

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS
The Honorable Robin B. Stilwell

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S.C. SUPREME COURT

Court of Appeals Appellate Case No. 2017-001585

Supreme Court Case No. _____

The State, ... Respondent,

v.

Dwayne Cameron Tallent, ... Appellant.

APPENDIX VOLUME II

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E. G. [REDACTED] CROSS BY MR. KAPPEL

1 Q Okay. So, when you started this investigation
2 in 2014, Officer Richter did want to speak with your
3 brother, right?

4 A Yes.

5 Q Okay. And you took your brother over to meet
6 with him?

7 A Yes.

8 Q Isn't that correct? And during the course of
9 that interview with your brother, you sat in on the
10 interview; isn't that right?

11 A Yes.

12 Q Do you recall if you interrupted your brother in
13 responding to questions?

14 A I don't recall, but I don't deny it either.

15 Q Okay. If I were to tell you that you
16 interrupted the interview over 27 times in 40 minutes,
17 would that sound about right?

18 A I guess.

19 Q Do you recall questions such as -- from Officer
20 Richter to your brother, Where do you live? Do you recall
21 what his answer was?

22 A No.

23 Q If I were to tell you that his answer was, With
24 my sister.

25 And then you interrupted and you said,

E.G. [REDACTED] CROSS BY MR. KAPPEL

1 Well, he's actually moving.

2 So, do you recall doing that?

3 A Maybe.

4 Q The second question was, How old are you?

5 And he said, 31.

6 And you had to correct or you tried to
7 correct him on his age, it really doesn't matter, you can
8 leave it at 31.

9 Do you recall saying that?

10 A No.

11 Q So, very basic questions that you were having to
12 correct. And then there were other more substantive
13 questions that you had to interrupt, do you remember?

14 A (The witness shrugged her shoulders.)

15 Q Now, you know, I can show you a transcript of it
16 if you'd like to review it or I can just ask you a
17 question and you can respond.

18 A Yeah, sure.

19 Q Okay. At one point in time, Officer Richter
20 asked your brother if he was actually present in January
21 2002 when the police arrived, okay, a logical question.

22 And your brother's response was, Did I?

23 And your answer to him was, You weren't
24 there.

25 Okay. Do you remember that?

E. G. [REDACTED] CROSS BY MR. KAPPEL

1 A Yes.

2 Q Then your brother's response to Officer Richter
3 was, Yeah, I was not there.

4 Do you understand that?

5 A Yes.

6 Q And your answers in these questions were replete
7 with corrections or modifications and direction to your
8 brother throughout the interview; isn't that right?

9 A I guess.

10 Q Right?

11 A Yeah.

12 Q In fact, you were there with him to make sure he
13 could get through the interview, right?

14 A As support, yes.

15 Q Well, as support, but also to be able to answer
16 the questions the way you wanted him to answer the
17 question; isn't that right?

18 A Not intentionally.

19 Q But you were there?

20 A Yes.

21 Q And you were sitting next to him, right?

22 A Yes.

23 Q And Officer Richter allowed you to interject and
24 make comments and make sure that his answers were the way
25 that you wanted them to be?

E. G. [REDACTED] CROSS BY MR. KAPPEL

1 A (There was no response.)

2 Q Isn't that correct?

3 A Yes.

4 Q And that interview is not consistent with the
5 way you had been interviewed before back in 2002 with the
6 sheriff's office and with DSS in April and June; isn't
7 that right?

8 A Correct.

9 Q And, in fact, it was wholly different because
10 you were separated from others, right?

11 A Correct.

12 Q You were interviewed by DSS professionals that
13 had experience with these matters, correct?

14 A Correct.

15 Q All right. Now, Officer -- you indicated --
16 actually, you were interviewed -- do you remember you had
17 actually two interviews with Officer Richter? And your
18 second interview with him -- I think I told your first
19 interview with Officer Richter was in -- excuse me for one
20 moment. July 31st, 2014. Then you had a follow-up
21 interview September 4th, 2014, correct?

22 A Yes.

23 Q And in your subsequent interview on
24 September 4th, 2014, you told him -- or you indicated to
25 him that you had been requested -- had a friend request on

E.G. [REDACTED] CROSS BY MR. KAPPEL

1 Facebook; isn't that right?

2 A Yes.

3 Q And it was from R.R. [REDACTED] wasn't it?

4 A Yes.

5 Q And you knew that R.R. [REDACTED] had met Officer

6 Richter on September 3rd, the day before?

7 A Possibly.

8 Q Okay. Did Officer Richter talk to you about

9 R.R. [REDACTED] intention regarding the friend request?

10 A Yes.

11 Q He said that she had good intentions?

12 A Yes.

13 Q And it was basically to the point where he was

14 encouraging you to talk to R.R. [REDACTED] right?

15 A Yes.

16 Q And to respond to her Facebook request?

17 A Yes.

18 Q Okay. When you -- well, I want to ask you a

19 couple more quick questions. When you were talking about

20 79 Ferguson Road being kind of the hell of your past, you

21 talked about being sick, you mentioned that earlier, and

22 that you were at Dwayne's sister's house, correct?

23 A Yes.

24 Q And Dwayne's sister, Debbie, took care of you?

25 A Yes.

E.G. [REDACTED] CROSS BY MR. KAPPEL

1 Q Fed you, gave you fluids, gave you whatever
2 medicine you needed for whatever it is that was ailing
3 you, correct?

4 A Yes.

5 Q And you described that you had to leave Debbie's
6 house and go back to Painter Road, right?

7 A Yes.

8 Q And you talked about how horrible that was
9 because Dwayne was at Painter Road?

10 A Yes.

11 Q Or staying at Painter Road?

12 A Yes.

13 Q And you described to Officer Richter how
14 horrible this was because you were in a comfortable place
15 with Debbie, you weren't feeling well and she was making
16 you better, whether it was the flu or cold or fever,
17 whatever it was, and the horror of having to leave
18 Debbie's house and go to Painter Road where you knew
19 Dwayne would be?

20 A Well, he was the one driving us. He was there,
21 too.

22 Q Well, you talked about the horror of ending up
23 at this location knowing that you were going to be there
24 by yourself with Dwayne, right?

25 A Uh-huh.

E. G. [REDACTED] CROSS BY MR. KAPPEL

1 Q And even still, you described that you were
2 going back to Dwayne's -- to Painter Road where Dwayne
3 could get, you described it as a fix?

4 A Yes.

5 Q You talked about a number of times where you
6 would pray to God?

7 A Yes.

8 Q And you would pray to God that you would die in
9 your sleep?

10 A Yes.

11 Q And you would pray that you wouldn't wake up?

12 A Yes.

13 Q Right? And that was a lot?

14 A Yes.

15 Q You would hope that this wouldn't continue to
16 the point that you would die?

17 A Yeah.

18 Q Isn't that right?

19 A (The witness nods.)

20 Q That was over a substantial period of time;
21 isn't that correct?

22 A Yes.

23 Q Now, I guess the part that is so confusing is
24 that when your opportunity to break loose of this whole
25 cycle with the aid of law enforcement, with the aid of

E. G. [REDACTED] CROSS BY MR. KAPPEL

1 Department of Social Services that you said no,
2 repeatedly, correct?

3 A Yes.

4 Q And the thing that's so strange is that you were
5 writing letters saying that you loved Dwayne and that you
6 wanted to return to Dwayne to 79 Ferguson, right?

7 A I don't remember letters, but, yes.

8 Q That you were hugging Lenore, your grandmother,
9 crying that you did not want to leave?

10 A Yes.

11 Q And it's strange that for someone that would
12 rather be dead than to stay there, that's actually been
13 taken to some other location, is actually begging and
14 crying to stay at the house; right?

15 A Yes.

16 Q And you're not five years old at this point in
17 time, you're maturing into a woman. You're a 14 year old
18 and you're maturing into a woman. And you just couldn't
19 get loose, right?

20 A Yes.

21 Q And I'm sure that when you were interviewed with
22 DSS, those professionals at DSS, and they talked to you
23 about -- I'm sure they talked to you about putting you in
24 a safe place, a safe environment. They have certain
25 protocols in conducting the interviews and making you feel

E. G. [REDACTED] REDIRECT BY MR. MOYER

1 comfortable, correct? Isn't that right?

2 A Yeah.

3 Q In other words, they just don't come right out
4 and ask you the ultimate question, hey, did this happen?
5 I mean, they spend a substantial period of time with you
6 to gain your trust, to let you know you're in a safe
7 place, and to let you know that you can talk to them
8 freely; isn't that right?

9 A Yes.

10 Q And yet, they did that over and over and you
11 never told that it happened?

12 A Correct.

13 Q And you had multiple opportunities to do so?

14 A Yes.

15 MR. KAPPEL: Just a moment, Judge.

16 THE COURT: Yes, sir.

17 MR. KAPPEL: Judge, that's all I have.

18 THE COURT: Okay. Any redirect, Mr. Moyer?

19 MR. MOYER: Just one matter.

20 REDIRECT EXAMINATION

21 BY MR. MOYER:

22 Q Now, regarding when you lived on Painter Road,
23 and then the Defendant came -- moved back in with you and
24 your mom for a period of time, do you recall that?

25 A Yes.

E.G. [REDACTED] REDIRECT BY MR. MOYER

1 Q Okay. Did he have anything -- did he have any
2 reaction about this guy that you just talked about having
3 a crush on, this John Wood?

4 A Yes.

5 Q What was that?

6 A He was worried whether or not I was having
7 sexual relations with him so much as to ask my mother if
8 he could check me. He knew how, he knew what to look for.

9 Q Did he ever talk about -- and he did commit some
10 more of the sexual abuse with you after that?

11 A Yes.

12 Q Did he ever talk to you about this guy, this
13 John Wood guy?

14 A That he was mad. And I just pretty much denied
15 any relation and it wasn't --

16 Q You didn't have a relationship with that John
17 Wood, did you?

18 A No.

19 Q Nothing sexual happened?

20 A No.

21 Q Okay. Was Dwayne Tallent's reaction one of
22 jealousy?

23 A Yes.

24 MR. MOYER: Nothing further.

25 THE COURT: Recross, sir?

JOEY GRECO-DIRECT BY MR. MOYER

1 MR. KAPPEL: Nothing, Judge.

2 THE COURT: Thank you, ma'am. You may step
3 down.

4 All right, Mr. Moyer, you may call your next
5 witness.

6 MR. MOYER: The State calls Joey Greco.

7 THE CLERK: Mr. Greco, if you will please pause
8 at the end of the bench, place your left hand on the
9 Bible and raise your right hand.

10 JOEY GRECO, after being duly sworn,
11 testified as follows:

12 THE CLERK: Thank you, please be seated. State
13 your name for the record.

14 THE WITNESS: My name is Joseph Greco, Jr.

15 THE CLERK: Thank you.

16 DIRECT EXAMINATION

17 BY MR. MOYER:

18 Q Who are you named after?

19 A My father.

20 Q How old are you?

21 A Thirty-six in August.

22 Q So, how far did you go in school?

23 A I graduated and I went for one year at
24 Greenville Tech.

25 Q What high school did you graduate from?

JOEY GRECO-DIRECT BY MR. MOYER

1 A Woodmont High School.

2 Q You live in western North Carolina now; isn't
3 that right?

4 A Yes, sir.

5 Q Where do you work?

6 A Construction company.

7 Q Okay. How long have you worked for that
8 company?

9 A Three and a half years.

10 Q All right. Are you married, children?

11 A Yes, newlyweds. No kids.

12 Q All right. Now, you know E. G. [REDACTED]

13 A Yeah, she's my sister.

14 Q You are a good bit older than she is?

15 A Yes, six years older.

16 Q So, your mother is Sherry Tallent?

17 A Yes.

18 Q Your father is -- you just mentioned a guy named
19 Joey Greco?

20 A Joseph Greco, Sr.

21 Q Joseph Greco. You go by Joey?

22 A Yes.

23 Q How old were they when they split up?

24 A I say I was like maybe seven, six or seven.

25 Q Okay. So you were pretty young?

JOEY GRECO-DIRECT BY MR. MOYER

1 A Yeah.

2 Q Okay. Were you in South Carolina when that
3 happened?

4 A Yes.

5 Q All right. Now, who did you live with when they
6 split up?

7 A Well, my mom took us with her when she left and
8 then they come to an agreement and we went to go live with
9 my father.

10 Q When you say we, who are you talking about?

11 A My brother and I.

12 Q That's Christopher?

13 A Yes.

14 Q Where did he end up living?

15 A With us.

16 Q Okay. I mean, what state?

17 A We moved to Nevada for a couple of years.

18 Q Moved to Nevada?

19 A Yes.

20 Q Do you remember when you moved back to this
21 area?

22 A I think in 1992. I was about 11.

23 Q Okay. Now, did you continue to live with your
24 father?

25 A Yes.

JOEY GRECO-DIRECT BY MR. MOYER

1 Q Okay. And that was until when?

2 A I want to say '98, because I think I was in
3 tenth grade and I decided to move with my mom.

4 Q So, it was when you were in 10th grade?

5 A Yes.

6 Q So, then you and Christopher moved in with your
7 mother?

8 A Yes.

9 Q Where did you live when you moved in with your
10 mother?

11 A 79 Ferguson Road.

12 Q Okay. Now, had you had much interaction with
13 your mother and/or with EG while you were living in
14 Nevada?

15 A No, not really. Very, very little contact.
16 Maybe around the holiday or something, we might get a
17 call.

18 Q Did you ever come visit?

19 A We come out on vacation one year for like -- I
20 don't know, like two weeks and then we went back. Then
21 about a year later, we moved back to South Carolina.

22 Q Okay. So did you know Dwayne Tallent during
23 that time you were in Nevada?

24 A No, I never met him until we come out on
25 vacation.

JOEY GRECO-DIRECT BY MR. MOYER

1 Q Okay. Then when you moved back here -- when you
2 and Christopher and your father moved back here, did you
3 have much contact with your mother and Dwayne Tallent
4 then?

5 A We tried, but sometimes they just wasn't able to
6 have us come over or see each other because they were
7 doing something else. It was hard to contact them.

8 Q So really, it wasn't until you moved in with
9 them when you were in about tenth grade then --

10 A Yes.

11 Q -- that you had much contact with them?

12 A Yes. It was actually because a court order when
13 my dad and mom went to court for split custody for us to
14 go over there on weekends and for him to see her. That's
15 when we started seeing each other more because pretty much
16 the Court Order.

17 Q So, then you started just having weekend
18 visitation?

19 A Yes.

20 Q Then you ended up moving in?

21 A Yes.

22 Q Okay. Did you -- during that time you were
23 coming over for visitation, did you get to know Dwayne
24 Tallent pretty well?

25 A A little bit. We would go camping.

JOEY GRECO-DIRECT BY MR. MOYER

1 Q When you moved in, granted, you were older, but
2 how did you get along with him?

3 A I mean -- I mean, he was an all right guy, I
4 mean, when I first got to know him.

5 Q Did he do things for y'all?

6 A Well, I mean, like I said, he would take us
7 camping. We'd go travel on vacations. That's pretty much
8 it.

9 Q All right. Now, did you have any observations
10 when you moved in that maybe you can look back on now
11 about his interaction with **EG** that stood out or stands
12 out now?

13 A For this situation, yes. I was going to the
14 restroom to take a shower --

15 MR. KAPPEL: I'm going to object, Judge, to
16 what's about to -- just relevancy. I'm not sure if
17 it needs to be proffered or not, but I would like to
18 take it up in advance.

19 THE COURT: Okay. Y'all come on up.

20 (WHEREUPON, an off-the-record bench conference
21 was held in the presence of the jury but out of
22 the hearing of the jury.)

23 THE COURT: All right, you may proceed,
24 Mr. Moyer.

25

JOEY GRECO-DIRECT BY MR. MOYER

1 BY MR. MOYER:

2 Q Before the specific incident that you were about
3 to talk about in the room, was there anything about the
4 way the Defendant and E.G. would interact with one another
5 that stood out as anything different or odd or not?

6 A He'd always have his hands on her.

7 Q What do you mean by that?

8 A Just always hugging on her, just like always
9 having some kind of skin contact.

10 Q Okay. And that would be when you were sitting
11 around the living room or --

12 A Yeah.

13 Q -- whatever like? Okay. Can you think of other
14 instances where you would see that sort of thing?

15 A If we were out there in the living room or, you
16 know, sometimes whenever she would walk down the hallway,
17 he might come over there and pat her on her butt, touch
18 her.

19 Q Now, when y'all were at home, would he spend a
20 lot of time with y'all or was there any particular room in
21 the house that he would spend more time in than others?

22 A His bedroom.

23 Q Okay. Did he ever have anyone go in the bedroom
24 with him?

25 A Yeah, I mean, we'd all go in there every once in

JOEY GRECO-DIRECT BY MR. MOYER

1 a while to watch TV because he had all the TV channels in
2 there. But most of the time, it would be E.G. that was
3 always in there.

4 Q Did he ever call for her or how --

5 A Yeah, he called for her. He always calls for
6 her.

7 Q That was a common occurrence that he'd call for
8 her to go to the room?

9 A Yes, that's why I didn't think anything of it at
10 the time.

11 Q So, was there a lot of occasions that it would
12 just be the two of them in the room?

13 A Yes, a lot.

14 Q Would he leave the door open when that --

15 A Well, sometimes, it would be cracked.

16 Sometimes, it would be open.

17 Q What about other times?

18 A I mean, it was normally cracked, at least,
19 slightly, about an inch maybe.

20 Q Okay. Did he ever call for you and Christopher
21 to come into the room and not E.G.

22 A Maybe to do recreational things.

23 Q What do you mean by recreational things?

24 A Like maybe just to smoke.

25 Q Smoke what?

JOEY GRECO-DIRECT BY MR. MOYER

1 A Cigarettes, marijuana.

2 Q Okay. So, that was one of the questions I was
3 going to ask you next. Was there marijuana use in the
4 house by the Defendant?

5 A Yes.

6 Q Did you ever see him using it around E.G.

7 A We all did.

8 Q Did you ever see him give it to E.G.

9 A Never see him give it to her.

10 Q But you would see him and her use it.

11 A I would see him, but I did not see her.

12 Q Now -- okay, and then you mentioned -- well, let
13 me ask you this, was there ever an incident where you
14 looked or saw into the room when the Defendant and E.G.
15 were in there?

16 A Repeat the question.

17 Q Was there ever an incident when Dwayne Tallent
18 and your sister, E.G. were in his bedroom that you
19 happened to look in and see anything?

20 A I didn't see any kind of like contact, I would
21 say, but, I mean, when I looked in there one time, he shot
22 up like a deer in headlights, you know, wide-eyed, like
23 didn't know I was there. I mean, that was about it. I
24 didn't see anything physical.

25 Q Was E.G. in the room at that time?

JOEY GRECO-DIRECT BY MR. MOYER

1 A Yes.

2 Q Where was E.G.

3 A In the bed.

4 Q Where was he when he shot up like you just
5 mentioned?

6 A He was like kind of on top of her, towards her
7 feet, like shot up.

8 Q Do you remember if the covers were up or not?

9 A I didn't look in that far, but I know I seen her
10 foot and seen him jump up.

11 Q Did he do -- other than jump up, did he do or
12 say anything?

13 A No, he just rolled over and laid down on the
14 bed.

15 Q What did you do?

16 A I didn't think anything of it right at the
17 moment. You know, I just thought they were just horse
18 playing or something because that's what they would do.

19 Q Okay. Now, do you remember anything about how
20 E.G. was dressed or anything like that?

21 A She'd always have like a t-shirt, like a
22 nightgown kind of t-shirt.

23 Q Okay. Do you recall any other incidents of
24 seeing the Defendant in the room -- having looked in the
25 bedroom when he and Liz were in the bedroom?

JOEY GRECO-DIRECT BY MR. MOYER

1 A Oh, my brother, he's the one that --

2 Q I'm not talking about that yet, but was there --
3 do you recall any other instance where you looked in and
4 saw him doing anything while E.G. was in the room?

5 A Well, I mean, she was under the cover and he was
6 moving his hand pretty funny around the covers, around his
7 crotch area, so I kind of thought that was a little --
8 more kind of weirded me out a little bit.

9 Q Was he in the bed at that time?

10 A Yeah, he was always in the bed. That's all he
11 did was lay in bed.

12 Q Okay. Do you remember if he was under the
13 covers?

14 A Yeah, he was under the covers.

15 Q Okay. Do you remember if she was under the
16 covers?

17 A She was under the covers.

18 Q Okay. And you could see his hand moving --

19 A Around his crotch area.

20 Q Around his crotch area. Did you say anything at
21 that time when you saw that incident?

22 A Yeah, I said, What are you doing?

23 And he said, What?

24 And I guess he made it look like he was
25 scratching or something, I don't know.

JOEY GRECO-DIRECT BY MR. MOYER

1 Q So, once again, you kind of looked the other way
2 and think you saw -- didn't really see what the worst
3 could have been?

4 A Yeah, I mean, I wasn't even thinking of it that
5 way. But it just dawned on me at the last minute.

6 Q Okay. Now, there's another incident that
7 involved your brother; is that right?

8 A Yes.

9 Q Okay. Were you home when that incident took
10 place?

11 A Yes, I was in the living room.

12 Q Okay. So, you didn't actually see in the room
13 on that occasion?

14 A No, I did not.

15 Q So, what -- what -- what did you see or observe
16 about what took place with Christopher?

17 A My brother was walking into his room. I was
18 playing a video game or watching TV and I just heard him
19 shout and come running out. And then Dwayne come
20 barreling through the hallway, chasing him out the house
21 and started throwing coolers at him that we had on the
22 front porch.

23 Q Did you go outside and watch what was taking
24 place?

25 A No, I heard a ruckus and by the time I got up,

JOEY GRECO-DIRECT BY MR. MOYER

1 he come walking in.

2 Q Walking back in the house?

3 A Yeah, walking back in the house, yeah.

4 Q Did you have any conversation with them about
5 that?

6 A I was like, What's going on? He just -- I don't
7 know, it was kind of a strange.

8 Q What do you remember his reaction being at that
9 time?

10 A He was mad, furious.

11 Q At?

12 A At my brother. Because my brother -- on the way
13 out, my brother said, Dude, Dwayne's molesting **E.G.**

14 Q He was talking to you?

15 A Yeah, my brother was. And then that's when he
16 started chasing him outside the house.

17 Q All right. Then -- so around that time, is that
18 when you and your brother moved out?

19 A Yes.

20 Q Okay. Did you ever go back in and live with
21 Dwayne and your mother and **E.G.** again?

22 A No. I haven't seen Dwayne in like 15 years
23 until we just come over here a couple months ago.

24 Q Okay.

25 A I ain't seen him in 15 years.

JOEY GRECO-DIRECT BY MR. MOYER

1 Q Okay. So, you moved out then and never went
2 back in?

3 A Never went.

4 Q Did you live with your dad again?

5 A Yes.

6 Q Did you and Christopher tell him about what
7 happened?

8 A Yes.

9 Q And he went to law enforcement?

10 A We all went to law enforcement to try to get it
11 situated, you know, let them know what we had seen and
12 what had gone on. And they said they couldn't do anything
13 unless E.G. spoke up about it.

14 Q And you were interviewed by DSS workers about
15 it?

16 A Yes.

17 Q And you told them what you saw?

18 A Yeah.

19 Q Okay. Did you ever talk to E.G. -- going back to
20 that time, did you talk to E.G. about it?

21 A Yeah, she didn't want to do it. She just cried
22 and I just left her alone.

23 Q She didn't want to do what?

24 A She just didn't want to talk about it. She just
25 cried and I just let it alone.

JOEY GRECO-DIRECT BY MR. MOYER

1 Q Okay. Didn't want to talk about what had taken
2 place?

3 A Yes.

4 Q So, she never admitted to you about anything
5 that happened?

6 A No.

7 Q Did you ask her about it? Did she deny it to
8 you?

9 A She didn't tell me per se, but.

10 Q You know she denied it to law enforcement?

11 A Yes. Yes.

12 Q Okay. Okay. Now, in addition to marijuana, at
13 some point, did you see other drugs?

14 MR. KAPPEL: I'm going to renew my objection at
15 this point.

16 THE COURT: Okay.

17 MR. KAPPEL: I think it's cumulative and --

18 THE COURT: All right. I respectfully overrule
19 the objection.

20 You may ask the question, sir.

21 BY MR. MOYER:

22 Q Do you recall other drugs in the home?

23 A Yes, sir.

24 Q Tell us about that.

25 A My brother was in a wreck and had his back

JOEY GRECO-DIRECT BY MR. MOYER

1 broken and he come into a lot of money. We also had a
2 friend at the time that was -- you know, moved in with us
3 and he was also in the wreck. And we had a pocket -- they
4 had a pocket full of money. So, we started doing other
5 recreational drugs.

6 Q When you say -- I mean, it was tens of thousands
7 of dollars, wasn't it?

8 A Yeah.

9 Q And that's where all that money went pretty
10 much?

11 A Pretty much.

12 Q What kind of drugs?

13 A Cocaine and meth.

14 Q All right. When you say we, who all was
15 involved in the purchase and use of these drugs in the
16 house there?

17 A Well, Dwayne was always the hookup, so he knew
18 who to contact. So, we'd just give Dwayne the money -- or
19 they would give Dwayne the money and we'd all just sit
20 around and get high.

21 Q So, the cocaine that was brought into the house,
22 did y'all ever do anything to alter it's form in any way?

23 A We were snorting so much coke that our noses
24 were bleeding. We didn't want our noses to bleed anymore,
25 so we figured out how to free base crack cocaine.

JOEY GRECO-DIRECT BY MR. MOYER

1 Q Who was making it?

2 A Dwayne, me, my brother.

3 Q How old were you at this time?

4 A I believe I was 18.

5 Q So, Christopher was?

6 A Well, he was 18, so I had to be 20. Because he
7 was 18 when he got his money.

8 Q Okay.

9 A So, I was 20.

10 Q And E.C. was in the home?

11 A Yes.

12 Q And would you -- who learned how to make this
13 crack cocaine?

14 MR. KAPPEL: Judge, at this point I'm going to
15 object based on the 403 argument. I'm also going to
16 object that, as the witness just described,
17 Christopher was already 18 at this point in time, so
18 I don't think it's really relevant.

19 THE COURT: Okay. What was the question?

20 MR. MOYER: The question was how they learned
21 how to make the crack cocaine.

22 THE COURT: Okay, I'll let you ask that
23 question. I respectfully overrule.

24 Go ahead.

25 THE WITNESS: Dwayne.

JOEY GRECO-DIRECT BY MR. MOYER

1 BY MR. MOYER:

2 Q Dwayne was the one who taught you how to make
3 it?

4 A Yeah.

5 Q Was it made right in the kitchen?

6 A Yes.

7 Q Of the house?

8 A Right in the kitchen.

9 Q E.G. would be around when this was being made?

10 A Yeah, she was there.

11 Q And when it was being used?

12 A Yeah. We tried to shoo her away every once in a
13 while, but she knew what was going on.

14 Q Okay. In addition to the cocaine and crack
15 cocaine, were there other drugs used in the house?

16 A Yes, there was meth. I said meth.

17 Q Okay. Meth was used as well?

18 A Yes.

19 Q By the Defendant?

20 A Yes. Everybody.

21 Q Okay.

22 MR. MOYER: Okay. Please answer any questions
23 Mr. Kappel may have.

24 MR. KAPPEL: Thank you, Your Honor. May it
25 please the Court?

JOEY GRECO-CROSS BY MR. KAPPEL

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. KAPPEL:

4 Q Just so I understand, you have gone on the
5 record regarding this matter on one occasion and that was
6 back in 2002 with DSS; isn't that correct?

7 A Yes.

8 Q In other words, you haven't given a statement to
9 law enforcement, right? Or have you?

10 A We went to the law enforcement and they said
11 that we couldn't really do anything until E.G. said
12 something about it.

13 Q Right, I understand. That was back in 2002?

14 A Yes.

15 Q That was sometime 2001, 2002. The first person
16 to really interview you, to take a statement from you was
17 DSS; isn't that correct?

18 A Yes.

19 Q After DSS interviewed you in 2002, you haven't
20 been interviewed about this since?

21 A No.

22 Q You haven't gone to Officer Richter to give him
23 a statement?

24 A Nobody's asked me.

25 Q No one's ever asked you to come in and talk to

JOEY GRECO-CROSS BY MR. KAPPEL

1 them or anything about what you testified to today?

2 A Except for Moyer.

3 Q Mr. Moyer?

4 A Yes, sir.

5 Q So, this is the first time ever that you've gone
6 on record regarding this matter aside from your statement
7 to DSS in 2002?

8 A Yes.

9 Q Is that correct?

10 A Yes.

11 Q Now, the statement you did give to DSS in 2002,
12 you never said that **E.G.** was in the bed with Dwayne, did
13 you?

14 A Yes.

15 Q Would you like to look at your statement?

16 A Yes.

17 MR. MOYER: Your Honor, I object. He can't be
18 impeached on another person's report.

19 MR. KAPPEL: He can look at it.

20 THE COURT: He can read the statement and he can
21 either confirm or deny that's what he said. At this
22 point.

23 Go ahead show it to him.

24 BY MR. KAPPEL:

25 Q So, you recall being interviewed by DSS,

JOEY GRECO-CROSS BY MR. KAPPEL

1 correct?

2 A Yes.

3 Q And they took a statement from you, correct?

4 A What we had seen, yes.

5 Q If you don't mind -- just a moment.

6 A (The witness reviews the statement.) This is my
7 father.

8 Q All right, I'm going to point you to the bottom
9 of the page, if you don't mind.

10 A (The witness continues to review the statement.)

11 Q Have you had a chance to review your statement?

12 A Yes, sir.

13 Q All right, I'm going ask you a question. In
14 this report --

15 MR. MOYER: Your Honor, I object to the premise
16 of the question, that is his statement.

17 THE COURT: What is it?

18 MR. MOYER: It's not his statement.

19 MR. KAPPEL: Judge, I've asked him if recalls
20 giving a statement. I've asked him if he recollets
21 the statement. He's now had a chance to refresh his
22 memory with the statement. Now, I'm going to ask
23 him --

24 THE COURT: I think The State's contention is
25 that's not a statement, that that's a recording of an

JOEY GRECO-CROSS BY MR. KAPPEL

1 interview from an official of the State. Is that
2 your position?

3 MR. MOYER: It's just notes taken by a DSS
4 employee.

5 THE COURT: Okay.

6 MR. MOYER: So, it's not his statement.

7 THE COURT: Okay. I understand. I'm going to
8 let you ask that question.

9 MR. KAPPEL: Thank you.

10 THE COURT: But, you know, we'll see where it
11 goes.

12 But I understand your characterization of it
13 and, perhaps, that needs to be fleshed out, perhaps,
14 it doesn't.

15 But I'll let you ask the question.

16 MR. KAPPEL: Thank you.

17 BY MR. KAPPEL:

18 Q So, did you describe to DSS that **E.G.** was in
19 the bed with Dwayne?

20 A Yes.

21 Q Okay. So, what you're suggesting then as what
22 you saw, you saw the notes of your interview, that that's
23 incorrect?

24 A It's not fully on there, no, that is correct.

25 Q That it's incorrect.

JOEY GRECO-CROSS BY MR. KAPPEL

1 A It's incorrect. It's not fully on there what I
2 told them.

3 Q Okay. All right. When did you and your brother
4 approach your father, do you remember?

5 A As soon as we left.

6 Q Do you recall how long it took your dad to call
7 law enforcement? I mean, did y'all talk about it and
8 think about it for a month or two or six months and then
9 call law enforcement or was it immediate?

10 A This has been about 15 years for me to
11 recover -- to remember everything that happened.

12 Q Do you have any ideas how soon after you told
13 him that he called the police?

14 A Well, I mean, yeah, I'm sure he went -- he was
15 furious, but I can't say exactly when.

16 Q Was it less than a week?

17 A Yeah. As soon as we told him, he was adamant
18 about us going to the police department.

19 Q So, the police were involved in January 2002,
20 right? Does that sound right to you?

21 A For what?

22 Q When the police responded to his complaint, to
23 your father's complaint, it was January 2002; isn't that
24 right?

25 A I think so.

JOEY GRECO-CROSS BY MR. KAPPEL

1 Q So, you would have told your father
2 January 2002, correct?

3 A No -- yes, yes, yes.

4 Q Okay. The incident -- well, anyway. So, you
5 think it was right before when the police responded to the
6 actual -- right before when the police responded to your
7 father's complaint is when you, your dad -- or the two of
8 y'all told your dad?

9 A Yeah.

10 Q All right. Now, what you saw inside Dwayne's
11 room -- you described it as the door was open?

12 A Yes.

13 Q You didn't look through some other window or
14 anything?

15 A No.

16 Q Is there a peephole on the door?

17 A No.

18 Q Okay.

19 MR. KAPPEL: All right. All right. Just a
20 moment. That's all I have, Judge.

21 THE COURT: Any recross, sir?

22 MR. MOYER: No, Your Honor. We ask that this
23 witness be excused from the subpoena and allowed to

24 --

25 THE COURT: Any objection to him being excused

JOEY GRECO-CROSS BY MR. KAPPEL

1 from the subpoena, Mr. Kappel?

2 MR. KAPPEL: No, I don't think so.

3 THE COURT: All right, good enough.

4 Thank you, you're excused. Hope you have a
5 great day, appreciate your being here.

6 All right, ladies and gentlemen, let's take a
7 break for lunch. It's now a little bit before 12:30.
8 If you'd be back at 1:30, we'll resume testimony in
9 this case. Have a great lunch, please don't discuss
10 the case. Thank you.

11 (WHEREUPON, the jury left open court at
12 approximately 12:27 p.m.)

13 THE COURT: Okay. How many more witnesses do
14 you have, Mr. Moyer?

15 MR. MOYER: Judge, I think we'll finish today.
16 It will be between three and five witnesses.

17 THE COURT: Okay. Of about the same length as
18 this witness with the exception of the prosecuting
19 officer, perhaps?

20 MR. MOYER: Right, I think other than -- I think
21 all the witnesses should move along pretty well.

22 THE COURT: All right, good enough.

23 Right now, you're reluctant to say how many
24 witnesses you have or if you have any?

25 MR. KAPPEL: I feel -- and I know it means

1 nothing, but I feel certain we'll have a few
2 witnesses.

3 THE COURT: All right, good enough.

4 MR. KAPPEL: I anticipate three or four
5 witnesses.

6 THE COURT: Okay. All right, good enough.

7 All right, then, I'll see y'all at 1:30. Have a
8 great lunch.

9 (WHEREUPON, a lunch break was taken.)

10 THE COURT: Okay. I have been advised that we
11 have all the jurors.

12 State ready to proceed?

13 MR. MOYER: Yes, sir.

14 THE COURT: Defense ready to proceed?

15 MR. KAPPEL: Yes, sir, Judge.

16 THE COURT: Bring them in, please.

17 (WHEREUPON, the jury came into open court at
18 approximately 1:34 p.m.)

