

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL WIGGS,

APPELLANT

APPELLATE CASE NO 2019-001849

AMENDED RECORD ON APPEAL

VICTOR R SEEGER
Appellate Defender

ALAN WILSON
Attorney General

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

SCOTT MATTHEWS
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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SC Court of Appeals

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**THE FOLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT #3 (VIDEO STATEMENT DATED FEBRUARY 9, 2016)**

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF BEAUFORT

4 State of South Carolina,

5 Plaintiff,

6 vs.

Transcript of Record
2016-GS-07-00285

7 Michael Wiggs,

8 Defendant.

9
10
11 June 17, 2019
12 Beaufort, South Carolina
Volume I

13 B E F O R E:

14 The Honorable CARMEN T. MULLEN
15

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

17 Sara Rebekah Luttrell, Representing the State of South
18 Carolina
Traci Campbell, Representing the Defendant

19
20
21
22 SHARON G. HARDOON, CSR
23 Official Circuit Court Reporter, II
24
25

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1 THE BAILIFF: All jurors. Are present,
2 Your Honor.

3 THE COURT: Thank you.

4 Welcome back, Ladies and Gentlemen, and
5 I'm going to go ahead and apologize at the outset
6 because I told you that you'd be out by 3:00
7 today. Clearly, that's not going to happen. But
8 it will be as soon as possible. Once I pull this
9 jury, I am going to excuse you, the jury, and
10 direct you to call back after six o'clock tonight.
11 And what I anticipate it's going to say on the
12 line is, call back Tuesday night after six o'clock
13 depending on where we are on your trials. But,
14 again, that's, I think, where we're at this point.

15 To go ahead and begin, Miss Luttrell,
16 will you go ahead and call your case that you
17 intend on trying before me, please.

18 MS. LUTTRELL: Good morning. The State
19 calls the Defendant, Michael Wiggs, Indictment
20 Number 2016GS0700285, charged with criminal sexual
21 conduct with a minor in the second degree.

22 THE COURT: Thank you. All right. And
23 I'm also going to ask, Miss Luttrell, to introduce
24 yourself, co-counsel, and also who's at the table
25 with you.

1 And then, Miss Campbell, I'm going to ask
2 you to do the same. Okay?

3 MS. LUTTRELL Good afternoon. My name is
4 Rebekah Luttrell, and I am an assistant solicitor
5 at the 14th Circuit Solicitor's Office. And
6 sitting with me this week is Sarah Fowler, also an
7 assistant solicitor. And with us is
8 Jeremiah Fraser, the investigator in this case
9 from Beaufort County Sheriff's Office.

10 THE COURT: Thank you. Miss Campbell.

11 MS. CAMPBELL: May it please the Court?

12 THE COURT: Yes, ma'am.

13 MS. CAMPBELL: Good afternoon. My name
14 is Traci Campbell. I serve you and the residents
15 of the 14th Judicial Circuit as -- circuit-wise a
16 public defender, so I'm in all five counties.
17 Seated with me today, Your Honor -- may I?

18 THE COURT: Yes, ma'am.

19 MS. CAMPBELL: Thank you. Is my client
20 today from Beaufort County, Michael Wiggs.

21 THE COURT: Thank you. Ladies and
22 Gentlemen, we are about to begin the trial of the
23 case entitled State of South Carolina vs. Michael
24 Wiggs, whose charged in the bill of indictment
25 with the offense of criminal sexual conduct with a

1 All right. We're going to move over to
2 Courtroom 3. Is that fine with you all? How long
3 do you think pretrial motions are going to take,
4 roughly?

5 We switched?

6 THE CLERK: We did.

7 THE COURT: For today. That's fine.
8 We'll switch back. Apparently, we're staying
9 here. Let's do this. I know you all have been
10 here for a little bit. We can go ahead and take
11 about five minutes, and then we'll come back here
12 and do as much as we need. We'll go from there.
13 Let's take about five minutes.

14 (A break was taken at 4:11 p.m. to 4:25 p.m.)

15 THE COURT: We have motions. Jackson vs.
16 Denno, which, I assume, is going to require
17 testimony. Also, are we going to take up this
18 issue of the qualifications of the State's expert
19 witness today as well?

20 MS. LUTTRELL: She's traveling from
21 Charleston, so I asked her to be here tomorrow
22 morning and plan just to do her qualifications and
23 proffering tomorrow morning when she gets here.

24 THE COURT: Okay. Does that mean we're
25 going to do it at 9:00 a.m. before we start the

1 trial, or just when she gets here, if I do allow
2 her to testify?

3 MS. LUTTRELL: My plan is to have her to
4 do it in between witnesses right before she was
5 going to testify, but I can ask her to be here
6 earlier.

7 THE COURT: Yeah, that's absolutely fine.
8 If you want to do it right before she would
9 testify, that's perfectly fine. You can do it
10 then. Okay. Obviously then, you can't speak
11 about her in any way in the opening or anywhere
12 else in the record. Okay?

13 MS. LUTTRELL: Thank you.

14 THE COURT: Do you want to start then
15 with Jackson v. Denno?

16 MS. LUTTRELL: Yes, Your Honor.

17 THE COURT: Okay.

18 MS. LUTTRELL: State calls Jeremiah
19 Fraser.

20 THE CLERK: Do you solemnly swear or
21 affirm to truthfully answer all questions asked of
22 you by this court, so help you God?

23 THE WITNESS: Yes, ma'am.

24 WHEREUPON:

25 JEREMIAH FRASER,

Testimony of Minor

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1 after having been sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. LUTTRELL:

4 Q Good afternoon. Would you -- where do you work,
5 Investigator Fraser?

6 A I work for the Beaufort County Sheriff's
7 Office in criminal investigation.

8 Q And how long have you worked there?

9 A Seventeen years.

10 Q What is your current position with BCSO?

11 A I'm currently the supervising officer for
12 investigations.

13 Q Were you involved in a case involving defendant
14 Michael Wiggs back in 2016?

15 A Yes, ma'am, I was.

16 Q What was your involvement?

17 A I was the direct investigator in that case.

18 Q How did you get involved in that case?

19 A Once the report had been filed, it was
20 assigned to me to follow up.

21 Q During your investigation, did you ever
22 interview -- conduct an interview with the defendant
23 Michael Wiggs?

24 A I did.

25 Q How many interviews did you conduct?

1 A Two.

2 Q What was the date of the first interview you
3 conducted?

4 A Without seeing the form, I couldn't give it
5 to you.

6 Q Would it help to refresh your memory if you had
7 your report with you?

8 A It would.

9 MS. LUTTRELL: Your Honor, may I
10 approach?

11 THE COURT: You may.

12 THE WITNESS: Thank you.

13 BY MS. LUTTRELL:

14 Q What was the date of the first interview?

15 A February 2nd, 2016.

16 Q Where was that interview conducted?

17 A That interview was conducted at the
18 investigations office.

19 Q And who was present for that interview?

20 A I believe it was just me and Mr. Wiggs.

21 Q Did Mr. Wiggs come on his own or was he
22 transferred to the office?

23 A No, ma'am, he came on his own. I reached him
24 via telephone and he did come in.

25 Q When he arrived, what did you do?

1 A I read him his Miranda Rights.

2 Q Were those Miranda Rights in any sort of written
3 form?

4 A They were, ma'am. I used the Beaufort County
5 Sheriff's Office statement of Miranda.

6 Q How did you review those rights with him?

7 A Line by line.

8 Q Did he initial that form?

9 A He did.

10 Q Did he sign the form?

11 A He did.

12 Q At that interview you conducted on the 2nd, was
13 that interview recorded in any way?

14 A Yes, ma'am.

15 MS. LUTTRELL: Your Honor, may I approach
16 the witness?

17 THE COURT: You may.

18 MS. LUTTRELL: Your Honor, would you like
19 this marked as State's exhibits for identification
20 during the pretrial or Court's exhibits? I've
21 heard judges do it differently.

22 THE COURT: You can do it either way.
23 You can go ahead and do it as State's exhibit.

24 MS. LUTTRELL: Okay.

25 COURT REPORTER: One, two, three.

1 MS. LUTTRELL: One, two, three will be
2 perfect.

3 (STATE EXH. 1, Miranda form, was marked for
4 identification.)

5 (STATE EXH. 2, Statement of Wiggs; 2/2/16,
6 was marked for identification.)

7 (STATE EXH. 3, Copy of Wiggs interview;
8 2/9/16, was marked for identification.)

9 BY MS. LUTTRELL:

10 Q I'm going show you what's been marked by
11 identification as State's Exhibit 1. Do you recognize
12 that?

13 A Yes, I do.

14 Q How do you recognize it?

15 A This is the Miranda form I had used. And you
16 had asked me earlier if someone else was present
17 with me, Investigator Grayson was with me during
18 this interview.

19 Q And what is that? What is listed on that form?

20 A This is the Statement of Rights. It gives
21 the case number, location where Miranda was
22 issued, the name of the person, along with their
23 date of birth followed by the Statement of Rights.
24 Would you like me to read it?

25 Q Prior to doing that, do you also see the

1 defendant's initials on that form?

2 A I do.

3 Q And his signature?

4 A I do.

5 Q Did you also sign that form?

6 A I did.

7 Q And did anyone else witness it?

8 A Yes, Investigator Grayson.

9 Q Is that a fair and accurate copy of the form on
10 February 2nd, 2016?

11 A Yes, ma'am, it is.

12 Q Has it been altered in any way?

13 A No, ma'am.

14 Q Go ahead and explain to the Court, did you read
15 the rights to him or did you have him read the rights
16 to himself?

17 A I read the rights to him and have him initial
18 them.

19 Q Would you read them as you did that day?

20 A "You have the right to remain silent.
21 Anything you say can and will be used against you
22 in a court of law. You have the right to have an
23 attorney present before or during question. If
24 you can't afford an attorney, one will be
25 appointed for you before any questions if you

1 wish." That's followed by a Waiver of Rights.

2 "Do you understand each of these rights?" Yes or
3 no. "Having these rights in mind, do you wish to
4 talk to us now?" Yes or no.

5 Q Did the defendant indicate if he understood each
6 of the rights?

7 A He did.

8 Q And did he indicate if he wished to speak with you
9 at that time?

10 A He did.

11 Q What were his answers to those? Yes?

12 A He understood them and agreed to speak with
13 me.

14 Q At the time of this interview, was the defendant
15 in custody?

16 A He was not.

17 Q Did you even have warrants for him at that time?

18 A I did not.

19 Q When you were meeting with him, did it appear that
20 he was under the influence of any drugs or alcohol --

21 A No, ma'am.

22 Q -- that would impair his ability to understand?

23 A No, ma'am.

24 Q And did he seem to have say physical or mental
25 disability?

1 A No, ma'am.

2 Q During this interview, at any time, did you make
3 any threats against Mr. Wiggs to speak with you?

4 A No, I didn't.

5 Q Did you try to force him into making any
6 statements to you?

7 A No, ma'am.

8 Q Did you promise him anything --

9 A No, ma'am.

10 Q -- during that statement?

11 A No, ma'am.

12 Q Approximately, how long did that first interview
13 last?

14 A I don't recall specifically. It wasn't
15 overly long.

16 Q Less than an hour?

17 A I would say so, yes.

18 Q Okay. During that time that you met with him on
19 the 2nd, did he also provide you a written
20 statement?

21 A He did.

22 Q State's 2.

23 MS. LUTTRELL: Your Honor, may I
24 approach?

25 THE COURT: You may.

1 BY MS. LUTTRELL:

2 Q I'm showing you what's been premarked for
3 identification as State's Exhibit 2. Do you recognize
4 this?

5 A I do.

6 Q And how do you recognize that?

7 A My initials are on it. This is a statement
8 that I took from Mr. Wiggs on the dated February
9 2nd. It's also signed by Mr. Wiggs.

10 Q Has that been altered in any way since he provided
11 that statement to you?

12 A No, ma'am.

13 Q Is it a fair and accurate copy of the statement he
14 provided?

15 A Yes, ma'am.

16 Q All right.

17 MS. LUTTRELL: At this time, the State
18 seeks to admit just for the purposes of pretrial
19 State's Exhibit 1 and 2?

20 THE COURT: Can I see a copy of that
21 statement?

22 (STATE EXH. 1, Miranda form, was entered
23 into evidence.)

24 (STATE EXH. 2, Statement of Wiggs; 2/2/16,
25 was entered into evidence.)

1 BY MS. LUTTRELL:

2 Q After you conducted the interview with him on the
3 2nd, did the defendant leave the investigation office
4 that day.

5 A He did. Yes, ma'am.

6 Q During your interview with him on February 2nd,
7 what did he tell you?

8 A He laid out a background as far as the family
9 goes. Family dynamics. Where he stayed, knowing
10 the victim in this case particularly and denying
11 any assault ever occurred.

12 Q Did he admit to knowing the victim in this case?

13 A He did, yes.

14 Q Who is the victim in this case?

15 A The victim in this case is Miss Wiggs. If
16 I'm getting her name right, it's [Minor]

17 [REDACTED]

18 Q Did the defendant tell you how they were related
19 or how he knew her?

20 A Yes. She is, I want to say, his aunt's
21 daughter.

22 Q Okay.

23 A Is how I remember it.

24 Q Did he make any statements about where he was
25 living at the time that these allegations occurred?

1 A During that first interview he said that he
2 was living with his grandmother. At the incident
3 with [Minor] I believe, actually, he said that
4 he was living with another aunt during this time
5 frame. His time frame was a little bit different
6 than [Minor] was.

7 Q And what did he say when -- did you confront him
8 with the allegations made by [Minor] in this case?

9 A I did, yes.

10 Q And what did the defendant respond?

11 A He specifically denied.

12 Q Now, after the interview on February 2nd, at some
13 point did the defendant come back for a second
14 interview?

15 A He did. I believe it was February the 9th.

16 Q What was the reason he came back on that day?

17 A I had scheduled a secondary interview with
18 Investigator Kenneth Baird.

19 Q Okay. And you said that was on the 9th?

20 A Yes, ma'am.

21 Q Where was that interview conducted?

22 A That was conducted at the Law Enforcement
23 Center.

24 Q And who else was present for that interview?

25 A I observed that interview.

Testimony of Minor

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1 Q When you say you observed it, you observed the
2 interview between him and Lieutenant Baird?

3 A I did.

4 Q Prior to him meeting with Lieutenant Baird and
5 speaking with Lieutenant Baird, did you observe any
6 reading of Miranda Rights?

7 A I did.

8 Q Did the defendant -- did you observe the defendant
9 review any Miranda forms during that interaction?

10 A I did.

11 Q Did the defendant appear to be under the influence
12 of alcohol or drugs at that time?

13 A Not to me, he did not.

14 Q Did he appear to have any physical or mental
15 disabilities at that time?

16 A No, ma'am.

17 Q Did the defendant appear to understand the rights
18 that he was being read by Lieutenant Baird?

19 A Yes, ma'am.

20 Q After meeting with Lieutenant Baird, did you also
21 conduct an interview with the defendant?

22 A I did.

23 Q And where did that interview take place?

24 A That interview took place back across the
25 street at the investigation's office.

1 Q And how closely in time from him speaking with
2 Lieutenant Baird did you conduct an interview?

3 A This was maybe -- we walked straight over to
4 his office which is right across the street.

5 Q How did the defendant arrive to the Law
6 Enforcement Center that day?

7 A He drove.

8 Q Was he under arrest or in custody at the time?

9 A He was not.

10 Q Did you have any warrants for him at that time?

11 A I did not.

12 Q When you completed your interview, did the
13 defendant leave that day?

14 A He did.

15 Q During your interview with him on the 9th, was
16 that recorded?

17 A It was.

18 Q And during your interview with him, did you make
19 any threats against the defendant --

20 A No.

21 Q -- to speak with you?

22 A No, ma'am.

23 Q Did you make any promises for his statement?

24 A No, ma'am.

25 Q And how long did the second interview last?

Testimony of Minor

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1 A I want to say roughly 30 minutes, 40
2 minutes.

3 MS. LUTTRELL: Your Honor, may I
4 approach?

5 THE COURT: You may.

6 BY MS. LUTTRELL:

7 Q State's 3. I'm showing you what has been
8 premarked for identification as State's Exhibit 3. Do
9 you recognize that?

10 A I do.

11 Q And how do you recognize it?

12 A This is a copy of the interview conducted
13 that I reviewed. I know that because I initialed
14 and dated it when I reviewed it.

15 Q And is that reporting a full copy of the interview
16 you conducted with Mr. Wiggs on February 9th, 2016?

17 A I believe this one is, yes.

18 Q And has it be altered in any way?

19 A No, ma'am.

20 MS. LUTTRELL: Your Honor, at this time,
21 State moves to admit for pretrial purposes State's
22 Exhibit 3.

23 (STATE EXH. 3, Copy of Wiggs interview;
24 2/9/16, was entered into evidence.)

25 MS. LUTTRELL: Your Honor, at this point,

1 the State is seeking to play this interview during
2 trial --

3 THE COURT: This interview, which one?

4 MS. LUTTRELL: On the February 9th.

5 THE COURT: Okay.

6 MS. LUTTRELL: This interview, the one
7 that he has up there, is a full version of the
8 interview. The State has also done additional
9 DVDs with potential redactions. At this point,
10 would Your Honor like to review the entire
11 interview?

12 THE COURT: Yes. Miss Campbell, have you
13 seen those proposed redactions at trial?

14 MS. CAMPBELL: Yeah. I've been provided
15 that, yes. And I'll just say, for the record,
16 that I just believe that the statements about the
17 polygraph, anything about that, the redactions
18 would be appropriate.

19 THE COURT: Right.

20 MS. CAMPBELL: But the remainder of the
21 interview in its totality -- entirety should be
22 preserved for the jury, should Your Honor deem it
23 admissible.

24 THE COURT: Okay.

25 MS. LUTTRELL: The redactions that the

Testimony of Minor

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1 State is proposing, there were no mentions of
2 polygraph in this report interview. The
3 redactions that we are proposing will -- they have
4 to do with the victim and how the defendant
5 characterizes the victim, which also relates to a
6 motion made by defense. We can discuss that at a
7 later time.

8 THE COURT: So I understand, you want to
9 use just the interview from February 9th; is that
10 correct?

11 MS. LUTTRELL: Yes, Your Honor. The
12 interview on the 2nd, there are a lot of mentions
13 of a polygraph.

14 THE COURT: Okay.

15 MS. LUTTRELL: So our plan is just to
16 have Investigator Fraser testify about the
17 statements made during that interview, but not
18 play the recording. But we would like to play
19 this recording.

20 (Video played in its entirety.)

21 MS. LUTTRELL: Can you hear it? Would
22 you like me to get these speakers.

23 THE COURT: A little bit louder, if
24 possible.

25 Can you hear, Miss Campbell?

1 MS. CAMPBELL: I can.

2 THE COURT: Could you hear it?

3 MS. CAMPBELL: I can.

4 THE COURT: If it's coming just out of
5 the -- is it coming out of the computer, the
6 speaker?

7 MS. LUTTRELL: It is.

8 THE COURT: If I can come and sit down
9 there, so I can hear it.

10 MS. LUTTRELL: We can hook them up to
11 these speakers, Your Honor.

12 (Off the record.)

13 (Video resumed playing.)

14 MS. LUTTRELL: Your Honor, I don't have
15 any other questions for Investigator Fraser at
16 this time.

17 THE COURT: All right. Miss Campbell?

18 MS. CAMPBELL: I don't have any
19 questions.

20 THE COURT: Okay. Can he step down?

21 MS. LUTTRELL: Your Honor, we only have
22 one other short witness for Jackson v. Denno, that
23 would be Lieutenant Brian Baird.

24 THE CLERK: Come on up, sir. Raise your
25 right hand. Do you solemnly swear or affirm to

Testimony of Minor

1 truthfully answer all questions asked of you by
2 this court, so help you God?

3 THE WITNESS: So help me God, I do.

4 WHEREUPON:

5 LT. BRIAN BAIRD,

6 after having been sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. LUTTRELL:

9 Q Good morning, Lieutenant. Where are you currently
10 employed?

11 A The Beaufort County Sheriff's Office.

12 Q What's your position there?

13 A I'm the special investigator for the
14 Sheriff Tanner.

15 Q At some point, did you become involved in the case
16 against Michael Wiggs?

17 A Yes, I did.

18 Q How did you become involved in this case?

19 A Investigator Fraser contacted me and asked me
20 if I would be willing to speak with Mr. Wiggs.

21 Q Did you speak to him?

22 A Yes, I did.

23 Q On what date?

24 A It was early February. I want to say the
25 9th, if I'm correct.

1 Q And where did you meet with Michael Wiggs?

2 A It was at my office during February of 2016.

3 Q And where's your office located?

4 A It's at the main Beaufort County Sheriff's
5 Office building across the parking lot.

6 Q How did Mr. Wiggs arrive to your office that day?

7 A He was escorted. I believe he walked in with
8 Investigator Fraser.

9 Q Was he under arrest, to your knowledge?

10 A No. He wasn't in handcuffs or anything. He
11 was just walking freely.

12 Q When you met with him that day, did you read him
13 Miranda Rights?

14 A Yes, I did.

15 Q And how did you do that?

16 A I read it to him off a form that we were
17 utilizing at that time.

18 MS. LUTTRELL: Your Honor, may I
19 approach?

20 THE COURT: You may.

21 (STATE EXH. 4, Form for Statement of
22 Rights, was marked for identification.)

23 BY MS. LUTTRELL:

24 Q Lieutenant Baird, I'm going to show you what has
25 been premarked for State's identification as

1 State's Exhibit 4. Do you recognize that?

2 A Yes. It's a copy of the form I utilize with
3 the bottom line that has been removed.

4 Q Okay. In the bottom line that's been removed,
5 what is typically in that line?

6 A I includes some information data, scientific
7 technique we utilize, a number for that
8 technique.

9 Q Okay. Now, the form that you have there, did you
10 read that form to Michael Wiggs when he met with
11 you?

12 A Yes, I did.

13 Q Did he sign that form?

14 A Yes, he did, on two different occasions.

15 Q Did you also sign that form?

16 A Yes, I did.

17 Q What was the date that you met with him and went
18 over this form?

19 A February 9th, 2016.

20 Q At the time of reading those rights to him would
21 you actually -- would you read the rights as you read
22 them to him that day?

23 A Yes. I told him, "This is the Beaufort
24 County Sheriff's Office statement of your rights.
25 I said, before I ask you any questions, you must

1 understand your rights. You have the right to
2 remain silent. Anything you say can and will be
3 used against you in a court of law. You have the
4 right to talk to an attorney before I ask you any
5 questions and have him or her present during this
6 questioning. If you decide to answer questions
7 now without an attorney present, you will still
8 have the right to stop answering questions at any
9 time. I have read this statement of my rights and
10 I understand what my rights are."

11 At that point, I asked him, is that all
12 true and correct? He said it was. I handed him
13 the form and asked him to sign where it says sign
14 and he did sign it.

15 Q Did he appear to understand the rights that you
16 were reading to him that day?

17 A He said he did.

18 Q Did he have any physical or mental disabilities
19 that would impair his ability to understand his
20 rights?

21 A None that I was aware of.

22 Q Did he appear to be under the influence of any
23 alcohol or drugs at that time?

24 A No, he did not.

25 Q After you read him the rights and he said

1 understood then, what was the second portion that he
2 read?

3 A The second portion is the waiver of rights.
4 It said -- I read this to him as well. "I am
5 willing to make a statement and answer questions.
6 I do not want an attorney at this time. I
7 understand and know what I am doing. No promises
8 or threats have been made, and no pressure or
9 coercion of any kind has been used against me. I
10 asked him if that was all true and correct. He
11 said it was. I then asked him to sign next to the
12 spot where it says "sign," and he did sign it. I
13 then signed directly below as the witness.

14 Q At any time did you make him any promises to speak
15 with you that day?

16 A No, I did not.

17 Q Did you make any threats against him?

18 A No, I did not.

19 Q Did you coerce him in any way to speak with you
20 that day?

21 A No, I did not.

22 MS. LUTTRELL: Your Honor, at this time,
23 the State moves State's Exhibit 4 for pretrial
24 purposes into evidence. I don't have any other
25 questions, Your Honor.

1 (STATE EXH. 4, Form for Statement of Rights,
2 was marked for identification.)

3 MS. CAMPBELL: No questions, Your Honor.

4 MS. LUTTRELL: That's my final witness
5 for the Jackson vs. Denno hearing.

6 THE COURT: And was there any interview
7 done at that time?

8 MS. LUTTRELL: There was a polygraph
9 done, Your Honor.

10 THE COURT: Okay.

11 MS. LUTTRELL: So that's the portion that
12 we removed. It says examiner and it has a
13 polygraph report number.

14 THE COURT: Okay.

15 MS. LUTTRELL: That was redacted so
16 there's no mention of polygraph.

17 THE COURT: All right. You have nothing
18 else? Any questions of him?

19 MS. CAMPBELL: I do not.

20 THE COURT: Okay. You can step down,
21 sir.

22 THE COURT: Okay. Any argument?

23 MS. LUTTRELL: Your Honor, it's the
24 State's position that, based on the testimony that
25 you heard today, the video you observed, the

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1 defendant did two separate interviews. Prior to
2 both of those interviews, he came in freely and
3 voluntarily on his own. He was read Miranda both
4 times and agreed to waive his Miranda Rights and
5 speak with officers. After each interview, he
6 left the law enforcement office and was not
7 arrested at that time. So he was not in custody.
8 It's the State's position that he made these
9 statements to law enforcement freely and
10 voluntarily.

11 During the first interview he conducted
12 with Investigator Fraser, he denied any
13 involvement in the case. He denied ever touching
14 the victim in this case or having any sort of
15 relationship. When he came back in, he freely met
16 with them. He wanted to take a polygraph exam.
17 That's why he meant with Mr. Baird that day. He,
18 again, was read his Miranda Rights and waived
19 those rights.

20 Immediately after the polygraph, which
21 Investigator Fraser observed the entirety of that,
22 he then took the defendant across the street and
23 conducted a second follow-up interview. Each of
24 the interviews only lasted approximately 15 or 20
25 minutes. And you saw the recording of the second

1 interview where he was, again, asked about his
2 involvement. At that time, the defendant
3 voluntarily spoke about some incident that did
4 occur between him and the victim.

5 I do have some case law for Your Honor as
6 it pertains to any sort of interview conducted
7 after a polygraph where Miranda was read prior to
8 the polygraph, and then no Miranda was read
9 immediately after, before interview. And the
10 Court has found that that was permissible as
11 State v. Moultrie, which is a Supreme Court of
12 South Carolina Case 273 S.C. 60, and also State v.
13 Smith, a Supreme Court of South Carolina case, 259
14 S.C. 496. And in both of those cases, a defendant
15 came in. was administered a polygraph. They were
16 given their Miranda Rights prior to the polygraph.
17 No Miranda was given prior to an interview
18 following the polygraph and the Court found that,
19 based on the continuation of the two interviews
20 and the shortness in time between reading Miranda
21 and being interviewed that it was sufficient.

22 Any sort of argument that there was maybe
23 deception or encouragement by Investigator Fraser to
24 tell his side of the story or tell Investigator Fraser
25 what happened because all they had was what the victim

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1 was saying, the State also has case law on that issue,
2 Your Honor. We have State v. Goodwin. It's a Court
3 of Appeals, South Carolina case from 2009, 384 S.C.
4 588. During that case, the defendant was brought in --
5 the suspect was brought in and interviewed by the
6 police. He was there for quite some time. And during
7 that interview, police not only told them that they
8 had DNA evidence against him and eyewitnesses, which
9 was not true at the time, but that they also
10 encouraged him that he should tell his side of the
11 story so that his family would hear his side. And the
12 Court found that that was no overbearing on the will
13 of the defendant, and that that interview and that
14 confession was still voluntarily made, once the
15 defendant was read his Miranda Rights and had time to
16 contemplate the consequence of making his statement.

17 I do have some other cases for,
18 Your Honor. I'll pass those up and then go over
19 those. That was State v. Goodwin.

20 State v. Rochester is a Supreme Court of
21 South Carolina case, 301 S.C. 196. And again, in
22 that case, the defendant or the suspect was
23 encouraged to tell the truth. In that case, he --
24 it was actually encouragement from the polygraph
25 examiner. He encouraged him that it would be

1 his best interest to tell the truth about what
2 happened, and the Court found that that did not
3 overbear the will of the defendant and that the
4 confession was still voluntary.

5 State v. Register is 323 S.C. 471. And,
6 again, that case just focuses on
7 misrepresentations being made by law enforcement
8 during the interview. In that one the defendant
9 had asked to speak with his mother prior to making
10 statements. The police received a note from the
11 mother, but did not provide it to the defendant,
12 instead they told the defendant his mother was
13 upset with him, and that she would be upset with
14 him and encouraged him to tell the truth. And the
15 defendant, in that case, did confess. And the
16 Court held that -- again, that that was still a
17 voluntary statement because he was read his
18 Miranda Rights and he had time to contemplate his
19 rights.

20 In that case, actually, I believe the
21 suspect was a teenager. And even then the Court
22 found that his will was not over worn and that it
23 was a voluntary statement.

24 The other cases I provided are just -- go
25 to any sort of potential promises. I don't

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1 believe that there are any promises made in this
2 case. But they do talk about any hopes of
3 leniency or cooperation for either side or be
4 cooperative. And the Court has held that just a
5 hope of leniency without an explicit or promise,
6 that does not arise to violate or to make any sort
7 of confession involuntarily.

