not supposed to know that. My nine year old doesn't even know now that, he's nine, about sex and drugs.

Q Okay.

MR. PROPST: Well, thank you, Ms. Rojas.

THE WITNESS: Sure.

THE COURT: Okay, redirect?

REDIRECT EXAMINATION

BY MS. KLUSKA:

SYLVIA ROJAS-REDIRECT BY MS. KLUSKA

Q I just want to flesh out those dates with you quickly that Mr. Propst mentioned. So, you mentioned your daughter is 12 now, right?

A Yes.

Q So, back when the Defendant was living with you, how old would she have been?

A Maybe around the same age, nine, ten?

Q Nine or ten, when was she born?

A '05.

Q '05. So, in 2015, how old would she have been at the end of 2015?

A Well, her birthday is in December, so she would have been 12 maybe.

Q What about the end of 2016, how old would she have been?

A She would have been 11, and then she would have been 12. Because she's going to be 13 already, now.

Q Well, you said she's 12 now, right?

A Yeah.

Q So, in 2014, how old would she have been?

A Ten, nine, nine.

Q Was [redacted] the same age as your daughter when she lived with you?

A Around.

Q Why did you call DSS?

A Like I said, she knows way too much for being nine. She was out of school. She was telling us about drugs, sex, pills.

Q Were you concerned for her safety?

A Very.

MS. KLUSKA: Thank you, Ms. Rojas, nothing further.

THE COURT: Any recross?

MR. PROPST: No, Judge.

THE COURT: Thank you, Ms. Rojas, appreciate you being here, ma'am. You may step down.

MS. KLUSKA: Your Honor, we ask that she be excused from her subpoena, please.

THE COURT: Any objection to that?

MR. PROPST: No, sir.

THE COURT: So done.

All right. Ready to call your next witness?

MS. KLUSKA: Your Honor, the State calls Minor Watford.

THE CLERK: Good morning. Would you please place your left hand on the Bible and raise your right hand.

Minor , after being duly sworn, testified as follows:

THE CLERK: Thank you, you may be seated.

Please state your full name for the record.

THE WITNESS: Minor [redacted].

DIRECT EXAMINATION

BY MS. KLUSKA:

Q Minor [redacted] this whole jury, everyone in the courtroom needs to hear you, so can you move that microphone a little closer? Make sure you speak up so everyone can hear you, okay?

A Okay.

Q Tell us a little bit about yourself, Minor [redacted]. How old are you?

A Thirteen.

Q When's your birthday?

A [redacted]

Q What grade are you in?

A Seventh.

Q What school do you go to?

A Bryson Middle School.

Q What is your favorite subject at school?

A Math.

Q Why do you like math?

A Because it's fun to solve problems.

Q What's your favorite thing to do on the weekends?

A Go skating.

Q Go skating. Are you any good?

A Yes.

Q Who do you live with right now, [redacted]

A My dad.

Q How long have you lived with your dad?

A About two years.

Q Do you remember how old you were when you started living with your dad?

A Around 11.

Q Okay. Before you lived with your dad, who did you live with?

A My me-maw.

Q Have you lived with your mom?

A Uh-huh.

Q How old were you when you lived your me-maw?

A Around ten.

Q And how old were you when you lived with your mom?

A I can't remember.

Q Okay. When you lived with your mom, who lived with her?

A Shannon.

Q Were Shannon and your mom boyfriend and girlfriend?

A Yes.

Q How old were you when Shannon became your mom's boyfriend?
A Nine and ten.
Q Do you know how long they dated?
A About three years.
Q Are they still boyfriend and girlfriend?
A No.
Q How do you know that?
A Because my mom's happy with another person.
Q Okay. When you lived with your mom and Shannon, did you live in one place or in a lot or different places?
A A lot of different places.
Q Do you remember the places that you lived?
A We lived --
Q If you can remember.
A We lived in some hotels and with this girl named Sylvia --
Q Okay.
A -- in this doublewide. The house next to my me-maw's.
Q When you first met Shannon, how did he treat you?
A He was nice.
Q He was nice at first?
A (The witness nods.)

Q Did he ever babysit you?

A When my mom went to the hospital or something, he would stay there with me.

Q When he babysat you, would you be alone with him?

A Yes.

Q How many times do you think that happened, that he babysat you alone?

A I'm not sure.

Q Do you think it was less than five times or more than five times.

A More than five.

Q You said Shannon treated you nicely at first, did that change eventually?

A Yes.

Q How did it change?

A He started throwing shoes at me. He would step on me, cuss me.

Q So he would hurt you?

A Yes.

Q Did you ever see him hurt your mom?

A Yes.

Q What did he do to your mom?

A One time, he threw a rock at her and got on top of her and bruised her ribcage.

Q Bruised her ribcage, is that what you said?
A Yes, ma'am.
Q How did he do that?
A She was sitting on the couch and he got -- and put his knee into her stomach.
Q Besides hurting you physically, was there anything else that Shannon ever did to you that was inappropriate?
A Yes.
Q When was first time the Defendant, Shannon, did something inappropriate towards you?
A Next door at my me-maw's trailer.
Q How old were you when that happened?
A Nine, I think.
Q What happened?
A He --
Q I'm sorry, I know it's hard. Can I get you a tissue? You need some water? I know it's hard to talk about, but let's just go through it. So, when you were next door at your me-maw's house, what did he do?
A He didn't really do anything much, but he took out his penis.
Q Okay.
A And showed it to me.
Q Okay. Where were you in the trailer when he did

this?

A In the living room.

Q Where was he? Was he in the living room, too?

A Yes.

Q On the couch?

A Uh-huh.

Q In the living room, where were you?

A I was on the couch.

Q Okay. When he showed you his penis, did he say anything or do anything?

A He -- no, not that I remember.

Q When was the next time he did something inappropriate?

A When we were living at Sylvia's.

Q Sylvia, okay. Do you remember how old you were when you lived at Sylvia?

A Maybe -- I can't remember.

Q You can't remember. Okay. Do you remember what school you were at when you lived at Sylvia's?

A Monaview.

Q Do you remember what time of year it was when you were staying at Sylvia's house?

A It was right before Christmas.

Q How do you know that?

A Because I had made a gingerbread house with my

me-maw.

Q So, you remember making a gingerbread house around the same time that you lived at Sylvia's?

A Uh-huh.

Q I'm going to show you what's been entered into evidence as State's 5 and 12. Do you recognize those pictures?

A Yes, ma'am.

Q What are they? Speak?

A This is --

Q Speak into the microphone so everyone can hear you.

A This is Sylvia's house and that's the building in the back.

Q Okay. What is that one? State Exhibit 12, what is that one?

A That's the front of Sylvia's house.

Q Front of Sylvia's house, too. Who lived in Sylvia's house with you?

A My mom, Shannon, me, Sylvia, her boyfriend and her three kids.

Q Do you remember how old her kids were?

A One was in second grade and I can't remember the other one.

Q Were you friends with them?

A Yes.

Q So, we just talked about these pictures, but I want to make sure the jury can understand what you were talking about when you said the building in the back. So, do you recognize that as Sylvia's -- the building you talked to us about?

A Yes, ma'am.

Q What's inside that building?

A A bunch of tools.

Q Did you ever go in that building?

A Yes, ma'am.

Q Tell me about that.

A One day my mom had went to the doctor and he told me if I want to go skating that I needed to do this thing for him and I didn't want to. So, we went to the back of the building and he --

Q It's okay. Just take a sip of your water. I'm sorry.

A He told me to put his penis in my mouth.

Q Did you do that?

A Yes, ma'am.

Q When he told you to put his penis in your mouth, how was he positioned? Was standing or sitting or something else?

A He was standing.

Q How were you positioned?
A I was on my knees.
Q Why did you get on your knees?
A He told me to get there.
Q What did he tell you you could do if you did that for him?
A I could go skating.
Q Were his clothes on or off?
A His pants were down.
Q Were his underwear down, too?
A Yes.
Q What were your clothes like?
A They were on.
Q What were his hands like?
A They were on his penis.
Q I hate to ask you this, Minor , but did anything come out of his private?
A Yes.
Q What did?
A Sperm.
Q Did he say anything about that?
A Yeah.
Q What did he say?
A He told me swallow it.
Q Did you do that?

A Yes.

Q How did that make you feel?

A Scared.

Q Why did he stop?

A Because people was coming in the driveway.

Q So, you were standing in the building and you saw someone coming up the driveway. You can turn around and look at that picture for me again. Is that this driveway?

A Yes, ma'am.

Q Okay. And you saw someone coming up the driveway that way?

A Yes, ma'am.

Q Do you know who it was?

A Sylvia.

Q Okay. Did you end up getting to go skating that night?

A Yes.

Q So, you told us about when you lived at Sylvia's house. Was there ever a time when you lived somewhere else in that same neighborhood?

A Yes.

Q Okay. Was that the house next door to Sylvia's?

A Yes, ma'am.

Q Who lived there?

A We were staying there, but we were renting from this guy named Tony, I think.

Q Okay. And when you lived at Tony's house, how old were you?

A I can't remember.

Q What grade were in?

A Third.

Q I want to show you State's 10, 8 and 6. These have already been entered into evidence. Do you recognize these?

A Yes.

Q Okay. Do you recognize that one?

A Yes, ma'am.

Q And that one?

A Yes, ma'am.

Q What are these pictures of?

A Pictures of the pool table that's in the house and the house.

Q Okay. The house and the pool table that's in Tony's house; is that right?

A Yes, ma'am.

Q Okay. Do you know what nationality Tony is, is he black, white, Hispanic or something else?

A He's white.

Q What about Sylvia, is she black, white, Hispanic

or something else?

A She's Hispanic.

Q Now, you said you recognize these pictures. I just want to show these to the jury. So, State's Exhibit 10, what is this a picture of?

A The front porch.

Q And when you walk into Tony's house, what do you immediately see?

A A pool table.

Q This is State's Exhibit 8, [redacted], is that a picture of the pool table?

A Yes, ma'am.

Q And right in front of that pool table, what is that beside that lock?

A A window.

Q What is this a photo of?

A Front of the house.

Q Front of Tony's house?

A Yes, ma'am.

Q Did the Defendant ever do anything inappropriate to you when you were living in Tony's house?

A Yes, ma'am.

Q What happened that time?

A We were getting our stuff out of that house because we got evicted and he wanted me to do same thing

that we did in the building, but he didn't get to because my mom was coming up the stairs.

Q Did he try to?

A Yes, ma'am.

Q How did you know he was trying?

A Because he asked me.

Q What did he ask you?

A If I could stick his penis in my mouth.

Q Where were you standing in Tony's house when he asked you to stick his penis in your mouth?

A By the window.

Q So, were you by the pool table?

A Yeah.

Q And you didn't actually do it that time?

A No.

Q Why?

A Because my mom starting coming.

Q How did you know your mom was coming?

A Because we seen her out the window.

Q So, when you saw -- where were you standing when you saw her out the window?

A We were in the front, like in the front of the house where the pool table is.

Q And when your mom got in the house, did she suspect anything or see anything, if you know?

A No, ma'am.

Q How do you know that she didn't?

A Because she didn't say anything.

Q Did he have his pants on or off when that happened?

A They were down.

Q How did he get his pants up fast enough before your mom got in?

A He just pulled them up.

Q So, we talked about Tony's house. We talked about Sylvia's house. We talked about the trailer by your me-maw's. Was there ever another time the Defendant did something inappropriate towards you?

A Yes, ma'am.

Q When was that?

A It was Mother's Day weekend.

Q Mother's Day weekend. Okay, let's talk about that. Did your mom and Shannon ever live in a hotel or a motel?

A Yes.

Q When they lived -- which one was it, a hotel or a motel?

A It was a hotel.

Q Okay. Did you ever go visit them when they lived in the hotel?

A Yes.
Q How often did you visit them?
A Not often.
Q So, this particular time that you went to visit Shannon and your mom in the hotel, what was special about that time?
A It was time to spend with my mom.
Q Okay. Was it a special day between you and your mom?
A Yes.
Q What day was it?
A Mother's Day.
Q So, you were going to visit your mom for Mother's Day weekend; is that right?
A Yes.
Q And who was there when you first got to the hotel?
A My mom and Shannon.
Q Anyone else there?
A No.
Q Do you remember what the hotel room looked like? What kind of furniture did it have in it?
A It had a bed and a chair and nightstand.
Q So, who slept in the bed?
A My mom and Shannon.

Q Where did you sleep?
A On the floor.
Q Okay. You said there was a chair in there, too, right?
A Yes.
Q Was your mom there the whole time?
A No.
Q How long -- let me ask you this first, when did you first get there? Do you remember the day of the week?
A I'm not sure.
Q Okay. So, your mom, you said she wasn't there the whole time; is that right?
A Yes.
Q When did she end up leaving?
A Mother's Day.
Q She left on Mother's Day, okay. And when she left, do you know where she was going.
A To the doctors.
Q When your mom left, did she leave the door to the hotel room opened or closed?
A Opened.
Q And was this the type of hotel where it's opened to -- the front door is opened to a hallway on the inside or is it open to the outside?
A Outside.

Q Okay. So, when she left, you said the door was opened; is that right?
A Uh-huh.
Q Did the door eventually get closed?
A Yes.
Q How did it get closed?
A Shannon told me to get up and close it.
Q Did you close it?
A Yes, ma'am.
Q After the door was closed, what were you doing?
A I was coloring, watching TV.
Q How old were you that weekend, Mother's Day, do you remember?
A Around ten, I think.
Q Do you remember what grade you were in at this time?
A Fourth.
Q Okay. Or what school you were at, do you remember that?
A Alexander.
Q So, you're coloring. Where were you coloring?
A On the bed.
Q Where was the Defendant sitting?
A In the chair.
Q What was he doing when he was sitting in the

chair?

A At first, he was just sitting there, but then he turned something on his phone.

Q Do you know what that was?

A He turned porn on.

Q How do you know it was porn?

A Because I could hear it.

Q When he was sitting in the chair watching porn, what was he doing?

A He had his penis out.

Q Were his pants and his underwear down or just his pants or something else?

A Both.

Q Did you see his penis this time, too?

A Yes, ma'am.

Q Did he have a shirt on?

A Yes.

Q Did he have underwear on?

A Yes.

Q But they were just down?

A Yeah.

Q Okay. So, he was sitting in the chair watching porn and you saw his penis. What happened next?

A He told me to come sit on his lap.

Q Did you do that?

A No.
Q Why?
A Because his pants were down and the way he had his [indiscernible], so I got scared and told him to leave me alone.
Q After you told him to leave you alone, what happened next?
A He tried to like come towards me, but I put my feet up and pushed him off.
Q So, let's just talk a little bit more about that. When he came towards you and you were able to push him off, what was he -- how did he try to touch you or what did he do when he came towards you?
A He put his hands around my waist.
Q Near, like, your pants?
A Yes.
Q What did he try to do?
A Pull them off.
Q What kind of pants did you have on, do you remember?
A Pajama pants.
Q And when he tried to pull your pants off, how did he do it?
A He put his hands near my waist and started like taking the pants and pulling them down, but then I pushed

him off and pulled them back up.

Q How far did your pants get before you pulled them back up?

A Mid-thigh.

Q Did he try to touch you?

A Yes.

Q How close did he get?

A Not really close.

Q What did you think he was trying to do?

A Do what he had been trying to for a long time.

Q Okay. You said you thought he was trying to do what he had been trying to do for a long time, what was that?

MR. PROPST: Judge, I would object, this calls for speculation.

THE COURT: Okay. I overrule.

BY MS. KLUSKA:

Q Do you need me to ask that question again, Minor [redacted]

A Yes, ma'am.

Q So, you said that he had been trying to do something he had been trying to do for a long time. And this day in the hotel when he tried to pull your pants down, you thought he was trying to do that same thing again, right?

A Yes.
Q What was that thing?
A Try to touch me.
Q After he tried to touch you and you pulled your pants back up, what did he do?
A He went to the bathroom.
Q When he went to the bathroom, what happened?
A He stayed in there for a while.
Q Did he take his phone with him or did he leave it in the hotel room?
A He took it with him.
Q How long was he in there?
A For about an hour and a half.
Q So a long time?
A Yes.
Q What did you do when you were -- when he was in the bathroom?
A I was coloring.
Q What happened next?
A I went and got into a bath because I felt nasty.
Q So, when you went into the bathroom, was he still in the bathroom or had he left?
A He had left.
Q Okay. When he left, where did he go?
A He went back into the area where the beds were.

Q And you went into the bathroom?
A Yes, ma'am.
Q What did you do in there?
A I took a bath.
Q Why?
A Because I felt nasty.
Q Did your mom come back to the hotel when you were there?
A Yes.
Q How long was she gone, do you think?
A Maybe an hour or three.
Q So, an hour or three. Do you think it was more than three?
A Yeah.
Q Did you ever tell anyone about this incident at the hotel?
A Eventually.
Q Eventually. Who did you eventually tell?
A My best friend.
Q What was your best friend's name?
A I forgot.
Q Okay. Are you not best friends with her anymore?
A Yeah.
Q You were best friends with her back when you

were 10?

A Yeah, because I moved schools.

Q You moved schools. So, you told your best friend. Why did you tell her?

A Because I felt safe.

Q Okay. What did you tell her about this hotel incident?

A I told her what happened.

Q Did you give her a lot of details or did you tell her more vague what had happened?

A I didn't give her a lot of details.

Q When you told your friend, what happened next?

A She wanted to tell the teacher.

Q Did she end up telling the teacher?

A Yes.

Q After she told the teacher, what happened?

A The teacher wanted me to tell my counselor.

Q Is that what you did?

A Yes.

Q When you talked to your counselor, did you tell your counselor more details?

A Kind of.

Q Did you tell her more than you had told your friend?

A Uh-huh.

Q What was your counselor's name you told?
A Chris Megan.
Q Was she a counselor at the school or something else?
A She was a mental health counselor, but she worked for the school, too.
Q Did you ever go camping with your mom and the Defendant?
A Yes.
Q And did you do any fun stuff when you went camping?
A Yes.
Q Did you get to make smores or anything?
A I can't remember.
Q Okay. Tell us about when you went camping. Beside the fun stuff that happened, was there anything that happened that was not so fun?
A Yes.
Q What happened then?
A We went hiking. And my mom was a slow walker. So, I had to use the restroom and she told me the only way I could use the restroom is if I used in the woods. Well, I went over there by myself to use the restroom and Shannon followed me and tried stuff.
Q What kind of stuff?

A He tried to put his penis in me.
Q I know it's hard to talk about, I'm sorry. But when he tried to put his penis in you, was he standing or sitting or something else?
A He was standing.
Q Okay. And where were you?
A I was trying to use the restroom.
Q Were his pants on or off?
A They were off.
Q How did he get them -- how -- were they like off off or did he pull them down or something else?
A He pulled them down, but not far.
Q And how did you know that he was trying to put his penis in you?
A Because he asked me if he could.
Q What did he ask you?
A Can I do -- he asked if I can do him a favor?
And I said, No.
Then he goes, Well, can I do something to you?
I was like, I don't know what it is.
Q Did you eventually find out what favor he wanted?
A Uh-huh.
Q What was the favor that he wanted?

A He wanted to put his penis inside me.

Q Did he actually do it or did he just try?

A No, ma'am, he just tried.

Q How did he -- why did he stop from actually doing it?

A Because we were at these stairs that were going down and people started coming down them.

Q What type of stairs were they?

A They had like a design on them.

Q Were they stairs on the hiking trail?

A Yes.

Q I want to ask you about the conversation you had with your grandma about all the stuff Shannon did to you. Do you remember having a conversation with her?

A Yes.

Q What did you ask her?

A What rape was?

Q Why did you ask her that?

A Because I didn't know what was happening to me. All I know is that I didn't like it.

Q So, you asked her what rape was because you weren't sure if you were being raped or not; is that right?

A Yes, ma'am.

Q Okay. Do you remember what she told you rape

was?

A Yes, ma'am.

Q What did she say?

A It's when a woman or a male gets -- they get took advantage of and they don't like it.

Q Did she tell you specifically what act is involved in rape?

A Yes.

Q What's that?

A Sex.

Q And when she told you that rape is being forced to have sex, what did you tell her?

A That I had been raped.

Q Did you tell her that Shannon had tried to do something inappropriate to you?

A Uh-huh.

Q Did you tell her the times where he tried to touch you?

A Yes.

Q Minor I hate to ask you this, but can you tell us how you define having sex?

A When a male and a female like each other, so they will have kids or they just...

Q What body parts are involved in having sex?

A A penis and vagina.

Q What does the penis have to do to the vagina?
A They have to go in.
Q The penis goes in?
A Yeah.
Q So, is that what your grandma told you rape was?
A Uh-huh.
Q And did Shannon's penis ever go in your vagina?
A No.
Q So, when you told your grandma that you thought you had been raped, were you telling her that Shannon had put his penis in your vagina or something else?
A Something else.
Q What was the something else?
A That he was trying to.
Q Do you know what your grandma did after you told her about all this?
A She called my counselor.
Q And what did your counselor do?
A She talked to me.
Q She talked to you about all this?
A Uh-huh.
Q Do you know if she told anybody? If you don't know, that's okay.
A I don't know.
Q Okay. After all these times that the Defendant

did these things to you, did he ever tell you not to tell?

A Yes.

Q Tell us about that.

A He told me if I ever told anyone, he would hurt my family.

Q Who in your family would he hurt?

A My me-maw, my dad and my mom.

Q Did he tell you what he would do them to hurt them?

A No.

Q Did you believe that he would actually hurt them?

A Yes.

Q Why did you believe that?

A Because he's hurt my mom before.

Q Did Shannon ever tell you anything that he wanted to do in the future when you became a certain age?

MR. PROPST: Objection, this calls for hearsay.

THE COURT: I don't think that's hearsay under the rules.

So, you can continue.

MS. KLUSKA: Thank you, Your Honor.

BY MS. KLUSKA:

Q What did Shannon tell you he wanted to do when you got older?

A He want to do more with me.
Q What was the more, do you know?
A I thought he would -- wanted to like put -- like have kids or something.
Q Can you talk into the microphone? I'm having a hard time hearing you. What did you think he wanted to do when you got older?
A He wanted to get farther on with it.
Q What do you mean by that?
A He wanted to actually stick his penis in me.
Q How did that make you feel?
A Scared.
Q Why were you scared?
A Because I didn't want that to happen.
Q How old were you when that happened?
A Ten.
Q Or when he told you that?
A Ten.
Q Did he tell you a certain age that he wanted to stick his penis inside of you?
A Twelve or 13.
Q And what happened when you were 12 or 13?
A I told.
Q So, did him -- how did him telling you that he wanted to do more stuff like stick his penis in you, how

did that effect you telling? Did it make you want to tell more or tell less?

A Tell more.

Q Has anyone else besides the Defendant, Shannon, ever done anything like this to you?

A No.

Q Have you ever told anyone that anyone else has done anything like this to you?

A No.

Q Have you ever told anyone that this didn't happen?

A No.

Q Minor , I'm just going to come right out and ask you, did you make any of this up?