19 THE COURT: All right, ladies and gentlemen,
20 welcome back.

21 All right, Mr. Moyer, you may call your next
22 witness.

23 MR. MOYER: The State calls Christopher Greco.

24 THE CLERK: Sir, if you would please pause at
25 the end of the bench, place your left hand on the

1 Bible and raise your right hand.

2 CHRISTOPHER GRECO, after being duly
3 sworn, testified as follows:

4 THE CLERK: Thank you, please be seated. State
5 your name for the record.

6 THE WITNESS: Christopher Greco.

7 DIRECT EXAMINATION

8 BY MR. MOYER:

9 Q Okay, Christopher, can you tell the jury how old
10 you are?

11 A Thirty-four.

12 Q What is your date of birth?

13 A [REDACTED].

14 Q Okay. You live in the Low Country right now,
15 don't you?

16 A Yes.

17 Q Low Country, South Carolina. How long have you
18 lived down there?

19 A About three and a half, four months almost.

20 Q Okay. Before that, you lived up here in the
21 upstate?

22 A Yes.

23 Q You and your girlfriend just had a child; isn't
24 that right?

25 A Yes.

CHRISTOPHER GRECO-DIRECT BY MR. MOYER

1 Q Is it your first child?

2 A Yeah.

3 Q And your child has been in the hospital?

4 A Yes.

5 Q How long ago was she born?

6 A January 3rd, I think.

7 Q She's been in the hospital ever since?

8 A Yeah.

9 Q When did she get out?

10 A Yesterday.

11 Q Got out the hospital yesterday?

12 A Yes.

13 Q Okay. So -- okay, so you're anxious to get back
14 there to her, your child and her mother?

15 A Yes.

16 Q Okay. So, you are E G and Joey's brother; is
17 that right?

18 A Yes.

19 Q And you were in here when Joey testified about
20 y'all moving to Nevada with your father after --

21 A Yeah.

22 Q After the separation, is that what happened?

23 A Yes.

24 Q Okay. And you moved back here to South

25 Carolina. About how old were you when you moved back, do

CHRISTOPHER GRECO-DIRECT BY MR. MOYER

1 you remember?

2 A I'm not sure. Maybe around seven, eight.

3 Q Okay. And you stayed living with your step-dad
4 for a few years after you moved back -- I'm sorry, not
5 your step-dad, your dad?

6 A Yeah.

7 Q Okay. And did you get -- did your mother get
8 custody of you at some point so you could go over there on
9 the weekends?

10 A Yeah, it was a split custody deal.

11 Q Then eventually you moved in with --

12 MR. KAPPEL: Judge, I'm going to object to the
13 leading.

14 THE COURT: Okay. Don't lead.

15 BY MR. MOYER:

16 Q Did you move in with your mom and the Defendant?

17 A Yeah.

18 Q Okay. About how old were you when you did so?

19 A Just before I was 11, I believe.

20 Q Okay. Where were living when you moved in?

21 A What do you mean?

22 Q What was the address where you were living?

23 A 79 Ferguson.

24 Q Okay. Who else was in the house when you moved
25 in?

CHRISTOPHER GRECO-DIRECT BY MR. MOYER

1 A My mother and my sister and Dwayne and my
2 brother.

3 Q And your brother, okay. Did you get along with
4 Dwayne when you moved in?

5 A Somewhat.

6 Q Okay. You had some problems with him?

7 A Yeah, we never really were eye-to-eye.

8 Q Okay. Did -- how did he act toward you when you
9 moved in?

10 A Mostly awkward, distant.

11 Q Mostly awkward? What was the other word you
12 used?

13 A Distant.

14 Q Did you notice anything about the way he and
15 your sister, **E.G.** interacted with each other that seemed
16 unusual, that got your attention?

17 A Well, when I would come to visit them at 77, he
18 would always be touching on her, rubbing on her inner
19 thighs and stuff. And I thought that was very awkward and
20 inappropriate.

21 Q This would be out in the open he would do stuff
22 like that?

23 A Yeah.

24 Q Okay. And was this pretty regular, pretty
25 often?

CHRISTOPHER GRECO-DIRECT BY MR. MOYER

1 A Yeah.

2 Q Now, was there an incident that happened when
3 you actually saw something taking place between the two of
4 them?

5 A Yes, sir.

6 Q Okay. And do you remember about how old you
7 were at that time?

8 A Eighteen.

9 Q Okay. And your sister was?

10 A Fourteen.

11 Q She's four years younger than you. Okay. So,
12 was anyone else at home when this happened?

13 A Yes, my brother was there.

14 Q Your mom was not?

15 A No, she was at work.

16 Q Where was your sister?

17 A In the bed.

18 Q In whose bed?

19 A Dwayne's.

20 Q Was that uncommon for her to be in the room and
21 in the bed with him?

22 A No.

23 Q It used to happen a lot?

24 A All the time.

25 Q Just the two of them in the room together?

CHRISTOPHER GRECO-DIRECT BY MR. MOYER

1 A Yep.

2 Q Did he ever invite, like, you back in the room
3 with him?

4 A Only on occasion when we smoke drugs.

5 Q Smoke what?

6 A Drugs.

7 Q Smoke drugs. Okay, we'll get to that in just a
8 minute. Okay. So, tell the jury what it was that you saw
9 in the room and how it came about that you saw something
10 going on in the room?

11 A Well, I just gotten up and went to go to the
12 bathroom and I heard like a slight moaning. And, you
13 know, I was like what's happening. So, I looked through
14 the little keyhole they had there. It was like one of
15 those antique ones that you can see straight through. And
16 he was touching himself and her, what I perceived, under
17 the covers and telling her this is how you do it.

18 Q So, you could tell he was touching himself?

19 A Yes.

20 Q Were they both under the covers?

21 A Yes.

22 Q Okay. And you could see his other hand as well?

23 A Yes.

24 Q So, one hand was touching himself and what was
25 the other hand doing?

CHRISTOPHER GRECO-DIRECT BY MR. MOYER

1 A Her.

2 Q Okay. So, when you saw what you saw and you
3 heard the moaning and him saying that, what did you do?

4 A I kicked open the door and asked him how long
5 he's been doing this and called him a sick bleep.

6 Q What did he do when you barged into the room?

7 A He freaked out, jumped out of the bed, then
8 proceeded to chase me.

9 Q Did your sister remain in the bed?

10 A Yes. I think she, basically, just froze.

11 Q Froze, okay. So, he jumped out of the bed. And
12 what did he do when he jumped out of the bed?

13 A Start chasing after me.

14 Q What did you do when he came after you?

15 A I ran and tried to tell my brother what was
16 happening and went out the door. And he followed behind
17 me, grabbed coolers, started throwing them at me and told
18 me I could ruin his whole world.

19 And I said, Good.

20 Q Okay. So, after that incident, is that when you
21 and your brother moved out?

22 A Yeah.

23 Q Did you ever move back into the house --

24 A No.

25 Q On Ferguson Road?

CHRISTOPHER GRECO-DIRECT BY MR. MOYER

1 A (The witness shook his head.)

2 Q Never did?

3 A Huh-uh.

4 Q You ended up moving back in with your father; is
5 that right?

6 A Yeah.

7 Q Did you tell your father about what you had
8 seen?

9 A Yes, I did.

10 Q And he went -- that's how the police were
11 notified?

12 A Yes.

13 Q Did you go to the law enforcement center?

14 A I'm not sure if I went to that one.

15 Q Okay.

16 A It's been a while. I don't think I did go to
17 that one. I think they took my brother.

18 Q Okay. But you, at some point, then spoke to
19 some people at DSS and talked to them about what happened?

20 A Yeah.

21 Q Do you remember?

22 A Yeah, when I went with my sister.

23 Q Okay. And you told them what you had seen?

24 A Yes.

25 Q Okay. Did you ever talk to your sister about

CHRISTOPHER GRECO-DIRECT BY MR. MOYER

1 it?

2 A No.

3 Q Did she ever acknowledge to you what was taking
4 place back then?

5 A No.

6 Q So, she denied it?

7 A Yes.

8 Q She denied it to you?

9 A (The witness nods.)

10 Q That was a yes?

11 A Yes.

12 Q You're nodding yes?

13 A Yes.

14 Q Okay. Going back to what you saw in the room,
15 do you remember if either one of them -- either Dwayne or
16 your sister, do you remember anything about their state of
17 dress?

18 A I couldn't tell -- I know he was in his boxers
19 and I couldn't tell if she was actually clothed or not.

20 Q Okay. When's the last time you've seen -- did
21 you have any interaction with the Defendant after you
22 moved out of the house?

23 A No.

24 Q Did you ever talk to him again or spend time
25 with him?

CHRISTOPHER GRECO-DIRECT BY MR. MOYER

1 A No.

2 Q Okay. Now, when you -- a couple years ago,
3 you're aware that your sister made the allegations and
4 talked about what happened to this officer and to law
5 enforcement; is that right?

6 A Yeah.

7 Q Did she tell you about it before she went and
8 told the officers?

9 A No.

10 Q You found out about it after she told?

11 A Yes.

12 Q And then you went in and you spoke to this
13 investigator as well?

14 A Yes.

15 Q All right. Did your sister or anyone else plant
16 what you told him in your head or is that --

17 A No.

18 Q No one told you what to say?

19 A No.

20 Q Now, let me ask you a little bit about -- you
21 mentioned some marijuana. How prevalent was marijuana in
22 the home by this Defendant?

23 A All day, everyday thing.

24 Q So, he would smoke it out in the house in front
25 of everybody?

CHRISTOPHER GRECO-DIRECT BY MR. MOYER

1 A Everywhere. Yeah, everywhere. It didn't
2 matter.

3 Q Did he ever give you marijuana?

4 A Oh, yeah.

5 Q Did you ever see him give it to Liz?

6 A One occasion when her friend came over, I seen
7 him pack a bowl for them.

8 Q Okay. What about other drugs, what other drugs
9 did you see in the house?

10 MR. KAPPEL: Judge, again, this is my objection,
11 the 403 objection.

12 THE COURT: Okay. All right. Good enough. On
13 the same basis, I respectfully overrule the
14 objection.

15 You may continue.

16 BY MR. MOYER:

17 Q What other drugs did you see in the house?

18 A Crack cocaine and methamphetamine.

19 Q Okay. Did you see the Defendant using those
20 drugs?

21 A Yes.

22 Q You used them yourself, too, didn't you?

23 A Yes.

24 Q Now, we've already heard some talk about you had
25 an accident when you were -- were you 17 or 18?

CHRISTOPHER GRECO-DIRECT BY MR. MOYER

- 1 A I was 17 when it happened.
- 2 Q You were 17 when the accident happened?
- 3 A Yes.
- 4 Q Do you remember when the accident was?
- 5 A January 2000 -- I'm not sure.
- 6 Q Was it the January before your 18th birthday?
- 7 A Yes.
- 8 Q What is your birthday?
- 9 A Eighty-three.
- 10 Q What month and day?
- 11 A [REDACTED]
- 12 Q [REDACTED]
- 13 A Yeah.
- 14 Q Okay. So, you got a lump sum settlement?
- 15 A Yes.
- 16 Q Because of the accident. And we've already
- 17 heard, is that where the money came to buy a lot of these
- 18 drugs?
- 19 A Yes.
- 20 Q Okay. And did you participate in making the
- 21 crack cocaine out of the cocaine?
- 22 A Yep.
- 23 Q How did you learn how to do that?
- 24 A Dwayne Tallent.
- 25 Q Okay. Would you make it right there in the

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 house?

2 A Yep.

3 Q Your sister would be there?

4 A Yep.

5 Q How old were you when that was going on with the
6 crack cocaine?

7 A Well, with the cocaine, it started when I was
8 17. When we started turning it into whatever, I was 18.

9 Q You were 18 at that time, but the cocaine
10 started coming into the home when you were 17?

11 A Yes, the cocaine and meth.

12 Q And as far as him giving you marijuana?

13 A That was all the time.

14 Q All the time.

15 A Since I was 11, I think.

16 Q Okay.

17 MR. MOYER: Please answer any questions the
18 Defense may have.

19 CROSS-EXAMINATION

20 BY MR. KAPPEL:

21 Q You described that when you moved into this
22 residence that Dwayne was touching your sister's inner
23 thighs?

24 A Yes.

25 Q And it was often?

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 A Yes.

2 Q You never told anybody?

3 A Correct.

4 Q Did you? You never reported it to anyone?

5 A Right.

6 Q You never confronted your sister about it and
7 said, hey, look, what are y'all doing?

8 A Right.

9 Q You never confronted Dwayne?

10 A Right.

11 Q Never confronted your mother?

12 A Right.

13 Q You never talked to your brother about it?

14 A No.

15 Q You just ignored it completely?

16 A Not necessarily.

17 Q Well, you ignored it until today, right? I
18 mean, now you're coming forward today and you're saying
19 there's a whole lot of things that were going on that
20 shouldn't have been going on, yet, you never spoke up,
21 correct?

22 A Correct.

23 Q Now, I want to talk to you about this incident.
24 You talk about looking through a keyhole?

25 A Yes.

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 Q And observing them in the bed, correct?

2 A Yes.

3 Q Was the door closed?

4 A Yep.

5 Q What kind of door is it? Was it a wooden door?

6 A It was a wooden door.

7 Q You could hear through the door?

8 A Yes.

9 Q What time of day was it?

10 A Afternoon.

11 Q You said you had just gotten up, so were you
12 sleeping until the afternoon?

13 A Yeah, I was a kid.

14 Q Okay. So, you -- when did it happen? Do you
15 have any idea what year, month it happened, that you saw
16 this?

17 A No, I don't know the year and month.

18 Q Okay. Do you recall telling -- you recall
19 meeting with DSS, correct, and being interviewed by them?

20 A Yeah.

21 Q Do you recall telling them approximate time when
22 it happened?

23 A No.

24 Q You told your brother immediately, correct?

25 A Yes.

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 Q I'm sorry?

2 A Yes.

3 Q And did y'all inform your father immediately?

4 A As soon as we got to him, yes.

5 Q I'm sorry?

6 A As soon as we got to him, yes.

7 Q How much time lapse was that?

8 A I'm not sure. It wasn't that -- it was like
9 when we got out of there.

10 Q So a day?

11 A A couple of days.

12 Q How long after that did your father call law
13 enforcement?

14 A Almost immediately.

15 Q Okay. So if law enforcement did a report on
16 January the 10th, 2002, then based on your testimony, your
17 observation through the door would have occurred maybe
18 first week of January 2002; is that correct?

19 A Okay.

20 Q I'm sorry?

21 A Yes.

22 Q Okay. Do you recall in your interview with DSS
23 that you gave them the timeframe as to when this occurred?

24 A No.

25 Q All right. You recall sitting down and talking

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 to them, correct?

2 A Yeah.

3 Q Okay. And do you recall answering their
4 questions?

5 A Yeah.

6 Q I'm sorry, you have to speak up.

7 A Yes.

8 Q Do you recall that this incident was the primary
9 issue?

10 A Yes.

11 Q Of your interview?

12 A (The witness nods.)

13 Q Yes?

14 A Yes.

15 Q Do you recall telling them it was a year and a
16 half before your interview that this occurred?

17 A No. I don't recall that.

18 Q Okay. If it were a year and a half prior to
19 this incident and you were interviewed on June -- June
20 2002, that would put this peephole, keyhole thing,
21 incident, that would put it into January 2001, wouldn't
22 it?

23 A Yes.

24 Q I mean, it would be a year and a half, six
25 months in 2002 and go back another year, that's the first

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 of January 2001; isn't that right?

2 A Uh-huh.

3 Q So, what you said to DSS was January 2001, not
4 January 2002?

5 A Okay.

6 Q Do you have any explanation why you told them
7 something so different?

8 A Probably cause due to being in shock, I couldn't
9 recall.

10 Q You couldn't recall something that occurred in
11 six months prior?

12 A Yeah.

13 Q And you extrapolated six months to a year and a
14 half; is that it?

15 A Yeah, I guess.

16 Q Let's talk about the bedroom. The door was
17 closed and you said you heard something and you decided to
18 look through the peephole?

19 A Yes.

20 Q Is that -- where was the peephole on the door?

21 A On the right side underneath the door.

22 Q So, it's underneath the doorknob?

23 A Not right directly. It's down below a little
24 bit.

25 Q So, several inches below the doorknob?

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 A Right.

2 Q So, to look through the keyhole, did you have to
3 get on your knees?

4 A No, I just bent over.

5 Q You bent all the way over to look through
6 something about down to here?

7 A It wasn't that low.

8 Q So, the keyhole was up here?

9 A About here.

10 Q So, the doorknob was up this high?

11 A No, no, a little bit lower.

12 Q Was the keyhole above or below the doorknob?

13 A Below.

14 Q Below. So, the doorknob would probably be
15 somewhere in this area, correct?

16 A Yes.

17 Q And then the keyhole would be below that?

18 A Yes.

19 Q And you didn't have to get on your knees to look
20 through it?

21 A No.

22 Q Okay. What kind of bed was in that room, do you
23 remember?

24 A Like --

25 Q Was it a poster -- was it a bed up high or low?

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 A It was just a bed.

2 Q Was it on a frame?

3 A Yeah.

4 Q It wasn't a mattress on the floor, right?

5 A Almost. It wasn't really a frame it was on. It
6 wasn't really that high at all. It was like really low to
7 the floor.

8 Q So, you bent over and looked through this
9 keyhole and saw what was happening on this bed?

10 A Yes.

11 Q From across the room? The bed was across the
12 room, correct?

13 A Well, it was like from me to that lady over
14 there.

15 Q Which lady are you referring to?

16 A The second. It's not that big room of a room.
17 It wasn't that much of a distance.

18 Q Was it this distance where I'm standing from
19 you?

20 A Yeah, yeah. That's where it would start?

21 Q All right. All right. Now, when you met with
22 Officer Richter, you met with your sister, correct?

23 A Yeah.

24 Q All right. And she took you to the interview,
25 right?

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 A Yes.

2 Q And she sat down next to you while you were
3 meeting with them; isn't that right?

4 A She was standing there, but.

5 Q But she was in the room with you?

6 A Yes.

7 Q Do you recall her kind of helping you and
8 interrupting the conversation?

9 A Somewhat.

10 Q Okay. Would interrupting you 27 times in a
11 40-minute period, would that be somewhat or a lot or just
12 an average?

13 A I don't think it was that much, but.

14 Q Okay. Now, Officer Richter did ask you some
15 questions. I'm sure you recall answering those questions
16 the best that you could?

17 A Yeah.

18 Q And you said that you saw him doing what when
19 you looked through the keyhole -- when you bent over and
20 looked through the keyhole, what did you see?

21 A Him touching himself under the covers.

22 Q And what else?

23 A Touching her. And telling her this is how you
24 do it.

25 Q All right. Well, Mr. Richter asked you did you

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 actually see anything? Do you remember him saying that to
2 you, did you actually see anything? And you had a
3 response to that, do you remember that?

4 A What's that?

5 Q Do you remember answering that question?

6 A Yes.

7 Q Do you remember what your answer was?

8 A No.

9 Q You said, Well, I mean, there's only so much you
10 could tell what was going on.

11 Right?

12 A Right.

13 Q And he further asked about whether or not you
14 could see under the covers and the clothing. Do you
15 remember your answer to that?

16 A No.

17 Q What was that?

18 A I said no.

19 Q Okay. So, in actuality, you really couldn't see
20 a whole lot of anything, right?

21 A Right.

22 Q Okay. You did make kind of an interesting
23 comment to DSS at one time. When you first sat down to be
24 interviewed by DSS June 13th, you indicated -- well, let
25 me ask you this, a lot has been talked about this car

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 wreck and that you received a whole lot of money?

2 A Yeah.

3 Q Evidently, a lot of people were sharing; is that
4 correct?

5 A Right.

6 Q When you left that day, whether it was
7 January 2002 or January 2001, whichever it is, did you
8 have any of that money left when you left the house or was
9 it all gone?

10 A From what I had, it was mostly gone.

11 Q All right. Now, when you were being interviewed
12 by DSS, they asked about where you were living. You know,
13 it's a pretty standard question when you're being
14 interviewed.

15 Mr. Greco, where do you live?

16 Do you remember them asking you that?

17 A Yes.

18 Q Do you remember your answer?

19 A No.

20 Q Okay. You stated that you were buying some land
21 on Sullivan Street in Belton. That you were coming into
22 some money as a result of a car accident?

23 A Uh-huh.

24 Q Do you remember saying that?

25 A Yeah.

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 Q So, this is in June 2002?

2 A Yes.

3 Q You were already gone, right?

4 A Uh-huh.

5 Q And you're telling DSS, I'm going to go buy some
6 land because I'm coming into some money because of a car
7 wreck?

8 A Yes.

9 Q And that was your answer, right?

10 A Yes.

11 Q And that was true, right?

12 A Yes.

13 MR. KAPPEL: Just a minute, Judge. Judge, can
14 we approach for just a minute?

15 THE COURT: Sure.

16 (WHEREUPON, an off-the-record bench conference
17 was held in the presence of the jury but out of
18 the hearing of the jury.)

19 BY MR. KAPPEL:

20 Q Mr. Greco, I just have a couple last questions
21 for you. And that is when you arrived at 79 Ferguson,
22 were you experiencing any kind of mental or emotional
23 issues?

24 A I was suffering severe depression.

25 Q Okay. Were you hurting yourself in any way?

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 A I did at one time.

2 Q Can you describe what you were doing to
3 yourself?

4 A I don't see how that's --

5 Q Well, can you answer the question?

6 A I cut myself.

7 Q Okay. Were you using wax and things --

8 MR. MOYER: I would object to any more details.

9 THE COURT: I sustain.

10 MR. KAPPEL: All right, thank you, Judge.

11 THE COURT: Any redirect, sir?

12 MR. MOYER: Yes, just a couple of questions.

13 Your Honor, at this time, the State seeks to
14 introduce State's Exhibit No. 1, the relevant
15 portions of which are the first 13 minutes, 45
16 seconds of the interview of Christopher Greco with
17 Will Richter. I realize it's not been authenticated
18 yet. So, I would seek to have it introduced pursuant
19 to Rule 104(b), which is a relevancy, it's
20 conditioned on a fact. The next witness will be able
21 to fully establish the authenticity of that recording
22 if it's not then actually authenticated by the victim
23 after he hears it. But we would seek to introduce
24 that and publish that to the jury.

25 THE COURT: Yes, sir.

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 MR. KAPPEL: Judge, I don't have any objection
2 to this recording being entered. However, there may
3 be portions -- and I would have to go back through
4 it, where I think some of my objections were
5 sustained and I would prefer that those portions of
6 the tape be somehow redacted out.

7 THE COURT: Okay.

8 MR. KAPPEL: If it's easier, you know, I've got
9 a transcript of it and we can present it to the jury
10 that way as opposed to an audio.

11 THE COURT: Okay. So, this was an interview by
12 law enforcement; is that correct?

13 MR. MOYER: That's correct.

14 THE COURT: Okay. And I, obviously, don't know
15 what is potentially objectionable. Do you have an
16 idea, Mr. Moyer, of what's objectionable?

17 MR. MOYER: I do, Your Honor. It comes at some
18 places that are not -- I don't believe are relevant
19 otherwise. So, as I stated, I would seek to
20 introduce the relevant portions of the interview,
21 which is about the first 13, 14 minutes of the
22 interview.

23 THE COURT: Does the first 13 to 14 minutes of
24 the interview contain any of that objectionable
25 material, Mr. Kappel?

CHRISTOPHER GRECO-CROSS BY MR. KAPPEL

1 MR. KAPPEL: I'd have to look, Judge. I've got
2 some time marks in my transcript. I would just have
3 to go through and figure out where -- how far we get
4 with 13 minutes. Unfortunately, my first time mark
5 is 15 minutes, which is Page 15, so I might could
6 go -- it wouldn't take me long to go back.

7 THE COURT: Well, let's do this. For right now,
8 I'll introduce it as State's Exhibit No. 1 --

9 MR. MOYER: Yes, sir.

10 THE COURT: -- for purposes of identification.
11 I don't want to play it now in as much as y'all
12 have -- you need to look at it and there may be
13 redactions that are appropriate, okay. At the
14 appropriate time, once you have come to an
15 understanding and/or had me adjudicate disagreements,
16 then we can play it for the jury. They understand at
17 what point in the trial you attempted to introduce
18 it. But what I don't want to do right now is stop
19 for half an hour, resolve that very technical issue
20 and then come back with the introduction of
21 testimony. So, it's been introduced without
22 objection subject only to the redactions. So, we'll
23 play that at the appropriate time, perhaps, at the
24 end of the State's case or after you've had the
25 opportunity to accomplish the redactions, okay.

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1 So, that having been said, if you have
2 additional questions in the redirect of this witness,
3 you made proceed.

4 MR. MOYER: I don't.

5 THE COURT: Okay. All right. Good enough.

6 All right, you may step down, sir. Thank you
7 for being here, I appreciate it.

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

10 MR. MOYER: The State calls Will Richter to the
11 stand.

12 THE CLERK: Sir, please place your left hand on
13 the Bible and raise your right hand.

14 WILLIAM RICHTER, after being duly
15 sworn, testified as follows:

16 THE CLERK: Thank you. Please be seated. State
17 your name for the record.

18 THE WITNESS: It's William Richter,
19 R-I-C-H-T-E-R.

20 THE CLERK: Thank you, sir.

21 DIRECT EXAMINATION

22 BY MR. MOYER:

23 Q Okay, where are you employed?

24 A I'm employed at the Greenville County Sheriff's
25 Office here in Greenville.

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1 Q How long have you been in law enforcement?

2 A I've been in law enforcement 15 years and about
3 one month.

4 Q Has it all been with the Greenville County
5 Sheriff's Office?

6 A I started at Clemson City Police Department. I
7 did almost a year with them.

8 Q Then you came here to the sheriff's office?

9 A I did.

10 Q What division are you in at the sheriff's office
11 at this time?

12 A I just transferred back to the uniform patrol
13 division. Prior to that, I was in the criminal
14 investigations division for, roughly, the last four years
15 of my career.

16 Q So -- and we'll talk about that in a second, but
17 before those four years, where were you employed?

18 A So --

19 Q I'm sorry, not where were you employed, but what
20 different areas with the sheriff's office?

21 A Sure. So, I spent, roughly, seven years doing
22 traffic enforcement. And all the time prior to that, I
23 was in uniform patrol, essentially, just answering calls
24 for service. You know, when you call 911 or any kind of
25 call for service like that, we respond out with one of our

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1 uniform officers.

2 Q Then you spent four years in investigation. Was
3 that all in the same type of investigations?

4 A Not entirely. My primary assignment was in the
5 crimes against children unit. That unit is housed in the
6 same suite with the sex crimes unit. So, I did handle
7 probably almost any number of adult victim cases, I did
8 child cases, but my primary job was with the children.

9 Q Okay. And what different kind of cases against
10 children?

11 A Well, the crimes against children unit handles
12 any case where there's a child victim. So, we would
13 certainly hear cases with child abuse, child neglect,
14 malnourishment. A lot of the cases that we had had to
15 deal with sex crimes where the child was the victim.

16 Q Do you have any idea, can you quantify at all
17 the number of children whose cases you investigated over
18 those years?

19 A I certainly -- personally, I investigated
20 several hundred cases in the time that I was there. At
21 any given time, I would be investigating between eight and
22 25 cases where I had a child victim. You know, fairly
23 equally balanced between sex cases and just general child
24 abuse cases.

25 Q So, you think that the percentage-wise then was

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1 pretty close to 50/50?

2 A Probably so, you know, just from recollection.

3 Q So, going back to this time when you did these
4 kind of investigations, when you said eight to 25 cases,
5 these were the actual pending cases that you were
6 investigating all at the same time?

7 A That's right. At any given time, you know,
8 we're juggling, essentially, cases just like this, except,
9 you know, conceivable a few dozen of them. In a perfect
10 world, it would be just like you see on TV where when a
11 crime takes place, you have a couple dozen investigators
12 assigned to it chasing down every lead, but, in reality,
13 unfortunately, that's not the way it is. In Greenville,
14 we are blessed with very good resources. We have the
15 crimes against children unit, I think has seven
16 investigators in it now. But, you know, we're always, it
17 seems like, trying to play catch up. We're always
18 juggling more than one case at a time, unfortunately.

19 Q Tell the jury a little bit about the training
20 you received, the special focus you received for doing
21 these kinds of cases, crimes against children cases, and
22 the certifications you had. Give the jury an idea of what
23 your training has been.

24 A Sure. Well, to be a police officer in the State
25 of South Carolina, you have to graduate the Criminal

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1 Justice Academy, so I did that years ago at this point.
2 Then after graduating the Criminal Justice Academy, I went
3 on to engage in other advance training. I have just over
4 900 hours of advance training in various fields. I've
5 been to numerous classes on interviewing, from the FBI,
6 through other agencies, including the public agency
7 counsel, which is a national organization that trains law
8 enforcement.

9 I'm also certified in something called the
10 Gundersen Child First Protocol. The Gundersen Child First
11 Protocol is the forensic interviewing protocol that's used
12 in the United States when professionals talk to children
13 about abuse and sex crimes. In being certified in that, I
14 have more certification than most all the DSS workers that
15 work here in Greenville as it pertains to child cases. I
16 have the same level of certification to conduct forensic
17 interviews that some of the interviewers at our children's
18 advocacy center have. And as a result of that, my days in
19 that unit would frequently be spent going around to
20 schools and interviewing children, you know, pursuant to
21 those protocols on cases that I was working on in order to
22 determine whether or not anything was going on.

23 In addition to the forensic interviewing
24 certification and -- the interviewing and interrogation
25 certifications that I have, I've also attended several

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1 schools for criminal investigations in general to,
2 essentially, prepare me to be a detective. Those schools
3 encompass everything from interviewing techniques to
4 basically just how to solve crimes, which, you know,
5 frankly, common sense really applies more than anything
6 else. Of course, you have to go to the Criminal Justice
7 Academy to become a cop and you have to have experience to
8 become a detective, but at the end of the day, common
9 sense really solves a lot of these crimes.

10 Q Okay. Now, was there any overlap with DSS on
11 these kinds of cases?

12 A Yeah, frequently, we would work hand in hand
13 with DSS. Any time, you know, an allegation of sexual
14 abuse or anything where we have a child victim, for that
15 matter, comes into play, law enforcement would initiate an
16 investigation and DSS would also initiate a concurrent
17 investigation. An officer like myself would go out and
18 sometimes physically with a DSS worker, sometimes, we
19 wouldn't be present together, but we would go out and
20 interview the subjects of our investigation, whether they
21 were kids or adults, what have you. We would generally
22 try to staff our cases together, DSS and law enforcement,
23 so that, you know, any facts that were known to one would
24 be known by all. But, unfortunately, DSS also probably
25 has a much higher case load even than law enforcement

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1 does, so they're always times when we're not able to staff
2 on a regular basis certain cases.

3 But yeah, it's standard procedure that DSS
4 conducts a current investigation. Sometimes, their
5 findings are the same as ours. Sometimes, they're not.
6 It doesn't necessarily mean anything. Law enforcement's
7 prerogative is to establish whether or not there are
8 criminal violations, whether someone has broken the law.
9 DSS, you know, has a much broader prerogative as far as
10 from a social aspect. Our job is both to keep the
11 children safe, keep people, in general, safe and make sure
12 we do everything we can to keep children out of an unsafe
13 situation, but we do that in different ways.

14 Q Are the way investigations are conducted done
15 differently?

16 A Certainly. I mean, you know, law enforcement
17 operates under legal guidelines. We have, you know,
18 different, certainly, tools at our disposal than DSS. I
19 mean, the two agencies really work in concert pretty well
20 because I don't have access to provide, you know, the
21 families in my cases with any kind of food stamps or any
22 kind of benefits like that or to even have access to that
23 system, you know. Or in some cases to find housing for --
24 you know, for families during an investigation if kids get
25 displaced, that kind of thing. But we're able to work

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1 together and kind of patch certain holes, you know, to the
2 benefit of the citizens.

3 Q Now, how about interviews, are you familiar with
4 the way that they do their interviews as opposed to how
5 you all do?

6 A Sure. Well, you know, there's no one standard
7 protocol for how to conduct an interview. You know, there
8 are -- again, common sense has to prevail. So, there's
9 certain times when it's more important to do a one-on-one
10 interview with law enforcement and the witness. There are
11 other times when it's just flat out not necessary. You
12 know, even we're talking about -- interviewing kids is
13 completely different than interviewing an adult. The
14 protocol that I use when I'm conducting a forensic
15 interview on a child, you know, I may have an adult
16 present, I may not.

17 A lot of times, kids are reluctant to talk
18 about difficult topics like sex or anything else with a
19 stranger. And when I go as a police officer and talk to a
20 child that I've never seen before, not only am I a
21 stranger, a lot of times, I'm of the opposite sex. A lot
22 of times, I might have a female victim and -- a female
23 child victim that's having to -- that's being asked
24 difficult questions by an adult male. Not only that, the
25 person is a police officer. There are all kinds of levels

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1 of intimidation. You know, there are times when I'll have
2 the parents sit in on an interview. I just use my best
3 judgment on that kind of stuff.

4 You know, when you're interviewing an
5 adult, again, there's certain times when it's important to
6 isolate your witnesses. For example, if I just had a bank
7 robbery and I don't want witness statements to get
8 contaminated, you know, eye witness counts. It's more
9 important for me to separate my witnesses when I have a
10 freshly committed crime like that. Common sense would
11 dictate that even if there's no malice, no ill intent
12 whatever that, you know, it is possibly that, you know,
13 memories could get created.

14 However, in a case like we've got
15 specifically here, a lot of time has gone by since these
16 events took place. When I interviewed Mr. Greco, Chris
17 Greco, for example, I did allow **EC** to sit in on the
18 interview. I stand by that decision. With these sex
19 cases, I have found as an investigator that a lot of times
20 it's -- even when my victims are adults now, it's
21 difficult for them to talk about things, you know, to a
22 stranger. It's different -- very difficult, rather, for
23 witnesses to talk about those things with a stranger.
24 Sometimes, I'll have a victim advocate sit in with one of
25 the people that I'm interviewing. Sometimes, I'll let a

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1 family member sit in.

2 In this case, specifically, a lot of time
3 has gone by since these acts took place. You know,
4 there's always -- I'll say this first and foremost.
5 Before a case ever reaches an attorney or ever reaches a
6 courtroom, I like to think of myself as the original
7 devil's advocate. I want to be able to sleep at night.
8 And I don't ever want to think that I put someone in jail
9 that shouldn't have gone to jail. So, as I'm
10 investigating a case, I consider all the facts that I'm
11 hearing, all the things that are being --

12 MR. KAPPEL: Judge, I'm going to object. I
13 don't think this testimony is relevant or
14 appropriate. I think what his personal feelings are
15 in the investigation, I just think we're getting
16 close to the ultimate question. I don't think it's
17 appropriate.

18 THE COURT: Okay. All right.

19 Yes, sir, Mr. Moyer, any position on that?

20 MR. MOYER: Yes, Your Honor. I think especially
21 in the line of defense attorney's opening and line of
22 questioning with several witnesses, this officer
23 certainly needs to be able to explain the decision
24 that he made in this case.

25 THE COURT: I understand. And I'll overrule the

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1 objection, but just tell you that you can't get to
2 the point where you're vouching for the veracity of
3 statements made by other witnesses and things of that
4 sort, okay.

5 All right. You may proceed.

6 THE WITNESS: Thank you.

7 You know, essentially, I -- as has been
8 mentioned before, there's an audio recording of my
9 interview, as I frequently did. Not only did I take
10 a written, you know, sworn statement from this --
11 from that particular witness that I'm speaking of,
12 but I also recorded it. I have no desire to conceal
13 anything. I do have the desire to try and find
14 facts. So, as I'm interviewing all of my witnesses,
15 I just want to know what the facts are.

16 BY MR. MOYER:

17 Q Okay. If at any point while you're talking with
18 Mr. Greco, if you felt like his -- what he was telling you
19 was being compromised at all by having E.G. in there with
20 him, would you have stopped the interview and changed that
21 scenario?