8 THE COURT: All right. Thank you.
9 Miss Campbell.

10 MS. CAMPBELL: May it please the Court,
11 Your Honor.

12 THE COURT: Yes, ma'am.

13 MS. CAMPBELL: The heart of this issue
14 is a matter that Your Honor has dealt with before.
15 You were the judge in the Cornelius Watson trial
16 that I tried in the State of South Carolina and
17 this officer. And so we contend, as in that case,
18 that case law indicates that the police may lie
19 about facts and evidence. However, they may not
20 lie about the law.

21 And what you have here, again, is this
22 officer telling a suspect that it's okay to have
23 sex with your cousin as long as you didn't force
24 her, the 11- and 12-year-old. And he says, this
25 officer says to the suspect, it makes a huge

1 difference whether or not you forced her. And I
2 know you didn't rape her, but, you know, I don't
3 want to jam you up on a rape charge. So, you
4 know, something happened. So, as long as it
5 wasn't forced, you're going to be okay.

6 That is the thrust and the intention of
7 the questioning. And I'm positive that this
8 officer, as he testified in the Watson trial, will
9 testify here to the State, should they question
10 him about it, that it's a tactic that he uses.

11 And I continue to submit to the Court
12 that it's an impermissible tactic, and that the
13 State's own case, you know that they provided the
14 Court with, the Goodwin case, clearly says -- in
15 that, you know, we don't condone the officers'
16 statements regarding their evidence. That wasn't
17 even a misrepresentation of the law. It was a
18 misrepresentation of evidence. And the factor in
19 that case was whether or not misrepresenting the
20 evidence, you know, overcame Goodwin's will so
21 that he, you know, then makes statements.

22 So I submit to the Court, again, this
23 officer has put himself in the position of
24 misstating the law to a suspect in a criminal
25 sexual conduct with a minor allegation. Which is,

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1 hey, forced her to do it, that's rape. You all
2 had sexual intercourse together, no force, not a
3 problem. You're leaving here today. You're not
4 going to have cuffs on. I've got no warrants for
5 you.

6 And, so again, to conclude, same argument
7 as last time, Your Honor. We take the position
8 that is a violation of the defendant's right. And
9 again, fundamental fairness rests at the foot of
10 this court. It renders the statement involuntary
11 through the illegal actions of the officer and
12 misstating the law to the suspect.

13 Thank you.

14 THE COURT: Any response, Miss Luttrell.

15 MS. LUTTRELL: Just briefly, Your Honor.
16 I don't believe that Investigator Fraser misstated
17 any law. He did not make any sort of promises
18 that the defendant would not be charged if this
19 was consensual. He simply asked the defendant,
20 was it consensual, did you rape her, did you not
21 rape her, what's your side of the story? But he
22 never said that the defendant would not be charged
23 in any way if this was consensually. And clearly
24 the defendant did say it was consensual. And
25 Investigator Fraser went and sought a warrant the

1 very next day.

2 So, I don't -- you heard the recording.
3 You saw the interview, but I don't think
4 Investigator Fraser went beyond any sort of
5 tactics normally used when interviewing
6 defendants, and I don't think that he misstated
7 any law to the defendant in this case.

8 THE COURT: Miss Campbell, can give me a
9 little more background on the Watson case, because
10 I am not -- exactly right now. I mean, I know --

11 MS. LUTTRELL: Mr. Wetzel, when we were
12 in here, he tried that case for the State. And
13 that was --

14 THE COURT: What was the allegation?

15 MS. CAMPBELL: That was a similar
16 allegation of criminal sexual conduct with a
17 family member, maybe a half-sister. It ended in a
18 mistrial. It's not an issue that's gone up on
19 appeal.

20 THE COURT: Okay.

21 MS. CAMPBELL: The jury hadn't reached a
22 decision in that case. But we don't -- I mean, if
23 I'm stating it correctly, this is exactly the same
24 issue we dealt with this particular officer.

25 THE COURT: Okay. As far as my ruling in

1 that case, did I allow the statement?

2 MS. CAMPBELL: You did. Yes, you did.

3 THE COURT: Can you give me any more
4 facts about the case? Again, I am still -- you
5 know, I try a lot of these.

6 MS. CAMPBELL: Okay.

7 THE COURT: So it's allegedly a half
8 sister in that case. Where did it supposedly
9 occur?

10 MR. WETZEL: In the Cornelius Watson
11 case, Your Honor, it was -- I think it was a
12 half-sister. I'm trying to recall exactly what
13 her relation was. It was a very similar, I guess,
14 statement method as far as polygraph followed by a
15 statement given to law enforcement.

16 THE COURT: When did we try this?

17 MR. WETZEL: It was -- I want to say it
18 was early 2016. I hadn't been here very long. It
19 was down in Courtroom 3 --

20 THE COURT: Okay.

21 MR. WETZEL: -- and it ended in mistrial.
22 I know we tried to try it again, and then the
23 young lady wasn't cooperative so we couldn't move
24 forward.

25 THE COURT: Okay.

1 MR. WETZEL: But as far as how this -- it
2 was very similar, and the statement did come in.

3 THE COURT: Okay. Well, just my initial
4 thoughts, clearly he wasn't in custody either
5 time. He was read his Miranda Rights. Everything
6 in the case law says to me that, once they give
7 their assent, they're given their Miranda, until
8 and otherwise they state that they are invoking
9 their right to be silent or for an attorney, that
10 warning continues.

11 So I think in the second interview, I
12 think, because it was so close in time, I think
13 they can continue without doing Miranda a second
14 time.

15 As far as the argument of him misstating
16 the law, I'm not so sure there's so far as to
17 misstate the law. I've heard a lot of it makes a
18 big difference between whether or not it was
19 forceful. I don't know if that was necessarily a
20 statement of law or a statement of the treatment
21 of a case, whether or not it's consensual or
22 forceful.

23 You know, looking at the totality, I
24 don't think his will was ever worn anyway,
25 certainly in the case.

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1 In the statement that he gave, well, I
2 say "he," the statement that Mr. Wiggs gave,
3 basically said that there was two incidents. I
4 believe one was that she came to my room, laid
5 down. He said, rubbed her booty only. Nothing
6 happened. And then the other time that it
7 happened at night, the cousin came in -- I think
8 his words were, hopped on me. Then I heard him
9 say something like, I stopped talking to her. He
10 said she came onto me just twice.

11 And then the second time he said that she
12 jumped on me or got on me, whatever the words were
13 exactly, that he started -- they started rubbing
14 on each other. He said it was close, but he
15 hadn't taken her clothes off. I believe he said
16 that he had his boxers on, is what I get.

17 I think given the totality of it, again,
18 I don't think his will was overborne. I think
19 just a very clear review of the video shows that
20 he gave a statement freely and voluntarily, and
21 I'm going to allow it.

22 Okay. What else do we need to talk
23 about? I saw that the defense had a lot of
24 motions that I think can pretty much easily be
25 taken care of. I think we need to talk about,

1 obviously, The Lyle Law 404(b) issues. Do you
2 want to go through and take care of the other
3 things first maybe and then we'll do that?

4 MS. CAMPBELL: Sure.

5 THE COURT: If that's fine. I'm just
6 going down the defense's motions list.

7 Okay. I'm sorry. I'm going down the
8 defendant's pretrial motions list. Miss Campbell,
9 you have a motion to sequester witnesses. There's
10 no objection to that; is that correct?

11 MS. LUTTRELL: No objection, Your
12 Honor.

13 THE COURT: Without objection.

14 We've taken care of Jackson v. Denno. The
15 motion to prevent the State of South Carolina from
16 employing the term "victim" when referring to the
17 child witness in this matter.

18 MS. CAMPBELL: Again, we take the
19 position in these cases that it's proper to refer
20 to the child witness as the alleged victim, or to
21 refer to the child witness by their name.

22 THE COURT: Okay.

23 MS. LUTTRELL: We have no objection.

24 THE COURT: Okay. The next one we'll
25 talk about Lyle, so I guess we can jump over that.

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1 What about your fifth motion? If you'll
2 just put it on the record, Miss Campbell.

3 MS. CAMPBELL: I'm sorry?

4 THE COURT: Your fifth motion is to
5 prevent the State from presenting --

6 MS. CAMPBELL: Right. So that one we
7 will be taking up with Tessa Trask right before
8 she testifies.

9 THE COURT: Okay.

10 MS. CAMPBELL: Number 6, Your Honor, I
11 don't believe the State intends in any manner the
12 instruction of the video evidence.

13 MS. LUTTRELL: Are you talking about the
14 interview?

15 MS. CAMPBELL: Correct.

16 MS. LUTTRELL: No. She was over the age
17 of 11 when she did the interview.

18 MS. CAMPBELL: Just making sure.

19 THE COURT: To you intend -- the victim
20 is going to testify in this case?

21 MS. LUTTRELL: Yes, Your Honor.

22 THE COURT: Okay.

23 MS. CAMPBELL: And as far as 7 is
24 concerned, there are no records that I seek to
25 introduce.

1 THE COURT: Okay. Then obviously we'll
2 talk about the forensic expert, the forensic
3 interview, we'll talk to Miss Trask. Did she
4 actually do the forensic interview?

5 MS. LUTTRELL: She did not, Your Honor.
6 She has no connection to this case. She actually
7 doesn't even work for Hopeful Horizons anymore.
8 That's why she's driving down from Charleston. So
9 we are offering her just as an expert in
10 behavioral characteristics of child sexual abuse
11 victims, as she has testified previously. She
12 never interviewed the child. She wasn't even
13 working there at the time the interview was
14 conducted. Never met with the child through
15 counseling, has never reviewed the case.

16 THE COURT: So are you going to try to
17 interview any type -- she's over the age of 11, so
18 she's so going to testify, correct?

19 MS. LUTTRELL: Yes, Your Honor.

20 THE COURT: Okay.

21 MS. LUTTRELL: So we won't be using any
22 forensic interview.

23 THE COURT: Okay, thank you.

24 All right. Let's talk about the 404(b). And
25 explain to me -- it's my understanding, just from

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1 hearing this testimony, that what the allegations are
2 is that there were three separate incidents, is what
3 I'm hearing. I didn't hear about the third incident
4 specifically. It's my understanding that, in the
5 indictment, he is only charged with one count; is that
6 correct?

7 MS. LUTTRELL: Yes, Your Honor.

8 THE COURT: Of what incident? What
9 incident is that, allegedly?

10 MS. LUTTRELL: That would allegedly be
11 the first incident that occurred. And then --

12 THE COURT: And do you say are the
13 details of that incident? What do you say
14 happened?

15 MS. LUTTRELL: That Minor has or
16 previously disclosed three separate incidents, the
17 first incident being during the winter of 2013
18 into 2014, and that she was at her grandmother's
19 house sleeping on the couch. That the defendant
20 woke her up sometime in the middle of the night.
21 That she was wearing some sort of a dress, removed
22 her underwear, forced her down, pinned her down
23 with one arm, pinned both of her arms down,
24 covered her mouth so that she could not scream out
25 for help, and then vaginally penetrated her. That

1 he had sex with her, and then sort of walked away
2 and went back to his room after that happened.

3 She's saying that that incident, that is
4 in the indictment, the allegations of an incident
5 occurred between November 1st, 2013 through
6 February 1st, 2014.

7 The second incident allegedly occurred in
8 the spring of 2014 at the end of her 7th grade
9 year. That's how she identified and remembers it.
10 So that would be outside the time frame of
11 February 2014. During that incident, the
12 allegations are that she was at her grandmother's
13 house again. That it was before school, I
14 believe, that she was in, sort of, a back room.
15 The defendant, again, came in, forced her down
16 onto the same couch and removed her clothing on
17 the lower half of her body, pinned her arms down.

18 Again, she claimed that she was screaming
19 out that time. There was no one home. And had
20 sex with her, and then walked away again after
21 that incident.

22 She alleges that he told her -- that she
23 never told anyone because the defendant had told
24 her that she was a dumb ho and no one would
25 believe her. That no one would believe her.

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1 The third incident alleged to have
2 occurred at the beginning of her 8th grade year,
3 so that would fall of 2014. And she said that she
4 was in a back bedroom getting ready for school,
5 and that the defendant came in, pushed her onto
6 the bed, that her face was down into the bed so
7 she could not scream out for help. It was sort of
8 covered by blankets. He pinned her down again by
9 her arms, removed her bottom half of her clothing,
10 had sex with her again. And that, sort of, was
11 the end of that incident. And again, he told her
12 that no one would believe her if she tried to tell
13 anyone. Those are the three incidents.

14 So the State's 404(b) motion is to allow
15 in evidence of the other two incidents that
16 occurred at the end of 7th grade and beginning of
17 8th grade, which would be in 2014.

18 THE COURT: Okay. I mean, I guess the
19 first question is, I have to be able to decide by
20 clear and convincing evidence --

21 MS. LUTTRELL: The victim is here to
22 testify, Your Honor.

23 THE COURT: Oh, she is.

24 MS. LUTTRELL: That's part of the 404(b).

25 THE COURT: Okay. Well, you want to go

1 ahead and call her?

2 MS. LUTTRELL: Yes.

3 THE COURT: Okay, certainly.

4 MS. LUTTRELL: The State would call

5 [Minor]

6 THE COURT: Ma'am, come right over here.

7 Come this way.

8 THE CLERK: Place your left hand on the
9 Bible and raise your right hand. Do you solemnly
10 swear or affirm to truthfully answer all questions
11 asked of you by this Court, so help you God?

12 THE WITNESS: Yes.

13 THE CLERK: Watch your step. Can you
14 speak directly into the mic and state your name
15 for the record?

16 THE WITNESS: My name is [Minor]

17 WHEREUPON:

18 [Minor]

19 after having been sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. LUTTRELL:

22 Q And, [Minor] how old are you?

23 A I am 18.

24 Q When's your birthday?

25 A December 20, 2000.

1 Q And are you in school anymore?

2 A No, ma'am.

3 Q Why not?

4 A I just graduated.

5 Q You just graduated from high school?

6 A High school and classes.

7 Q Who do you live with right now?

8 A My grandmother, Pearlie Mae Wiggs.

9 Q And prior to living with your grandmother, who did
10 you live with?

11 A My mother, Shenaye Wiggs.

12 Q Do you have any siblings?

13 A Yes.

14 Q How many siblings do you have?

15 A I have two.

16 Q Where does your grandma -- what's the address of
17 your grandma?

18 A 41 Joe Capers Road.

19 Q Do you know Michael Wiggs?

20 A Yes.

21 Q How do you know him?

22 A That's my first cousin.

23 Q I'm going to ask you to speak up a little bit
24 louder so everyone can hear you. Okay?

25 A He's my first cousin.

1 Q How much older than you is your cousin, Michael
2 Wiggs?

3 A Probably about nine or ten years.

4 Q Did you ever live in the same house as him?

5 A Yes.

6 Q When was that?

7 A Back in 2012/2013 when I was in high
8 school.

9 Q Did Michael grow up here in Beaufort?

10 A Somewhat.

11 Q What do you mean by that?

12 A Like, he moved back and forth from Atlanta to
13 here. Like, he was born here, though.

14 Q Okay. You say he lived in Atlanta for a little
15 bit?

16 A Uh-um.

17 THE COURT: Is that a yes for the record?

18 THE WITNESS: Yes.

19 BY MS. LUTTRELL:

20 Q At any time, did Michael live at your grandma
21 Pearlie Mae's house?

22 A Yes.

23 Q And was that the same house that she lives in now,
24 41 Joe Capers?

25 A Yes.

1 Q How long ago was that?

2 A Like -- I would say, like, six or eight years
3 ago.

4 Q Okay. Did you ever spend time at your
5 grandmother's house back then when --

6 A Yes.

7 Q -- he was living there?

8 A Yes.

9 Q When would you go over to your grandma's house?

10 A I would go over there when my mother would,
11 like, drop us off in the morning when -- she was
12 working jobs for like -- so we would at her house
13 in the evening. So it would be, like, 5:00 in the
14 morning and we'd get dropped off there. Some
15 nights we'd sleep there on the weekends, and
16 she'll pick us up the next day.

17 Q Okay. And when Michael was living there, did
18 anyone else live there as well?

19 A Yes. Bobby Wiggs.

20 Q And who's Bobby Wiggs?

21 A My first cousin.

22 Q How old is Bobby Wiggs?

23 A I'm not sure. Probably like 28, 29.

24 Q Where did Michael sleep when he lived with your
25 grandma?

1 A Inside the bedroom with Bobby Wiggs.

2 Q Tell me about your grandma's house. How many
3 bedrooms are there?

4 A It's two bedrooms.

5 Q Okay.

6 A When You first walk in, it's like the dining,
7 and her room is, like, on the right side of the
8 house. And then we go through the kitchen.

9 MS. CAMPBELL: Ma'am, I cannot hear the
10 answers that --

11 BY MS. LUTTRELL:

12 Q Can you bring that microphone a little bit closer
13 to you.

14 A Yeah.

15 THE COURT: Thank you.

16 BY MS. LUTTRELL:

17 Q Talk a little bit louder. Okay. The air
18 conditioning is really loud.

19 A Okay. Then it's the kitchen, and then it's
20 the living room, and then there's the back room on
21 the left side.

22 Q Okay.

23 A And then there's the bathroom before you get
24 to back room. Then there's, like -- there used to
25 be three couches in there and, like, a recliner.

Testimony of [Minor]

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1 Q Okay. So when you would go over there in the
2 mornings or spend the night, where would you sleep?

3 A On the couch.

4 Q And would anyone else be there with you?

5 A Yes. My sister, Cherrelle B. [REDACTED].

6 Q And how much -- what's the age difference between
7 you and her?

8 A We're five years apart.

9 Q Is she older or younger?

10 A She's younger.

11 Q Now, I want to talk about why we're here today.
12 Do you know why we're here?

13 A Yes.

14 Q Did something happen between you and Michael?

15 A Yes.

16 Q Can you tell the Judge about the first incident
17 that happened between you and the defendant?

18 A I was on the couch, and he came in the living
19 room, and he started pulling up my dress. I had a
20 red dress on, and he started raping me.

21 Q Okay.

22 A He forced me to have sex with him.

23 Q How old were you when that happened?

24 A I believe I was, like, 12 years old.

25 Q And do you remember what grade you were in?

1 A Probably 6th going to 7th.

2 Q Okay. Do you remember what time of year it
3 happened?

4 A No.

5 Q Do you remember -- were you in school at the
6 time?

7 A Yes.

8 Q Do you remember if it was hot or cold out?

9 A I believe it was fall.

10 Q You said that he, you were sleeping on the
11 couch?

12 A Yes.

13 Q And when you say that he had sex with you, what
14 happened prior to him having sex with you?

15 A He would like force me. He would twist my
16 arm. He would cover my mouth. He would just be
17 done with me and walk away with a smile on his
18 face.

19 Q Say that again.

20 A With a smile on his face. Some nights he was
21 drunk.

22 Q Did you try and scream out for help?

23 A Yes. When I was at my grandma's home, he
24 started raping me on the couch.

25 Q What about the first time that this happened that

1 you just described, did you try to yell out for help
2 that day?

3 A I was sleeping. He woke me from my sleep
4 pulling my pants down.

5 Q Okay.

6 A He forced his penis inside my vagina.

7 Q Okay.

8 A And I was in shock. I didn't know what to
9 do.

10 Q Was this the first time you had sex?

11 A Yes.

12 Q What did you do after?

13 A I cried, and I turned back over, and then I
14 went back to sleep. When I woke up, I avoided him
15 the whole day. There was blood in my drawers when
16 I woke up.

17 Q Did you tell anyone when that happened?

18 A No. I was scared. I didn't tell nobody
19 until I got in 9th grade. It was a weight on my
20 shoulders and I didn't want to have to wear it
21 anymore.

22 Q And why didn't you tell anyone back when it
23 happened?

24 A Because I didn't think nobody would believe
25 me. And when I did told them, half the family

1 believed me, half of them didn't.

2 Q Why didn't you think anyone would believe you?

3 A Because we first cousins.

4 Q Okay.

5 A And they would think, why would he do that.

6 Q Did Michael say anything to you when he would do
7 this?

8 A He would be like, who you texting? Is that
9 your boyfriend? You texting him. He would just
10 laugh it off. He would just always touching on
11 me. I tell him to stop. He used to always pick
12 at me all the time. I was always, like, I hate
13 him. I don't want to be around him. I always
14 used to give my grandma hints about him. I didn't
15 know how to tell. Like, can you know how to tell.
16 I'm only 12 years old. I didn't know what was
17 happening to my body. It was hard for me to tell
18 anyone.

19 Q Now, did this happen a second time?

20 A Yes.

21 Q And what happened during that incident?

22 A The second time, it was during the day. We
23 was in the house by ourselves.

24 Q And when you say you were in the house, whose
25 house were you at?

1 A My grandmother's house.

2 Q Okay.

3 A I was in the house by myself and I was
4 sitting on the couch and I was on my phone
5 texting. And then that's when he came in front of
6 me and pushed me back and pinned me down to the
7 couch frontwards. I'm sitting down. He started
8 raping me. He started forcing me to have sex with
9 him, and then that's when I slapped him, and he
10 laughed it off and walked away like nothing
11 happened.

12 Q Were you wearing clothes when this happened?

13 A Yes. He pulled my pants down, of course.

14 Q Okay. Did he say anything to you that time?

15 A He laughed, like, who you texting? You
16 testing your boyfriend. He walked away.

17 Q Did he say anything after it happened?

18 A He just -- I don't too much remember. It's a
19 blur.

20 Q You have to speak up a little bit louder.

21 A I don't too much remember. It's, kind of, a
22 blur.

23 Q Okay. Did this ever happened a third time?

24 A Yes.

25 Q What happened that time?

1 A He just -- every time it happened, he would
2 force me to have sex with him. One time he
3 twisted my arm to the back and started forcing me
4 to have sex with him, even like middle of the
5 night. It could be, like, three o'clock in the
6 morning.

7 Q Okay. The third time this happened -- the two
8 times you talked about happened on the couch; is that
9 right?

10 A Uh-huh.

11 Q Did this ever happen anywhere else in the house?

12 A Yes. Inside the back room while I was
13 getting ready for school in the morning.

14 Q And when you say it happened in a back room, what
15 kind of room was that?

16 A The bathroom.

17 Q Whose bedroom was that?

18 A It was basically my mother's. My mother's
19 bedroom.

20 Q Okay.

21 A But we moved out, and that's when he moved
22 in. And that's when me and my sisters would get
23 dressed in the back. We were getting ready for
24 school. That's when I was in there by myself and
25 he came back there. He pulled down my uniform

Testimony of [Minor]

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1 pants and he started having sex with me from
2 behind, and he twisted my arm back like that. And
3 I told him stop and he didn't stop.

4 Q And did you try screaming out for help or
5 anything?

6 A I screamed the second time. I was on the
7 couch.

8 Q Okay.

9 A I was screaming and he come from the front.
10 He covered my mouth.

11 Q The third time this happened in the back room,
12 were you standing up, or were you --

13 A I was standing up and he pushed me on the
14 bed.

15 Q Did Michael ever tell you not to tell people about
16 what happened between the two of you?

17 A He just laughed it off. He be, like, nobody
18 going to believe you.

19 Q Can you say it a little bit louder?

20 A He laughed it off and said, no one is going
21 to believe you.

22 Q All right. When did the -- was there ever a
23 fourth time or when did this stop?

24 A It stopped. He got kicked out.

25 Q Kicked out of your grandma's house?

1 A Yeah. It happened more than three times.

2 Q Okay.

3 A Yes.

4 Q When you finally told people what happened, who
5 did you tell?

6 A I told my grandmother, yes, which is
7 Pearlie Wiggs.

8 Q And how old were you when you told her?

9 A I was 15 years old.

10 Q How much time had passed since this happened,
11 since Michael had been kicked out. Do you remember?

12 A I'm not sure.

13 MS. LUTTRELL: No further questions,
14 Your Honor.

15 THE COURT: All right. Miss Campbell.

16 MS. CAMPBELL: I don't have any
17 questions.

18 THE COURT: Okay. Miss Luttrell, can she
19 sit down?

20 MS. LUTTRELL: Sure.

21 THE COURT: You can step down, please.

22 MS. LUTTRELL: Your Honor, I don't have
23 any other witnesses for this motion.

24 THE COURT: Okay. Any argument or not?

25 MS. LUTTRELL: Yes, Your Honor. And I.

1 did file a written motion in this case, and I have a
2 printed copy, if Your Honor needs it, along with the
3 case law I cited. I have copies for both you and Miss
4 Campbell

5 THE COURT: Mark it as a State's exhibit.

6 (STATE EXH. 5, Written motion, was marked
7 and entered into evidence.)

8 MS. LUTTRELL: And under Rule 404(b) for
9 an exception to admit evidence of prior bad acts,
10 one of the exceptions allows when the State is
11 seeking to use the evidence to show a common
12 scheme or plan, which is what the State intends to
13 use this evidence for in this case.

14 The incident that is charged in the
15 indictment was an incident that occurred quite
16 sometime ago when the victim, when Miss Wiggs, did
17 disclose what happened to her. She was very clear
18 that it happened at her grandmother's house, on
19 the couch, that he removed her clothing,
20 penetrated her, had sex with her, and sort of
21 laughed it off afterwards.

22 The other two incidents that the State
23 seeks to admits evidence of show that the
24 defendant had a common plan when he would
25 accomplish these acts. Every single one of the

1 acts, they all occurred with the same victim in
2 this case. They were close in time. They all
3 occurred within about a year -- nine months to a
4 year of each other. They all occurred at the same
5 location. Two of them occurring in the living
6 room on the same couch, and one occurring in the
7 back bedroom. In each of the incidents, he
8 removed her clothing. She said he would twist her
9 arms, or held her arms, and that he would, sort
10 of, laugh it off afterwards and smirk after he
11 would be done.

12 So based on the case law cited in the
13 State's motion, the Court has held that when
14 looking at whether or not to admit evidence
15 showing a common scheme or plan, the Court should
16 look at the similarity of the circumstances, not
17 necessarily the dissimilarities of each incident.
18 And here, each incident is very similar. He
19 accomplished them in similar means. It all
20 happened in the same place. And the State or the
21 Court has said that especially in these types of
22 cases, criminal sexual conduct cases, which are
23 unique, the admission of these prior conduct to
24 show a common scheme or plan is important because
25 of the types of cases these are which occur

1 without witnesses. And the evidence of a common
2 scheme or a plan show, with these prior bad acts,
3 show a corroborates the victim's statements and
4 allegations for the crime that is being charged.
5 That was State v. Tutton, 354 S.C. 319.

6 And the factors that I mentioned that are
7 present here, the Court did cite in State v.
8 Wallace, which was, age of victim when the abuse
9 occurred, relationship between the two, the victim
10 and the assailant, location, and use of coercion
11 or threats and the manner and type of sexual
12 battery. A close degree of similarity establishes
13 the required connection between the two acts and
14 no further connection must be shown.

15 Additionally, the Court has held that it
16 is enough to present evidence of the victim
17 involved, and it is not up for the Court to
18 determine that person's credibility, but if a
19 victim testifies about the other acts, that that
20 can be enough and sufficient to meet the clear and
21 convincing standard and then put those in front of
22 the jury to judge the credibility of the witness.
23 And that was State v. Wilson, a Supreme Court case
24 in South Carolina, 345 S.C. 1.

25 THE COURT: Miss Luttrell, in looking at

1 all of these cases, I certainly understand that
2 you're trying to argue them that it's a common
3 scheme or plan involved, obviously, this victim at
4 the grandmother's house, and that he alleged
5 assault were of the same nature. She was on the
6 sofa. She was vaginally penetrated. And you talk
7 about -- I don't think that came out in the
8 testimony.

9 My question to you is this: Does it
10 matter that she was charged -- or, I'm sorry, that
11 he was charged with this first incident, and then
12 the two other things that she's arguing -- or just
13 wants to talk about happened subsequent to it?
14 Because all the cases that I'm looking at that you
15 provided to me, it appears that those all preceded
16 the actual charged indictment. Does that matter,
17 and are there cases that say that does not matter?

18 MS. LUTTRELL: There are, Your Honor.

19 THE COURT: Okay.

20 MS. LUTTRELL: At least one. I just need
21 to look at my notes.

22 THE COURT: Okay.

23 MS. LUTTRELL: I didn't think about that
24 being a potential issue. And I believe it can be
25 prior bad acts. Although it says prior bad acts,

1 it can be the act that occurred prior to the
2 alleged incident or subsequent to the incident
3 charged.

4 If you could give me one moment, Your
5 Honor.

6 THE COURT: Sure.

7 MS. LUTTRELL: In the State v Atkins.

8 THE COURT: State v. Atkin, is that what
9 you just said?

10 MS. LUTTRELL: Yes. It's State v. Atkins,
11 309 S.C. 542.

12 THE COURT: Let me just find that.

13 MS. LUTTRELL: May I did not hand it up
14 to Your Honor.

15 MS. CAMPBELL: I'm sorry. What was the
16 cite again?

17 MS. LUTTRELL: It's 309 S.C. 542. It's a
18 case from 1992 from the Court of Appeals in
19 South Carolina.

20 THE COURT: 1982?

21 MS. LUTTRELL: 1992.

22 THE COURT: '92. Okay. It's State v.
23 Atkins?

24 MS. LUTTRELL: Yes, Your Honor.

25 THE COURT: Spelled A-t-k-i-n-s?

1 MS. LUTTRELL: Yes, Your Honor.

2 THE COURT: Okay. Can you just find it,
3 please?

4 MS. LUTTRELL: In that case, it was
5 actually two separate victims of sexual assault.
6 And one of the sexual assaults was charged and the
7 or was not. I'm just trying to find where.