A No, ma'am.

Q Did you make this up because you wanted to live with your dad?

A No.

Q Did you make this up because you wanted to live with your mom?

A No, ma'am.

Q Did you make this up because you wanted attention?

A No.

Q Why did you tell these things, Minor

A Because I didn't want it to happen to anyone else.

Q The man who did all these things to you, Minor do you see him in the courtroom today?

A Yes, ma'am.

Q Can you point him out to us and tell us what color shirt he has on?

A He's wearing an orange striped shirt.

MS. KLUSKA: Let the record reflect that the victim identified the Defendant, Shannon Garland, as the perpetrator of these crimes.

THE COURT: Yes, ma'am.

MS. KLUSKA: Nothing further at this time, Your Honor.

THE COURT: All right, Mr. Propst, cross-examination?

MR. PROPST: Yes, sir.

CROSS-EXAMINATION

BY MR. PROPST:

Q All right, Minor now, when these allegations came out, when you made these allegations, after that, you met with Amber Hiott, do you remember Ms. Hiott?

A Yes.

Q At the Julie Valentine Center?

A Yes.

Q You met with her twice, correct?
A Yes.
Q And she told you when y'all were meeting that your statement and interview would be recorded?
A Yes.
Q Right. And that the sheriff's office could see it?
A Yes.
Q And that the State could see it?
A Yes.
Q And that someone like me, a lawyer, another lawyer could see it, right?
A Yes.
Q So, you knew it was recorded?
A Yes.
Q And you met with her, the first time was roughly two, two and a half years ago?
A Yes.
Q In June 2016. Then the second meeting was -- was it February of 2017, you think?
A I'm not sure.
Q Okay. And during the course of that time, you also met with an investigator?
A Yes.
Q Do you remember that?

A Uh-huh.

Q Investigator Robertson?

A Yes.

Q Now, over the course of these past two, two and a half years, you mainly lived with your dad, right?

A Yes, sir.

Q And his girlfriend, Shelia?

A Yes, sir.

Q Okay. So, the three of y'all were living at his house?

A Yes, sir.

Q Now, before living at your dad's house, you were living with your grandmother?

A Yes.

Q Right. At your house?

A Uh-huh.

Q Okay. And before that, you were living with your mother?

A Yes.

Q Okay. And that's when you were staying at a hotel?

A Yes.

Q Okay. And you lived with Shannon at the hotel as well?

A Yes, sir.

Q And then before the hotel, you were living at Sylvia's house?
A Yes, sir.
Q Okay. Again, you, your mom and Shannon are living at Sylvia's house?
A Yes.
Q And before Sylvia's house, y'all just lived next door?
A Yes.
Q At -- was it Mr. Raines' house?
A I think.
Q Tony?
A Tony.
Q You were living at his house. Again, it was you, your mom and Shannon?
A Yes.
Q Now, kind of move around a little bit. At Sylvia's house, it wasn't just the three of you living there, right?
A No.
Q You were also there with -- Sylvia lived there?
A Yes.
Q And Sylvia's boyfriend?
A Yes.
Q Sylvia had several kids living there, too,

right?

A Yes.

Q Two sons?

A Uh-huh.

Q And a daughter that was about your age?

A Yeah.

Q Now, when you were living at Sylvia's house, you didn't have your own room, right?

A No.

Q Sometimes you would stay with her daughter?

A Yes.

Q But you mainly slept in the living room?

A Yes.

Q On the sofa?

A Yes, sir.

Q You would sleep on the floor sometimes, too, right?

A Yes, sir.

Q Okay. Now, moving on from that, at some point, you and your mom moved in with your dad, right?

A Yes.

Q And you told Ms. Hiott -- you called her Amber or Ms. Hiott?

A Amber.

Q Okay. You told Amber that y'all moved in your

dad because Shannon threw a rock at your mom?
A Yes.
Q Okay. And you told her that in your interview, right?
A Yes.
Q Then you also told Amber that when y'all were moving out of your dad's house, you told your mom that you wanted to stay?
A Yes.
Q But she wouldn't let you?
A No.
Q Okay. She cussed you and said no, you can't stay?
A Yes, sir.
Q And you told Ms. Hiott that, right?
A Yes.
Q Now, I'm a little unclear on the timeline, but after moving out of your dad's house, y'all went to live with a guy named Steven?
A Yes.
Q But your mom was still with Shannon, right?
A I guess, I'm not really sure.
Q Okay, you told Ms. Amber that?
A They weren't together, but they were still seeing each other.

Q Okay. And when y'all were at Steven's house, you told Amber that that's when you told your mom that Shannon tried to do stuff?

A Yes.

Q But she wouldn't believe you?

A No.

Q She said that he wouldn't do that?

A Yes.

Q All right. We're going to move on to where you went to school, okay?

A Okay.

Q Now, over -- I guess, throughout elementary school, you went to several different schools, right?

A Yes.

Q Okay. You went to first grade at Grove Elementary?

A Yes.

Q Then second grade, you were at Grove as well?

A Yes.

Q Then you did second grade again at Alexander Elementary?

A Yes.

Q Third grade, you started the year at Grove Elementary, right?

A Yes.

Q Then you went to Monaview?
A Yes.
Q Okay. After that, you finished out elementary school, fourth and fifth grades, at Alexander?
A Yes, sir.
Q So, by my count, you switched schools about five different times?
A Yes.
Q That's a tough thing to do, right?
A Yes.
Q It's going to be tough to meet new people, right?
A Yes.
Q And make new friends?
A Yes.
Q Then you have all new teachers to get to know, right?
A Yes.
Q Okay. Let's move to Investigator Robertson for a minute. I believe he's back in the courtroom in the back?
A Uh-huh.
Q You talked to him about the stuff at the hotel room, right?
A Yes.

Q He interviewed you in his office?

A Yes.

Q You told him at some point that Shannon told you cookie on, but you said no. Do you remember telling him that?

A No.

Q Okay. If it was in the police report, that means you told him, right?

A Yeah.

MS. KLUSKA: Objection, speculation. She wouldn't know about what's in the police report from Investigator Robertson.

THE COURT: I'll overrule, you can ask the question.

BY MR. PROPST:

Q So, if it's in his police report, that means you probably said it, right?

A Yes.

Q You also told Investigator Robertson that in this hotel room, when you went to take a bath, you said that Shannon ran the bath water for you?

A I can't remember.

Q Okay. But again, if it was in his police report, then you probably said it, right?

A Yes.

Q Now, this camping trip that you talked to Mrs. Kluska about, that was with Shannon and your mom, right?

A Yes.

Q Now, Investigator Robertson was involved in this whole -- in this whole investigation. And he never took you to that camping site, right?

A Who?

Q Investigator Robertson?

A No.

Q Okay. Y'all didn't go look at the stairs that you talked about?

A No.

Q You didn't show him any pictures of the camping trip?

A No.

Q There weren't any pictures on Facebook?

A There were pictures of the camping trip.

Q Of the camping trip? Did you show those to Investigator Robertson?

A No.

Q Okay. You don't have them with you?

A No.

Q Okay. At some point, I believe you told Ms. Hiott, Ms. Amber this, that your mom wanted you to bum

cigarettes for her?

A Yes.

Q Okay. Well, that takes me to your mother, Erin. So, as we briefly mentioned earlier, when you told her about these -- initially told her about those allegations, she didn't believe you?

A No.

Q Right?

A Yes.

Q You told her specifically about the stuff that happened in the hotel room?

A Yes.

Q You said that this type of stuff happened while she was at the doctor?

A Yes.

Q That was on Mother's Day?

A Yes.

Q Okay. She didn't believe you?

A No.

Q She physically tested you, did she?

A Yes.

Q She leaned against your legs to see if you could push her off?

A Yes.

Q Again, you had a couple of meetings with

Ms. Amber at the Julie Valentine Center?

A Yes.

Q During the first meeting, do you remember Ms. Amber left the room for a few minutes and let you draw?

A Yes.

Q Okay. And you drew a picture of you and your mom?

A Yes.

Q And y'all were talking?

A Yes.

Q You said in the picture you're telling your mom you love her, right?

A Yes.

Q And you want her to believe you?

A Yes.

Q Now, at the second meeting, you told Ms. Amber that you had more stuff to tell her you didn't tell her the first time?

A Yes.

Q Right? And you didn't say anything because you were scared your mom would be heartbroken?

A Yes.

Q But now you could tell your mom this stuff because she obviously wasn't heartbroken?

A Yes.

Q Because she was still with Mr. Garland?

A Yes.

Q And over the past few years, I think starting around 2013 or so, you started seeing some counselors, right?

A Yes.

Q And I want to talk about a couple specific times. Ms. Megan, was that your school counselor?

A Yes, sir.

Q You met with her on January 16th of 2014?

A Yes.

Q Y'all had some counseling sessions, but I want to talk about one specifically. At that time, y'all made a plan of your goals, right?

A Yes.

Q And during that plan, your number one goal was that you wanted to be nicer so I don't make mom upset, right?

A Yes.

Q Then fast forward about eight months, in August of 2015, August 27th, you met with Ms. Rebecca Stevens?

A I don't remember.

Q Do you remember Ms. Stevens?

A No.

Q Okay. Give me one second.

THE COURT: Sure. How much longer do you anticipate, Mr. Propst, on cross-examination?

MR. PROPST: Not much longer, Your Honor.

THE COURT: Okay.

BY MR. PROPST:

Q So, when you met with Ms. Rebecca Stevens on August 27th, 2015?

A Yes.

Q You told her that you miss mom a lot?

A Yes.

Q And that mom doesn't spend a lot of time with you?

A Yes.

Q Right? You told her you don't see your mom often?

A Yes.

Q You also told her that mom's not always involved, which makes you upset, right?

A Yes.

Q You were worried that you might not see your mom anymore, right?

A Yes.

MR. PROPST: Minor [redacted] I appreciate you answering my questions.

I don't have any more questions, Your Honor.

THE COURT: Thank you, I appreciate it.

Redirect, ma'am?

MS. KLUSKA: Yes, sir, Your Honor.

REDIRECT EXAMINATION

BY MS. KLUSKA:

Q Minor, the first time that this happened to you, that Shannon did something to you, why did you not just go running to somebody and tell what had happened?

A I was scared.

Q What were you scared of?

A That something was going to happen to my family.

Q Who in your family were you scared that he would hurt?

A My me-maw and my mom.

Q Let's talk a little bit about your mom. Mr. Propst brought up how you want your mom to believe you; is that right?

A Yes.

Q Does your mom believe you?

A She does now.

Q She does now?

A (The witness nods.)

Q Do you spend a lot time with her now?

A Yes.

Q The fact that she didn't believe you for a long time, how did that make you feel?

A Upset, but I understood.

Q Why did you understand?

A If I was a mom, I wouldn't want to think that happened to my child. So, I was thinking about it like that.

Q So, you didn't think she wanted to believe that these terrible things had happened to you?

A Yes.

Q Mr. Propst asked you about a couple other people who you came in contact with when you were nine and ten. Did your mom's new boyfriend, Steven, ever do anything like this to you?

A No.

Q Did Sylvia's sons ever do anything like this to you?

A No.

Q Who did these terrible things to you?

A Shannon Garland.

MS. KLUSKA: Thank you, nothing further.

THE COURT: Any recross, sir?

MR. PROPST: Yes, sir, just briefly.

RECROSS-EXAMINATION

BY MR. PROPST:

Q Minor you met with Ms. Hodge and Ms. Kluska in preparation for the trial, right?

MS. KLUSKA: Your Honor, I object. This is not within the scope of my redirect.

THE COURT: Is that within the scope of her redirect? I don't recall that. You might be able to educate me.

MR. PROPST: Judge, they talked about -- I'm just talking about preparing the testimony, going over the testimony.

THE COURT: Okay. All right, sir. I sustain the objection.

Okay, any other questions?

MR. PROPST: No, sir.

THE COURT: All right, you can step down. Thank you for being here, I appreciate it.

Okay, let's take a short break, ladies and gentlemen. We'll come back in and resume testimony.

(WHEREUPON, the jury left into open court at approximately 10:56 a.m.)

THE COURT: Okay, be in recess for about ten minutes.

MS. KLUSKA: Thank you, Your Honor.

(WHEREUPON, a short break was taken.)

THE COURT: Okay, ready for the jury?

THE CLERK: Ms. Crosswell, please place your left hand on the Bible and raise your right hand.

MARY FRAN CROSSWELL, M.D., after being duly sworn, testified as follows:

THE CLERK: Thank you, you may be seated. Please state your full name for the record.

THE WITNESS: My name is Mary Fran Ratchford Crosswell.

DIRECT EXAMINATION

BY MS. KLUSKA:

Q Dr. Crosswell, where are you employed?

A I'm employed by the Greenville Health System.

Q In what capacity?

A I'm a child abuse pediatrician.

Q As a child abuse pediatrician, what does your job entail.

A I evaluate children when there's concerns of any form of child maltreatment, physical neglect, sexual abuse, physical abuse and perform a medical exam on those children.

Q How long have you been employed in this capacity?

A I've been employed in this capacity since 2006.

Q What is your educational background?

A I received my undergraduate degree from Wake

Forest University and my medical degree from the University of Louisville School of Medicine. Excuse me, I completed a pediatric residency at Greenville Health System.

Q What is your work experience then prior to your current position?

A Prior to my current position, I worked for two years as a general pediatrician in Atlanta.

Q Are you Board certified?

A Yes, I am.

Q In what areas?

A I'm Board certified in both general pediatrics and in child abuse pediatrics.

Q Do you attend continuing education courses in the area of pediatrics and child abuse?

A Yes, I do. I attend at a minimum 20 hours a year, often more.

Q Have you ever lectured or presented to other peers in these areas?

A Yes, I have.

Q In what capacity?

A In?

Q What were lectures in, what were they?

A Child maltreatment, so it may have contained physical abuse, it may have contained sexual abuse, it may

have contained physical neglect.

Q Are you a member of any professional organizations that deal with pediatric medicine and/or child maltreatment?

A Yes, I am.

Q What organizations are you a part of?

A I'm a member of the American Academy of Pediatrics as well as a member of subcommittee on child abuse and neglect. I'm also a member of the Helper's Society, which is an honor society for child abuse medical professionals.

Q In your current position, have you conducted sexual assault exams on children?

A Yes, I have.

Q Approximately how many?

A I would estimate anywhere from 150 to 200 a year, so probably anywhere from close to 2000 exams.

Q And you've been employed there since 2006?

A Yes, I have.

Q So, about 200 a year since then?

A Correct.

MS. KLUSKA: Your Honor, at this time, the State would move to admit Dr. Crosswell as an expert in pediatric medicine and child abuse pediatrics.

THE COURT: Any exceptions to her qualifications

or voir dire, sir?

MR. PROPST: No, sir, Your Honor.

THE COURT: All right, ladies and gentlemen, the State is offering Dr. Crosswell as an expert witness. Now, a party, either party may offer a witness as an expert witness because of that witness' expertise, education and experience in a given field.

Now, the reason they may offer someone as an expert witness is because an expert witness can offer and give opinion testimony that a lay witness, that is any other witness is not able to offer. So, a party offers expert testimony in an attempt to assist the jury in understanding some evidence that may be presented in the case.

Now, when you -- when the Court accepts a witness as an expert witness and you hear the testimony of an expert witness, understand that that testimony has no greater weight or value and it receives to preferential treatment. Just like with any piece of evidence that you receive in the trial of the case, you decide if evidence is believable and you decide what weight and what value and what meaning it has just like any other piece of evidence that you receive in a case.

So, having said that, ladies and gentlemen, I

will accept Dr. Crosswell as a expert in the given field.

You may proceed, Ms. Kluska.

MS. KLUSKA: Thank you, Your Honor.

BY MS. KLUSKA:

Q Did you have the opportunity to examine the victim, Minor [redacted], in this case?

A Yes, I did.

Q When and where did that exam take place?

A I performed the exam on February 16th, 2017 at the Julie Valentine Center.

Q And who was the victim with at the time of the exam?

A She was brought to the appointment by her father's girlfriend, who identified herself as her stepmother.

Q What was the reason that she was brought in for the exam?

A She was referred by law enforcement for an exam evaluating sexual abuse.

Q Okay. When a child is brought in for an exam with you, what are the steps that you take to conduct your exam?

A First of all, I review any of the information provided in the referral from whatever agency or office

has referred them for the evaluation. So, any medical records or law enforcement records that are part of that referral.

Next, I will take a detailed medical history from the caregiver who brings the child to the appointment, which will include basic medical history information as well as any symptoms the child might be having behavioral or physically at the time of the examine.

Next, I will take a medical history directly from the patient if they are able to do so. Following that, I will perform a physical examination, which is a head-to-toe physical exam, general pediatric exam, which also includes the use of a colposcope, which is a piece of medical equipment that helps me evaluate the genital area in sexual abuse exams.

Next, I will determine if any laboratory testing or radiologic studies are indicated. Then, finally, make a diagnosis and recommendations for treatment.

Q You mentioned a colposcope, how does that work?

A So, the colposcope is a piece of medical equipment that serves several purposes for my exam. One, it's a good light source to be able to well visual the area involved. There is a magnification system so that I

can be able to visualize the area in greater detail. And there's the ability to photo document any physical findings should they be there.

Q Did you follow the protocol that you just told us about on Minor when you did her exam?

A Yes, I did.

Q Did you gather information from Minor that was pertinent to your exam and treatment of her?

A Yes, I did.

Q What information did you gather?

A She provided history of fondling and oral genital, oral penile contact.

Q Did she state where the abuse happened?

A She said a friend of her mother's house.

Q Did she state when it happened?

A She said she was around 10 years old.

Q Then you then conduct a full physical exam on her?

A Yes, I did.

Q And how old was Minor when you conducted the exam?

A She was 11 at the time of the exam.

Q Had she been through puberty?

A She had not yet started her period, but she was in the process of going through puberty. She has breast

develop and pubic hair development.

Q How does puberty affect your exams?

A Just as the hormones in the body that are a result as well as cause of puberty having an affect to the breast development and pubic hair that have an effect on other tissues of the body. So, in the genital area, it can make that area much more elastic, meaning that those tissues can stretch and relax to a degree that doesn't happen prior to any signs of puberty.

Q Can you please describe the findings of your exam on [redacted]

A She had a normal exam with the exception of some -- a little bit of vaginal discharge.

Q Can you tell us about that? How did that effect your exam or what does that mean?

A The vaginal discharge?

Q Yes.

A So, at the time of the exam, I did screen for infections that can cause discharge, but often, in a child who is going through puberty, you will see a white vaginal discharge that is what we physiologic, meaning it's a result of the hormones that are present in her body.

Q So, that was not abnormal for her age?

A It was not abnormal.

Q Did you also do a diagnostic workup during the

exam?

A Yes, I did.

Q What is that?

A I screened -- based on the history that she provided, I screened for sexually transmitted infections, including chlamydia, gonorrhea, HIV and syphilis as well as trichomoniasis.

Q And what were the results of that test?

A She was negative for any of those diseases.

Q What was your medical treatment course for Minor as it relates to this case?

A My recommendation for treatment?

Q Right.

A My recommendations were that she have no contact with Shannon Garland and that contact with her mother should be supervised. I recommended that if the evaluation for sexual transmitted infections were negative, then no additional testing would be needed. Recommended trauma focused, cognitive behavioral therapy. Those were the recommendations.

Q Okay. So, you said earlier that her exam was normal. Can you explain how you could find a normal exam on a victim of sexual abuse?

A Yes. So, in reality, most physical exams on children who have been sexually abused are normal. More

recent studies suggest that less than three percent of victims of child sexual abuse have specific findings of sexual abuse on their exams. And the reason this is is because either the nature of the sexual abuse doesn't cause an injury that can be visible to the eye. Or that if there was a injury that occurred, it can heal rapidly, within a matter of days, and not leave any signs of its presence after that fact.

Q So, if Minor had had oral contact with the Defendant's penis, would you have expected to find an abnormal finding on your exam?

A I would not have expected to have found an abnormal finding.

Q So, in your expert opinion, can you tell us whether or not your findings are consistent with the sexual contact that Minor described?

A Yes, a normal physical exam is consistent with the type of contact she described.

MS. KLUSKA: Nothing further at this time, Your Honor.

THE COURT: Cross-examination?

CROSS-EXAMINATION

BY MR. PROPST:

Q Dr. Crosswell, I'll be brief. So, a normal physical exam, lack of physical evidence could also mean

that nothing happened, right?

A It could.

Q Okay. Now, just to -- I think you've got your report up there, just to go over it briefly. You mentioned in there that the patient was positive for behavioral problems?

A There were some concerns that the caregiver had about some behaviors.

Q So, you knew she had issues when you met with the caregiver?

A I got the history from the caregiver that the caregiver was having issues with the patient.

Q So, in your report, again, you state, Mother of child is not wanting to have anything to do with the patient and made clear to the patient?

A That was what the -- the history that the father's girlfriend provided to me, yes.

Q Then the parentheses following that, Behavior seemed associated with that?

A Correct.

Q Okay. You also point out that the mother is still together with the alleged perpetrator and does not believe patient, right?

A I'm just trying to find that in my report.

Q It's right below those parentheses.

A That's right.

Q And the mother has supervised visits with the patient in the father's home?

A That's correct.

Q And the patient has been angry more because her mother will not visit even on holidays?

A That was what was reported to me, yes.

Q And that's what's in your report?

A Yes.

MR. PROPST: No further questions, Judge.

THE COURT: Redirect?

MS. KLUSKA: No, Your Honor, nothing further.

THE COURT: Thank you, I appreciate you being here.

MS. KLUSKA: Your Honor, can Dr. Crosswell be excused?

THE COURT: Yes, ma'am.

You may call your next witness.

MS. KLUSKA: Thank you, Your Honor, the State calls Investigator Robertson.

THE CLERK: Place your left hand on the Bible and raise your right hand.

MICHAEL ROBERTSON, after being duly sworn, testified as follows:

THE CLERK: Thank you. You may be seated.

MICHAEL ROBERTSON-DIRECT BY MS. KLUSKA

Please state your full name for the record.

THE WITNESS: Michael Ray Robertson.

DIRECT EXAMINATION

BY MS. KLUSKA:

Q Investigator Robertson, what was your role in this case?

A I took a DSS referral and I did the original report and I was also the lead investigator.

Q You were the lead investigator?

A That's correct.

Q What is your current position with the sheriff's office?

A I am investigator in the juvenile unit.

Q How long have you been in law enforcement?

A October was 29 years.

Q Do you remember the date that you became involved as the lead investigator in this case?

A I do.

Q What was that?

A May 16th, 2016.

Q You mentioned you got a DSS referral.

A That's correct.

Q What did you do after you got that referral?

A I spoke with DSS. And after speaking with DSS, I completed a juvenile -- or a referral to the Julie

Valentine Center for the victim to have a forensic interview.

Q Had the victim made a disclosure of sexual abuse to DSS?

A Correct.

Q After you referred Minor to the Julie Valentine Center, what did you do?

A Myself and DSS went out and spoke with the mom. And we also attempted to speak with the Defendant.