22 A I would have. I would have confronted him about
23 that. I'm not going to try to manipulate any facts
24 myself. I'm not necessarily going to -- certainly, not
25 going to stop a recording or anything like that. I'm not

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1 going to stop an interview per se, but I -- you know, it's
2 no secret, you can watch any crime drama on TV and know
3 that police officers try to cross, you know, different
4 statements to try to figure out whether or not -- you
5 know, what the fact is in a certain situation. You know,
6 so I -- the more people that I can talk to, the better.

7 Q Okay. Now, when did you get involved? When did
8 you first meet with E.G.

9 A Initially, I was -- I sat down with E.G. in July
10 of 2014.

11 Q Okay. And she -- did you meet with her alone?

12 A I believe I had a victim advocate sit in with
13 her. We met in my office at County Square here in
14 Greenville and that's where we took her statement.

15 Q Was the advocate a female?

16 A The victim's advocate, yes. All of our victim
17 advocates right now are females.

18 Q Okay. Was this to make her feel more
19 comfortable talking about something like this in front of
20 you?

21 A Yeah. I mean, everybody is different. You
22 know, some people are embarrassed and the fewer people
23 that they can have in the room is better. Other people
24 prefer to have, you know, someone else there. And I
25 probably asked her. I don't remember. I will typically

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1 ask people if they would feel more comfortable with one of
2 our victim's advocates sitting in, so I probably did.

3 Q Okay. And your interviews with her were pretty
4 extensive, were they not?

5 A They were. Not only did I take a written
6 statement, but, you know, certainly, I recorded my
7 interviews with her as we basically talked about all the
8 allegations. It was certainly a lengthy period of time.
9 And, you know, really, that's the way I prefer to do it,
10 just to have a human conversation with someone and then
11 to -- once I have kind of an idea of what the big picture
12 is, then to take an actual statement from them.

13 Q I think your report states over five hours of
14 conversation with her, does that sound right?

15 A That seems about right.

16 Q Then your interview with Christopher was August
17 the 7th, a week or so later?

18 A That sounds right.

19 Q Okay. Now, let me ask you about a few other
20 matters. She mentioned to you about the prior incident of
21 abuse, the prior incident from what happened with Dwayne?

22 A Yes.

23 Q With this guy, Mikey?

24 A Yes.

25 Q Were you ever able to establish who that person

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1 was or get a lead on that?

2 A No, I never was. I got, you know, certainly, a
3 couple of possible names. I think there's kind of a
4 misconception that law enforcement has more resources than
5 we really do. I wish we could punch that name into a
6 computer and it's going to pop up a list of very probable
7 people that meet that criteria anywhere in the world, but
8 it's just not like that. I was never able to locate
9 Mikey.

10 Q All right. Now, you're aware of C.R. [REDACTED]

11 [REDACTED] right, also known as C.R. [REDACTED]

12 A I am.

13 Q Okay. Did you ever have a conversation with
14 her?

15 A Yes, I did.

16 Q About when did that take place?

17 A I would have to go back and look at my report
18 here.

19 Q Okay.

20 A I know kind of when this investigation was still
21 immediately ongoing, I went and interviewed R.R. [REDACTED]
22 Rosado.

23 Q Who's R.R. [REDACTED]

24 A R.R. [REDACTED] is a sibling of C.R. [REDACTED]

25 After Dwayne moved out and moved on to his new girlfriend,

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1 Cindy, who was referenced earlier --

2 Q Let me stop you real quick. After he moved out
3 of where?

4 A Out of E.G. life.

5 Q Okay.

6 A And moved on, he settled down with a new
7 girlfriend named Cindy. Cindy had several children. One
8 of those children was R.R. who was, I think, 16 when I
9 spoke to her. That was done during the initial
10 investigation. I was not able to speak to C.R. until
11 several years later. Again, I'll tell you first and
12 foremost, I'm a perfectionist, but one of the hardest
13 things to get over as an investigator in the real world is
14 that, you know, there's no such thing as a perfect
15 investigation, I wish there was. But there are always a
16 few things that -- you know, that we just can't quite nail
17 down. We just don't have the resources for that. So,
18 this is an example where it took a few years before I was
19 able to speak to C.R. but I finally did go and speak
20 to her at school.

21 Q When was that?

22 A That was early this year.

23 Q So, 2017?

24 A Yes.

25 Q Now, as a result -- well, you know about the

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1 allegations she's making now?

2 A I do.

3 Q Did she reveal any of that to you when you met,
4 with her?

5 A She did not.

6 Q Tell us about that.

7 A Well, so, again, as I mentioned earlier, one of
8 the common things that I would do as a crimes against
9 children investigator is go to schools here in Greenville
10 County and talk to kids about, you know, allegations that
11 have been made. When I sat down with C.R. [REDACTED] as was the
12 case in so many other investigations that I've done,
13 C.R. [REDACTED] did not disclose any abuse to me. But not only as
14 a police officer, investigator, but as a human being, I
15 wasn't getting a good vibe from her.

16 MR. KAPPEL: Objection. I move to strike.

17 THE COURT: I sustain.

18 MR. MOYER: Can we be heard on that, Judge?
19 Because it's going to explain his actions.

20 THE COURT: Well, he can say as a consequence of
21 my discussion with her, I did such and such. But
22 we're getting very close to vouching for the veracity
23 of witnesses. I want to stay as far away from that
24 as I can. Be very careful about it.

25

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1 BY MR. MOYER:

2 Q Okay. So, you said she did not disclose; is
3 that correct?

4 A She did not make any verbal disclosures.

5 Q Okay. So, as a result of your conversation with
6 her and what you observed about her demeanor and so forth,
7 what did you do?

8 A I gave her my business card and I told her that,
9 hypothetically, if there was anything that she wanted to
10 talk to me about or a female police officer about, that
11 she could contact me. And that if there was anything that
12 she needed to tell us that I was there to help her and
13 that we would do anything we could to do that.

14 Q Are you aware of the fact that she did then at a
15 later date come forward and disclose?

16 A Yes, I am.

17 Q Were you involved in that investigation?

18 A No. By that point, I had left the crimes
19 against children unit and was no longer working in that
20 particular unit.

21 Q Was that made as a separate case?

22 A It was.

23 Q Was there an actual separate case, investigation
24 and case file done regarding her?

25 A There was. And there would have been a lead

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1 investigator on that case just as I was the lead
2 investigator on this case.

3 Q Okay. So, you had already moved on from that
4 division?

5 A That is correct.

6 Q Okay. I'm going to hand you State's Exhibit No.
7 1. See if you can identify that?

8 A I can. This is the DVD that I made that has all
9 the relevant audio recordings from this case.

10 Q Okay. Does that have all the recordings of all
11 your witnesses?

12 A It does.

13 Q Does it contain the recording with Christopher
14 Greco?

15 A It does.

16 Q Have you gone back and listened to it?

17 A Yes, I have.

18 Q Is that a true and accurate -- is that the
19 actual original copy or is that a copy that was made?

20 A This disk itself, I made on August 4th, 2016.
21 This investigation took place initially in 2014, so this
22 would have been a copy that was made for trial purposes.

23 Q Okay. So, is the recording of Christopher Greco
24 a true and accurate and complete copy of your initial
25 conversation with him?

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1 A Yes, it is.

2 Q There's nothing changed or deleted or amended in
3 any way?

4 A Absolutely not.

5 MR. MOYER: Your Honor, at this time, I move to
6 have State's Exhibit No. 1 entered into the record.
7 Not with regard to all the interviews with it, but
8 with regard to the interview with Christopher Greco.

9 THE COURT: That's the interview we're talking
10 to that subject to the redaction?

11 MR. MOYER: That's correct.

12 THE COURT: Okay. Any objection?

13 MR. KAPPEL: I have no objection.

14 THE COURT: Okay, without objection, it is
15 introduced into evidence subject to the redaction.

16 MR. KAPPEL: Thank you.

17 MR. MOYER: Your Honor, at this time, we would
18 seek to publish that to the jury.

19 THE COURT: Okay. Well, y'all, again, I want
20 y'all to look at it first to make sure that there is
21 no objectionable materials because I'm going to have
22 a hard time dealing with it after it's already
23 published.

24 MR. KAPPEL: Here's what I propose, Judge. I've
25 got it on my computer. With all respect to the jury,

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1 if we can take a couple minutes where I can find
2 where 13 minutes is on the transcript. It shouldn't
3 take me but about five minutes.

4 THE COURT: Okay, let's do that.

5 Ladies and gentlemen, let's just take a short
6 break and make sure we're only showing what's
7 relevant and then we'll come back in. Please don't
8 discuss the case.

9 (WHEREUPON, the jury left open court at
10 approximately 2:32 p.m.)

11 (WHEREUPON, State's Exhibit No. 1 was admitted
12 into evidence.)

13 THE COURT: All right, we'll take a short break.
14 Y'all just tell me when you're ready.

15 MR. KAPPEL: It'll just be a couple minutes.

16 THE COURT: Sure.

17 Officer, you can take a break, too. You just
18 can't discuss your testimony with anybody.

19 THE WITNESS: Thanks.

20 THE COURT: Okay.

21 (WHEREUPON, a short break was taken.)

22 THE COURT: Y'all ready for the jury? Y'all
23 still discussing it?

24 MR. KAPPEL: No, Your Honor -- well, Judge,
25 initially, it was to 13 minutes and I think now, the

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1 State wants to go to the 20 minute mark. And the 20
2 minute mark is going to cover some material -- and I
3 don't mind reading it to the Court real quick.

4 THE COURT: I thought y'all were ready for me?

5 MR. KAPPEL: I thought so. Well, I mean, in the
6 17th minute mark, they talk about -- they get into
7 the drugs and the money. And the 18 minutes and 20
8 seconds, they talk about someone putting a gun to
9 somebody's head. And -- I mean, I just -- I think
10 that's beyond the --

11 MR. MOYER: Well, here's my problem, initially,
12 I thought he was just trying to say that **E G** put
13 the -- you know, just implanted the idea of him
14 seeing them in bed together. However, talking to
15 Mr. Kappel, I think it goes beyond that to the
16 allegation that she planted more than that, but the
17 drugs, also. So, that takes us close to the 20
18 minute mark.

19 THE COURT: So, what's the objectionable
20 testimony? I hear the drug part. That goes toward
21 the elements of contributing to the delinquency of a
22 minor, so I presume that's in keeping with your prior
23 objection.

24 MR. KAPPEL: That's in keeping with the prior
25 objection, but this is different, though, because

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1 now, they're talking about firearms. And I think the
2 purpose of the line of questioning that I intend to
3 pursue is simply all the things that Mr. Richter's
4 been testifying to heretofore, which is proper
5 interviewing techniques to get, you know, accurate
6 and complete statements from people.

7 And then, you know, I wasn't going to take it
8 much further beyond that, at least, with this
9 particular witness. I just want it illustrated to
10 the jury that regardless of all Mr. Richter's
11 training that this is what happened. What happened
12 was is she sat next to Christopher during his
13 interview and in 13 minutes interrupted the
14 interview, I think, 11 times. And I think that's
15 fair cross-examination based on his interviewing
16 technique. If they want to play that tape up to 13
17 minutes, I have no problem with that. Beyond that,
18 when we start getting into these other things that
19 have not been testified to yet as far as, you know,
20 coercion, you know, extortion or what have you, I
21 mean, we've kind of talked about that. I think
22 that's beyond the elements of the contributing
23 charge.

24 THE COURT: Okay.

25 MR. MOYER: The problem I have, Your Honor,

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1 we're introducing this not so much for the content of
2 what is there, but because of the repeated
3 allegations that Defense is making that Christopher's
4 testimony was -- is tarnished because E.G. kept
5 interrupting and kept planting these words in his
6 mouth. That's been a theme throughout the trial by
7 the Defense. So, you know, that's why, you know, he
8 kept using 40 minutes worth of interview and 20 some
9 --

10 THE COURT: Let me ask you this, this is what I
11 want to know. First, it was 12 to 13 minutes, now,
12 you want to play all 20. We had a pretty good
13 agreement, it seems to me, about the first 12 to 13.
14 Why is it all of it now?

15 MR. MOYER: Well, it's actually not all of it.
16 The interview is an hour -- an hour and three
17 minutes.

18 THE COURT: Thank the Lord.

19 MR. MOYER: The first 13 minutes are pretty much
20 they're talking about the incident where Christopher
21 saw them in the room together. At the 13 minute
22 mark, it transitions over to drug use until about
23 minute 20. I was under the impression first that it
24 was just the --

25 THE COURT: I understand. I understand. You

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1 were just under a misapprehension about how long that
2 relevant discussion took place?

3 MR. MOYER: Yes, sir.

4 THE COURT: So, what about the gun? Sounds to
5 me like that's the objectionable portion at that
6 point. What about the gun?

7 MR. MOYER: I'm happy stopping right before that
8 comment.

9 That's around the 20 minute mark, is it not?

10 THE COURT: If you're not going to play it, then
11 it's not relevant.

12 MR. MOYER: I just need to know where to stop
13 it.

14 THE COURT: Yeah, I'm with you.

15 MR. KAPPEL: I mean, it's actually pretty
16 interesting because -- I mean, I object to the gun,
17 but the person queuing the answer for the gun is
18 actually E.G. [REDACTED]

19 THE COURT: Well, this is one of those instances
20 you can't have your proverbial cake and eat it, too.

21 MR. KAPPEL: I know. I know. I mean, about the
22 16 minute mark, E.G. [REDACTED] talking about going to a
23 drug deal. And --

24 MR. MOYER: That's already been testified to,
25 that they would give -- I think they were giving him

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1 the money and he would go buy the drugs.

2 MR. KAPPEL: Well, I think the drug dealing
3 was -- actually, the objection was sustained for
4 that. And I don't think there's been any testimony
5 that E.G. would go with Dwayne to purchase drugs,
6 you know, off site to go buy drugs. In fact, I think
7 her testimony was she tried to stay away from that.

8 THE COURT: I don't remember any testimony about
9 that.

10 MR. KAPPEL: That's, basically, 15 minutes.

11 MR. MOYER: Well, Joey testified that they
12 would -- you know, they would give him the money, he
13 had the connections and would go buy the drugs.

14 MR. KAPPEL: Just prior to 15 minutes, there's a
15 question from Officer Richter that you were kind of
16 involved in his operations, drug operation. You
17 know, that again goes to the drug dealing. You know,
18 I'm at Page 14, whatever that corresponds to, which
19 is really right around the 13 and a half minute spot,
20 maybe one more minute. So, I'm going to hold with
21 what we talked about, the 13 minutes.

22 THE COURT: Okay. Well, does -- can you -- can
23 you stop it at 13 and then restart after that
24 question about drug dealing? That is, the sale,
25 distribution of drugs goes on? Can you stop it at 13

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1 and then start it back at 14?

2 MR. KAPPEL: Well, no, the drug stuff is
3 basically from --

4 MR. MOYER: That permeates that whole
5 conversation, Your Honor.

6 MR. KAPPEL: Like 14 minutes, all the way
7 through the 20 minutes, they're talking about the
8 drug dealing, the extortion, the firearms. I mean,
9 all that is --

10 MR. MOYER: Well, as far as the drug dealing
11 goes, they're talking about the Defendant going to
12 buy the drugs, which Joey testified to. He said he
13 would get the money and he had the connections, would
14 go buy the cocaine and bring it back. So, I think
15 that testimony is already in there.

16 THE COURT: Yeah, I don't have a problem with
17 that.

18 MR. KAPPEL: With which part?

19 THE COURT: With him saying that the Defendant
20 went to buy the drugs. I think that's pretty clear
21 from the testimony.

22 MR. KAPPEL: Right, but in this, you know, she's
23 saying that she went with him. I mean, that's the
24 different part is that she went.

25 THE COURT: She is saying that she went with

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1 him?

2 MR. KAPPEL: Yeah, I think she's saying that she
3 went with him. Let me look at it again, I'm sorry.
4 I'm trying to go through this quickly.

5 THE COURT: Yes, sir.

6 MR. KAPPEL: Yeah, she is. And I'll read it to
7 the Court. It says -- this is from E.G. [REDACTED] and
8 Christopher Greco's interview.

9 I remember being in the back of the van --
10 This is around the 16 minute mark.

11 I remember being in the back of the van. He had
12 a van, like one of the big ones. I remember having
13 to stay down in the van while he was actually
14 purchasing shit from these dudes on what I would call
15 a crack infested area.

16 MR. MOYER: I don't think that came up one way
17 or the other in her testimony, either on direct or
18 cross.

19 THE COURT: You're right. And I'm not so sure
20 it would have been admissible or not. And I don't
21 really take any position as far as that. But it's
22 not her -- it's not her statement that you're looking
23 to introduce. The problem is now you're going to
24 introduce evidence from her, which is not subject to
25 the original cross-examination of the Defense.

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1 That's where I start having some issue. It is much
2 safer in a case like this for the State to restrict
3 itself to, you know, that which is necessary to make
4 your point and not try to -- I know you're not trying
5 to do that, but inadvertently introduce evidence that
6 you may not have otherwise been able to introduce in
7 their direct testimony. I just think in a case like
8 this, and you don't have to agree with me, but I
9 think it serves the State better to play it safe.

10 MR. MOYER: And I'm fine with that. Here's my
11 only worry, is that during closing arguments or
12 whatever point in this trial when we talk about this
13 issue, the jury's going to be told well, you got a
14 chance to hear, you can decide for yourself how much
15 influence is being asserted. And for the
16 insinuation, either directly -- or either directly
17 said or insinuated to the jury well, you didn't hear
18 the whole thing. What else was she saying? What
19 else was she insinuating? What else was she trying
20 to get Christopher Greco to say on this interview?
21 That's the concern I have.

22 THE COURT: Well, it may be, it may be relevant
23 and appropriate for a redirect or for reply, but in
24 your direct of this witness, I think it's appropriate
25 to limit ourselves to statements that have already

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1 been found to be admissible. If that means the first
2 13 minutes, that's fine, and if you want to do
3 something after that. I just want to make sure that
4 we're real careful that it's appropriately redacted
5 if we enter the rest of it into the record.

6 MR. MOYER: Okay. If it please the Court, then,
7 for the record, we'll start at the 35 minute mark --
8 35 second mark of the interview, which is where the
9 interview of Christopher begins, and we'll end it
10 right around the 13 minute, 45 second mark right
11 after Christopher says that Dwayne Tallent let **E G**
12 smoke pot all time. I think that's certainly in the
13 record.

14 THE COURT: Yeah, and I will -- and understand
15 again, I'm not saying that can't be relevant -- the
16 remainder of it can't be relevant for the purpose
17 that you suggested on recross or in reply.

18 MR. MOYER: Okay.

19 THE COURT: I'm just saying for purposes of the
20 direct testimony, I don't want to introduce anything
21 else through your audio testimony that wasn't
22 introduced in her original testimony.

23 MR. MOYER: Okay. Thank you, Judge. I think
24 we're ready.

25 THE COURT: All right. Let's bring them in,

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1 please.

2 (WHEREUPON, the jury came into open court at
3 approximately 2:57 p.m.)

4 THE COURT: All right, Mr. Moyer, your witness,
5 sir.

6 MR. MOYER: Thank you, Your Honor, may it please
7 the Court. Your Honor, at this time, the State will
8 publish the portion of State's Exhibit No. 1 that we
9 discussed on the record for the jury.

10 THE COURT: Yes, sir.

11 (WHEREUPON, State's Exhibit No. 1 was published,
12 a portion was played.)

13 MR. MOYER: Okay, please answer any questions
14 the Defense has.

15 MR. KAPPEL: Thank you, Your Honor, may it
16 please the Court?

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. KAPPEL:

20 Q Officer Richter, good afternoon.

21 A Good afternoon.

22 Q You indicated that you've received extensive
23 training on interviewing techniques?

24 A I would say that's fairly accurate.

25 Q Okay. I'm sure that they talked to you about

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1 tainting the witness' statement?

2 A Well, I'm not sure where you're going with that,
3 but there's certainly -- you never want to guide a witness
4 to say something that wasn't true.

5 Q Right. But taint can come in other forms, can
6 it not? I mean, it's not just an officer trying to take a
7 statement from them. It can come from, I suppose, other
8 people being present during a statement being taken?

9 A I think that it's possible for -- if you're
10 trying to put taint in the same category with manipulate
11 or something like that, those are certainly concerns that
12 we have when we're taking statements from people. You
13 know, particularly in child cases, the last thing I want
14 is for another person to manipulate an actual record. And
15 that's one reason that I record. I just don't take a
16 written statement, I actually take an audio recording so
17 that any discrepancies can easily be spotted.

18 Q Right. But I'm sure you've heard the phrase,
19 like if you have two people, conspirators or something, we
20 need to talk to get our story straight. I'm sure you've
21 heard that before --

22 A Sure.

23 Q -- you see it on movies or what have you. The
24 reason for that is because these two people in my little
25 hypothetical are assuming that they're going to be

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1 interviewed separately. So, they're like we need to get
2 together to make sure that we have it right so that when
3 we each answer the question separately from one another
4 that our story is straight, that it jives. Does that
5 sound right?

6 A That concept is accurate. And, you know, again,
7 that's one reason that, you know, there's not just a piece
8 of paper with written witness statements on it. In this
9 case, there's also an audio recording. I think that, you
10 know, I certainly use that through my investigation to go
11 back and listen to it and to form my own conclusions as
12 to, you know, on the totality of everything, do I feel
13 like, you know, there has been some manipulation along
14 those lines.

15 Q All right. Well, let's just take the very last
16 comment. Now, we've only heard a very small portion of
17 this, but let's just take the very last comment. Do you
18 remember -- could you hear it well enough?

19 A What was the comment?

20 Q I can just read it to you if you want.

21 A Sure.

22 Q You asked Chris, you say, Now, what else do you
23 know about the situation?

24 And he says, Well, that's about it.

25 Do you remember hearing that?

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1 A I do.

2 Q Then E.G. [REDACTED] says -- or excuse me, E.G. [REDACTED]
3 then says, What did he let me do?

4 Right?

5 A I don't remember that, but I don't dispute that
6 that's on there.

7 Q Then Mr. Greco says, Oh, besides letting her
8 smoke pot all the time.

9 I mean, isn't that a perfect example of one
10 person queuing another person to queue their comments to
11 you?

12 A Well, it's like this, when Mr. Greco agreed to
13 meet with me to give a statement, I was under no, you
14 know, misunderstanding. I had -- I was quite sure that he
15 had discussed, you know, what had happened back then with
16 E.G. at that point. This is not a freshly committed crime,
17 excuse me, and so it would be reasonable to assume that
18 they had had discussions before meeting with me. And
19 regardless of whether or not I decided to meet with him
20 alone or with her as a support role, you know, I have no
21 doubt that that probably took place.

22 Now, you know, the question in my mind, as
23 it is for anyone else, is do we believe that she was
24 trying to -- you know, to insert, you know, things that
25 didn't really happen or is she trying to jog his memory.

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1 You know, that's the question in my mind, at least. And
2 in conducting that interview, I believed that from what I
3 saw that specifically with that example and there were a
4 few others, I thought she was trying to jog his memory
5 about things, more so as opposed to trying to plant
6 concepts of drug use or anything else.

7 Q All right. So, what you're suggesting then is
8 if there's a significant amount of time that goes by
9 before a case gets reported or before law enforcement gets
10 involved, then it's appropriate for you to allow two
11 witnesses to sit together and jog each other's memory in
12 what their comments are to you; is that right?

13 A I think sometimes that's entirely appropriate.

14 Q Okay.

15 A And I'll tell you why. Because at the end
16 day -- I kind of hinted at this earlier, but at the end of
17 day, let's say I had not interviewed him separately, I
18 would have taken a statement from him. And it's
19 reasonable to assume that there would be -- in most cases,
20 there are probably some discrepancies, no matter how
21 slight, or some questions that are raised that I might
22 then have to go back and ask other witnesses in a case.

23 In this case, you know, I had [EG] and I had
24 Chris present and I didn't have to go back and schedule an
25 entirely new interview with my victim because in this

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1 particular case, if there was a discrepancy, I had her
2 there to ask her, to confront her about this or
3 vice-versa. So, you know, you could really do it either
4 way, whether you conduct the interviews together or
5 separately. And I would again defer to the fact that
6 there's an audio recording of this so that the times that
7 she did speak up during the interview, there's an
8 explanation for that. So --

9 Q Well, I guess what you're saying is when you
10 have two people meeting with you at the same time, it
11 saves you time?

12 A In a sense, it does.

13 Q In other words, you don't have to go back and
14 reinterview people and ask them questions because the two
15 witnesses are basically drafting off of each other and
16 giving you their statement?

17 A No, I wouldn't classify it as drafting --

18 Q Well, jogging each other's memory.

19 MR. MOYER: Your Honor, I object to him speaking
20 over the witness.

21 MR. KAPPEL: Sorry.

22 THE COURT: Just let him finish.

23 THE WITNESS: I definitely wouldn't classify it
24 as drafting. I think the audio recording absolutely
25 substantiates my point. I don't think there's any

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1 drafting. I think in this particular interview, I
2 think that you'll hear the victim speaking up on a
3 handful of occasions. And most of those, honestly,
4 were very mundane things that had no bearing on the
5 statement itself if you compare the audio recording
6 to the actual written statement that he provided.

7 To your question, though, you know, in essence,
8 yes, I suppose that it would save time to be able to
9 confront, you know, a witness with any discrepancies
10 as they're, you know, coming to light. That was not
11 the purpose of allowing him -- excuse me, allowing
12 her to be on this. The purpose was because she was
13 there as a means of support. I think my take on this
14 entire scenario as it pertains to both of them is
15 they were fairly traumatized. And it was important
16 to have someone there as a means of support.

17 Q All right. Well, I think we're going to agree
18 to disagree. But, basically, you're characterizing one
19 witness queuing up another one about smoking marijuana as
20 to being a kind of minimus thing?

21 A Well, there again, you know, we can agree to
22 disagree, but I think as an investigator and as just a
23 common sense human being, I don't think there was much
24 doubt in my mind at that point that drug use was taking
25 place in that family. So, for points like that, again,

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1 you know, sometimes we have to make -- as officers, we
2 have to make a judgment call. And my judgment call during
3 this situation was that things like that was not really in
4 question.

5 Q Now, you wrote up a report of this interview?

6 A I did.

7 Q And in the report, you indicated that -- you're
8 familiar with your report, I'm sure?

9 A I am.

10 Q And if I read a line of it, I'm sure you would
11 recognize it, I suppose. You indicated the witness
12 corroborated what the victim had previously said.

13 A Okay.

14 Q But you never wrote in your report that
15 E.G. [REDACTED] was present during the interview.

16 A Okay. Is that question?

17 Q Well, my question is --

18 A Sure.

19 Q -- do you think it's appropriate to draft a
20 report based upon an interview with a witness and indicate
21 something such as that, that the witness corroborated, but
22 you don't put in that the witness, the victim, the alleged
23 victim is sitting right next to him.

24 A I'm just referring to my case file if you can
25 bear with me for just a minute.

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1 Q Sure. It's the August 8th report. I'll be
2 happy to hand you my copy.

3 A Well, I was looking for the written statement
4 that I had taken from Chris Greco.

5 Q I can give that to you, also, if you'd like.

6 A That would be great. Thank you. I guess my
7 response to your question is simply that there is no
8 effort to conceal or manipulate any of the facts here.
9 And, you know, there's a time or place to answer these
10 questions and that time is now. I think you can listen to
11 the audio tape and there's no question that E.G. [REDACTED] was
12 present. There's no need for me to further document it
13 because I knew then, as I know now, that there's a formal
14 record of her being there. It would be redundant and
15 unnecessary.

16 There was no intentional effort on my part
17 to not mention that in the report, but as I mentioned
18 earlier to Mr. Moyer, you know, we're juggling a lot of
19 cases at once. And a lot times when I write the actual
20 report, it's day, if not weeks after I've conducted a
21 certain element of an investigation. In fact, when I
22 wrote my initial incident report in this case, it was a
23 week or more after I had actually met with E.G. [REDACTED].

24 So, writing a report, in some cases, a
25 formality because the entire case file that we have

WILLIAM RICHTER-CROSS BY MR. KAPPEL

1 contains all those other items. It contains the audio
2 recordings. It contains the written statements. And it's
3 necessary to always be redundant like that.

4 Q All right. So, let me switch to something else.
5 You've already mentioned R.R. [REDACTED]

6 A Sure.

7 Q And you interviewed her -- I don't have a date
8 on it. I think it was September 2014, does that sound
9 right?

10 A That sounds right.

11 Q September 3rd, 2014?

12 A Sounds accurate.

13 Q Do you recall having a discussion with her about
14 contacting E.G. directly?

15 A I remember parts of that conversation. There
16 may even be an audio recording of that conversation. We
17 talked about whether or not she had been victimized. I
18 conducted a fairly standard -- up to a point, a fairly
19 standard, you know, child interview like I do a lot of
20 times in schools.

21 In a case like this, where there was an
22 overt allegation of sexual abuse, sometimes we'll jump in
23 and actually ask specific questions about that. So, my
24 recollection is that I probably did ask her specifically
25 if she had been victimized in this case. We talked

WILLIAM RICHTER-CROSS BY MR. KAPPEL

1 briefly about whether she had any contact with E.G. And,
2 you know, I remember her telling me that she had never met
3 her and she said she had seen her before in passing, but
4 they don't know each other.

5 I have no -- you know, my opinion is that I
6 want to try and keep kids safe. I have no preferences to
7 whether or not E.G. becomes friends with R.R. or anyone
8 else. I know that it was mentioned earlier in the
9 courtroom today that I think R.R. tried to send a
10 friend request to E.G. at one point. And I have no opinion
11 one way or the other about whether or not she wants to be
12 Facebook with someone.

13 Q So, you didn't remember?

14 A I don't recall.

15 Q But you do recall this was on September 3rd,
16 2014?

17 A That sounds about right.

18 Q And you met with E.G. again on September 4th,
19 2014?

20 A Yeah, I did kind of have somewhat of a debrief
21 with you --

22 Q That's right. You had to get a second -- and
23 she informed you right away that she had got a friend
24 request from R.R. is that right?

25 A I do recall that.

WILLIAM RICHTER-CROSS BY MR. KAPPEL

1 Q And if you don't mind, I'll just read from the
2 transcript since you don't remember.

3 A Sure.

4 Q There were three occasions where you said to
5 R.R. the following, I don't have a problem with that.
6 Referring to R.R. sending E.G. a message on Facebook.
7 And that's what happened, she sent her a message on
8 Facebook?

9 A Okay.

10 Q Does that sound right? You don't have a problem
11 with that?

12 A I don't have a problem with that.

13 Q Then you say to her, later, you say, Maybe you
14 could talk to E.G. I mean, it can't hurt anything?

15 A Uh-huh.

16 Q Then you subsequently say, Well, if you want to
17 talk to E.G. directly, and then it just kind of faded
18 out. There's three different times where you,
19 essentially, it seems encouraged one witness to talk to
20 another. Are you doing that because of the time, that so
21 much time had elapsed?

22 A I guess I'm a little confused. Maybe you can
23 clarify it for me. So, you're reading from a transcript
24 of my interview with R.R.

25 Q That is correct.

WILLIAM RICHTER-CROSS BY MR. KAPPEL

1 A Okay. You know, my whole purpose in going to
2 speak to R.R. at that point was just to make sure that
3 she hadn't been victimized. I'm going to try to be as --
4 to choose my words as much as possible here, but, you
5 know, it's not unusual for someone who has offended to
6 offend against other family members. If that had
7 happened, I wanted to exhaust all reasonable means to try
8 to make sure that she was safe. So, I don't think that
9 anything -- anything bad can come out of another young
10 girl, you know, if she -- if she feels the need to, to
11 have a relationship with, essentially, a family member. I
12 don't think it has any bearing one way or the other on my
13 investigation.

14 Q But they weren't family members.

15 A Well, this is in -- in somewhat of a twisted
16 sense. I mean, you know, the victim's mother is still
17 married to the Defendant in this case. The Defendant,
18 last I checked, is in a romantic relationship with
19 R.R. mother. So, you could argue the point that
20 they're not family, but I would argue that for all intents
21 and purposes, they're other family members.

22 Q You don't think it's somewhat dangerous to turn
23 loose witnesses to go talk to other witnesses without an
24 officer present taking a record of whatever it is that
25 they're saying?

WILLIAM RICHTER-CROSS BY MR. KAPPEL

1 A No, I don't.

2 Q Okay.

3 A I don't, because, again, we're talking about
4 something that allegedly happened, you know, 10, 15 years
5 earlier. You know, there's no sterile environment
6 anymore. And any sterility that I would have in an
7 investigation, you know, to address those questions that
8 you're asking, I have no control over that. I have no
9 control over what R.R. or E.G. or anyone else does when
10 they're not in my presence. And, you know, frankly, I
11 just don't see how it has any bearing.

12 Q You are correct. I mean, you don't have control
13 over what people do when they leave your office, but you
14 do have control over what you say. And when you say to a
15 witness, you know, go talk to them. Go talk to them, it
16 won't hurt anything. And I guess my question -- I've
17 asked the question and you've answered it, so I'm going to
18 just ask you one other question. I think your fall back
19 position to all this, what it seems to me, is that you say
20 look, I really -- it's all on tape, I've got it on tape, I
21 taped everything, correct?

22 A Everything is on tape that I'm aware of, yes.

23 Q That's right. So, your fall back is, you know,
24 well, they were together, you know, I had it on tape,
25 right?

WILLIAM RICHTER-CROSS BY MR. KAPPEL

1 A Uh-huh.

2 Q But you don't put it on your report that they
3 met with you together. And when the tapes were requested,
4 you didn't give them to the solicitor for two years.

5 A I gave the tapes to the solicitor when they
6 requested. I keep all of the -- all of the files that I
7 make when I have an audio recording as an investigator.
8 They all got stored in the same place. When they're
9 requested, those files will be transferred to a DVD. I
10 don't know what your insinuation is, but there was no --
11 there was no reason to try to conceal anything.

12 Q Okay.

13 A And again, you never allowed me to respond to
14 your earlier argument, which is that, you know, R.R. [REDACTED]
15 was a witness of sorts that I wanted to talk to in this
16 case. But, you know, during my conversation with her, she
17 did not disclose that she had been sexually assaulted by
18 the Defendant. And as far as I could tell, she was not a
19 quote, unquote, witness in this case. It wouldn't make
20 any difference whether she spoke to E.G. [REDACTED] or not, frankly.

21 Q But I guess that just kind of drives the point.
22 You determine that she's not disclosing anything and yet,
23 you turn her loose to talk to the alleged victim here,
24 perhaps, to try to generate some additional evidence?

25 A No, when I spoke to R.R. [REDACTED] I got -- I felt

WILLIAM RICHTER-CROSS BY MR. KAPPEL

1 like she was a very genuine person. I felt that she -- I
2 felt like she was being transparent with me. I felt that
3 Dwayne, the Defendant, was being a father figure to her.
4 And I felt that she was in a position where she wanted to
5 be compassionate. She felt even though she had not
6 seen -- by her own statement to me, she had not seen any
7 of those things that had been alleged by E.G. coming from
8 Dwayne. But she was very concerned about it and she was
9 concerned about E.G. well-being. And that, I believe, is
10 why that was even a question. You know, the whole concept
11 of her reaching out to her was as a supportive family
12 member more than anything else. There was no --

13 Q I mean, you're speculating at this point?

14 A No, I'm not speculating. I mean --

15 Q You're offering --

16 A -- you can play the audio recording --

17 Q You're offering an opinion --

18 A You can play the audio recording for context.

19 (WHEREUPON, Mr. Kappel and the witness were
20 talking over one another.)