8 THE COURT: Was identity an issue in that
9 case?

10 MS. LUTTRELL: There was an issue of
11 identity in one of the cases, not both cases. But
12 it was common scheme or plan in that case as
13 well.

14 THE COURT: In that case, was the alleged
15 assailant known to the alleged victim?

16 MS. LUTTRELL: I believe it was a
17 stranger to both victims.

18 And, in that case, the one that was
19 charged was the incident that occurred first, and
20 then the State sought to admit evidence from the
21 second incident which he was not charged because
22 there were some identification issues with the
23 second victim, but they were all -- they showed
24 similar ways of entry to the home and the type of
25 sexual battery done to each of the children in

1 both cases, and there was some DNA evidence in
2 that case where there was, I believe, a pubic hair
3 found at the scene of the second incident.

4 Your Honor, there's also State vs.
5 Richey, 88 S.C. 239. It's a very old case from
6 1911, but that case also says acts of prior also
7 subsequent to the act charged in the indictment
8 had fallen under the prior bad acts.

9 THE COURT: Okay. What we're going to
10 do -- I mean, the Atkins case seems not to support
11 anything. It was reversed. They basically said
12 that the trial judge shouldn't have allowed it.

13 MS. LUTTRELL: But I believe that was
14 because of an issue with forensic evidence, Your
15 Honor.

16 THE COURT: Okay.

17 MS. LUTTRELL: Not based on the timeline
18 of when they occurred.

19 MS. CAMPBELL: Your Honor, if I can just
20 briefly put our position on the record.

21 THE COURT: Please.

22 MS. CAMPBELL: I understand that
23 Your Honor needs to give us a ruling in the
24 morning, but --

25 THE COURT: Yeah, I just need to read.

1 MS. CAMPBELL: We just take the position
2 that, number 1, the State certainly has limited
3 themselves by the terms of their indictment. They
4 certainly knew from day one the allegations that
5 this -- a witness had made, and they certainly had
6 plenty of opportunity to make their indictment
7 encompass the allegations that they wanted to
8 present at court. They failed to do so.

9 We have prepared and been prepared to
10 answer the indictment in this case and the terms
11 of that indictment, rather than the parameters of
12 that indictment.

13 I will also say that we take the
14 position, as Your Honor has indicated, that the
15 indictment covers the first allegation, that any
16 events that occurred then in the spring and then
17 in the fall and nearly a year later, are, in fact,
18 past -- excuse me events dating after the initial
19 allegation in the indictment and are not covered
20 by 404(b).

21 I would say to Your Honor, that,
22 goodness, we have a situation where in Lyle --
23 okay, so everything in 404(b) comes from Lyle.
24 Okay? So Lyle said -- all right. The forgeries
25 were committed on the same day. Yeah. Those can

1 come in. But the forgeries committed on another
2 day, they're not coming in. And that's the
3 foundation, although it's contorted and ruled upon
4 six different ways, you know, that is what 404(b)
5 in Lyle is.

6 So, you know, none of the CSC cases that
7 deal with multiple victims, that's not applicable
8 here.

9 THE COURT: Right.

10 MS. CAMPBELL: So what you're dealing
11 with is three separate allegations spanning the
12 course of a year, totally different time frames,
13 but an indictment that only covers one of them.
14 And now they want to scoop everything in under
15 that, under this logic and that. This logic
16 doesn't uphold what the State wants to do because
17 of the ruling in Lyle. Thank you.

18 THE COURT: Okay. What I'm going to do
19 is this: The State needs to see if they can find
20 anything that talks about -- or any case that
21 talks about subsequent sexual acts, which means
22 the same alleged victim, same, you know, alleged
23 assailant in a case that is not questioning
24 identity. I don't think, in this case -- it's not
25 an identify issue. It's whether or not it

1 occurred.

2 I can tell you that having heard the
3 testimony of the alleged victim in this case, I do
4 find that it is clear and convincing that it
5 occurred, but I don't know if it gets under an
6 exception or not. So I think you all just need to
7 find some case law. What I'd ask you to do, once
8 you find something, if you would email it to Julia
9 and myself so I can take a look at it before the
10 morning. Okay?

11 MS. LUTTRELL: Yes, Your Honor.

12 THE COURT: So, other than that, we are
13 beginning at 9:30 with the jury. I should be
14 here, at the latest, by 8:35 or so. But if you
15 all would be back at 9:00 a.m. in the morning, so
16 we'll take up this issue. And, again, if you find
17 anything that's on point or close, if you let me
18 know, and just email it to us so I can read it
19 ahead of time. Okay?

20 MS. LUTTRELL: Your Honor, the only other
21 issue the State has is with the portion of the
22 defendant's statement in which he, sort of,
23 characterizes the victim as a bad kid, getting in
24 trouble at school, smoking weed, lying all the
25 time. And the State did seek to redact that

1 portion of improper character evidence of the
2 victim. I don't believe it would fall under any
3 exception, and any sort of evidence that she might
4 have used marijuana, in this case, it would not go
5 to show that she didn't have a good memory of the
6 event at the time. He wasn't saying that she was
7 high when she came on to him. He was just, sort
8 of, talking about her using marijuana at different
9 times.

10 So the State was seeking to redact that
11 portion as improper character evidence of the
12 victim.

13 THE COURT: Miss Campbell?

14 MS. CAMPBELL: I don't think that rules
15 applies during the interrogation. It might apply
16 here in court if my client were to take the stand.
17 But, you know, you take the good with the bad.
18 The officer asked the question and the defendant
19 had answered it. So, you know, I don't think that
20 rule is applicable.

21 THE COURT: I would agree, Miss Campbell.
22 I think it can be -- that's my rendition of it.
23 Whatever it is, bad or not.

24 I don't think you're entitled to have it
25 redacted, particularly when it's a possible

1 response to the investigator suggesting in some
2 way that this was consensual. It kind of all goes
3 along with it, so I think it's fair game.

4 All right. So let's go ahead. I'm going
5 to give this back to you, Court Reporter.

6 If you find any case law having to do,
7 again, with sexual assault where identity is not
8 an issue and particularly talking about subsequent
9 acts -- and I will say that, from the testimony
10 I'm hearing, I'm not so much concerned about place
11 and time because they were close in time. I do
12 also think that they are certainly similar acts.

13 My concern is why they're admissible.
14 Why they would be.

15 I guess the real question is whether or
16 not the two subsequent acts are necessary to prove
17 any element of the first incident, I mean, as far
18 as the CSC. You know, I guess -- I just don't
19 know yet. So just whatever you have, let me know.
20 All right. Thank you.

21 (Court was adjourned at 5:48 p.m.)

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1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF BEAUFORT

4 State of South Carolina,
5 Plaintiff,

6 vs.

Transcript of Record
2016-GS-07-00285

7 Michael Wiggs,

8 Defendant.

9
10
11 June 18, 2019
12 Beaufort, South Carolina
 Volume II

13 B E F O R E:

14 The Honorable CARMEN T. MULLEN
15

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

17 Sara Rebekah Luttrell, Representing the State of South
18 Carolina
19 Traci Campbell, Representing the Defendant
20
21

22 SHARON G. HARDOON, CSR
23 Official Circuit Court Reporter, II
24
25

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1 THE COURT: Well, again, good morning. I
2 took the opportunity overnight to go through and
3 reread Wyle, which I read for some time, and read,
4 also, Law Review articles just refreshing myself
5 for the 404(b) and our requirements. Having
6 looked at everything, and having gone through a
7 number of cases, I think we can go ahead and agree
8 that it doesn't matter that the other acts were
9 after the offense that is being tried. I think
10 State v. Twitty clearly says in 17 S.E.2d 421 in
11 2011, that a trial court can properly admit 404(b)
12 evidence that occurred after the incident in
13 question, so I don't think there's any question as
14 to the timing.

15 As far as admissibility, of course, we
16 know what the analysis is. Was the evidence
17 sufficient that the defendant did, in fact, do it?
18 As we all know, I have to be convinced by clear
19 and convincing evidence. We heard the testimony
20 of the alleged victim yesterday, and I do find her
21 testimony clear and convincing. Obviously, the
22 whole idea is whether or not it serves that the
23 offense or the bad act, the alleged bad act,
24 serves a purpose other than that propensity. And,
25 in this case, I certainly think, number 1, it

1 shows a couple of things. It certainly talks
2 about identity, although I don't know if that's
3 necessarily an issue in this case but often it is.
4 We have a number of person. I think it clearly
5 talks about common scheme or plan. I will also
6 find that it definitely was sufficiently similar
7 as far as the two incidents are concerned. It
8 occurred at the grandmother's house on the sofa,
9 the one in the back room, and then the other room.
10 They were pretty much very similar incidents,
11 including the same defendant, same alleged victim,
12 same specifics, as far as type of sex. So I think
13 it's certainly sufficiently similar.

14 As far as similar. As far as temporal
15 proximity, I believe it was -- it was all within a
16 year's time, so I think it's appropriate. In
17 these cases, it's so difficult for younger people
18 to be able to establish a time frame, a time
19 period. Although, I think she was able to do that
20 to some extent.

21 And then lastly, of course, the balancing
22 act. And I find that this is so far different
23 that its prejudice outweighs any probative value.
24 I think it's all part of the common scheme or plan
25 that occurred allegedly between the defendant and

1 the alleged victim in this case. And we're --
2 very respectfully, I think it's appropriate.

3 And again, I think it's also -- part of
4 it also tells the entire story. It's kind of
5 justifies it, of what occurred allegedly. I know
6 we heard testimony yesterday. She talked about
7 the three incidents, obviously the first one that
8 was the offense that's been charged in the
9 indictment. But I believe I heard her say that
10 she said there were more, but it was these three
11 that she could specifically remember. So I think
12 it's appropriate and I'm going to allow her to
13 testify to that. Okay?

14 Anything else we need to take up this
15 morning before the jury comes in?

16 MS. LUTTRELL: No, Your Honor.

17 THE COURT: I think they're just about
18 all here. They have requested to be able to take
19 notes, so I approved them to do that, and I am
20 going to give them pads. They're going to have
21 pads and pencils when they first come in this
22 morning.

23 THE BAILIFF: I'm sorry, Your Honor.

24 THE COURT: Tom said that the jury has
25 already asked about taking notes.

1 THE BAILIFF: Yes, ma'am.

2 THE COURT: And so they're all going to
3 have them when they come in this morning, correct?

4 THE BAILIFF: Yes, ma'am. They will.

5 THE COURT: So, I'll give my normal
6 charge in my beginning about note taking.

7 Is there anything else we need to take
8 up? Again, there's not going to be any mention of
9 Miss Trask until or unless I admit her testimony.
10 And certainly, just to tell you, I will be
11 granting this. We're going to do a proffer before
12 anything is done in front of the jury. Okay?

13 Anything else?

14 Miss Campbell, your client is out of
15 custody, correct?

16 MS. CAMPBELL: He is.

17 THE COURT: Okay, good.

18 All right. Anything else we need?

19 MS. LUTTRELL: Nothing from the State,
20 Your Honor.

21 MS. CAMPBELL: No, ma'am.

22 THE COURT: All right. Well, then I'm
23 going to step back and let me just see if I have
24 everybody. And as soon as they're all here, we're
25 going to get started.

1 (Off the record.)

2 THE BAILIFF: All rise.

3 THE COURT: Are the jurors here?

4 THE BAILIFF: They're all here.

5 THE COURT: They're ready to go. Yes,
6 ma'am.

7 MS. LUTTRELL: Very briefly, Your Honor,
8 just so it's out there and everyone knows. I
9 already talked to Miss Campbell. I was outside in
10 the hall speaking to one of the witnesses, and I
11 sort of turned and a juror was and she said good
12 morning to me. I just turned back, and we moved
13 our witnesses further down the hall. I just
14 wanted to put that all out there.

15 THE COURT: Okay, thank you.

16 Okay. Anything else before we bring the
17 jury in?

18 MS. LUTTRELL: No, Your Honor.

19 THE COURT: Miss Campbell, anything?

20 MS. CAMPBELL: No, ma'am.

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

23 THE BAILIFF: Yes, Your Honor.

24 THE COURT: We're going to swear the jury
25 for me?

1 THE CLERK: I don't mind.

2 THE COURT: Perfect.

3 THE BAILIFF: The jury is entering the
4 courtroom, Your Honor.

5 THE COURT: Thank you.

6 (Jury enters the courtroom at 9:42 a.m.)

7 THE COURT: Good morning, Ladies and
8 Gentlemen.

9 THE JURY: Good morning.

10 THE COURT: I appreciate you all being
11 here this morning. Before we begin, we're going
12 to swear you in as the jury for the trial of this
13 case. And our foreperson, thank you, for your
14 willingness to serve.

15 At this time, if you would all please
16 rise and raise your right hand to accept the
17 juror's oath.

18 THE CLERK: Do you solemnly swear or
19 affirm that you shall well and truly try, and true
20 deliverance make between the State of South
21 Carolina and the accused at the bar, and a true
22 verdict give according to the evidence, so help
23 you God?

24 JURY PANEL: I do.

25 THE COURT: You may be seated, Ladies and

1 Gentlemen.

2 What I'm now going to explain to you is
3 intended to serve as an introduction to the trial
4 of this case. These remarks are not a charge on
5 the law. I'm going to charge you on the law
6 that's applicable to this case at the end of the
7 trial. This is just simply a road map of what
8 you're going to see so you can better understand
9 what is going to happen.

10 Now, Ladies and Gentlemen, the defendant,
11 Mr. Wiggs, in this case is charged by a bill of
12 indictment filed in this court with the offense of
13 criminal sexual conduct with a minor in this
14 second degree. Now, I'm going to explain the
15 elements of that at the end of the case.

16 Now, an indictment is simply a charge by
17 which a case is brought into a courtroom, and it
18 is in no way evidence of any of the allegations
19 that it contains.

20 Now, Ladies and Gentlemen, in this case
21 the defendant, Mr. Wiggs, has pled not guilty to
22 this indictment. Therefore, the State has the
23 burden of proving each of the elements of the
24 indictment beyond a reasonable doubt. And it's
25 your duty, Ladies and Gentlemen of the jury, to

1 determine whether or not the State has met that
2 burden.

3 Now, your purpose as jurors is to find
4 and determine the facts. You, the jury, are the
5 sole judge of all facts in this case. If, at any
6 time, I make a comment regarding the facts of this
7 case, you must disregard it. And you are only to
8 determine the facts of this case from the
9 witness -- or from the testimony that you're going
10 to hear from the witness stand, as well as any
11 other evidence that's introduced into this case.
12 Please understand that it is up to you to
13 determine inferences which you feel can properly
14 be drawn from the evidence.

15 Now, also please understand it's
16 especially important that you perform your duty in
17 determining the facts diligently and
18 conscientiously, because, ordinarily, there is no
19 way to correct an error in determination of the
20 facts by a jury.

21 Now, on the other hand, and with equal
22 emphasis, the same law that makes you, the jury,
23 the judge of the facts, makes me the judge of the
24 law. The law as given by the Court is the only
25 law that you may consider. I cannot tell you what

1 the facts of this case are, and you cannot
2 disagree with me about what the law is or what you
3 think the law ought to be. Your job at the end of
4 this trial is to take the law as I give it to you
5 and apply it to the facts as you find them and
6 from there render a verdict.

7 Now, Ladies and Gentlemen, until I advise
8 you to begin your deliberations, you must not
9 discuss this case with anyone, and that includes
10 each other until you've heard all the evidence,
11 you've heard the closing arguments from the
12 lawyers, and you've heard my charge on the law.

13 Now, also, as I indicated to you
14 yesterday, and you're going to hear me repeatedly
15 say this when we part, that you are not to read,
16 listen to, or watch anything about this case. And
17 that includes anything that may be in newspapers
18 or on the Internet or radio, or anything along
19 those lines. And you must not consider anything
20 you may have read or heard about this case outside
21 the courtroom, either before or during the trial.
22 Please understand it is vitally important that you
23 keep an open mind and not decide any issue in this
24 case until all the evidence has been presented.
25 Again, parties have made their closing arguments,

1 and I've charged you on the law.

2 Your verdict must be based solely on the
3 evidence as it's presented to you in this trial
4 and on the law as I instruct you during the close
5 of the trial.

6 Now, in just a moment the solicitor is
7 going to make what's called the opening statement
8 in which she is going to explain to you the issues
9 in this case or what she believes the issues are
10 in this case. And then the defense attorney,
11 Ms. Campbell is also going to make an opening
12 statement, although she is not required to do so.

13 Please understand that what these lawyers
14 tell you in their opening statements is not
15 evidence in this case. Again, it's simply their
16 contention as to what the evidence will show. I
17 remind you again, the evidence comes from the
18 witness stand, as well as any other evidence
19 introduced during the case.

20 I also want you to know that during the
21 trial of this case, you may hear from time to time
22 the attorneys say something like, Your Honor, I
23 believe we have a question of law or a matter of
24 law to take up, or I may have a conference with
25 them either over here off the record, or I may

1 even send you back to your jury room. I want you
2 to understand something, we're not hiding anything
3 from you. Oftentimes when I have to rule, as a
4 matter of law, whether or not certain evidence or
5 things are admitted, I may make a comment on the
6 facts of the case. Because I would never want
7 anything I do to influence you in your
8 determination of the facts as a jury, we just do
9 it outside of your presence just to be cautious.

10 Ladies and Gentlemen, in determining what
11 the true facts are in this case, you must decide
12 whether or not the testimony of the witnesses is
13 believable. It's my responsibility to rule as a
14 matter of law whether or not certain testimony is
15 admitted. But when it's admitted, whether or not
16 you believe it is for you to determine. In
17 deciding whether to believe a witness, you have
18 the right to consider the interest of any witness,
19 the bias of any witness, the prejudice of any
20 witness, and you can look at the opportunity that
21 witness had to have seen the matters and things
22 about which the witness may testify. And you can
23 also look at the way the witness acts on the
24 witness stand. You have the right to consider
25 anything that is in the record that will help you

1 evaluate the testimony of that witness. That
2 means, Ladies and Gentlemen, it's your duty to pay
3 close attention to the witnesses, to observe them,
4 to listen to them so that, at the very end of the
5 case, you can accurately remember the testimony
6 given.

7 Now, Ladies and Gentlemen, you've already
8 requested from the bailiffs to be able to take
9 notes in this case. And to that end, you've been
10 provided pads and pens. Please understand you are
11 not required to take notes. And also I want to
12 remind you that some people are better note takers
13 than others. If you don't want to take notes, put
14 it down, don't take any notes. But please
15 understand if you do take notes, those are for you
16 to use and consider. During the trial of the case
17 as you come and go, I'm going to have you leave
18 your notes in your seats. At the very end of the
19 trial, during your deliberations, you will have
20 your notes back in the jury room with you. But
21 again, that's for you to refresh your own
22 recollection. And you're going to hear me give me
23 a charge at the very end of the case that states
24 something along the lines that, you are not to
25 rely on someone else's notes simply because they

1 took notes. All right? Again, that is for your
2 own recollection and for your own use to use as
3 you choose to. All right?

4 So, Ladies and Gentlemen, at this time
5 we're going to go ahead and begin the trial of
6 this case.

7 Any exceptions or additions from the
8 State to my comments?

9 MS. LUTTRELL: No, Your Honor.

10 THE COURT: Any exceptions or additions from
11 the defense?

12 MS. CAMPBELL: No, ma'am.

13 THE COURT: Thank you.

14 Ladies and Gentlemen, we will go ahead
15 and begin this trial.

16 Miss Luttrell, whenever you're ready.

17 MS. LUTTRELL: May it please the Court?

18 THE COURT: Yes, ma'am.

19 MS. LUTTRELL: Counsel, Ladies and
20 Gentlemen of the jury, good morning.

21 THE JURY: Morning.

22 MS. LUTTRELL: The defendant in this case
23 is charged with criminal sexual conduct with a
24 minor in the second degree. And it's the State's
25 burden to prove to you beyond a reasonable doubt

1 that he committed a sexual battery against the
2 alleged victim in this case, Minor [REDACTED] when
3 she was between the ages of 11 and 14 years old.
4 You will hear from Minor [REDACTED] today, and she will
5 tell you about something that occurred between her
6 and the defendant back in the end of 2013 and the
7 beginning of 2014.

8 Now, this was five or six years ago at
9 this point, and will you hear her give you details
10 about a time when she went to her grandmother's
11 house located at 41 Joe Capers Road on St. Helena
12 Island, and she was there early one morning before
13 school as she normally would be. Her mother would
14 drop her off when her mother had to go to work.
15 She would catch the bus to go to school.

16 She was asleep on the couch in the early
17 morning hours, and she was awoken by the
18 defendant, her cousin, Michael Wiggs, who was
19 living there at the time. And he woke her up in
20 the middle of the night, pinning her down onto the
21 couch, removing her clothing from the lower half
22 of her body, and then penetrating her, having sex
23 with her, rough, hurting her. And then when he
24 was done, he sort of tossed her aside, laugh a
25 little bit, and walked away, went back to his

1 bedroom at the back of the house.

2 Minor will tell you that she was only
3 12, maybe 13 at the time. She was in shock. She
4 was scared. He was still in the house that
5 morning. She didn't know what to do. Minor
6 did not tell anyone right after this happened.
7 And you will hear from her that it happened again.
8 It happened later that spring while she was still
9 in seventh grade in the same place, at her
10 grandmother's house, but this time after school.
11 No one else was home. She was again on the couch
12 and the defendant, her cousin, came in, pinned her
13 down, removed her clothing on the lower part of
14 her body and had sex with her.

15 Again, Minor did not tell anyone.
16 She will tell you that she didn't think anyone
17 would believe her. She didn't know what to do.
18 She was worried it would break apart her family,
19 her family who was very close. She was worried
20 because he was still living there at her
21 grandmother's house. And then it happened again
22 later that fall. She was going into 8th grade.
23 She was at her grandmother's house again before
24 school. This time she was in a back bedroom
25 getting ready for the day, putting her uniform on,

1 and the defendant came back into the back bedroom,
2 pushed her down onto the bed, held her down,
3 removed her clothing and had sex with her again.

4 Shortly after that third incident, the
5 defendant moved out of his grandmother's house.

6 Minor will tell you that she didn't see him
7 for a while. But in November of 2015, around
8 Thanksgiving, there was a big Thanksgiving
9 gathering at her grandmother's house, some other
10 family members lived nearby, and the defendant was
11 there. Minor saw him again for the first time
12 since that last incident had occurred at her
13 grandmother's house and it brought back a lot of
14 emotions.

15 And it was at this point when she was 15
16 years old, two years later, that she decided to
17 tell someone what happened to her. She told her
18 grandmother in January of 2016, the first few days
19 after New Year's, what her cousin did to her.

20 Her grandmother then told Minor
21 mother, Shenaye Wiggs, when she got home from
22 work. And the two of them decided, at the very
23 least, they needed to get Minor some help.
24 They were in shock. They didn't quite know what
25 to do. Michael wasn't around that often anymore.

1 So they called an advocacy center, or a rape
2 crisis hotline.

3 And after telling the people on the phone
4 what they knew, those people told them you need
5 report this to law enforcement, so that's what her
6 mother did.

7 Law enforcement came out the next day,
8 and you will hear from that officer, Corporal
9 Craig Garcia, who initially responded. He was a
10 patrol deputy. He responded to calls being made
11 at night. And so he came out and he took an
12 initial report from Shenaye Wiggs, Pearlie Mae
13 Wiggs and [Minor] He'll tell you that he
14 took the initial statements from them, that
15 [Minor] told him what happened, that [Minor]
16 told him it happened at the place he responded,
17 her grandmother's house, 41 Joe Capers Road, where
18 she was still living, and that it happened about a
19 year or two ago.

20 After that, Corporal Garcia turned it
21 over to an investigator. And Investigator Fraser
22 will testify later today that part of his
23 investigation he scheduled an interview for
24 [Minor] to go to an advocacy center where she
25 met with someone trained to talk to children, and

1 where she also eventually did some counseling.

2 And then he also talked to the defendant.

3 Investigator Fraser will tell you that he
4 conducted two interviews with the defendant, and
5 during the first interview, February 2, 2016, the
6 defendant came into the office and said, I have no
7 idea what we're talking about. I didn't really
8 live there at the time. I lived there right after
9 high school in 2009. I lived with some other
10 family members. I would never do anything like
11 this. She's my niece. He called her his niece.
12 She was so much younger than him. He never
13 touched her. Nothing happened between them. He
14 doesn't know why she would make this up, but he
15 wasn't part of anything.

16 So Investigator Fraser continued his
17 investigation, he followed up on some details, and
18 then he asked the defendant to come in for a
19 second interview. And you will hear the
20 defendant's own words, you will see the interview
21 that was conducted on February 9th of 2016. Now,
22 I want you to pay close attention to how his story
23 changed on that date.

24 The defendant comes back in about a week
25 later, but this time something did happen. There

1 was some inappropriate touching, but he never
2 penetrated her, and she's the one that came onto
3 him. She jumped into his bed. She rubbed up on
4 him. She jumped on his lap when she was 12 or 13.

5 After you listen to **Minor** testify
6 here today, six years later, and you compare that
7 to what the defendant said happened, and consider
8 what makes sense. The State will ask that you
9 find the defendant guilty of this charge.

10 Thank you.

11 THE COURT: Miss Campbell.

12 MS. CAMPBELL: May it please the Court?

13 THE COURT: Yes, ma'am.

14 MS. CAMPBELL: Good morning.

15 JURY PANEL: Good morning.

16 MS. CAMPBELL: The presumption of
17 innocence, it's not just a legal concept. In --
18 I guess what you'd say commonplace terms, it rests
19 on the generosity of spirit that assumes the best
20 of a stranger, not the worst. It is the golden
21 thread, it's been referred to that, that is woven
22 into a robe of innocence around the shoulders --
23 and Her Honor will give you the charge on this
24 law -- around the shoulders of every man or woman
25 accused by the State.

1 In order to remove the cloak of innocence
2 from this defendant, from every defendant, the
3 State must prove guilt beyond reasonable doubt.

4 That robe of innocence must be taken
5 apart thread by thread by thread by the State by
6 the use of testimony and evidence against
7 Mr. Wiggs.

8 Now, this robe that we all would wear
9 were we at that table, this robe is intact. It
10 remains intact and no single thread is pulled from
11 that robe during the entire trial and throughout
12 your deliberations at the end of the trial because
13 the Court will tell you, you cannot begin removing
14 threads during the trial, during testimony. You
15 cannot begin stripping down the robe of innocence
16 from any man until the case is over and until you
17 are in your deliberations considering all the
18 evidence.

19 So in your mind, as you sit here this
20 morning, you have taken an oath to view Michael
21 now shrouded had in innocence, and he will remain
22 that way in your mind, in your heart, in your
23 thoughts, throughout this case under your oath.
24 And even when you begin your deliberations, that
25 cloak, the robe, the shroud of innocence is intact

1 and in place no matter the charge. Freeing your
2 mind of any thought that any man in this county,
3 in this country must come in here and prove to you
4 that he is innocent is the highest service that
5 you can offer to your fellow citizen, to your
6 families, to yourselves, and to the law that
7 protects each and every one of us every day.

8 You must necessarily evaluate as Her
9 Honor has told you, and analyze witnesses that
10 bring you testimony.

11 At the close of this trial I will speak
12 with you again once you heard these witnesses, and
13 whatever evidence that the State provides to you,
14 and I will remind you again, at that moment,
15 Michael is still presumed innocent and remains
16 cloaked in that robe, woven with that golden
17 thread of our law and the foundation of this
18 courtroom and the foundation of this country.

19 And during your deliberations, as you
20 consider all the evidence, if you remove a thread,
21 if you remove two threads, if you say to
22 yourselves, one or two threads, he's still
23 innocent. When you're ready to try and make that
24 decision and you factor in proof of guilt beyond a
25 reasonable doubt, you might say to yourself, well,

1 what is that? Her Honor will tell you, that's the
2 kind of doubt that would cause a person to
3 hesitate to act. When you come to that point, I
4 say that you will be in a position if there is
5 no -- if you have a single thread of gold left
6 upon the shoulders of an accused, you cannot come
7 back in here and return a verdict of guilt. The
8 shroud, the innocence remains.

9 I say to you, the state must provide the
10 testimony and the evidence -- if I was you,
11 without hesitation, without concern, to strip from
12 Michael the robe of innocence, and completely so
13 that in doing so, not a shred, not a single thread
14 remains to the robe that Her Honor will instruct
15 you about.

16 And at the close of the case, the
17 intersection between what we've just talked about,
18 the highest responsibility for the presumption of
19 innocence and the intersection of that with
20 reasonable doubt, and I will say to you at that
21 time, that the State will have failed to meet
22 their burden of proof when any one is accused in
23 this country.

24 Thank you.

25 THE COURT: State call your first

1 witness, please.

2 MS. LUTTRELL: The State calls
3 Corporal Garcia.

4 THE CLERK: Place your left hand on the
5 Bible and raise your right hand. Do you solemnly
6 swear or affirm to answer all questions asked of
7 you by this Court, so help you god?

8 THE WITNESS: I do.

9 THE CLERK: State your first and last
10 name for the record.

11 THE WITNESS: Craig Anthony Garcia,
12 G-A-R-C-I-A.

13 WHEREUPON:

14 CRAIG GARCIA,
15 after having been sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. LUTTRELL:

18 Q Good morning, Corporal Garcia. Where are you
19 currently employed?

20 A Beaufort County Sheriff's Office?

21 Q I see it's plastered across your back there. How
22 long have you worked for them?

23 A Next month, it'll be six years.

24 Q What's your current position there?

25 A I'm a Corporal D Team, Road Patrol.

Testimony of C. Garcia

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1 Q As a road patrol deputy, what are your normal
2 responsibilities?