Q Tell us about the chance you had to speak with Minor mom.

A We met at a store, I believe, on Augusta Road. She met with us there. We spoke with her about the incident. She didn't believe Minor I asked her several questions about where they were staying and where the Defendant was. She told me he was at work.

Q Did you get a chance to speak with Minor after that?

A I did. I met her and her grandmother at the Julie Valentine Center.

Q Do you know why, at that time, they were at the Julie Valentine Center?

A For the forensic interview.

Q So, you just went while they were there for the forensic?

A Correct.
Q Were you able to watch her interview?
A I was.
Q Describe for us how you watched the interviews.
A The interview is taking place in a friendly room, child friendly room and we sit in another room separate and watch it over a television.
Q Why do you do that?
A It's pretty much -- we send the children to the Julie Valentine Center because we feel that they will be more comfortable being interviewed by someone other than law enforcement, than me sitting there in front of her asking her questions. So, that's how we get her original statement of if something happened or if something didn't happen.
Q Why do you watch that?
A To get it straight from the victim.
Q Okay. During the interview did she make any disclosures of sexual abuse?
A She did.
MR. PROPST: Judge, we object under the best evidence. We've got a video we can watch all this. There's no need for testimony as to what he saw the victim tell somebody else.
THE COURT: Okay, I'll overrule.

You may continue.

MS. KLUSKA: Thank you, Your Honor.

BY MS. KLUSKA:

Q And we're going to watch those videos, but just quickly, can I ask you where she disclosed the sexual abuse in her first interview?

A Sexual abuse at first interview was at a hotel.

Q What was the timing of that abuse?

A I believe she stated between eight, nine or ten years old.

Q The hotel that this abuse took place at, were you able ever to determine if it was in Greenville County or not?

A Yes, ma'am.

Q So, after you watched Minor [redacted] first interview at the Julie Valentine Center, what did you do?

A Tried to meet with the Defendant again.

Q Did you meet with him?

A I did.

Q Tell us about that.

A He was working, so I ended up driving to Campbello, South Carolina and met him on his work site.

Q And when you met with him, where did you speak with him?

A In my car.

Q And what did he tell you?

A I told him why I was there and what the allegations were. He did tell me that the mother, that Minor mother did go to a doctor's appointment on Mother's Day and he watched Minor at the hotel. He stated that the door to the room stayed opened the entire time. He stated that they colored to kill time. I asked him why the victim would make up such a story against him and he said that he believes the victim -- or Minor wants to live with her dad. And feels if she gets him in trouble, her mother will let her go.

Q Okay. Let me just break that down really quick. He admitted that he was at the hotel, right?

A Yes.

Q He admitted that he was there on Mother's Day?

A Correct.

Q He admitted that Minor mom left?

A Correct.

Q And that he babysat her alone, correct?

A Yes, ma'am.

Q And he said that they just colored to pass the time?

A That's correct.

Q As you're working on this case, did you at any point receive information that Minor had made an

additional disclosure of sexual abuse by the Defendant?

A Yes, ma'am, that was later.

Q When was that?

A That was brought to my attention on January 30th, 2017.

Q How was it brought to your attention?

A I received a phone call from the therapist.

Q Without going into detail of what she said, was it your understanding as you worked on the case that Minor had disclosed additional abuse to her therapist?

A Correct.

Q Is that why it was brought to your attention?

A Correct.

Q Based on that information from her therapist -- let me ask you this first, is her therapist Erica Van Wagner?

A That's correct.

Q So, based on that information from Erica Van Wagner, what did you do?

A I sent another referral over to the Julie Valentine Center for a second interview.

Q And did she receive a second interview?

A I did.

Q Minor went through another interview?

A That's correct.

Q Okay. Is it common for you to refer the same victim for multiple interviews?

A It is. There is sometimes when the child makes a disclosure and then goes and sees a therapist and other stuff comes out during therapy session.

Q During the second interview, did Minor again disclose sexual abuse?

A Yes, ma'am.

Q Where did she state this abuse occurred?

A Occurred at the house of a friend of her mother's that they were living in and also at a house next door to it.

Q Okay. Approximately when did she say it occurred?

A I think when she was eight, nine or ten years old.

Q Were you able to go out to either of these houses?

A I was.

Q What are the addresses of the houses?

A [redacted] Avenue in Greenville County and [redacted] which is right next door.

Q Let's talk about [redacted] Avenue address first. Were you ever able to make contact with anyone who lived there?

A Yes.
Q Who did you speak with there?
A Anthony Raines.
Q Did he cooperate with you?
A He did.
Q Did he allow you to see the inside of the house?
A He did.
Q Did he allow you to take photos of the inside of his house?
A He did.
Q In the pictures that we showed earlier of the pool table, did you take those?
A I did, yes, ma'am.
Q After you left the [redacted] address, where did you go?
A I went next door to [redacted].
Q And did you make contact with anybody there?
A I did.
Q Who was that?
A Sylvia Rojas, R-O-J-A-S.
Q And did she cooperate with you as well?
A She did.
Q Were you able to take photos of her property?
A I did.
Q And those are the photos that we saw earlier; is

that right?

A That's correct.

Q I would to talk to you about speaking with Minor grandmother. You had the occasion to interview her; is that correct?

A That's correct.

Q Tell us about that.

A After the second disclosure -- or I was informed of the second disclosure, I had called her come to the office because I wanted to find out exactly what Minor had told Wilma.

Q What was her demeanor when she gave her statement?

A She was very upset. She started to cry when I started to ask her because I was going to write the statement for her and have her sign it, and she started to cry. I asked her if it was better for her to speak if she typed it herself.

Q Was it --

A That way, she wouldn't have to keep repeating.

Q Was it clear when she gave her statement that Minor had disclosed sexual abuse to her as well?

A Yes, ma'am.

Q Did you refer Minor for a medical exam?

A I did.

Q Who did that exam?

A Dr. Crosswell.

Q After your investigation, you determined that the Defendant had been incarcerated during some periods that Minor had been living with them; is that right?

A That's correct.

Q What were the dates that the Defendant was incarcerated?

A The information I have is that he was released from Pickens County on May the 1st, 2012 on probation. He was reincarcerated for probation violation on 12/21/2015. Then he was released to probation again, back out on February the 1st, 2016.

Q After you conducted your investigation, you spoke with Minor and her grandmother and you watched the interviews, who did you arrest and charge for sexually assaulting Minor?

A Shannon Garland, the Defendant.

Q When you spoke with Shannon Garland, did he also confirm that he had taken Minor and her mother camping?

A Yes.

Q What did he say about that?

A He said that they went camping at Table Rock State Park, but he didn't remember any steps being close to where they were.

Q So, he didn't remember the steps, but he said he was there?

A He said he was there, but didn't remember the steps, yes, ma'am.

MS. KLUSKA: Nothing further at this time, Your Honor.

THE COURT: Cross-examination, Sir.

MR. PROPST: Yes, sir.

CROSS-EXAMINATION

BY MR. PROPST:

Q Investigator Robertson, as you just testified to, you took pictures of these homes on Edgemont Avenue?

A Yes, sir.

Q [redacted] and [redacted]?

A Yes, sir.

Q Now, Minor [redacted] didn't give you those addresses, right?

A I was looking over my report and I couldn't find where I documented who gave me those addresses.

Q Okay.

A I can only guess that it came from Wilma, that's just a guess.

Q So, you had to perform some sort of investigation to get those addresses?

A Correct.

Q And you think maybe it was Wilma, but you can't say for sure?

A I can't say for sure where I got those addresses.

Q Now, you went to the houses and took the pictures, right?

A Yes, sir.

Q And you've seen the pictures?

A Yes, sir.

Q You were in here for all that?

A Yes, sir.

Q Now, this picture is of the pool table, right?

A Yes, sir.

Q And that pool table, when you open the front door, it's right there, isn't it?

A Correct.

Q So, it's the first thing you see?

A Correct.

Q So, that's walking into the front door?

A Yes, sir.

Q Pool table is right there?

A Yes, sir.

Q That was Mr. Raines' house, correct?

A Yes, sir.

Q Now, you took multiple pictures of the outside

of these homes, right?

A Whatever pictures you have there.

Q So, multiple pictures of the outside?

A Yeah.

Q You didn't take any pictures from inside either of these garages?

A I did not, no.

Q Did you take any other pictures of bedrooms?

A No.

Q Any bathrooms?

A No.

Q Or the kitchen?

A No.

Q So, just the pool table, the outside and, looks like, the mailbox?

A Correct.

Q Okay. Now, on Edgemont Road, you spoke to both Mr. Raines and Ms. Rojas?

A Correct.

Q First, you spoke to Mr. Raines?

A Correct.

Q You explained to him why you were there?

A Correct.

Q And he remembered Mr. Garland, [redacted] and Erin living there?

A Correct.
Q You were told why they moved out?
A Yes.
Q They were -- they were asked to leave, right?
A Correct.
Q Did you speak to anyone else at Mr. Raines' house?
A No.
Q You didn't get any information from anyone else that was living there?
A I remember Mr. Raines telling me about his, I'm not sure if it's his mother.
Q Dee Raines maybe?
A Maybe, yes, sir.
Q But you never speak with Ms. Raines?
A I don't think I did.
Q Okay. So Mr. Raines, only person you spoke with at his home, he mentioned no -- he told you nothing about inappropriate sexual conduct?
A No, sir.
Q So, then you spoke to Ms. Rojas, Sylvia?
A Correct.
Q And explained to her why you were there?
A Yes.
Q Okay. And she told you she forced them to move

out?

A Correct.

Q And did you get any information about other people living in that house in addition to Mr. Garland, Minor and Erin?

A No.

Q No. Didn't get names of any other people living there?

A I don't think, no, sir.

Q Didn't interview any of the other people that were living there?

A No.

Q Ms. Rojas didn't tell you -- didn't give you any information about any inappropriate sexual conduct she observed?

A No.

Q Okay. The camping trip you were just talking about, you heard the allegations of an incident happening at a camp site, correct?

A Right.

Q You didn't actually talk to Minor about this camp site?

A I don't believe I did.

Q You didn't take Minor to a camp site?

A I did not, no.

Q You didn't try to narrow down where this camp site might be located?

A No.

Q You didn't ask anyone else about the camp site?

A Just the Defendant.

Q I'm sorry, Mr. Garland. So, you didn't take any pictures of the camp site?

A No.

Q You didn't take any pictures of any stairs?

A No.

Q Let's talk about the hotel room. Your first involvement in the case was dealing with an allegation at this hotel room, right?

A Right.

Q And in your investigation of this hotel room, you didn't go to the office and confirm the actual hotel room that this incident supposedly took place in, right?

A I did not.

Q You didn't subpoena any rental records from the hotel?

A No. After we met, DSS and I met with the mother, I believe it was the Dollar General, she had told -- I don't know if I can say that. But I end up following her when she left the Dollar General to the Super Lodge Hotel on Mauldin Road and watch her walk up

the steps. I was outside looking and she went around to one side. I didn't see which room she went in.

Q That was sometime after May 16th?

A That was --

Q Late May?

A That was June 3rd, 2016.

Q So, back to my question, you didn't get any rental records from the hotel?

A No.

Q Specifically regarding Mother's Day weekend?

A No.

Q Didn't take any pictures of this hotel room?

A No.

Q You didn't get any surveillance video from the hotel?

A No.

Q You didn't go knock on any hotel doors?

A No, sir.

Q So, you didn't speak to any possible witnesses at the hotel?

A I don't believe there would be any.

Q You didn't interview any people at the hotel, right?

A Correct.

Q On June 28th of 2016, you met with Minor [redacted] in

your office?

A Yes.

Q Just asked her a few questions about the incidents?

A Correct.

Q You informed her that the rules of the Julie Valentine Center interview still applied?

A Correct.

Q She was supposed to tell the truth?

A Correct.

Q She told you at that time that when she was going to take a bath in the hotel room that Mr. Garland actually ran the bath water, right?

A That's correct.

Q You also have written in your report that she told you that in the hotel room, Mr. Garland said, Cookie on.

And she said, No?

A That's what I put in here, yes.

MR. PROPST: No further questions, Judge.

THE COURT: Redirect, ma'am?

MS. KLUSKA: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MS. KLUSKA:

Q When you spoke with Ms. Rojas, were you able to

confirm the dates that the Defendant had lived there with Minor

A I was.

Q And what were those dates?

A Ms. Rojas said that in November 2014, they moved in and moved out around February 2015.

Q When you spoke with Minor mother, you said that she walked into a hotel?

A Correct.

Q Was that the same hotel that this abuse took place at, were you able to confirm that?

A Correct. And it's the doors open to the outside and I watched her walk up the stairs to the second floor, then I'm sure which room she went in because she went around the backside of it.

Q When you spoke with Tony Raines, did you ask him whether he observed any inappropriate sexual conduct between the Defendant and Minor

A I did not.

Q What about when you spoke with Sylvia, did you ask her about that?

A I did not.

Q Mr. Propst asked you about in your report when you said, Cookie on. Do you think -- what was that, do you think that could have been a typo?

A I think that was a typo, yes, ma'am.

Q Do you remember what Minor said that was mistyped?

A No, I don't. And I type mine on Word and transfer it over to our report system. And, of course, I spelled cookie right, so it didn't pick up on misspelling.

Q When you spoke with her, did she ever say cookie or mention cookies?

A Not that I remember.

MS. KLUSKA: Nothing further at this time, Your Honor.

THE COURT: Recross, Mr. Propst?

MR. PROPST: Briefly.

RECROSS-EXAMINATION

BY MR. PROPST:

Q Regarding your report, you've been an officer for 29 years?

A That's correct.

Q Okay. And you write the reports, generally speaking, on pretty much everything you do in a case?

A Yes, sir.

Q And it's important to do that while the information is fresh in your mind, right?

A It's important, but do we do that, no.

Q You try to?

A Try to.
Q And the purpose of doing that is to make sure that your record is complete, accurate and thorough, right?
A Yes.
Q And the another reason for that is that generally cases take a couple years to get called for trial?
A Correct.
Q So you want to make sure you have a full record of what happened?
A Correct.
Q That's written when you find out this information?
A Correct.
Q Okay. And again, you did not record the conversation you had with Minor , correct?
A I did not.
MR. PROPST: No further questions, Judge.
THE COURT: Okay. All right, you can step down. Thank you, I appreciate your being here.
All right, anything further from the State?
MS. KLUSKA: We do have one more witness, Your Honor.
THE COURT: Okay, you may call him or her.

in absolute compliance with Rule 5 disclosures. So, I just wanted to add that to the record because I did look at it again to make sure I haven't missed something.

Okay, State ready for the jury?

MS. KLUSKA: Yes, sir, Your Honor.

THE COURT: Defense?

MR. PROPST: I believe this may be more appropriate for Mr. Gravlee. The next witness is Dr. Van Wagner?

THE COURT: Yes, sir.

MR. PROPST: We want to proffer some testimony beforehand.

THE COURT: Y'all, why did we take an hour and a half for lunch. I asked you if there was anything we need to put on the record and you said no. And now, the jury's back at 1:30 and you want to do a proffer. That's why I set that time aside.

MR. GRAVLEE: I thought we said that we were going to proffer when we were before you, Your Honor.

THE COURT: You said that and then I said do you need to put anything else on the record before we break for lunch and y'all said no. That's why we took that time, gentlemen. That's why I set that time apart. The jury's here now.

MR. GRAVLEE: I thought you meant like anything outside of Ms. Van Wagner.

THE COURT: No, sir. Do you need to proffer some testimony?

MR. GRAVLEE: Your Honor, I respectfully request that we do. I'll be as brief as I possibly can.

THE COURT: Bring her forward, then.

MS. HODGE: We need a clarification and why we're proffering and what we're proffering for? I mean, do you want us to do her entire testimony? I don't understand what the objection is -- the basis of the proffer is for.

MR. GRAVLEE: Your Honor, we would ask that she proffer testimony to determine her qualifications, whether her testimony is going to be reliable. I understand that they're going to try to admit her as an expert in some capacity and we'd like to challenge that.

THE COURT: All right. Do you want to challenge her in camera or do you want to do it to the jury? I mean, you'll have the opportunity to voir dire her before she's accepted as an expert witness if she is.

MR. GRAVLEE: Right.

THE COURT: So, the process would be -- I mean, you can proffer if you want to, but you'll also have

the opportunity -- after they've asked her all of her questions and qualification, then you'll have the opportunity before any substantive testimony is elicited on the record of conducting a voir dire and challenge her qualifications in front of the jury if you want to. That's your right to do that. So, we can we can do -- we can proffer it into the record if you want to, it's entirely up to you. The only thing I'm trying to get at is I prefer not to do it twice. Okay.

MR. GRAVLEE: Your Honor --

THE COURT: If you need to, then we'll do it twice.

MR. GRAVLEE: Well, certainly, the voir dire that I would be conducting in a proffer would not be as extensive as it would be before the jury. I think I can be fairly brief here, Your Honor.

THE COURT: Okay, good. So, we're just discussing qualifications and the scope of her expertise, if any?

MR. GRAVLEE: Yes, sir.

THE COURT: All right, good enough.

All right, if you would call her to the stand limited to that issue.

MS. KLUSKA: Your Honor, the State calls Erica

Van Wagner.

THE CLERK: Place your left hand on the Bible and raise your right hand.

ERICA VAN WAGNER, after being duly sworn, testified as follows:

THE CLERK: Thank you. Please state your full name for the record.

THE WITNESS: Erica Van Wagner.

DIRECT EXAMINATION

BY MS. KLUSKA:

Q Ms. Van Wagner, what is your occupation?

A I'm a mental health therapist at Greenville Mental Health Center.

Q What is your practice focus on?

A I supervise our DSS program, so I work primarily with kids that are involved with the Department of Social Services, or that have some history to trauma.

Q What type of educational background do you have to do that type of work?

A I have a Bachelor's Degree in social work as well as a Master's Degree in social work.

Q Are you licensed?

A I am licensed. I am a licensed independent social worker with clinical practice focus.

Q What is your employment experience?

A I've worked for the Department of Mental Health since 2000. I've worked at Greenville Mental Health for ten years.

Q You said that you've been working since 2000, is that how long you've been treating children who have been sexually abused?

A That's correct. I worked at Columbia Mental Health Center for eight years before transferring.

Q Okay. Approximately how many clients have you counseled during that time?

A You know, upwards of 4,000 children in the career.

Q Do you have the occasion to consult with other professionals in your field related to child sexual abuse dynamics and their treatment?

A I do. I participate in a weekly treatment team staffing with the psychiatrists as well as a team of other clinicians to staff cases or address complicated issues in cases. I participate as a member of the multidisciplinary team. We meet with people from other disciplines to address cases. And I often consult with other peers in the field.

Q And do you attend training seminars in your field?

A I do. As a requirement of my license, I'm

required to get continuing education credits, so I typically chose workshops or trainings or conferences that are related to the services that I provide.

Q Do you have to obtain -- do you obtain -- what is the preferred method of treatment for children who have been sexually abused?

A I use TF-CBT, or Trauma Focused Cognitive Behavioral Therapy.

Q Is that commonly used for children who have been sexually abused?

A It is. It's an evidence-based treatment, which just means that it's empirically supported as an effective treatment for kids who've experienced trauma.

Q What does empirically supported mean?

A That means that it's been researched and has studies that are done to show its ethical.

Q Okay. Have you been trained in that type of therapy?

A I have been trained in TF-CBT. I'm on a state roster of clinicians that are. I went through a consultation process where we had to engage in a certain number of consultation calls and demonstrate that we were able to provide that service.

Q Are there any articles, journals or case studies you review to keep you abreast of issues related to child

sexual abuse or sexual abuse dynamics?

A I do. I read the child welfare review. I use the APSAP journals as references for the work that I do.

Q Has any of your work been peer reviewed?

A No.

Q Have you ever been qualified as an expert in court and the treatment of children who have been sexually abused or child sex abuse dynamics?

A I have been.

Q How many times would you say?

A Approximately seven times.

MS. KLUSKA: Your Honor, at this point, I would move to qualify Ms. Van Wagner as an expert in the treatment of children with trauma, including but not limited to sex abuse and then child sex abuse dynamics.

THE COURT: Now, when you offer her testimony, do you intend for her to testify regarding that phenomenon generally without reference to this specific victim?

MS. KLUSKA: Your Honor, she will testify that she did treat Minor however, I intend to keep that part of her testimony very brief. She's not going to go through Minor symptoms or her diagnosis. She is merely going to say that she talked to Minor

that she counseled her. She was seeing her for sexual abuse disclosures, she had a treatment plan for her, and then, the time and place of her disclosure.

THE COURT: Okay. Is it relevant to your case to introduce all of those additional -- that additional information regarding the treatment plan and all of those materials? What I want to do is distance her as much as possible from this actual case if she's going to talk about the phenomenon in general. Because what we're trying to do, and you know, we're trying to avoid as much as possible any situation where there is appearance of vouching.

MS. KLUSKA: Right. Yes, Your Honor. The treatment plan is not totally necessary for us to get into; however, she is an important piece of the factual puzzle because Minor did make a disclosure to her. So, that's why I just wanted to establish that Minor was being treated by her and the time and place disclosure that we've already heard.

THE COURT: So, you can limit it to those two questions, right? If that's all you want to get out.

MS. KLUSKA: Your Honor, just as long as we can establish that Minor was seeing her as a patient, that she was being treated by her and then those

questions about the disclosure.

THE COURT: Okay. All right.

Questions in voir dire?

MR. GRAVLEE: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. GRAVLEE:

Q So, Ms. Van Wagner, you've testified, you're saying, seven times in General Sessions?

A And the Family Court, yes, sir.

Q In Family Court. Okay. So, seven combined or with Family Court and General Sessions?

A Combined, yes.

Q How many times just in General Sessions?

A I think it's been five times in General Sessions court.

Q Okay. And each one of those times, has your client been the alleged victim in the case?

A There was one occasion where I testified as a blind expert.

Q Okay. All right. You're aware of the ethical code with Association of Social Workers, National Association of Social Workers?

A Yes.

Q Okay.

A The code of ethnics?

Q Yes, ma'am.
A Yes.
Q And that it generally discourages social workers from acting in a dual relationship, correct?
A Correct.
Q Okay. One is, you know, a forensic interviewer and one is the treating counselor?
A I'm not a forensic interview.
Q Right. Well, are you specially trained to talk to children when there's a suspicion of abuse or neglect?
A I talk with children as a therapist, yes.
Q All right. And -- but in this case when you began talking with [redacted], you gave the investigator a call in this case, correct?
A I did give the investigator -- as a mandated reporter, I'm mandated by law to report crimes when they're report to me.
Q Sure. And you gave him an opinion that she was ready to disclose.
A I give him the report of disclosure, yes.
Q And you said that she was ready to give a forensic interview, a formal one?
A Yes.
Q Okay.
MR. GRAVLEE: No further questions.

THE COURT: All right. Argument about qualifications?