21 THE COURT: Let him finish. Don't argue, just
22 ask the question and let him answer.

23 BY MR. KAPPEL:

24 Q I've got one last question for you.

25 A Sure.

WILLIAM RICHTER-REDIRECT BY MR. MOYER

1 Q With all the experience that you have, you
2 talked about how you've got more training with forensic
3 interviews with children than DSS and you've got, I can't
4 remember how many hundreds of hours of training you've got
5 in interviewing and everything else. I mean, why did you
6 leave the unit that you have so much experience in? I
7 mean, you're in the community patrol now. So, they took
8 you out of this unit -- or you transferred out, excuse
9 me --

10 A I was promoted out of that unit.

11 Q Okay. All right. That's what I wanted to know.
12 Promoted to what rank?

13 A Master deputy at the time.

14 Q Were you a master deputy in the unit?

15 A No, I was promoted in homicide.

16 Q So, you went from the children's unit to
17 homicide to community patrol?

18 A That's right.

19 Q Okay.

20 MR. MOYER: Done?

21 MR. KAPPEL: Yes.

22 MR. MOYER: Just a couple follow-up.

23 REDIRECT EXAMINATION

24 BY MR. MOYER:

25 Q I'm just going to follow up with that question

WILLIAM RICHTER-REDIRECT BY MR. MOYER

1 first. So, your movement around was based on promotions;
2 is that correct?

3 A Absolutely. It was entirely -- it was --
4 initially, it was promotion based and it was requested on
5 my part. I asked to go to homicide and I asked to go to
6 community patrol.

7 Q You see a good bit of movement around the
8 sheriff's office?

9 A We do. We've got almost 500 deputies. That's
10 one great thing about that agency is that if you want to
11 try something different or do something different or if
12 you have a career aspiration of working or getting
13 experience somewhere that there is a lot of room for
14 movement.

15 Q Probably something -- enjoy just doing different
16 things at different times and moving on to different types
17 of investigations?

18 A Yes, absolutely. I mean, I think that it's
19 important to be well-rounded.

20 Q Now, you mentioned in your report that the --
21 when you did the interview with the people that you
22 recorded the interview, did you not?

23 A Generally, I'll mention that. You know, there's
24 no obligation to do that. But again, I primarily do it so
25 that if I have any questions about anything, you know,

WILLIAM RICHTER-REDIRECT BY MR. MOYER

1 there's no -- I can always refer back to something.

2 Q Did you in this case? If you need to refer to
3 that report, do so. But did you note that your interview
4 with Chris was recorded?

5 A I'll refer back to my case file if you give me a
6 second.

7 Q If you need me --

8 A No, I found it.

9 Q Okay.

10 A I mean, it's -- not only is it mentioned that
11 I -- you know, that I recorded the interview, but, you
12 know, it's also indicated in here that the victim had
13 brought him there, that I questioned her as well, so.

14 Q So, you did mention you recorded your interview
15 with Christopher Greco?

16 A Yes.

17 Q And you mentioned that that recording would be
18 part of the case file?

19 A Yes.

20 Q Was it part of the case file?

21 A It is.

22 Q And will remain that way as long as --

23 A Absolutely.

24 Q Okay. I think you cleared this up as well, but
25 at the time -- after speaking to R.R. she never

WILLIAM RICHTER-RECROSS BY MR. KAPPEL

1 actually was a witness to any significant aspect of this
2 case, was she?

3 A No, she was not. She gave me background
4 information about Dwayne. She didn't really have any
5 information about E.G. or her family because she had no
6 relationship with them, but she gave me just general
7 background information about Dwayne and her younger
8 sister, Cindy -- or excuse me, C.R.

9 Q Okay.

10 MR. MOYER: Okay. I have nothing further.

11 Thank you.

12 MR. KAPPEL: One follow-up question.

13 THE COURT: Yes, sir.

14 RECROSS-EXAMINATION

15 BY MR. KAPPEL:

16 Q When did you transfer to homicide?

17 A I transferred to homicide in -- right about
18 December of last year.

19 Q December of 2016?

20 A That's right.

21 Q When did you transfer to community services?

22 A I just transferred to community about three
23 weeks ago.

24 MR. KAPPEL: All right. Thank you.

25 THE COURT: Thank you, Officer. I appreciate

C.R. [REDACTED] DIRECT BY MR. MOYER

1 it.

2 THE WITNESS: Thank you, Judge.

3 THE COURT: Ladies and gentlemen, I don't have
4 any secrets. Some high school students were here and
5 some type of summer camp to view trials. I'm all for
6 high school students coming in and seeing trials, but
7 the subject matter in this trial probably is not
8 appropriate for some children. At least, not until I
9 speak to their parents to determine whether it's
10 appropriate for them or not. Okay. I just wanted
11 you to know what I was discussing.

12 You want to call your next witness?

13 MR. MOYER: Yes, sir. The State call C.R. [REDACTED]
14 [REDACTED]

15 THE CLERK: Ma'am, if you'll please come
16 forward. If you'll please pause at the end of the
17 bench, place your left hand on the Bible and raise
18 your right hand.

19 C.R. [REDACTED] after being duly
20 sworn, testified as follows:

21 THE CLERK: Thank you. Please be seated. Would
22 you please state your full name for the record?

23 THE WITNESS: C.R. [REDACTED]

24 THE CLERK: Thank you.

25 DIRECT EXAMINATION

C.R. [REDACTED] DIRECT BY MR. MOYER

1 BY MR. MOYER:

2 Q C.R. [REDACTED] do you go by C.R. [REDACTED] usually?

3 A Yes, sir.

4 Q Is that what most people call you?

5 A Yes.

6 Q Okay. Your last name is [REDACTED] How old are
7 you?

8 A I'm 15.

9 Q What is your date of birth?

10 A [REDACTED] [REDACTED].

11 Q Okay. Who do you live with?

12 A Right now, I live with my Poppy.

13 Q Your Poppy is what relation to you?

14 A Well, it's my sister's dad's father.

15 Q Okay.

16 A Basically.

17 Q So, your sister's grandfather?

18 A Yes.

19 Q How long have you been living with him?

20 A For the past few months, since I got placed with
21 him.

22 Q You got placed there with DSS?

23 A Yes, sir.

24 Q Who is your mother?

25 A Cynthia Rosado.

C.R. [REDACTED] DIRECT BY MR. MOYER

1 Q Do you even know your father?

2 A No.

3 Q Where did you get your last name?

4 A From my sister's dad.

5 Q And your sister's R.R. [REDACTED]

6 A Yeah.

7 Q She's older than you are?

8 A Yeah.

9 Q Now, did either your father or R.R. [REDACTED] father
10 raise you?

11 A No.

12 Q Do either one have any role in your life?

13 A Well, my real dad, I don't know him. My
14 sister's dad, he really hasn't had a role. He never took
15 care of me.

16 Q Who did have a father figure in your life?

17 A Dwayne.

18 Q Dwayne Tallent, the Defendant in this case?

19 Now, before you started living with your Poppy, you call
20 him?

21 A Uh-huh.

22 Q Where did you live?

23 A I lived with my grandma and my grandpa, Lamar
24 Brissey and Heyward Brissey.

25 Q How long had you been living with them?

C.R. [REDACTED] DIRECT BY MR. MOYER

- 1 A Since I was about 11, 12.
- 2 Q Where did they live?
- 3 A They live at 77 Ferguson Road.
- 4 Q Where did you live before you lived with them?
- 5 A 79 Ferguson Road with my mom and Dwayne.
- 6 Q Is that right next door?
- 7 A Uh-huh.
- 8 Q How long did you live there at 79 Ferguson?
- 9 A From about when I was 18 months year old until
- 10 they went away.
- 11 Q Then that's when you moved into 77 Ferguson?
- 12 A Uh-huh.
- 13 Q Okay. Who lived at 77 Ferguson?
- 14 A Well, at first, it was me and my grandma and my
- 15 grandpa. Then later on down the road, my sister moved in.
- 16 Q R.R. [REDACTED]
- 17 A Yes.
- 18 Q Are you close to your grand -- now, your
- 19 grandma, is that Dwayne's mom?
- 20 A Uh-huh.
- 21 Q What did you call her?
- 22 A I called her Ma. She didn't like being called
- 23 grandma?
- 24 Q Were you close to her?
- 25 A Close enough.

C.R. [REDACTED] DIRECT BY MR. MOYER

1 Q Okay. You close to her now?

2 A Not really.

3 Q Okay. Since you moved out?

4 A (The witness nods.)

5 Q But you loved her?

6 A Yeah, I still do.

7 Q Now, Dwayne and your mom, they weren't married,
8 right?

9 A No.

10 Q Okay. But he moved in there and lived as if he
11 were?

12 A Well, we moved in and lived there.

13 Q So, y'all moved into 79?

14 A Yeah.

15 Q Okay. So, he's been -- he's had this role in
16 your life as long as you can remember; is that right?

17 A Yeah.

18 Q He lived with you and your family the entire
19 time?

20 A (The witness nods.)

21 Q So, did -- was he, essentially, a father figure
22 for you?

23 A Yes.

24 Q What did you call him? What name did you use
25 for him?

C.R. [REDACTED] DIRECT BY MR. MOYER

1 A I mean, I called him Dwayne most of the time,
2 but sometimes, I called him dad.

3 Q Okay. Was there -- did he particularly like you
4 to call him one name or the other?

5 A It didn't really matter.

6 Q So, you would call him either Dwayne or dad?

7 A (The witness nods.)

8 Q Now, did you know his actual wife, Sherry
9 Tallent?

10 A No, not until yesterday. I met her yesterday.

11 Q You met her yesterday. And what about her
12 children?

13 A I knew of them, just didn't know them.

14 Q Did you ever meet them or spend any time with
15 them?

16 A Not until yesterday.

17 Q You had just heard of them?

18 A Uh-huh.

19 Q Okay. So, you mentioned Dwayne was like a
20 father figure in your life. In what way, what did he do
21 for you?

22 A He took care of me. He put food on the table.
23 He took care of my mom. And he just treated me like I was
24 a child of his own.

25 Q Okay. So, was he a provider?

C.R. [REDACTED] DIRECT BY MR. MOYER

1 A Yes. He was one that was putting food on the
2 table when my mom didn't have a job, but when she got a
3 job, it was even, 50/50.

4 Q So, putting aside what we're going to talk about
5 here in just a minute, did he treat you well?

6 A Yeah.

7 Q Did he buy you things ever?

8 A Yeah. He bought all the kids things.

9 Q Okay. Did you love him?

10 A Yeah.

11 Q Do you still love him?

12 A Yeah, I do.

13 Q Okay. So, this place you lived, 79 Ferguson
14 Road, that was on his -- that was on this farm, on his
15 mother's property?

16 A Yeah.

17 Q Now, so despite the good things he did for you
18 and how much you loved him, did he ever do anything to you
19 that was hurtful?

20 A I mean, he never liked harmed me.

21 Q Physically?

22 A Physically, he never harmed me.

23 Q What about mentally hurtful?

24 A Mentally -- I mean, after, like, everything came
25 out, when I moved, when I got placed with my Poppy and

C.R. [REDACTED] DIRECT BY MR. MOYER

1 court was coming up, I had like panic attacks. But it
2 only happened, like, every once in a while and it finally,
3 like, slowed down. But now, I'm good. I don't have panic
4 attacks like I did when I first moved into Poppy's.

5 Q So, what did he do to you that caused this
6 mental anguish, mental pain?

7 A Well, it's just after I came out about
8 everything, it just started coming back to me and I
9 started having flashbacks to what happened when I was
10 little.

11 Q What started happening to you when you were
12 little?

13 A Well, it first started off when -- first thing
14 that happened was that he touched me and I felt awkward
15 about it. I didn't know, but -- I didn't know it was
16 wrong at the time, but when I started getting older, I
17 realized it was wrong. I kept it to myself because, I
18 mean, I was scared about what would happen. You know, I
19 would lose my family if I came out. And me and my mom, we
20 didn't have anything, so.

21 Q Okay. What do you mean you didn't have
22 anything?

23 A Basically, all we had was my grandma and my
24 uncle and the rest of my family was in Mexico. So, we
25 really didn't have that much family. And I considered

C.R. [REDACTED] DIRECT BY MR. MOYER

1 Dwayne and his family still -- like, still to this day my
2 family. But I just don't know if things are going to be
3 the same after this.

4 Q You didn't have any other place to go?

5 A Huh-uh.

6 Q Okay. So, tell the jury in what way did he --
7 how old were you when he first touched you?

8 A Around five.

9 Q And tell the jury how did he touch you, what did
10 he do.

11 A He messed with my areas and he, like, touched
12 all around me. He never hurt me. It's just he touched
13 around on me and made me feel weird and uncomfortable.
14 But when I got older, I started noticing that, you know,
15 this isn't right. It shouldn't be happening. And when it
16 came out about E.G. I knew that I wasn't the only person
17 he did it to. And I really don't like thinking of him
18 like that. I don't like having this thought in my head
19 that, you know, he's always been like that, he's sick.
20 It's not that. It's just -- Dwayne's a good person, he is
21 --

22 Q Well, let's not get into all that. We talked a
23 little bit before about he did good things for you, didn't
24 he?

25 A Yeah.

C.R. [REDACTED] DIRECT BY MR. MOYER

1 Q Other than that stuff, he treated you well,
2 would you say?

3 A Yeah.

4 Q Okay. So, I'm going to have to ask you some
5 specific questions now about when you mentioned him
6 touching you, you said in your areas. What do you mean by
7 your areas?

8 A My vagina, like, he touched around it.

9 Q Did he touch your vagina?

10 A Yes.

11 Q Was it over your clothes or under your clothes?

12 A Both, but, mainly, over my clothes.

13 Q Okay. And where would you be when this would
14 happen?

15 A Either in my room or my mom and dad's room.

16 Q At 79 Ferguson?

17 A Yeah.

18 Q Where would your mom be when this stuff would
19 take place?

20 A At work.

21 Q Would it happen at all times of the day or?

22 A Any time of the day. It really didn't matter to
23 him, I guess.

24 Q Okay. And when did -- how old were you when
25 this kind of touching stopped?

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS
The Honorable Robin B. Stilwell

Appellate Case No. 2017-001585

RECEIVED
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SC Court of Appeals

The State, ... Appellant,

v.

Dwayne Cameron Tallent, ... Respondents.

RECORD ON APPEAL

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STATE EXHIBITS

14	<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
15	1	CD	282	301

DEFENDANT EXHIBITS

18	<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
19	1	Photograph	372	374
20	2	Photograph	372	374

COURT EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Note from the Jury	423	
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5	A Note from the Jury	492	

C.R. [REDACTED] DIRECT BY MR. MOYER

- 1 A Around 11.
- 2 Q Okay. And that's when he moved away?
- 3 A Yeah.
- 4 Q For a period of time?
- 5 A For a period of time.
- 6 Q So, it stopped when he moved away for that
- 7 period of time?
- 8 A Yeah.
- 9 Q Now, how often would this happen?
- 10 A It would happen like, at least, once a day.
- 11 Q And --
- 12 A Like, he wouldn't have to, like, touch me. He
- 13 just, like, pull on my arm or, like, play around with me.
- 14 It wouldn't be like a sexual thing. Like, he'd just mess
- 15 around with me, like, on an everyday type of thing. But
- 16 once a day, at least, he messed with me, like.
- 17 Q When you say messed with you, is that what
- 18 you're talking about the touching?
- 19 A Like touching.
- 20 Q On your vagina?
- 21 A Yeah, or my chest.
- 22 Q He would touch your chest, too?
- 23 A Yes.
- 24 Q What would he touch your chest with?
- 25 A His hands.

C.R. [REDACTED] DIRECT BY MR. MOYER

1 Q Okay. Did he ever kiss any parts of your body?

2 A I mean, he kissed me before, but he never kissed
3 any parts of my body.

4 Q When he kissed you, where did he kiss you?

5 A On my lips.

6 Q Do you remember how old you were when that
7 happened?

8 A No. I think I was around six or seven.

9 Q Do you remember how that came about that he did
10 that?

11 A Because I asked him about how do people kiss and
12 he showed me. And, yeah.

13 Q Did it just happen that one time?

14 A That one time. Because I felt awkward after
15 that.

16 Q You didn't like that?

17 A No.

18 Q Okay. Did -- when he would touch you, would
19 your clothes be on or would your clothes be off?

20 A Both. I mean, my clothes -- sometimes my
21 clothes would be on, sometimes they wouldn't be on.

22 Q The times your clothes were not on, how would
23 they get off of you?

24 A By him.

25 Q He would take your clothes off? Like, all of

C.R. [REDACTED] DIRECT BY MR. MOYER

1 your clothes or --

2 A Just some of them.

3 Q What about his clothes? Would his clothes --

4 A His clothes would be on.

5 Q Okay. Do you ever recall him touching you with
6 any other parts of his body?

7 A No.

8 Q Do you recall any instances where he touched you
9 with his private parts?

10 A No.

11 Q You didn't remember anything like that?

12 A (The witness shook her head.)

13 Q Okay. Do you remember having spoken to another
14 officer earlier when you first came forward with this?

15 A The only person I really remember talking to was
16 Richter when he came to my school.

17 Q Okay. And you spoke to him. We'll get to that
18 in just a minute. But then after you spoke to him, didn't
19 you speak to another officer about what happened, someone
20 from DSS?

21 A Yes, I did.

22 Q Did you tell them anything about him touching
23 you with his penis?

24 A I didn't tell them the part about him touching
25 me with his penis, I told them about how he touched me and

C.R. [REDACTED] DIRECT BY MR. MOYER

1 messed around with me. But I don't know his name, but I
2 did talk to another officer after that.

3 Q You did?

4 A Okay.

5 Q Now, would he ever say anything to you about
6 what he was doing?

7 A No. He just told me that nobody would
8 understand it and that nobody would understand his love
9 for me.

10 Q Was there anything he said, either that or
11 anything else, that kept you from telling other people
12 about what he was doing?

13 A No.

14 Q So, what kept you from -- or did anything keep
15 you from talking about this to anyone else?

16 A Well, when I first -- well, what kept me from
17 saying it is because at the time when I was younger, I
18 didn't think anything was wrong with it because I didn't
19 know that's not okay. But when E.G. [REDACTED] when I heard
20 about what happened to E.G. [REDACTED] I realized, you know, if I
21 tell and say that this is true, then I might lose my
22 family, the only family that I have. That's what I was
23 really scared about about coming out at first is that I'm
24 going to get sent away, which that did happen, I did get
25 sent away. And I was scared that, you know, my family's

C.R. [REDACTED] DIRECT BY MR. MOYER

1 not going to want to be around me no more, you know,
2 because they might not believe me because they didn't
3 believe E.G. I didn't know if they would believe me or
4 not.

5 Q Did you know E.G. [REDACTED]

6 A No.

7 Q When did you first meet E.G. [REDACTED]

8 A Yesterday.

9 Q And before you told about what happened to you,
10 did you ever -- did she or anyone from her family ever
11 talk to you or put pressure on you to say anything?

12 A No. I mean, she did text me hey one day and I
13 texted her back, but she wasn't pressuring me. She was
14 just trying to make conversation with me.

15 Q Did you ever feel any pressure from anyone when
16 you finally came out about this?

17 A No, I was just scared.

18 Q Okay. Now, when you first talked to
19 Investigator Richter, that was at your school?

20 A Yes, sir.

21 Q Did you know he was coming to speak to you
22 before he ever spoke to you?

23 A No.

24 Q So, he took you off in a room then?

25 A Yeah, we were sitting in the officer's room at

C.R. [REDACTED] DIRECT BY MR. MOYER

1 the school. I was in math class and I got called out.

2 Q Okay. Was it just you and him?

3 A Yeah, it was just me and him.

4 Q Was there anyone else in the room --

5 A No.

6 Q -- that you recall? Okay, did you tell him what
7 happened?

8 A No.

9 Q Did you feel -- did you come close to it, were
10 you tempted to?

11 A I was tempted to, but, at the same time, I just
12 didn't want that to ruin my day at school. I had the rest
13 of the day and it was just -- I ain't had nobody there
14 with me.

15 Q Were you still having these other feelings that
16 you talked about earlier about not wanting to break up
17 your family?

18 A Yeah, that's what I was feeling at the time. I
19 didn't want the truth to come out and ruin my family, the
20 only family that I have.

21 Q Okay. And then on a later occasion, you ended
22 up telling?

23 A Yes.

24 Q Who did you tell first?

25 A Brittany Peterson.

C.R. [REDACTED] DIRECT BY MR. MOYER

1 Q Is that someone from DSS?

2 A Yes.

3 Q Did she ask you about it?

4 A She said that there were allegations against my
5 step-dad for something that's he'd done to me and I just
6 started crying. And she talked to me about it and she was
7 like, Did he do these things? And I admitted to her that
8 he did do those things.

9 Q Were you telling the truth at that time?

10 A Yes, sir.

11 Q Okay. Now, did he ever -- did the Defendant
12 ever give you anything to wear or anything like that?

13 A Like, underwear.

14 Q Tell us about that. He gave you underwear?

15 A It was just -- like, just underwear.

16 Q Like, would that be in the context of when he
17 was touching you that he would give you the underwear?

18 A No, he just gave me underwear and that would be
19 it, basically. But sometimes, I would wear them and
20 sometimes, I wouldn't.

21 Q Sometimes, you'd wear them when he was touching
22 you?

23 A No, I'd just wear them.

24 Q So, where did he give the underwear to you? Was
25 it in front of the family or was it privately?

C.R. [REDACTED] DIRECT BY MR. MOYER

1 A I mean, I really don't remember.

2 Q You don't remember?

3 A No.

4 Q Okay. Now, did he ever rub up against you,
5 anything like that ever happen?

6 A I mean, he has before, but not -- it's not a
7 constant thing.

8 Q Okay. When you say he rubbed up against you
9 before, what would he do? Can you describe it?

10 A Like come up behind me and just, like, come
11 close to me and then walk away.

12 Q Okay. Did that ever happen when you were in
13 either his room or your room?

14 A No.

15 Q That never happened? Did he ever touch your --
16 you talked about him touching your private area?

17 A Yeah.

18 Q Okay. Did he ever touch your backside, your
19 bottom?

20 A No -- I mean, well, not really, but my legs,
21 yeah, he touched my legs, but he would not touch anywhere
22 on my back or down.

23 Q But he would touch your legs?

24 A Yeah, my legs and my area.

25 Q Your private -- your vagina?

C.R. [REDACTED] DIRECT BY MR. MOYER

1 A Yeah.

2 Q Okay. Did you ever do anything or say anything
3 during this time to indicate -- to try to get him to stop
4 or indicate you didn't want him to do it?

5 A No, I didn't.

6 Q Did you ever push away against him --

7 A I did push away. Plenty of times, I did push
8 away, but I didn't never say nothing to him about it.

9 Q You didn't say anything, but you would -- what
10 would he do if you would push away?

11 A He just still do what he was doing. It wouldn't
12 stop him.

13 Q Okay. So, you mentioned that when he first
14 started doing stuff to you, you didn't really understand
15 it; is that right?

16 A Yeah.

17 Q You didn't know it was wrong?

18 A Yeah, basically.

19 Q And as you got older, did you start -- how did
20 it make you feel as you started to get older and started
21 to realize it?

22 A I felt weird and I felt disgusted with myself.

23 Q You felt disgusted with yourself?

24 A Yeah.

25 Q Okay. One minute, please. Just a couple other

C.R. [REDACTED] DIRECT BY MR. MOYER

1 questions. Did you -- you loved him?

2 A Yes.

3 Q You still love him?

4 A Yeah, I do.

5 Q Okay. Go ahead, I'm sorry.

6 A Yeah, I do.

7 Q Did you want to have to come to court?

8 A No, I didn't.

9 Q Was your life any easier or any harder on you
10 when you finally did talk about it, disclose it?

11 A It was so much harder on me.

12 Q How was it harder?

13 A Because knowing that I came out, I knew that
14 right then and there, the place that I was at was not a
15 safe environment. And I knew that DSS would think it was
16 not a safe environment. I knew that I would be taken
17 from my home. I knew that I would be taken away from my
18 family, which I, basically, have been. Then after all
19 that happened, I was not allowed to see my mom. I
20 wasn't -- now, I'm not even allowed to go anywhere with my
21 brother or my sister. I'm barely able to do anything. I
22 can't call my mom. I can't text her. And, you know,
23 that's my mom and it's hard.

24 Q Okay. You feared all that would happen if you
25 told?

C.R. [REDACTED] CROSS BY MR. KAPPEL

1 A I feared that I would lose my family. A lot
2 worse happened than what I thought would happen.

3 Q Okay. So, it's actually been worst than you
4 feared?

5 A Yep.

6 Q Have you had any pressure put on you to change
7 your story?

8 A Yeah.

9 Q Who has that come from?

10 A His side of the family.

11 Q Anyone in particular?

12 A No.

13 Q You didn't want to mention it, but you have had
14 pressure from his side of the family to change your story?

15 A Yeah.

16 MR. MOYER: Okay. Please answer any questions
17 that the Defense has.

18 CROSS-EXAMINATION

19 BY MR. KAPPEL:

20 Q C.R. [REDACTED] there was a time where you were very
21 close to Ma, correct?

22 A Yeah.

23 Q When you lived at 79 Ferguson, you would go to
24 77 Ferguson quite a bit to visit with her and be with her;
25 isn't that right?

C.R. [REDACTED] CROSS BY MR. KAPPEL

1 A Yeah.

2 Q She had a swimming pool in the back -- or she
3 does. And she'd take you horseback riding?

4 A Yeah.

5 Q Isn't that right? And you have said that what
6 Dwayne did to you started when you were five, so that
7 would have been in 2006?

8 A Yeah.

9 Q Because you were born?

10 A 2001.

11 Q August 2001. And I guess my question is you're
12 aware that the Department of Social Services came and did
13 some work with the family in 2005, correct?

14 A Yeah.

15 Q That was something unrelated, but DSS became
16 heavily involved with the family; is that right?

17 A Yeah.

18 Q Now, they didn't make you leave?

19 A No.

20 Q And your mother and Dwayne didn't leave from 79
21 Ferguson, but they became highly active with the family;
22 isn't that right?

23 A Yeah.

24 Q And as a result, you had a series of meetings
25 with DSS for the next three to four years they were around

C.R. [REDACTED] CROSS BY MR. KAPPEL

1 and involved; isn't that correct?

2 A Yeah.

3 Q And these meetings would be visits with you,
4 visits with the family, and they would talk to you about
5 all kinds of things; isn't that right?

6 A Yeah.

7 Q And by my estimation, you met with DSS no less
8 than 20 times in that three and a half year period, does
9 that sound about correct? Maybe more?

10 A Probably more.

11 Q Okay. And then following, in 2009, that's when
12 you went to live with Ma for a little while, right? You
13 moved next door for a few months; isn't that correct?

14 A Yeah, for a few months.

15 Q Then subsequently, DSS closed their file and you
16 returned to 79 Ferguson Road; isn't that right?

17 A Yeah.

18 Q And then you resumed living with your mother and
19 Dwayne?

20 A Yes, sir.

21 Q Okay. And then in 2012, you moved again back to
22 live with Ma at 79 Ferguson?

23 A Yeah.

24 Q Or excuse me, 77 Ferguson, right?

25 A Yeah.

C.R. [REDACTED] CROSS BY MR. KAPPEL

1 Q And you stayed at 77 Ferguson all the way up
2 until this year?

3 A Yeah.

4 Q Isn't that correct?

5 A Yeah.

6 Q And DSS became involved again in 2012 and you
7 moved to 77 Ferguson to be with Ma?

8 A Yeah.

9 Q The DSS again was heavily involved with the
10 family; isn't that correct?

11 A Yes, sir.

12 Q And from 2012 to 2013, you had, again, my
13 estimation, probably no less than 14 meetings with them
14 where they would come and meet with the family, meet with
15 you individually and provide services and talk to you,
16 etcetera, etcetera; correct?

17 A Yeah.

18 Q And at no time during any of these meetings,
19 three, five or more meetings with DSS, you never mentioned
20 any of this to them; isn't that correct?

21 A Yes, sir.

22 Q Now, your relationship with Ma is kind of a
23 complex one, would you not agree?

24 A Yeah.

25 Q Back when you lived with her in 2009 and you

C.R. [REDACTED] CROSS BY MR. KAPPEL

1 were there -- you were at 79 Ferguson and you moved in for
2 a couple of months in 2009, you were, give or take, eight
3 years old, eight or nine years old and you had an
4 exceptionally close relationship with her then at that
5 time; isn't that right?

6 A Yes, sir.

7 Q And for all those reasons we've talked about,
8 the swimming pool, the horseback riding and everything
9 else. Now, in 2012, you moved back in with Ma and lived
10 with her up until 2017. It wasn't quite the same
11 relationship, was it?

12 A I mean, it was, but --

13 Q Well, it was starting off?

14 A Yeah.

15 Q But it, ultimately, became very tense, did it
16 not?

17 A Yeah.

18 Q Would you not attribute that to growing pains,
19 you were becoming a teenager?

20 A Yeah.

21 Q You had trouble following direction and
22 instruction from her?

23 A Yeah.

24 Q And you did not want to follow her rules; isn't
25 that correct?

C.R. [REDACTED] CROSS BY MR. KAPPEL

1 A Yes, sir.

2 Q And that applied to boyfriends and dating and
3 social activities and everything else; isn't that right?

4 A Does that have to do anything with the --

5 Q I'm just asking you a question. I would just
6 like if you would just answer the question.

7 A Yeah.

8 Q Isn't that correct?

9 A Yes, sir.

10 Q So, what happened from 2012 until 2017 was a
11 very strained relationship between you and Ma even before
12 you reported these events; isn't that correct?

13 A Yes, because I was ADHD and I was a growing
14 teenager.

15 Q Okay. And then when DSS did finally -- when
16 they did intervene and they were sitting down talking to
17 you recently about going to your sister's grandfather's
18 house, they instructed you that you had to follow the
19 rules of the house; did they not?

20 A Yes, sir.

21 Q Do you remember what your reaction was to the
22 caseworker?

23 A Yeah.

24 Q You were very upset over it?

25 MR. MOYER: Your Honor, I object to this line of

C.R. [REDACTED] CROSS BY MR. KAPPEL

1 questioning. I understand the earlier line of
2 questioning, but this has no relevance.

3 THE COURT: All right. I'll give you some
4 latitude with regards to cross-examination.

5 BY MR. KAPPEL:

6 Q Isn't that correct?

7 A No, it was not correct.

8 Q So, you went willingly to your sister's
9 grandfather's house and had no problem with the rules of
10 the house or following the rules there; is that right?

11 A In all honesty, I didn't have a problem living
12 with my Poppy. The only problem I had with being over
13 there was I was not allowed to talk to my mother. That
14 was my problem.

15 Q Okay.

16 A And I have all kind of respect for my Poppy.
17 Yeah, he's old, he's grouchy, but that man is my grandpa
18 and I -- any rules that he has, I will stick with them.
19 But the only thing I was mad about was I was not allowed
20 to talk to my mother.

21 Q Okay. Now, you said earlier that -- you
22 described Dwayne as a good person, right?

23 A Yes.

24 Q And that he -- you were about to describe the
25 good things that he does and he treated you like your

C.R. [REDACTED] CROSS BY MR. KAPPEL

1 own -- like you were his own daughter, correct?

2 A Yeah.

3 Q And Ma did the same; isn't that right?

4 A Yes, sir.

5 Q And I suppose the issue is to have all this
6 interaction with DSS and you never once felt comfortable
7 talking to them about what had happened?

8 A Because they were talking to me, they were
9 questioning me about were my parents doing drugs at the
10 time. They did not bring up any sex allegations, sexual
11 activity allegations. And because at the time, like I
12 said, I was young and I didn't think what he was doing was
13 wrong.

14 Q But the last date of the DSS was 2013, you were
15 12 then?

16 A Yeah.

17 Q You weren't that young.

18 A Okay. Like I said, I was scared. I didn't want
19 to tell because I was going to lose my family, which to
20 this day, as we can see, I did lose my family.

21 Q All right.

22 MR. KAPPEL: Just a minute, Judge. One last
23 question.

24 BY MR. KAPPEL:

25 Q The activity that you described, no one saw

C.R. [REDACTED] CROSS BY MR. KAPPEL

1 this, correct? No one observed this or saw this or
2 anything like that?

3 A No.

4 Q And you didn't tell your sister, R.R. [REDACTED]

5 A No.

6 Q Okay.

7 MR. KAPPEL: All right, that's all I have.

8 Thank you.

9 MR. MOYER: No redirect, Your Honor.

10 THE COURT: Okay. Thank you, ma'am. I
11 appreciate you being here. You may step down.

12 MR. MOYER: One moment, Your Honor.

13 THE COURT: Yes, sir.

14 MR. MOYER: Your Honor, at this time, the State
15 rests.

16 THE COURT: All right, ladies and gentlemen,
17 when the State rests, that means I must necessarily
18 take up some matters of law. I'm going to have a
19 discussion with the attorneys and hear some motions
20 on the record. Then I'm going to talk to the Defense
21 to see if we're prepared to go to the Defense's case.
22 If the Defense is prepared to call a witness -- which
23 again, I've told you, the Defense doesn't have to put
24 any evidence into the record. They have no burden of
25 proof. But if they have a witness they would like to

1 call this afternoon, then we'll continue. If not,
2 probably, what we'll do is we'll start back tomorrow
3 morning. That remains to be seen. I have to have
4 the conversation.

5 So, please take a break, don't discuss the case.
6 And I'll either send a message back to you about what
7 time to be back tomorrow or we'll come back into the
8 courtroom and take more testimony. All right, thank
9 you very much.

10 (WHEREUPON, the jury left open court at
11 approximately 4:10 p.m.)

12 THE COURT: All right, motions?

13 MR. KAPPEL: Judge, just like to renew all our
14 objections that we made prior to, including all the
15 pre-trial motions and then move for a directed
16 verdict. The evidence in the light most favorable to
17 the State does not support a conviction.

18 THE COURT: Okay.

19 Yes, sir, Mr. Moyer, would you like to respond
20 to that?

21 MR. MOYER: Your Honor, the evidence is very
22 clear. I don't think I need to go back over every
23 element, but every element of every charge has been
24 testified to by the witnesses all for the charges
25 that are before the Court.

1 THE COURT: All right. Based on the requisite
2 standard for directed verdict motions, I do view the
3 evidence in the light most favorable to the State and
4 I don't look for the sufficiency or the weight of the
5 evidence. I don't judge the credibility of the
6 witnesses, just look to see whether there's any
7 evidence in the record which would support the
8 allegations upon which a jury could find that the
9 State has met its burden of proof. And under that
10 standard, I respectfully deny the motion for directed
11 verdict.

12 Okay, anything else?

13 MR. KAPPEL: No, sir. Those are the only
14 motions I have, Judge.

15 THE COURT: Okay. Do you intend to offer any
16 evidence, sir?

17 MR. KAPPEL: We do.

18 THE COURT: Do you have any witnesses that you
19 want to call this afternoon that will be short?

20 MR. KAPPEL: My preference would be to start
21 first thing in the morning. I anticipate just
22 having -- let me think for just a minute. Can I have
23 one second, Judge?

24 THE COURT: Sure, yeah.

25 MR. KAPPEL: Well, I'm just going to go off

1 memory. I know I have one, two, three witnesses,
2 Judge. One would -- I think my preference would be
3 just to start in the morning. I think I will be
4 finished -- if we start at 9:00, I would be done
5 conceivably by 10:30, at the latest.