3 A We do traffic collisions. We respond to any
4 911 calls, any domestics, assault and batteries,
5 robberies. We respond to pretty much
6 everything.

7 Q Were you working with the Beaufort County
8 Sheriff's Office back in January of 2016?

9 A I was.

10 Q And How did you get involved in this case?

11 A I was the early man, which is the deputy
12 comes out an hour before shift to relieve the
13 off-going deputies. I was dispatched to a
14 reported sexual assault at one -- or excuse me, at
15 41 Joe Capers Road in Burton, which is in
16 Beaufort County, my jurisdiction, and that's how I
17 responded to the call.

18 Q And when you arrived, who did you meet with?

19 A My initial -- I met with a Shenaye Wiggs. I
20 apologize if I'm pronouncing that incorrectly.
21 And then I met with Ms. Pearlie Mae Wiggs, who is
22 the grandmother. Shenaye is the mother. And then
23 I met with -- Minor That's the
24 victim.

25 Q And do you remember how old was Minor

Testimony of C. Garcia

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1 around that time?

2 A I want to say she was 13, 14-ish.

3 Q She was a teenager?

4 A Yes, ma'am.

5 Q And when you arrived on scene, what did your --
6 what did you do?

7 A When I initially arrived on scene,
8 Miss Shenaye was waiting for officers to arrive.
9 I met with the parties. I didn't see any signs of
10 physical injury. I notified my sergeant,
11 Sergeant Mooney, of the situation, and I
12 documented my interviews with each party.

13 Q Now, when you say you didn't see signs of any
14 physical injury, did **Minor** make some kind of
15 disclosure about something that happened to her?

16 A She did.

17 Q Did she tell you where that incident took place?

18 A She did.

19 Q Where was that?

20 A 41 Joe Capers road in Burton.

21 Q Was that the same place you responded to that
22 evening?

23 A Yes.

24 Q Did she tell you when the alleged incident took
25 place?

1 A She said between 7th and 8th grade. So I'm
2 going to assume that's the summertime because it
3 was between the it would grades.

4 Q She told you it happened previously?

5 A Yes, ma'am.

6 Q And so, at that time, did you make any
7 appointments for her to go to see a doctor, or
8 anything like that?

9 A That level is above me. I took the initial
10 report and then investigations, and I want to say
11 the victim's advocate may have talked with her and
12 they would set up those incidences.

13 Q Okay.

14 A I would -- I notified my direct supervisors
15 who would notify command of the situation. I gave
16 her mother the case number, and then it was
17 followed up after me.

18 Q So did you pass it on to an investigator at that
19 point?

20 A I sent it up through the system, and then it
21 automatically goes to investigation. All reports
22 go to investigations.

23 Q And did you have any other involvement with the
24 case at that point?

25 A I did not.

Testimony of C. Garcia

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1 Q Did you ever talk to the person accused of this?

2 A I did not.

3 MS. LUTTRELL: No further questions,

4 Your Honor.

5 MS. CAMPBELL: May it please the Court?

6 THE COURT: Yes, ma'am.

7 MS. CAMPBELL: May I approach?

8 THE COURT: You may.

9 MS. CAMPBELL: Thank you.

10 CROSS-EXAMINATION

11 BY MS. CAMPBELL:

12 Q Good morning.

13 A Good morning.

14 Q Officer Garcia, I'm going to hand you the 911 call
15 detail report. Do you recognize your name and, at the
16 time, your call sign on the call detail?

17 A Alpha 66.

18 Q And that was you at the time?

19 A Yes, ma'am.

20 Q And the information from the call action detail is
21 information that's relayed to you as you're proceeding
22 to a location like you did that day, correct?

23 A Yes, ma'am.

24 Q The information that was being relayed to, if you
25 could, share with the jury in reference to the report

1 of what had happened?

2 A (Indicating.)

3 Q Yes, sir.

4 A The CAD notes, caller advised that the mother
5 didn't know who or when it happened.

6 Q Thank you.

7 MS. CAMPBELL: That's all I have.

8 THE COURT: Anything further,

9 Miss Luttrell?

10 MS. LUTTRELL: No, Your Honor.

11 THE COURT: Any objection to this witness
12 being excused?

13 MS. CAMPBELL: No objection.

14 MS. LUTTRELL: No, ma'am.

15 THE COURT: You're excused, sir. Thank
16 you.

17 Call your next witness.

18 MS. LUTTRELL: The State calls Pearlie
19 Mae Wiggs.

20 THE CLERK: Place your left hand on the
21 Bible and raise your right hand. Do you solemnly
22 swear or affirm to truthfully answer all questions
23 asked of you by this Court, so help you God?

24 THE WITNESS: I do.

25 THE CLERK: Step up here and watch your

Testimony of P. Wiggs

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1 step. You can adjust the microphone, if you can state
2 your last name into the microphone. State your last
3 name and spell it for the record.

4 THE WITNESS: My last name is Wiggs,
5 W-I-G-G-S.
6 WHEREUPON:

7 PEARLIE MAE WIGGS,
8 after having been sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. LUTTRELL:

11 Q Good morning, Miss Wiggs. Do you know someone by
12 the name Minor

13 A Yes, my granddaughter.

14 Q And how many other grandchildren do you have?

15 A About 15 or so.

16 Q What about children? How many children do you
17 have?

18 A Three.

19 Q Daughters, sons?

20 A I have one son and two daughters.

21 Q What are your daughters' names?

22 A Shenaye Wiggs, and Stephanie Simons.

23 Q Where do you live?

24 A St. Helena Island.

25 Q How long have you lived there?

1 A Practically all my life.

2 Q Does anyone live with you right now?

3 A Yes. Minor does.

4 Q That's your granddaughter?

5 A Yes.

6 Q How old is your granddaughter?

7 A Minor is now 18.

8 Q Is she in school?

9 A She just graduated.

10 Q Has anyone lived with you in the past?

11 A Yes. Well, my grandson did. And well my
12 granddaughters has, too. I have kids rotate in
13 and out.

14 Q Tell me a little about your house where you live.
15 What's the address of that house?

16 A It's 41 Joe Capers Road. It's a two-bedroom
17 mobile home. It's a little roomy. It's got a
18 little dining area, one bedroom on one end, and
19 another one of the other end and the kitchen and
20 living room in between.

21 Q You mentioned your grandson that previously lived
22 with you. Who was that?

23 A It's Michael.

24 Q And would you please identify -- do you see him in
25 the courtroom today?

Testimony of P. Wiggs

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1 A Yes.

2 Q You sort of pointed over there?

3 A Yes.

4 Q Can you describe something he's wearing?

5 A He's wearing -- it's -- well, it's a red tie
6 blue shirt. His jacket.

7 MS. LUTTRELL: Your Honor, please let the
8 record reflect the witness has identified the
9 defendant.

10 THE COURT: Yes.

11 BY MS. LUTTRELL:

12 Q Miss Wiggs, when did Michael live with you?

13 A It was -- I guess it was -- I guess three or
14 four years ago.

15 Q Okay. Did he grow up in this area?

16 A He did. He was born in the area and he left.
17 I think he left out of my house when he was about
18 five. His mother got married and moved out.

19 Q When did he return to your house?

20 A After he graduated out of school.

21 Q Is that high school you mean?

22 A Yes.

23 Q And how long did he live with you when he came
24 back to this area?

25 A Let's see. Maybe a year or two or so ago.

1 Q Did anyone live with you around that time?

2 A Yes. My other grandson. He was there too,
3 and Minor

4 Q What's your other grandson's name?

5 A His name is Bobby. Bobby Wiggs.

6 Q And how old is Bobby about?

7 A I guess Bobby is about, 23, 24, somewhere in
8 there.

9 Q When Bobby and Michael lived with you, where did
10 they sleep. Did they have their own room?

11 A Yeah. They had the back room. The bed in
12 the back bedroom. Minor had a choice. If she
13 wanted the sofa or she could sleep in the room
14 with me. But she liked the sofa. She was
15 watching TV, so she just stayed in there.

16 Q Now, was there ever a time when Minor would
17 come to your house maybe in the mornings and after
18 school?

19 A Yes. When she stayed over to her mother.
20 She stayed with her mother for a while, in and
21 out.

22 Q And about what grade in school was she when that
23 happened?

24 A She was in 7th or 8th grade. Something like
25 that.

Testimony of P. Wiggs

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1 Q How often would she get dropped off at your
2 house?

3 A Sometimes she didn't want to go back to
4 mom's, so she stayed over there. It was easier
5 for her to get to the bus and back home.

6 Q Now, I want to talk to you about why we're here
7 today. Was there some point that **Minor** told you
8 about something that occurred that had happened to
9 her?

10 A Yes.

11 Q And when did she tell you?

12 A She told me -- it was a day or two after my
13 birthday. January -- I think it was -- I'm trying
14 to remember what the exact day was. Call it three
15 years ago. I guess it was about three years in
16 January. I'm not good with dates.

17 Q It's been awhile. It's okay.

18 Do you remember -- did she tell you where
19 this thing happened to her?

20 A Yes.

21 Q What did she say? Where did it happen?

22 A She said that it happened once on the sofa.
23 And I asked her, I said, why didn't you say
24 anything? She said it had happened a few times.
25 And I said, you still didn't say anything to me

1 about it. She said that she was ashamed of saying
2 anything. Which is why I said, you should have
3 talked to me a long time ago, let me know what's
4 going on, if something was going on. I said, I
5 can't believe that my grandson would do that. I
6 said, okay. You should have told me when he was
7 here.

8 Q Did she tell you -- without telling me the exact
9 details of what she said, did she tell you when this
10 happened?

11 A She just would call me over. She said that
12 she don't -- she couldn't remember the months that
13 it happened, but she knew that it happened during
14 the time that she was going to school and stuff
15 like that, but she didn't tell me what month. She
16 said she couldn't remember all of that.

17 Q Now, after **Minor** told you these things, what
18 did you do?

19 A I didn't know what to do. I just said I was
20 in disbelief. I waited and I tried to -- I spoke
21 to her mother --

22 Q Okay.

23 A -- about it.

24 Q Was **Minor** living with you at the time that she
25 told you this?

Testimony of P. Wiggs

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1 A Yes.

2 Q And did her mother come to your house at some
3 point?

4 A No. She was there every day because I would
5 baby-sit. I keep the little one for her. So she
6 was at the house just about every day. She did --
7 she came and I sat down and I talked to her. And
8 I also talked to his mom. I had -- you know, we
9 had pow-wow. I told her, I said, I don't know
10 what do, or what you're going to do. But, I said,
11 you all have to handle this. You know, a little
12 difficult. I don't what you're going to do. So I
13 left it up to my daughter to -- you know, what she
14 wanted to do.

15 Q And, at some point, did the police come out to
16 your house?

17 A Yes. She called. He took a statement from
18 me and whatnot, and everything started going from
19 that.

20 Q Did you notice any changes in **Minor** after she
21 told you about all this?

22 A Yes. She got a little more defiant and we
23 had to -- we even seeked counseling for her. And
24 she was doing things that she don't normally do.
25 So she got a little bit more difficult to handle.

Testimony of P. Wiggs

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1 MS. LUTTRELL: Your Honor, I have no
2 further questions at this time.

3 THE COURT: Miss Campbell.

4 MS. CAMPBELL: May it please the Court?

5 THE COURT: Yes, ma'am.

6 CROSS-EXAMINATION

7 BY MS. CAMPBELL:

8 Q Good morning.

9 A Good morning.

10 Q Miss Wiggs, if I take you back to, let's say,
11 2013, 2014 and you got Minor coming and going from
12 your home.

13 A Uh-huh.

14 Q Is that fair?

15 A Yeah.

16 Q Okay. And you have a good relationship with her
17 at that time?

18 A Yes.

19 Q The two of you spent time together, cooking a
20 meal, watching a TV show?

21 A At times, yes.

22 Q And you never hit her or hurt her, right?

23 A No.

24 Q Right. And you never threatened her or made her
25 feel unsafe in your home, right?

Testimony of P. Wiggs

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1 A No. Threatened her, yeah, but never made her
2 feel unsafe.

3 Q Right. "You better not do that again," right?

4 A Right. Yes.

5 Q But I'm talking about the kind of threat that
6 might make her fearful of you, right?

7 A No.

8 Q No.

9 A She's never been fearful of me.

10 Q So, would it be fair to say then that Minor
11 had the kind of relationship with you then that she
12 should have been trusting of you in your care for her,
13 right?

14 A Yes.

15 Q And could have come to you with any fears or
16 concerns that she had, right?

17 A Could have, yes.

18 Q I understand that when the prosecutor asked you
19 about the time that you then came to -- a couple years
20 later when Minor is, you know, at that age, like
21 15 or so, and you described it as defiant, having
22 difficulties with her, so would that include the fact
23 that she was running away from her mama's home or your
24 home and you all were reporting her as a runaway?

25 A Yes.

1 Q You had to involved the Department of Juvenile
2 Justice?

3 A Yes.

4 Q And there were threats, I would assume then, that,
5 you know, maybe -- you talked about counseling you
6 were going to make her have, right?

7 A She did, yeah. We put everything there for
8 her to have it.

9 Q That, you know, something was going to be done
10 about this behavior, right?

11 A Uh-huh.

12 Q Okay. And, you know, there was -- there was some
13 concern, I guess, that you and her mother had that she
14 was, maybe, like, smoking marijuana?

15 MS. LUTTRELL: Objection, Your Honor.
16 Improper character testimony under the rule.

17 THE COURT: You need to ask a question.
18 Is there a question?

19 MS. CAMPBELL:

20 Q Did you have a fear or concern that you were
21 dealing with a teenager who was smoking marijuana?

22 A Yes.

23 Q Okay. And did you have a fear or concern that you
24 dealing with a teenager that was hanging out with
25 people that were not good for her?

Testimony of P. Wiggs

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1 A No.

2 Q Okay.

3 A No fear.

4 Q How about at school? Did you have any fears or
5 concerns, were there expulsions or suspensions that
6 she was going through?

7 A No.

8 Q So basically what you had is a situation where
9 there was something going on that was causing her to
10 run away, smoke marijuana. Who was living with her
11 mother during that period of time?

12 A She has two other sisters, so that's who was
13 living with her mother during that time.

14 Q Her mother is Shenaye. She has three children?

15 A Yes.

16 Q So she has Minor [REDACTED] and then another daughter.

17 A Two daughters, yes. Two other daughters.

18 Q What's the other daughter's name?

19 A One is Audriale W. [REDACTED] and one is
20 Cherrelle.

21 Q Is that the baby?

22 A Audriale is the baby.

23 Q Is that the baby that you help take care of?

24 A Yes.

25 Q Who is that baby's father?

1 A Ward. We call him -- Derry Ward. He's known
2 as DJ. DJ something.

3 Q Okay. And are you testifying that the baby's
4 father was not staying at Shenaye's home during that
5 period of time?

6 A No. He wasn't staying there during that
7 time, no.

8 Q When you had Michael in your home, he had
9 graduated high school, right?

10 A Yes.

11 Q He was working for the Department of Corrections
12 at some point, right?

13 A Yes.

14 Q As a corrections officer, correct?

15 A Yes.

16 Q He had a girlfriend that he lived with for some
17 period of time in Ridgeland, correct?

18 A Yes.

19 Q Would you remember if that was 299 Family Road or
20 not?

21 A I never knew the address.

22 Q Okay. And you had -- did you meet the girlfriend
23 he was living with in Ridgeland during that period of
24 time?

25 A Yes.

Testimony of P. Wiggs

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1 Q He brought her to the house?

2 A Yes.

3 Q Okay. And that -- again, to the best of your
4 memory, that would have been 2013, 2014, right?

5 A Somewhere around there.

6 Q Somewhere around there, okay.

7 MS. CAMPBELL: Thank you, Judge. That's
8 all I have.

9 THE COURT: Miss Luttrell.

10 MS. LUTTRELL: Very briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. LUTTRELL:

13 Q Miss Wiggs, the behaviors that Miss Campbell was
14 asking you about, the running away, the possibly
15 smoking weed, do you remember, in relation to when
16 **Minor** told you about what happened to her, was
17 that behavior before or after she told you what
18 happened?

19 A That was after.

20 Q Okay. So was that the behavior that you started
21 to see after she started talking about --

22 A After she told, yeah.

23 Q -- what happened to her?

24 A Yes.

25 Q And did she have any problems during school time,

Testimony of P. Wiggs

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1 afterwards, or was it just --

2 A Her work dropped. She made some pretty bad
3 grades. She had to work real hard to bring it
4 back up, and she did. But she kind of -- after
5 her counseling started, she started getting her
6 treatment and stuff, she started to level off so
7 she could get her work done.

8 Q Counseling helped her deal with some of these
9 problems?

10 A Yes.

11 MS. LUTTRELL: No further questions,
12 Your Honor.

13 THE COURT: Miss Campbell, anything?

14 MS. CAMPBELL: No.

15 THE COURT: All right. Ma'am, you may
16 step down. Thank you.

17 Call your next witness.

18 MS. LUTTRELL: The State calls
19 Shenaye Wiggs.

20 THE CLERK: You can place your left hand
21 on the Bible and raise your right hand. Do you
22 solemnly swear or affirm to truthfully answer all
23 questions asked of you by this Court, so help you
24 God?

25 THE WITNESS: Yes.

Testimony of S. Wiggs

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1 THE CLERK: Watch your step. If you'll
2 speak directly into the microphone. Tell us your
3 name and spell your last name for the record.

4 THE WITNESS: Shenaye Wiggs W-I-G-G-S.
5 WHEREUPON:

6 SHENAYE WIGGS,
7 after having been sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. LUTTRELL:

10 Q Good morning, Miss Wiggs. Where do you currently
11 live?

12 A Currently, I live at Sea Pointe Apartments
13 behind Publix.

14 Q And have you lived in this area your whole life?

15 A Yes.

16 Q Where do you work?

17 A Boathouse Marina.

18 Q How long have you worked there?

19 A Thirteen years.

20 Q Do you have any kids?

21 A Three girls.

22 Q And how old are they?

23 A We have 18, 13 and 4.

24 Q And who's your oldest child?

25 A Minor

1 Q Does Minor live with you currently?

2 A Currently, she's with her grandmother.

3 Q Was that Miss Pearlle Mae that just walked out?

4 A Yes.

5 Q And is she in school?

6 A She just graduated.

7 Q Graduated high school?

8 A Yes.

9 Q Do you know someone by the name of
10 Michael Wiggs?

11 A Yes.

12 Q How do you know him?

13 A That's my nephew.

14 Q Do you see him in the courtroom today?

15 A Yes.

16 Q Could you identify something he's wearing?

17 A He is wearing a suit with a red tie.

18 MS. LUTTRELL: Your Honor, please let the
19 record reflect the witness has identified the
20 defendant.

21 BY MS. LUTTRELL:

22 Q Do you know about how old Michael is?

23 A We're about five years apart, probably 28,
24 29, something like that.

25 Q And you said he's your nephew?

Testimony of S. Wiggs

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1 A Yes.

2 Q Who are his parents?

3 A Stephanie Wiggs. Well, Simmons now. And
4 Michael Mack.

5 Q How is Stephanie --

6 A Stephanie Simmons is my sister.

7 Q Has Michael always lived in this area?

8 A Not always.

9 Q Tell me a little bit about that.

10 A He was born here, then he moved with my
11 sister. Her husband was in the military. He
12 moved, and he came back after he graduated high
13 school.

14 Q Do you remember when that was?

15 A I don't remember exactly when.

16 Q Who did he live with when he came back?

17 A With Pearlie Wiggs, my mother.

18 Q Do you remember how long he lived there?

19 A He stayed with her for six months or more,
20 then left to go stay with his mom.

21 Q Did he ever come back to your mom's house?

22 A Yes, he came back.

23 Q How often, or how long did he live there that
24 second time?

25 A He stayed for a year, a year and a half.

1 Q Okay. At some point, did he move out of your
2 mother's house?

3 A Yes.

4 Q Did you know why?

5 A Well, technically, I told him he had to go
6 because I was moving back home.

7 Q At some point, did your daughter **Minor** tell
8 you about something that happened to her?

9 A Yes.

10 Q When did she tell you about what happened to
11 her?

12 A She told me -- it was January the 8th, 2016,
13 once I got home from work that night.

14 Q And did she tell you where this thing happened to
15 her?

16 A Yes.

17 Q And what did she say?

18 A She said that it happened at my mother's
19 house.

20 Q What is your mother's address?

21 A 41 Joe Capers Road.

22 Q Is that where she currently lives as well?

23 A Yes.

24 Q When **Minor** told you about this thing that
25 happened to her, where were you guys?

Testimony of S. Wiggs

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1 A We were standing inside on my mother's
2 kitchen.

3 Q Who else was there?

4 A It was me, Minor and my mother, and my
5 two younger kids.

6 Q How old was Minor when she told you about
7 this?

8 A She was sixteen.

9 Q Did she tell you when these incidents occurred?

10 A She told me this happened -- this would have
11 been to 2013, 2014 when it happened.

12 Q How did she, sort of, remember those years?

13 A She didn't really say how -- those years were
14 kind of.

15 MS. CAMPBELL: Objection that would call
16 for hearsay and speculation.

17 THE COURT: Okay. Sustained.

18 BY MS. LUTTRELL:

19 Q Did she give you the year or did she give you
20 other information about when it happened to her?

21 A She didn't give dates when the incidents
22 happened. She didn't get into details.

23 Q Not specific dates?

24 A No.

25 Q After Minor told you what happened to her,

1 what did you do?

2 A Well, I called -- first, I called the Rape
3 Hotline and asked them what do I do about this,
4 and how do I go out and handle the situation. She
5 gave me the information to call the Sheriff's
6 office, then they sent the Sheriff out and we
7 talked to him.

8 Q Okay. So did an officer respond that same day?

9 A Yes.

10 Q Did you provide him a statement at that point?

11 A Yes. He provided a statement that she gave
12 us, then he told us to call Hope Haven. We called
13 and went to them and set her up for appointments
14 and everything.

15 Q After **Minor** told you what happened to her, did
16 you see any changes in her behavior? Was she living
17 with you after that or with your mother?

18 A She was living with my mother.

19 Q Did you see any changes in her behavior?

20 A Her behavior did change over the year. She
21 was a little stand-off-ish. She never wanted to
22 actually go anywhere. She was always in the
23 house, or she was just, kind of, guarded a lot.

24 Q What about at family gatherings, did you notice
25 anything?

Testimony of S. Wiggs

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1 A If we had family gatherings, she would just
2 grab something to eat and leave, and go next door
3 to my cousin's.

4 Q Now, was there ever a time when you would drop
5 Minor off at your mother's house before school and
6 pick --

7 A Yes.

8 Q -- her up after school?

9 A Yes.

10 Q Tell me about that.

11 A Every morning I'd have to be to work by 6:30.
12 I would drop Minor and my other kids off to my
13 mom's house. She will put them on the bus and
14 everything. And if I work my second job, they
15 will spend the night.

16 Q When did all that happen?

17 A In 2013 to 2014.

18 MS. LUTTRELL: No further questions, Your
19 Honor.

20 THE COURT: Miss Campbell.

21 MS. CAMPBELL: Thank you, Judge.

22 CROSS-EXAMINATION

23 BY MS. CAMPBELL:

24 Q Good morning.

25 A Good morning.

1 Q I'm trying to understand here. So you currently
2 have a four-year old child; is that right?

3 A Yes.

4 Q And that child's name?

5 A Audriale.

6 Q And her father's name?

7 A Devon.

8 Q Okay. And what -- I'm sorry, what was his last
9 name?

10 A Ward.

11 Q Devon Ward?

12 A Yes.

13 Q And would it be accurate if I said that there were
14 times when -- in 2013 and 2014 when you were calling
15 the police on the Devon?

16 MS. LUTTRELL: Objection, Your Honor.
17 Relevance.

18 THE COURT: Okay. You're --

19 BY MS. CAMPBELL:

20 Q Okay. For criminal domestic violence --

21 A No, ma'am.

22 Q -- for him?

23 A No, ma'am.

24 Q So have you been a victim of criminal domestic
25 violence?

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1 MS. LUTTRELL: Objection, Your Honor.
2 Relevance.

3 THE COURT: Ms. Campbell, I need the
4 relevance to be able to rule on the motion.

5 MS. CAMPBELL: Okay. I can be heard
6 outside the presence of the jury.

7 THE COURT: I think that's a good idea.

8 MS. CAMPBELL: Thank you.

9 THE COURT: Ladies and Gentlemen of the
10 Jury, I'm going to send you back to your jury
11 room. Please do not discuss this case for any
12 purpose. Leave your pens and paper in your seats.
13 Grab a cup of coffee, Ladies and Gentlemen, and
14 we'll bring you right back. Okay? Thank you.

15 (Jury exits the courtroom at 10:40 a.m.)

16 THE BAILIFF: Jury is clear and the door
17 is closed, Your Honor.

18 THE COURT: Miss Campbell.

19 MS. CAMPBELL: May it please the Court,
20 Your Honor?

21 THE COURT: Yes, ma'am.

22 MS. CAMPBELL: Pursuant to subpoenas, I
23 requested all incident reports for both **Minor**
24 and for Shenaye. And within the incident reports,
25 I believe there was information that Shenaye had

1 been a victim of criminal domestic violence in
2 that there was violence in her home.

3 Now, I have the disk. I can pull it
4 up.

5 MS. LUTTRELL: I have copies.

6 MS. CAMPBELL: But again, I do think it's
7 relevant in terms of the dynamics of the home, and
8 witnessing violence because they're going to
9 attempt to attribute any behaviors to these
10 allegations verses any other witnessing of
11 violence.

12 THE COURT: So what you have is calls --
13 domestic violence calls to the police. Was anyone
14 arrested?

15 MS. CAMPBELL: Oh, you know what, I
16 apologize to the Court. They gave me a new laptop
17 and it doesn't have a disk drive. I'll have to
18 get that. Yes, that's my recollection. That's
19 why I went into that information. I'm sure the
20 State got copies.

21 MS. LUTTRELL: Yes. And I have them
22 printed out, and the incidents were actually from
23 2009 to 2010, approximately.

24 MS. CAMPBELL: I have the wrong dates.

25 MS. LUTTRELL: Three or four years before

Testimony of S. Wiggs

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1 the alleged incident. And then even another five
2 to six years before this incident was even
3 reported, and then this conduct that she exhibited
4 started occurring.

5 Our position is it's not relevant. It's
6 very outside of any sort of proximate relationship
7 to the alleged victim's disclosure of this
8 incident and to any behavior changes she
9 exhibited. I mean, she would have been nine years
10 old at the time of these incidents of domestic
11 violence.

12 MS. CAMPBELL: And, again, it is
13 relevant, if they want to attribute any behavior
14 changes. They want to have to Tessa Trask testify
15 about, you know, victims of child sexual assault
16 and how they behave. And that can also be true of
17 children who have witnessed domestic violence and
18 suffer from trauma and PTSD from that.

19 The witness was asked -- you know, the
20 time frame is wrong. I understand that. But
21 having reported that she's a victim of criminal
22 domestic violence to the Sheriff's Department,
23 she's done that. And --

24 THE COURT: I guess my question is: Is
25 there evidence that there were children in the

1 house when it occurred? I mean, do the police
2 reports say that the kids were there and witnessed
3 this?

4 MS. CAMPBELL: To my recollection, yes.
5 I'm going have to, you know, get a disk drive from
6 Rob back there.

7 MS. LUTTRELL: One of the incidents has a
8 child present, but I only see it in one of the
9 incident reports.

10 THE COURT: Does it say a child or does
11 it say which child?

12 MS. LUTTRELL: It says -- it's blacked
13 out because of --

14 THE COURT: Right.

15 MS. LUTTRELL: She was eight and nine, so
16 I can only assume it was **Minor** because she
17 would have been about nine during this one
18 incident.

19 MS. CAMPBELL: And there were -- again,
20 like I said, even when I received the reports --
21 the solicitor is right. There's a lot of stuff
22 that's blacked out due to children being involved.

23 So, again, my recollection was that this
24 witness had been a victim of domestic violence,
25 that she had reported it to the police, and there

Testimony of S. Wiggs

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1 were children, you know, present.

2 And so, again, that is an alternative
3 explanation for the behaviors that the State is
4 going to attribute to a sexual assault. And I
5 just feel like the defense should be able to, you
6 know, question and get a clear, honest answer as
7 to whether or not she reported being a victim of a
8 domestic violence. And, you know...

9 THE COURT: I guess then the relevance
10 would be, at one of these incidents, was your
11 daughter there, and did she witness domestic
12 violence?

13 MS. CAMPBELL: And I believe the report
14 would bear that out, that the child was present.

15 THE COURT: All right. Well, I do think
16 it's relevant, but I think you do need to make
17 sure that you're saying accurate dates as far
18 as --

19 MS. CAMPBELL: Okay.

20 THE COURT: -- when they occurred. So you
21 need to refresh your recollection --

22 MS. CAMPBELL: Yes, ma'am.

23 THE COURT: -- to exactly what it
24 occurred and when.

25 And we're going to go ahead and take five

1 minutes. When we come back, I'll allow it to some
2 extent.

3 MS. CAMPBELL: I'll be very brief, Your
4 Honor.

5 THE COURT: Okay.

6 MS. CAMPBELL: Thank you.

7 THE COURT: Thank you.

8 (A break was taken from 10:45 a.m. to 11:05 a.m.)