MR. GRAVLEE: Yes, sir, Your Honor. I think you were going there with your questioning of the State here that they're trying to blend a treating and a blind expert here to try to kind of circumvent what Croma said with regard to forensic interview. Croma defines a forensic interview as somebody who is specially trained to speak to children about child abuse. And that's what she is. Whether she's titled as a forensic interview at the Julie Valentine Center or elsewhere I think is irrelevant, but for the purpose that, you know, she undertakes these counseling sessions knowing full well that she's likely or could be testifying in General Sessions about the allegations that may be disclosed to her.

So, I think it's hard to get into her testimony without it implicitly vouching for victim in this case. She can't be -- you know, she can't be blind, but also at the same time having a sincere interest. No doubt that she does have a sincere interest about this child and the child's treatment. I don't think we're denying that she in counseling sessions hear from her family life. But I think having her testify in this kind of dual capacity, you know, violates

Croma and the progeny related to that. So, we would object to her testimony in total.

I think that because she is, you know, eliciting information that is going to be used and will be used today in trial, that -- I think that the reliability of her testimony is suspect. When we talk about whether an expert's testimony is admissible, you know, we talk about State v. White and Watson v. Ford Motor Company, the three-prong test. Really, it's two because it's reliability of subject matter and expert qualifications.

And I think I think here, her testimony is going to be conflicted. And whether it does or doesn't violate any kind of code of ethnics, I'm not an expert in that field, but it's certainly questionable. And I think they're just -- the State is trying to circumvent Croma by dovetailing her as both a treating and treating blind expert. You know, because either she's going to be testifying and say that she doesn't believe the child that she treated, which would be -- I think that would be ethically improper to continue treatment when you don't think there's an issue, or she does genuinely believe the child and she can't provide objective and unbiased testimony here today.

THE COURT: Okay. I think that's a valid concern.

Ms. Kluska, do you know of any cases which suggest that an expert witness of this sort could be what's been characterized as a blended expert, that is a blind expert talking about the phenomenon of delayed reporting and serve as a fact witness at the same time?

MS. KLUSKA: Your Honor, the issue in Croma and its progeny is that the court is worried about blind experts vouching, as you said. In this case, you heard the questions that we intend to ask. We don't ever intend to ask her a question that would elicit an answer that she would be vouching for Minor Like I said, she is part of the factual puzzle, so it is important that we get out that she was treating Minor and made a disclosure to her. However, we don't intend to offer any testimony that she is vouching for Minor or that she believes Minor or that Minor is telling the truth.

Your Honor, there are behaviors within child abuse sex dynamics that are important for the jury to understand just because it's out of the purview of what they would normally hear or have any reason to know. So, the case law is clear that sexual abuse

expert testimony should be admitted because it does help the jury understand those things.

THE COURT: I agree. I agree. I don't have any problem with blind experts. I think it's entirely appropriate, I think the law supports that. I just want to make sure -- and I think we're really close. The issue is once she says yeah, I treated her and she made a disclosure to me, after having offered that this type of delayed reporting or reporting in different settings is routine and it's not anything that's unusual, is there an inference there that she believes what she says and that the -- that the delayed reporting was altogether reasonable or appropriate for someone of her age?

You know, what I'd rather you do -- I tell you what I'd rather you do, just pick, do you want her as a blind witness or a fact witness. I think that's the safest way for you to proceed on the record. You have testimony of time and place. I know you have, at least, two witnesses who have testified that she told them time and place. I think maybe three now. Plus, the videos. And you have evidence of reporting. The question is, do you need another fact witness? That's entirely up to you. Or would you rather play it safe and just have a blind witness?

Which you know is entirely appropriate.

MS. KLUSKA: We would rather have her testify as to the child sex abuse dynamics, Your Honor. However, I will just say that in other parts of the trial, it was made clear through Investigator Robertson and I believe Minor and maybe even Minor grandma that she was involved in a disclosure process.

THE COURT: I understand.

MR. PROPST: So, it wouldn't be new information to the jury.

THE COURT: I understand. I'm going to limit you to using her as a blind witness, okay, and not talking about her personal counseling and provision of services to this specific victim in this case.

MS. KLUSKA: Okay. Thank you, Your Honor.

THE COURT: Okay. All right.

MR. GRAVLEE: Your Honor, just -- I understand your ruling, I just want to make it clear on the record that we would object here in line of what you were just saying about they're aware that she was a treating counselor here. And I think by testifying as a blind expert here, necessarily saying these are the things that I observed in her or observed in general. But she's not treating her unless she

actually believes that something is going on. So, I don't think that you can have -- you know, separate those in a vacuum and, certainly, have her testify as a human that cares about this child without, you know, having some of that tied in together.

THE COURT: Okay. I understand that. You're protected on the record in that regard. I'm limiting her testimony because of that very same concern. I'm not going to let her testify as to this specific victim or any of her interactions with this specific victim for that very reason.

MR. GRAVLEE: Thank you, Your Honor.

THE COURT: Yes, sir.

Okay. Bring the jury in, please.

(WHEREUPON, the jury came into open court at approximately 3:01 p.m.)

THE COURT: All right, ladies and gentlemen, welcome back. I hope you had a good lunch. I'm sorry that we're starting a little bit late, I apologize for that. We had a few matters of law that came up that we just had to resolve before we came back with the introduction of testimony.

So, having said that, Ms. Kluska, you may call your next witness to the stand. I realize she's already on the stand.

MS. KLUSKA: Yes, sir, Your Honor. The State calls Erica Van Wagner.

THE WITNESS: Ms. Van Wagner, please raise your right hand.

ERICA VAN WAGNER, after being duly sworn, testified as follows:

THE CLERK: Thank you. Please state your full name for the record.

THE WITNESS: Erica Van Wagner.

DIRECT EXAMINATION

BY MS. KLUSKA:

Q Ms. Van Wagner, what is your occupation?

A I'm a mental health therapist.

Q What is your practice focus on as a mental health therapist?

A I specialize in treating victims of trauma.

Q What type of educational background do you have for that?

A I have a Bachelor's Degree in social work as well as a Master's Degree in social work.

Q Are you licensed?

A I am. I am a licensed independent social worker with clinical practice focus.

Q What is your employment experience?

A I've worked for the State Department of Mental

Health since 2000. I worked at the Columbia Area Mental Health Center from 2000 to 2007, and then transferred to Greenville Mental Health Center.

Q How long have you been treating children who have been sexually abused?

A For a little over 18 years.

Q And in those 18 years, approximately how many clients have you counseled in your career?

A Somewhere upwards, you know, between 3,500, 4,000 clients.

Q Do you consult with other professionals in your field related to child sexual abuse dynamics and treatment?

A I do. I participate in a weekly treatment team staffing at work with the psychiatrists as well as a variety of other clinicians. And I participate in a multidisciplinary team staffing with people from other disciplines as well as a interagency team staffing through the Department of Social Services.

Q Do you attend trainings or seminars?

A I do. I am required by my license to get, at least, 40 hours of continuing education credits every two years. I typically exceed that number.

Q And those continuing education credits, are they normally related to the treatment of children who have

been sexually abused?

A They are. Since that's my primary focus of treatment, then I typically get my continuing education credits in that area.

Q What is the preferred method of treatment for children who have been sexually abused?

A I utilize a treatment called Trauma Focused Cognitive Behavioral Therapy, or TF-CBT for short, which is an evidence-based treatment.

Q And is that -- TF-CBT, is that a common treatment within the field?

A It is common, yes.

Q Have you been trained in TF-CBT?

A Yes, ma'am, I was trained in TF-CBT and went through a rostering process, which included the completion of cases with supervision as well as consultation calls to ensure that I was using fidelity to the model.

Q Are there articles, journals or case studies you review to keep you abreast of child sexual abuse or sexual abuse dynamics?

A Yes, ma'am. I review the child welfare review. I look at the APSAP journal, which are journal articles that -- or journals that have articles related to child abuse and neglect.

Q Have you ever been qualified as an expert in

court?

A I have been.

Q In the treatment of children who have been sexually abused and/or child sex abuse dynamics?

A Correct, yes.

Q How many times have you been qualified as a expert?

A Seven times.

MS. KLUSKA: Your Honor, at this time, the State moves to enter Ms. Van Wagner as an expert in the treatment of children with trauma, including but not limited to sex abuse and child sex abuse dynamics.

THE COURT: Okay. All right. Any exceptions to her qualifications?

MR. GRAVLEE: Our objection earlier, Your Honor.

THE COURT: Okay. All right. I will accept this witness as a expert witness.

Ladies and gentlemen, I'll restate to you very quickly, someone may offer someone as an expert witness because of their expertise, education or experience in a given filed. You accept an expert witness' testimony just like any other person's piece of -- any other person's testimony or any other piece of evidence that you receive in the case. That is you don't give it any preferential treatment or

preferred value or weight. You view it in the same light and in the same way as you view any other piece of evidence. That is, you decide whether it is credible and you decide what weight it may have. Again, an expert witness is offered because an expert can offer opinion testimony into the record that a layperson cannot otherwise offer.

So, with that being said, Mr. Kluska, you may proceed.

MS. KLUSKA: Thank you, Your Honor.

BY MS. KLUSKA:

Q Ms. Van Wagner, through your work, are you familiar with the dynamics of children who have been sexually abused?

A Yes, ma'am.

Q Is it common for the abuser to be a person who is known and trusted by the child?

A Yes, ma'am, it's way more common for a child to be sexually abused by someone that they know or that they're familiar with as opposed to that happening by a stranger.

Q Why is that?

A When someone knows the person, that gives them access to the victim. There's a certain amount of trust that has to be established in order to carry out an act of

sexual abuse. So, familiarity with the victim gives that person the access as well as kind of breaking down any defenses that they are able to carry out.

Q Are you familiar with the term grooming?

A Yes, ma'am.

Q What is grooming?

A Grooming is the process -- in the context of child sexual abuse, it's the process that a perpetrator would use to lower the inhibitions of the victim and to establish that trust to kind of decrease their defense mechanisms, but to kind of prepare them for the abuse that is to take place.

Q How would an abuser prepare a victim?

A There's a variety of ways they can do that. Sometimes, it's buying them gifts or, again, just kind of doing nice things, establishing that trust. At times, it may be that they do maybe kind of tickle or, you know, touch them in a way that isn't sexual necessarily in nature, but that is just getting that child more comfortable with behavior that may begin to take place.

Q How would grooming play a role in a family dynamic where there's abuse going on?

A It also is about establishing trust with the, what I call the non-offending caregiver or the caregiver that's providing care that's not doing the abuse. So, the

perpetrator has to have a trusting relationship or, you know, relationship with that caregiver in order to gain access to the child. So, there's things that they do, the perpetrators to be able to get that access with the child.

Q Okay. I'm going to come back to the non-offending caregiver in a minute. First, I want to ask you about disclosure. We've heard that many, many times throughout the course of this trial. Can you define it for us?

A Disclosure is the process that a child or person goes through as they are telling about the abuse that took place.

Q Are there different types of disclosures that can be made?

A Yes, ma'am. There are different types.

Q What are they?

A Well, some people can just give a full disclosure after the crime takes place. Some people kind of give a tentative disclosure or they give a little bit of information to kind of see what the response might be. Sometimes people give what is called a piecemeal disclosure where they're giving different parts of the story maybe to different people. In a way, they're kind a testing the waters to see what that response is going to be to their disclosure.

Q So, they test the waters to gauge how other people react?

A Correct.

Q To their story; is that right?

A Correct.

Q In your experience, what are the steps to a disclosure?

A Well, there are five kind of known stages of disclosure. The initial stage is denial or, you know, not reporting any sort of abuse. Then there is the tentative disclosure, which is, you know, kind of what I was just talking about where they give a little bit of information or, you know, tell just a small part of it to see kind of what the reaction might be. Then people move into the active stage of disclosure, where they're giving the full story, they're telling all of the information. Also, some of the normal process could involve recantation or going back on the story. Then the final step would be reaffirmation or going back and reaffirming the initial disclosure.

Q Are there children who are sexually abused who never disclose?

A Yes.

Q Is that common in your field?

A Well, to know -- if no one tells, right, it's

hard to know if that happened, but there are a variety of, you know, amounts of time that it takes for someone to disclose. In my experience, it's not common that a child reports right away. But sometimes, the delay may be a couple of weeks, it may be a couple of months. I've had the experience where a client disclosed when she was 86 years old. So, her disclosure was delayed by some 76 years.

Q Why do kids delay disclosing?

A Often -- well, again, there could be a variety of reasons that they may delay. Maybe they don't have information or they don't know this is something that needs to be disclosed. Or potentially, they have fears about the impact of their disclosure. Because a kid discloses sexual abuse, particularly by someone that is either a caregiver or someone that the non-offending caregiver is a paramour to, then it could impact the family negatively. There could be the belief of going into foster care or their family being separated or just what impact that disclosure information coming out will have on the family.

Q Can you define non-offending caregiver for us?

A So, the non-offending caregiver is a caretaker or caregiver for the child that is not the one that is offending or abusing the child.

Q What about a -- or could threats or other types of physical abuse, how do those things impact a child's willingness to disclose?

A If there has been any sort of physical abuse or -- and that's often something that does occur, is a threat that's been made that will impact whether or not someone makes that disclosure. So, if someone has threatened and said, you know, if you tell anybody, then I might hurt you. Particularly if there's already been physical abuse that has occurred, then that increases that child's fear surrounding that threat. It makes it seem more believable. Even if they been exposed to, say, domestic violence and that physical abuse didn't necessarily happen to them, but they've seen the potential for violence or aggression with the perpetrator, then it still impacts that fear level that they would have.

Q Is just the disclosure of sexual abuse alone traumatic?

A It can be a very difficult thing for a child, yes, ma'am.

Q Why is that?

A Because of the impact that it has on families and the child themselves. Oftentimes, it's an emotional experience, it's something that carries a lot of weight in the family. And so, just the experience of sharing

details of that experience that they've never shared is a hard thing to do.

Q If the perpetrator of the sexual abuse is a family member, would that effect the child's willingness to disclose?

A That -- yes, that decreases the likelihood of the child disclosing. The closer relationship the child has with the perpetrator, the greater the impact it has when the child makes the disclosure.

Q Based on your experiences, what factors normally encourage a child to disclose and reveal sexual abuse by a family member?

A A supportive environment. So, if they are in an environment where they feel like they're going to be believed, they're going to be supported, they're protected, those are things that positively impact whether or not someone is able to make that disclosure.

Q I want to go back to a couple reasons why you said kids don't disclose. How do -- so we talked about other people in the family, but the child themselves, how do their feelings of guilt or shame or anything like that play into their disclosure?

A Well, that's a common emotion that people feel when they experience sexual abuse. And if there is even a lack of information about responsibility and there is a

feeling of guilt or shame or responsibility, then telling that story highlights that event in their life. So, the concern about being blamed or feeling like maybe it was their fault, all those things contribute to whether or not they feel comfortable letting someone else know that that thing happened.

Q You mentioned responsibility. Would a situation be like their responsible for the family breaking down, or can you explain that a little bit more?

A I think there's perceived responsibility. So, obviously, it wouldn't be a child's responsibility to, say, keep the family together, but there's this perception that if I say these things and the family splits up, then it would be all my fault, for example. And that's a fear that impacts whether or not someone would share that information.

Q I think before, you mentioned piecemeal disclosure. Can you define that again for us?

A It's, basically, where, you know, you give kind of parts of the disclosure, parts of the story at different times. And so, oftentimes, you know, children don't necessarily tell a story in a chronological way in the same way that an adult might. So, it's giving pieces of that story in different -- maybe this part of the story is told to one person and this part of the story is told

to someone else.

Q Are piecemeal disclosures common?

A They are, yes.

Q How common is it in abuse that spans a long timeframe for a sexually abused child not to recall every detail of every incident of abuse?

A Oh, it would be incredibly difficult to remember, as you said, every detail of every experience. Particularly, the way that trauma, you know, effects memory. One of the classic symptoms of posttraumatic stress disorder is maybe not remembering an important part of an event that happened. And so, it is common for people to piecemeal their disclosure in that way.

Q You talked before about non-offending caregiver. What are some typical responses of non-offending caregivers that you see in your field?

A Well, in an ideal situation, a non-offending caregiver would be supportive and would believe and offer support and provide services, you know, but, unfortunately, sometimes non-offending caregivers are not supportive and they don't believe and they discredit or undermine that disclosure that took place.

Q How common is it for a non-offending caregiver to stay with the person who is sexually abusing their child?

A It definitely happens. You know, it's -- when the non-offending caregiver is not believing or is not supportive, they do often stay with the perpetrator.

Q Is sexual abuse a type of trauma?

A It is a type of trauma, yes.

Q Can you define trauma for us?

A So, trauma is an event that happens where you perceive that your life is at risk or someone that your close to, that their life is at risk. And sexual abuse, kind of, is an exception where we know it might not be a life-threatening event, but the perception as you're experiencing it, it impacts you in the same way that a life-threatening event would. So, it is a traumatic event.

Q What about threats made by the perpetrator, would that be an example of trauma?

A Yes, ma'am.

Q What is a trauma checklist?

A A --

Q Is a trauma checklist something that you use in your field?

A I use a standardized trauma screen, which is a standardized list of questions about experiences that children have. And then there is a symptom checklist that goes along with that. So, if a child has experienced any

of the potential traumas that are identified, then we do the symptom checklist to explore any symptoms that are related to that particular trauma.

Q In your experience, does every child of sexual abuse have the same trauma symptoms?

A They do not all have the same symptom.

Q What are some of the types of symptoms that you see in children who have been sexually abused?

A So, some of the symptoms would be fear or sadness. It impacts someone on an emotional level. There's alterations in mood. There can be what we call reexperience symptoms, which would be things like flashbacks, where, you know, pictures or images pop into your head. There can be intrusive thoughts, which is, you know, again, just kind of thoughts that intrude when you're trying not to think about it. There are avoidance symptoms, so trying not to think about it, trying not to remember, not being able to remember an important aspect of what happened. But -- and then what we call hyperarousal symptoms, irritability, anger, anger outbursts, trouble sleeping, maybe sleeping too much.

Q If these symptom are present, is it common for you to see children, I guess, having outward manifestations of those symptoms in an unhealthy way?

A Yes. So, we talk about internalizing symptoms,

and those might be depression or anxiety or a negative beliefs in thinking. They're problems that people experience on the inside. But then there's also this externalized things like talking back or being disrespectful, walking out of class, more behavioral things that are kind of observable. So, typically, if someone is experiencing negative or alterations in their mood, then it impacts their behavior as well.

Q We've talked about a lot of negative ways that people can -- people cope with sexual abuse, but what are some positive things that people can do to cope?

A Well, as a therapist, one of the things that we first start off with is, you know, some relaxation strategies or copping strategies that help them to manage the emotions that they feel. And then as part of effective treatment, there is kind of reprocessing the memory or the trauma, going back and kind of rethinking and retalking about it to kind of maybe change the way that they see that.

Q Do you find that revisiting the memories can be helpful?

A It is a challenging experience, but at the end of the process, it is very effective, yes.

MS. KLUSKA: Thank you, Your Honor. Nothing further at this time.

THE COURT: Cross-examination?

MR. GRAVLEE: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. GRAVLEE:

Q So, Ms. Van Wagner, you were just talking about trauma, correct?

A Yes.

Q And you say that's an event that happens when your life or maybe somebody else's is in danger, correct?

A Correct.

Q Or in chaos, have a chaotic life?

A That's very stressful, yes.

Q You know, unstable living environment?

A That would be stressful, yes.

Q Sure. Moving schools multiple times as a young child?

A There's a difference between events that are stressful and events that are considered to be traumatic. Trauma events hold that when your life was threatened or someone else's life was threatened.

Q Sure. So, physical abuse, witnessing that?

A Correct.

Q Experiencing that?

A Correct.

Q How about if a family member were to take their

own life, anything like that?

A That would be an example, yes.

Q Sure. Maybe if a -- if you have a mother and father who are -- who are separated?

A That would be more stressful. Car accidents, falls, fires, house fires, natural disasters. There's a variety of examples.

Q And experiencing -- it could be traumatic to have a family member that's experiencing addiction issues?

A That would also be very stressful, yes.

Q That takes over their life. They're more -- if they witness a parent that, you know, cares more about their addiction than them?

A Again, those are things that would definitely be stressful and would not be easy to deal with, but traumatic events are different than stressful events.

Q Okay. So -- but not necessarily if something stressful can also be traumatic?

A Traumatic things can be stressful, yes.

Q Sure. Okay. And you talk about -- you talked about symptoms, though. You said fear is a symptom?

A Correct.

Q And sadness, effecting and mood, flashbacks?

A Correct.

Q Intrusive thoughts?

A A symptom of Posttraumatic Stress Disorder.

Q Sure. Those symptom can also come from stressful events, can they not, if we're trying to draw a distinction here?

A Yes, you can have sadness from stressful events, correct.

Q Okay. So, you talked about delayed disclosure. You said it's not common to report right away?

A Correct.

Q Okay. It's common to report a couple weeks later?

A Yes.

Q Or two years later?

A Correct.

Q So, 76 years later?

A At times, yes.

Q Now, if you were to see a particular child and you were informed -- you're a professional therapist?

A I am, yes.

Q When you're treating a child, you want to learn as much about that child as possible, correct?

A Correct.

Q So, you want school records, medical records?

A There are times where I ask for records, yes.

Q Right. And you want to figure out family

history?

A Yes.

Q Or their living situation?

A I start off services with a comprehensive mental health assessment, which includes gathering information about all of those domains, yes.

Q Right. Because you want to be informed about as much as you can before you begin your counseling sessions?

A Yes, sir.

Q With that child. Okay. Are you aware of ACE's scores?

A Yes.

Q And those are adverse child experiences?

A Yes.

Q And the higher those scores, the more likely it is for that child to be at risk?

A Correct.

Q Okay. Just in life in general, not necessarily sexual abuse, correct?

A Correct.

Q Okay. And some of those questions, you know, you live with anyone who's depressed, mentally ill or suicidal?

A That is one of the questions, yes.

Q Another one is did you live with anyone who's a

problem drinker or alcoholic?

A Right.

Q Okay. Or live with anyone who used illegal street drugs or abused prescription medication?

A Right, there are 10 different ACEs that are identified, five of which are related to household dysfunction, five of which are related to abuse or neglect.

Q Right. So, another one of those related to household, you ever lived with anyone who's been in jail or prison?

A Right.

Q Another question that's important is are your parents separated or divorced?

A That is one of those questions, yes.

Q And so, things like that would be important when analyzing a particular client's situation?

A They are important. And as per that study, what they found was that there's higher correlation when there's one type of adverse childhood event that is occurring, there are often more of those adverse childhood events that are being experienced at the same time.

Q Right.

A That if you're experiencing one of adverse childhood events, you're way more likely to be

experiencing more.

Q Right. The higher your score there, you would agree that you're going to have a more stressful and possibly traumatic home life?

A The more of those adverse childhood experiences, the higher the risk is for medical problems, social problems and other sort of impacts in life, yes.

Q Correct. Okay.

MR. GRAVLEE: Beg the Court's indulgence for just a minute.

THE COURT: Yes, sir.