6 THE COURT: All right, good. I don't want to
7 start at 9:00 only because there's so many things
8 that could happen between 9:00 and 9:30, that is
9 things that we need to take up. And then, also, make
10 sure that everybody can get here after whatever they
11 may have to do for their families. I like to start
12 at 6:30 or 7:00, but nobody else seems to agree with
13 me in that regard, so I have really fashioned my
14 practice after what everybody else wants, so 9:30.
15 Let's start at 9:30 tomorrow morning. I'm going to
16 tell the jury to be back at 20 minutes after 9:00 and
17 we'll start as promptly as possible. If there are
18 any issues that y'all need to discuss, you may come
19 see me at 9:00, okay, so we can resolve those before
20 the jury gets here. Okay.

21 Also, if you have any requests for charge, go
22 ahead and give those to me this afternoon. And
23 tomorrow at the close of the testimony, we'll have a
24 charge conversation. If you're done at 10:30, then
25 we may go straight into argument and charge,

1 depending on what time that happens.

2 All right. Thank you. Have a good evening.

3 Tell them to be back at 9:20 tomorrow morning.

4 Don't back it up to 9:15 or 9:10, 9:20 because we're
5 going to try to start at 9:30, okay. Okay.

6 (WHEREUPON, the proceedings were concluded for
7 the day to be reconvened on Wednesday, July 19,
8 2017.)

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1 July 19, 2017

2 MR. MOYER: Your Honor, the Defendant has not
3 been counseled yet as far as whether or not he will
4 testify. I don't know.

5 THE COURT: Do you intend to put your client on
6 the stand, sir?

7 MR. KAPPEL: Your Honor, we do not. I spoke
8 with him this morning and he confirmed that he does
9 not wish to take the stand. Of course, that could
10 change during the course of our presentation. Just
11 for the record, we've had plenty of time to discuss
12 it and he knows it's his decision.

13 THE COURT: Okay. At the close of your case,
14 I'll conduct the colloquy, okay?

15 MR. KAPPEL: Yes, sir.

16 (WHEREUPON, the jury came into open court at
17 approximately 9:41 a.m.)

18 THE COURT: Welcome back, ladies and gentlemen.
19 The State has rested. I have entertained motions
20 from the attorneys and now we're prepared to hear
21 from the Defendant.

22 So, Mr. Kappel, it is your case, sir, you may
23 call your first witness.

24 MR. KAPPEL: Thank you, Your Honor. We would
25 call Ms. Selena Brunson.

1 THE CLERK: Ms. Brunson, please come forward.
2 If you'll please pause at the end of the bench, place
3 your left hand on the Bible and raise your right
4 hand.

5 SELENA BRUNSON, after being duly
6 sworn, testified as follows:

7 THE CLERK: Thank you, please be seated. State
8 your name for the record.

9 THE WITNESS: Selena Brunson. I probably won't
10 need that, I'm pretty loud.

11 THE COURT: Just turn the volume down just a
12 little bit, how about that?

13 DIRECT EXAMINATION

14 BY MR. KAPPEL:

15 Q Good morning.

16 A Good morning.

17 Q Will you introduce yourself to the jury, please?

18 A My name is Selena Brunson. I'm a substitute
19 teacher for the school district in Pickens County. I live
20 in Pickens, South Carolina.

21 Q Okay. Where did you grow up?

22 A In Pickens.

23 Q And you still live in Pickens?

24 A Still live in Pickens.

25 Q Have you lived there pretty much your whole

SELENA BRUNSON-DIRECT BY MR. KAPPEL

1 life?

2 A I was born and raised there, but I moved to
3 Greenville when I was about 17 when I met my husband.

4 Q Okay. And you're married?

5 A Yes, sir.

6 Q Do you have children?

7 A We have four children.

8 Q All right. And your husband's name is?

9 A Russell Brunson. He's a firefighter, EMT out of
10 Greenville County.

11 Q Okay. Do you know Dwayne Tallent?

12 A Yes, sir, I've known Dwayne for about 25 years
13 now.

14 Q How did you meet Dwayne?

15 A I met him, actually, the first day I met my
16 husband. They -- I was at work. Like I said, I was 17.
17 And him and my husband came into Little Caesar's where I
18 worked at the time and I've known him ever since.

19 Q Okay.

20 A That was August 31st of 1991.

21 Q So, you remember the date to the exact?

22 A To the exact date, yes.

23 Q How do you remember that?

24 A Because that's -- I mean, who doesn't remember
25 when they meet their, you know, love of their life, who

SELENA BRUNSON-DIRECT BY MR. KAPPEL

1 they end up marrying and staying married for -- you know,
2 we've been together 26 years now, so.

3 Q Now, how long did y'all date?

4 A About two years.

5 Q Did you, ultimately, get married? Obviously,
6 you just said so, so you got married?

7 A Yes.

8 Q How old were you when you got married?

9 A I was 19.

10 Q All right. And did you at some point live with
11 Russell before you got married?

12 A Yes, sir, we did.

13 Q How old were you when that happened?

14 A Let's see, I was -- between 17 and 18. It was
15 the summer before I turned 18.

16 Q So, you were pretty young?

17 A Yes, sir.

18 Q How did that go over at your household?

19 A My father was not very happy with the fact that
20 I had moved in with Russell. And we ended up, actually,
21 having to kind of run away. I ran away from home and we
22 ended up, actually, living with Dwayne for a couple of
23 months.

24 Q So, when you say you ended up leaving with
25 Dwayne, was it because --

SELENA BRUNSON-DIRECT BY MR. KAPPEL

1 A It was because I was hiding out from my father,
2 yes. I didn't -- yeah. I was trying to get a little bit
3 further away from Pickens.

4 Q So, where was Dwayne living when you and Russell
5 moved in with him?

6 A In Ware Shoals.

7 Q Do you remember the street?

8 A Deer Run, I believe, was the name of the actual
9 road.

10 Q Okay. And what kind of residence was it? Was
11 it a house, a condominium? Was it a trailer?

12 A It was a doublewide trailer, yes, sir.

13 Q And how many bedrooms were in there?

14 A Three, I believe.

15 Q Who was Dwayne living with at that point in
16 time?

17 A He was living with Sherry and E.G.

18 Q Okay. So, there were four of y'all in this
19 residence?

20 A Well, five. There was my husband, myself --

21 Q I'm sorry, five?

22 A Yes, five.

23 Q Do you recall approximately when it was that you
24 moved in?

25 A It was July of 1992.

SELENA BRUNSON-DIRECT BY MR. KAPPEL

1 Q Okay. Were you working then?

2 A I was not.

3 Q Was your husband -- or was Russell working then?

4 A He was not working. He wasn't working when we
5 moved in and then he started working.

6 Q Now, you were not working, correct?

7 A No, sir.

8 Q All right. Did you have a lot of -- did you
9 have any money?

10 A No, no, I didn't have any money. I didn't have
11 a car.

12 Q So, what did you do every day?

13 A I read a lot. I read every day. We'd go to the
14 library about once a week and I'd get plenty of books and
15 I would just read. I was always an avid reader. I still
16 am.

17 Q Okay. Well, did you have your own bedroom at
18 Deer Run?

19 A Yes, we did.

20 Q Would you stay in the bedroom and read?

21 A No. It was a very small bedroom, so I was
22 usually sitting out on the couch, you know, just reading.

23 Q Okay. Did you ever leave the house?

24 A You know, to go to the library, but not very
25 far. We had a motorcycle at the time and I really didn't

SELENA BRUNSON-DIRECT BY MR. KAPPEL

1 like riding it very much, so I tried to avoid that.

2 Q Okay. So, was your day-to-day existence in this
3 residence?

4 A Yes, sir.

5 Q And how many months did you live there with
6 Dwayne and Sherry and E.G.

7 A About four months.

8 Q Okay. So, if that's four months, that would be
9 July, August, September --

10 A September --

11 Q -- October?

12 A Yes, it was definitely part of October. I don't
13 know the exact date that we moved out.

14 Q All right. So, then that would have -- if
15 E.G. birthday was in 1987, that would have
16 been her fifth birthday; is that correct, in 1992?

17 A As far as I know, she was, yeah.

18 Q Do you recall celebrating her birthday while you
19 were there?

20 A I don't.

21 Q All right. Was there anyone by the name of
22 Mikey that was around at that point in time?

23 A No.

24 Q That was living there or there?

25 A I don't recall anybody by that name there at

SELENA BRUNSON-DIRECT BY MR. KAPPEL

1 all.

2 Q Did you interact with Sherry much?

3 A Not an awful lot. She kept to herself a lot.
4 She did stay in her bedroom an awful lot when she was
5 there.

6 Q Did you interact with Dwayne a lot?

7 A Yes.

8 Q Did you subsequently become friends with Dwayne?

9 A Yes.

10 Q What about with E.G. did you interact with her
11 much?

12 A Yeah, she was just a bright, cheerful, little
13 girl running around. I didn't have a lot of cause to talk
14 to her much. She was three or four. But, I mean, she ran
15 around, played, that sort of thing.

16 Q Okay. Did you observe anything unusual, any
17 kind of erratic behavior, any kind of bruising, any kind
18 of -- anything at all that would indicate that something
19 wasn't right?

20 A No, never.

21 Q Okay. Did you -- when you moved out in
22 October 1992, where did you move to?

23 A We moved to our own apartment. We finally saved
24 up enough money and moved to the Bluffs over off of Pelham
25 Road.

SELENA BRUNSON-DIRECT BY MR. KAPPEL

1 Q And did you stay in contact with the Dwayne and
2 Sherry?

3 A Oh, absolutely. He was in our wedding.

4 Q What about your children, what are their names?

5 A Russell is -- we have the oldest, who's 22.
6 He's named after my husband, Russell, Russell Brunson, IV.
7 Then our middle son is Austin Cameron. He was actually
8 named after Dwayne, Dwayne Cameron.

9 Q Okay. Did y'all travel together?

10 A We did. We went on several trips together over
11 the years. I know we went camping and I remember that
12 more distinctly because I was extremely pregnant and that
13 was the last time I went camping pregnant ever. We went
14 on a ski trip together with them. And I've always been
15 one to take a lot of pictures, so I've taken pictures over
16 the years of us all together.

17 Q Okay.

18 (WHEREUPON, Defendant's Exhibits Nos. 1 & 2 were
19 marked for identification only.)

20 BY MR. KAPPEL:

21 Q Can you identify what's been marked just for ID
22 for right now Defendant's Exhibits 1 and 2?

23 A All right. In this first picture was one of the
24 --

25 Q Just -- I'm sorry, go ahead, go ahead. I'm

SELENA BRUNSON-DIRECT BY MR. KAPPEL

1 sorry. I didn't mean to interrupt you.

2 A Was one of the earliest pictures I have of all
3 of us together. We had gone for a cookout at one of the
4 parks. I'm not exactly sure which --

5 MR. MOYER: At this point without them being in
6 evidence --

7 BY MR. KAPPEL:

8 Q I just want you to briefly just -- just, you
9 know, what are they?

10 A They're pictures of us together with Dwayne and
11 Sherry and E.G.

12 Q Okay. Just a minute. So, do you recognize
13 these pictures?

14 A Yes, sir.

15 Q Did they come from your photo album?

16 A Yes, sir.

17 Q Does it have you and your husband and Dwayne's
18 family in these photographs?

19 A Well, the first one has just my husband in it
20 because I was the one taking the picture. But the second
21 one, we got a server at the restaurant and it has all of
22 us in it.

23 MR. KAPPEL: At this time, Judge, I move Defense
24 1 and 2 in.

25 MR. MOYER: Objection on relevance.

SELENA BRUNSON-DIRECT BY MR. KAPPEL

1 THE COURT: Okay. All right. I'll overrule the
2 objection and over objection, I'll allow it into
3 evidence as Defendant's Exhibit -- that might be 2.
4 Which one is that?

5 THE WITNESS: It's 1 and 2, sir.

6 THE COURT: All right, good enough. So
7 admitted.

8 MR. KAPPEL: Thank you, Judge.

9 (WHEREUPON, Defendant's Exhibits Nos. 1 & 2 were
10 admitted into evidence.)

11 BY MR. KAPPEL:

12 Q All right. Let's take them chronologically.
13 Which one is the first one?

14 A This one right here.

15 Q Do you have any idea what year that was
16 approximately?

17 A It has to be '92, early '93. One of the
18 gentleman in this picture was Matt Moon, and he no longer
19 hung out with us. I don't remember very much. I know
20 after our wedding, he wasn't even in the picture. I don't
21 think we even saw him again. I don't know what happened
22 to him. So, I know it's '92 or early '93.

23 Q Okay.

24 A And then this one right here, the second
25 picture, is from 1999. And I know the exact date of that

SELENA BRUNSON-DIRECT BY MR. KAPPEL

1 one because the couple that's -- one of the couples that's
2 in the picture, it was actually their honeymoon trip, and
3 we all went skiing together. So, it was March 2nd of
4 1999.

5 Q So, there's about a seven -- or excuse me, about
6 a three year span in these pictures?

7 A No, more like about six or --

8 Q Six years?

9 A Yeah, six years.

10 Q All right. And when you would go on these
11 trips, E.G. would go with y'all?

12 A Yes, sir.

13 Q And did you, again, observe anything unusual,
14 anything that caused you to be concerned?

15 A Absolutely not.

16 Q Did you observe any inappropriate contact or
17 touching between E.G. and Dwayne?

18 A No.

19 Q Was E.G. a happy child to you?

20 A She was. I mean, she was -- even in the
21 picture, she's smiling. She was a happy little girl,
22 bubbly, excitable, glad to be going with us and getting to
23 do stuff. I mean, you know, in one -- I don't have the
24 picture here, but it was one that I had brought to you. I
25 don't know if you just didn't have it, but we went camping

SELENA BRUNSON-DIRECT BY MR. KAPPEL

1 with them in between these two pictures where we are in
2 tents. And, you know, she was running around and, you
3 know, acting like little girls do. I have kids, I know
4 how they act.

5 Q Okay.

6 MR. KAPPEL: Just a minute, Judge.

7 THE COURT: Yes, sir.

8 BY MR. KAPPEL:

9 Q Do you -- has Dwayne spent any time with your
10 children?

11 A Oh, yes, sir.

12 Q How old are they now?

13 A Seventeen, 18, 19 and 22.

14 Q Boys? Girls?

15 A The youngest is a girl.

16 Q Okay. Ever have any concerns with Dwayne being
17 around your children?

18 A No, never.

19 Q Ever observe anything unusual with your children
20 and Dwayne?

21 A No.

22 Q Okay.

23 MR. KAPPEL: I don't have anything further.

24 THE COURT: Yes, sir.

25 MR. MOYER: I have no questions, Your Honor.

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 THE COURT: Thank you, ma'am, appreciate your
2 being here. You may be excused.

3 Mr. Kappel, you may call your next witness.

4 MR. KAPPEL: We call Lenore Brissey.

5 THE CLERK: Ms. Brissey, if you'll please come
6 forward. If you'll please pause at the end of the
7 bench, place your left hand on the Bible and raise
8 your right hand.

9 LENORE BRISSEY, after being duly
10 sworn, testified as follows:

11 THE CLERK: Thank you, please be seated. State
12 your name for the record.

13 THE WITNESS: Lenore Brissey.

14 THE CLERK: Thank you.

15 DIRECT EXAMINATION

16 BY MR. KAPPEL:

17 Q Good morning.

18 A Good morning.

19 Q Will you do me a favor, just introduce yourself
20 to the jury.

21 A My name is Lenore Brissey and I'm Dwayne's
22 mother.

23 Q Okay. You'll need to really try to scoot up so
24 everybody can hear you, okay?

25 A Okay.

LENORE BRISSEY-DIRECT BY MR. KAPPEL

- 1 Q Lenore, where were you born?
- 2 A Berlin, Germany.
- 3 Q How long have you been living in South Carolina?
- 4 A Since '62.
- 5 Q And where do you live?
- 6 A 77 Ferguson Road, Piedmont.
- 7 Q How long have you been at Ferguson Road?
- 8 A Since '85.
- 9 Q And were you living there with your first
- 10 husband, initially?
- 11 A Yes.
- 12 Q Can you describe Ferguson Road to the -- well,
- 13 let me back up for a second. Tell me about your
- 14 education.
- 15 A Well, of course, high school, college, nursing
- 16 school.
- 17 Q Okay. Are you a registered nurse?
- 18 A Yes.
- 19 Q How long have you been a nurse?
- 20 A I graduated in '82.
- 21 Q So, when did you retire?
- 22 A The end of 2011.
- 23 Q All right. How many children do you have?
- 24 A Three.
- 25 Q What are their names?

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 A Debbie, Diana and Dwayne.

2 Q Okay. Now, Ferguson Road, tell the jury what --
3 what is Ferguson Road?

4 A It's a road with maybe -- I've never counted,
5 but about 10, 12 houses and all houses have acreage.

6 Q Do you have acreage?

7 A Yes, I do.

8 Q How many do you have?

9 A Thirteen -- well, 13 to 14.

10 Q Okay. Is it just your house on the property?

11 A No.

12 Q How many houses do you have there?

13 A My daughter's on one side and my son's on the
14 other.

15 Q Okay. Have they always been there?

16 A Not always, no.

17 Q Okay. So, how did they come to live on the farm
18 with you?

19 A Well, my daughter moved after they lost -- sold
20 their house in Piedmont. I -- to be honest with you, I'm
21 really bad with the timeline, so I don't know what year.
22 I'm assuming around '90.

23 Q Okay. So, you have a daughter. Is she married?

24 A Yes.

25 Q And she leaves near you?

LENORE BRISSEY-DIRECT BY MR. KAPPEL

- 1 A Yeah, next door.
- 2 Q Okay. And who else lives out there?
- 3 A My son and Cindy.
- 4 Q That would be Dwayne?
- 5 A Yeah.
- 6 Q Where do they live?
- 7 A They live on -- if you're facing the front, on
- 8 the left side.
- 9 Q Okay. And you -- did you already have the house
- 10 there?
- 11 A Yes. We moved it from White Horse Road.
- 12 Q What do you mean you moved it?
- 13 A Well, they were putting a road through and it
- 14 belonged to my mother-in-law, so we took the house up and
- 15 moved it there.
- 16 Q Was this a second house on the property?
- 17 A Yes.
- 18 Q Who initially lived in the house when you put it
- 19 there?
- 20 A Initially, I rented it.
- 21 Q Okay. And then subsequently?
- 22 A Dwayne moved in.
- 23 Q Dwayne moved in?
- 24 A Uh-huh.
- 25 Q All right. And when he moved in, he had -- who

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 did he have with him?

2 A Initially, he had Sherry and E. G.

3 Q Okay. And did they live with you for a little
4 while before they moved into --

5 A They were in the mother-in-law apartment until
6 the renters finished their lease.

7 Q Now, I want to talk about this because I want
8 you to try to describe -- you called it a mother-in-law
9 suite. I want you to try to describe that for me for the
10 jury.

11 A It's an open kitchen, dining, living room and it
12 has a bathroom and a bedroom.

13 Q But is it connected to your house?

14 A Via the laundry room and it has its own
15 entrance.

16 Q Okay. So, you have your house. And the
17 mother-in-law suite is on the left-hand side or the
18 right-hand side?

19 A If you're facing the house, it's on the
20 right-hand side.

21 Q And it has its own separate entrance?

22 A Yes, it does.

23 Q Does it share a porch?

24 A No.

25 Q And there's a way to go back and forth from one

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 side to the other?

2 A Right, through the laundry room.

3 Q All right. Now, how many bedrooms were in the
4 mother-in-law suite?

5 A Just one.

6 Q And you said it was Sherry, Dwayne and E. G.
7 that moved in initially?

8 A Initially. Well, my mother was there.

9 Q Well, I'm sorry, but when -- your mother was
10 there --

11 A Until she passed away.

12 Q Okay. So, after your mother passed away,
13 Dwayne, Sherry and E. G. moved into the mother-in-law
14 suite?

15 A Yeah.

16 Q Now, if there's only one bedroom, how could they
17 accommodate the three people?

18 A Well, E. G. was like my granddaughter, so, at
19 times, she would come in, stay upstairs or sleep on the
20 couch, just depended on what the situation was.

21 Q All right. So she could come and go in your
22 house as much as she wanted to?

23 A Right, as much as she wanted to.

24 Q So, did it feel more like a one large house with
25 a connection?

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 A To be honest with you, it did.

2 Q Okay. Now, E. G. was not your natural -- do you
3 have natural grandchildren?

4 A Yes.

5 Q How many?

6 A Three.

7 Q E. G. was not a grandchild?

8 A No. Not biologically, no.

9 Q Did that cause you to treat her any differently?

10 A No. I always felt that she was my
11 granddaughter.

12 Q All right. Would you -- tell me about -- talk
13 about some of the things that you would -- well, do you
14 have any idea how old E. G. was when she moved into the
15 mother-in-law suite?

16 A The mother-in-law suite, it must have been after
17 my mom passed, so it would have to be about '96.

18 Q Okay.

19 A Or thereabouts. Like I said, I'm not great at
20 timelines.

21 Q Okay. So, she was about nine years old or so?

22 A Approximate.

23 Q All right. Let's talk about some of the things
24 that are on the farm that you could do with her as far as
25 activities?

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 A Well, summertime, I have a swimming pool, so we
2 could swim. I have horses, so we'd go horseback riding.
3 One of her favorite things to do was go shopping. We did
4 that.

5 Q Okay. Did you do those activities with E.G. as
6 much as you did with your other grandchildren?

7 A Yes.

8 Q Okay. And did she enjoy spending time with you
9 as best you could tell?

10 A As best I could tell, she did.

11 Q As best you could tell, she enjoyed the
12 horseback riding?

13 A Yes.

14 Q Talk to the -- how long was this activity of
15 horseback riding? Try to explain to the jury if you don't
16 mind -- you know, 13 acres, how would you -- what would
17 you do?

18 A Well, we wouldn't just stay on my property.
19 There was like 40 acres up the road and across the road,
20 there was, at least, 40 more until they built a
21 subdivision. And we would ride, we would talk. It was
22 just a nice relaxing time. Just pleasure riding, you
23 know, just relaxed.

24 Q Okay. Did you have a route that you would
25 usually do?

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 A No, it was sort of spontaneous. Just wherever
2 we felt like going.

3 Q Was there a time -- a typical time period --
4 well, let me -- the duration of the horseback rides, would
5 it typically take a certain amount of time?

6 A Well, it couldn't be under an hour because by
7 the time you get them saddled, brushed and everything, you
8 still have to unsaddle them and brush them down and wash
9 them off before you put them up.

10 Q All right. Did E.G. help you with the saddling
11 and the brushing and all those things?

12 A Yeah, I tried to show her how to take care of
13 the horses and do all that.

14 Q How many horses did you have or do you --

15 A Two.

16 Q Two?

17 A Uh-huh.

18 Q So, was this activity just -- this was a
19 two-person activity?

20 A Right, that's all it would be.

21 Q If you could guess the number of times she went
22 horseback riding, do you have any idea?

23 A I have not a clue. Probably once a week, maybe.
24 And I was working so, you know, had to get the time
25 schedule right. Probably once a week because I enjoyed

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 it.

2 Q Okay. The -- you have a swimming pool as well?

3 A Yes.

4 Q Talk about that a little bit.

5 A Well, we would go swimming. In the summertime,
6 that was just one of the favorite activities. And it was
7 available to her because it was next door at any time.

8 Q So, when you say next door, you're referring to
9 when they moved to 79 Ferguson?

10 A Yeah, yeah.

11 Q Okay. Do you recall what year it was that
12 Sherry and E.G. moved?

13 A Next door?

14 Q No, I'm sorry, when they moved from 79 Ferguson?

15 A When they moved from 79 --

16 Q Do you remember?

17 A It was after 2011.

18 Q You mean --

19 A 911.

20 Q 911?

21 A Yeah, 911.

22 Q So, would October of 2001 sound right to you?

23 A Yes.

24 Q So, E.G. basically, lived, as best as you can
25 tell, either in the mother-in-law suite for a while and

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 then this house next door for about five years?

2 A Probably, yeah.

3 Q I think you said '96?

4 A Yeah.

5 Q So, '96 to 2001?

6 A Uh-huh.

7 Q And did you spend a great deal of time with her
8 during that period?

9 A As much as I could, yes.

10 Q I understand grandparents want to spend as much
11 time as they possibly can with their grandchildren, it
12 still may not translate to a whole lot of time --

13 A Well, as I said, I was working, so the days I
14 had off and, of course, she was going to school, too. So,
15 yeah.

16 Q All right. Did you -- did you help her with her
17 schoolwork at all or help her with her studying or
18 anything of that sort?

19 A Some.

20 Q Did you talk to her about kind of -- I'm going
21 to say it as delicately as I can, but adolescent womanly,
22 kind of physiological things?

23 A Yes, definitely.

24 Q Did you have those talks with her as well?

25 A Yes.

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 Q Did you feel that you had grown -- or made a
2 special connection with E.G.

3 A I felt like that, yes.

4 Q When Sherry and E.G. moved in October 2001, did
5 that come as a surprise to you?

6 A Yes, it did.

7 Q How come?

8 A Well, Sherry and I never had a really close
9 relationship, so she wouldn't be telling me anything. So,
10 of course, I didn't know.

11 Q Do you recall watching or seeing them move --

12 A Yes.

13 Q -- their belongings?

14 A Yes.

15 Q Did you have an occasion on that day to talk to

16 E.G.

17 A Yes.

18 Q Can you describe to the jury what her demeanor
19 was or what she said to you on that day?

20 A She was crying. She didn't want to go. She
21 hugged me. I hugged her back, you know, told her I was
22 always open for her, whenever she was ready, she could
23 come and do things together.

24 Q All right. Did she make any comments to you
25 about her feelings toward your son, Dwayne?

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 A She said she wanted her mom and Dwayne to stay
2 together so she could stay there.

3 Q Okay. After they moved -- did you have a whole
4 lot of contact with [E.G.] after they moved?

5 A No, I did not.

6 Q Okay. Did you ever see any correspondence
7 response from her after she moved?

8 A A letter not too long after she moved that
9 Dwayne showed me. I can't give you the exact words, but
10 the whole summary of the letter was, basically, that she
11 missed him as a dad. Talking to him about she missed the
12 farm and she missed being there and would like to be, you
13 know, back together again.

14 Q Now, was the letter addressed to you or was it
15 addressed to --

16 A It was addressed to Dwayne.

17 Q Okay. Do you have any other activities at the
18 farm that you do with the kids? You said you golf or
19 something, I don't know.

20 A Yeah, we do golf. But that more started more
21 with my second husband than it did with the first. He
22 didn't golf.

23 Q Okay. So, that's just something you did with
24 your current husband?

25 A Yes.

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 Q Now, of all the years that you were there with
2 E.G. -- or E.G. was there with you, from 1996 to 2001,
3 and the horseback rides that you would do where it would
4 be just the two of you for, at least, an hour at a time,
5 all the conversations you had with her about school and
6 biology and whatever, of all those occasions, did you ever
7 have any opportunity to observe anything that would give
8 you some concern about E.G. welfare?

9 A No.

10 Q Okay. Did you ever see her with any bruising,
11 any kind of physical condition of any sort that would give
12 you any kind of concern?

13 A No.

14 Q Did E.G. ever confide in you at all at any time
15 that she was in danger or that she was upset or anything
16 about whatever Dwayne may have been or may not have been
17 doing to her?

18 A No.

19 Q If you did have a concern about it, what would
20 you have done?

21 A That's something that would not have been
22 tolerated. I, myself, would have called the police.

23 Q Okay. Realizing it's your son, you sure about
24 that?

25 A Yes.

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 Q Now, I want to talk to you about somebody else,
2 of course, and that's C.R. And she is
3 someone else that you know; isn't that correct?

4 A That's right.

5 Q She is also not a biological grandchild of
6 yours?

7 A Right.

8 Q She is the daughter of Cindy?

9 A Right.

10 Q Okay. And do you remember -- so E.G. and
11 Sherry left in October of 2001. Do you recall when Cindy
12 and C.R. moved in, and R.R.

13 A Not exactly. Might have been 2003, somewhere
14 along there?

15 Q So, it might have been a couple years
16 afterwards?

17 A Yeah.

18 Q You were okay having them there?

19 A Yeah.

20 Q Did you do some of the same things that we've
21 already discussed with C.R. and R.R.

22 A Yes.

23 Q I'm referring to your swimming pool, horses?

24 A Yes, sir.

25 Q Did they like those activities?

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 A [C.R.] wasn't too great with the horses, but
2 she liked the swimming.

3 Q So, she preferred swimming?

4 A Yes.

5 Q Did you spend a lot of time with her as well?

6 A Yes.

7 Q Did you have kind of the same, similar
8 relationship with [C.R.] as you did with [E.G.]

9 A Yes.

10 Q Did you help her with her schoolwork?

11 A Yes.

12 Q Did you help her with other activities?

13 A Yes.

14 Q I mean --

15 A Soccer. She liked soccer.

16 Q Would you help drive her to soccer?

17 A Yes.

18 Q Was she taking dance lessons or things --

19 A No, soccer was her main.

20 Q All right. And at some point, [C.R.] and
21 [R.R.] -- or [C.R.] came to live with you, correct?

22 A Right.

23 Q That would be moving -- she would move from 79
24 to 77 Ferguson?

25 A Yes.

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 Q Do you remember when that was?

2 A End of 2011.

3 Q Okay. Now, was there another occasion where she
4 came in and lived with you as well? Was there another
5 period of time where she might have lived with you?

6 A When she was about eight years old for about
7 three months.

8 Q So, that would have been 2009?

9 A Yeah.

10 Q And when she moved in with you in 2009 where it
11 was just next door, was it just you and C.R. and your
12 husband?

13 A Yes.

14 Q And did you take care of her?

15 A Yes.

16 Q She was eight years old?

17 A Uh-huh.

18 Q I'm sorry, you need to say yes or no.

19 A Yes, I did take care of her, yes.

20 Q You cooked for her, I suppose?

21 A I cooked, washed, cleaned.

22 Q Okay.

23 A Provided transportation, took her to church, you
24 know, all the things a parent's supposed to do.

25 Q Okay. And I suppose that that furthered your

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 bond or connection with C.R. correct?

2 A Yes.

3 Q So, that was for a couple of months in 2009?

4 A About three months.

5 Q About three months in 2009?

6 A Uh-huh.

7 Q At some point, finally, she moved back to 79
8 Ferguson?

9 A Correct.

10 Q To be with Dwayne and Cindy?

11 A Right.

12 Q Okay. And would you still see her from time to
13 time?

14 A Oh, yeah.

15 Q Would you still even in 2010 or what have you
16 when she's 10 years old, would you do horseback riding
17 or -- you said she didn't like that very much, but the
18 swimming and --

19 A Yeah.

20 Q -- other activities?

21 A Yes, of course.

22 Q Would you take C.R. shopping as well like you
23 did E.G.

24 A I did.

25 Q Where would y'all go shopping, if you remember?

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 A Well, different places. She liked the mall.
2 She liked Plato's Closet when she was 13. That was one of
3 the places and the prices were right.

4 Q Now, at some point, she came back to live with
5 you again, correct?

6 A Yeah, the end of 2011.

7 Q So, basically, early 2012?

8 A Yes.

9 Q And how long did she live with you there?

10 A Until this year.

11 Q Until 2017?

12 A Yes.

13 Q And it was C.R. and her sister were there?

14 A Right.

15 Q R.R.

16 A Uh-huh.

17 Q Once again, it was yourself, your husband and
18 these two in your household?

19 A Yes.

20 Q All right. And you cooked for them, took care
21 of them, what have you?

22 A Right.

23 Q Helped them with their schoolwork?

24 A Yes.

25 Q Did activities, went shopping, all of those

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 kinds of things?

2 A That's correct.

3 Q And had C.R. attitude changed at all or
4 her -- toward you at all from the period of 2009 to 2011
5 or '12, did it change at all?

6 A Her attitude towards us didn't change -- or
7 towards me.

8 Q Right.

9 A What changed was she became 13.

10 Q Well, talk about that. What happened?

11 A Well, you know, you get puberty, then their
12 attitude changes, yes.

13 Q All right. How did that effect your
14 relationship with C.R.

15 A Well, I had to be more of a disciplinarian than
16 she liked.

17 Q Okay. And did that put a strain on your
18 relationship with her?

19 A I don't believe so. She knew that it was right.

20 Q Okay. What kind of restrictions would you place
21 on her?

22 A She was grounded. I took her phone. She had to
23 do extra chores.

24 Q Okay.

25 A She couldn't go anywhere.

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 Q All right. Would you discipline her when she
2 would do things that were wrong?

3 A Yes.

4 Q Would you restrict her ability to date or go
5 out?

6 A Dating, I was very leery about because -- I just
7 thought it would be a good idea that it was done under
8 supervision. So, I would allow her boyfriend to come to
9 the house, we would be there. She wanted to walk
10 downtown, I would -- me and Heyward, we'd walk behind and
11 she'd walk in front of us. We'd do the different things,
12 you know, the different things they have downtown, some of
13 the music or whatever. And that's what I would allow.

14 Q Okay. Did that -- did she ever express any
15 frustration about that to you?

16 A Yeah. She expressed frustration, but it was
17 just to her best interest not to do that.

18 Q Okay. Do you think that your structure as we're
19 talking about, do you think that -- do you think she was
20 happy living under those restrictions?

21 A Well, I'm sure --

22 MR. MOYER: Objection to speculation.

23 THE COURT: All right. I sustain that
24 objection.

25

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 BY MR. KAPPEL:

2 Q Did she ever express any frustration to you
3 about the restrictions she was living under?

4 A Yes. She wanted to have a little more freedom
5 to go off, but because of her, I decided that was not in
6 her best interest.

7 Q Did she ever raise her voice to you at all?

8 A Definitely.

9 Q Well, talk about that for a minute.

10 MR. MOYER: Your Honor, I would object to this
11 line of questioning as continuing on as just not
12 being relevant and veering off into, I guess,
13 character evidence of the witness.

14 THE COURT: Okay. I'll overrule.

15 You may ask the question, sir.

16 MR. KAPPEL: Thank you.

17 BY MR. KAPPEL:

18 Q Talk about that if you don't mind.

19 A When she would yell at me?

20 Q Yes, ma'am.

21 A I yelled back.

22 Q Okay. Did that -- that's not kind of an ideal
23 grandmother or grand or --

24 A Oh, yeah, it is.

25 Q -- step-grandchild relationship, but --

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 A If I got louder than her, she understood what I
2 was talking about.

3 Q Okay. Would she follow your instruction? I
4 mean, if you got louder than she did, would she --

5 A Yes, then she would do what she was supposed to
6 do.

7 Q Okay. Now, talking about C.R. and all the
8 time you spent with her, both from when they lived at 79
9 Ferguson from 2003 or '4, whenever, to when she moved in
10 with you in 2009 at 77 for two or three months, and then
11 from 2009 or 2010 until early 2012, when she was back at
12 79 Ferguson, 2012 to 2017, did she ever tell you that your
13 son, Dwayne, was touching her inappropriately?

14 A No.

15 Q Did you ever have any reason to believe that was
16 happening?

17 A No.

18 Q As a nurse, did you notice any kind of physical
19 problems or anything that would give you some concern that
20 her safety or welfare was not good?

21 A No.

22 Q Of all the times that you were -- I suppose you
23 were with her by herself, just the two of y'all numerous
24 times, correct?

25 A Yes.

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 Q Whether it's in the car driving to soccer, the
2 two of y'all going shopping, correct?