9 THE BAILIFF: All rise.

10 THE COURT: Please be seated. Ready to
11 go, hopefully. The witness, we're going to bring
12 her back up?

13 MS. LUTTRELL: Yes.

14 MS. CAMPBELL: The solicitor and I spoke
15 while we were on the break and I just wanted to
16 make it clear to the Court that there were three
17 incidents of contact with the Sheriff's Department
18 by Shenaye Wiggs in reference to her boyfriend,
19 Skyler Morgan in 2009 and 2010. All of them
20 involved, you know, some sort of assault and
21 battery behavior on his part. Only one of them
22 was the minor child, **Minor** present for.

23 THE COURT: Okay.

24 MS. CAMPBELL: It was my intention,
25 again, pattern of behavior with this man against

Testimony of S. Wiggs

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1 this woman to talk with her about all three and
2 simply -- not talk with her. Just ask her about
3 it. Very short and sweet. And then the fact that
4 Minor was present during one of the assaults,
5 and I'm done with that.

6 THE COURT: Okay. How is it -- how is
7 the two that Minor was not present irrelevant?

8 MS. CAMPBELL: Again, they go to
9 demonstrate the relationship of domestic violence
10 and assault and battery by this man against this
11 woman. And, you know, it wasn't an isolated
12 incident.

13 And if the child had -- again, an
14 inference I could draw, if the child was present
15 for one incident, how many more were there that
16 weren't reported that the child witnessed. So --

17 THE COURT: Okay. And, in this case, it
18 was Morgan and not -- I heard you say the name
19 Ward.

20 MS. CAMPBELL: Yes. And that was --

21 THE COURT: And I remember you talking about
22 the other child.

23 MS. CAMPBELL: That is correct. That is
24 the name that was testified to for the youngest
25 child. And, in fact, this was a boyfriend, not a

1 father of the child.

2 THE COURT: Okay. So a completely
3 different person.

4 MS. CAMPBELL: It is. Completely
5 different.

6 THE COURT: Okay.

7 All right. Well, to the extent,
8 obviously, if she goes beyond what you two talked
9 about, you can object and I'll rule on it based on
10 what I hear. Okay?

11 Let's bring them in.

12 (Jury enters the courtroom at 11:07 a.m.)

13 THE BAILIFF: Jury's entering the
14 courtroom, Your Honor.

15 THE COURT: Thank you. Welcome back,
16 Ladies and Gentlemen.

17 Go ahead, and you can continue
18 Miss Campbell.

19 MS. CAMPBELL: Thank you, Your Honor.

20 BY MS. CAMPBELL:

21 Q Who is Skylar Jabarry Morgan?

22 A My ex-boyfriend.

23 Q Skylar Jabarry Morgan, you allowed him to be
24 around your children?

25 A Yes.

Testimony of S. Wiggs

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1 Q In the timeframe 2009 to 2010, were you contacting
2 the Sheriff's Department reporting domestic violence
3 and assaults?

4 A Yes.

5 Q By Skylar Morgan against you?

6 A Yes.

7 Q Okay. And, in one of those reports, your child
8 was present during you being thrown up against a
9 wall?

10 A I don't recall her being present. I believe
11 she probably was next door and came home once the
12 police arrived.

13 Q And so if the officer noted that the child was
14 present, is that accurate or not?

15 A I'm not sure.

16 Q Moving on. So, I'm trying to understand the
17 timeline from early January 2016. So you went to your
18 mother's house and talked with your mother about what
19 [Minor] was saying?

20 A My mother said [Minor] had something she
21 wanted to talk to me about.

22 Q Okay. And then after you talked with [Minor]
23 you called the Rape Crisis Hotline, right?

24 A Yes.

25 Q Okay. And then you called the Beaufort County

1 Sheriff's Office, right?

2 A Yes.

3 Q Was that all in, like, one day or afternoon?

4 A That happened all that evening.

5 Q Okay. So, yes, one --

6 A Yes.

7 Q One evening. All right. And now I'm not asking
8 you to give me the name, but I'm just trying to
9 understand this timeline. So, before you called the
10 Sheriff's Department, had **Minor** given you a name
11 as to who sexually assaulted her?

12 A No.

13 MS. CAMPBELL: Okay. That's all I
14 have.

15 THE COURT: Miss Luttrell, anything?

16 MS. LUTTRELL: Very briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. LUTTRELL:

19 Q These reports that defense talked to you about,
20 those were from 7/9 in 2010; is that right?

21 A Yes.

22 Q And they are all against this person Skylar
23 Morgan?

24 A Yes.

25 Q Was there ever any issues Skylar Morgan and your

1 daughter [Minor] ?

2 A No.

3 Q What about Devon Ward, were there any issues
4 between him and [Minor] ?

5 A No.

6 Q And these incidents, was [Minor] ever present
7 for any of these incidents?

8 A Not that I recall.

9 Q And these are about six years before she told you
10 about the sexual assault that occurred to her?

11 A Yes.

12 MS. LUTTRELL: No further questions, Your
13 Honor.

14 THE COURT: Anything, Miss Campbell?

15 MS. CAMPBELL: No, ma'am.

16 THE COURT: All right. Any objection to
17 this witness being excused from anyone?

18 MS. LUTTRELL: No, Your Honor.

19 THE COURT: You may be excused, ma'am.

20 Thank you.

21 Call your next witness.

22 MS. LUTTRELL: The State calls [Minor]

23 [REDACTED]

24 THE CLERK: Place your left on the Bible
25 and raise your right hand. Do you solemnly swear

Testimony of [Minor]

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1 or affirm to truthfully answer all questions ask of
2 you by this Court, so help you God?

3 THE WITNESS: Yes.

4 THE CLERK: Speak directly into the
5 microphone. State your name and spell your last
6 name for the record.

7 THE WITNESS: My name is [Minor]
8 C-a, apostrophe, L-e-s-h-i-a, W-i-g-g-s.

9 WHEREUPON:

10 [Minor]

11 after having been sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. LUTTRELL:

14 Q Good morning. [Minor] I'm going to ask you to
15 speak a little bit louder. Okay?

16 A Okay. Do you want me to repeat my name
17 again?

18 Q No, that was okay. But when you talk to me, just
19 talk a little bit louder, all right?

20 A Yes.

21 Q [Minor] how old are you?

22 A I'm 18 years old.

23 Q When is your date of birth?

24 A [REDACTED].

25 Q And are you in school?

1 A No. I just graduated from Beaufort High
2 School.

3 Q Do you have any plans for what you're going to do
4 next?

5 A Yes.

6 Q What are going to do?

7 A I'm going to TCO for two years for forensic
8 science.

9 Q Okay. Who did you live with?

10 A My grandmother, Pearlie Wiggs.

11 Q And where does she live? What's her address?

12 A 49 Joe Capers Road, St. Helena Island.

13 Q Do you how long she's lived there?

14 A Since I was born, I guess.

15 Q Since when?

16 A Forever. Over 20 years probably.

17 Q Okay. Does anyone else live with you and your
18 grandma?

19 A No.

20 Q Do you have any siblings?

21 A Yes.

22 Q How many siblings do you have?

23 A I have two.

24 Q Boys, girls?

25 A Two sisters.

1 Q And how old are they?

2 A One is 12 and one is 4.

3 Q Who's your mom? What's her name?

4 A Shenaye Wiggs.

5 Q Now, do you know someone by the name of
6 Michael Wiggs?

7 A Yes.

8 Q And how do you know him?

9 A That's my first cousin.

10 Q Is he older than you, younger than you?

11 A Yes, he's older than me.

12 Q Do you see him in the courtroom today?

13 A Yes.

14 Q Can you describe something he's wearing?

15 A He's wearing a suit with a red tie with
16 dreads.

17 MS. LUTTRELL: Your Honor, please let the
18 record reflect the witness has identified the
19 defendant.

20 THE COURT: Yes.

21 BY MS. LUTTRELL:

22 Q [Minor] do you know why we're here today?

23 A Yes.

24 Q And why are we here?

25 A Because he sexually assaulted me.

Testimony of Minor

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1 Q When did that happen? Do you remember what grade
2 you were in or how old you were?

3 A I was in 6th grade.

4 Q Okay. Did it happen one time or more than one
5 time?

6 A More than one time.

7 Q Where did it happen?

8 A At my grandmother's house at Joe Capers.

9 Q At your grandmother's house where? What was the
10 address? Was it the same place she lived?

11 A 41 Joe Capers Road.

12 Q So it's the same place where she lives now?

13 A Yes.

14 Q I want to talk to you about the first time this
15 happened. Tell the jury where you were at your
16 grandmother's house when this happened?

17 A I was sleeping on the couch, and he came in,
18 and he forced me to have sex with me. Like, I was
19 sleeping and he pulled down my drawers. He
20 covered my mouth and he forced his penis in my
21 vagina.

22 Q Do you remember what you were wearing that
23 night?

24 A I had a red dress.

25 Q What was that?

1 A A red dress.

2 Q And where were you in your grandmother's house?

3 A On the couch in the living room.

4 Q Can you tell the jury a little bit about your
5 grandmother's house, the layout of her house?

6 A She has a single-wide trailer. And when you
7 first walk in, there's the living room. And if
8 you go to the right, you walk right into the
9 kitchen, then you walk inside the dining room,
10 which is a bedroom, which is my grandmother's.
11 When you walk through, like, on the left side, you
12 go back through the living room, but then in the
13 back room with a bedroom.

14 Q So there's two bedrooms?

15 A Yes.

16 Q Are these bedrooms next to each other or a
17 different end of the trailer?

18 A Different ends of the trailer.

19 Q And you said that you were on the couch?

20 A Yes.

21 Q What room was that couch in?

22 A The living room.

23 Q Do you remember how old you were during that first
24 incident?

25 A I had to be 12 going on 13.

1 Q Okay. After that happened, what did you do?

2 A I cried and I stayed to myself, I didn't know
3 how to tell anyone.

4 Q Was your cousin still in the house?

5 A Yes.

6 Q Do you know if he was living there at the time?

7 A He was living there.

8 Q Did he have a bedroom?

9 A Yes.

10 Q Which bedroom was his?

11 A The back room.

12 Q Was anyone else living there at the time?

13 A Yes. Bobby Wiggs.

14 Q And who is Bobby Wiggs?

15 A My first cousin.

16 Q How old is Bobby?

17 A He's probably, like, 28 right now.

18 Q Is he -- so he's older than you?

19 A Yes.

20 Q Is he close in age or older or younger than
21 Michael?

22 A He's close in age.

23 Q Did you tell Bobby what happened to you?

24 A No, I didn't tell nobody until I got in 9th
25 grade.

1 Q Why didn't you tell anyone?

2 A Because I didn't think no one would believe
3 me and I was scared. I didn't know how to tell.
4 I used to always give hints, like, I hate him. I
5 don't want to be around him. I would avoid him.

6 Q When you say "him," who are you talking about?

7 A Michael Wiggs.

8 Q Now, the night that this happened and you were on
9 the couch, did you try yelling out for help or
10 anything?

11 A I was sleeping, and I just woke up shocked,
12 like, what is he doing? I was just trying to pull
13 myself away from him, but he hold me down.

14 Q Did this happen another time?

15 A Yes, it happened again on the same couch.
16 But we was home alone, and forced me -- like, I
17 was sitting in this position (indicating). He
18 forced me down, holding my shoulders down to the
19 couch, and I was screaming that time, but he
20 wouldn't stop. He pushed me off. He walked away
21 with a smirk on his face like he was laughing.

22 Q The second time that this happened, was anyone
23 else in the house?

24 A No, we was home alone.

25 Q And which house were you at?

1 A 41 Joe Capers Road.

2 Q Was it the same house with your grandma?

3 A All the incidents happened at the same
4 house.

5 Q Were you wearing clothes during that second
6 time?

7 A Yes.

8 Q And what happened?

9 A He forced my pants off, holding me down and
10 started raping me.

11 Q Did you tell anyone after that incident?

12 A No. I just ran out of the house I went
13 crying next door. But I didn't say nothing
14 because I didn't know how to.

15 Q When you say you went next door, who lives next
16 door?

17 A My cousin.

18 Q Who's your cousin?

19 A Alecia Freeman.

20 Q What was her name?

21 A Alecia Freeman.

22 Q Did you tell her what happened?

23 A No. I didn't tell her until she went to
24 military school, what happened.

25 Q Did this ever happen another time?

1 A Yes, in the back room.

2 Q Tell me about that time.

3 A I getting ready for school, and then that's
4 when he was, like, in the living room, I guess --
5 or the kitchen. He came back there and he pushed
6 me on the bed from behind and started raping me
7 again.

8 Q Now, you said that you were getting ready for
9 school. Why were having to get ready at your
10 grandma's house?

11 A Because my mother was working two jobs at the
12 time. She was working at the Boathouse Marina,
13 and she would drop us off at, like, five o'clock
14 for 5:30 in the morning, so she could be at work.

15 So, like, it would be like probably like
16 7:00 in the morning, we were getting ready to go
17 to school to catch the bus.

18 Q Okay. So did you have to -- did you wear your
19 school clothes to your grandma's house or something
20 else?

21 A I'd wear my night clothes.

22 Q And when you were in that back room, whose room
23 were you in?

24 A The room is really my mother's room, but she
25 moved out. And she moved to -- we moved to

1 Aldridge Village, and that's when he moved in.

2 Q Okay. So that -- is that like a guest room? Is
3 that where he was staying at the time?

4 A Yeah.

5 Q Was anyone else home that morning when you were
6 getting ready for school?

7 A My grandmother was in the room, and my sister
8 was on the couch, too.

9 Q So your grandma was in the room, which room?

10 A Her bedroom.

11 Q She was still in her bedroom?

12 A Yeah.

13 Q And so when he came back to that back bedroom when
14 you were getting ready for school, what did he do?

15 A When I was getting ready, that's when he
16 pushed me from behind and pulled down my pants.
17 He pulled out his penis and he forced me to have
18 sex with him. He was putting my head down inside
19 the bed while he was doing it and he was doing it
20 hard.

21 Q Prior to what your cousin did to you, had you ever
22 had sex before?

23 A No, that was my first time.

24 Q And when did these incidents stop happening?

25 A After he got kicked out.

1 Q Okay. And do you know where he went after that?

2 A He just walked off or walked outside, or he
3 would go to the opposite side the house. I always
4 would avoid him.

5 Q Say that again.

6 A I used to always avoid him. Every time I see
7 him, I avoid him.

8 Q Okay. After he got kicked out of the house, did
9 you see him again?

10 A No. He stopped coming around November, and
11 that's when I left. And I didn't come back in the
12 house until he leave. It was, like, Thanksgiving
13 Day. Everybody came down, and I left. I went
14 next door to Alecia Freeman's house.

15 Q Okay. So, tell me a little bit about Thanksgiving
16 that year. Was this at your grandma's house?

17 A Yes.

18 Q Was it a small Thanksgiving, a big Thanksgiving?
19 Tell me a little bit about it.

20 A It was a big Thanksgiving. Everybody goes
21 house to house and eats.

22 Q Okay. You said your cousin lived next door; is
23 that right?

24 A Yeah.

25 Q So do you have a lot of family that lives in the

1 same area?

2 A Yes.

3 Q And did Michael come to Thanksgiving that year?

4 A Yes.

5 Q What happened when saw him at Thanksgiving that
6 year?

7 A I rolled my eyes, and I just had an attitude
8 for rest of the day, and I left. And I was
9 telling my grandmother I hate him and I don't want
10 him to be around. And she was always asking me
11 why I say that. And I was like, I just don't like
12 him. I just didn't know how I'd tell anyone. And
13 when I did tell, half the family believed me, half
14 didn't.

15 Q When did you finally decide to tell someone?

16 A I told when I was in 9th grade.

17 Q Okay. And was that shortly after this
18 Thanksgiving that you're talking about?

19 A Yes.

20 Q Who was the first person you told?

21 A I told Pearlie Wiggs.

22 Q Your grandma?

23 A Yes.

24 Q Did you tell anyone else?

25 A I told Alecia Freeman a couple days after. I

1 wrote it in a letter.

2 Q Okay. What about your mom? Did you tell your
3 mom?

4 A I told my mom January 8, 2016.

5 Q After you told your grandma and your mom about
6 what happened with Michael, did you start having some
7 issues at home?

8 A I was -- I started feeling suicidal. I
9 didn't talk. I was depressed. I wouldn't eat. I
10 went in my room. That's when I started ro have to
11 go to counseling to get help, and I still do go
12 there now.

13 Q And has that helped you?

14 A Yes, but I have anxiety bad. I have PTSD. I
15 have anxiety. I get jumpy. I think he's going to
16 come back for me.

17 Q Have you seen Michael since that last time?

18 A No.

19 MS. LUTTRELL: Your Honor, I don't have
20 any more questions at this time.

21 THE COURT: Miss Campbell?

22 MS. CAMPBELL: No questions.

23 THE COURT: All right. You may step
24 down.

25 MS. LUTTRELL: All right. At this time

1 we have a matter of law to take up prior to the
2 next witness.

3 THE COURT: Ladies and Gentlemen of the
4 Jury, do not discuss this case. It would be
5 inappropriate to do so. If you will step back to
6 the jury room, we'll be back with you shortly.
7 Okay? I can tell you we break for lunch around
8 one o'clock here. So, as long as that's okay with
9 you all, just depending on how things break down,
10 that what I plan to do, okay?

11 MS. LUTTRELL: I think this will be our
12 last witness before our lunch break.

13 THE COURT: Okay, thank you.

14 THE BAILIFF: Jury is clear and the door
15 is closed, ma'am.

16 THE COURT: Thank you.

17 All right. Yes, ma'am.

18 MS. LUTTRELL: The next witness will be
19 Tessa Trask.

20 THE COURT: Okay. Let's bring her on in
21 and let's do a proffer. I'm going to go ahead and
22 make her CV a --

23 THE CLERK: I'll mark it.

24 THE COURT: Court Exhibit 1.

25 (COURT EXH. 1, CV; Tessa Trask, was marked

Testimony of T. Trask

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1 THE COURT: All right. Just five minutes
2 to 2:00, we'll be back. Thank you.

3 (A break was taken at 12:34 p.m.)

4 THE BAILIFF: All rise.

5 THE COURT: Please be seated. Who is
6 your first witness going to be this afternoon?

7 MS. LUTTRELL: Lieutenant Baird.

8 THE COURT: All right. Let's bring the
9 jury in.

10 (Jury enters the courtroom at 2:05 p.m.)

11 THE BAILIFF: Jury is entering the
12 courtroom, Your Honor.

13 THE COURT: Welcome, back Ladies and
14 Gentlemen. I trust everyone had a good lunch. At
15 this time the State will call their first witness
16 for the afternoon.

17 MS. LUTTRELL: If it pleases the Court,
18 the State calls Brian Baird.

19 THE COURT: Come around, sir.

20 THE CLERK: Place your left hand on the
21 Bible and raise your right hand. Do you solemnly
22 swear or affirm to truthfully answer all questions
23 asked of you by this Court, so help you God?

24 THE WITNESS: So help me God, I do.

25

Testimony of B. Baird

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1 THE CLERK: Would you speak directly into
2 the microphone. State your name and spell your
3 last name for the record.

4 THE WITNESS: Brian Mark Baird, B-a-i-r-d.
5 WHEREUPON:

6 BRIAN BAIRD,
7 after having been sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. LUTTRELL:

10 Q Good afternoon, Lieutenant Baird. Where are you
11 currently employed?

12 A Beaufort County Sheriff's Office.

13 Q How long have you worked there?

14 A Seventeen and a half years.

15 Q What position do you hold?

16 A I'm the special investigator for
17 Sheriff Tanner.

18 Q Did you assist Investigator Fraser in a case back
19 in February of 2016?

20 A Yes, I did.

21 Q And your assistance, what role did you play? Were
22 you assisting in an interview process.

23 A Yes, I was. He asked me to speak to him. He
24 had spoken to him once before, and he asked me to
25 speak to him a second time.

1 Q And where did you meet with the defendant?

2 A Investigator Fraser escorted him from the
3 investigation's building across the street from my
4 office to the main office here right across the
5 parking lot of the Beaufort County Sheriff's
6 Office.

7 Q And when you say "him," are we speaking about
8 Michael Wiggs?

9 A Yes. Mr. Wiggs right over there.

10 Q When did that interview take place?

11 A That was taken 9th of February 2016.

12 Q And prior to the interview, did you advise the
13 defendant of his Miranda rights?

14 A Yes, I did.

15 Q What are Miranda rights?

16 A They're basically the rights of a person
17 that's accused of a criminal law offense. They're
18 certain rights the courts afford an individual.
19 Anytime you're speaking with somebody with the
20 intent of eliciting incriminating information, you
21 would give them their Miranda rights so they know
22 what their rights are, and they can decide what
23 they want to do after they hear those.

24 Q And how do you advise people of their rights?

25 A We had a form we were using at the time, and

Testimony of B. Baird

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1 I literally read it along with them. I put it on
2 a clipboard. I have it right between us and I say
3 read along as I read it to you. I read it as
4 they're reading it. And when we get to any
5 appropriate spots, I'll ask them, did you
6 understand that, any questions, you know, is that
7 all true and correct, yes, sign here.

8 Q Did you use a form in this case?

9 A Yes, I did.

10 MS. LUTTRELL: Your Honor, may I
11 approach?

12 THE COURT: You may.

13 BY MS. LUTTRELL:

14 Q I'm going to show you what's been premarked for
15 identification as State's Exhibit 4. Do you recognize
16 that?

17 A Yes. This is the form I used to advise
18 Mr. Wiggs of his rights.

19 Q And does that have any identifying information on
20 it?

21 A Yes. It has Mr. Wiggs' signature, my
22 signature, and the date that the interview was
23 conducted.

24 Q And is that an accurate copy of the form you used
25 that day?

1 A Yes, it is.

2 MS. LUTTRELL: Your Honor, at this time,
3 the State's moves Exhibit 4 into evidence.

4 MS. CAMPBELL: No objection.

5 THE COURT: Without any objection.

6 MS. LUTTRELL: Your Honor, permission to
7 publish to the jury.

8 THE COURT: You may.

9 BY MS. LUTTRELL:

10 Q Lieutenant Baird, let me know if you have trouble
11 seeing the screen over here. Can you explain to the
12 jury, what are they looking at? What's on the top
13 half of this form?

14 A The top half of the form is actually the
15 rights of the individual. And the way we do it
16 is, like I said, it would be on the clipboard.
17 I'd be holding that between us separated by a
18 couple feet, and I actually read it right off the
19 form to them.

20 Q Would you read it to the Jury the way you read it
21 to the defendant that day?

22 A Yes. I'd tell him this is Beaufort County
23 Sheriff's Office rights acknowledgement. It says,
24 Your Rights. Before I ask you any questions, you
25 have the right -- excuse me. You must understand

Testimony of B. Baird

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1 your rights. You have the right to remain silent.

2 Anything you say can and will be used against you

3 in a court of law. You have the right to talk

4 with your attorney before I ask you any questions,

5 have him on her present with you during this

6 questioning if you wish. And if you decide to

7 answer questions now without an attorney present,

8 you will have the right to stop answering at any

9 time. Then I ask them, I said, I've read the

10 statement of your rights, I understand what my

11 rights are. I understand what my rights are. And

12 then I asked them, do you understand it? Yes. Is

13 that true and correct? Yes. Sign here. That is

14 Mr. Wiggs signature next to that X.

15 Q So did he indicate he understood his rights?

16 A Yes.

17 Q And, on that day, did he appear to have any sort

18 of impairment that would affect his ability to

19 understand his rights?

20 A No, not at all.

21 Q Did he ask any questions about the rights that he

22 was being read?

23 A No, he said he understood them.

24 Q What is on the bottom of that?

25 A That's actually the Waiver of Rights section.

1 Like, I said, I actually read these off the form.

2 It's usually sitting right in front of me. My

3 eyes aren't quite what they used to be, but the

4 bottom portion is actually the waiver section, and

5 that's where they decide if they want to talk to

6 me or not at that point. I tell them this is a

7 Waiver of Rights section. It says, I'm willing to

8 make a statement and answer questions. I do not

9 want an attorney at this time. I understand and

10 know what I'm doing. No promises or threats have

11 been made, and no pressure or coercion of any kind

12 has been used against me. Again, I'll say, is

13 that all true and correct? He said it was. I

14 asked him to sign the form and that is also his

15 signature down at the bottom. And then I signed

16 it as the witness who read the rights to him.

17 Q And did Mr. Wiggs have any trouble understanding

18 that portion of the waiving of his rights?

19 A No. He said he understood them and waived

20 them.

21 Q And he agreed to talk to you that day?

22 A Yes, he did.

23 Q Now, after you were done speaking with Mr. Wiggs,

24 the defendant in this case, did Investigator Fraser

25 then also speak with him?

Testimony of B. Baird

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1 A Yes. When I was finished speaking with him,
2 I went and told Investigator Fraser that we were
3 done talking and that he may want to continue
4 talking to Mr. Wiggs.

5 At that point, Fraser came over. We brought
6 Mr. Wiggs out into the hallway, and Mr. Wiggs agreed
7 to walk over to another office to continue that
8 interview.

9 Q And do you see Michael Wiggs in the courtroom
10 today?

11 A Yes. He's seated right next to Miss Campbell
12 in the blue jacket and red tie.

13 MS. LUTTRELL: Let the record reflect the
14 witness identified the defendant. I have no
15 further questions.

16 THE COURT: Miss Campbell.

17 MS. CAMPBELL: No questions.

18 THE COURT: All right, sir, you may step
19 down. Any objection to Lieutenant Baird being
20 excused?

21 MS. LUTTRELL: No objection, Your Honor.

22 MS. CAMPBELL: No objection.

23 THE COURT: You may be excuse.

24 MS. LUTTRELL: All right. Your Honor, at
25 this time the State calls Investigator Fraser.

1 COURT REPORTER: Madame Clerk?

2 THE CLERK: Sorry.

3 THE COURT: Thank you.

4 THE CLERK: Do you solemnly swear or
5 affirm to truthfully answer all questions asked of
6 you by this Court, so help you God?

7 THE WITNESS: Yes, ma'am.

8 THE CLERK: Speak directly into the
9 microphone. State your name and spell your last
10 name for the record.

11 THE WITNESS: Yes, ma'am. Jeremiah
12 Fraser, F-r-a-s-e-r.

13 WHEREUPON:

14 JEREMIAH FRASER,
15 after having been sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. LUTTRELL:

18 Q Good afternoon, Investigator Fraser. Where are
19 you employed?

20 A I'm employed by the Beaufort County Sheriff's
21 Office. I'm currently the supervising officer of
22 Nolan Enforcement Investigations.

23 Q How long have you worked for the Beaufort County
24 Sheriff's Office?

25 A Seventeen years.

1 Q As the supervisor of investigations, what are your
2 job duties?

3 A My job duties include reviewing all reports
4 that come in. I assign all reports that need
5 follow-up investigation. I review and approve all
6 reports, and I also conduct investigations if need
7 be.

8 Q How long have you been in the role of supervisor
9 of investigations?

10 A I've been the primary supervisor for about
11 three years. And then before that, I was
12 assistant supervisor for four, so seven years to
13 the month.

14 Q Did you investigate a case back in 2016 involving
15 Michael Wiggs?

16 A I did.

17 Q How did you get involved in that case?

18 A The initial report was filed. 41 Joe Capers
19 Road, which is on St. Helena Island, Beaufort,
20 Beaufort County. Once the report came in, it was
21 assigned to me for follow-up investigation.

22 Q And why would a report be transferred from, say,
23 an initial responding officer to an investigator?

24 A An initial responding deputy's responsibility
25 is to take immediate action. They respond to a

1 house when a crime is being reported. Their
2 primary job is to make sure everybody is safe, the
3 scenes are secure, their initial reports are
4 taken. They do that throughout the day. When a
5 call requires more detail, and a lengthy
6 investigation, a criminal investigator is assigned
7 that case to follow up on it. A patrolman is just
8 going to show up, make sure everybody is safe,
9 collect any initial evidence, and move on to the
10 next case wherein someone is calling for help.

11 Q Well, what's the nature of the report when it was
12 transferred to you?

13 A The nature of this report was a criminal
14 sexual conduct case.

15 Q And what did you do when you received the
16 report?

17 A Immediately, I reviewed it. I began setting
18 up interviews with those involved, so I can
19 understand the full picture of what was
20 happening.

21 Q Who was the first person you contacted in this
22 case?

23 A I believe it was Shenaye Wiggs. **Minor**
24 mother is Shenaye Wiggs. **Minor** was a juvenile
25 at the time. I immediately made phone contact

1 with the mother.

2 Q And did you set up a meeting with her?

3 A I did. I believe it was the following day.

4 Q What did you do as part of that initial meeting
5 with Ms. Wiggs?

6 A The idea is to get some background
7 information. In this particular sexual assault,
8 the perpetrator was known. It was up to me to
9 find out the family dynamics, find out the living
10 situation, find out other information other than
11 what had just happened. Now, that includes what
12 happened. We still want to know happened, but I
13 want all the background information, the living
14 arrangements, family dynamics, things like that.

15 Q Now, at the time that you received this report,
16 what was your understanding of whether or not the
17 defendant was living with the alleged victim at the
18 time?

19 A Okay. So when I got this report, this report
20 came in after the events that happened. So some
21 time had passed between the time the incidents
22 occurred and when the report was filed. My
23 immediate concern was, is the child in this case,
24 **Minor** still in danger. That's my first --
25 that's my first thought. Do I need remove this

1 child? Do I need to get other assets involved to
2 protect the child? Things like that.