MR. GRAVLEE: No further questions, Your Honor. Thank you, Ms. Van Wagner.

THE COURT: Any redirect?

MS. KLUSKA: No, Your Honor.

THE COURT: Okay. Thank you, ma'am, I appreciate you being here.

MS. KLUSKA: May she be excused, Your Honor?

THE COURT: Yes, ma'am.

Okay. Anything further from the State?

MS. KLUSKA: At this time, Your Honor, we ask that we publish the forensic interviews that were entered through Amber Hiott.

THE COURT: Any objection or exception to that manner of proceeding?

MR. PROPST: No, sir, Judge.

THE COURT: Okay. All right. Well, let us do so then.

So, ladies and gentlemen, what we'll do -- I think they're both about an hour. The time will be on the video screen when it starts. So, we'll watch one, take a break, then watch another, okay.

MS. KLUSKA: And I just want to clarify, Your Honor, that these videos are admitted into evidence at this time.

THE COURT: I believe they are.

Are they, Ms. Herron?

COURT REPORTER: Yes, sir.

THE COURT: Okay, they are.

Y'all want to take a break before? Okay. It will take them a second to set it up, so y'all queue it up and y'all take a break while we're doing that, okay? Thank you.

(WHEREUPON, the jury left open court at approximately 3:27 p.m.)

THE COURT: Okay, y'all think y'all about got it? Just run a test and y'all let me know when you're ready. When y'all are ready, I'll make sure that the jury has taken care of their business and we'll come back in. Okay. We'll be in recess until

then.

(WHEREUPON, a short break was taken.)

THE COURT: All right, Ms. Kluska, you got it teed up and ready to go?

MS. KLUSKA: We got it.

THE COURT: You sure?

Okay, bring them in.

(WHEREUPON, the jury came into open court at approximately 3:39 p.m.)

THE COURT: Okay. All right. Ms. Kluska, you can queue it up, ma'am.

(WHEREUPON, State's Exhibit No. 1 was published.)

(WHEREUPON, State's Exhibit No. 2 was published.)

THE COURT: Okay, anything further from the State?

MS. KLUSKA: No, Your Honor. At this time, the State rests.

THE COURT: All right, ladies and gentlemen, we're going to take a break now. While we're on break, I'm going to give y'all some homework, okay. Somebody needs to serve as foreperson of the jury. And I want you to elect a foreperson among the main 12 jurors.

prove their case in point where a jury should decided. We'd respectfully ask for a directed verdict.

THE COURT: Okay. All right. I respectfully deny the same. I don't take any position to the sufficiency of the weight of any of the evidence. I only look at the evidence in the light most favorable to the non-moving party to determine whether it exist and whether based on the evidence that's been presented, this jury could meet -- or could find that the State has met its burden of proof. And under the requisite standard, I'll respectfully deny the motion for directed verdict.

Okay, anything else?

MR. GRAVLEE: Your Honor, I have something real brief, I just wanted to make sure that we renewed all our prior objections. I understand your ruling so far. And just with regard to the testimony earlier, it was the one expert and we appreciate the limitation there to try not to blend those roles, but I'm not sure that it is the appropriate remedy in light of the jury already hearing that she was a treating physician.

THE COURT: I appreciate your position.

MR. GRAVLEE: I don't know that that can be

considered in a vacuum, so I just wanted to renew that objection that we objected to her testimony in full.

THE COURT: Sure. You're protected on the record. I appreciate your position. The prior ruling stands.

Okay. Does the Defense intend to offer any evidence into the record?

MR. PROPST: Yes, sir, we intend to call Mr. Garland. We've also, pursuant to your allowance, served a subpoena on one of the treating therapists. And right before we started the videos, we were in the process of having another one served. So, we'd like to be able to do those -- if we do those, do those tomorrow.

THE COURT: Sure.

MR. PROPST: Those witnesses. And I don't know how long Mr. Garland's testimony would take. I don't know if you want more cohesiveness by doing it in the morning, but to answer your question, yes.

THE COURT: Okay. All right. Good enough.

So, Mr. Garland, if you would stand up and raise your right hand.

SHANNON GARLAND, after being duly sworn, testified as follows:

said that ladies and gentlemen, I will turn it over to the Defense.

You may call your first witness.

MR. PROPST: Judge, we call Shannon Garland to the witness stand.

THE CLERK: Mr. Garland, please, place your left hand on the Bible and raise your right hand.

SHANNON GARLAND, after being duly sworn, testified as follows:

THE CLERK: Please be seated. State your full name for the record.

THE WITNESS: Shannon Earl Garland.

DIRECT EXAMINATION

BY MR. PROPST:

Q Mr. Garland, have you ever sexually assaulted Minor [redacted] in any way, shape or form?

A No, sir.

Q How old are you?

A Forty-six.

Q And what have you done for a living?

A I do construction.

Q Now, there's no real easy way to broach the topic. I know we already have, but you haven't been living the perfect life?

A No, sir.

Q Have you been in trouble with the law?
A Many times.
Q What kind of crimes have you been convicted of?
A Theft, driving, malicious damage to property.
Q Okay. As a result of those convictions, did you ever go to prison?
A Yes, sir.
Q What was the most recent time?
A 2015 to 2016.
Q Would you agree December 21st of 2015 to about February 1st of '16?
A Yes, sir.
Q Okay. Let's talk about your family a little. How many children do you have?
A Three.
Q Three?
A I have one that's mine, but I have raised two that they say they're mine.
Q One biological child?
A One biological child.
Q How old is that child?
A Twenty-one, sir.
Q Son or daughter?
A Daughter.
Q How is your relationship with her?

A Great.
Q You see her often?
A Very often.
Q What about her mother?
A Her mother is dead.
Q So, you're the only parent left in her life?
A Yes, sir.
Q Now, you said you've got two other children?
A Yes, sir.
Q They're not biological?
A Yes, sir. One's in the courtroom.
Q Okay. And you help -- did you help raise them?
A From the time they were one and three.
Q Who are they?
A Harley Thomas and Amber Love Upton.
Q How often do you get in touch with them?
A I see my son, at least, three times a week.
Q They live nearby?
A Yes, sir.
Q How is your relationship with your son and daughter?
A They get along great.
Q And your relationship with them?
A We get along great.
Q Do you have any grandchildren?

A Yes, I have three.
Q How old are they?
A One's ten, one's three and one's three months old.
Q How often do you see those grandchildren?
A Every other weekend.
Q Okay. Of those people we just discussed, your son and two daughters and three grandchildren, have any of them ever accused you of anything like the crimes you're accused of today?
A No, sir.
Q Has anyone ever made an allegation of sexual abuse against you?
A No, sir.
Q All right. I want to talk about this case specifically for a little bit. Now, how long were you and Erin Caldwell together?
A A little over five years.
Q Are y'all still together today?
A No, sir.
Q While y'all were together, did Minor live with you?
A Yes, sir.
Q How long did she live with you?
A It was off and on thing.

Q Okay. Over the course of how many years, do you know?

A Three.

Q I know we've heard testimony, but where all did y'all live?

A We lived in a motel. We lived in -- we had our first trailer on Hunts Bridge Road and that was when we first got together. Then we moved from there to a friend of mine, Tammy and Rick's house. We lived there for almost a year. Then we moved into the trailer beside her mother's.

Q Erin's mother?

A Yes, sir. And then we moved to Edgemont. Then we moved into motels.

Q So, Edgemont, you lived at the Raines' house and Sylvia's house, right?

A We lived at the Raines' house, but they didn't live there at the time.

Q Then you lived at Sylvia's house?

A Yes, sir.

Q So, would you agree that during the course of your time with Erin, y'all lived in five, at least, five places, right?

A Yes, sir.

Q Now, let's talk about Sylvia's house. Who do

you remember living in the house with you, Minor and Erin?

A Well, it was Sylvia, her son, two sons, her daughter, her boyfriend stayed there some time. Her sister-in-law stayed in a room, some guy that drove a green truck, Mexican guy stayed in another room.

Q Okay. So, a number of people lived there?

A Yes, sir.

Q Where did y'all sleep, you and Erin?

A On separate couches.

Q In the living room?

A Yes, sir.

Q Where did Minor generally stay?

A In Sylvia's daughter's room most of the time.

Q If she didn't stay there, where did she stay?

A There was a love seat in the living room.

Q Okay. And why did you and Erin move out of Sylvia's house?

A We had an argument and she left while I was in the hospital.

Q Okay. What were you in the hospital for?

A Mental evaluation.

Q Okay. And where did Minor move from there?

A I don't know where they went. Like I said, my son came and signed me out of the hospital. And I didn't

know where they went.

Q Was that the end of your relationship with Erin?

A For a little over a year. Then my oldest daughter's mother died -- I mean, when my daughter's mother died, we started talking again.

Q And did Erin come back and live with you at that point?

A Yes, sir.

Q Where did y'all live then?

A In a motel.

Q Motel. Now, from the motel, you've heard about allegations from Mother's Day of 2016?

A Yes, sir.

Q When did you hear about those allegations?

A Her grandmother called her mother, I think it was on a Thursday.

Q You heard from Erin?

A Yeah, I heard from Erin, but her mom's the one that told her. They were at the school.

Q Do you remember that weekend specifically?

A Yes, sir, I do.

Q Let me back up. You said Thursday was the day you heard about the allegations?

A Thursday after the weekend.

Q So, the Thursday following Mother's Day?

A Yes, sir.

Q What do you remember from that weekend?

A I remember I was at work on Friday when her grandmother brought her to the motel.

Q Okay.

A And she stayed the whole weekend. We got up Sunday morning and walked to Bi-Lo to get her mother a Mother's Day gift, which was a flower and a card. We got back and she gave it to her mother, maybe an hour or so later, her mother wanted to go to the hospital.

Q On Sunday?

A Yes, sir.

Q Why did she want to go to the hospital?

A For pills, sir. She has a pill addiction, a 6,700-dollar a week pill addiction.

Q So on Sunday, that's when she wanted to go to the hospital?

A She went Saturday and Sunday.

Q Okay. So that weekend, did Minor say that she wanted to live with Erin?

A Yes, sir, she did. Her mother told her that we were in a motel and we wasn't financially set and that she couldn't stay there. So, a little while later, she said that she wanted to stay with her dad.

Q What was reaction to that?

A Erin told her to go ahead, the grass is not always greener on the other side.

Q Was Minor trying to get some sympathy from her mother by saying that?

A I think so, sir.

Q Did Erin try to talk Minor out of going to live with her dad?

A No, sir, she did not.

Q Did you negotiate with Erin to try to allow Minor to live with him?

A We were looking for a place. I had been working a job for probably about eight months, a great job. And we were talking about getting a place and I told her, you know, you need to talk to her and tell her we are getting a place, but there wasn't no discussion.

Q Okay. Now, after this first set of allegations stemming from the hotel room, you and Erin stayed together, right?

A Yes, sir.

Q When did y'all break up?

A It was the second arrest. I went to jail. She was -- we were in a motel. My boss man was paying our rent, but she was using the rent money -- she was going to pick up -- not paying the rent, she was going to buy pills. And when her and her friend got together, talking,

she got with her best friend's ex-husband.

Q Just to back you up, you said second arrest?

A Yes, sir.

Q Do you mean that the arrest due to the second set of allegations?

A Yes, sir.

Q Now, before y'all broke up, did y'all argue often?

A About money, yes, sir.

Q What else did y'all argue about?

A It was mainly about money and pills. I mean, if you didn't have her pill first thing in the morning, you didn't want to be around her.

Q What do you mean by pills?

A Lortabs, Norcos.

Q Okay. Were you aware of any mental health issues with Erin?

A I knew -- not mental health, I knew she had epilepsy.

Q Okay. I want to talk to you about your relationship with Minor How old was Minor when you first met her?

A She was six.

Q And how long after y'all met did she move in with you?

A It was probably six months or so.

Q And you and Erin were already living together?

A Yes, sir.

Q How was your relationship with Minor

A I love her as I love my son. Still do. I mean, once you bond with a child, as a father and son or a father and daughter, you don't ever lose that love no matter what they do. I mean, I mean, I love her just as much as I love my own daughter, my son that's sitting over there, my grandkids.

Q Now, initially, you told Investigator Robertson you thought Minor made these allegations up so she could go live with her dad?

A Yes, sir.

Q What did you mean by that?

A Minor has a lot of anger issues. And if she doesn't get her way, she throws temper tantrums and does things. And I believe that her dad's house was more stable than ours and she wanted to live there.

Q Okay. Now, is this the first time you've ever been accused of sexual assault?

A Yes, sir.

Q This is the only time you've ever been accused of sexual assault?

A Yes, sir.

Q Have you ever in any way, shape or form engaged in any inappropriate sexual conduct in front of Minor Watford?

A No, sir.

Q Have you ever in any way, shape or form sexually assaulted Minor

A No, sir.

MR. PROPST: Thank you. Answer any questions that the State would have.

CROSS-EXAMINATION

BY MS. KLUSKA:

Q Mr. Garland, you testified that this is not your first time in the criminal justice system, is it?

A No, ma'am, it's not.

Q And I know Mr. Propst asked you about that a little bit, but I just want to go through those one by one so the jury has a full picture of your criminal history. Just starting in 2010, you pled guilty to malicious damage to real property for the purpose of obtaining non-ferrous metals on March 29th of 2010, correct?

A Yes, ma'am.

Q You pled guilty to another count of malicious damage to real property for the purpose of obtaining non-ferrous metals, also, on March 29th of 2010; is that correct?

A Yes, ma'am.

Q You pled guilty to malicious damage to real property on March 29th, 2010?

A Yes, ma'am.

Q You pled guilty to malicious damage to real property March 29th, 2010; is that correct?

A Yes, ma'am.

Q That's another count. Okay. You pled guilty to grand larceny on November 29th, 2010; is that correct?

A Yes, ma'am.

Q You pled guilty to another count of grand larceny on November 29th, 2010; is that correct?

A Yes, ma'am.

Q This is another count of grand larceny that you pled guilty on November 29th of 2010; is that correct?

A Yes, ma'am.

Q Here's another grand larceny, but this one is for a value of $5,000 or more that you pled guilty to on November 29th of 2010; is that right?

A Yes, ma'am, I was a thief.

Q So, when you're a thief, you're dishonest, right?

A Not necessarily, ma'am.

Q You're an honest thief?

A I'm not saying I'm the greatest honesty, but as

far as being a thief or being this, no. You know, there's two different rules there.

Q Okay. Well, you have another malicious injury to real property on November 29th of 2010; is that correct?

A Yes, ma'am.

Q You have a burglary third degree on November 29th, 2010; is that correct?

A Yes, ma'am.

Q You have a grand larceny value $5,000 or more that you pled guilty on November 29th of 2010; is that correct?

A Yes, ma'am.

Q Okay. I think that's it. You mentioned to Mr. Propst that you had a mental evaluation done, what was that for?

A I have PTSD. When we were living in [redacted], when we got kicked out. As a kid, we moved around a lot. And I went to try to commit suicide because it was right around Christmastime. I had no Christmas for Minor [redacted]. And I had worked to pay the bills to move in there. When we got moved in there, the family got back together and they wanted the house back.

Q Okay. Well, you heard Sylvia's testimony, right?

A Yes, ma'am, I heard it. And I also had the water and the cable on at her house. And I do have the bills at home.

Q Okay. But you heard her testimony and she testified that you smoked in the house; is that right?

A Yes.

Q And that you were dirty; is that right?

A That's what I heard.

Q To her standards?

A Yes, ma'am.

Q You didn't keep the house like she would have wanted it kept?

A Right.

Q What are the symptoms of PTSD that you suffer from?

A I just -- everything plays over in my mind constantly.

Q I want to move on to the basis of this case. You said you dated Minor mom for five years?

A Little over five years.

Q And you lived together during that time?

A Yes, ma'am.

Q You lived multiple places?

A Yes, ma'am.

Q You lived in a trailer on Erin's mom's property,

right?

A Yes, ma'am.

Q And you were supposed to pay a hundred dollars a month?

A Yes, sir -- no, it was a hundred dollars a week. And I did pay it to Junior every week, except for there was a couple times I had to ask him for an extension. I worked at Bailey's Welding and Recycling at the time, which is best friends with Wilma's husband, which is also my cousin.

Q Whether it was a hundred dollars a week or a hundred dollars a month, you didn't pay it all the time; is that right?

A Right.

Q And you were supposed to pay utilities?

A Yes, ma'am.

Q But you don't pay that either?

A Yes, I paid most of it. I didn't pay it all the time, but yes, I did.

Q But you still got kicked out for not paying?

A I got kicked out because Wilma wanted to come -- walk into our home. She was renting us a home and she wanted to walk in any time she wanted to. She said that she had that right. And I had a problem with that, so they asked me to leave. It wasn't about the money.

Q Well, even so, you got kicked out, right?
A Yes, ma'am.
Q And when you got kicked out, Minor and Erin went with you?
A Yes, ma'am.
Q And Minor continued to live with you off and on, right?
A Yes, ma'am.
Q Sometimes she lived with you and sometimes she lived with her dad, right?
A No, she lived with her grandmother.
Q Okay. Well, I believe you testified with Mr. Propst that at one point, she told you she wanted to live with her dad?
A She did want to live with her dad.
Q Okay. And during the time that she lived with you, you played an active role in Minor s life, didn't you?
A Yes, ma'am.
Q You were a father figure to her?
A Yes, ma'am.
Q I think you even testified that you loved her like she was your own?
A Yes, ma'am, I did.
Q You babysat her?

A Yes, ma'am.
Q You babysat her when her mom wasn't there?
A Yes, ma'am.
Q When you two were completely alone together?
A Yes, ma'am.
Q And you admitted when you spoke to Investigator Robertson that you guys would color?
A Yes, ma'am.
Q You played with her?
A We played games, you know, wrestled around.
Q You wrestled?
A Yes, ma'am.
Q You're aware that she loves roller skating, right?
A Yes, ma'am, I grew up on roller skates, too.
Q Okay. You paid for her to go skating sometimes, right?
A We also bought her skates, too.
Q When would you pay for her to go skating?
A Every Friday.
Q When she did things for you?
A No, ma'am. When she made good grades, she got to go skating.
Q Let me ask you about some of the different places you lived with Erin and Minor [redacted]. At one point, you

live in a motel?

A Yes, ma'am.

Q You were living in a motel on Mother's Day?

A Yes, ma'am, but Minor was not living there.

Q But Minor came to visit you that day?

A She came to visit her mother, yes.

Q And Erin left you with her that day?

A Yes, ma'am.

Q She was gone for a couple hours, right?

A Yes, ma'am.

Q You told Investigator Robertson that you colored with her?

A Yes, ma'am.

Q You just colored the entire time for a couple of hours?

A And watched TV.

Q Another time -- or excuse me, another place you lived was [redacted] Avenue, right?

A Yes, ma'am.

Q Erin lived there with you?

A Yes, ma'am.

Q And Minor I did, too?

A Yes.

Q And Anthony Raines or Tony owned that house, right?

A Yes, ma'am.
Q When you walk into his house, there's a pool table?
A Yes, ma'am.
Q And there's a window right in front of the pool table?
A Yes, ma'am.
Q But you three got kicked out of that house, too, right?
A Yes, ma'am.
Q You didn't pay the rent there either?
A No, I paid the rent there, ma'am. Him and his wife had separated when we rented the place. They got back together and his wife lived in a small trailer. They wanted the house back. So, they got the power -- the power was in his name, he had the power turned off and then had his sister, who works for the housing authority, to come out and have us removed off the property instead of getting eviction papers. The judge at the -- on White Horse Road has all the paperwork where we filed for a suit for our money back.
Q Okay.
A It wasn't that I wasn't paying.
Q But either way, you got kicked out of there, too?

A Yes, ma'am.

Q And then you moved to [redacted], which is Sylvia's house, right?

A Yes, ma'am.

Q We already talked about why you got kicked out of Sylvia's house, but I just want to go over her property. So, she has a building at the back of property, right?

A Yes, ma'am.

Q It's used for storage?

A It's used for a trash bin.

Q There's tools in there?

A There's a lot of trash in there, too.

Q But you just said there are tools in there?

A Yes, there's a few tools maybe.

Q If you're standing in the building, you can see a car coming up the driveway, right?

A Yes, ma'am.

Q And you admitted that you went camping?

A Yes, ma'am.

Q With Minor and her mom?

A That's what families do, is it not?

Q I guess so. I think it's great you went camping.

A Okay.

Q If you're standing in the -- if you're standing in the building, you can see a car pull up the driveway, that's correct, right, at Sylvia's house?

A Yes, ma'am. If the doors are opened, yes, ma'am.

Q And you watched Minor video, right?

A Yes, ma'am.

Q Okay. And you would agree with me, she's telling a much different story than you're telling us today, right?

A Oh, yes, ma'am.

Q You would also agree with me her videos are pretty detailed, right?

A Yeah, there's a lot of detail in it, but there's a lot of false to it. Very lot of false.

Q Okay. Well, to your knowledge, has Minor ever accused someone other than yourself of sexually abusing her?

A Not that I know of.

Q You talked about Erin's other boyfriends that she had before and after y'all broke up, right?

A Before we broke up, she didn't have any. After, I don't know them.

Q Well, you mentioned that she got with her best friend's husband, right?

A Yes.
Q Did she ever accuse him?
A I don't know. They're still together, so I couldn't tell you.
Q Well, to your knowledge?
A As far as I know, no.
Q And it's not part of your defense today that she's ever accused somebody else, right?
A No, but, I mean, like I say, I don't know.
Q Okay. And we heard about a man named Steven, is that the best friend's husband or is that a different man?
A No, that's a different one.
Q Okay. She never accused Steven to your knowledge of sexually abusing her?
A Not that I know of.
Q You mentioned other people that lived in Sylvia's house. Did she ever accuse anyone in Sylvia's house of sexually abusing her?
A Not that I know of.
Q She's only accused you?
A Yes, sir.
MS. KLUSKA: Nothing further at this time, Your Honor.
THE COURT: Redirect, sir?
MR. PROPST: No, sir, Judge.

the opportunity to respond to the Defense's argument. So, I anticipate, based on my conversations with the attorneys, that all of that collectively should take less than that hour. Then after that, depending on where we stand, we may take a very short break and then I'll come back and give you the charge on the law. The charge on the law is going to take somewhere between 15 and 20 minutes, okay? After I give you that, I will allow you to return to your jury room and begin your deliberations.

So, ladies and gentlemen, having said that, I'll turn it over to Ms. Kluska for closing arguments.

CLOSING STATEMENT

MS. KLUSKA: Thank you, Your Honor.

THE COURT: Yes, ma'am.

MS. KLUSKA: May it please the Court?

THE COURT: Yes, ma'am.

MS. KLUSKA: Thank you so much for your time and attention during this trial. You've all been listening attentively to evidence and testimony and we greatly appreciate that. Now is my chance to go through the evidence and the testimony with you.