3 A Right.

4 Q The two of all swimming?

5 A (The witness nods.)

6 Q All of those activities, never at any time was
7 she ever -- or did she ever explain to you or tell you
8 that Dwayne was touching her inappropriately?

9 A Never.

10 Q If she had told you, even though it's your son,
11 what would you have done?

12 A Like I said, I don't tolerate that type of
13 behavior and I would have gotten some legal help in there.

14 Q Okay. Excuse me for just a minute.

15 MR. KAPPEL: Just a minute, Judge, please.

16 THE COURT: Yes, sir.

17 BY MR. KAPPEL:

18 Q I want to ask you one quick question.

19 A Okay.

20 Q That's in inference to E.G. brother,
21 Christopher.

22 A Yes.

23 Q Do you recall Christopher and the older brother,
24 Joseph, would come and visit?

25 A Uh-huh.

LENORE BRISSEY-DIRECT BY MR. KAPPEL

1 Q On weekends or what have you, correct?

2 A Yes.

3 Q Did you ever have any opportunity to observe
4 Christopher's physical condition at any time when he came
5 to visit?

6 A You're referring to?

7 Q I'm just asking did you ever see anything --
8 physical condition that was unusual or anything?

9 A Yes, they called me one time. Evidently, his
10 father was a preacher of some sort and he was talking
11 about demons, so he decided that he would cut himself in
12 order to let the demons out. And his mother called me to
13 look at the cuts because he had also poured wax in them.

14 Q They asked you because you're a nurse?

15 A Right.

16 Q Okay.

17 MR. KAPPEL: Lenore, the Solicitor is going to
18 ask you some questions now, so if you would please
19 answer his questions.

20 THE WITNESS: Okay.

21 MR. MOYER: I have no questions, Your Honor.
22 Thank you.

23 THE COURT: All right. Thank you, ma'am,
24 appreciate your being here. Thank you.

25 MR. KAPPEL: Judge, I would ask if -- I don't

DIANA ROGERS-DIRECT BY MR. KAPPEL

1 intend to call her again. If she can remain in the
2 courtroom, Ms. Brissey?

3 THE COURT: Sure, you may.

4 You don't intend to call her, do you?

5 MR. MOYER: No, sir.

6 THE COURT: Sure.

7 MR. KAPPEL: Judge, we're ready for our next
8 witness.

9 THE COURT: Okay.

10 MR. KAPPEL: Diana Rogers.

11 THE CLERK: Ms. Rogers, if you would please come
12 forward. If you'll please pause at the end of the
13 bench, place your left hand on the Bible and raise
14 your right hand.

15 DIANA ROGERS, after being duly sworn,
16 testified as follows:

17 THE CLERK: Thank you, please be seated. State
18 your name for the record.

19 THE WITNESS: My name is Diana Rogers.

20 THE CLERK: Thank you.

21 DIRECT EXAMINATION

22 BY MR. KAPPEL:

23 Q Good morning.

24 A Hi.

25 Q How are you?

DIANA ROGERS-DIRECT BY MR. KAPPEL

- 1 A I'm fine.
- 2 Q Okay. You are one of Lenore's daughter,
- 3 correct?
- 4 A Yes, sir, I am.
- 5 Q And you're obviously, therefore, Dwayne's
- 6 sister?
- 7 A Yes, sir.
- 8 Q And tell me, where do you live?
- 9 A I live at 77 Ferguson Road.
- 10 Q So, you live with your mom?
- 11 A Yeah.
- 12 Q Are you married?
- 13 A Well, I'm a widow.
- 14 Q Widow. Do you have any children?
- 15 A No, sir.
- 16 Q Okay. You -- I want to take you back to 1992.
- 17 A Okay.
- 18 Q Were you living at the farm in 1992?
- 19 A No.
- 20 Q Do you recall if you were living near Dwayne?
- 21 A I lived one street over.
- 22 Q Okay. So, would that be close to Dwayne?
- 23 A Oh, yeah. Uh-huh.
- 24 Q Did you visit or spend any time with Dwayne?
- 25 A Sure.

DIANA ROGERS-DIRECT BY MR. KAPPEL

1 Q In 1992?

2 A Sure.

3 Q Do you recall who was living with him?

4 A Yes, he was living with Sherry and E.G. and I
5 believe -- I'm not quite sure who else was living there,
6 maybe Debbie and Selena.

7 Q So, you knew Sherry and E.G.

8 A Oh, yes, sir.

9 Q Okay. And did you spend some time with them?

10 A Yes, sir.

11 Q Did you do any activities with them, go out for
12 dinner?

13 A We played cards a lot.

14 Q Would you do that at their house?

15 A No, they usually came to our house.

16 Q And this was your house and your husband?

17 A Yes, sir.

18 Q Did you have any time to spend with E.G. just
19 the two of you?

20 A Yeah.

21 Q What would y'all do, just the two of y'all?

22 A We watched a lot of Barney.

23 Q Okay. I suppose E.G. was very young at that
24 point?

25 A Yes, sir.

DIANA ROGERS-DIRECT BY MR. KAPPEL

1 Q Do you have any idea how old she was during that
2 period of time?

3 A Let's see, about three or four.

4 Q Okay. Anytime after that, after she was four,
5 did y'all spend time together, too?

6 A Yeah, a little here and there. She was a friend
7 of my granddaughter's. My husband's granddaughter, let me
8 rephrase that.

9 Q Okay.

10 A Uh-huh.

11 Q Did you observe anything about her behavior,
12 E.G. behavior, or any kind of thing about her physical
13 condition that gave you any concern that her safety or
14 welfare was in jeopardy?

15 A Oh, no, sir.

16 Q Did E.G. ever approach you and tell you at any
17 time that your brother, Dwayne, was touching her
18 inappropriately?

19 A No, sir.

20 Q Now, understanding you're his sister?

21 A Oh, yeah, I know. I wouldn't care. If I had
22 known something like that, there would have been a
23 problem.

24 Q Okay. So, what you're suggesting then is that
25 you would have done something about it?

DIANA ROGERS-DIRECT BY MR. KAPPEL

1 A Oh, yeah.

2 Q Is that something if she had told you, you would
3 have remembered, you think?

4 A Oh, definitely. How could you forget something
5 like that? It's not something you would forget.

6 Q Okay. To be clear, did she ever tell you
7 anything?

8 A No, huh-uh.

9 MR. KAPPEL: All right. Just a minute, Judge.

10 THE COURT: Yes, sir.

11 BY MR. KAPPEL:

12 Q Let me ask you this real quick, did Dwayne and
13 your husband work together?

14 A Yes.

15 Q Did you work then at that time?

16 A No, huh-uh.

17 Q Okay. So, when Dwayne would go to work, would
18 he bring E.G. to your house?

19 A Every once in a while. Most of the time, she
20 was on the bus with her mother. Because her mother drove
21 a school bus.

22 Q So, her mom, typically, would take E.G. on the
23 bus?

24 A Yeah, because she drove a school bus, so, you
25 know.

DIANA ROGERS-DIRECT BY MR. KAPPEL

1 Q But you did -- you said a few times she would
2 come stay with you?

3 A Yeah, there were times that she would not be
4 going to school or something. She'd stay at the house
5 with me and watch cartoons, eat, play.

6 Q Okay.

7 MR. KAPPEL: That's all I have, Judge.

8 THE COURT: Any cross-examination?

9 MR. MOYER: No questions, Your Honor.

10 THE COURT: All right, thank you, ma'am. I
11 appreciate your being here.

12 THE WITNESS: Thank you.

13 THE COURT: You have any additional witnesses?

14 MR. KAPPEL: Judge, I have one more.

15 THE COURT: All right.

16 MR. KAPPEL: Debbie Seymore. Debbie Seymore.

17 THE CLERK: Ms. Seymore, please come forward.

18 If you'll please pause at the end of the bench, place
19 your left hand on the Bible and raise your right
20 hand.

21 DEBBIE SEYMORE, after being duly
22 sworn, testified as follows:

23 THE CLERK: Thank you, please be seated. Please
24 state your name for the record.

25 THE WITNESS: Debbie Marie Seymore.

DEBBIE SEYMORE-DIRECT BY MR. KAPPEL

DIRECT EXAMINATION

BY MR. KAPPEL:

Q Good morning.

A Morning.

Q You are one of Lenore's daughters?

A Yes, I am.

Q Where do you live?

A At 75 Ferguson Road.

Q Is that on the farm?

A Yes, it is.

Q Okay. How long have you lived there?

A Twenty years almost.

Q Okay. And that would put us back to what year
would that be?

A 1997.

Q Okay. Who do you live there with?

A My husband, Kenneth Seymore.

Q All right. And are you married?

A Yes, I am.

Q Do you have children?

A Yes, I do.

Q How many children do you have?

A Three sons.

Q Okay. And Dwayne is your younger brother?

A Yes, sir, my only brother.

DEBBIE SEYMORE-DIRECT BY MR. KAPPEL

1 Q Your only brother, but younger brother?

2 A Yes.

3 Q And do you recall a time where your brother was
4 living at 79 Ferguson Road?

5 A Yes.

6 Q Do you remember who he was living there with?

7 A Yes, I do.

8 Q Who was that?

9 A It was Sherry and E. G.

10 Q Okay. Did you spend time with Sherry and E. G.

11 A Yes.

12 Q Would you see them periodically?

13 A Oh, yes.

14 Q Describe when or where you would see them?

15 A Almost daily, I mean, in passing because we
16 lived on the farm together. So therefore, you know, we'd
17 see each other all the time.

18 Q Would y'all have activities at the swimming pool
19 where everybody would be together?

20 A At the swimming pool, family gatherings,
21 holidays.

22 Q Cookouts or whatever?

23 A Yes.

24 Q Did you spend any time specifically with E. G.

25 A Yes.

DEBBIE SEYMORE-DIRECT BY MR. KAPPEL

1 Q And did you develop any kind of relationship
2 with her?

3 A I believe so, yes.

4 Q It was kind of like an aunt --

5 A Yes.

6 Q -- niece relationship?

7 A Yes.

8 Q Did she look to you at all for any kind of
9 support for anything?

10 A Well, I mean, we did crafts together.

11 Q Right.

12 A So, if she had a project at school, I'd help her
13 out and that sort of thing.

14 Q Where would y'all do that?

15 A At my house.

16 Q At 75?

17 A Yes, sir.

18 Q Now, at any time, did you -- would you take care
19 of E. G. when she was not feeling well?

20 A Yes. I mean, I specifically went and got her
21 one day when she was sick from school and kept her all
22 day.

23 Q You kept her at your house?

24 A Yes, I did.

25 Q Okay. Do you recall, did she have the flu or a

DEBBIE SEYMORE-DIRECT BY MR. KAPPEL

1 fever?

2 A It was like the flu, yes. She was throwing up,
3 had that fever.

4 Q All right. Did she -- you specifically
5 recollect that day?

6 A Yes, I do.

7 Q Was that the only time you ever took care of
8 her --

9 A All day, yes, it is.

10 Q -- when she wasn't feeling well?

11 A Yes, it is.

12 Q Do you have any idea where E.G. was living at
13 that point in time?

14 A Yeah, she was living at 79 Ferguson.

15 Q So, she was still living on the farm?

16 A Yes, she was.

17 Q Okay. When -- you said you kept her the whole
18 day?

19 A Yes.

20 Q When did she go home?

21 A After Sherry got home from work.

22 Q So, Sherry came home and just picked her up and
23 took her back to --

24 A Took her back to her house, yes.

25 Q Did E.G. express any objection to leaving your

DEBBIE SEYMORE-DIRECT BY MR. KAPPEL

1 home?

2 A No.

3 Q Okay. Of all the times that you have seen her
4 and spent time with her, have you ever noticed anything
5 about her physical appearance, any kind of bruising or any
6 kind of comments that she might have made?

7 A No.

8 Q Or touching that you might have observed between
9 Dwayne and E.G. that would give you any concern about her
10 welfare?

11 A No, sir.

12 Q Never, never once?

13 A Never once.

14 Q Okay. Now, you're Dwayne's sister?

15 A Yes, I am.

16 Q That means something. If you had observed
17 something of that sort, would you have done something
18 about it?

19 A Oh, yes, immediately.

20 Q Okay.

21 A We don't tolerate anything like that.

22 Q Okay.

23 MR. KAPPEL: All right. Just a moment, Judge.

24 THE COURT: Yes, sir.

25 MR. KAPPEL: Thank you very much. I have no

DEBBIE SEYMORE-DIRECT BY MR. KAPPEL

1 further questions. He may, so.

2 MR. MOYER: No questions, Your Honor.

3 THE COURT: Okay. Good enough.

4 Thank you, ma'am. You may step down. I
5 appreciate your being here.

6 All right. Anything further from the Defense?

7 MR. KAPPEL: No, Judge. I think we're probably
8 at a good spot to take a quick break.

9 THE COURT: All right. Ladies and gentlemen, at
10 this point, I want to -- I want you to take a break,
11 but I'm going to give you a little homework while
12 you're in your jury room, okay. Someone needs to act
13 as the foreperson of the jury. Now, a foreperson of
14 the jury has the responsibility of ensuring that
15 everyone during deliberation has a voice. That is,
16 everyone has the opportunity to offer their opinion.

17 Now, when 12 people who don't know each other
18 come together from different walks of life, different
19 parts of the county, there will be some people who
20 are going to be louder and more opinionated than
21 others, some who will be more reluctant and more
22 resent to give their opinion and offer their opinion
23 in deliberations. So the foreperson's job is just to
24 make sure that everyone has the opportunity to be
25 heard.

1 Now, beyond that, I really can't tell you how
2 you're going to conduct your deliberations. I've
3 never been on a jury. I'm not allowed to encroach
4 upon a jury's space. So, I don't know how juries
5 specifically conduct deliberations. But I do know
6 that each juror settles on its own most effective and
7 efficient way of conducting deliberations. And I'm
8 sure you'll settle in on the most effective and
9 efficient way of doing so as well. Again, the
10 foreperson can take whatever control of that process
11 he or she deems appropriate. And moreover, will just
12 ensure that everyone has the opportunity to be heard,
13 okay.

14 So, additionally, what the foreperson will do is
15 if the jury has any questions during deliberations,
16 the foreperson will write those down, deliver them to
17 the bailiff and I will answer those to the extent
18 that I'm capable of answering the question.
19 Sometimes I get questions that I just can't answer.
20 So, you write those down, you send them to me and
21 I'll answer them if I can. Also, the foreperson will
22 fill out the verdict forms as well.

23 So, if you'll go back in there, I want you to
24 elect your foreperson.

25 And then, also, Ms. Fryer, what I want you to do

1 is get some menus and I want you pass out some menus.

2 We're going to order your lunch today so that we
3 can continue to work on this case and resolve it
4 before close of business today if you deem
5 appropriate. Ultimately, it's your decision when you
6 end your deliberations. All right, so I'm going to
7 take up some business with the lawyers. Y'all do
8 that for me. And then we'll come back in as promptly
9 as possible. Okay. Thank you.

10 (WHEREUPON, the jury left open court at
11 approximately 4:27 a.m.)

12 THE COURT: Okay. Mr. Kappel, your client does
13 not intend to testify in this case?

14 MR. KAPPEL: I believe that is his -- he wishes
15 to exercise his right to remain silent. I don't know
16 if you want to question him or I can tell you about
17 our discussion.

18 THE COURT: Yeah, let me get some matters on the
19 record. It will be very short. And you can add
20 anything you want to.

21 Mr. Tallent, would you stand and raise your
22 right hand.

23 DWAYNE TALLENT, after being duly
24 sworn, testified as follows:

25 EXAMINATION

DWAYNE TALLENT-EXAMINATION BY THE COURT

1 BY THE COURT:

2 Q You understand that you have a right to remain
3 silent under the Constitution, that's a right against
4 self-incrimination, which mean that in this proceeding,
5 you're not compelled to do, say or prove anything. You
6 can exercise your right not to testify if you want to.
7 Understand that if you elect not to testify, you will not
8 have the opportunity to tell the jury your side of the
9 story. That's a risk that you assume when you choose not
10 to testify. However, if you do choose not to testify,
11 that is a sacred constitutional right. And I will
12 instruct the jury that they cannot hold that against you,
13 that you have no -- you have no requirement to testify or
14 offer any evidence. Not only is that so sacred that they
15 cannot even discuss in the jury room your election not to
16 testify.

17 Now, understand as well that you do have a
18 corresponding right to testify if you want to. But
19 understand if you testify, again, you do assume certain
20 risks. And that is The State can ask you questions in an
21 attempt to impeach your credibility. Ask questions
22 related to the story that you offer to the jury and could
23 potentially ask you questions related to any prior record
24 that you may have. And I don't know whether you have one
25 or not, nobody has advised me of that. But in any event,

DWAYNE TALLENT-EXAMINATION BY THE COURT

1 you understand, again, that you incur certain risks if you
2 elect to testify or not.

3 Now, ultimately, the decision to testify or
4 not is yours. You may discuss it with Mr. Kappel and he
5 may give you certain advice in that regard, but,
6 ultimately, it's your decision. You can discuss it with
7 family members. They may offer their opinion as well.
8 But again, it's your decision ultimately and no one
9 else's.

10 So, Mr. Tallent, have you made the decision
11 whether you wish to testify or not?

12 A Yes, sir.

13 Q And are you going to testify?

14 A No, sir.

15 Q And that is your decision, sir?

16 A Yes, sir.

17 THE COURT: Thank you, Mr. Tallent, I appreciate
18 it. You make take your seat.

19 All right. Anything further, Mr. Kappel?

20 MR. KAPPEL: Judge, we just have that one other
21 issue and wanting to call that one additional
22 witness. I'll be happy to proffer her testimony
23 right now.

24 THE COURT: Let's just make sure we understand
25 what the issue is. I don't know that it's been

1 articulated on the record.

2 MR. KAPPEL: It hasn't.

3 THE COURT: At the beginning of the case, the
4 Defense counsel made a motion to sequester witnesses,
5 which I granted. There is a witness remaining which
6 the defense wishes to call, however, that witness was
7 in the courtroom during the proceedings, listened to
8 testimony, listened to the testimony of, as far as I
9 know, the relevant witness, which was Ms. Rosado, if
10 I'm not mistaken.

11 MR. KAPPEL: That's correct.

12 THE COURT: And her testimony would be offered
13 in response or reply or bearing upon Ms. Rosado's
14 testimony; is that correct?

15 MR. KAPPEL: That's correct.

16 THE COURT: So, having heard that at bar, I
17 elected to deny her ability to testify in this case.

18 If you want to proffer that testimony, you can
19 bring her up.

20 MR. KAPPEL: All right, thank you, sir.

21 CYNTHIA ROSADO, after being duly
22 sworn, testified as follows:

23 THE CLERK: Thank you, please be seated. State
24 your name for the record.

25 THE WITNESS: Cynthia Marie Rosado.

CYNTHIA ROSADO-DIRECT BY MR. KAPPEL

DIRECT EXAMINATION

1

2

BY MR. KAPPEL:

3

Q Good morning.

4

A Good morning.

5

Q I just have a few questions for you and it's in
6 reference to your daughter, C.R. [REDACTED]

7

A Okay.

8

Q I wanted to ask you specifically about where
9 she's living right now.

10

A With her grandfather.

11

Q What is his name?

12

A Carl Rosado.

13

Q Do you know what she calls him?

14

A Poppy.

15

Q Do you know if she has been compliant with -- or
16 let me ask you this question. As C.R. [REDACTED] mother, have
17 you had numerous discussions with the Department of Social
18 Services?

19

A I have only had one discussion with Brittany.
20 And the only reason I got that discussion because one day,
21 R.R. [REDACTED] had gone down there to talk to her. I've been
22 asking them to call me or try to call them. They haven't
23 called me or answered. She told me -- she told R.R. [REDACTED] at
24 that point she was too busy because -- well, R.R. [REDACTED] went
25 down there and asked her why we haven't spoken and the

CYNTHIA ROSADO-DIRECT BY MR. KAPPEL

1 lady told her that I wasn't answering my calls. And I
2 told her no, she hasn't called me.

3 Q I want to ask you a question and I want you to
4 listen to my question carefully, okay?

5 A Yes.

6 Q Do you know how C.R. has been doing at
7 Poppy's?

8 A No, not according to any official person. I
9 haven't actually been notified that she was at Poppy's.

10 Q Do you know if the police have been called
11 regarding any kind of disputes between her and Poppy?

12 A I know C.R. called me crying telling me that
13 Poppy called the cops on her a couple times the day before
14 yesterday.

15 Q When did C.R. call you?

16 A Not day before yesterday, the day before --
17 maybe Sunday, this past weekend, her grandfather called --
18 supposedly called the cops on her. I texted R.R. and
19 C.R. but.

20 Q Do you know if the police were really called?

21 A I have no idea.

22 Q Do you know if she's been following Poppy's
23 directions or instructions?

24 A I don't know what his instructions are, but I do
25 know that she has said that she's going to do what she

CYNTHIA ROSADO-CROSS BY MR. MOYER

1 wants. I mean, I've seen hickies on her neck. I've seen
2 just different attitudes that really just floors me.

3 Q All right.

4 MR. KAPPEL: That's all I have, Judge.

5 THE COURT: I don't presume you have any
6 cross-examination in as much as it's simply proffered
7 evidence? You can.

8 CROSS-EXAMINATION

9 BY MR. MOYER:

10 Q You were in the courtroom when C.R.
11 testified, weren't you?

12 A I was.

13 MR. MOYER: That's all the questions I have.

14 THE COURT: Okay.

15 All right, thank you, Ms. Rosado. I appreciate
16 it.

17 Okay, anything further from the Defense?

18 MR. KAPPEL: No, nothing further.

19 THE COURT: Okay. Anything in reply from the
20 State, sir?

21 MR. MOYER: No, not on this matter.

22 THE COURT: All right. If y'all will -- we're
23 going to take a brief recess. We'll come in chambers
24 and we'll discuss charge, which shouldn't take us
25 very long. I haven't received any proposed jury

1 charges from you, so I presume you have none?

2 MR. MOYER: No, Your Honor, I don't believe I
3 have.

4 THE COURT: That's fine.

5 MR. KAPPEL: We'll just talk about a couple in
6 particular.

7 THE COURT: We'll do that. You still need to go
8 to your office to get those notes?

9 MR. KAPPEL: I do.

10 THE COURT: We'll do it pretty quick and then
11 you can go pretty quick.

12 The reason I let them elect their foreperson is
13 to give some homework to do so they wouldn't be
14 sitting there doing nothing while we're doing all
15 this. Okay, so y'all come on back and let's talk
16 through it.

17 MR. MOYER: Just for the record, Your Honor, you
18 did deny allowing the witness to testify?

19 THE COURT: I did. Inasmuch as that witness is
20 sympathetic to the Defense posture, was sitting in
21 the courtroom during testimony. And inasmuch as I
22 gave specific instructions at the beginning of the
23 trial that that sequestration order had to be policed
24 by the attorneys and she was in the courtroom.
25 Again, deny her opportunity to offer evidence in this

1 matter.

2 MR. MOYER: Thank you.

3 (WHEREUPON, a short break was taken.)

4 THE COURT: Okay.

5 Yes, sir.

6 MR. KAPPEL: Judge, before we bring the jury in,
7 I need to rest in front of them.

8 THE COURT: Sure.

9 MR. KAPPEL: And just out of my own sense of
10 caution, I wanted just to simply renew all my motions
11 of directed verdict, etcetera. I don't know that
12 it's necessary, but.

13 THE COURT: All right. Okay, well, you renew
14 those motions. And the rulings articulated by the
15 Court remain the same.

16 All right. Bring the jury in, please.

17 And for everyone's information, the jury has
18 selected Mr. Gourley, Juror No. 64, as the foreperson
19 of the jury.

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

22 (WHEREUPON, the jury came into open court at
23 approximately 11:27 a.m.)

24 THE COURT: All right, Mr. Gourley, I see that
25 you've been elected as foreperson of the jury.

1 MR. FOREPERSON: Yes, sir.

2 THE COURT: Congratulations. You must have run
3 a very successful campaign.

4 MR. FOREPERSON: It was a vote.

5 THE COURT: Well, congratulations. You can put
6 that on your resume as you apply for jobs.

7 Mr. Kappel, does the Defense rest, sir?

8 MR. KAPPEL: We do, Judge. I just want to take
9 a quick moment to renew all the motions that we've
10 made, direct verdict, all the motions that have been
11 articulated by the Court.

12 THE COURT: Okay, you're protected on the record
13 in that regard.

14 Ladies and gentlemen, the Defense rest at this
15 time. It's my understanding that the State does not
16 intend to offer any evidence in reply. So, we'll
17 move to closing arguments and to charge on the law.

18 Before I do that, I do want to say that you note
19 that the Defendant, Mr. Tallent, elected not to
20 testify in this case. As I told you at the very
21 beginning of this case, the Defendant does not have
22 the burden of proving anything in the case. And
23 under the Constitution, we all have a right to remain
24 silent, and Mr. Tallent has elected to exercise that
25 Constitutional right.

1 Now, ladies and gentlemen, because that is a
2 Constitutional right that we all enjoy, you cannot
3 hold that fact against him. That is, you can't hold
4 it against him in your deliberations that he elected
5 to exercise his constitutional right to remain
6 silent. As a matter of fact, it's so important, so
7 important to us as a society and in the justice
8 system, that you're not even allowed to discuss it in
9 your deliberations in this case.

10 Now, ladies and gentlemen, as we go to closing
11 arguments, I remind you what I said when we began,
12 that closing arguments are not evidence. You've
13 already heard all the evidence that you will receive
14 in the case. Each party will have the opportunity to
15 attempt to convince you of their position, to
16 persuade you to their side. They'll be commenting on
17 the evidence, but you will have already heard all the
18 evidence.

19 Understand as well, from time to time, attorneys
20 will have disagreements about what the evidence
21 shows, about what the facts are. And understand
22 that, ultimately, notwithstanding what either party
23 may say about what the evidence showed or what you
24 should take from the evidence, it's entirely up to
25 you to determine what the evidence was, what the

1 value of that evidence is and what the facts are in
2 the case.

3 Ladies and gentlemen, The State will have the
4 opportunity to open, then the Defense will have the
5 opportunity to argue and respond. And then, lastly,
6 The State will have the opportunity to get up and
7 briefly respond to the Defense's argument. Then I'll
8 give you a closing charge on the law.

9 All right, Mr. Moyer, your argument, sir.

10 CLOSING STATEMENT

11 MR. MOYER: Thank you, Your Honor, may it please
12 the Court?

13 THE COURT: Yes, sir.

14 MR. MOYER: Good morning, Mr. Foreman and ladies
15 and gentlemen of the jury. First thing I want to
16 mention as I start my closing argument and remarks is
17 that, as you've heard, the evidence portion of this
18 trial is now over. So, you're not going to be
19 receiving any more witnesses. I say that because
20 every once in a while, we've had jurors who send a
21 note back saying well, we want to hear from so and so
22 or we'd like to see this or we'd like to see that.
23 That's over with. For the most part, things like
24 witness statements and police reports, things like
25 that are not admissible into evidence under the

1 rules. They are -- every once in a while, there
2 are -- there actually was one in this case where you
3 were able to hear Christopher Greco's interview with
4 Investigator Richter. Other than that, there will be
5 no more evidence that will be introduced.

6 Now, as you've heard a number of times
7 throughout this trial, the State has the burden of
8 proof. The Defendant comes into this courtroom
9 innocent. And he is innocent until that burden --
10 until that burden of proof is met by the State. I
11 want to tell you, ladies and gentlemen, up front that
12 the State gladly accepts the burden in this case. We
13 understand that's a fundamental principle of our
14 jurisprudence and of our law and we gladly accept it
15 in this case.

16 Keep in mind, ladies and gentlemen, that the
17 burden -- what that burden of proof is, it is beyond
18 a reasonable doubt. So, it's a doubt supported by
19 reason. Another way of describing it is being firmly
20 convinced after hearing all the evidence of the
21 Defendant's guilt. So, it's not all doubt, or it's
22 not every doubt. I once heard someone call it a
23 shadow of a doubt. Whatever that is, it's not that
24 either. They're very few things in this world that
25 we can know beyond any doubt. The criminal justice

1 system does not require that either. So, it's beyond
2 a reasonable doubt.

3 So, in every case, from the most seemingly
4 insignificant case that can come before a jury -- for
5 example, in South Carolina, you can get a jury trial
6 for a traffic ticket. In that situation, you would
7 not have to pay that fine for running a red light
8 until a jury was convinced beyond a reasonable doubt.
9 So, from that to the most seemingly significant case.
10 Say, for example, a capital murder case. It's the
11 same in all criminal cases.

12 So, in every case where somebody has been found
13 guilty and held responsible for a crime, a jury just
14 like yourself has had to meet -- has had to look at
15 the evidence and decide that that evidence has been
16 met by a beyond a reasonable doubt.

17 So, let's talk first about what the charges are
18 before you. I talked about this a little bit at the
19 beginning of the case. And His Honor is going to
20 instruct you fully here when the Defense attorney and
21 I are both finished. But I want to talk just a
22 little bit about the four charge that are before you.

23 Contributing to the delinquency of a minor is
24 one of the charges. And under that, it is unlawful
25 for a person, for an adult to contribute to the

1 delinquency of a person who's under the age of 18.
2 So, the law actually list many ways this can happen.
3 And among them are several that I have flagged that
4 are applicable in this case. It is unlawful to
5 encourage, to aid or to cause a child to violate the
6 law. It is unlawful to encourage a child to
7 associate with immoral persons, or to frequent the
8 place, the existence of which is in violation of the
9 law. Or to import himself or herself in a way that
10 would endanger his or her morals or health.

11 So, think back over the evidence that we have
12 heard in this case. Have those elements been met in
13 this case? Well, we have heard from two juvenile
14 children, two juveniles. We have heard from
15 E.G. [REDACTED] and from Christopher Greco, who
16 testified that while they were both under the age of
17 18, this Defendant did aid, encourage or enlist them
18 in situations where these crimes are committed.

19 For example, we know about the sexual conduct
20 that occurred with E.G. That would fit. What else
21 do we know? We know about the drug activity. We
22 know about the Defendant gave marijuana to E.G. from a
23 very young age up until around the time she left the
24 home. We know he did the same thing to Christopher.
25 We know that he was cooking crack cocaine in the

1 house. When Christopher had that accident and he got
2 that sum of money, you heard testimony from the boys
3 that he would take that money and he would go out and
4 he would bring cocaine into the house. And after
5 they got tired of snorting all that cocaine, he
6 taught them how to cook crack cocaine so they could
7 take it in a different form.

8 That ladies and gentlemen, all of that activity,
9 I think makes it very clear that the Defendant is
10 guilty of the crimes. And you can find that he was
11 guilty of that towards either one of those children
12 because the statute has the initials of them both,
13 both **EG** and Chris. And if you find that his conduct
14 in the home endangered their health or their morals
15 or made it a place that -- where crimes were
16 committed for either one of them, then he's guilty of
17 this charge.

18 The next charge is criminal sexual conduct and
19 there are first degree and second degree. And as I
20 talked about in my opening, criminal sexual conduct
21 requires several different elements in order to have
22 been violated. One is a sexual battery. Sexual
23 battery is a variety of conduct, but is sexual
24 intercourse. It is oral sex, both cunnilingus and
25 fellatio and any intrusion however slight of any part

1 of a person's body into the genital openings of
2 another. So, it covers digital penetration, even
3 slightly, or vaginal or rectal penetration. And the
4 child has to be -- for first degree has to be under
5 age 11.

6 So, think back again through the evidence with
7 regard to E.G. Did we have sexual battery with
8 regard to E.G. when she was under the age of 11? She
9 testified that this conduct, the touching, which
10 started to include penetration of her vagina and
11 started to include penetration, even slight, of her
12 rectum and oral sex both on her and him -- and her on
13 him all happened from a much earlier age than age 11.
14 She flagged it at about age nine.

15 And I picked up on one specific instance where
16 she testified when she was nine years old and she
17 testified about how the incident when they were on
18 the couch. And she said, It seemed accidental, but
19 he was moving like he often did, moving between her
20 legs and that it partially slipped into her vagina.
21 So, there's an incident under age of 11. Did it
22 happen over the age of 11? And if it did, he would
23 be guilty of second degree criminal sexual conduct.
24 And once again, she testified very clearly that all
25 of that conduct, both the digital penetration, the

1 partial penetration of his penis into her all
2 happened -- and oral sex, all took place after the
3 age of 11, also. We can think of, also, another very
4 specific incident that she talked about when she was
5 age 14 when he actually inserted his penis all the
6 way into her rectum. So, her testimony clearly met
7 all of the elements of criminal sexual conduct first
8 degree and second degree.

9 The final charge, the fourth charge is lewd act
10 on a minor. And this covers sexual touching that
11 took place that was not sexual battery. In other
12 words, it would incorporate all the times he touched
13 her in places he shouldn't have on her body that did
14 not include a sexual battery. And the evidence --
15 the record is replete with evidence of that.

16 So, what is the evidence that we have in this
17 case that the Defendant did this conduct? Well, we
18 have [E.G.] testimony. We have [E.G.] testimony, first
19 and foremost. She was the first witness who
20 testified. As you know, she stayed on the stand the
21 longest. And what did she say? She spent a lot of
22 time -- and I had to go into graphic details, which I
23 hated to do both for her sake and for your sake, but
24 it is necessary under the circumstances. But she
25 spent a great deal of time looking back over these

1 years of her life from about age five to age 14
2 recalling incidents that happened over all of these
3 many years of her life.

4 And as you remember, she talked about it both in
5 generalities and detail. And why is that? And it's
6 understandable. Think about activities that you did
7 routinely over a long period of time. For example,
8 going to school. You can look back and say yes, I
9 know I went to school every day when I was seven
10 years old. You can't recall many instances
11 specifically where you were there other than those
12 that stood out. That is why she testified the way
13 she did. She remembers over these long period of
14 time there would be the touching. And you recall,
15 she said it would happen multiple times a week in
16 general. In the case of C.R. it happened, she
17 testified, especially towards the end, almost every
18 day. E.G. testified how that happened.

19 Then she give you some specifics. She talked
20 about the very first time. As you recall, that stood
21 out to her because it was the first time. The way --
22 she remembers the way he -- on the very first
23 occasion, he rubbed up against her with his penis.
24 Now, why did that stand out? Well, yes, it was the
25 first time, but why else did it stand out? Because

1 it's exactly what that other man was doing to her.
2 That man called Mikey. Remember how she testified
3 that months before the Defendant started doing this
4 to her, this guy who was in the home was doing the
5 same thing? She didn't understand what it was, but
6 she recognized it when the Defendant did it. And
7 then it took place.

8 And she gave you other instances. She gave you
9 instances that the stood out. For example, when his
10 penis actually -- she used the word slipped into her
11 vagina and when he penetrated her fully anally. And
12 she gave you no reason -- and I'm going to talk about
13 this in a few minutes, but she gave you no reason why
14 she would not be telling the truth. And that's all
15 you would need to convict, ladies and gentlemen.
16 This case could have ended then. And in many
17 situations like this, it does. It could have ended
18 with just the victim's word.

19 Because why is that? Because these are the
20 kinds of crimes that are done in secret. They are
21 done in private. The Defendant doesn't want to be
22 caught. He takes care and he takes effort to make
23 sure the situation is such that he won't be caught.
24 It's in a bedroom. Mother's gone out to work or to
25 the store and he has these moments alone. But in

1 this case, we have more than that. We have
2 corroboration. We have corroboration first from two
3 brothers who were in the home. How did that happen?
4 The Defendant got lazy. The Defendant let his guard
5 down. He started having the victim come into his
6 room, as you heard them talk about many, many times,
7 many times. And on a couple of occasions, he was
8 caught.