3 Once I determined that there wasn't an
4 immediate threat still living in the home, I moved on
5 with the investigation and took other steps.

6 Q Now, as part of your investigation, did you,
7 yourself, speak to Minor [REDACTED] ?

8 A I did, yes.

9 Q And what did you do after speaking with
10 Shenaye Wiggs?

11 A Well, after I spoke with Shenaye, I set up
12 what's call a forensic interview. So in dealing
13 with children --

14 MS. CAMPBELL: Objection to the term
15 forensic, Your Honor.

16 THE COURT: Thank you. Go ahead and
17 strike that, Ladies and Gentlemen. You just need
18 move on.

19 BY MS. LUTTRELL:

20 Q So you set up an interview?

21 A I did. Yes. I set up another interview to
22 be conducted with Minor [REDACTED] A lot of times a
23 younger female is not going to want to talk to an
24 adult stranger, and that's exactly what I was to
25 her. She did not know me. I didn't know her. So

1 there are people that can conduct such an
2 interview in a setting that's comfortable for the
3 child. So I set up that interview to be
4 conducted.

5 Q And when the interview did take place, did you
6 attend the interview?

7 A I did, yes.

8 Q Did you observe the interview?

9 A Yes. So I am not in the interview itself.
10 It's viewed on a closed-circuit TV. Again, the
11 idea for the child to be comfortable in the
12 interview. I would make it, probably, more
13 uncomfortable. So, in this case, I am in another
14 room watching on close-circuit.

15 Q While you observed that interview, did **Minor**
16 make any disclosures of sexual abuse during that
17 interview?

18 A She did. Yes, ma'am.

19 Q And did she indicate where the sexual abuse
20 occurred?

21 A She did.

22 Q Where did she say it occurred?

23 A In the first incident, she described -- she
24 actually went on to describe three incidents.

25 The first incident she described happened at

1 her home at 41 Joe Capers Road, which is on St. Helena
2 Island. He was in the living room in the home, if I
3 remember correctly, on the couch.

4 Q What about the second incident?

5 A The second incident, I believe, was also --
6 let me look at my notes. The second incident she
7 described to me in that interview was in a back
8 bedroom wherein Mr. Wiggs came into the bedroom
9 where she was, bent her arm behind her back and
10 conducted the sexual assault.

11 Q What is the location of third incident that she
12 described?

13 A The third incident also occurred at the
14 house. And I believe that one was back on the
15 couch in the main living room.

16 Q So did all of these incidents occur in the same
17 resident?

18 A They did. All of them did occurred at 41 Joe
19 Capers Road.

20 Q Did she state during that interview when each
21 incident occurred?

22 A She did. The first incident occurred in
23 November of 2013, which would have made her
24 roughly 12 years old. She related things to me in
25 terms of school, where she was at in school during

1 that time. She said that this incident occurred
2 around the November timeframe. It was 2013. As
3 far as time of day, I want to say it was at
4 nighttime and everybody was asleep. She was
5 asleep on the couch covered by a blanket.

6 Q What timeframe did she give for the second
7 incident?

8 A The second incident, again, she's relating to
9 school. She said it was the end of her 7th grade
10 year, which would put it around April, May
11 timeframe.

12 Q What about the third incident, the timeframe for
13 that?

14 A At the beginning of 8th grade, which was
15 somewhere around, I would assume, August,
16 September.

17 Q Now, after the interview was conducted with
18 Minor what was the next step you took?

19 A After I spoke with Minor I spoke to her
20 mother and her grandmother again. She had
21 identified another person, a cousin. I wasn't
22 able to get in touch with the cousin. The cousin
23 was unavailable. And then I reached out to
24 Mr. Wiggs.

25 Q You said she identified another cousin. Did she

1 indicate any forms of abuse by that cousin?

2 A No. She had said that she had tried to talk
3 to the cousin about what had happened.

4 Q And after that, did you conduct interviews with
5 the defendant in this case?

6 A I did. And I conducted -- I personally
7 conducted two separate interviews along with
8 requesting Lieutenant Baird to conduct one in
9 between the two that I did.

10 Q What was the initial, the date of the first
11 interview you conducted with the defendant?

12 A The first interview I conducted was February
13 2nd, 2016. It was conducted at the
14 investigation's office, which is right up the
15 street from here.

16 Q And how did the defendant get to your office that
17 day?

18 A He drove.

19 Q Was he in custody at that time?

20 A He was not.

21 Q And prior to conducting an interview, did you read
22 him his Miranda Rights?

23 A I did. Yes, ma'am.

24 Q And how did you do that?

25 A From a form. It's not the same form that

1 Lieutenant Baird just went over, but it is another
2 form that the Sheriff's Office uses. It says the
3 same thing.

4 MS. LUTTRELL: Your Honor, may I
5 approach?

6 THE COURT: You may.

7 BY MS. LUTTRELL:

8 Q I'm going to show what has been premarked for
9 identification as State's Exhibit 1. Do you recognize
10 that?

11 A I do. This is the Miranda Warning form that
12 I use.

13 Q And what is the date marked on that form?

14 A The date is February 2nd, 2016.

15 Q And is there any other identifying information on
16 that form?

17 A There is, my signature, along with one of my
18 assistant's signature, Sergeant Grayson, and
19 Mr. Wiggs's signature, along with his initials.

20 Q And does that form also include a case number so
21 you can keep track of the case that it was part of?

22 A It does. Anytime when we give Miranda
23 Rights, they are attached to a file. We don't
24 provide Miranda Rights unless we're actively
25 investigating a case. So this particular Miranda

1 form was used in this particular case.

2 Q Does it include the location of where the
3 interview took place?

4 A It does. It says the investigation's
5 office.

6 Q And does it also include the defendant's date of
7 birth?

8 A It does.

9 Q What is his date of birth?

10 A [REDACTED].

11 Q Is that a fair and accurate copy of the Miranda
12 form you read that day to the defendant?

13 A Yes, ma'am. It is.

14 Q Has it been altered in any way?

15 A No, ma'am.

16 MS. LUTTRELL: Your Honor, at this time,
17 the State moves State's Exhibit 1 into evidence.

18 MS. CAMPBELL: No objection.

19 THE COURT: Without objection.

20 (STATE EXH. 1, Miranda Rights, was entered
21 into evidence.)

22 MS. LUTTRELL: Permission to public.

23 THE COURT: You may.

24 BY MS. LUTTRELL:

25 Q So the identifying information, is that this

1 portion at the top that we were just speaking about?

2 A The case identifying information, yes,
3 ma'am.

4 Q Okay. And then can you again explain the
5 different sections that we're seeing here?

6 A Certainly. Once you get through the location
7 which says "Investigation's Office," it provides
8 the name, and in this case it's Michael Wiggs, and
9 the date of birth, followed by the Statement of
10 Rights. The Statement of Rights are as follows:
11 "You have the right to remain silent. Anything
12 you can say and will be used against you in a
13 court of law. You have the right to have an
14 attorney present before or during questioning. If
15 you cannot afford an attorney, one will be
16 appointed for you before any questions if you
17 wish."

18 Following that is what's called the Waiver of
19 Rights. The Waiver of Rights reads: "Do you
20 understand each of these rights as I've explained them
21 to you?" Yes or no. "Having these rights in mind, do
22 you wish to talk to us now." Yes or no. And then
23 that's followed by the signature of the person being
24 interviewed, along with my signature and my
25 assistant's signature.

1 Q Now, when you went over this form with Mr. Wiggs,
2 did he -- what are the markings to the left of the
3 numbers for each right. What is that?

4 A So as you go through those, they'll initial
5 if they understand them. Those are Mr. Wiggs's
6 initials.

7 Q And then, again, under the Waiver of Rights, did
8 he initial his response?

9 A He did. He initialed yes in both
10 categories.

11 Q And is that his signature at the bottom of the
12 form?

13 A Yes, ma'am. It is.

14 Q And you said it's got the witness's signature and
15 your signature as well?

16 A Yes, ma'am.

17 Q When you were speaking with Mr. Wiggs that day,
18 did he appear to understand all the rights that he was
19 being given?

20 A He did.

21 Q And did he appear to understand what it meant to
22 waive those rights?

23 A Yes, ma'am.

24 Q Did he agree to talk to you that day?

25 A Yes, ma'am.

1 Q During that first interview on February 2nd, would
2 you explain to the jury what did you learn during that
3 interview from the defendant?

4 A During the interview with the defendant, I
5 spoke to him specifically about living
6 arrangements, where he lived. I let him know what
7 the allegations were. And he started talking to
8 me about living in the home. He had told me that
9 he had moved there, I believe, in 2009 to live
10 with his grandmother, Ms. Pearlle Mae Wiggs. He
11 said, while living in the house, he stayed in the
12 back bedroom. And he indicated to me that he only
13 lived there for a period of about five months. He
14 said that Minor was a smart girl, and he
15 absolutely denied any allegations that came from
16 Minor

17 Q Did he give any sort of reason why Minor might
18 have been making this up?

19 A No. He said that he didn't know why she
20 would say such a thing.

21 Q Did he indicate that there were any family
22 tensions or issues?

23 A He did not.

24 Q Did you address the specific allegations with
25 him?

1 A That he had had sex with her? Yes.

2 Q And what exactly did he say in response to that?

3 A He categorically denied having sex with

4 **Minor**

5 Q Now, at the end of the interview on the 2nd, what
6 was your next step? What did you do?

7 A At the end of that interview on the 2nd,
8 Mr. Wiggs left. I was still investigating the
9 case. There were still steps to be taken, other
10 things that can to be done. In doing those
11 things, I set up another interview with another
12 investigator, Lieutenant Baird. I spoke to other
13 family members about specifically when Mr. Wiggs
14 lived in the house. He had told me that he lived
15 there for about five months. When I talked to
16 Ms. Pearlle Mae, she said, no that's not right.
17 He lived there quite sometime longer. She said
18 that he did, in fact, move out and go live with
19 another family member, but he came back. He would
20 come back to the house often.

21 So I found some differences in between the
22 statements that he made, the differences in the
23 statements that **Minor** made, and also Ms. Pearlle
24 Mae.

25 Q Now, at the time when the defendant lived with

1 Pearlle Mae Wiggs, do you know how old the alleged
2 victim would have been at that time?

3 A I want to say he was somewhere in the
4 neighborhood of 18. He had told me that he had
5 moved there from Atlanta after graduating high
6 school.

7 Q And what is the age difference between **Minor**
8 and the defendant, Michael?

9 A The age difference is substantial.

10 MS. CAMPBELL: Objection, Your Honor.
11 This officer is commenting repeatedly outside of
12 the question that's being asked.

13 THE COURT: Sir, you need to answer the
14 question directly.

15 THE WITNESS: Yes, ma'am.

16 BY MS. LUTTRELL:

17 Q If you need to, take a moment to review your
18 report.

19 A Yes, ma'am. Mr. Wiggs was born in 1990.

20 **Minor** was born in 2000, so 10 years.

21 Q Okay. Now, what date was the second interview
22 conducted?

23 A The second interview was conducted February
24 9th.

25 Q And where was that interview conducted?

1 A The second interview was conducted in two
2 parts. The first part was with Lieutenant Baird
3 at the Law Enforcement Center. The second part of
4 the interview was conducted at the investigation's
5 office where I met with him the first time.

6 Q And who was present for that second interview?

7 A Just me and Mr. Wiggs.

8 Q Prior to that second interview, did you observe
9 Lieutenant Baird reading Miranda to the defendant?

10 A I did. I watched the entire thing on
11 close-circuit TV.

12 Q And when you spoke to him, did he ever say that he
13 did not want to talk to you that day?

14 A No, he did not.

15 Q And did he indicate that he understood the waiving
16 of his rights?

17 A Yes, ma'am.

18 Q The second interview that you conducted with
19 Mr. Wiggs, was that interview recorded?

20 A It was. Audio, video.

21 Q And have you reviewed that interview prior to
22 today's date?

23 A Yes, I have.

24 MS. LUTTRELL: Your Honor, may I
25 approach?

1 THE COURT: You may.

2 BY MS. LUTTRELL:

3 Q I'm showing you what has been premarked for
4 identification as State's Exhibit 3. Do you recognize
5 this?

6 A I do.

7 Q And how do you recognize it?

8 A My initials and the date are on this disk. I
9 put them there after I reviewed it.

10 Q And does it also have identifying information for
11 the case?

12 A It does. Yes, ma'am. The case number is on
13 this disk as well.

14 Q When you reviewed that you disk, is that a fair
15 and accurate recording of the interview conducted on
16 February 9th, 2016?

17 A Yes.

18 Q Has it been altered in any way?

19 A No, ma'am.

20 MS. LUTTRELL: Your Honor, at this time,
21 the State moves Exhibit 3 into evidence.

22 MS. CAMPBELL: I just would continue with
23 the objections that I have to the admission of
24 this.

25 THE COURT: Thank you. It's noted for

1 the record.

2 MS. LUTTRELL: Permission to publish?

3 THE COURT: You may.

4 MS. CAMPBELL: Your Honor, these matters
5 are not properly before the jury that on the
6 screen right now, and I would just ask that it be
7 enlarged. Judge?

8 THE COURT: I'm sorry.

9 MS. CAMPBELL: The laptop portrayed
10 matters not properly before the Jury, which was
11 essentially the names of certain documents on the
12 prosecutor's laptop. I could not make a
13 determination, you know, the severity of the
14 publication of that to the Jury. So I would like
15 to have an opportunity to do that.

16 THE COURT: Can you take just a
17 screenshot of what it showed?

18 MS. LUTTRELL: Yes, it's her desktop. We
19 can unplug and Ms. Campbell can come look at her
20 desktop.

21 THE COURT: Why don't you just go
22 ahead -- can you just not take a screen shot of
23 it? Does someone have a phone so you can look at
24 it directly?

25 MS. LUTTRELL: Sure.

1 MS. CAMPBELL: And I'll be happy to be
2 heard on record subsequent to the playing of the
3 video. Thank you.

4 THE COURT: But you don't know of
5 anything specifically right now that's
6 objectionable; is that correct?

7 MS. CAMPBELL: I don't know, because I
8 couldn't -- I didn't have enough time to peruse
9 the many different documents that were shown to
10 the Jury.

11 THE COURT: Again, they weren't
12 documents. They were just listing of what's
13 there, correct?

14 MS. CAMPBELL: The PDF files with names,
15 and I don't know what they said. I just know the
16 whole screen was covered with it.

17 THE COURT: So you're supposing that they
18 know, even though you don't.

19 MS. CAMPBELL: Well, I would assume so. And
20 I don't know if any of it was objectionable or
21 admissible.

22 THE COURT: Okay. What we'll do is at the
23 break, I will go ahead -- no. Let's just take that
24 break now.

25 Ladies and Gentlemen, go back to the jury

1 room, please. Please do not discuss this case. It
2 would be inappropriate to do so.

3 (The jury exits the courtroom at 2:34 p.m.)

4 THE BAILIFF: Jury is cleared and the
5 door is closed, Your Honor.

6 THE COURT: Thanks.

7 All right. So which screen was it? Is it --

8 MS. CAMPBELL: This screen.

9 THE COURT: Show me again what it was.

10 MS. LUTTRELL: This is what it was. It's
11 her desktop with about a million items on it.

12 THE COURT: Sure. That one right there.

13 So this --

14 MS. CAMPBELL: Uh-hum.

15 THE COURT: -- that you're concerned
16 about?

17 MS. CAMPBELL: Right. I mean, this was
18 just flashed at the jury.

19 THE COURT: Right. And I'm --

20 MS. CAMPBELL: And, again, it wasn't -- it's
21 not published to the jury. I don't know, Your Honor,
22 if it would -- I don't know what it said. I would
23 need a moment.

24 THE COURT: Take a picture of it. Just
25 for the record, how long was it shown for? Give

1 me --

2 MS. LUTTRELL: Thirty seconds at most.

3 THE COURT: Just for the record. And
4 Julia is going to go ahead and print a copy of it.
5 Yeah. If you will go ahead and -- do you have a
6 color copier in Clerk's office?

7 THE CLERK: We do.

8 THE COURT: Okay. So if we send it there
9 and have it printed -- and, actually, if also
10 possibly we should have it too. Let's just go
11 ahead and make it a Court's exhibit in the case.

12 All right. Ms. Campbell, you've had a
13 chance to look at each of those documents. You
14 want to go ahead and place on the record what's
15 objectionable?

16 MS. CAMPBELL: Your Honor, for the
17 record, for about 30 seconds to a minute while the
18 State was preparing what they were going to
19 publish, which was the defendant's second
20 interview with this officer -- I understand Your
21 Honor is going to mark this as an exhibit.

22 THE COURT: Exactly.

23 MS. CAMPBELL: As a Court's exhibit.

24 THE COURT: Yes.

25 MS. CAMPBELL: So I'll refer to it as Court's

1 Exhibit 1.

2 MS. LUTTRELL: 2.

3 THE COURT: What is it?

4 COURT REPORTER: It 2, Your HOnor.

5 MS. CAMPBELL: Court's Exhibit 2 then. So
6 there are a number of names of individuals on the PDF
7 files. Of course, some of them indicate names and an
8 indictment. Some of them indicate -- you know, I can
9 put Dolly not indictment, Bolton indictment, GSR
10 Marcus Griffin, to name a few. There are many of
11 those.

12 That information, you know, this jury
13 wasn't questioned in -- Casandra Bowles' letter is
14 another one -- wasn't questioned about these
15 individuals and any knowledge that they may have
16 about these individuals.

17 And, again, I just take the position that
18 flashing a prosecutor's laptop with what's -- you
19 know, contains, in every inch of space on it,
20 evidence in other cases is impermissible. It's
21 improper for this jury to have that flashed at
22 them. And I take the position it's prejudicial to
23 Mr. Wiggs.

24 THE COURT: How is it prejudicial?

25 MS. CAMPBELL: Again, because I don't

1 know if these jurors know any of these people, and
2 how that may impact, you know, how they may view
3 the proceedings in this case.

4 THE COURT: Okay. Well, I'm going to go
5 ahead and make it a part of the record. We're
6 looking PDFs. These are icons of different
7 documents. And on this screen there is 20 across
8 the top, although, it has one more than the other
9 ones, and three -- six, seven down. So we're
10 talking about, roughly, 70 or so icons. Is that
11 the right word, icons?

12 MS. LUTTRELL: Yes.

13 MS. CAMPBELL: Yes.

14 THE COURT: That's what they are. I
15 don't see in any way, shape, or form how this jury
16 could glean anything from that. And even if they
17 were able to, I don't see how anything is relevant
18 in any way to this case. I don't think it's a
19 secret to a jury that the State prosecutes other
20 cases besides the defendant on trial here.

21 So, I will absolutely make it a part of
22 the record. I don't find anything either
23 irrelevant or prejudicial about it.

24 So, respectfully, I don't know if there's
25 a motion attached to that.

1 MS. CAMPBELL: And, for the record, the
2 defendant would make a motion for a mistrial for
3 the improper introduction of evidence that is not
4 in this case to this jury.

5 THE COURT: All right. And,
6 respectfully, I'm going to deny that motion,
7 again, based on PDF icons.

8 MS. CAMPBELL: Thank you.

9 THE COURT: You're going to print that
10 for me and we'll make that Court's Exhibit Number
11 2. And we'll go ahead and move one.

12 So are we ready then to bring the jury
13 back in? And just so I'm clear, this is your last
14 witness for today; is that correct?

15 MS. LUTTRELL: Yes, Your Honor.

16 THE CLERK: Did you want me to get that?

17 THE COURT: Pardon? Julia is going to
18 get it.

19 THE CLERK: Oh, okay.

20 THE COURT: Fine. We will print it.

21 THE BAILIFF: The jury is entering the
22 courtroom.

23 THE COURT: Thank you. Welcome, Ladies
24 and Gentlemen. We'll go ahead and continue.

25 (Video played in its entirety from 2:37 p.m.

1 to 2:59 p.m.)

2 BY MS. LUTTRELL:

3 Q Investigator Fraser, was that the only other
4 interview conducted with Mr. Wiggs?

5 A Yes, it was.

6 Q And he got up and left the office that day. Was
7 he arrested that day?

8 A He was not.

9 Q And why not?

10 A In order to arrest him, I needed to get an
11 arrest warrant, which is what I did.

12 Q When did you get the arrest warrant?

13 A I'm sorry, Your Honor. It's something I want
14 to state correctly. On February 10th, the
15 following day.

16 Q Now, in that interview with the defendant you
17 mentioned something about doing a medical, having the
18 alleged victim do a medical exam. Do you typically do
19 those in cases like this? Do you typically request
20 those?

21 A Typically no. There's so much --

22 MS. CAMPBELL: Objection. He's not an
23 expert.

24 THE COURT: Okay.

25 MS. CAMPBELL: He's not a doctor.

1 THE COURT: He think he can testify as to
2 whether or not he would request one be done, but I
3 think he can't say why.

4 MS. CAMPBELL: Of course, Your Honor.

5 BY MS. LUTTRELL:

6 Q So in a case like this, would you typically
7 request a medical examine be done?

8 A No.

9 Q Okay. And you also -- have you been trained in
10 using certain interview techniques?

11 A I have, excessively.

12 Q Okay. And could you explain to the jury what
13 interview techniques you were using in the interview
14 with the defendant they just observed?

15 A Certainly. In order to interview somebody,
16 especially somebody that's been accused of
17 something terrible, the first thing that I need to
18 do is build a rapport with that person. I've got
19 to get that person to feel comfortable with me and
20 comfortable talking about the horrible situation.
21 And building a rapport with somebody, the easiest
22 way to do that, generally, is to agree with them
23 and downplay what they've done or what they're
24 accused of doing. And that's exactly what I did
25 in this interview.

1 Q And after you had listened to everything the
2 defendant had to say, was he arrested for this charge?

3 A He was, yes.

4 Q And do you see Michael Wiggs in the courtroom
5 today?

6 A I do. He's sitting at the defense table.
7 He's got a red tie on and blue shirt.

8 MS. LUTTRELL: Your Honor, please let the
9 record reflect the witness has identified the
10 defendant.

11 No further questions at this time.

12 THE COURT: Miss Campbell.

13 MS. CAMPBELL: Thank you.

14 CROSS-EXAMINATION

15 BY MS. CAMPBELL:

16 Q Officer Fraser, the first interview that you
17 conducted with Michael was on February 2nd, 2016,
18 correct?

19 A Yes, ma'am.

20 Q And you videotaped that interview, correct?

21 A Yes, ma'am.

22 Q The second interview that you conducted with
23 Michael was on February 9th, 2016, and we have just
24 watched that videotape, correct?

25 A Yes, ma'am.

1 Q Okay. We have not watched the videotape from
2 February 2nd, 2016, correct?

3 A I don't know if it was published before I
4 came in.

5 Q To your knowledge, we've not seen it, correct?

6 A Yes, ma'am, to my knowledge.

7 Q And I understand your testimony when you were
8 answering questions for the prosecutor was
9 essentially, in that videotape, Michael indicated to
10 you that he had not had sexual intercourse with the
11 alleged victim in this case, correct?

12 A That is correct. Yes, ma'am.

13 Q Also, the information that you obtained during
14 that first interview was essentially that the
15 timeframe for him living at 41 Joe Capers Road was in
16 question. I mean, he was not telling you that he
17 could confidently say he was living there during the
18 time these allegations were made. Is that fair?

19 A I don't believe so. He said that he moved
20 there right after graduating high school and that
21 he lived there about five months, and he moved
22 there in 2009.

23 Q And the information that was provided to you, was
24 that not that, in 2014, he was living with his
25 girlfriend in Ridgeland at 299 Family Road?

1 A In 2014?

2 Q Yes.

3 A I believe Miss Pearlie Mae said that she had
4 put him out in 2014. Where he lived after he got
5 put out, I think was in -- what was the address
6 you gave?

7 Q 299 Family Road.

8 A I don't know. I don't know that.

9 Q So, that information that he was a corrections
10 officer, living in Ridgeland with his girlfriend in
11 2014, are you telling us that you didn't have that
12 information during your investigation?

13 A No. I believe I knew that he had moved to
14 his girlfriend's house.

15 Q In 2014, correct?

16 A I don't recall the date.

17 Q You're trained to obtain search warrants,
18 correct?

19 A Yes, ma'am.

20 Q And so a question as to whether or not he was
21 there. During the timeframe that you were given, you
22 could have obtained a search warrant for his
23 employment records with the South Carolina Department
24 of Correction, could you not?

25 A In obtaining that information, it would not

1 potentially put him at that house.

2 Q Well, that's not the answer to my question. I'm
3 asking you: Could you not have obtained a search
4 warrant for his employment records with the
5 South Carolina Department of Corrections? You could
6 have done that, correct?

7 A Yes, but I think he was working for
8 Parris Island at the time if I remember
9 correctly.

10 Q Obtaining records via search warrant, you could
11 have obtained his employment records when he worked on
12 Parris Island, could you not?

13 A Certainly.

14 Q Okay. Employment records would contain
15 information like where someone lived, correct?

16 A Certainly. Or it would show an address where
17 somebody wants you to know where they live. It's
18 not a sure proof indicator of where somebody
19 lives.

20 Q When somebody wants you to think they live?

21 A Yes, ma'am. Especially for mailing, for
22 things like that.

23 Q So your incident report that you wrote in this
24 case, you would say that's an accurate report of what
25 you did and what you observed, correct?

1 A Yes, ma'am.

2 Q So Bobby Wiggs --

3 A Yes, ma'am.

4 Q -- the other adult male at 41 Joe Capers Road,
5 exactly when in your incident report did you document
6 interviewing him?

7 A I did not interview Bobby Wiggs.

8 Q And to your understanding, again, as the chief
9 investigator in the home at 41 Joe Capers Road, when
10 this alleged sexual assault was to have taken place,
11 you're being told by Minor that Michael -- her
12 cousin Michael was living in the home. That's what
13 you're being told, right?

14 A Yes, ma'am.

15 Q That Pearlle Mae, her grandmother, was living
16 there, right?

17 A Yes, ma'am.

18 Q Pearlle Mae's home?

19 A Yes, ma'am.

20 Q And her younger sister was living there, too?

21 A Yes, ma'am.

22 Q Okay. And Bobby Wiggs was living there, too,
23 right, another cousin?

24 A Yes, ma'am. I think that came from the
25 defendant. I'm not sure if Miss Pearlle Mae told

1 me that.

2 Q So, exactly when do you cross the threshold of
3 41 Capers Road to view the scene of this alleged
4 sexual assault?

5 A When I received this case two years later, I
6 did not go to 41 Capers Island -- or Joe Capers
7 Road.

8 Q Okay. So never?

9 A No.

10 Q Okay. So, you're familiar with the prospect that
11 a crime scene sketch can be can helpful in an
12 investigation, correct?

13 A Sure. Crime scene sketches are used to
14 document evidence located.

15 Q And they could also be used to document the exact
16 and precise locations of bedrooms, and bathroom, and
17 living room in 41 Joe Capers Road, correct?

18 A Certainly.

19 Q Okay. So no crime scene sketch done, correct?

20 A No, ma'am. Not two years later.

21 Q Not two years later. So, what you're testifying
22 is that your method of investigation would have been
23 different to two years earlier; is that right? Is
24 that correct?

25 A Would you like me to expound?

1 Q I'm just asking you to clarify. Your method would
2 be different.

3 A Certainly. Certainly. If it had come -- if
4 it been reported immediately, substantial work
5 would have been at the residence. Search warrants
6 would be obtained for the residence. You would
7 expect to find biological matter that would be
8 present at the home, but deteriorates over time.
9 It does not last. We would have gone after all
10 that information and all that evidence as well had
11 it been reported immediately.

12 Q Exactly. None of that in this case because it's
13 too late.

14 A Yes, ma'am.

15 Q It's gone.

16 A Yes, ma'am.

17 Q If it was there, it's gone, correct?

18 A Yes, ma'am.

19 Q All right. Now, this second interview that you
20 did, you say to Michael, "I know you didn't rape her."
21 That's what you said, correct?

22 A Yes, I did.

23 Q Okay. You say, "I know you didn't force her,"
24 right?

25 A Yes, I did.

1 Q And then you say, "It makes a huge difference."

2 You said that, correct?

3 A Yes, I did.

4 Q Now, the law in South Carolina on sexual assault
5 of a 12-year old girl, you know the law, correct?

6 A Yes, ma'am.

7 Q You're charged with investigating accusations of
8 violations of the South Carolina law, correct?

9 A Yes, ma'am.

10 Q All right. So, can a 12-year-old consent to
11 sexual intercourse under the law in South Carolina?

12 A No, they cannot.

13 Q No. And as you know the South Carolina law to be,
14 as you knew it to be on February 9, 2016, okay, if
15 Michael Wiggs had said the alleged victim and I had
16 consensual sexual intercourse, you know that act is a
17 violation of the law, right?

18 A Yes, I do.

19 Q And the charge for that would be criminal sexual
20 conduct with a minor in the second degree between the
21 ages of 11 to 14, right?

22 A Yes, it would.

23 Q Which is exactly what you arrested him for,
24 correct?

25 A Yes, it is.

1 Q So, to be clear, then you led Michael to believe
2 that if a 12-year-old had consented to sexual
3 intercourse then he had not broken the law?

4 A I led -- I don't believe I led him to believe
5 anything. I just told him I didn't believe he
6 raped her, and I used that as a tool.

7 Q And still, despite the lies about this, he
8 continued to deny sexual intercourse with his cousin,
9 **Minor** correct?

10 A His statement did change substantially, but
11 yes, ma'am.

12 Q Now, it's not the first time you've used this
13 technique of lying about the law during your
14 interrogations; isn't that true?