You heard a lot about Minor life, about different schools she was at, different things that happened when she was certain ages, where she lived,

and it was confusing. So, I went ahead and I made this chart in hopes that we could walk through it together and you could have a greater understanding of the timeline of Minor life. In order to do this, we had to start back at the beginning when Minor was only six years old in August of 2011. Because remember, one of the elements that we have to prove to you today is that Minor was under 11 at the time of the abuse.

So, starting in August, 2011, we know that Minor was six years old and she was living with her mom. In August 2012, based on the fact that we know her birthday is August 13th, 2005, she would have been seven in 2012. In 2013, we know that Minor was eight. And at this point, she had moved to live with her grandmother.

August 2014 is important because our indictment dates on the indictment for the Defendant are that the abuse started in 2014 when Minor was nine. You heard testimony that she was nine when the abuse started. Members of the jury, in 2014, Minor was living with her mom and her grandmother. During that time she was living with her mom is when the abuse started.

In August of 2015, Minor would have been ten

years old. Now, you heard that in between these two years, at the tail end of 2014 is when Minor , her mom and the Defendant lived at the Edgemont addresses. You heard testimony that Minor , her mom and the Defendant lived at Tony's house at the [redacted] address and then moved to the [redacted] address. You heard testimony that this abuse happened in the fall or winter of that year. Minor told you that she remembered making a gingerbread house with her grandmother and that's how she remembered that timeframe. Sylvia also testified that she remembered the Defendant, Minor and her mom living at her house the last couple of months of 2014 and into 2015. In August of 2015, Minor would have been 10 years old.

Now, in May of the next year, of the following year, is when Minor discloses the hotel incident. May, Mother's Day of 2016 is when that Mother's Day incident took place. Now, remember that even though this Edgemont incident happened before the Mother's Day incident, that Mother's Day incident is the first thing that Minor disclosed.

In August 2016, Minor was in the fifth grade. And this was the timeframe that she transitions to living with her father. And then in January of that

following year, 2017, Minor disclosed the oral sex that happened at the Edgemont Avenue addresses, even though it had happened late 2014. So, as you can see Minor was only nine when the abuse started. She was 10 during the Mother's Day incident, 10 when she made her first disclosure, then 11 when she made the disclosure of the oral sex at the Edgemont addresses.

Now, I think the Defense mentioned to you in their opening statement that the Defendant was in jail for a short part of 2015 and 2016. I think they told you that this really throws a wrench into our timeline because he wasn't around Minor for a long period of time. Well, members of the jury, Investigator Robertson testified to you that the Defendant was only in jail from December 21st, 2015, to February 1st, 2016. So, I would submit to you, he was in jail in between the two time periods that the oral sex at Edgemont occurred and then the Mother's Day incident occurred. He was in jail right in between these two timeframes.

Now, the Judge is going to instruct you on the law. He's going to go over all the elements of the crimes that we have to prove to you today. But I actually made another chart for you because I thought

it would be helpful if you could actually see the elements of the crime that the Defendant is charged with and we could talk through them together. I know I kind of fumbled through the law in my opening statement, so I wanted to make sure that I was very clear about what the Defendant is charged with and the elements of those crimes.

As you know now, the Defendant is charged with criminal sexual conduct with a minor in the first degree, criminal sexual conduct with a minor in the third degree and exposure of private parts in a lewd and lascivious manner. In order to prove criminal sexual conduct with a minor in the first degree, we first have to prove that Minor was under the age of 11 when the abuse took place. We just went through the timeline. We know that she was nine and ten when this abuse took place, so we've proven this first element.

Next, we have to prove to you that the Defendant committed a sexual battery on Minor. Sexual battery is defined as any cunnilingus, fellatio, intercourse or any intrusion, however slight, into Minor's body. You heard testimony that the Defendant forced Minor to perform oral sex on him, that would be fellatio. So, we have proved a sexual

battery. Members of the jury, that means the Defendant is guilty of this charge.

For criminal sexual conduct with a minor in the third degree, we have to prove to you that the Defendant committed or attempted to commit a lewd or lascivious act on Minor. You heard testimony -- this would be the Mother's Day incident. You heard that during the Mother's Day incident, Minor was sitting in her bed coloring. The Defendant sat in a chair in the hotel room. He got up, he attempted to pull her pants down. She feared that he was trying to touch her. That means that he was attempting to commit a lewd or lascivious act on Minor. We have proven that element. And we know that Minor is definitely under the age of 16 if she's not even 11 for CSC first.

And members of the jury, we have to prove that the Defendant did these things to gratify his own sexual desires. Now, I can't go into the Defendant's brain and tell you why he did those things, but I think we can all infer from what he did that he did this to gratify his own sexual desires. So, we have proven that element to you, too. Members of the jury, that means the Defendant is guilty of criminal sexual conduct with a minor in the third degree.

For exposure of private parts in a lewd and lascivious manner, we have to prove to you that the Defendant willfully exposed himself in a lewd and lascivious manner to another person. This also goes back to the Mother's Day incident. Minor told you during that incident, she was sitting on the bed coloring, the Defendant was sitting in a chair. She saw his penis, he was watching porn on his phone and he masturbated in front of her. That means he willfully exposed himself to Minor And that means that, yet again, members of the jury, he is guilty of that charge.

You were also able to hear from several witnesses today throughout the course of this trial. You heard from Dr. Crosswell. Dr. Crosswell was the medical examiner who conducted Minor medical exam after she disclosed sexual abuse. You heard that Minor exam was normal. However, Dr. Crosswell testified that 97 percent of exams on victims of sexual abuse are normal. Only in three percent of sexual abuse exams do you find actual physical evidence of abuse. Dr. Crosswell told you that Minor told her that she had had oral contact with the Defendant. Dr. Crosswell didn't expect to find any physical evidence after Minor disclosed that

contact to her. That mean's that a normal exam is consistent with what Minor told us.

Next, you heard from Wilma. Wilma Smith, Minor 's grandma. And why was she important? She was important because she gave use that timeline that I showed you. She told you all the different schools that Minor was at, her ages, where she lived, her relationship with her mother. She was able to give us the looking glass into Minor chaotic life. And thank God for her grandmother. Every time something goes wrong in Minor 's life, her grandma is there to swoop in and help her.

She did tell us one interesting thing about the disclosure that Minor made to her grandma. Remember the conversation when she asked her grandma what is rape? Erica Van Wagner, the expert in child sex abuse dynamics, told us that sometimes kids don't have the words to explain what's happening to them. She asked her grandma what is rape? Because she didn't know. She thought maybe she was being raped. But what is important about that conversation is that Minor was firm in the details. When her grandma defined rape for her, she told her it was actual intercourse. And Minor didn't say oh, yeah, that's what's happening to me, grandma. She was firm in

what she knew. She was firm in what was happening to her. And she made sure to say, no, that is not what is happening to me. Here's what has happened, he made me perform oral sex on him. That is what she said.

You heard from Sylvia Rojas. Sylvia Rojas has no dog in this fight. The State subpoenaed her to be here for this trial, but the Defense did, also. She was not here for either side. She has no feelings towards any one party in this case. But what did she come before you and say? She told you that the relationship between Minor and the Defendant made her totally uncomfortable. She saw that he made her sit on his lap. She saw that they slept under the same covers. It creeped her out. She was so concerned for Minor safety that she called DSS. Her testimony was also important because what she told us about her property and the property next door, Mr. Tony Raines' property, corroborated everything that Minor already told us.

She looked at these photos. And you're going to have these back in the jury room when you deliberate. But she told us that this is the building, the building where Minor disclosed the Defendant made Minor put his penis in her mouth. Minor told us

that when she was standing in the building with the Defendant and that was happening, that he stopped because he saw a car coming up that driveway. What Minor testimony was is confirmed by this picture.

Sylvia also looked at this photo. This is the inside of Tony Raines' house. She disclosed in that first video interview that you watched that the Defendant again attempted her to put -- or attempted to get her to put his penis in her mouth in Tony Raines' house. She said that this occurred near a pool table in the front window -- or near a pool table and the abuse stopped when she saw her mom coming up in the front window. Now, what she said about that was particularly heartbreaking, I think. Because remember, she said that if her had come a little bit sooner, that maybe her mom would have caught him and the abuse would have stopped.

Next, you heard from, Erica Van Wagner. And her testimony was so important because everything she said was so on point with what we know Minor is dealing with. First, Erica Van Wagner told you that most of the time, abuse happens within families. Why is that? Well, first, someone who is within the family, it's easy for them to have access to the person that they're abusing. There's a trusting

relationship there. We already know that the Defendant was around Minor all the time. Well, it's easy for him to get his hands on her.

She told you about grooming. She told you that grooming means that the Defendant tries to establish an even more trusting relationship with the child they're abusing. They'll give them little gifts or be extra nice to them, really try to grow that trusting relationship. Grooming also means the breakdown of physical barriers between the Defendant and the victim. That he'll have -- or that he -- one example of grooming would be that a defendant would want a child to sit on his lap, or they would wrestle, or he would grab a body part. That is a breakdown of a physical barrier that a defendant would use to escalate to the point of full blown sexual abuse. And we heard that all of that took place in Minor case.

Another thing that Erica Van Wagner told us about is very important in this case are disclosures and how victims, child victims of sexual abuse disclose. She told us about delayed disclosures. That sometimes, children don't know the words to explain what is happening to them. So, they can't just run to the first adult they see and spout

everything out. She said that sometimes child abuse -- or children -- child victims of sexual abuse are scared. That threats are another reason why children commonly don't disclose until much, much later.

In this case, we heard testimony that the Defendant did threaten Minor. He threatened not only her, but he threatened her mom, her dad, her grandma. And remember that she had seen domestic violence between the Defendant and her mother. She testified that she saw the defendant bruise her mother. She saw the Defendant throw a rock at her mother. Is it really surprising that she didn't come forward after that which she had seen?

We also heard about piecemeal disclosures. Piecemeal disclosures are when a child victim throws out a little piece of what's been going on to them. And they gauge that they receive and then decide if they want to tell more. And that's exactly what happened in this case. Minor first told about the Mother's Day incident. And I think that that is for two reasons. Number one, the Mother's Day incident was the most recent in time to that disclosure. It is the thing that had just happened. And number two, the abuse in the Mother's Day incident is much less

invasive. It's a lot easier to tell someone that the Defendant tried to pull their pants down and you fought them off than it is for you to tell someone that he put his penis in your mouth. Members of the jury, Minor had a piecemeal disclosure and that is right in line with what Erica Van Wagner told us.

You heard that there are many symptoms that children -- victims of sexual abuse deal with. And I actually wrote them down because they are so telling in this case. Erica Van Wagner told you that some common symptoms are irritability, trouble sleeping, sadness, moodiness, avoidance, talking back or disrespect. Throughout the course of this trial, whether it be from Minor herself, her grandma, Dr. Crosswell or even the Defense, every single one of those symptoms Minor has.

Now, the Defense wants you to believe that those symptoms are what caused Minor to do this, to make up this lie. That she's a bad kid and a bad kid would make something like this up. But isn't it more likely that Minor has those symptoms because of what he did to her? Or even because of her life that she's dealing with? Is it really that shocking that a child dealing with everything that that girl is dealing with is acting out? That's not shocking at

all.

You saw Minor interviews, members of the jury, and I honestly don't know if there's much I can say about those interviews because I think they speak for themselves. The level of detail in those interviews that you watched is absolutely overwhelming. There is no way that a ten-year-old child would know the things that she knew in those interviews if she were telling a lie. There was one moment in the interview, in the second interview, actually, that really, really struck me. And you're going to have the videos to watch in the deliberation room with you, so if you want to go back and watch them again, you can.

But the moment that struck me the most was when Minor was describing when the Defendant ejaculated in her mouth. And she was trying to find the words to explain to Amber Hiott, the interviewer, what that felt like. And you could see her pause, you could see her try to find the words. And she did a hand motion like this, she said it was like silky, and it tasted like salt. There is no possible way that she would have been able to describe that if she had not done it. She was vulnerable in that moment and she was innocent in that moment. And I urge you to go

back and watch that.

Not only did you see Minor interviews, but then you saw her up on the stand. You saw the emotion that she had on the stand. And what was tough about that is when I asked her the hard questions about what she had been through, I asked her details about the abuse, you could see her visible reaction. She dropped her head, she cried, she paused and she did not want to say it. Minor not an Oscar-winning actress. That was real. You cannot fake that reaction.

The Defense's theory in this case is that Minor is a manipulative mastermind, who at the age of ten had enough foresight and knowledge to create this elaborate scheme to get her mother to show her more attention. That just makes absolutely no sense. It would be impossible for a child of her age to know with that level of detail, starting when she's 10 and ending when she testified yesterday at the age of 13, it would be impossible for her to be able to do that.

And let's talk about her first disclosure. The first disclosure that Minor made was just to her friend. If the Defense's theory that Minor wanted this big story to come out, why didn't she just tell her teacher? Why didn't she tell her grandma, who

supported her since day one? Instead, she just told her friend. She just told someone she trusted. She wasn't trying to make this some big story. She told her friend. Her friend told her teacher, then her teacher reported it. That's really a round about way to try to hatch your master plot. This was an accidental disclosure. [redacted] had no idea that that friend was going to go forward and tell her teacher.

And then you know that she had two disclosures. So, she gave the first disclosure about the Mother's Day incident. Her mother abandoned her after that, wouldn't speak to her, didn't believe her. So, again, if their theory is true, why did she come forward again? This time, with worst abuse, the abuse about -- the disclosure about the oral sex at the Edgemont addresses. Why not, if you get a bad reaction from the first disclosure, why then say it again and this time up the ante? Because [redacted] was telling the truth.

Erica Van Wagner told you about non-offending caregivers. And she told you that the reaction of a parent who's not the one who's conducting the abuse, oftentimes has a very big impact on how and when children disclose. If anything, a non-offending caregiver who does not support would stifle a

disclosure, not bring about a new one. Minor mom went so far as to make Minor get down and reenact how the Mother's Day incident happened. She wanted to proveMinor wrong.

So, after the first disclosure, why not just stop there? When she didn't get the reaction that she was hoping for, according to them, why didn't she just say, just kidding, I didn't mean it, I made it all up? Instead, she disclosed a second time and risked losing her mother again.

And another thing that's really interesting is that Minor got up on the stand yesterday and told you all that her mom believes her now. But members of the jury, we're still here. Minor didn't get up on the stand yesterday and tell you my mom believes me now, I got what I wanted, my plan has been realized, I'm out. She got up on the stand and battled through tears and told you again everything that she had been through at the hands of this man and her story has been consistent since day one.

Those of you on the jury who have kids know that kids lie. They lie about whether or not they brushed their teeth. They lie about how many cookies that they ate. Kids don't lie about things like this. It would have been impossible for Minor to make up

these lies.

You also had the chance to hear from the Defendant. You heard his record, his criminal record. Now, remember that his criminal record can only be used to impeach him. Meaning that you, the jury, as the judges of credibility, take his record into account and decide if that effects whether or not you think he's an honest person. I'll just let you remember his testimony and come to that conclusion on your own.

But what's interesting about his testimony is that he admits to being at every single place Minor said he'd be. He was at the [redacted] addresses. He was on the camping trip that he talked about. He was at the hotel on Mother's Day. He admitted to you that he watched Minor alone for hours on Mother's Day when Minor mom wasn't there, but they colored the whole time.

And another thing that struck me during his testimony was that he leaves out a lot of important details. He is tracking with Minor confirming everything that she says right until the point where the abuse starts. Then conveniently, he stops. We just have to look for Minor for the details to complete the real story of what really happened.

He told us that he was this great father figure in Minor life, that he should win the father of the year award. He brought her skates. He paid for her to go skating. He was a father figure to her. He loved her like she was his own. Well, you heard, it's no surprise to any of us, that there were a lot of men in Minor life besides the Defendant. You heard testimony that at one point, she was living with her mom's boyfriend, I can't even remember his name, Steven. The Defense brought up that she had been around men in Sylvia's home. Sylvia's boyfriend was there. Minor mom has a new boyfriend now. Never once has she said that any of those other men did anything inappropriate towards her. If he's really the father of the year like he says he is, then why did she only choose him to put this on? Why is she only accusing him of this? She's accusing him because he is the only one that actually did it.

Now, when the Judge instructs you on the law, he's going tell you that the burden of proof in this case is beyond a reasonable doubt. Beyond a reasonable doubt does not mean beyond all doubt. What it means is that if you leave this courtroom firmly convinced of the Defendant's guilt, then he's guilty. And I want to remind you that Minor

testimony is evidence.

Think of it like this, if this were a bank robbery case, we would call the bank teller to explain to you as an eyewitness what he saw. Her testimony would be eyewitness testimony. It would be evidence. Well, in this case, Minor is an eyewitness to everything that happened to her. Her word is evidence. So, if you are firmly convinced of Minor words, then you are firmly convinced of the Defendant's guilt.

It is depressing to know that things like this are happening right here in Greenville. It's a burden to know that these things are going on. But think of the burden that Minor felt. Every day when she was nine years old, she woke wondering if that was the day that this man would put his penis in her mouth. She woke up every day with the burden of wondering if that man would make her do sexual favors for him so that she could go skating with her friends. That is not a burden any little girl should ever have to deal with. He robbed her of her innocence. He saw a vulnerable person and he took advantage of that. Sadly, those among us who are the most vulnerable are the ones who are the most likely to be exploited. And he exploited her. He thought

that she would never tell, that she would never tell the truth and that she would never have a voice. But she used her voice on that stand to tell you what she went through. And you have a voice today to make the right decision in this case. Find the Defendant guilty. Thank you.

THE COURT: All right.

Mr. Propst.

CLOSING STATEMENT

MR. PROPST: As we said from the get-go and you heard from my colleague, Mr. Gravlee, over here, this case is really about a cry for help. It's about a little girl that's had a tragic life. She's had a chaotic upbringing and she wanted nothing more than her mother's affection. She wanted nothing more than her mother's love and attention. And, unfortunately, she's made some wild allegations to get there. It didn't work. Her mother didn't believe her.

You saw in the first interview that Ms. Kluska talked about that Minor sat down while Amber Hiott left the room and drew a picture of she and her mother speaking. And she wanted mom to believe her and mom did not believe her. Minor told you that. Her grandmother didn't even believe her at first when she came out with these allegations. When she comes

out with these first allegations, the hotel incident, she finds herself back under her dad's roof, she hasn't gotten what she wanted. So, wait about six, seven, eight months, more allegations come about in a this last ditch effort to win the love of her mother. And that's why we're here today. We're doing everything we can to fight against these unfounded allegations that Minor has made against Shannon Garland. We find ourselves here defending Mr. Garland against everything that's been said with his life on the line, his future at stake.

And now, we all know there's nothing like a mother's love. And Wilma Smith, Minor grandmother, did everything she could to provide that type of love. She cared for Minor. She gave her a place to stay. When mom would drop her off, she treated her as a grandmother should. She provided Christmas for her, she did everything she could. But it didn't matter, Minor wanted her mother's love.

And now, as we talked about, it's been a continuing theme throughout this trial, the chaotic childhood that Minor had, in and out of different homes. From a very early age, she leaves her grandmother's house goes to her father's house, boyfriends, eventually Shannon. They move throughout

different homes. She's dropped off with her grandmother at times over that period for an extended period while Erin goes and does her own thing. Over the course of that time, through elementary school, I believe Minor switched schools, at least, five different times and they're moving around. And it's not because they wanted it. They live in these terrible conditions, conditions kids should not live in and they're kicked out.

They go from grandmother's trailer -- or excuse me, when Mr. Garland comes in the picture, they end up moving in grandmother's trailer, Wilma's trailer, and Shannon is kicked out for not paying money. Erin follows, takes Minor with her, despite living right next to the grandmother. They move to the Raines' house, kicked out of there. Move to Sylvia's house, kicked out of there. Shannon and Erin end up at a hotel. Minor is back with her grandmother at that time. It's not a good place for a kid to be.

Throughout the course of this trial, you've heard a number of witnesses, you've heard their testimony. And I'd like to recount and recap some of that, the things that I think are important. Now, you heard towards the very beginning of the trial from Sylvia Rojas. They lived there. I believe it

was [redacted] Avenue. There was Shannon, Minor and Erin living with Sylvia, her daughter, two sons, I think her boyfriend was in and out, it's kind of unclear. So, we have no less than eight people living in that house at any given time.

Throughout the course of her testimony, she explains that she spoke with Investigator Robertson with the sex abuse unit. He explained why he was at her house investigating. And guess what she doesn't mention? There's no allegation of any sort of sexual assault. The first time she mentioned that is when she walks in this courtroom and says that she thought the relationship was kind of weird.

Now, she did also tell us that she called DSS. She was concerned about Minor s safety. But it wasn't because of sexual assault or sexual abuse, she was concerned by what Minor said. Minor knew way too much about sex, drugs and pills. Way too much for any nine-year-old and she was concerned about her mental health and wellbeing as a result of that. It wasn't because of any concerns of sexual abuse.

Now, as I said, Minor has had this unstable childhood. And she does make these disclosures, as we all heard, and they give a wide ranging account of different things that happened. Lots of details.

These details leave plenty of questions. They leave more questions than answers.

Let's start with the hotel incident. There, all we have is the story that Minor told us. There's no real evidence of anything other than her statement. Shannon said it didn't happen. You heard it from him. Nothing happened in that hotel room. He can't do much more than that. It's his word.

Now, we can point out some different inconsistencies. Minor is interviewed about three different times regarding these incidents that we've heard about. There are two Julie Valentine Center interviews and then there's an interview with Michael Robertson, the investigator.

In the first interview, she talks about in the hotel that Shannon was supposedly sitting next to her in the chair with his pants to the ground exposing himself watching porn. Then the second interview, six or eight months later, I apologize if my dates are a little off, just say six to eight months later, she breaks a bombshell that he was masturbating in front of her. It's not in the first video, that's what said in the second. That's a major detail that you think someone would remember, even someone that young. I understand that children have different

minds and they recall different things, but that's one of these bombshell details you don't forget. It doesn't get lost in the weeds. Then all of a sudden, he's standing up -- according to the first interview, he's standing up out of the chair with all of his clothes back on and he trying to do something to her, trying to attack her, which doesn't work.

Then we move on to Minor talking about taking a bath -- or excuse me, let me back up. She talks about Shannon going into the bathroom and staying in there for a while. He stays in there for much longer than anyone should ever stay in there. She tells us about that in the video. She says Shannon goes in the bathroom for 30 minutes. Way too long. Then Minor came in here and testified yesterday. She told you that Shannon went in the bathroom and he stayed in there for an hour and a half. Not 35 minutes, not 40 minutes, an hour and a half. Three times longer than what she originally said. And again, I understand children miss some details. But this isn't a small detail, it's 30 minutes versus an hour and a half.

Now, she also talked about Shannon watching porn on his phone. In the first interview, she says that Shannon was watching porn on his phone next to her.

She didn't see it, but she heard it and knew what it was. She ignored it and watched TV. The second interview, she, again, this is eight months later, says he is watching porn on his phone. But now, he's watching porn on his phone and there's a woman tied up. She asked him about that. Then they move into some story on this interview about a friend that's had the same thing happen to her and as a result of that happening to her, she can't do anything with her boyfriend now. It's a weird tangent that I found out when I was watching these videos and listening to the testimony. So, we go from the first interview where we couldn't see anything on the phone, but we know it's porn, to all of a sudden, see what's on the phone and a friend has had the some sort of thing done to her.