9 Let's talk about what Joey testified to. You
10 remember Joey. He's actually seated here in the
11 first row. He's the oldest brother. Lives up in
12 North Carolina now. He came down here to testify in
13 this trial. And what did he -- he talked to you
14 about three specific instances where he saw something
15 that looking -- well, the first two of which looking
16 back on now fits. And he understands. But as he
17 testified yesterday, at the time, he didn't want to
18 believe what the worst possible explanation could be.
19 Because it's too awful to think about.

20 What's the first instance he talked about? He
21 talked about how he went back -- the door was
22 cracked. He went back to go to the bathroom, the
23 door to the Defendant's room was cracked open a
24 little bit. And when he looked in, all of a sudden,
25 the Defendant jumped away from the bed where he had

1 been, towards the end of the bed, which would be
2 towards where the feet of E.G. would be. He jumped
3 away. E.G. is in the bed, under the covers. The
4 Defendant jumped away and had a startled look in his
5 eyes. Deer in headlights is what he said.

6 And he said, What?

7 And Joey just went on. And like I said, surely,
8 it can't be, surely, it can't be the worst
9 explanation. And he went on.

10 Then there's the other incident. And the other
11 incident he testified about, again, a similar
12 scenario where he saw into the room and, again, E.G.
13 is in the bed. E.G. is under the covers. And the
14 Defendant is moving in such a way that it appeared
15 that he was masturbating. And once again, the worst
16 possible explanation is just too horrible to
17 understand and to believe. So, at the time, he just
18 chose to think it can't be what -- it can't be that.

19 But then there was a final explanation -- there
20 was a final incident. And this is the incident he
21 didn't actually see, but Christopher did. Joey was
22 in the home and he was sitting on the couch.
23 Christopher went to the back and, all of a sudden, a
24 few minutes later, Christopher comes running out and
25 makes the comment that Dwayne is molesting our

1 sister, goes running outside. And following him is
2 this Defendant, who's throwing coolers at him.
3 That's the final time. And that's when they left the
4 home. They haven't seen him since, you heard.
5 That's when he was gone. He also talked about how,
6 again, in retrospect, looking back on it, how the
7 Defendant always seemed to be touching her, always
8 seemed to be touching E. G.

9 And then Christopher testified. Christopher
10 testified, again -- and you heard it when he was
11 interviewed by Investigator Richter. Investigator
12 Richter said, When's the first time you started
13 noticing something was wrong?

14 Once again, Christopher says, Well, looking back
15 on it, he was always touching her. He would be
16 rubbing the inside of her thighs. He would be
17 touching her all the time.

18 Then there was the other incident. It was the
19 incident where he saw it when he went to the
20 bathroom. He looked -- he heard a moan. He heard
21 moaning coming from inside the room. He was able to
22 look into the room through the keyhole and what did
23 he see? He saw the Defendant, one hand on E. G. and
24 one hand masturbating himself. And you heard what he
25 said, he opened the door.

1 And he said, How long has this been going on you
2 sick bastard?

3 At that point, the Defendant comes running out
4 of the room chasing him. Christopher runs down the
5 hallway, tells his brother what he said, runs out.
6 The Defendant starts throwing coolers at him saying,
7 This could ruin my life. This could ruin my life.

8 And what happened? They tell their dad. Their
9 dad tells law enforcement. DSS and law enforcement
10 gets involved. They tell that to the authorities,
11 but E.G. is not ready to tell. So, it doesn't go
12 anywhere.

13 Then we have other corroboration, and that is
14 the testimony from C.R. As you recall, C.R.
15 testified yesterday. And the reason she testified
16 yesterday is because of how absolutely similar her
17 case was to E.G. Keep in mind, these girls didn't
18 know each other. E.G. and C.R. didn't know each
19 other. They knew of each other. They had heard
20 about each other, but they didn't know each other,
21 they didn't talk. There can be no explanation that
22 they somehow got together and confabulated stories.

23 What did C.R. talk about? Let's think about
24 the similarities in the scenarios. Age, number one.
25 Both started at age five. It ended with C.R. at

1 age 11, which is a few years before it ended with E.G.
2 only because the Defendant moved out of her life at
3 that point. Relationship. The Defendant was a
4 father figure. He was actually E.G. stepfather, but
5 he lived like a father and acted like a father for
6 C.R. In both scenarios, he was a father figure.
7 What else is similar? Number three, the family
8 dynamic. The Defendant got involved in both
9 scenarios with a woman who had an infant daughter.
10 In both scenarios, that family comes to live with him
11 on his property, or his mother's property, and
12 becomes dependent on him for where they lived.
13 Number four, the type of conduct and contact. It
14 both begins with touching.

15 Now, the very first scenario, as you heard E.G.
16 testified to with the Defendant, was when he rubbed
17 up against her. And that was the very first time.
18 She ran into the back room and she jumped on him and
19 started playing and he began rubbing his erect penis
20 against her body through the covers. After that, she
21 said there was touching. And it progressed as time
22 went on. And that's exactly what happened with
23 C.R. Touching.

24 Number five, what is similar? When it would
25 happen. It was when the mother was out of the house.

1 It was when the mother was out of the picture. She
2 was working or she went to the store or whatever.
3 How often it would happen. Whenever the chance
4 arose. Whenever the opportunity came up. When the
5 mother was away, when the mother went out. That
6 opportunity came, the Defendant took it.

7 Where it happened, number six, is also similar.
8 It happened in his room or in the girl's room.
9 Usually, his room. In fact, it was even the same
10 house for most of the conduct. Number eight, and
11 most significantly, I would say, is even what he
12 would say. What did he say to both of these young
13 girls when he started touching when they were young
14 and they were infants and they were trying to figure
15 out what's going on and doesn't want them to tell?
16 In both scenarios, he said you are someone special.
17 Let's not talk about this because no one else would
18 understand the love I have for you. He said that to
19 both girls.

20 Now, ladies and gentlemen, as I told you, in my
21 opening, what this case is about, and I think
22 something that has become clear through the testimony
23 that has run throughout this whole case, is about how
24 can abuse go on like this for years? There is no
25 question that E.G. did not tell anyone until she was

1 an adult. C.R. didn't tell anyone until just a
2 few months ago. They both freely have told you that.
3 They both were absolutely open, didn't back away.
4 When E.G. was questioned over and over and over on
5 cross-examination, Weren't you alone with your
6 mother? Weren't you alone with your aunt? Weren't
7 you alone with this person or that person and you
8 never told? And E.G. in every scenario had a one-word
9 answer, no, no. Just like she testified when I asked
10 her.

11 So, it should come as no surprise that four
12 people who loved the Defendant very much would get up
13 and take the stand as they did today and tell you
14 that no, she didn't tell me. Ladies and gentlemen, I
15 didn't have a question for them because as I said, it
16 should come as no shock. That could have gone on for
17 days. We could have brought in a teacher. We could
18 have brought in their friends. They told you they
19 were not going to tell. And you would have that in
20 any case in a scenario like this one where you have a
21 child who is delayed disclosure for whatever period
22 of time. Because they don't tell for reasons that
23 they explained to you and as I'm going to recap in
24 just a moment.

25 And it also shouldn't surprise you that one

1 witness took the stand today and said well, I let him
2 around my children and he didn't molest my child.
3 And not to sound flippant on this point, but that
4 would be like having a bank robbery case where you
5 had the bank managers of every other bank in
6 Greenville come in and say well, he didn't rob my
7 bank. He didn't rob my bank. For whatever reason,
8 he chose C.R. and he chose E.G. and that's who he
9 sexually molested.

10 So, how can it continue? How can abuse like
11 this continue on without a child saying anything?
12 And to understand that, we have to understand and
13 think about how the abuse starts. The abuse starts
14 with touching. It starts very innocuously. It
15 doesn't start right off with sexual penetration. It
16 doesn't start right off with oral sex or vaginal sex
17 or anal sex. It starts off with touching.

18 And why is that significant? Because, in
19 general, touching is a good thing. We all like to be
20 touched. We need to be touched, right? Adults even
21 do, but especially children. Young children have
22 both a physical and a biological need for physical
23 contact. They get it all day long constantly. They
24 want to be held, they want to be hugged. Maybe at
25 night, they come into mom or dad's room and they want

1 to be touching mommy or daddy and they need that
2 physical contact. So, touching and closeness, in
3 general, is normal. And they don't know the
4 difference between good touching and bad touching. A
5 five year old simply does not.

6 Then you consider that in light of the position
7 of the person doing the touching. Someone who is in
8 a position of authority and trust. Children have an
9 innate trust and belief in adults. They believe that
10 what an adult says or does is right. They trust
11 that. And what an adult does around a child is
12 normal, that's what they assume. And, in general,
13 that's a good thing, right? Because when mommy or
14 daddy says don't touch the stove because it's hot or
15 don't run out in the road, don't talk to strangers,
16 it's a good thing that children -- that that's the
17 way they are designed, to trust adults. So, that's
18 what they do. And they assume that this touching is
19 right. And they assume that when the abuser says we
20 have a special relationship, let's keep this between
21 ourselves, they assume that's correct.

22 Then times goes by. And as time goes by, they
23 start to gain understanding about what's going on.
24 And then the touching starts getting more egregious.
25 But what is also going on as they are aging and

1 getting more understanding? They also have been
2 being touched for years. This special relationship
3 has gone on for years.

4 In the situation of E.G. you heard her testify
5 that in a weird twisted sort of way, she felt like
6 his girlfriend. So, by the time they start to
7 understand, that's the position they're in. And how
8 does that make a child feel? They start to feel
9 partially responsible. That's the way -- they both
10 told you that, both E.G. and C.R. even at her age.
11 Even though the sexual abuse didn't get as bad with
12 C.R. she still testified to you that in a way,
13 she felt responsible. So, they feel responsible and
14 they feel shame. They feel shame because they know
15 it isn't right. And they know it's been going on for
16 years and they feel like they've been letting it go
17 on for years. They don't have the objective
18 viewpoint as preteens in that situation to know what
19 we do, that it's not their fault.

20 Then you couple that with other real world
21 issues. The abuse is not the overarching part of the
22 relationship with that abuser. Eighty to 90 percent
23 of the time, he's not that abuser. He's the nice guy
24 in the relationship. He's the protector. He loves
25 momma. Momma loves him. He does good things for

1 them. He's generous. He takes them on trips. He
2 takes them, apparently, skiing. So he's, in many
3 overarching aspects of the relationship, is not bad.
4 So, they want that person in a certain way in their
5 life. You can't trade in a dad or a granddad or
6 whoever the abuser is, he's the only one. If he goes
7 away, there's no one to take his place.

8 And then as the child grows, the child begins to
9 understand how wrong it is, they understand the
10 ramifications of this becoming known and of making it
11 become known. It takes an enormous amount of courage
12 to go public about being sexual abused. And why?
13 Because it brands you. You look like a trouble
14 maker. You take the risk of not being believed and
15 being branded a liar or someone who is trying to ruin
16 other people's lives. They understand that it will
17 turn their world upside down. Here's this man, who,
18 again, has been the protector and the provider and
19 the supporter who will no longer be there. Who will
20 do that now? Where will they go? Especially of
21 these two children. They are dependent on him. They
22 are living in his home. What happens if that
23 relationship ends? Where do they go? Imagine the
24 fear a child has about that. And if they tell, it's
25 over. And what if they're not believed, who's fault

1 it is? It's her. She's the one to blame. The child
2 has ruined the life not only for themselves, but for
3 others, for mom and for brother and sister.

4 So, C.R. cracked at an earlier age than E.G.
5 did. She said when Investigator Richter spoke to her
6 a few months ago, she almost cracked. She almost
7 told him, but she was still dealing with all those
8 thoughts and couldn't do it. Then the DSS employee
9 confronted her with it and she broke down and started
10 crying and she told.

11 And what happened to her? What happened to her?
12 It's been awful. You saw her come to tears on the
13 stand when she testified what happened to her after
14 she finally told. She talked about all the fear she
15 would have if she did tell. And I asked her, Has it
16 been that bad?

17 She said, No, it's been worse. It's been worse.

18 E.G. didn't tell as a child. And she waited
19 until she was an adult. And you can understand why,
20 because telling turns your life inside out. And so
21 many like C.R. and E.G. just decide to grit their
22 teeth and figure out a way to cope, to just deal with
23 it. Just get through with that one part of this
24 awfulness in your life, put up with those bad times,
25 those short bad times that are interludes between all

1 of the good times in life and all of the normalcy.

2 A crime like this is not one where the injury
3 fully hits you when it happens. This is a very
4 different crime than say, if we had a case where
5 someone was stabbed or shot, beaten up, they come in
6 and testify about that. That injury goes away. By
7 the time they're testifying, in many cases, they're
8 feeling better. But the injury in a case like this
9 is worse because it's not until they realize, until
10 they're adults. It eats away at them. You heard E.G.
11 talk about the nightmares and the dark thoughts. It
12 effects relationships.

13 And it's not until you're an adult and you can
14 look back and you can see how you were robbed of a
15 normal childhood. That's why E.G. told. That's why
16 E.G. told as an adult. And that's why E.G. can look
17 back now at those times when she was at 79 Ferguson
18 Road and, as she told Investigator Richter, say it
19 was hell. Because it was. It was both. It was both
20 in some sense a normal childhood, being with her
21 mother and her brothers, having the love of her
22 mother and her brothers and having the good times,
23 but it was also hell at the same time. It was hell
24 during those times when she had to go through what
25 she had to go through. It was hell then -- she was

1 living through hell then and she's still living
2 through hell now. She didn't realize it, but --
3 fully, but she does now.

4 Ladies and gentlemen, I'm going to have a chance
5 to come back and talk to you again for one -- for a
6 very brief moment, but at this time, that's all I
7 have to say. Thank you.

8 MR. KAPPEL: Thank you, may it please the Court?

9 THE COURT: Yes, sir.

10 CLOSING STATEMENT

11 MR. KAPPEL: Mr. Moyer.

12 Mr. Foreman, ladies and gentlemen of the jury.
13 Mr. Moyer spent a great deal of time talking to you
14 about what we know. He said this is what we know.
15 But what's important for you to think about when you
16 start your deliberations is all you know and the
17 charges and the indictments that will be sent to you
18 is coming from three people. That's it. There's no
19 other evidence. There's no medical evidence.
20 There's no videotape evidence. It's all coming from
21 just three people, E.G. Chris and Joey.

22 And really this case, for me, begins with this
23 peephole incident. And I think that's where you
24 should start to look to try to figure out if really
25 what you're hearing is actually the truth or not the

1 truth. You recall, Joseph testified and said there
2 was no such peephole in the door. There was no such
3 keyhole in the door. If there's no such keyhole in
4 the door, then how can Christopher look inside?
5 Christopher, if you recall, we heard a lot about a
6 broken back. How can he lean over and look through a
7 keyhole? If he can -- if there's a keyhole and he
8 can look over into a keyhole, how are you going to
9 see what's going on inside the room? Yet, he says
10 that that was the moment where he discovered that his
11 sister was being abused by Dwayne.

12 Now, Chris tells DSS in his interview, you
13 recall his testimony, he tells DSS that this occurred
14 about a year and a half before his interview. His
15 interview was in June of 2002. That would put his
16 interview in January of 2001. Both Chris and Joey
17 said that when this incident occurred, they
18 immediately told their father, and that their father
19 immediately called the police, and that the police
20 immediately responded. And we know that that
21 response by the police was in January of 2002. And
22 if you recall, I asked Joey, so this event occurred
23 in January 2002, you know, a week before?

24 And he said, Yes.

25 But by Christopher's own statement, it didn't

1 occur, the January 2001, so the DSS.

2 In addition, the other thing we know, which is
3 curious, is that Sherry and E.G. moved from Ferguson
4 Road in October 2001. So, in January 2002, they
5 weren't even living on Ferguson Road. So, this idea
6 that Christopher saw something through a peephole,
7 that did not exist, by bending over on a back that
8 was wounded or injured in a house they weren't even
9 living in at the time, could not have happened.

10 You recall that Christopher told you all and his
11 brother, Joey, that they were using lots of drugs,
12 lots of cocaine, trying to make crack, making crack,
13 whatever, smoking methamphetamine, smoking marijuana.
14 What evidence do we have that there was rampant drug
15 use? It's coming from these three people. It's
16 coming from nowhere else. There's no other evidence,
17 nothing in front of you that indicates that this kind
18 of drug use was going on. But they do tell you,
19 Dwayne was making them use Christopher's money to buy
20 drugs. And that when Christopher moved out after the
21 peephole incident, remember, he said he had nothing
22 left. But then when he meets with DSS six months
23 later, the first thing in his interview, he tells
24 them I'm coming into some money and I'm buying some
25 land.

1 So, do we have a wreck report, a settlement
2 statement, a copy of the canceled check to see if, in
3 fact, he did have a settlement and when he got it?
4 We got nothing. What we've got is a statement from a
5 guy who says he got it, blew through it in 2001.
6 Then a statement from a guy to DSS where he says, I'm
7 coming into some money and I'm buying some land. Do
8 we really know?

9 The most important thing in a case like this
10 is -- obviously, is credibility, who do you believe?
11 I'm going to mention a couple of things. Of course,
12 the Judge is going to instruct you on credibility,
13 what you should believe or what you should do with
14 credibility, but you are allowed to listen to a
15 witness and believe everything they tell you, you can
16 believe some of what they tell you, or none. And the
17 credibility in this case is the center piece of the
18 whole case. There's no evidence here. We've got a
19 couple of pictures and a copy of the interview, but
20 there's no evidence here. There's no photographs of
21 medical records or wounds or injuries of any of that
22 sort.

23 And you heard E. G. tell you that she was
24 interviewed by forensic interviewer at DSS and they
25 videotaped it. I mean, wouldn't that be nice, that

1 way you can see what her demeanor was, what her
2 appearance was, what she sounded like, what she said
3 back in 2002. There is no videotape before you.
4 That would help you really see if she really is
5 telling the truth then or is she telling the truth
6 now. We don't have it.

7 And the investigator did what I think is
8 improper. When I was a prosecutor, I never liked to
9 see it. And that was interviewing the people at the
10 same time. And I think you can use your common sense
11 to understand that that is just a big no-no.
12 Regardless -- and he spent a great deal of time
13 talking about why he did it and why he thought it was
14 appropriate. He still thought it was appropriate
15 even yesterday because of the timing. The fact of
16 the matter is, is that's no excuse to take two
17 witnesses and put them in the same room at the same
18 time and interview them.

19 The word I used was drafting. I said that one
20 drafts off the other. I don't know if you remember
21 that question or not, but that's the way I looked at
22 that. When I'm reading these statements or reports,
23 what I want to know is I want to know what the
24 witness knows. I don't want to know what the other
25 witness is telling them. I don't want to know what a

1 witness is telling me while sitting in the presence
2 of a loved one who is offering them support. You've
3 got a portion of this interview. You don't have the
4 whole interview, you've got a portion of it. At the
5 very last moment that it was cut off, you heard E.G.
6 say, What else did he make me do? You'll hear it if
7 you choose to listen to it. What else did he make me
8 do? And what kind of question is that? How do you
9 take an interview in a criminal case with so much at
10 stake, so much going on and so much riding in the
11 balance of this and you take an interview with
12 someone where you've got one witness asking questions
13 of another witness? Was it really a question or was
14 it prompting?

15 This is how mistakes get made. This is how
16 innocent people get charged. We all know about two
17 people saying to one another -- you see it on TV a
18 lot, but I'm sure it happens in the real world, hey,
19 we need to get together to get our story straight.
20 Before you're interviewed at school for an infraction
21 or a problem or done some crime with somebody or just
22 something silly, like cutting school or what have
23 you, hey, before you go home and tell your mom where
24 we were today, we need to get our story straight. We
25 need to make sure we're in the right place. You

1 can't have these interviews at the same time.

2 I don't care if the investigation is for a crime
3 that was committed this morning or 10 years ago,
4 you're never going to test the ability of someone's
5 memory and what they know by interviewing people in
6 the same room together. Never. And if it's a matter
7 of laziness because you don't want to have an
8 interview and then another interview and you have to
9 go back to a witness to try to reconfirm or ask
10 additional questions, but that's just the way you do
11 it. That's what's required. That's trust that's
12 been placed in him to do a proper investigation. And
13 he can't do that, particularly in a case like this.

14 What do we have? All we know -- what do we
15 have? Everything we know is coming from three
16 people. And we have two of them in the same witness
17 room at the same time. And one of them is telling
18 you that he was paid a bunch of money and they blew
19 through it and then he tells somebody else that he
20 didn't get it until June of 2002. I mean, what do we
21 really know that Chris knows?

22 And you heard what Lenore said, who's a nurse.
23 I think you could see her testifying. I mean, you
24 know, Lenore is treating children that are not her
25 blood relatives as her own. You can see that she has

1 a big heart. I mean, Christopher comes on the scene
2 at the farm and he's not in a good place and who
3 calls, but Christopher's mom and calls Lenore and
4 says, Please check him. Something's not right. He's
5 cut himself to let the demons out and putting hot wax
6 over his wounds. I mean, is that the testimony of
7 someone you're going to go to the bank with?
8 Probably not. You will want some additional
9 understanding of what this person knows and you
10 should demand that an interview of a witness such as
11 this should not be accompanied by the alleged victim.
12 Period.

13 E.G. I'm sorry, I should say E.G. . The
14 family calls her E.G. I think you heard everyone
15 call her E.G. E.G. testified and her
16 testimony -- or her case came out in 2014. So, we
17 received the report and we then have to go back to
18 try to figure out really how to defend this. What do
19 we do? What can we do? And there was some
20 equivocation on her age when this began. And it was
21 a very important fact, very important to understand
22 when this allegedly occurred.

23 There was a lot of talk of it was five, four or
24 five. But at one point in time in her statement to
25 Investigator Richter, she said, Well, this Mikey

1 thing happened, I was closer to four than I was five.
2 And she was four in August of 1991. And Officer
3 Richter's report confirmed that it happened in the
4 autumn. So, turns four in August of 1991, you're in
5 the autumn of September, October, I assume that's the
6 Mikey episode and she said it was a short period of
7 time later that Dwayne started doing the same things.
8 She initially said that Dwayne's reaction was one of
9 normalcy, that he was very upset, kicked the guy out
10 and physically reacted.

11 So, what do we do? We have to go back to 1991
12 and try to figure out what can we say? What can we
13 do? We've got this testimony that's from 27 years
14 ago, or for however long, how can we go back that
15 far? Luckily, we have Selena. And you saw her
16 testify today. She's been married to Russell for 26
17 years or something of that sort. They named their
18 middle child after Dwayne. They've known him for a
19 long time. She's a school teacher, a bookworm, a
20 fairly well-spoken person. And we have Selena. I
21 mean, thankfully, there was this unusual episode
22 where she ran off with her future husband and they
23 took up residence in this house. And, fortunately,
24 for us, she didn't work. Fortunately, for us, she
25 didn't ride a motorcycle. Fortunately, for us, she

1 was a bookworm. She sat on the couch and read books.
2 We have an actual fly on the wall in this residence
3 on Covenant Court, Deer Run Road, whatever it was
4 called, from June 1992, all the way to October 1992.

5 And what does she tell you? She tells you
6 nothing out of the ordinary occurred. Nothing. That
7 they would take trips together, that they would go
8 camping. That they continued to stay in contact with
9 one another after 1992 when they moved and there was
10 nothing of this sort. And you'll have a couple
11 pictures and you'll see these pictures and you'll see
12 the entire family in these pictures and it's one of
13 normalcy. If this were to have been occurring when
14 E.G. [REDACTED] was four and five years old at the
15 frequency that she suggests, it would have been
16 observed by Selena Brunson sitting on the couch,
17 reading a book.

18 You recall then after this period of time at
19 Deer Run, they moved to Seneca. And this is kind of
20 a minor point, you may or may not recall this, but
21 she testified that it was ongoing in Seneca and then
22 was corrected that her statement to law enforcement
23 was that she really had no recollection of anything
24 happening in Seneca. Further, they moved to 77
25 Ferguson into the mother-in-law suite, where they're

1 right next door to Lenore. And the houses connect.
2 And I believe that Lenore said that E.G. had run of
3 the house, that she would go back and forth. That
4 she looked at Lenore as a grandmother, that they did
5 horseback riding. They did swimming. They did all
6 kinds of activities and shopping. And nowhere did
7 this ever come up. She's a nurse. I suppose that
8 she would notice some change in behavior. Some --
9 just something, but nothing.

10 Then they moved to 79 Ferguson Road. And that's
11 where E.G. suggests that this became a lot
12 worse. And she described her experience of wishing
13 she was dead, wishing she would not wake up in the
14 morning, wishing she would die and get out of this.
15 And maybe if that were true, then, perhaps, she would
16 have welcomed law enforcement when they arrived in
17 January 2002. She would have welcomed being
18 interviewed by DSS in April 2002, then again, in June
19 of 2002. There were other periods of time before
20 that where she went off to live with her dad and was
21 away from Dwayne and away from the family and a
22 place -- not as safe with DSS, but in a place where
23 she could have described what was happening to her.

24 When you're deliberating, you have to think does
25 this make sense? Mr. Moyer is offering you his own

1 position on what makes sense and y'all can think of
2 any other number of ways of what makes sense or what
3 doesn't make sense. But if you are being tortured
4 and abused and you're out of that place, it's one
5 thing to report it to law enforcement. It's one
6 thing to call up and say I need to report this. It
7 quite another to want to go back. That's a very much
8 lower threshold to reach. To say I don't want to
9 report this because I'm afraid that I'm not going to
10 be able to leave. I'm afraid I'm going to break up
11 the family. What if you're already removed from that
12 location? It's just simply saying to somebody no, I
13 really want to go back there. I love them and I want
14 to go back.

15 And if you recall when Sherry and E.G. were
16 moving in October of 2001, Lenore described it quite
17 clearly that E.G. did not want to move. When she
18 talked to law enforcement in 2002, she said it didn't
19 happen and I want them to get back together. I mean,
20 those are the people that are going to keep you from
21 being tortured and victimized again and again and
22 again if it's happening. You don't necessarily have
23 to say yes, I want to go on the record and say this
24 is happening. But you could say, I don't want to go
25 back over there.

1 And I think the most compelling thing to me is
2 the forensic interview. And you may or may not know
3 much about what a forensic interview is, but a
4 forensic interview is one that's done to try to
5 determine whether or not there's any abuse. The
6 protocol is to interview the alleged victim alone,
7 with no one else in the room with them, and that they
8 do it over a substantial period of time. They can't
9 just bring a young child into a room and just ask the
10 ultimate question and expect to get the right answer.
11 They have to spend a tremendous amount of time
12 building rapport and trust and showing this
13 individual that they're in a safe place. And on top
14 of it, to make it even more safe, they videotape it.

15 Mr. Richter talks about audio taping, that's one
16 thing, but the DSS people videotape it. And you
17 heard E.G. [REDACTED] saying she looked right into the
18 video camera and told them they were stupid and this
19 just didn't happen. That's a critical piece of
20 information, critical piece of evidence for us and
21 for you to look at. But there's no video. That
22 would be something I would believe that you would
23 want to see to actually make a determination if this
24 is actually true or not.

25 Now, you have another person here C.R. [REDACTED]

1 [REDACTED] And she appeared having made a disclosure in
2 2017. And you have to determine for yourself if you
3 think it's relevant, if that should be a part of your
4 deliberations. The case today, the alleged victim is
5 not C.R. [REDACTED] It's E.G. [REDACTED] And on
6 the contributing charge, it's E.G. [REDACTED] and
7 Christopher, but it's not C.R. [REDACTED] So, you
8 have to determine if C.R. [REDACTED] testimony is
9 even relevant to your discussion before you choose to
10 evaluate it and use it in making your decision.

11 I will tell you this, that C.R. [REDACTED] story is
12 very similar to E.G. [REDACTED] to E.G. [REDACTED] And we do
13 know that Officer Richter interviewed E.G. [REDACTED] -- or
14 interviewed Christopher with E.G. [REDACTED] present and we
15 do know that he actively encouraged C.R. [REDACTED] sister
16 to communicate with E.G. [REDACTED] I've already talked about
17 that and I've already told you what I think about
18 that, but I want to remind you about statements made
19 by Mr. Richter to R.R. [REDACTED] to talk to E.G. [REDACTED]
20 [REDACTED]

21 And then sometime after we had the disclosure
22 from C.R. [REDACTED] But evaluating the disclosure from
23 C.R. [REDACTED] and comparing it to E.G. [REDACTED] -- as Mr. Moyer
24 said, the stories are pretty similar. Age, perhaps,
25 relationship in terms of step-dad to stepdaughter.

1 But if you look at the actual statements made by
2 C.R. [REDACTED] they're wildly different than the statements
3 made by E.G. [REDACTED] [REDACTED] talks about -- and I
4 apologize for having to use -- really apologize for
5 this, but as Mr. Moyer, the circumstances require it.

6 E.G. [REDACTED] documents through her testimony an
7 allegation of longstanding abuse through penile
8 penetration and oral sex. C.R. [REDACTED] testimony didn't
9 allege any of that. If you recall, I seem to recall
10 Mr. Moyer asking C.R. [REDACTED] Did he hurt you?

11 She said, Well, no, but he touched me.

12 When you look at the two, they're not much the
13 same. One would think that if someone were actually
14 doing this, if this was actually somebody's DNA, this
15 is what they're doing, is that they abuse young
16 people, they would do it the same way again and again
17 and again.

18 Mr. Moyer talks about the progression. With
19 E.G. [REDACTED] it started off with touching, but then it
20 progressed. Well, with C.R. [REDACTED] it never progressed.
21 According to C.R. [REDACTED] it never escalated. It never
22 became something similar to what E.G. [REDACTED] had
23 described. To the point that C.R. [REDACTED] said to
24 Mr. Moyer that he never physically hurt her.

25 There's some complexity with C.R. [REDACTED] living with

1 Lenore and living with someone that is not a
2 biological parent or biological grandparent and
3 having discipline. And the way I view this is the
4 reporting was probably for potentially something that
5 she wanted, which was to get away from Lenore's
6 discipline. And you heard them, they would scream at
7 one another. Not the best way to communicate with a
8 young person, but we all know that people who are 12
9 and 13 or 14 or 15 years old, C.R. is 15, is that
10 they're hormonal, going through puberty and very
11 impulsive. And do we really know that what she is
12 describing happened? Again, there is no other
13 evidence -- or excuse me, information. There's no
14 disclosure, no physical exam of any sort regarding
15 her saying this to law enforcement.

16 You've heard the description about Lenore. I
17 mean, I think you can -- she's just a wonderful lady.
18 She's worked very hard in her life. She's acquired a
19 nice piece of land, has horses and a swimming pool
20 and spends time with grandchildren and with
21 grandchildren that aren't her blood relatives that
22 she just chooses to take care of and soccer. She
23 distinguishes between no one in terms of spreading
24 some of her generosity. I mean, if I had to imagine
25 the person that I would think that someone would grow

1 close to and fond of to where a disclosure would
2 ultimately be made, I mean, she would be the picture
3 that I would imagine in my mind, the type of person.
4 On the long horseback rides or by the swimming pool
5 or wherever.

6 You heard that she had a tremendous amount of
7 personal contact with both of these people, with
8 E.G. and with C.R. Whether it was around the
9 house or certain activities, a very close
10 relationship. You heard Lenore testify that when
11 C.R. was moving -- or excuse me, E.G. was
12 moving with Sherry in October of 2001, that she was
13 clinging to Lenore crying not wanting to go and
14 wanting them to get back together. Does that make
15 sense? Again, it's one thing to disclose. It's one
16 thing to call law enforcement up and say, you know
17 what, I need tell you something. It's quite another
18 to say, you know what, I don't want to report
19 anything, but I just want to stay here. I like it
20 here too much, I want to stay here.

21 Then you have Diana, who spoke to you briefly.
22 She lived about a block away from them when they were
23 on Deer Run. Never did E.G. ever tell Diana
24 that this was going on. You heard her say she
25 wouldn't care if it was her brother, she wouldn't

1 care if it was the pope, she said if she heard
2 something like that was going on that she would not
3 have allowed it. Same with Debbie, same with Lenore,
4 that if someone had told them, they would have done
5 something. And if you recall, E.G. [REDACTED] claims to
6 have told Diana, at least, one time, maybe other
7 times that this was happening. Do you think that
8 Diana would hear this from a five year old, that this
9 was actually happening, do you think that Diana would
10 listen to this and just somehow dismiss it, and say,
11 well, we're just going to ignore this? I don't think
12 so.

13 It's my view that The State has not proven this
14 case beyond a reasonable doubt. It's my view that
15 the only evidence you have is coming from three
16 people. And I can't explain why. If you believe
17 what they tell you, that there was a tremendous
18 amount of drug use and activity in this household,
19 the only thing I can think of regarding this alleged
20 peephole incident that I've already talked about is
21 settling some sort of dispute, some sort of drug
22 dispute.

23 We talked about that from the beginning as far
24 as the courtroom is where -- you know, we don't
25 settle our scores in the street, we settle them here

1 in the courtroom. But we all know law enforcement
2 can be manipulated just like anybody else can. And
3 the truth of the matter is, there could have been any
4 kind of dispute between those boys and Dwayne. That
5 story that came out in 2002 that was reported to law
6 enforcement could have come from any number of
7 arguments or disagreements they may have had or
8 anything, whether it's drugs or whatever.

9 Now, the Judge is going to talk to you about the
10 law and instruct you about what reasonable doubt is.
11 And I'm going to give you what I think he's going to
12 say, but if Judge Stilwell says something different,
13 then go with what Judge Stilwell says. But I think
14 what the Judge is going to say with regard to
15 reasonable doubt is it would cause a reasonable
16 person to hesitate to act. So, after you have
17 deliberated and thought about this case and thought
18 about the evidence or lack of evidence that you have,
19 and you're handed a pen to sign your name on to the
20 indictment and say guilty and you hesitate before
21 signing your name, then you can't do it. If you have
22 a hesitation, then it's not guilty. And it's my
23 belief that there is plenty here to cause you to
24 hesitate. Therefore, what I'm asking for is for a
25 fair deliberation, let everyone have their opinions

1 heard and I'm confident that the group of you will
2 come back with a verdict of not guilty. Thank you.

3 THE COURT: Mr. Moyer, would you like respond,
4 sir?

5 MR. MOYER: Thank you, Your Honor, just briefly.

6 THE COURT: Yes, sir.

7 CLOSING STATEMENT

8 MR. MOYER: Just a few final remarks, ladies and
9 gentlemen, before you go back to deliberate. I asked
10 you at the beginning of this case when I did my
11 opening to do three things. I asked you to listen
12 closely and pay close attention to all the evidence
13 that you receive, all the witnesses that you hear,
14 all the testimony that you get. I have every reason
15 to believe you did that. Just looking at you
16 throughout the trial, you all appeared to be paying
17 very close attention. We appreciate that.

18 The second thing I asked you to do was to use
19 your common sense and your good judgment to weigh the
20 evidence. I feel quite certain you were doing that
21 throughout the testimony of yesterday and this
22 morning as well. And what I want to ask you now is
23 to continue to do that. I want to ask you that when
24 you go back in that jury room and as you start going
25 back over the evidence in this case is to use your

1 common sense about what happened in several respects.
2 I'm going to only mention a couple now in response to
3 what the Defense just said.