15 MS. LUTTRELL: Objection, Your Honor.

16 THE COURT: Basis?

17 MS. LUTTRELL: Mischaracterization and
18 irrelevant, the other cases.

19 THE COURT: Okay. I'm going to allow it.
20 Go ahead.

21 BY MS. CAMPBELL:

22 Q You testified you have this technique that you
23 use, correct?

24 A I use several techniques, this being one of
25 them, yes.

1 Q And so you tell him it's okay. It's different if
2 she consents. I mean, that's your, you know,
3 technique, that's your tool, right?

4 A That is a tool, yes, ma'am.

5 Q That's the tool we saw you use here, right?

6 A Absolutely, yes, ma'am.

7 Q Even though you know that's not the truth, that's
8 not the law?

9 A That is correct. Yes, ma'am.

10 Q Now, sometimes, whether it's an immediate report
11 or whether it's years later, when someone makes an
12 allegation of a sexual assault, you have the ability,
13 through the long arm of the search warrant, to go and
14 obtain things like their mental health records,
15 right?

16 A Yes, ma'am. Provide their specific criteria,
17 yes, ma'am.

18 Q Their doctor records, correct?

19 A Again, with specific criteria met, yes,
20 ma'am.

21 Q Their school records, right?

22 A Yes, ma'am.

23 Q And, in this case, their juvenile justice records,
24 correct?

25 A I'm not aware of any juvenile justice

1 records.

2 Q During the course of your investigation, did you
3 not become aware that [Minor] was involved with the
4 Department of Juvenile Justice, that she had been a
5 runaway?

6 A I don't recall specifically that she was a
7 runaway.

8 Q In your 17 years as an investigator in law
9 enforcement, I would imagine, especially in the last
10 few years, that you have found that the mining of
11 social media is useful in your investigations,
12 correct?

13 A Absolutely.

14 Q That issuing search warrants for [Minor]
15 Facebook account may provide information that is
16 helpful and useful to this jury, correct?

17 A Had she had one. I'm not aware of her having
18 a Facebook account.

19 Q Great. Because you never looked for one, right?

20 A I don't believe she would have had one. A
21 12-year old, I'm not sure. But, again, I'm not
22 aware of her having a Facebook.

23 Q Well, how about that Twitter page? Did you look
24 to see the Twitter page?

25 A I did not, and I was not very aware of

1 Twitter in 2013.

2 Q And Instagram?

3 A No, ma'am.

4 Q I want to take you back to the issue involving
5 Michael and where he was living in 2014 in Ridgeland.
6 You know, was it a concern to you that you had these
7 conflicting times and where he may or may not have
8 been living? Did that concern you enough to, say,
9 talk to his landlord at all?

10 A May I clear up, is it Varnville or Ridgeland?

11 Q Ridgeland.

12 A I was aware of Varnville. And I do feel that
13 I cleared it out. I spoke to the family members
14 that knew him best, where he was living at the
15 time with Ms. Pearlie Mae, who, at the time,
16 really was, in my opinion, an unbiased person.
17 She was the one that provided me with the
18 information specifically that he was living there
19 in 2014 until she put him out.

20 Q And, I'm sorry, you said you had information about
21 Varnville?

22 A Yes. When I reached out to Mr. Wiggs on the
23 2nd, I spoke to Shenaye -- or I'm sorry. I spoke
24 to Shenaye and she provided me a phone number
25 that belonged to a Felicia Bangs of Varnville.

1 Q Felicia Bangs, during the course of your
2 investigation, was that not Michael Wiggs' girlfriend
3 at the time?

4 A I believe it was, yes.

5 Q You testified extensively for the prosecution
6 about watching [Minor] tell this accusation to an
7 interviewer. And you testified that you, you know,
8 observed it and can recall it, correct, what she said
9 about what happened, right?

10 A Yes, ma'am, through my documentation.

11 Q So do you recall that there's never been any
12 allegation prior today that there was oral sex between
13 Michael and [Minor]? Do you recall that?

14 A Can you say that one more time?

15 Q Do you recall that there's never been an
16 allegation that there was any oral sex? [Minor]
17 never said there was oral sex between her and Michael,
18 correct?

19 A No, ma'am.

20 MS. CAMPBELL: That's all I have.

21 REDIRECT EXAMINATION

22 BY MS. LUTTRELL:

23 Q Investigator Fraser, I just want to clear up this
24 issue of the timeline. What year did Miss Pearlie Mae
25 kick Michael Wiggs out of her house?

1 A 2014.

2 Q And was that the before or after [Minor] had
3 disclosed to her?

4 A She disclosed it in 2016.

5 Q Okay. So Pearlle Mae did not know about these
6 allegations when she kicked him out of her house?

7 A No. She said that she was completely unaware
8 of them.

9 MS. CAMPBELL: I'm going to object to the
10 solicitor continuing to use that she kicked him
11 out. Pearlle Mae never testified to kicking him
12 out. This is a characterization that the State
13 has chosen to pick up and run with it.

14 THE COURT: Okay. No more running
15 objections. Change the terminology.

16 MS. LUTTRELL: I'll rephrase.

17 THE COURT: Please.

18 BY MS. LUTTRELL:

19 Q So he moved out of house in 2014?

20 A Yes.

21 Q When did the allegations occur?

22 A 2013 and early 2014.

23 Q Okay. So sometime in 2014 --

24 A Uh-huh.

25 Q -- he moved out. But the allegations had already

1 occurred at that point; is that right?

2 A That's correct.

3 Q Okay. And explain to the jury, at the point of
4 your investigation, the people that you interviewed,
5 were they able to describe the location where these
6 incidents took place? Was Minor able to describe
7 where in the home everything took place?

8 A Yes, she was.

9 Q Did that play any part in the reason why you did
10 not go get a sketch of the house?

11 A Yes, ma'am. Again, it had happened years in
12 the past, and that's why I didn't go and get a
13 sketch of the house.

14 Q And so would you have expected to collect any DNA
15 two years later?

16 A No.

17 Q And if you had been notified right when this
18 occurred, what steps would you have taken that would
19 have been different?

20 A They would have substantially different. In
21 a freshly committed act, there's all kinds of
22 evidence to be located. There's additional
23 witnesses could be identified. There's a number
24 of things that you can do in the immediate after
25 action of a rape. Such as, collecting DNA,

1 photographing, taking measurements of rooms,
2 identifying the people that were in the home,
3 identifying people in close proximity to the home,
4 things of that nature.

5 Q Now, did you ever speak to the other cousin,
6 Bobby Wiggs?

7 A No. Nobody gave me any indication that
8 Bobby Wiggs knew anything about it. According to
9 Mr. Wiggs, he said that Bobby was outside when the
10 incident he described occurred.

11 Q What about **Minor** did she ever name him as a
12 witness or a suspect?

13 A No, ma'am.

14 Q Now, Mr. Campbell talked to you a lot about your
15 statement to the defendant, that it would have been
16 way different if she would have consented, and that
17 you know the law in South Carolina; is that right?

18 A That's correct.

19 Q And as a child between the ages 11 and 14, are
20 they able to consent to any sexual act?

21 A They are not.

22 Q And, in fact, what did the defendant describe
23 occurred between him and **Minor** ?

24 A During the second interview?

25 Q During the second interview.

1 A He described her coming on to him. Her
2 rubbing her buttocks. He used that terminology,
3 but her rubbing her buttocks on him in the one
4 incident, and then jumping on top of him in the
5 second incident.

6 Q And, in fact, did you go and secure warrants for
7 him for sexual conduct against a minor in this case?

8 A I did, yes.

9 Q Is that what he was arrested for?

10 A Yes, ma'am.

11 MS. LUTTRELL: No further questions, Your
12 Honor.

13 MS. CAMPBELL: I'm done.

14 THE COURT: All right. You may step
15 down, sir.

16 THE WITNESS: Thank you, ma'am.

17 THE COURT: Anything further from the
18 State?

19 MS. LUTTRELL: At this time the State
20 rests.

21 THE COURT: Ladies and Gentlemen, at this
22 time the State rests their case. There's a matter
23 of law I need to take up with the attorneys. I'm
24 going to send you back to the jury room just
25 briefly. Again, do not discuss this case. It

1 would be inappropriate to do so. Leave your
2 notepads in your seats. We'll be back shortly.

3 (The jury exits the courtroom at 3:21 p.m.)

4 THE BAILIFF: The jury is clear and the
5 door is closed, Your Honor.

6 THE COURT: Thank you.

7 Miss Campbell, any motions?

8 MS. CAMPBELL: May it please the Court,
9 Your Honor. I have, for Mr. Wiggs, at this stage
10 of the proceedings, I would make a motion for a
11 directed verdict, and make the argument for him
12 that the evidence as it stands now, raises simply
13 a mere suspicion of guilt, and would be -- to be
14 submitted to the jury at this stage would not be
15 proper.

16 Thank you.

17 THE COURT: Miss Luttrell.

18 MS. LUTTRELL: Your Honor, it's the
19 State's position that we have presented sufficient
20 evidence at this time to constitute the crime of
21 criminal sexual conduct in the second degree based
22 on the testimony received in court today. In
23 fact, the defendant's own inconsistencies in
24 statements. We do argue that the case should be
25 sent to the jury at this time.

1 THE COURT: All right. Well, taking the
2 evidence in the light most favorable to the
3 non-moving party, I think there is sufficient
4 evidence from the victim in this case to allow it
5 to go to a jury. So we will send it to them.

6 Miss Campbell, do you intend on putting
7 up any evidence, and is now a good time for you to
8 ask your client about his rights.

9 MS. CAMPBELL: So there would be no
10 testimony other than Mr. Wiggs.

11 THE COURT: Okay.

12 MS. CAMPBELL: And I have talked with
13 Mr. Wiggs about Your Honor advising him at this
14 time stage, and indicated to him that any
15 decisions that we would be making would be
16 premature until the close of the State's case. So
17 I would ask Your Honor to, you know, give the
18 State 10 or 15 minutes. His grandmother is here,
19 you know. And I think it's important for family
20 to chime in on these things, too. If we could
21 just have just a short break. After he's been
22 advised, he could talk with me and his family
23 about his decision.

24 THE COURT: Certainly. All right, well,
25 Mr. Wiggs, if you would just rise and raise your

1 right hand, I'm just going to inform you of your
2 5th Amendment rights, sir. Thank you. Do you
3 swear or affirm the testimony you give will be the
4 truth, so help you God, sir?

5 MR. MICHAEL WIGGS: Yes, ma'am.

6 THE COURT: Thank you. Mr. Wiggs, at
7 this time, I would explain to you certain rights
8 that you have. If there's anything you don't
9 understand, please ask me to rephrase it or repeat
10 it. I am happy to do that.

11 Sir, we've reached the stage in this
12 trial where you may present your defense. You
13 have the right to claim the protections that are
14 given to you by the 5th Amendment to the
15 Constitution of the United States, which states,
16 in part, that no person shall be compelled in a
17 criminal trial to be a witness against themselves.

18 Sir, basically what that means is, you
19 cannot be forced to testify on your own behalf.
20 However, sir, you need to understand that you also
21 have the right to testify if you choose to.

22 Again, please understand, to testify or
23 not testify is a personal right. Now, I want to
24 make sure you understand that. While I absolutely
25 expect you to talk to Miss Campbell and anyone

1 else that you want to consult with, you need to
2 understand the choice to testify or not testify is
3 one that you need to make, sir.

4 I do need you to understand, though, that
5 if you decide to testify in this case, you'll be
6 subjected to the same rules as anyone else in this
7 trial who testified. And you can be examined and
8 cross-examined on any relevant issues in this
9 case.

10 Also, sir -- does he have any prior
11 convictions or anything that would --

12 MS. LUTTRELL: The only prior conviction,
13 Your Honor, is receiving stolen good from 2016.
14 And he has a shoplifting out of Georgia, but it's
15 unclear what the disposition was.

16 THE COURT: Okay. So are you going to
17 attempt, if he takes the stand, to use receiving
18 stolen goods?

19 MS. LUTTRELL: We were just verifying if
20 that actually does qualify with dishonesty because
21 I know that there has been some changes. So after
22 we verify that, if it is considered a crime that
23 we can use, we would plan on using that, Your
24 Honor.

25 THE COURT: Okay. So, we'll have to,

1 obviously, resolve that issue.

2 Sir, again, I just want to make sure you
3 understand that this decision to testify or not
4 testify is your decision, and must be made freely
5 and voluntarily and intelligently with the
6 knowledge of protections that are provided to you
7 under the 5th Amendment to the Constitution.

8 Sir, I want you to also know that if you
9 choose not to testify in this case, I will
10 instruct the jury in my jury charge to them, the
11 fact that you didn't testify can't even be
12 considered by them. And the reason is, you're not
13 required to prove your innocence. The burden is
14 on the State to prove your guilt as to this charge
15 beyond a reasonable doubt, and I will explain that
16 to the jury as well.

17 Sir, at this time, do you understand the
18 rights that I have explained to you?

19 MR. MICHAEL WIGGS: Yes, ma'am.

20 THE COURT: All right, sir. And do you
21 have any questions for me about what I just
22 explained to you?

23 MR. MICHAEL WIGGS: No, ma'am.

24 THE COURT: All right, sir. Well, what
25 we're going to do is go ahead and take about a

1 ten-minute break or so, maybe a little longer than
2 that, 15 minutes or so. Miss Luttrell, if you all
3 can resolve the receiving stolen goods issue.

4 MS. LUTTRELL: Yes.

5 THE COURT: And let Miss Campbell know,
6 and you can email to me as well, I would
7 appreciate it. We will take about 15 minutes. If
8 you could be back just a little before quarter to
9 4:00.

10 Miss Campbell?

11 MS. CAMPBELL: Yes, ma'am.

12 THE COURT: I'm assuming you have somewhere
13 to go where you can have private space.

14 MS. CAMPBELL: Right here. Thank you.

15 THE COURT: Thank you.

16 (A break was taken at 3:27 p.m. to 4:45 p.m.)

17 THE BAILIFF: All rise.

18 THE COURT: Thank you. Be seated.

19 Have you had an opportunity to speak to
20 Ms. Campbell and anyone else Ms. Luttrell and
21 decide whether or not you wish to testify, sir?

22 MR. MICHAEL WIGGS: Yes, ma'am.

23 THE COURT: Do you want to testify in this
24 case?

25 MR. MICHAEL WIGGS: No, ma'am.

1 THE COURT: All right. Sir, is that your
2 decision.

3 MR. MICHAEL WIGGS: Yes, ma'am.

4 THE COURT: Thank you, sir. You may be
5 seated.

6 All right. Miss Campbell, are you going to
7 put anything up?

8 MS. CAMPBELL: I am.

9 THE COURT: Okay. Why don't we go ahead.
10 Would you like to rest for the record? Let's go
11 ahead and have the jury come in and rest.
12 Obviously, we're going to have anyone else up
13 because there's nothing in response. We'll talk
14 about the charge, then we'll charge in the
15 morning, but we'll go for the evening. If that's
16 acceptable to you all?

17 MS. CAMPBELL: That's perfectly fine. So
18 when they come in, I'll rest on the record?

19 THE COURT: Yes. And then I'll dismiss
20 them for the day.

21 So, there's Mary Jordan. So I was looking at
22 our other three cases.

23 Off the record.

24 (Off the record.)

25 THE BAILIFF: The jury is entering the

1 courtroom, Your Honor.

2 THE COURT: Thank you.

3 (Jury enters the courtroom at 4:50 p.m.)

4 THE COURT: All right. Miss Campbell.

5 MS. CAMPBELL: May it please the Court?

6 THE COURT: Yes, ma'am.

7 MS. CAMPBELL: Your Honor, at this time
8 the defense rests.

9 THE COURT: All right. Ladies and
10 Gentlemen, at this time the defense has also
11 rested their case. What is left to do is hear the
12 closing arguments from the lawyers, my charge on
13 the law, and send it to you for your
14 deliberations. All of that takes some time,
15 Ladies and Gentlemen. So what we're going to do
16 is return tomorrow morning to go ahead and
17 complete this trial. I'm going to ask that you
18 all return at about five minutes to 10:00 tomorrow
19 so we can start right on time at 10:00 a.m. And
20 we are going to start by hearing closing arguments
21 from the lawyers. I'm going to charge you on the
22 law. And we're going forward from there.

23 I will also tell you, Ladies and
24 Gentlemen, that I'm bringing back the remainder of
25 the panel at one o'clock tomorrow, because I'm

1 going to start another trial. So I'm going to
2 pull another jury anyway. So just to let you know
3 that. You will be in deliberations then. You
4 will not be subject to that panel.

5 Ladies and Gentlemen, I need to remind
6 you that even though you have heard all the
7 evidence in this case, it would be highly
8 inappropriate for you to do any outside research,
9 for you to discuss the case with anyone.

10 Ladies and Gentlemen, get a good night's
11 sleep, get a good breakfast, and come on in, and I
12 will see you all at 10:00 in the morning. All
13 right? Just a little before 10:00. Okay?

14 And, actually, if you would, because
15 we're going overnight, when you place -- you have
16 placed their juror numbers on the notebooks?

17 THE BAILIFF: Yes, ma'am.

18 THE COURT: Okay. So they're on there. So
19 you can go ahead and give your notebooks, if you will,
20 to the bailiffs because I don't want to leave them in
21 the seats overnight. Okay? They will pass them back
22 out to you in the morning. Okay? They will not be
23 disturbed or looked at.

24 Thank you.

25 (The jury exits the courtroom).

1 THE BAILIFF: Jury is clear and the door is
2 closed, Your Honor.

3 THE COURT: Thank you. Do you want to
4 enter any motions, Miss Campbell?

5 MS. CAMPBELL: Yes, Your Honor. For the
6 record, the defendant renews his motion for
7 directed verdict, and renews his motion for
8 mistrial at this time.

9 THE COURT: Thank you. And I'm assuming
10 you want to -- based on your same argument --

11 MS. LUTTRELL: Same argument, Your
12 Honor.

13 THE COURT: -- is that correct? And
14 again, based on the evidence presented by the
15 non-moving party, the State, I do think there is a
16 jury issue that's been created. It will go to the
17 jury.

18 And, respectfully, I'm going to, again,
19 deny your motion for a mistrial.

20 We have printed now the copy.

21 Ms. Campbell, I want to make sure you take a look
22 at it. It's a Court exhibit, what was out there.
23 We're going to mark this as Court's Number 2.

24 Sharon, I'll give this to you, so we'll
25 know exactly what was shown to the jury.

1 All right. So can we talk about the jury
2 charge real quick, what's acceptable to you all.
3 It seems pretty simple in this case as far as the
4 charge. I am going to charge the presumption of
5 innocence, reasonable doubt, the jury is the judge
6 of the facts and I'm the judge of law. I'm going
7 to charge direct and circumstantial evidence.
8 Obviously saying that just suspicion is not
9 enough. *** I'm charging second degree criminal
10 sexual conduct with a minor. That the jury is to
11 judge the credibility of the witnesses. I'm
12 charging on expert witnesses. I'm also charging
13 on the statement that was given by the defendant.
14 And while it was admitted, whether or not they
15 believe it is for them to believe it. And for
16 them to determine -- and it talks about whether or
17 not it was voluntary. They need to look at the
18 factors that are set out. Regarding the age of
19 the defendant, education, capacity. I am charging
20 the defendant will not testify, did not testify,
21 that's not even to be spoken about or considered.
22 I'm charging on note taking, and that the verdict
23 must be unanimous.

24 And the verdict form is simply the charge
25 of criminal sexual conduct with a minor in the

1 second degree, we, the jury find the defendant
2 either guilty or not guilty. Just up or down is
3 all it is.

4 So is there anything further the State
5 requests to be charged?

6 MS. LUTTRELL: No, Your Honor.

7 THE COURT: Anything on behalf of the
8 defense that you request to be charged,
9 Ms. Campbell?

10 MS. CAMPBELL: Your Honor, I'm looking at
11 it now, and I am requesting a charge on assault
12 and battery in the first degree, and assault and
13 battery in the second degree as lesser includeds
14 in this case.

15 THE COURT: Can you pull up, Julia,
16 really quick as to -- does the State have a
17 position on those two requests.

18 MS. LUTTRELL: The State's position is
19 that assault and battery is not a lesser included.
20 CSC with a minor second degree -- I don't have --
21 I was going to do a quick case law search, Your
22 Honor.

23 THE COURT: I just want to see the
24 elements.

25 MS. LUTTRELL: I just don't believe it

1 would fit the elements test because of the age
2 requirement and CSC with a minor second degree,
3 and CSC with a minor, does not -- although it
4 requires a sexual battery, it does not require an
5 injury, which would be required under the CSC or
6 the A&B first.

7 MS. CAMPBELL: Your Honor, I'm pulling it
8 up as well, but -- so, having recently tried a
9 criminal sexual conduct with a minor first degree,
10 which also has the age element in it as well last
11 month, we did receive the lesser included offenses
12 of A & B first and A & B second in that trial.
13 And, you know, I guess my research indicated that
14 that was proper, unless --

15 THE COURT: Let me look at case law
16 because I don't see, Miss Campbell, where the
17 element is. What case was that and who charged
18 that?

19 MS. LUTTRELL: It was Ms. Fields, Your
20 Honor. It was Judge John. The State did oppose
21 the --

22 THE COURT: Steven John?

23 MS. LUTTRELL: Yes, Your Honor.

24 THE COURT: Here in Beaufort?

25 MS. LUTTRELL: It was here in Beaufort

1 last month.

2 THE COURT: And it was a CSC first degree
3 with a minor?

4 MS. LUTTRELL: Yes, Your Honor.

5 THE COURT: And it was a minor between
6 the ages of what and what?

7 MS. LUTTRELL: The child was --

8 MS. CAMPBELL: Victim under the age of
9 11, is what the statute was.

10 MS. LUTTRELL: Yeah. She was six years
11 old.

12 THE COURT: Would that mean it was first
13 degree? Is that correct?

14 MS. CAMPBELL: Yes, Your Honor.

15 THE COURT: First degree, Ms. Campbell?

16 MS. CAMPBELL: Yes, ma'am.

17 THE COURT: Okay. Well, I'm just now
18 looking at the second degree.

19 Miss Campbell and also Miss Luttrell, I'm
20 going invite you both to pull some case law. I
21 don't think it's a lesser included, just from what
22 I'm reading, because it's just a simple comparison
23 of the elements. So if you can find some case law
24 where it states that, just let me know. Okay? If
25 you'll just email, if you would, my law clerk

1 anything you can find. If you can find case law
2 or anywhere else. Okay?

3 MS. LUTTRELL: Yes, Your Honor.

4 MS. CAMPBELL: Yes, Your Honor.

5 THE COURT: And so, if we can all be here
6 roughly tomorrow morning -- if you all could just
7 be here about quarter to 10:00, that way you all
8 are here. I have meeting at 9:30, so I probably
9 will just have Julia come out or someone, but
10 please send word back if there's something you do
11 need to put on the record. So whatever you can
12 find, if you'll send it to me on that issue.

13 Anything else, Miss Campbell?

14 MS. CAMPBELL: Just one final thing. So
15 I have begun routinely objecting to the portion of
16 the -- I guess, it's charge on the law with
17 respect to reasonable doubt where the court
18 instructs the jury in any manner that they must
19 find the defendant guilty. And, for the record --

20 THE COURT: I'm just looking to see where
21 that is.

22 MS. CAMPBELL: Yes, ma'am.

23 THE COURT: Okay. The part where it
24 says, "If based on your consideration of the
25 evidence you are firmly convinced that the

1 defendant is guilty of the crime charged, you must
2 find the defendant guilty. On the other hand, you
3 think there's a real possibility the defendant is
4 not guilty, you must give the defendant the
5 benefit of the doubt and find him not guilty."
6 That portion, Miss Campbell?

7 MS. CAMPBELL: That is the portion. I
8 did a written motion on it last month to
9 Judge John. And, essentially, the argument was
10 that the "firmly convinced" is a standard that is
11 not appropriate for reasonable doubt. And that in
12 any -- and I did have some case law, and I'll
13 forward that to your law clerk this evening, of
14 the specific cases on that, where the courts have
15 addressed, you know, the Court's definition of
16 reasonable doubt.

17 So, we do object to the phrasing "firmly
18 convinced," saying, you know, it lessens the
19 burden of proof for the State of South Carolina.
20 And we would object to any scenario where the jury
21 is told that they must find a defendant guilty
22 regardless of the manner in which it's delivered
23 to a jury. Because, you know, the jury must not
24 do anything, other than, you know, what they deem
25 appropriate and proper under the law.

1 So, placing that on the record, I'll send
2 the case law to your law clerk this evening.

3 And finally, I'm asking the Court to
4 charge the portion, which I think Your Honor does,
5 of reasonable doubt which is just like the
6 one-sentence definition which is, "Reasonable
7 doubt is the kind of doubt that would cause a
8 reasonable person to hesitate to act," which many
9 courts have said is sufficient and correct and
10 need not be explained further.

11 Thank you, Judge.

12 THE COURT: Okay.

13 MS. LUTTRELL: And, Your Honor, the State
14 would request that you charge the full reasonable
15 doubt instruction that also includes the "firmly
16 convincing," which I believe we also have case law
17 that I can send on to your clerk, where that has
18 been held proper by the court.

19 THE COURT: Okay, I appreciate that. I'm
20 going to go back and read all that. It's always good
21 revisit what we've been charging.

22 MS. CAMPBELL: And I will say one last
23 thing, especially to the court reporter, who is
24 going to be forwarding to me, at my request, a PDF
25 of **Minor** testimony this evening. And

1 so I certainly want to inform the State that
2 that's occurring, if they needed that as well. I
3 don't know.

4 THE COURT: Okay. Thank you. I
5 appreciate you all. I will see you all back
6 tomorrow. And again, forward me anything on the
7 assault and battery first degree and assault and
8 battery in the second degree for the lesser
9 offense. It is appreciated.

10 And, Miss Campbell, I'll read the
11 reasonable doubt charge. Thank you. I appreciate
12 it.

13 Okay. Good night you all.

14 (The proceedings were adjourned at 4:06 p.m.)

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1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF BEAUFORT

4 State of South Carolina,
5 Plaintiff,

6 vs. Transcript of Record
7 2016-GS-07-00285

8 Michael Wiggs,
9 Defendant.

10
11 June 19, 2019
12 Beaufort, South Carolina
13 Volume III

14 B E F O R E:

15 The Honorable CARMEN T. MULLEN

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

17 Sara Rebekah Luttrell, Representing the State of South
18 Carolina
19 Traci Campbell, Representing the Defendant

20
21
22 SHARON G. HARDOON, CSR
23 Official Circuit Court Reporter, II
24
25

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1 THE BAILIFF: All rise.

2 THE COURT: Good morning. All right.

3 Before we start this morning, let's do the two
4 issues Miss Campbell raised. The first one was
5 about the reasonable doubt charge where you were
6 simply requesting that I charge simply,
7 "Reasonable doubt is the kind of doubt that would
8 cause a reasonable person to act," and leave it at
9 that. I don't think it's appropriate just to
10 leave it at that. I just don't think it says
11 enough, so I'm going to go ahead and use the
12 charge that I typically use, but I did include --
13 I will tell you this, Miss Campbell, I, myself,
14 agree with you that there's also a question, when
15 we talk about civil trials, we talk about, more
16 likely than not, the preponderance of the
17 evidence, and then the charge goes on and talks
18 about clear and convincing evidence. And I see
19 sometimes how that could be a little confusing
20 when you talk about firmly convinced, then later
21 in the charge -- I hear your argument and I
22 appreciate it.

23 I think, though, what I've done is I've
24 clarified it and made pretty clear. So I'll give
25 it to you afterwards so you know, but it made me

1 relook at it and rethink it, and I see what you're
2 saying. And I think I got it so explained and
3 clear that we're talking about something
4 completely different because it's a criminal case
5 and it has to be beyond a reasonable doubt, which
6 they need under that seriousness of it.

7 So I've included a little bit of what you
8 asked for.

9 MS. CAMPBELL: Thank you, Judge.

10 THE COURT: Let's go ahead -- I'm just
11 going to go ahead and have you mark both of those.
12 You've already got them?

13 MS. CAMPBELL: I did. The reasonable
14 doubt charge has been marked --

15 THE COURT: Perfect.

16 MS. CAMPBELL: -- with the court reporter
17 as Defendant's 2. And then the lesser included
18 charge is Defendant's 3 and is with the court
19 reporter.

20 (DFT. 2, Reasonable doubt charge, was marked
21 for identification.)

22 (DEF. 3, Lesser included charge, was marked
23 for identification.)

24 THE COURT: Perfect. And I got to tell
25 you, you gave me a lot of think about, obviously.

1 On the lesser includeds, as you all know,
2 having gone through all the case law, you have the
3 State v. Primus case back in 2002 where -- it was
4 by Justice Burnett in Spartanburg, and the
5 majority in that case, which was Toal, Moore, and
6 Justice George Gregory was acting, agreed with
7 Burnett that some instances, even if it doesn't
8 completely meet the elements test, that you can
9 make exceptions if that makes sense.

10 So, this goes through and writes a
11 dissent and talks about, obviously, the common law
12 and statutory law, and he thinks that we should
13 have a bright line test for better guidance.
14 Guidance is good for the Circuit Court bench, but
15 I certainly have read them both and I understand
16 what the Primus case was saying.

17 And then we have the Court of Appeals
18 case which was unpublished where a jury held,
19 Paula Thomas and Short, it basically affirms the
20 trial court. It didn't charge the lesser
21 included.