And now, speaking of that phone -- well, first off, Shannon told you none of this happened. And that's all we can do. We have a child's unfounded allegations, her statement that something happened, he said it didn't. Now, with his phone, he's watching porn on the cell phone. That's the allegation. Where's the phone? Did y'all see a phone today? Throughout the course of this trial, did the State present any evidence from that phone?

We could have gotten the phone. They could have pulled data from it, checked the internet history and looked at what websites were visited, when they were visited. All this data is stored on a cell phone. They're a treasure troll of information. Nothing was brought to you. Not one thing. It wasn't mentioned throughout this entire trial. That would be a piece of objectively verifiable evidence that this did or did not happen. You didn't see a thing about that. I'm the first one that's brought that up throughout the course of this entire trial.

Now, you also heard that Shannon explained that at the end of this Mother's Day weekend, Minor told her mom she wanted to live with them.

Erin said, No.

Minor said, Fine, I'm going to go live with my dad.

Almost as a cry for help. Calling her bluff, calling Erin's bluff.

And Erin said, Fine. Those were her exact words. She said, Fine, the grass isn't always greener.

It didn't work. Minor had to go live with her dad. Shannon told you he was like, Erin, tell her we're looking for another place, somewhere safer than

a hotel, just tell her that. You would think a predator that has his prey right there with him would be lobbying for easy access, would want that person around. You would want them there with you to keep doing what you're doing. But no, he didn't fight this. They sent her back to live with her dad or with her grandmother, whoever she was living with at the time.

Now, the State did point out to you that Shannon put himself in the hotel room. And, of course, he did. He told the investigator that he was in the hotel on Mother's Day weekend, he was babysitting and he remembers that weekend well. And it's not surprising he remembers Mother's Day. He found out about -- these allegations are made the week after Mother's Day. Shannon finds out that Thursday after Mother's Day. Less than a week after all this stuff supposedly happened, he gets news that is live altering, allegations that could potentially change his life forever have been made and it was less than a week before this. Of course, he remembers that day. Anyone would remember that day.

They also tell you that he remembers the camping trip. And Minor [redacted] made allegations that something happened on the camping trip. He remembers the

camping trip and tells Detective Robertson about it. Camping trips are what families do is what he tells the solicitor. And Minor said something happened while she was trying to use the bathroom, trying to use the bathroom near some stairs. Stairs that are accessible by the public and it stops when people start coming. It doesn't make any sense that a predator would do this right out in the open where the public can easily access you. You're in the woods. Why not go off into the woods somewhere else? But we have this staircase that is a landmark that you can latch onto.

Now, you heard from Detective -- or excuse me, Investigator Robertson. He didn't take Minor to find these stairs. There are no pictures. We don't know if they actually exist. Shannon told you they didn't exist. We don't know if Minor made this up or not, whether there are stairs at all where the camping trip took place. There was no investigation done there.

Now, throughout the first interview, Minor asked by Amber Hiott if she's told her everything, if anything else happened and whether she's been truthful. And Minor says over and over yep, that's it, that's all. I've told you everything. I've been

truthful. But then she leaves there, eight months pass, nothing's changed. Her mother is still with Shannon and she's still with her dad. She hasn't achieved her goal. And we know she's upset that the first allegations didn't work. We know she's upset because she says -- when Amber says why didn't you tell me -- in the second interview, Amber says, Why didn't you tell me this stuff earlier?

Minor says, Well, I was scared and thought my mom would be heartbroken, but, obviously, she's not, she's still with Shannon.

So, we know Amber is upset about this -- excuse me, that Minor upset about this. And that's why we keep going.

That takes us to the second disclosures. And this is when the allegations were made that really make your stomach turn, but you still can't look away. Minor says Shannon forced her to perform oral sex on her in the garage behind Sylvia's house. It's a garage that you can see straight up the driveway. There's Sylvia, there's the garage. And you're welcome to look at this picture when you take it back to deliberate. And it stops when Sylvia and her family come into the driveway, when they pull in.

Now, there are a couple of issues there. One,

if there is a garage and the door's closed, you can see as well as I can, there are no windows in those garage doors, you can't see a thing. It would be impossible to see someone coming or see someone going. It would be impossible to see out of the garage. It would be impossible to see in the garage.

Now, the other option is that the doors were open. Again, as you can see, you drive up the driveway and you have a straight shot into the garage. Sylvia didn't see anything. They didn't bring any of Sylvia's kids or anyone else that may have been with her that day to say they saw anything. Minor even says that Shannon, after Sylvia starts pulling up, this man right here, this large man pulls up his pants and runs out, no one sees anything. In this driveway where you can see straight back in there. No one sees a thing. It doesn't make any sense.

Now, Sylvia also said she felt the relationship between Shannon and Minor was strange because I guess can Minor would sit in Shannon's lap. But I mentioned it earlier, it wasn't weird enough to tell Investigator Robertson, who's, again, with the sex crimes unit. He comes and says why he's there, what he's doing, what he's investigating. No mention. No

mention of any sexual assault, sexual abuse allegations. And again, you heard four other people live in this house besides Sylvia and Erin and Minor and Amber -- excuse me, and Shannon. No mention of any sexual assault by any of them. They live in this small house. No one saw anything. The State didn't bring you any of these potential witnesses to tell you anything. Because nothing happened. All we have is a bare allegation of something that allegedly occurred at Sylvia's house. It's a child's statement, a child's imagination. There's no objectively verifiable evidence to say this did happen.

Another incident of oral sex, next to the pool table at the Raines' house. And you'll look at the pictures, look at them again. There is, in fact, a pool table. It's the first thing you see when you walk in the front door. It's a pool table. You can't miss it. You can see it from the outside. First thing you see when you walk in the house. It's a landmark to hang your hat on. It's easy to remember, just like this shed, another landmark that we have pictures of.

This time, they almost get caught again. Erin, Minor mom, came home. But she didn't see

anything, didn't notice anything odd behavior despite them being right inside that front door. Again, just like in the woods, where it's easily accessible to the public. They're saying this happened by the front door, right by the pool table in front of this window where everyone can see. They're hiding in plain sight, it just doesn't make sense. It seems almost impossible that they wouldn't be caught at that point.

Now, the icing on the cake for me is during the second interview and where the emphasis on details comes in. She describes the houses, we have picture of those. She describes the garage, we have pictures of that. She says there's a pool table, we have a picture of that. What we don't have is any description of, say, the living room which they lived. Sylvia's house, the three of them lived in the living room. We know it had two couches and a love seat, that's it. We don't know what color the furniture was. We don't know if there was a rug, which you heard Minor slept on the floor at times. We didn't see any other bedrooms, we know nothing. There are no pictures of these rooms either, which seems to be important details if sexual assaults happened throughout this house.

But what we do have details of are the shoe and this boot that Shannon supposedly physically assaults Minor with. She describes Shannon is wearing some sort of walking boot after an injury and kicking her with it or stepping on her. She describes at length a shoe that he threw at her, which left a bruise. And she even, on the video, threw a picture of that shoe. The small little details. She describes bruising on her. Bruises that stayed there for a couple of weeks and said you can see the vein in it. She says her grandmother picked her up after this bruising occurred.

Who didn't describe any bruises for you? Grandmother didn't say a thing about that. These are little details that Minor latches onto that have nothing to do with the bigger picture, the main allegations, with the real stuff that she says happened. They're details she gives throughout the interview, the little things that add up. You just get bigger questions than answers. And they're answers we don't have because the State didn't give you any evidence. They have the burden to prove Shannon guilty and all they can provide is a child's statement and nothing else to back it up.

Now, a continuing theme throughout this trial

and it's difficult to listen to is Minor mental health, her issues. She's been seeing counselors before these allegations came about. And solicitor read to you some symptoms she was having that Ms. Van Wagner testified to. She's been having some of these same symptoms before any of these allegations were made when she started seeing these counselors, back in 2013. They're issues she's been dealing with for a long time that stem with abandonment issues dealing with her mother. You heard Minor tell you, or agree with me and her grandmother things like I miss mom a lot, that she told the counselor. Told the counselor, mom doesn't want to spend a lot of time with me. She doesn't see her mom often. Mom isn't always involved, which is upsetting. She wanted to work on being nicer so mom wouldn't be upset with her.

And by no means do I mean to attack Minor character. I'm sure she's a fine young lady. She's just had a troubled past and she cried for help in a drastic way several years ago. She wanted her mom's attention, wanted her mom's love. And she made allegations against Shannon, boyfriend of her mom with whom she had probably the strongest relationship. And she got in too deep and couldn't

back paddle. At some point, you can't unring the belle once it's been rung.

Now, Erin Caldwell, mother, has issues of her own. She tends to choose a boyfriend over her own daughter's life. Tends to focus on herself and this pill addiction. She left Minor multiple times to do her own thing. She moved in with her ex-husband with Minor when they had nowhere to go. She left that house and followed another boyfriend, moved in with them. And she followed Shannon to other homes, despite having a stable place to live on Wilma's own property. And like I said, she was also dealing with a decade-long pill addiction that Wilma told you about and Shannon told you more about. Erin's focus was on her own life and feeding her own pill habit. She wasn't focused on Minor

And beyond that, we'll talk about Shannon for a little bit. The State points this out. He's not a perfect person. I, by no means, try to paint him as such. We know he's not. He's been in trouble with the law a lot. Past 10 years, he's had numerous felony convictions, all for some sort of theft. He spent some time in prison because of this. He paid his due.

Speaking of the prison thing, we brought that up

first, that Shannon spent some time in prison. And we brought that up because I found that, as I was preparing for this, it would be a significant detail that when I say I brought that up first, you didn't hear Minor mention that. A significant traumatic event in one's life or stressful event in one's life, as Ms. Van Wagner said, would be if a significant person in one's life gets incarcerated, gets locked up. No mention of it until we brought it up.

Now, by serving time in prison, he paid the price for those mistakes. And we know he's not a great person to live with. He's been kicked out of multiple homes for the same sort of stuff. He's kicked out of Wilma's trailer for not paying money that's owed. Kicked out of the Raines' house or kicked out of Sylvia's house because money was owed, rent wasn't paid. The house was a mess, there's feces all over the place.

But what we do know about Shannon is that he cared about his family. He told you he has own biological daughter who he raised, has a close relationship with. He's got two other kids not of his own, but that he considers his own. He raised them. Has a good relationship with them. At least, one of them was here yesterday. He also has three

grandchildren by one of them, which he considers his own and he helps raise them, sees them often. Despite all of the shortcomings, he's never been accused of sexual assault. He's never been accused of any sexually-related crime.

Now, I want to point out, we talked about what Shannon told you and the State has pointed out, too, Shannon had the absolute right to remain silent during this trial. It's a right afforded to you by the Constitution, it's an absolute right. Your silence cannot be used against you if you do not testify. Shannon made the choice to testify. It was his choice alone. He told you his side of the story. That's all we can do here. You have a child's statement and you have Shannon's. We've done everything we can to defend him in this trial. The State's right, there are some details missing from Shannon's explanation and it's a simple answer as to why. None of this happened. You can't give details about something that didn't happen. It's impossible. So, of course, he can't give any details about some of this stuff. What we have is a head job by somebody who made these allegations and wanted to get their way. They're bare allegations with no real evidence to back it up. It's just a child's

statement.

Now, more than any other type of case, and I think the State would agree with me on this, sex abuse trials, especially when they involve children are emotional. Usually, there's a sympathetic accuser. There's a much older defendant. And it's easy to lose your way in deliberations by focusing on what people look like, their ages, sympathies, that type of thing. Now, I want you to do something when you go back into your deliberations. Remember, you can only come back with a verdict of guilty if you're firmly convinced that the State has met their proof -- has met their burden beyond a reasonable doubt, which, as you've heard, it's the highest standard in our justice system. Way up here, 12 nothing. Y'all all must agree, you're firmly convinced beyond a reasonable doubt.

When you go back to those deliberations, close your eyes and imagine that these same allegations are being made my someone that's 46 years old. The evidence may look a little different. It may be easier to rationally decipher everything in your head. And the reason I tell you to do this is because this high standard, the highest one we've got, is the same no matter what. It doesn't matter

whether the accuser is nine years old, 49 years old, the standard's always the same. It's not lower because someone appears more sympathetic than the other person. It's the same no matter what.

So, in the end, as I've said, this case is about a cry for help. It's an irrational attempt by a child to gain her mother's love, affection and attention. Didn't work. And here we are today. The most important day of Shannon Garland's life. We're convinced, we're confident after having heard all the testimony and see the evidence that the only verdict you can come back with is not guilty. Thank you.

THE COURT: Yes, ma'am.

MS. KLUSKA: No reply, Your Honor.

THE COURT: Okay. All right.

Ladies and gentlemen, let's take a very short break and we'll come back in and I'll give you the closing charge. Please don't discuss the case yet.

(WHEREUPON, the jury left open court at approximately 10:12 a.m.)

THE COURT: Okay, let's take a short break, we'll be back in five or ten minutes, whenever the jurors are ready. Thank you.

(WHEREUPON, a short break was taken.)

THE COURT: Okay. Bring the jury in, please.

(WHEREUPON, the jury came into open court at approximately 10:23 a.m.)

THE COURT: All right, ladies and gentlemen, when we started the case, I told you that you had certain roles and functions to perform and I had certain roles and functions to perform. You took an oath when you began this case to try this case in accordance with the law and in accordance with the evidence presented. So, I am about to give you a charge on the law.

Now, if you come into the courtroom with any prior knowledge, any prior opinions or any predispositions about what the law is or about what the law should be, then I charge you now to disregard that. Under your oath, you must accept the law as I give it to you.

Now, ladies and gentlemen, of course, as I indicated to you, your job is to analyze, review and weigh the evidence in this case and determine whether, in fact, the State has met its burden of proving each and every element of each offense beyond a reasonable doubt. You understand, as I've told you already in this case probably twice, that the Defendant is presumed innocent. And the Defendant retains that presumption of innocence until such time

as 12 deliberating jurors determines whether or not the State has met its burden of proof. That presumption of innocence is not simply a legal theory, that is a very important cornerstone of our criminal justice system. So, you must keep that in mind as you go through your deliberations.

Now, ladies and gentlemen, you understand and you appreciate that there are several charges that are before you today. Three charges. So, you must consider each and every one of those charges separately and independently from one another. I am going to give you when you begin your deliberations three separate and distinct verdict forms. And the reason I'm giving you three separate and distinct verdict forms is because you must consider all the charges independent of one another.

So, you will apply the law and the evidence to one charge when you're considering that charge. And you will determine on that and that charge alone whether the State has met its burden of proof of proving each and every element of the offense beyond a reasonable doubt. Then once you have made a decision on one charge, then you will go to the next.

Now, understand that when you make your decisions, if you, for instance, find that the State

has not met its burden of proof with respect to one of the indictments, then that doesn't mean that you necessarily have to find that they haven't met their burden of proof with respect to the remaining two. Or if you find that they have met their burden of proof, it doesn't mean you have to find that they've met their burden of proof with respect to the other two. You look at them independently and autotomous you conduct your deliberations.

Now, as I've told you any number of times, the State has the burden of proving its case beyond a reasonable doubt. Now, many of you may have been in other courtrooms and have some prior experience, either just watch TV or read articles about various burdens of proof. In court, there's always a burden of proof. In a civil case, most often, you have a burden of proof that is by a preponderance of the evidence, which just means more likely than not, greater than 50 percent. Sometimes in civil cases when it's a case such as fraud or when a party is seeking punitive damages, you may have an elevated burden of proof, which is clear and convincing evidence. But in criminal court, in all criminal courts, the burden of proof is on the State to prove its case beyond a reasonable doubt. That is the

highest burden of proof that exists.

Now, ladies and gentlemen, proof beyond a reasonable doubt is proof which leaves you firmly convinced of the Defendant's guilt. Now, there are very few things on the face of the earth that you can know with absolute certainty. And the law doesn't require that the State prove its case beyond any possible doubt. However, after your review of the evidence, if you're firmly convinced of the Defendant's guilt, then you would under your oath find him guilty. However, if after your review of the evidence, you find and you believe that there is a real possibility that the Defendant is not guilty, then under your oath, you would find the Defendant not guilty.

Now, ladies and gentlemen, in analyzing and reviewing evidence, one of the things that you will do is you will judge the credibility of the witnesses, the believability of the witnesses. And you'll decide who to believe and what to believe. And you'll decide what has weight and what has value. Now, you judge the credibility of people's statements every single day. When you're having conversations with people, when you're watching them on TV, when you're listening to them on the radio, you know that

you are making judgments about whether you should believe somebody or not. And you use just intuitive tools in doing that. You listen to what somebody has to say. You listen to how they say it. You watch how they present themselves, their body language, their facial expressions and their general mannerisms. You look and you determine whether somebody has something to gain or whether somebody has something to lose as a consequence of their testimony. And from that, you determine whether somebody should be believed or not.

The same is true in court. You look at the witnesses and you will determine with all of those intuitive skills that you have whether somebody should be believed or not. And you decide, again, in your own discretion, who should be believed and who should not be believed. You can take a portion of a witness' testimony and decide it's very believable and discard the rest as unbelievable. Or you can take all of it or you can take none of it. You can take a portion of it and decide that it's very valuable and really is instructive to your decision and discard the rest, or you can discard all of it or none of it. It's entirely up to you. You'll decide what the facts are based on your review of the

evidence in this case. And I remind you that no one can tell you who to believe and what not to believe and what value evidence has.

If I have said anything during this case that gives you the impression that I have an opinion about what your ultimate decision should be or how you should weigh the evidence or how you should view the credibility of a witness, disregard that. Because as I told you at the very beginning, I have no opinion with respect to what your ultimate decision should be or how you weigh the evidence.

Now, ladies and gentlemen, you did hear testimony from a child in this case. Now, understand that a child is qualified to testify in a case. And just like with any other piece of testimony that you receive in a case, you determine whether it has value and whether it's believable. Now, when you hear a child testify, you may -- you have to make certain determinations. And you would look and see whether you believe in your discretion whether the child understood the seriousness of testifying in open court. You have to look and determine whether you think the child understood the questions. You have to look and see whether you think the child had a good memory, whether the child understood the

difference between telling a lie and telling the truth. You also understand that when a child testifies, the child may be influenced by the way those questions are asked. Again, it's up to you to look at that testimony, along with all the other testimony and decide if it's credible and what weight it has in your determination.

You also heard testimony from the Defendant about a prior record that he has. Now, understand, ladies and gentlemen, that that prior record, evidence of a prior record is introduced only for the purpose of credibility. What that means is that you can consider that prior record to determine whether you should believe the Defendant or not, but you can't consider it for any other reason. Importantly, ladies and gentlemen, you can't consider it to determine whether the Defendant is more or less likely to have committed these offenses. You can't consider it for that, only for purposes of impeachment, that is determining his credibility.

Also, ladies and gentlemen, you heard a statement by the Defendant. The officer testified to a statement that the Defendant had made in this case. Now, I make decisions as a matter of law as to whether statements are admissible or not. However,

you make the determination as to whether that statement is voluntarily. The State must prove beyond a reasonable doubt that any statement made by the Defendant was voluntary.

Now, that means that you have to make the determination as to whether it has been proven beyond a reasonable doubt that that statement was voluntary. And when you're looking to see whether you think a statement was voluntary or not, you're looking to see whether you think he was under any undue pressure, force, threats, coercion, fear or intimidation when he offered the statement. In doing that, you look at his age, you look at his education, his mental capacity, intelligence, his background, his environment, the place and length of the detention, that is the place and length of the period of time when he was discussing the matter with the officer, the nature of the questioning. And also, whether he was advised or not advised of his constitutional rights, including his right to counsel, his right to remain silent, his right that if he couldn't afford counsel, counsel would be appointed for him and the fact that anything that he said could be held against him in a court of law.

Again, ladies and gentlemen, the State has the

burden of proof that the statement was voluntary. If you find that it was voluntary beyond a reasonable doubt, you can consider it for whatever purposes that you like. However, if you find that it was not voluntary, then you shouldn't consider that statement at all.

All right ladies and gentlemen, in any court in the United States of America, when evidence is introduced, it's going to be characterized as either direct evidence or circumstantial evidence. Direct evidence is evidence which immediately establishes a fact to be proven. Circumstantial evidence is evidence of a chain of facts, collateral facts that when taken together prove the main fact to be proven. Now, understand that the law doesn't prefer direct evidence over circumstantial evidence or circumstantial evidence over direct evidence. You accept that evidence and you put weight and value on it in your determination.

Now, I've given you real simple definition of direct and circumstantial evidence, but sometimes it's hard to conceptualize those simple definitions. So, I'm going to give you an example that may help you conceptualize it a little bit more. So, let's say that tomorrow morning -- excuse me, this evening

you're going to bed. And as you go to bed, you pass by your front door or your front window and you look out in front of your house or your apartment and you see that there's no precipitation on the ground at all. And then tomorrow morning, you wake up and you look out that same window or door and you see on the -- in front of your house on the ground a blanket of snow. You also see in that snow footsteps in the snow that lead to your door and they lead away.

So, under that set of facts, you've got direct evidence that it snowed that night. And you've got direct evidence because you can see it, you can feel it, you can touch it. It's right there and it's immediately established by its presence. But you've got circumstantial evidence that sometime late that night or early that morning someone walked to your door and then walked away. You can't see that person and you can't have a conversation with them. You can't touch them, but you know that as a consequence of the timing of that snowfall and the presence of the footsteps in the snow that someone came to your door and walked away. That's circumstantial evidence. Again, I'll tell you that the law doesn't prefer one over the other. You decide what has weight and what has value and what that weight and

value may be.

Now, to the extent that the State relies upon circumstantial evidence to prove its case, all of the evidence when taken together must point conclusively to the guilt of the accused beyond a reasonable doubt and can't merely lead to a suspicion.

All right. Ladies and gentlemen, now, I'm going to go over with you the charges that are before you and I'm going to define those for you. I'm going to read a little bit to you. I don't necessarily like to read, but it's important for me to get precise definitions precisely right. So, ladies and gentlemen, the Defendant is charged with first degree criminal sexual conduct with a minor. The State must prove beyond a reasonable doubt that the Defendant engaged in a sexual battery with the victim. A sexual battery is sexual intercourse, cunnilingus, fellatio, anal intercourse or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body except when the intrusion is accomplished for medically recognized treatment or diagnostic purposes.

The State must then prove beyond a reasonable doubt that the victim was less than 11 years old at

the time of the sexual battery. Consent, willingness, indifference or ignorance on the part of the minor, if any, as to what was taking place does not in any way effect the charge of criminal sexual conduct with a minor because an unmarried woman under the age of 14 cannot legally consent to sexual intercourse.