4 The Defense makes comments -- he talked about
5 his witnesses that testified this morning. The four
6 people who love the Defendant and come in here to
7 testify. And he said that each one of those people
8 would have reported this had either EG or CR
9 told them about it. Well, I don't know if they would
10 have or not. I don't think that's really relevant.
11 But the matter is that's the reason EG and CR
12 did not tell them because that's exactly what they
13 did not want to happen. They did not want this to
14 get out. And I won't go back through all the
15 arguments and reasoning that I gave you when I spoke
16 just a few minutes ago, but that's exactly what they
17 didn't want to happen. They did not want this to
18 come out.

19 You're also going to have to use your common
20 sense and good judgment to weigh the credibility of
21 witnesses. And there's several ways to do this. And
22 His Honor is going to have an instruction about this.
23 One of the ways to look at it is who has an interest
24 in the outcome of this case? Or what kind of
25 interest do the witnesses have in the outcome of this

1 case? What does EG have? EG isn't going to get a
2 prize if you come back with a guilty verdict. She's
3 not going to get money. She's not going to get
4 anything. The only thing she would get out of this
5 case is peace of mind knowing that justice has been
6 done.

7 What about C.R. You heard her testify
8 yesterday. You heard the conflicting feelings that
9 she had. She said she didn't even want to be here.
10 She said she loves the Defendant. In a way, it is
11 possible that she would -- that the outcome of this
12 case for her life might be better if you didn't
13 convict, which is not what we're asking of you. She
14 didn't come in here and try to get you to convict the
15 Defendant. She came in here to tell you what
16 happened, to tell you the truth.

17 Another thing to consider when you use your
18 common sense to weigh the credibility of witnesses is
19 what possible reason could they have for making this
20 up? Because be very clear, this isn't a situation
21 where they could be mistaken. This isn't like an
22 armed robbery where there's an identification issue,
23 where the witnesses are coming in and you're having
24 to decide whether or not -- well, maybe they were
25 wrong. Maybe they didn't quite identify the

1 Defendant exactly. No. If you find the Defendant is
2 not guilty, you're going to have to believe that they
3 lied, that they came in here and lied.

4 And why? What possible reason could they have
5 for that? E.G. [REDACTED] told you that she loved the
6 Defendant. She loved him. We've heard -- none of
7 the other witnesses we put up said anything other
8 than that. There's never been any big dispute.
9 There's never been any big argument. Why would she
10 possibly lie? What about C.R. [REDACTED] She said the same
11 thing. Not only did she love him, but she said she
12 still loves him.

13 So, why would you lie? Why would somebody want
14 to be stigmatized forever in open court in an open
15 record as a victim of rape? Why would you want that
16 to come out? Why would you say that? Who wants to
17 have to go through this ordeal? Go to the police,
18 talk to DSS, talk to investigators, talk to
19 prosecutors, then have to sit up here and be
20 cross-examined in front of an open court. Who would
21 want to go through all of that to be dragged through
22 the mud? And for what? For what? What possible
23 benefit could they receive for doing that?

24 Now, ladies and gentlemen, the third thing I
25 asked you to do was at the end of this case, do

1 justice. Ladies and gentlemen, justice requires that
2 people who commit crimes like these be held
3 responsible for what they did. This Defendant robbed
4 two human beings of their childhood. As I stated
5 earlier, this is not the kind of crime that's done
6 and over with, but it's also going to effect them for
7 the rest of their lives, for the rest of their lives.

8 I'm asking you, ladies and gentlemen, to find
9 this Defendant guilty because that would be justice.
10 Not just to them, but to the State. Thank you.

11 JURY CHARGE

12 THE COURT: All right, ladies and gentlemen, I'm
13 about to give you the closing charge on the law.
14 It's going to take about 15 to 20 minutes. Does
15 anybody need a break before I get started? Everybody
16 good?

17 Okay, when we started this trial, ladies and
18 gentlemen, I told you you had a certain role and
19 function to perform and that I had a certain role and
20 function to perform. Your role, of course, is to be
21 the finders of the fact. Mine is to be the judge of
22 the law. When you took your oath, you swore that you
23 would follow the evidence and the law as I gave it to
24 you. So, keep in mind as I charge you on the law,
25 understand that if you come into this courtroom with

1 any prior notion, any prior disposition, or any prior
2 opinion about what the law is or about what the law
3 should be, under your oath, you must disregard that
4 and accept the law as give it to you.

5 Now, ladies and gentlemen, as I've indicated to
6 you, you are the finders of the facts and you'll
7 determine whether the State has met its burden of
8 proof. I told you when we started, the Defendant is
9 presumed innocent. And he retains that presumption
10 of innocence right now as we sit here right now.
11 Twelve deliberating jurors will determine whether, in
12 fact, The State has met its burden of proof of
13 proving each and every element of the offense beyond
14 a reasonable doubt.

15 Now, ladies and gentlemen, when you are
16 considering that, understand you've got four separate
17 and distinct indictments. And when you go to your
18 jury room, I'm going to give you four separate and
19 distinct verdict forms. Now, it's important that you
20 know that you must consider each and every indictment
21 and each and every charge independently of the other.
22 You must apply the burden of proof and you must apply
23 the facts as you determine them to be to the evidence
24 and determine whether The State has met its burden of
25 proof on each and every separate indictment. As you

1 know, your separate indictments are criminal sexual
2 conduct with a minor first, criminal sexual conduct
3 with a minor second, contributing to the delinquency
4 of a minor and lewd act upon a child.

5 Now, ladies and gentlemen, again, when you go
6 into your jury room and you deliberate, if you find
7 that The State has met its burden of proof with
8 respect to one of the indictments, that doesn't
9 necessarily mean that you have to find -- that they
10 have met their burden of proof with respect to the
11 remainder of the indictments. You don't have to be
12 monolithic in your decision, meaning you can find
13 that The State has met its burden of proof on one,
14 two, three or four. And you may, likewise, find that
15 on the remaining charges that they have -- they have
16 failed to meet their burden of proof. It's entirely
17 up to you. Consider them separately and
18 independently.

19 Now, ladies and gentlemen, in this case, again,
20 the burden of proof is beyond a reasonable doubt.
21 Now, you've probably heard that burden of proof
22 about -- you may have heard also in either watching
23 TV or in your personal experiences other burdens of
24 proof. In civil court, usually, the burden of proof
25 is by a preponderance of the evidence, which means

1 more likely than not, greater than 50 percent. In
2 some civil proceedings, you have what's called clear
3 and convincing evidence, which sometimes you have it
4 in a fraud cause. You have if someone is requesting
5 punitive damages. And that's a higher burden of
6 proof than by a preponderance of the evidence. But
7 in criminal court, the burden of proof is beyond a
8 reasonable doubt.

9 Now, there are several ways that you could
10 possibly define proof beyond a reasonable doubt.
11 Some people may define it as that proof which would
12 cause a reasonable person to hesitate to act. Also,
13 you can define proof beyond a reasonable doubt as
14 proof that leaves you firmly convinced of the
15 Defendant's guilt.

16 Now, understand that there's nothing on earth
17 that you can know with absolute certainty. And the
18 law doesn't require that The State meet its burden or
19 prove its case beyond any possible doubt. However,
20 after your review and analysis of the evidence, if
21 you are firmly convinced of the Defendant's guilt,
22 then under your oath, you find him guilty. However,
23 if after your review of the evidence, you feel that
24 there is a real possibility that the Defendant is not
25 guilty, then you would under your oath find the

1 Defendant not guilty.

2 Now, you determine whether that burden has been
3 met by, again, reviewing and weighing the evidence.
4 And in doing so, you're going to look at the
5 witnesses and determine who's credible and who is to
6 be believed. Now, ladies and gentlemen, you make
7 those decisions about credibility based on your own
8 common sense, your life experiences. You base
9 whether you believe someone on what you saw them say,
10 what you heard them say. That is, what did they have
11 to say? How did they say it? How did they express
12 themselves? Did they have any facial expressions?
13 Did they have any body language? Also, you would
14 look and decide did they have something to gain or
15 something to lose as a consequence of their
16 testimony? You'll look at all of that and you'll
17 determine whether to believe someone or whether not
18 to believe someone. That's in your sole and
19 exclusive determination. You decide who to believe
20 and who not to believe. You decide whether you
21 believe part of a witness' testimony and discard the
22 rest. You decide whether it's all valuable or none
23 of it's valuable. You'll decide. And in doing so,
24 you'll decide what the facts are in this case.

25 Now, ladies and gentlemen, in any case that

1 comes before the Court, in any case, in a civil
2 trial, in a criminal trial, evidence is going to take
3 one of two forms. It's either going to be direct
4 evidence or it's going to be circumstantial evidence.
5 Now, direct evidence is evidence which immediately
6 establishes the fact to be proven. Circumstantial
7 evidence is proof of collateral facts or a chain of
8 facts that when taken together prove the main fact to
9 be proven. Now, that's a simple definition. But
10 really, out of context, it may not make -- it may not
11 really resonate with you. So I'm going to give you
12 an example, which, hopefully, will help you
13 understand the distinction.

14 Let's say that on a January morning, you are
15 going to sleep and you walk past your front door or
16 front window and you look out in your front yard and
17 there's no perception on the ground. You go to
18 sleep. You come back that next morning and you look
19 on the ground and there's a blanket of snow. You
20 also see in that blanket of snow footsteps which lead
21 to your door and then lead away. So, under that set
22 of circumstances, you've got direct evidence that it
23 snowed last night because the snow is readily
24 apparent. You can touch it, you can feel it, it's
25 there. You have circumstantial evidence, however,

1 that somebody, either that night or early that
2 morning, came to your door and walked away. You
3 don't see that person, you can't talk to that person,
4 you can't touch that person, but you know as a
5 consequence of the timing of the snowfall and the
6 existence of the footprints in the snow that someone
7 must have come to your door and walked away.

8 Now, ladies and gentlemen, the law does not
9 prefer direct evidence over circumstantial evidence
10 or circumstantial evidence over direct evidence. You
11 decide what has weight and what has value, regardless
12 of whether it's characterized as direct or
13 circumstantial evidence. Do understand, ladies and
14 gentlemen, that if The State relies upon
15 circumstantial evidence, then all of that evidence
16 when taken together must point exclusively to the
17 guilt of the accused beyond a reasonable doubt and
18 must not merely create a suspicion.

19 Ladies and gentlemen, in this case, as you know,
20 as you've sat through the case, you know that there
21 has been some evidence presented of a prior bad act
22 or a prior occurrence. The case that we have before
23 the Court now alleges acts against a particular
24 victim. Now, there was another young lady who came
25 in and testified that there were bad acts that had

1 been committed. Well, those bad acts, you're not
2 here to adjudicate guilt or not guilty for those bad
3 acts.

4 Ladies and gentlemen, if this testimony, if you
5 conclude it's true, the testimony as to other bad
6 acts, not the subject of this proceeding, you can
7 consider that testimony and that evidence only on the
8 question of whether there was a common scheme or plan
9 and for no other reason and for no other purpose.
10 You give this evidence what weight, if any, that you
11 think it should have on the sole issue of whether
12 there was a common scheme or plan. You must not
13 consider the evidence or the commission of this other
14 act as proof of the Defendant's guilt for the charge
15 that we're trying today.

16 All right. Now, I'm going to read a little bit
17 to you. I apologize. I don't like to read to you,
18 but I need to get the definitions for the specific
19 crimes precisely right. So, I'm going to read to you
20 the definitions for the crimes that are before the
21 Court so that I'll get them precisely right. As you
22 know, ladies and gentlemen, the first crime the
23 Defendant is charged with first degree criminal
24 sexual conduct with a minor. The State must prove
25 beyond a reasonable doubt that the Defendant engaged

1 in a sexual battery with the victim. A sexual
2 battery is sexual intercourse, fellatio, anal
3 intercourse or any intrusion, however slight, of any
4 person's body or of any object into the genital or
5 anal openings of another person's body.

6 The State must then prove beyond a reasonable
7 doubt that the victim was less than 11 years old at
8 the time of the sexual battery. Consent,
9 willingness, indifference, or ignorance on the part
10 of a minor, if any, as to what was taking place does
11 not in any way affect the charge of criminal sexual
12 conduct of a minor because an unmarried woman under
13 the age of 14 cannot legally consent to sexual
14 intercourse.

15 Ladies and gentlemen, the next count that is
16 before you is second degree criminal sexual conduct
17 with a minor. The State must prove beyond a
18 reasonable doubt that the Defendant engaged in a
19 sexually battery with the victim. A sexual battery,
20 again, intercourse, cunnilingus, fellatio, anal
21 intercourse or any intrusion, however slight, of any
22 part of person's body or an object into the genital
23 or anal openings of another person's body.

24 The State must then prove beyond a reasonable
25 doubt that the victim was, at least, 11 years old,

1 but not more than 14 years old at the time of the
2 sexual battery, that is between 11 and 14, or that
3 the victim was less than 16 years old, but, at least,
4 14 years old and that the Defendant was either in a
5 position of familial, custodial or official authority
6 to coerce the victim to submit or that the Defendant
7 was older than the victim. Again, consent,
8 willingness, indifference or ignorance on the part of
9 the minor as to what was taking place does not effect
10 the charge because the minor cannot consent.

11 Third charge, ladies and gentlemen, is
12 contributing to the delinquency of a minor. A minor
13 is a person who is less than 18 years old. The State
14 must first prove beyond a reasonable doubt that the
15 Defendant was over 18 years of age. The State must
16 then prove beyond a reasonable doubt that the
17 Defendant knowingly and willfully encouraged, aided
18 or caused a minor to do any act which caused or
19 influenced the minor to -- and we'll go through a
20 list. One, violate the law or any municipal
21 ordinances; or to engage in any occupation, which is
22 in violation of the law; or to associate with moral
23 or vicious persons; or to frequent any place the
24 existence of which is the violation of the law; or to
25 behave in any way which would willfully injure or

1 endanger the minor's morals or the health or the
2 morals or the health of others.

3 Ladies and gentlemen, the last count which you
4 will consider is lewd act on a minor. Ladies and
5 gentlemen, a minor, again, is a person under the age
6 of 18. The State must prove beyond a reasonable
7 doubt that the Defendant was over the age of 14.
8 Next, The State must prove that the Defendant
9 willfully and lewdly committed or attempted a lewd or
10 lascivious act on or with the body or its parts of a
11 child under the age of 16 years with the intent to
12 arouse, appeal to or gratify the lust, passion or
13 sexual desires of the Defendant or the child.
14 Willfully means voluntarily and intentionally with
15 the specific intent to do something the law forbids.
16 Lascivious means intending to incite the lust, lewd,
17 indecent, obscene or tending to deprave the morals in
18 respect to sexual relation.

19 All right, ladies and gentlemen, I'm not going
20 to read to you anymore. I'm going to send back into
21 your jury room these four verdict forms. I'm also
22 going to send back to you all the evidence that has
23 been presented in this case. I'm going to go over
24 one of the verdict forms with you just so you know
25 what you're looking at when you get back there. I'm

1 not going to go over all of them because they're all
2 pretty consistent. But just for example, the one I'm
3 showing you now is the verdict form on criminal
4 sexual conduct with a minor first degree. You see it
5 has the caption, it's got the charge, it's got the
6 indictment number. Then it begins, We, the jury, by
7 unanimous agreement find the Defendant. Now, that's
8 important for you because understand that your
9 verdict in this case must be unanimous. You must all
10 agree on the verdict. It can't be 11 to one or 10 to
11 two, it must be a unanimous verdict.

12 Also, ladies and gentlemen, understand your
13 verdict, again, must be based on the law and the
14 evidence that was presented at trial. It can't be
15 based on passion, prejudice. It can't be based on
16 sympathy. It can't be based on emotion. It must be
17 based reasonably on the law and the evidence that has
18 been presented in this case.

19 So, ladies and gentlemen, after that, you'll see
20 you've got two options, not guilty and guilty. Now,
21 look, I prepared these. I don't put your options in
22 any particular order. I've got two options for you.
23 And I can't -- I -- one has to go before the other.
24 But I don't want you to think that I'm sending you
25 any signals by what order I put it in, it's just an

1 order. Okay. And you'll decide, you'll decide,
2 first of all, whether The State has met its burden of
3 proof. So, when you go through your deliberations on
4 each and every distinct indictment, you'll decide has
5 The State met its burden of proof?

6 If you determine that The State has not proven
7 each and every element of the prescribed offense
8 beyond a reasonable doubt, then, Mr. Gourley, you
9 check or initial not guilty. Then you would sign as
10 foreperson of the jury indicating that that's the
11 jury's unanimous decision. If on the other hand, you
12 decide that The State has met its burden of proving
13 each and every element of the offense beyond a
14 reasonable doubt, then, Mr. Gourley, you would either
15 check or you would initial guilty and sign as
16 foreperson of the jury.

17 Now, after you've gone through each and every
18 indictment and each every verdict form, you come to a
19 unanimous decision on each, then you indicate to
20 the -- to Ms. Fryer, the bailiff, that you have
21 reached a unanimous decision and we'll come out and
22 we'll receive the verdict.

23 Now, ladies and gentlemen, I'm about to give you
24 the case to begin your deliberation, but I don't want
25 you to do it quite yet. Because this is the

1 opportunity for the attorneys to correct me. If I
2 made a misstatement of the law or if I failed to
3 include something that's appropriate and relevant,
4 they're going to correct me and tell me. If I have,
5 I'm going to bring you back out. If I don't bring
6 you back out, what I'm going to do is I'm going to go
7 ahead and send these verdict forms back to you. When
8 you get these verdict forms from the bailiff and her
9 indication of you can begin your deliberations, then
10 you'll know you can begin your deliberations. Not
11 long thereafter, after the attorneys have an
12 opportunity to do an inventory of all the exhibits
13 and make sure everything is there, then I'll send
14 those back to you as well.

15 Okay. So, please return to your jury room.
16 Don't begin your deliberations quite yet.

17 (WHEREUPON, the jury left open court at
18 approximately 1:00 p.m.)

19 THE COURT: All right, exceptions to the charge?

20 MR. MOYER: No, Your Honor.

21 MR. KAPPEL: None, Your Honor.

22 THE COURT: Okay. All right, gentlemen, thank
23 you, appreciate it. You tried an excellent case.

24 I want to thank everybody in the courtroom as
25 well. Everybody has been very civil and treated

1 everyone civilly and professionally and I thank you
2 for it.

3 We will be in recess until we get a decision
4 from the jury. I want y'all to do your inventory of
5 the exhibits. There may not be many. After you're
6 satisfied, give them to the bailiff and tell them to
7 take them back. In the meantime, I'm going to
8 dismiss the alternate from chambers.

9 (WHEREUPON, deliberations began at approximately
10 1:01 p.m.)

11 (WHEREUPON, court was in recess awaiting a
12 verdict.)

13 THE COURT: I've got a note they want to hear
14 the audio. So, you want queue it up and we'll play
15 it.

16 (WHEREUPON, Court's Exhibit No. 2 was marked for
17 identification only.)

18 MR. MOYER: We don't have the audio. The actual
19 disk is back with them.

20 THE COURT: Oh, yeah. And, also, bring the --
21 well, we'll get it at the end, the note they brought
22 out the previous time, okay.

23 (WHEREUPON, the jury came into open court at
24 approximately 2:46 p.m.)

25 THE COURT: All right, ladies and gentlemen,

1 we're going to queue it up. We're going to play the
2 portion that we played. Usually, what I do is I send
3 a computer back where y'all can just listen to it.
4 The problem is there were portions of that that I
5 ruled should be redacted because they weren't
6 relevant to the case. So, of an audio tape that I
7 think is over an hour, you heard I think like 13
8 minutes of it. So, in order for us to just play that
9 unredacted portion, that's why we're bringing you
10 back in the courtroom, okay.

11 (WHEREUPON, State's Exhibit No. 1 was played for
12 the jury.)

13 THE COURT: All right, is that it? All right,
14 ladies and gentlemen, thank you. You can return to
15 your jury room.

16 (WHEREUPON, the jury left open court at
17 approximately 3:00 p.m.)

18 THE COURT: Okay, we'll be in recess until we
19 hear further. Thank you.

20 (WHEREUPON, deliberations continued.)

21 (WHEREUPON, court was in recess awaiting a
22 verdict.)

23 (WHEREUPON, Court's Exhibit No. 4 was marked for
24 identification only.)

25 THE COURT: Okay, I received a note from the

1 jury, which says, Unable to come to an agreement on
2 first degree. We do agree on the other three
3 charges. Signed by Mr. Gourley, the foreperson of
4 the jury.

5 So, I'm going to bring them out and I'm going to
6 give them an Allen charge. So, if you would, please
7 bring the jury out.

8 (WHEREUPON, the jury came into open court at
9 approximately 5:10 p.m.)

10 THE COURT: All right, ladies and gentlemen, I
11 received your note. And I recognize that on one of
12 the charges, y'all are hung. That is, you can't come
13 to a unanimous resolution. I appreciate that. I
14 know that it's very difficult for 12 people who have
15 never met one another to come together in an
16 agreement. It's hard enough for two people to agree
17 on any given thing. My wife and I will probably
18 argue about what we're going to eat for supper
19 tonight. But understand that this case, of course,
20 is important. It's important because the resources
21 of both The State, the resources of the county and
22 the resources of the Defendant have been brought to
23 bear for the last several days to have some
24 resolution to this case. If y'all are unable to come
25 to a resolution in this case, understand that the

1 same people, the same witnesses, the same parties
2 will simply have to come back to court and retry this
3 case in its entirety.

4 Now, I would submit to you that there are no
5 other 12 people in the County of Greenville who are
6 any more capable or competent of coming to a decision
7 than the 12 of you. If we have another trial,
8 they'll have the same information, they'll go through
9 the same witnesses and they'll have the same
10 evidence. So again, there are no 12 other people who
11 are any more competent or capable than the 12 of you
12 are. So, I'd like you to continue to deliberate and
13 see if you can come to a unanimous decision.

14 Now, in doing that, those people in the minority
15 should consider the views of those in the majority.
16 Those in the majority should consider the views of
17 those in the minority. I'm not asking any of you to
18 give up or compromise any of your closely-held
19 beliefs or convictions. I'm just asking for you to
20 go back and reconsider it so that we don't have to
21 try this case again.

22 Now, ladies and gentlemen, I'm not telling you
23 to go back into that jury room and suggesting that
24 I'm going to keep you there all night until you come
25 to a decision. I want you to go back and try. But I

1 do want you -- if you get to a point where your
2 continued deliberations are just not productive and
3 you're not getting anywhere and you don't see any
4 possibility that you're going to get anywhere, I
5 rather you tell me sooner as opposed to later, okay.
6 Because I don't want to be here at midnight just for
7 y'all to give me another note that says we can't come
8 to a decision. I'm not telling you to give up. What
9 I'm telling you is I want y'all to make a collective
10 decision as to whether your continued deliberations
11 are productive or nonproductive, okay.

12 So, with that, I'm going to ask you to return to
13 your jury room. Now, if y'all do decide that you're
14 going to be here for some additional period of time,
15 then I can order supper for you, okay. And if you
16 want me to order supper for you because you think
17 you're continuing with productive deliberations, tell
18 me so I can go ahead and get it ordered, okay. All
19 right, thank you very much.

20 (WHEREUPON, the jury left open court at
21 approximately 5:15 p.m. and continued
22 deliberations.)

23 THE COURT: All right. We'll be in recess until
24 we hear further from the jury.

25 MR. KAPPEL: Judge, is there a standard Allen

1 charge? Did you read that Allen charge or is that
2 just --

3 THE COURT: I didn't read that Allen charge,
4 but, substantively, it's the same thing on the bench
5 book with the South Carolina Judicial Department.

6 MR. KAPPEL: It is possible that I could see a
7 copy of the bench book?

8 THE COURT: Yeah. Y'all want to come on back
9 and I'll show it to you.

10 (WHEREUPON, court was in recess awaiting a
11 verdict.)

12 THE COURT: All right, counsel, it's my
13 understanding that the jury has reached a verdict.

14 Is the State prepared to receive a verdict?

15 MR. MOYER: Yes, Your Honor.

16 THE COURT: Is the Defense prepared to receive a
17 verdict?

18 MR. KAPPEL: We are, Your Honor.

19 THE COURT: Bring them in, please.

20 (WHEREUPON, the jury came into open court at
21 approximately 5:45 p.m.)

22 THE COURT: All right, Mr. Gourley, has the jury
23 reach a unanimous verdict, sir?

24 MR. FOREPERSON: We have.

25 THE COURT: Will you pass the verdict forms to

1 the bailiff, please, sir?

2 Ms. Troupe, you may publish the verdict, ma'am.

3 VERDICT

4 THE CLERK: Your Honor, in the case of
5 2014-GS-23-11873, criminal sexual conduct with a
6 minor in the first degree, the State of South
7 Carolina vs. Dwayne C. Tallent, we, the jury, by
8 unanimous agreement find the Defendant guilty. In
9 the case of contributing to the delinquency of a
10 minor, 2014-GS-23-11874, we, the jury, by unanimous
11 agreement find the Defendant guilty. Lewd act upon a
12 child, 2014-GS-23-11875, we, the jury, by unanimous
13 agreement find the Defendant guilty. In the case of
14 criminal sexual conduct with a minor second degree,
15 2014-GS-23-11877, we, the jury, by unanimous
16 agreement find the Defendant guilty. These are
17 signed by Mr. Gourley, our foreperson.

18 Ladies and gentlemen, if you agree these are the
19 verdicts you reached in your deliberation room, would
20 you please raise your right hand.

21 (WHEREUPON, all members of the jury panel raised
22 their right hand.)

23 THE CLERK: Thank you.

24 THE COURT: All right. Anything further for
25 this jury from the State?

1 MR. MOYER: No, Your Honor.

2 THE COURT: Anything from the Defense?

3 MR. KAPPEL: Nothing, Your Honor.

4 THE COURT: All right, ladies and gentlemen,
5 thank you. I appreciate that. Y'all can return to
6 your jury room and collect all of your things. I'm
7 going to come back there and just dismiss you less
8 formally. I won't take up any additional amount of
9 your time, but I'll give you the opportunity to ask
10 me any questions that you may have about the case,
11 about jury duty and give you the opportunity to make
12 any comments that you would like to make, too. So,
13 I'll be back in just a few seconds, okay. Thank you
14 very much.

15 (WHEREUPON, the jury left open court at
16 approximately 5:49 p.m. and was excused from
17 jury service.)

18 THE COURT: All right, counsel, I'm going to go
19 dismiss the jury informally. When I come back in,
20 we'll proceed to any post-trial motions and to
21 sentencing. All right. Thank you.

22 (WHEREUPON, Court's Exhibit No. 5 was marked for
23 identification only.)

24 (WHEREUPON, a short break was taken.)

25 SENTENCING

1 THE COURT: All right, keep your seats.

2 All right, any post-trial motions from the State
3 or the Defense?

4 MR. MOYER: Not from the State.

5 MR. KAPPEL: Judge, just renew all the motions
6 that we filed and now move for a new trial based on
7 the evidence in the light most favorable to The State
8 doesn't support a conviction.

9 THE COURT: All right. And I'll respectfully
10 deny your motions on that. I feel that there was
11 evidence in the record upon which a jury could find
12 that The State has met its burden of proof. And I'll
13 not exercise the Court's privilege as the 13th juror.
14 I don't think it's appropriate in this case.

15 All right, sir. Any other motions?

16 MR. KAPPEL: No.

17 THE COURT: Okay, y'all come forward for
18 sentencing, please.

19 All right, Mr. Moyer, certainly, I've heard the
20 facts in this case. Is there anything additional
21 that The State needs to put on the record concerning
22 sentencing?

23 MR. MOYER: Yes, Your Honor. I just would like
24 to make the Court aware of his criminal history.

25 THE COURT: Yes, sir.

1 MR. MOYER: He has a conviction for attempting
2 to possess crack cocaine in 1998. He has a domestic
3 violence in 2006. And he has manufacturing
4 methamphetamine conviction in 2013. I don't believe
5 the victim wishes to address the Court. She did want
6 me to just mention how grateful she is to the jury
7 for its verdict in this case. And I know she's very
8 grateful that this long ordeal is now over.

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

10 Mr. Kappel.

11 MR. KAPPEL: Judge, I'm not quite sure there's a
12 whole lot for me to tell you at this point after
13 having a trial. You've kind of met a good number of
14 his family members. His mother, Lenore, is just a
15 super terrific person. He comes from a real good
16 family. He's got a prior record, of course, that you
17 just heard. Some charges in there significant. The
18 manufacturing methamphetamine I think is somewhat
19 significant. However, I would ask the Court to
20 consider issuing the lowest sentence the Court sees
21 fit.

22 I know you're very well familiar with the facts
23 or, at least, as they've been outlined in this court.
24 I really don't have a whole lot of mitigation to try
25 to explain or otherwise. All I can do is just put my

1 client in front of you and receive sentence.

2 He's 47 years old. He's been employed in a
3 variety of things. He had a tree trimming business
4 for a long time. He worked for a water tech company.
5 And his most recent occupation was remodeling and
6 repairing homes. Every time I tried to talk to him
7 or meet with him, he was always very dirty and had,
8 obviously, been working very hard every time I met
9 with him. So, I think he has a very good work ethic
10 and I think that was kind of born out in the
11 testimony of the trial, that he was putting food on
12 the table and working or what have you.

13 But as far as the convictions and what the
14 sentence is he's facing, obviously, he's facing a
15 maximum of 68 years. I would certainly wish and hope
16 the Court would sentence something substantially less
17 than that. At 47 years old and having to serve
18 85 percent of whatever the sentence is under the CSC
19 first charge will be a substantial time for him. And
20 he will be, you know, somewhat of an elderly fellow
21 before he's eligible for release. I'd ask the Court
22 to take that into consideration.

23 THE COURT: Okay, thank you.

24 Mr. Tallent, anything you'd like to tell me,
25 sir?

1 MR. TALLENT: No, sir.

2 MR. MOYER: Your Honor, I do have his -- the
3 number of days he's been in jail for the Court.

4 THE COURT: Okay.

5 MR. MOYER: It's a total of 103 days. He spent
6 27 days initially, got out on bond. And then when
7 the new charges came about, he was reincarcerated
8 both on the new charges and on a bench warrant for
9 the old charges. I don't know if he's eligible for
10 those 76 days or not. But it was 27 days initially,
11 then 76 on the bench warrant for these charge.

12 THE COURT: Total of?

13 MR. MOYER: Total of 103 days.

14 THE COURT: So 103, okay.

15 Mr. Kappel, does that sound like an accurate day
16 count?

17 MR. TALLENT: Yes, sir, it sure does.

18 THE COURT: Okay. Okay.

19 Mr. Tallent, there's nothing that I can say that
20 is any louder or more profound than the jury's
21 verdict, so I'll not attempt to. I'll simply issue a
22 sentence in this matter. On your contributing to the
23 delinquency of a minor, the sentence of the Court is
24 you be committed to the Department of Corrections for
25 a period of three years, concurrent, credit from time

1 served, 103 days. Lewd act on a minor, the sentence
2 of the Court is you be committed to the Department of
3 Corrections for a period of 15 years, concurrent,
4 credit for time served, 103 days. On the criminal
5 sexual conduct with a minor second degree, 20 years,
6 concurrent, credit for time served, 103 days. And on
7 the criminal sexual conduct with minor first degree,
8 that's 30 years in the Department of Corrections,
9 concurrent, credit for time served. I wish you luck,
10 sir.

11 All right, thank you. I appreciate it. Thank
12 y'all, have a great weekend.

13 (WHEREUPON, the proceedings were concluded.)
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APRIL P. HERRON, Court Reporter

WITNESSES

W W Richter

Greenville County Sheriffs Office

10/30/2014

ARREST WARRANT NUMBER
2014A2330208081

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date.AMENDED INDICTMENT
DOCKET NO. 2014-GS-23-011873
LMMThe State of South Carolina
County of Greenville

COURT OF GENERAL SESSIONS

December TERM 2016

THE STATE

vs.

DWAYNE C. TALLENT

Amended Indictment for
0385CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE

VIOLATION § 16-03-0655(A)(1)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

AMENDED INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE

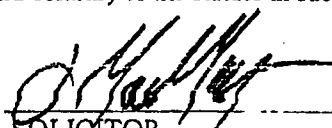
At a Court of General Sessions, convened on
County present upon their oath.

DEC 13 2016

the Grand Jurors of Greenville

That DWAYNE C. TALLENT did in Greenville County, between September 8, 1991 and September 7, 1998, commit a sexual battery on E. F. G., 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 # 64155

WITNESSES

W W Richter

Greenville County Sheriffs Office

10/30/2014

ARREST WARRANT NUMBER
2014A2330208082

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date.AMENDED INDICTMENT
DOCKET NO. 2014-GS-23-011874
LMM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS
December TERM 2016

THE STATE

vs.

DWAYNE C. TALLENT

Amended Indictment for
0048CONTRIBUTING TO THE DELINQUENCY OF A
MINOR

VIOLATION § 16-17-0490

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

AMENDED INDICTMENT FOR
CONTRIBUTING TO THE DELINQUENCY OF A MINOR

At a Court of General Sessions, convened on DEC 13 2016 the Grand Jurors of Greenville County present upon their oath:

That DWAYNE C. TALLENT did in Greenville County, between September 8, 1991 and September 8, 2002, knowingly and willfully encourage, aid, or cause E. F. G. and/or C. L. G., minors, to violate a law or municipal ordinance, to engage in an occupation that is in violation of law, to associate with immoral or vicious persons, to frequent a place the existence of which is in violation of law, and/or to deport themselves so as to willfully injure or endanger their morals or health. This is in violation of §16-17-0490 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 # 64155

WITNESSES

W W Richter

Greenville County Sheriffs Office

10/30/2014

ARREST WARRANT NUMBER
2014A2330208083

ACTION OF GRAND JURY

FRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date.AMENDED INDICTMENT
DOCKET NO. 2014-GS-23-011875
LMM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

December TERM 2016

THE STATE

vs.

DWAYNE C. TALLENT

Amended Indictment for
2468

LEWD ACT UPON A CHILD

VIOLATION § 16-15-0140

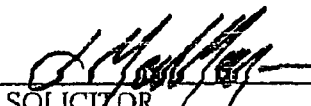
STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

AMENDED INDICTMENT FOR
LEWD ACT UPON A CHILD

At a Court of General Sessions, convened on DEC 13 2016 the Grand Jurors of Greenville
County present upon their oath:

That DWAYNE C. TALLENT did in Greenville County, between September 8, 1991 and September 8, 2002,
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 E. F. G., 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 §16-15-0140
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 # 64155

WITNESSES

W W Richter

Greenville County Sheriffs Office

10/30/2014

ARREST WARRANT NUMBER
2014A2330208085

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

AMENDED INDICTMENT
DOCKET NO. 2014-GS-23-011877
LMM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

December

TERM 2016

THE STATE

vs.

DWAYNE C. TALLENT

Amended Indictment for

0396

CRIMINAL SEXUAL CONDUCT WITH A MINOR
2ND DEGREE

VIOLATION § 16-03-0655(B)(1)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

AMENDED INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A MINOR 2ND DEGREE

At a Court of General Sessions, convened on **DEC 13 2016** the Grand Jurors of Greenville
County present upon their oath:

That DWAYNE C. TALLENT did in Greenville County, between September 8, 1998 and September 8,
2002, commit a sexual battery on E. F. G., who was fourteen years of age or less but who was at least
eleven years of age. This is in violation of § 16-3-655(B)(1) [formerly § 16-3-655(2)] 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 # 64155