Now, ladies and gentlemen, the next charge that you'll consider is third degree criminal sexual conduct with a minor. A person is guilty of criminal sexual conduct with a minor in the third degree if the actor is over 14 years of age and the actor willfully and lewdly commits or attempts to commit a lewd or lascivious act upon or with the body or its parts of a child under 16 years of age with the intent of arousing, appealing to or gratifying the lust, passions or sexual desires of the actor or the child. Therefore, ladies and gentlemen, the State must prove beyond a reasonable doubt that the victim -- or excuse me, that the Defendant was over 14 years of age; and secondly, that the actor willfully and lewdly committed or attempted to commit a lewd or lascivious act upon or with the body or its parts of a child under the age of 16 with the intent of arousing, appealing to or gratifying the lust,

passions or sexual desires of the actor or the child.

Now, ladies and gentlemen, the terms lewd and lascivious appear in this definition. They also appear in the definition of the third charge that you will consider. So, I'm going to go ahead and define lewd and lascivious for you. Lewd means obscene, lustful, indecent, lecherous. Lascivious means tending to incite lust, lewd, indecent, obscene or tending to deprave the morals in respect to sexual relations.

Ladies and gentlemen, the last indictment that you'll consider is exposure of private parts in a lewd and lascivious manner. And ladies and gentlemen, on that charge, the State must prove beyond a reasonable doubt that the Defendant willfully and knowingly exposed the private parts of his person in a lewd and lascivious manner and in the presence of another person. Again, the Defendant -- excuse me, the State must prove beyond a reasonable doubt that the Defendant willfully and knowingly exposed the private parts of his person in a lewd and lascivious manner and in the presence of another person.

Okay. So, ladies and gentlemen, I am going to show you now the verdict forms that I have prepared

in this case. Now, I show them to you now so that when you get back to your jury room, you won't see them for the first time and I can point out a few things and tell you a few additional things that are important that are included on these verdict forms.

So, you'll see this one, by way of example, the first one I have is for criminal sexual conduct with a minor in the first degree. And you see it has a caption, verdict. Then it says: As to the charge of criminal sexual conduct with a minor in the first degree, we, the jury, by unanimous consent find the Defendant. Now, it's important to note here that it says by unanimous consent. Your verdict must be unanimous. You must all agree. It must be 12 to nothing. Can't be 11 to one. Can't be 10 to two. It must be a unanimous verdict.

Now, also, understand that your verdict under your oath must be based on the law and the evidence presented. It can't be based on sympathy. It can't be based on bias or prejudice. It can't be based on caprice. It must be based on the law and the evidence.

So, you'll see you got two options here. Not guilty of criminal sexual conduct with a minor in the first degree and guilty of criminal sexual conduct

with a minor in the first degree. Now, understand, ladies and gentlemen, I prepare these verdict forms. So, when I put your choices in a certain order, I'm not trying to suggest that you should pick one or consider one over another. There are two choices, I've got to put them in some order. Okay. So, this is what I arbitrarily selected. So, don't think I'm sending you any signals. I'm not, okay?

So, when you consider this charge, criminal sexual conduct with a minor in the first degree, you'll consider whether the State has met its burden of proving each and every element of the offense beyond a reasonable doubt.

If you find that they have not, then Mr. Molizon, you would either initial or check here. It doesn't matter whether you initial or check, just some mark that lets me know what your intent is. If you find that the State has met its burden of proof, then Mr. Molizon, you would check guilty of criminal sexual conduct. Then after you're comfortable that the State has reached a unanimous verdict, you would sign as foreperson of the jury, then date it. Then you'd move to the next -- to the next charge, okay?

Now, ladies and gentlemen, I'm going to send you back to your jury room at this point. I'm not going

to tell you to start deliberating yet, okay. Because this is the opportunity for the attorneys to do some quality control of my charge. I may have left something out or I may have just misstated something inadvertently. If I have, then what I'll do is I'll bring you back out here and I'll either correct any misstatements or I'll give you additional charges that may be necessary. You'll know when it's time to begin your deliberations when I send back to you these three verdict forms, okay? And when you receive these from the bailiff, you will know that you can begin your deliberations.

Now, you'll also not long thereafter get all of the exhibits and you'll have the exhibits there for you. There are tapes there. I'm not going to send back a computer with you initially, but if you decide that you want to watch those tapes, just send a note out and tell me and I'll have a computer, sterilized computer sent to you so that you can watch the CDs.

Okay. So, if you'll return to your jury room, please. Please don't begin your deliberations yet.

(WHEREUPON, the jury left open court at approximately 10:44 a.m.)

THE COURT: All right. Exceptions to the charge?

MS. KLUSKA: Nothing from the State, Your Honor.

MR. PROPST: Nothing from the Defense.

THE COURT: Okay. All right. Thank you, ladies and gentlemen, I appreciate it. If y'all will do an inventory of the exhibits. I'm going to go ahead and send back the verdict forms and then I'm going to bring the two alternates into my office and I'll dismiss them informally from chambers.

Good luck to both of you.

(WHEREUPON, deliberations began at approximately 10:46 a.m.)

(WHEREUPON, court was in recess awaiting a verdict.)

THE COURT: I've been advised that the jury has reached a unanimous verdict.

Is the State prepared to receive the verdict?

MS. KLUSKA: Yes, Your Honor.

THE COURT: And is the Defense prepared to receive the verdict?

MR. PROPST: Yes, sir, Your Honor.

THE COURT: Okay, bring the jury in, please.

(WHEREUPON, the jury came into open court at approximately 12:25 p.m.)

VERDICT

THE COURT: Mr. Molizon, has the jury reached a

unanimous verdict, sir?

THE FOREPERSON: Yes, sir, Your Honor.

THE COURT: Could you pass the verdict forms to the bailiff, please, sir?

All right, Madam Clerk, you may publish the verdicts.

THE CLERK: Your Honor, this is case number 2018-GS-23-001757, The State of South Carolina vs. Shannon Earl Garland. As to the charge of criminal sexual conduct with a minor first degree, we, the jury, by unanimous consent find the Defendant guilty of criminal sexual conduct with a minor first degree. Signed foreperson, Joshua Molizon, November 15th, 2018.

This is case number 2018-GS-23-7848A, State of South Carolina vs. Shannon Earl Garland. As to the charge of criminal sexual conduct with a minor third degree, we, the jury, by unanimous consent find the Defendant guilty of criminal sexual conduct with a minor third degree. Signed foreman, Joshua Molizon, November 15th, 2018.

This is case number 2016-GS-23-10154, State of South Carolina vs. Shannon Earl Garland. As to the charge of exposure of private parts in a lewd and lascivious manner, we, the jury, by unanimous consent

find the Defendant guilty of exposure of private parts in a lewd and lascivious manner. Signed foreman, Joshua Molizon, November 15th, 2018.

If this is your verdict so say you all, please signify by raising your right hand.

(WHEREUPON, all members of the jury raised their right hand.)

THE CLERK: Thank you.

THE COURT: Let the record reflect that each juror raised his or her right hand.

Anything further from the defense?

MR. PROPST: We would renew all motions and objections previously stated, ask for -- ask for the judge to set aside the verdict and for a new trial.

THE COURT: I respectfully deny those motions based on the requisite standard.

Anything further from the State?

MS. KLUSKA: No, Your Honor.

THE COURT: Okay. All right, ladies and gentlemen, thank for your service on the jury. If you'll return to your jury room, I'll come back and I'll dismiss you informally, give you the opportunity to ask me any questions or make any comments that you may want to make. And I'll invite you to come back into the courtroom as well for sentencing. And

that's entirely up to you, whether you want to do that or not. But I'll be back in just a few minutes, okay.

(WHEREUPON, the jury left open court at approximately 12:29 p.m.)

THE COURT: All right, I am going to go dismiss the jury informally, then I'll be back in about five or ten minutes. If you'll have sentencing sheets ready, then we'll proceed to sentencing at that time.

MR. GRAVLEE: Your Honor.

THE COURT: Yes, sir.

MR. GRAVLEE: I have one brief thing that I need to raise as well. Just following Mr. Propst here with the mistrial motions and renewing our objections to the qualification of a blind expert that was also a treating expert and just as we discussed in chambers with her being on the jury's side, sitting arm and arm next to the victim and the grandmother in the back. Just with regard to that, we ask to renew the motion.

THE COURT: Yes, sir. You're protected on the record in that regard and the ruling stands. Thank you.

I'll be back in a minute.

(WHEREUPON, a short break was taken.)

THE COURT: All right.

Okay. Mr. Propst, something you need to put the record, sir?

MR. PROPST: Yes, sir. It just came to my attention from Mr. Garland that he believes that the juror that's been sitting -- at least, most recently, I think for the course of the trial on the end seat, Mr. Garland believes that he knows him, that the juror knows Mr. Garland through a work obligation. And Mr. Garland tells us he was informed of this last night by his son. It was just brought to our attention. We wanted to put that on the record to preserve the issue.

THE COURT: I understand.

MR. PROPST: I think it could possibly be an issue.

THE COURT: I appreciate you putting that on the record. I don't think that changes the posture of the case at this point. If that were an issue, that should have been pointed out in qualification, in jury selection or sometime during the presentation of the evidence. After the case is already over and I've dismissed the jury, there's not much I can do about it. That is something that if it had been an issue that was the subject of some concern, I'm

certain it would have been pointed out before the rendering of a verdict. Therefore, I appreciate you putting that on the record, but I don't intend to take any action with respect to that or declare a mistrial incident to that information.

MR. PROPST: That was my next thing, Judge, we'd ask for a mistrial respectfully, put it on the record.

THE COURT: Well, I think that would be the only remedy at this point. I respectfully deny the motion.

Okay. Those among the jurors who want to come in are welcome to come in, if you will bring them in.

(WHEREUPON, the jury came into open court at approximately 12:41 p.m.)

THE COURT: Okay. The parties may approach for sentencing.

SENTENCING

All right. Anything further from the State with regard to sentencing?

MS. KLUSKA: Your Honor, you've already heard the facts of the case and the impact this has had on the victim, so I'm not going to belabor those points. However, I would just point out that the criminal convictions that Mr. Garland has on his record are

not the entirety of his record. The ones that I brought out in cross-examination I'm referring to. He does have additional convictions on his record that I would like to bring to Your Honor's attention.

THE COURT: Yes, ma'am, be happy to hear them.

MS. KLUSKA: In 1991, auto breaking, petit larceny. 1993, petit larceny. 1994, receiving stolen goods and petit larceny. 1995, petit larceny, driving under suspension, and failure to stop for a blue light. 1998, fraud check. 1999, reckless driving, operating an uninsured motor vehicle and using a license plate other than the vehicle issued, speeding, property offense third or subsequent, driving under suspension, improper vehicle license and operating an uninsured vehicle. 2001, another operating an uninsured motor vehicle. 2006, obtaining signature under false pretenses. 2010, malicious injury to property. 2010, malicious injury to property, malicious injury to property, malicious injury to property. 2010, grand larceny times five, burglary third degree, and two property offenses third or subsequent. 2012, malicious injury to personal property. 2013, obtaining metals under false pretenses times five, then a violation of probation in 2015.

Your Honor, other than that, we leave sentencing to your discretion.

THE COURT: Okay. All right.

Mr. Propst or Mr. Gravlee, anything you'd like to address the Court?

MR. PROPST: Yes, sir, while we disagree with the jury's verdict, we certainly respect it. You know, we had some real issues, doubt in this case and it's his right, Mr. Garland's right to exercise his right to a trial. You heard his record. He's never been convicted of anything violent, nothing sexually related. It's all, for the most part -- and I may be jaded from my line of work, petty property crimes and driving offenses.

Judge, in my experience with Mr. Garland, we've actually had to work our meetings into his work schedule. He's a hard worker. He, I think, in the past several years, he's worked about five, six, seven days a week doing construction and has done so for the better part of his life. He's 46 years old, lived in the upstate through the course of his entire life.

Judge, I know there's a mandatory minimum on one of these charges. We'd ask that you consider the minimum sentence in this case. He's also been on

bond wearing a GPS monitor for the duration of this case with a couple exceptions. We'd ask that you consider allowing credit for time served for all of that time. I believe it's in the Court's discretion, then any other time served.

THE COURT: How much time is that, do you know?

MR. PROPST: I don't have the exact number for you right now, Judge.

THE COURT: Has he been either incarcerated or on GPS monitoring since the date that the warrant was issued?

MR. PROPST: Yes, sir.

MS. KLUSKA: Your Honor, it's 197 days between jail and HIP on both charges.

THE COURT: Okay. That's 197 with jail and HIP, does that include the GPS?

MS. HODGE: No, those are jail days. Then after, he got out on GPS.

THE COURT: So, when was the initial warrant issued? Do we know?

MS. HODGE: First warrant was issued on exposure of private parts, 9/15/16.

THE COURT: 9/15/16?

MS. HODGE: Yes, sir. And on that one, he was not put on GPS. He served 40 days and was released.

THE COURT: Okay.

MS. HODGE: Then he was rearrested 3/10/17.

And he did how many days, Alexa?

MS. KLUSKA: 157.

MS. HODGE: 157, and then went on GPS?

THE COURT: Give me the date of that first indictment again. I know you did. It was 2016?

MS. HODGE: Yes, sir, he was arrested on 9/15/16, September 15th, '16.

THE COURT: Okay. All right.

Okay. Anything else, Mr. Propst?

MR. PROPST: No, sir, Judge, unless Mr. Garland would like the address the Court.

THE COURT: Mr. Garland is there anything you'd like tell me, sir?

MR. GARLAND: I want to say I'm innocent because I am. I just hope that you take mercy for me.

THE COURT: All right, Mr. Garland.

All right, for exposure of private parts in a lewd and lascivious manner, the sentence of the Court is that you be committed to the Department of Corrections for a period of six months, credit for time served since September 15th, 2016. That's concurrent with all other sentences.

For the criminal sexual conduct with a minor in

the third degree, sentence of the Court is that you be committed to the Department of Corrections for a period of 15 years, concurrent, credit for time served since September 15th, 2016.

For criminal sexual conduct with a minor first degree, the sentence of the Court is that you be committed to the Department of Corrections for a period of 28 years, concurrent, credit for time served since September 15th, 2016.

Good luck to you, Mr. Garland.

MR. GRAVLEE: Thank you, Your Honor.

MS. KLUSKA: Thank you, Your Honor.

THE COURT: Yes, ma'am, thank you.

All right, ladies and gentlemen, thank you. If y'all have any remaining questions, y'all are welcome to come back to my office, but you don't have to. If not, y'all have a great weekend and a fantastic Thanksgiving. Thanks.

(WHEREUPON, the jury left open court and was excused at approximately 12:49 p.m.)

(WHEREUPON, the proceedings were concluded.)

WITNESSES

Michael Robertson

Greenville County Sheriffs Office

9/15/2016

ARREST WARRANT NUMBER

2016A2330208605

ACTION OF GRAND JURY

TRUE BILL

Clay Tutt

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-23-16 KBH 10154 001750

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March TERM 2018

THE STATE

vs.

SHANNON EARL GARLAND

Indictment for

0377

EXPOSURE OF PRIVATE PARTS IN A LEWD AND LASCIVIOUS MANNER

VIOLATION § 16-15-0365

ENTERED ACCT

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	**EXPOSURE OF PRIVATE PARTS IN A LEWD AND LASCIVIOUS**
COUNTY OF GREENVILLE	)	**MANNER**

At a Court of General Sessions, convened on MAR 20 2018 the Grand Jurors of Greenville County present upon their oath:

That SHANNON EARL GARLAND did in Greenville County, on or about the 11th day of May, 2016 willfully and knowingly expose the private parts of his person in a lewd and lascivious manner and in the presence of B.W. or any other person. This is in violation of South Carolina Code of Laws § 16-15-365.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR BAR # 8245

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)
STATE VS.)
Shannon Earl Garland)
AKA:)
Race: WHITE Sex: M Age: 46)
DOB: [redacted] SS#: [redacted])
Address: [redacted] Apaloosa Dr.)
City,State,Zip: Greenville, SC 29605)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS 0-319 mo. JV

INDICTMENT/CASE#: 2016GS2310154
A/W#: 2016A2330208605
Date of Offense: 5/8/2016
S.C. Code § : 16-15-0365
CDR Code #: 0377

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐PLEADS
TO: Obscene / Exposure of private parts in a lewd and lascivious manner
in violation of § 16-15-0365 of the S.C. Code of Laws, bearing CDR Code # 0377
☐NON-VIOLENT ☐ VIOLENT ☐SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐Lesser Included Offense, ☐Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Hodge, Kris — 8245 SC Bar# — Defendant — PROPST, CHARLES Attorney for Defendant — 100399 SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,** for a determinate term of 60 days/months/years or ☐ under the **Youthful Offender Act** not to exceed — years and/or to pay a fine of $ —; provided that upon the service of _____ days/months/years and/or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. SINCE 9/15/16

☐The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐**Deferred** ☐**Def. Waives Hearing** ☐**Ordered** **PTUP** _____

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		$
§14-1-206 (Assessments 107.5 %)		$
§14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
Proviso (Public Def/Probation)	$500	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25
§14-1-213 (Drug Court Surcharge)	$150	$
§50-21-114(BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 3.75
TOTAL		$128.75

_____ days/hours Public Service Employment

Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Paul B. Wickenemma
Court Reporter: April Herron

Presiding Judge
Judge Code: 2158
Sentence Date: Nov. 15, 2018

SCCA/217 (04/2018)

WITNESSES

Michael R. Robertson

Greenville County Sheriffs Office

3/10/2017

ARREST WARRANT NUMBER
2017A2330202328

ACTION OF GRAND JURY
TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

GUILTY

Foreperson of Petit Jury
Date:

DOCKET NO. 2018-GS-23- KBH 001757

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2018

March

THE STATE

vs.

SHANNON EARL GARLAND

Indictment for

0385

CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE

VIOLATION § 16-03-0655

ENTERED
ACCT

STATE OF SOUTH CAROLINA)
) INDICTMENT FOR
) **CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE**
COUNTY OF GREENVILLE)

At a Court of General Sessions, convened on MAR 20 2018 the Grand Jurors of Greenville County present upon their oath:

That SHANNON EARL GARLAND did in Greenville County, between the 13th day of August, 2014 and the 12th day of August, 2016, commit a sexual battery on B.W., who was less than eleven years of age. This is in violation of §16-03-0655(A)(1)[formerly 16-3-655(1)] of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR BAR # 8245

322

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)
STATE VS.)
Shannon Earl Garland)
AKA:)
Race: WHITE Sex: M Age: 46)
DOB: [redacted] SS#[redacted])
Address: [redacted] Apaloosa Dr.)
City,State,Zip: Greenville, SC 29605)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS 25-life J/

INDICTMENT/CASE#: 2018GS2301757
A/W#: 2017A2330202328
Date of Offense: 8/13/2014
S.C. Code § : 16-03-0655(A)(1)
CDR Code #: 0385

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐PLEADS
TO: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

in violation of § 16-03-0655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385 ✓
☐NON-VIOLENT ☒ VIOLENT ☐SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐Lesser Included Offense, ☐Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Kris Hodge — Hodge, Kris
8245 — SC Bar#
Defendant
PROPST, CHARLES — Attorney for Defendant
100399 — SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 25 days/months/years or ☐ under the **Youthful Offender Act** not to exceed ____ years
and/or to pay a fine of $ ____; provided that upon the service of ____ days/months/years and/or payment
of $ ____; plus costs and assessments as applicable*; the balance is suspended with **probation** for ____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. SINCE 9/15/16

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐**Deferred** ☐**Def. Waives Hearing** ☐**Ordered** **PTUP** _____

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		$
§14-1-206 (Assessments 107.5 %)		$
§14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
Proviso (Public Def/Probation)	$500	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25
§14-1-213 (Drug Court Surcharge)	$150	$
§50-21-114(BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 3.75
TOTAL		$ 128.75

_____ days/hours Public Service Employment

Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Paul B Wickenmeyer
Court Reporter: April Herron

Presiding Judge
Judge Code: 2159
Sentence Date: Nov. 15, 2018

SCCA/217 (04/2018)

WITNESSES

Michael R. Robertson

Greenville County Sheriffs Office

3/10/2017

ARREST WARRANT NUMBER

Direct Presentment

DOB: [redacted] WM SSN [redacted]

ACTION OF GRAND JURY

TRUE BILL

Clay Tutt

FOREMAN GRAND JUR

Foreperson of Grand Jury

VERDICT

GUILTY

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-23- 007848A

DIRECT PRESENTMENT AAK

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

October **TERM 2018**

THE STATE

vs.

SHANNON EARL GARLAND

3661 ✓ **Indictment for**

CRIMINAL SEXUAL CONDUCT WITH A MINOR 3RD DEGREE

VIOLATION § 16-03-0655 (C)

ENTERED
ACCT JCP

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR 3RD DEGREE

At a Court of General Sessions, convened on the Grand Jurors of Greenville County present upon their oath: OCT 23 2018

That SHANNON EARL GARLAND did in Greenville County, between the 13th day of August 2014 and 12th day of August, 2016 being over the age of fourteen years, willfully and lewdly commit or attempt a lewd and lascivious act upon or with the body, or its parts, of B.W., a child under the age of sixteen years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of himself or such child. This is in violation of §16-03-0655(C) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR BAR # 102755

325
O-15
JV

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)
STATE VS.)
Shannon Earl Garland)
AKA:)
Race: WHITE Sex: M Age: 46)
DOB: [redacted] SS#: [redacted])
Address: [redacted] Old Piedmont Hwy)
City,State,Zip: Piedmont, SC 29673)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS2307848A
A/W#: 2018GS2307848A
Date of Offense: 8/13/2014
S.C. Code § : 16-03-0655(C)
CDR Code #: 3661

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Sex / Criminal sexual conduct with minor, 3rd degree - Commit/Attempt Lewd act (victim under 16 yrs & actor over 14 yrs)
in violation of § 16-03-0655(C) of the S.C. Code of Laws, bearing CDR Code # 3661 ✓
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST: Kris Hodge

Hodge, Kris	8245			
	SC Bar#	Defendant	Attorney for Defendant	SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,** for a determinate term of 15 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. SIR-LE 9/15/16

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐**Deferred** ☐**Def. Waives Hearing** ☐**Ordered** **PTUP** _____

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		$
§14-1-206 (Assessments 107.5 %)		$
§14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
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Proviso (Public Def/Probation)	$500	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25
§14-1-213 (Drug Court Surcharge)	$150	$
§50-21-114(BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 3.75
TOTAL		$ 128.75

_____ days/hours Public Service Employment

Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Paul B. Wickenheiser
Court Reporter: April Herron

Presiding Judge _____
Judge Code: 2158
Sentence Date: Nov. 15, 2018

SCCA/217 (04/2018)

RECEIVED
Jul 07 2020
SC Court of Appeals

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/*Susan B. Hackett*
Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 7th day of July, 2020.

RECEIVED
Jul 07 2020
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
Robin B. Stilwell, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHANNON EARL GARLAND,

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon David Spencer, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), which is, dspencer@scag.gov, this 7th day of July, 2020.

s/*Susan B. Hackett*
Susan B. Hackett
Appellate Defender