22 I can tell you what I'm finding different
23 or distinguishing from what I'm seeing. I think
24 that whether or not to charge the lesser included
25 assault and battery in the first degree and

1 assault and battery in the second degree depends
2 on the evidence that came out in the case, and
3 that's where I think it should turn.

4 And in this case before us, in Mr. Wiggs'
5 statement that was played, he states that -- and
6 someone correct me if I'm wrong, the evidence, if
7 you didn't hear it the way I heard it. I heard
8 that there was two incidents from him. One was
9 where she rubbed her -- he said, her booty on him,
10 and that could fit the facts of an assault and
11 battery in the first degree.

12 And then he said the other incident was
13 that she got on top of him and that there was
14 rubbing, but there was no -- the real difference
15 between all this is -- you know, to get down to
16 what it is, the real difference is whether or not
17 there's penetration. It's a CSC with a minor if
18 there's penetration. If it's just nonconsensual
19 touching, rubbing the private parts, that's the
20 assault and battery.

21 So, I can tell you, in this case, based
22 on the facts, based on because the defense is
23 asking me to charge it, I'm going to go ahead and
24 charge assault and battery in the first degree and
25 assault and battery in the second degree, because

1 I do think, based on the testimony -- and I am
2 going to fully admit I have done a complete swing.
3 Because, when I left here last night, I was not
4 charging it. But I can tell you that I've done a
5 lot more research since then. I've looked at a
6 lot of things. I don't think our Supreme Court
7 requires the strict elements test anymore, even
8 though, like I heard Judge Pleicones -- what can I
9 say? I think we should adhere to it. And I have
10 great respect for him.

11 But I think, in this case, based on the
12 facts, and obviously taking them from whoever, if
13 there are any facts to suggest or support it, the
14 defense is asking me for it, and I think from his
15 own statement, I think it could potentially
16 support the lesser included. If this jury
17 believed him and that it was just rubbing, then
18 they could find him guilty of assault and battery
19 in the first degree or assault and battery in the
20 second degree.

21 So with all that said, I put all that out
22 there just for appellate purposes, so they know
23 that it wasn't something that we came to lightly.
24 Like I said, I relied on and I'll tell you, or
25 I'll tell the Court, more importantly, I read

1 State v. Elliott, State v. Gilmore, State v.
2 Primus, State vs. Geiger, Moultrie v. State, State
3 v. Hernandez, and the last one I haven't mentioned
4 because I just left it with Julia right now for
5 her to write the charge, was the Court of Appeals
6 case that was not -- didn't overturn the trial
7 judge for not including the lesser, but I think it
8 had a very good explanation of why.

9 I'll also say, too, that a lot of the big
10 difference that I'm seeing in these cases, when
11 they're arguing not charging of the lesser
12 included, they talk about, of course -- they talk
13 about AHAN and not ABHAN. There's a big
14 difference in all the arguments about a battery
15 and whether or not it's an attempt. And so, a lot
16 of these cases compare attempted criminal sexual
17 conduct and an assault of a high and aggravated
18 nature and they all make this distinction about
19 the battery.

20 I think any way you take it in our case,
21 according to the even best case scenario of what
22 Mr. Wiggs is saying, that there was a touching. I
23 mean, a -- there was a touching of private parts,
24 so I think it's appropriate in this case.

25 So that's just, like I said, I'll give

1 that as a full explanation just for appellate
2 reasons. Okay?

3 MS. LUTTRELL: And, Your Honor?

4 THE COURT: Yes.

5 MS. LUTTRELL: Can I just put the State's
6 position?

7 THE COURT: Absolutely.

8 MS. LUTTRELL: Our position is that even
9 if looking at just Mr. Wiggs' statement, looking
10 at his statement alone, I agree that there is
11 evidence of a nonconsensual -- or even if it was
12 consensual, she can't consent to the touching of
13 the private parts. But, based on his statement,
14 then there would no injury, which we require an
15 injury or an attempted injury to get assault and
16 battery. That's just the State's position of why
17 that would not be appropriate, but we understand
18 the Court's ruling.

19 THE COURT: And I think it brings an
20 interesting point because I still think, if
21 there's an actual touching, there is an injury.
22 So there is an injury. I know that's a bit of a
23 sticking point, but it is an injury because
24 there's the actual battery. The actual touching
25 is an injury. So -- anyway, okay.

1 Anything else?

2 MS. CAMPBELL: Just one other matter.

3 THE COURT: Yes.

4 MS. CAMPBELL: Your Honor, I just wanted
5 to confirm that the Court will be reading the body
6 of the indictment to the jury when you charge the
7 jury. That -- those elements as written in the
8 indictment is what the State has to prove.

9 THE COURT: I never read the indictment
10 to the jury.

11 MS. CAMPBELL: And I'm aware that you
12 don't. And some -- well, you know, I have had
13 other experiences with other Circuit Court judges
14 who do read the indictment.

15 THE COURT: I don't know anyone that does
16 read the indictment. The only time I've ever read
17 an indictment, and I've clerked for Judge Manning,
18 Casey Manning used to read the indictment in a
19 guilty plea because he always thought that when
20 everyone started giving the rendition of the facts
21 everyone got hooked up on the facts, so he just
22 said, you're pleading to this indictment and it
23 says, and he would read it.

24 But in the old days, they used to send
25 the indictment back with the jury. And that was

1 the other issue, because they actually -- you
2 could see they signed it. They signed the
3 indictment. And not like a guilty verdict.

4 Tell me who you know now that reads the
5 indictment to the jury.

6 MS. CAMPBELL: Well, I'm not entirely
7 sure that it's in the charge itself, but I don't
8 believe this jury has been read the body of that
9 indictment at all yet, and I know that
10 Judge Buckner, beginning, you know, the voir dire
11 process in trials will read the body of the
12 indictment to let the juror -- potential jurors
13 know exactly what the defendant has been charged
14 with.

15 And, in this case, we feel that it's
16 important that the jury know the timeframe that
17 the defendant has been indicted for. The timeline
18 is a critical part of the State's case. It's a
19 critical part --

20 THE COURT: Right.

21 MS. CAMPBELL: -- of the defendant's
22 position in terms of the accusation in this case.
23 And there's been evidence in the record that, at
24 some point in 2014, Mr. Wiggs was not living --

25 THE COURT: Okay.

1 MS. CAMPBELL: -- at 41 Joe Capers Road.

2 So we feel that the jury must understand what he's
3 indicted for specifically.

4 THE COURT: Can I have a copy of the
5 indictment?

6 I can tell you, Miss Campbell, I would
7 agree that sometimes in an opening when I do the
8 voir dire, I am very careful around criminal
9 sexual conduct cases because I typically -- I
10 don't want to state the child's name, so that's
11 why I don't read indictments.

12 Also, I think, you know, unless a
13 judge -- if you're directly reading an indictment,
14 it basically says that they did engage in a sexual
15 battery. It's an allegation. I think that the
16 Court needs to be very clear about this is an
17 allegation until a jury determines it occurred,
18 which is, I think, why I, kind of, stepped back a
19 little bit as far as reading that because it's
20 almost like the authority.

21 But I will say this: In the charge, at
22 the beginning of the charge, and, as you know, we
23 have a bench bar and it, over the years, has
24 evolved, but it does say, you know, they're
25 charging the bill of indictment which is not

1 evidence. So I think it, kind of, precludes that
2 probably they were reading the indictment to them.

3 So I understand what you're saying. I'll
4 go ahead, in that very beginning of it, I will
5 read the indictment and just say the indictment
6 alleges that in Beaufort County, South Carolina,
7 dah-dah-dah, on November 1st, 2013 through
8 February 1st of 2014, the defendant, Michael
9 Wiggs, did engage in sexual battery with

10 **Minor** -- is it Lenaye? Lenaye is her middle
11 name?

12 MS. LUTTRELL: Yes.

13 THE COURT: Lenaye Wiggs, who was 14
14 years of age or less, but who was at least
15 11 years of age at the time of the sexual battery
16 in violation of the South Carolina code section
17 16-3-655(b)(1). Okay?

18 MS. CAMPBELL: Thank you, Judge.

19 THE COURT: So I'll do that for you.
20 Okay. Anything else?

21 MS. LUTTRELL: Your Honor, just so I'm
22 clear, the reasonable doubt standard, I know that
23 you said you sort of tweaked, are you still going
24 to talk about being firmly convinced?

25 THE COURT: Absolutely. I think that's

1 the law.

2 MS. LUTTRELL: Thank you, Your Honor.

3 THE COURT: So I think the case that
4 Traci brought up when she talks about the
5 reasonable doubt charge, the one where the Court
6 said it was completely improper, it was the
7 United States vs. Maye case where it says that,
8 "If based on your consideration of the evidence,
9 you have a strong belief..." Strong belief is
10 incredibly weak. That, to me, is where that Court
11 went wrong. I think the word "belief" is a
12 problem. Because a belief is just that, it's a
13 belief. You know, when you believe something, you
14 don't necessarily know it. So that's where I
15 think that is the problem.

16 But, no. I'm going to do what I normally
17 do in this trial, just like you've always heard me
18 do. I think reasonable doubt needs to be
19 explained, because I don't think people know what
20 it is. I really truly don't. Okay?

21 All right. Anything else?

22 Norman, when you go get them will you tell
23 Julia that I need the charge?

24 And let me go ahead and give you the
25 verdict form.

1 Tell her I've got a verdict form, but I need
2 her to print me a copy of the charge. Thank you.

3 Here's the verdict form. I just want to see
4 if anyone has any objections.

5 MS. CAMPBELL: So, Your Honor, we're
6 going to be changing this then to --

7 THE COURT: Oh, I'm sorry. Yes. Yes.

8 MS. CAMPBELL: If you find not guilty,
9 then go to page 2.

10 THE COURT: Yes.

11 MS. CAMPBELL: Okay.

12 THE BAILIFF: The jury is entering the
13 courtroom, Your Honor.

14 THE COURT: Thank you.

15 (Jury enters the courtroom at 11:03 a.m.)

16 THE COURT: Good morning, Ladies and
17 Gentlemen.

18 JURY PANEL: Morning.

19 THE COURT: It's a pleasure to see you
20 back. I have to apologize. It was me -- I had
21 some things I had to take care of this morning, so
22 it was due to my fault that we are running a
23 little bit late. Thank you.

24 At this time, Ladies and Gentlemen, what
25 you are going to hear is the closing arguments

1 from the attorneys, and then I'm going to charge
2 you on the law that's applicable to this case and
3 then we're going to send it to you for your
4 deliberations.

5 All right. So with that said, if you will
6 Miss Luttrell your attention.

7 MS. LUTTRELL: Thank you, Your Honor.
8 May it please the Court?

9 THE COURT: Thank you.

10 MS. LUTTRELL: Members of the jury, in
11 a moment the Judge will be charging you on the
12 law, and it will be your turn to go into the
13 deliberation room and review the facts and the
14 evidence presented in this and apply the law to
15 those facts. And, as you do that, I want you to
16 think about a few different things in particular.

17 First, to prove this charge, the State
18 must prove beyond a reasonable doubt that the
19 defendant committed a sexual battery against
20 **Minor** and that she was the between the
21 ages of 11 and 14 when this happened.

22 Now, the Judge will define sexual battery
23 for you, but sexual battery includes all of these
24 things, but the one that is applicable in this
25 case is sexual intercourse. If the defendant

1 engaged in sexual intercourse with Minor when
2 she was between the ages of 11 and 14, he is
3 guilty of this charge.

4 The Judge will instruct you that our
5 burden proof beyond a reasonable doubt. And this
6 is part of the instruction that she will read to
7 you but she will explain it in more detail, that a
8 reasonable doubt is the type of doubt that would
9 cause a reasonable person to hesitate to act.
10 Seems a little vague, but this is a doubt that
11 would leave someone firmly convinced. The law
12 does not require proof beyond all doubt. It
13 requires proof beyond a reasonable doubt.

14 Looking at this case, you have evidence
15 from back in 2013. This happened quite some time
16 ago, but you heard Minor sit here on the
17 witness stand and tell you that, back in 2013 when
18 she was 12 almost 13 years old, and her birthday
19 is in December, that this defendant sexually
20 assaulted her while she was asleep on her
21 grandmother's couch at 41 Joe Capers Road on
22 St. Helena Island. She told you that he woke her
23 up in the middle of the night, pulled down her
24 underwear, and penetrated her, had sex with her,
25 and then sort of tossed her aside and back to his

1 bedroom. That is a sexual battery. That is what
2 the defendant is charged with in this case.

3 You also heard about some other sexual
4 batteries. You heard about something that
5 happened later in that spring when she was still
6 in the 7th grade, and then you heard about a third
7 incident that happened in the fall when she was
8 going into 8th grade. Both of these other
9 incidents that occurred involved the same two
10 people, this defendant and **Minor** They
11 have been happened at the same place, Pearlle
12 Mae's house at 41 Joe Capers Road. Two of them
13 happened on the exact same couch in that house,
14 and the other one happened in a back bedroom.
15 They happened in the same exact manner with the
16 defendant forcing her down, removing her clothing,
17 and penetrating her.

18 Now, the Judge will read you the
19 indictment in this case and he was charged with
20 this first incident, the incident that occurred in
21 November 2013. And you heard testimony from
22 Investigator Fraser that he watched an interview
23 that **Minor** did back in 2016 when she first
24 disclosed this abuse.

25 And during that interview she said, the

1 first time it happened, it was in November of
2 2013. I wasn't quite 13 years old yet. Then, in
3 that same interview, she said the second one
4 happened sometime later in 7th grade. And then
5 the third time it happened, I was just starting
6 8th grade, just before he moved out of that house.

7 He's charge with the first incident, but
8 what these others show you is that he had this
9 continuous, sort of, pattern and common plan when
10 attacking her, when sexually abusing her, when
11 having sex with her. He did it in the same way in
12 the same place.

13 Now, 2014 comes around and this defendant
14 leaves the house. He's no longer living with
15 Pearlie Mae. The abuse stops. **Minor** doesn't
16 see him for quite some time, about a year. He's
17 gone. He said he tried to get away from the
18 situation in his interview. He told
19 Investigator Fraser, I saw something was going on
20 so I removed myself. But, regardless, he removed
21 him himself after he had sexually abused this
22 girl.

23 And then in November of 2015, they go to
24 a Thanksgiving event at Pearlie Mae's, and
25 **Minor** is yet, again, confronted with the

1 person who abused her. It's been a year. She
2 hasn't seen him. And then, at that Thanksgiving,
3 she has to see him again and all of these fears,
4 anxiety, things start coming back up. And that is
5 when she starts to have some changes in her
6 behavior at home. She becomes more withdrawn.
7 Her mother said that she would stay in her
8 bedroom. She would go by herself during family
9 events. She didn't want to be around anyone.

10 Until, finally, in the first week of
11 January 2016, she finally tells someone. She goes
12 to her grandmother, Pearlie Mae, who she is close
13 with, who she's lived with on and off, who she
14 trusts, and she tells Pearlie Mae what this
15 defendant did to her.

16 Pearlie Mae waits until her mother gets
17 home that night and tells Shenaye Wiggs that
18 **Minor** needs to talk to her. **Minor** then,
19 again, tells Shenaye what happened to her.
20 **Minor** even said that she was wrote a letter to
21 her cousin, Alecia Freeman, to tell her what
22 happened to her.

23 And so Shenaye Wiggs calls the police,
24 she files a report after a rape crisis hotline
25 recommended it to her, and a police officer comes

1 out and takes an initial report. And Minor
2 tells that officer about the timeframe of when
3 this happened and where it happened, and that's
4 when Investigator Fraser gets involved.

5 Now, Miss Campbell asked Investigator
6 Fraser a lot of questions about why he didn't do
7 all these different things. Why he didn't go to
8 the house and get a sketch, why he didn't take
9 photos for extra evidence. But
10 Investigator Fraser explained that this was two
11 years later. Minor was disclosing the abuse
12 that happened to her two years ago. There was no
13 evidence to go back and collect at that house.
14 Minor wasn't having trouble describing where
15 these things happened. Even as she sat here
16 today, she could describe where exactly where in
17 Pearlle Mae's house this occurred, what Pearlle
18 Mae's house looked like, how it was, where the
19 rooms were. There was no need for a sketch of
20 this residence. There was not going to be any DNA
21 evidence to collect two years later after this
22 house had been lived and other people had been in
23 and out of it.

24 But what he did do is, he set up and
25 interview for Minor by people who are trained

1 to speak with children in these types of
2 situations. He observed that interview. He
3 followed up with other family members.

4 And then he talked to the defendant. He
5 asked the defendant to tell him his side of the
6 story. And that is what happened on
7 February 2, 2016. The defendant came into the
8 office. Investigator Fraser read him his Miranda
9 Rights, explained the Miranda rights to him, had
10 him initial that he understood them. He waived
11 those rights and agreed to talk to
12 Investigator Fraser, signed the form, and then he
13 denied. He denied any involvement. He denied he
14 ever touched her. He said that there was no
15 reason that **Minor** would be making this up. He
16 didn't know what it was all about, but he had
17 nothing to do with it. He said he only lived in
18 that house for about five months in 2009. He said
19 he wasn't even around for this. There's no way he
20 could have done it.

21 So Investigator Fraser let him leave and
22 did some follow-up investigation. He went back,
23 talked to Pearlie Mae again, clarified some of the
24 dates, some of the timeline. And when the
25 defendant's story wasn't matching up to what he

1 found, he had him come in for a second interview.

2 February 9, 2016, the defendant came back
3 in on his own. He met with Lieutenant Baird.
4 Lieutenant Baird read him his rights, explained it
5 to him, asked him if he understood it, had him
6 sign that he understood it, and the defendant,
7 again, agreed to talk to them. He agreed that he
8 would talk to Lieutenant Baird, he would talk to
9 Investigator Fraser. He waived his rights. And
10 that's when his story changed.

11 That's when he said, well, actually,
12 maybe I was living there at the time. I, kind of,
13 do remember being there when Minor would be
14 dropped off by her mom in the morning. She would
15 be out in the living room. I was living there
16 with my cousin Bobby. Maybe I was in the house.
17 I moved back. This was when I moved back in with
18 my grandma. And, oh, maybe there was some
19 touching. Maybe I did, sort of, touch Minor
20 a little bit. He doesn't admit to penetrating
21 her. He says it didn't go that far. But when she
22 was 12 or 13 years old, I felt up on her body.
23 She rubbed her little bootie on me. I, kind of,
24 got in the moment for a minute. She jumped on top
25 of me one day when I was in bed. I'm always in my

1 boxers. Just my boxers. I might have touched it
2 a little bit. He admits all the way up until
3 penetration.

4 And he says that this 12- or 13-year-old
5 girl was coming on to him, a 22-, 23-year-old man.
6 She was the one trying to get with me. She was
7 the one rubbing up on me. She was the one that
8 started it. I just felt her a little bit in the
9 moment. We rubbed up on each other a little bit.

10 And then he, sort of, tried to say, well,
11 you know, this happened to me when I was younger.
12 Her mom, my aunt did it to me, but it was a little
13 different. Her mom and I, we, sort of, played
14 around. It was different than this time. Not
15 denying that this happened. Admitting that he
16 engaged in inappropriate sexual touching with a
17 12- or 13-year-old girl.

18 And so the next day -- actually, on
19 February 9th -- or February 10, 2016,
20 Investigator Fraser goes and he get warrants for
21 Michael Wiggs for criminal sexual conduct with a
22 minor in the second degree, because when **Minor**
23 was 12 and 13 years old and he was touching
24 her and rubbing on her and penetrated her, she
25 could not consent to any of that activity. She

1 didn't consent, as you heard from the witness
2 stand from her mouth. He held her down and he
3 forced her. He forced himself on top of her and
4 inside of her.

5 One of the jury instructions the Judge
6 will read to you is about determining and deciding
7 the credibility of the evidence and the witnesses
8 that you saw in this case. And some of the
9 different things that you can consider are,
10 whether there was any motive, whether the people
11 who testified on this witness stand had a motive
12 to make up a story, to say things that were not
13 true. What's the motive driving them to testify
14 in front of you?

15 And, in this case, the defendant himself
16 said **Minor** had no motive. During his second
17 interview he said, well, maybe she wanted things
18 to get more serious with me, and so that's why
19 she's saying this after not seeing me for two
20 years. After two years have passed, she is now
21 making up these things because she wanted me to
22 actually have a more serious relationship with her
23 than what I did do.

24 But **Minor** has no motive. She didn't
25 enjoy sitting up there and talking to you and

1 telling you what happened. She told you that she
2 has gone through anxiety, she's been scared, and
3 being here in this courtroom with this defendant
4 only made those feelings resurface. She said that
5 she's scared that he's going to show back up, like
6 he did in Thanksgiving of 2015 when she hadn't
7 seen him for a year.

8 The other things that you can consider is
9 2q1 in statements, or inconsistencies. **Minor**
10 has been consistent. She told Pearlle Mae that
11 something happened to her, when it happened, and
12 where happened. She told Shenaye Wiggs the
13 same thing. She told that initial officer the
14 same thing. And then she went to an interview and
15 gave some more details, but provided the same
16 dates with the same person in the same location
17 and the same way that he did it.

18 And then three years later, after she
19 disclosed -- four years later at this point -- she
20 comes in and she tells you the same thing. She
21 has been consistent. Her story has not changed.
22 She has not taken things back. She has not
23 recanted anything. She has not added details.
24 She has remained consistent.

25 This happened her in 2013, almost six

1 years ago, and she's remained consistent since
2 telling Pearlie Mae that very first time back in
3 January of 2016.

4 The person who hasn't been consistent is
5 the defendant. His story changed from that first
6 interview to the second interview. He added
7 details. He changed where he was. He changed
8 what he did. He changed what happened.

9 And one of the things that's important in
10 this case is, when you're looking at who the
11 stories are coming from, think about the age
12 difference between **Minor** and Michael Wiggs.

13 **Minor** was 12 or 13 when this was
14 happening. She was a child. Not yet a teenager.
15 Never experienced anything like this before.
16 Never had sex before when this happened.

17 He was 22 or 23 years old at this time.
18 They are 10 years apart.

19 And then when **Minor** does come
20 forward, she's still like only just turned 16 --
21 or just turned 15. Not even 16 years old. And,
22 yet, he is in his mid 20's at that point.

23 And he said in the interview, I don't
24 want to take anybody to court, but I don't want to
25 go to jail for nothing either. I don't want

1 anything to happen to me. Let me just talk to my
2 family and we can work this out. If you just let
3 me go talk to them, I can make this go away. I
4 say talk to my aunt. I say talk to my family. We
5 can work this out among family. We don't need the
6 law involved. Again, not denying that he did
7 something inappropriate, just saying that he can
8 make it go away. They can work it out amongst
9 themselves.

10 Tessa Trask talked to you about the
11 different symptoms and, sort of, the signs of
12 trauma that a child goes through when it's
13 sexually abused. And some of those symptoms are
14 that a child will go through avoidance. They'll
15 go through hypervigilance sometimes and
16 reexperience. And we saw that with Minor in
17 this case.

18 Both her mother talked about her
19 behavior, Minor herself, told you this
20 happened to her and she was in shock. She didn't
21 know what to do. She was scared, so she avoided
22 it. She, sort of, went through that denial stage.
23 She didn't want to talk about it. She didn't want
24 to think about it. She didn't know if anyone
25 would believe her, so she just tucked it away.

1 She kept it inside and didn't tell anyone.

2 But then when he reappeared at a family
3 event, she started going through that
4 reexperiencing phase. These emotions, these
5 feelings were coming back up. She was now in this
6 same place with this same person who had abused
7 her, who had assaulted her.

8 And so when she's going through that
9 reexperiencing, she decided that that is the
10 moment that she cannot deal with it herself
11 anymore. She starts having suicidal thoughts.
12 She's depressed. She's dealing with things that a
13 15-year-old girl cannot deal with on her own.
14 That's when she decided to tell Pearlie Mae and
15 get some help.

16 And then even as she sat here in court,
17 we could see some of the signs of her
18 hypervigilance and reexperiencing again. The end
19 of her testimony, she started to talk a little
20 fast. She started to get a little bit emotional.
21 She was talking about how she was feeling. She
22 started to cry a little bit. And she said, I'm
23 scared that he's going to show back up. I'm
24 always looking over my shoulder. I'm scared of
25 him. I don't know what to do.

1 Tessa Trask also talked to you a lot
2 about this disclosure process and why some
3 children -- why the majority of children wait to
4 tell about the abuse that occurred. She said in
5 the majority of cases the child will wait days,
6 weeks, months, and sometimes even years. And,
7 yet, sometimes it has to do with not having the
8 support system in place, but not always. And we
9 ready that **Minor** had a good support system.
10 She trusted Pearlie Mae. She had a good
11 relationship with Pearlie Mae.

12 But some of the other reasons are, the
13 offender is around. The offender is still there.
14 He was still living in the house. This happened
15 to her, everyone woke up the next morning and he's
16 still there, and he was living there for another
17 nine months until he moved out sometime in 2014
18 when all this stopped.

19 Sometimes it can be fear. **Minor** told
20 you she was scared. She didn't know how to manage
21 these feelings. She didn't know what to do. She
22 had never experienced anything like this. She was
23 scared that it would break up her family. This
24 was a close family. The defendant himself said
25 that they were a close family. And **Minor** knew

1 that if she told her family that he had done this
2 to her that it could break apart her family. That
3 close, tight family that they've had for so long.
4 Some people wouldn't believe her.

5 And then others do not disclose right
6 away because they don't fully understand what is
7 happening to them. **Minor** experienced all
8 these things, and that's why she waited two years
9 until, really, he was completely removed from the
10 home. She really wasn't quite in danger of him
11 anymore because he had moved out and was living
12 with some girlfriend in Ridgeland or Barnwell at
13 that point, and she was living with Pearlle Mae in
14 a safe environment.

15 Now, when the Judge charges you on the
16 law, she'll tell you that he is charged with
17 criminal sexual conduct with a minor in the second
18 degree, and that is what the State has proven in
19 this case. We have proven that **Minor** was 12
20 and 13 years old when he penetrated her and had
21 sex with her, committed a sexual battery.

22 But the Judge will also instruct you on
23 some lesser included offenses; assault and battery
24 in the first degree and assault and battery in the
25 second degree. And to meet the elements of

1 assault and battery in the first degree you would
2 have to find that the defendant injured another
3 person and during that act there was a
4 nonconsensual touching of the private parts,
5 either under or above the clothing with lewd and
6 lascivious intent.

7 What the defendant said in his statement,
8 what he admitted to, that's assault and battery in
9 the first degree. If you believe that he touched
10 **Minor** that it was nonconsensual, which she
11 can't consent at the age of under 14, if you
12 believe that he touched her under or over her
13 clothing any part of the private parts with lewd
14 or lascivious intent, sexual intent, he's also
15 guilty of assault and battery in the first degree.

16 Now, looking at assault and battery in
17 the second degree, there doesn't necessarily have
18 to be an injury, just an injury or an offer or
19 intent to injure someone. **Minor** testified
20 that he injured her. Not only did he penetrate
21 her with force, but he held her down. He would
22 twist her arm behind her back when he was holding
23 her down. Injury and force.

24 The defendant admits to feeling up on her
25 body, feeling on her bootie when she was 12 or 13

1 years old.

2 I submit to you that, based on all the
3 evidence in this case, looking at **Minor**
4 testimony and her prior statements and her prior
5 disclosures, her consistency, that we have proven
6 beyond a reasonable doubt that this defendant is
7 guilty of criminal sexual conduct with a minor in
8 the second degree.

9 And, as you deliberate and review all the
10 evidence, you can even go back and listen to his
11 statement. You can watch his interview again if
12 you want to hear what he admitted to, what he
13 says. If you want to think about the
14 inconsistencies between his two statements, you
15 can do that.

16 And as you review all the evidence, I ask
17 that you return a verdict of guilty.

18 Thank you.

19 THE COURT: Miss Campbell.

20 MS. CAMPBELL: May it please the Court?

21 THE COURT: Yes, ma'am.

22 MS. CAMPBELL: Good morning.

23 JURY PANEL: Good morning.

24 MS. CAMPBELL: I'm not here to tell you
25 what to do or try and convince you of anything.

1 Nobody wants to be told what to do, at least of
2 all my nine-year-old daughter. You know, during a
3 trial week like this, we're both exhausted at home
4 at night, and I admit I revert to the parental,
5 "Do it because I said so." No. You're an adult.
6 I'm an adult. We're all adults here. And in that
7 situation, you have your life experiences. You
8 bring those, each individual one of you, to this
9 case, to this courtroom.

10 And now it's going to be time for you to
11 talk. It's going to be time for you to talk to
12 one another, to say, well, how do you see this
13 case? What do you think about the witnesses?
14 What are the issues for you? How do you feel
15 about what you heard from Jeremiah Fraser? How do
16 you feel about what wasn't done in this case?

17 Admittedly, I have used this before. I
18 found it very helpful, so we're going to do it
19 again.

20 So remember when we talked the other day
21 about the presumption of innocence, when you step
22 back into your jury room, this will be your four
23 walls of the jury room. You are surrounded by
24 innocence on every wall. That's the law.

25 As you sit in your jury room and begin to

1 have these conversations with one another, there
2 are two foundations; presumption of innocence and
3 reasonable doubt.

4 Now, again, we talked about presumption
5 of innocence the other day. The shroud of
6 innocence, if you recall the golden threads. But
7 today we're going to talk about reasonable doubt
8 and how reasonable doubt intersects with the
9 presumption of innocence. I found it helpful in
10 talking about reasonable doubt to explain it this
11 way: If you took a box, let's say, and you put a
12 cat in the box and you put a mouse in the box and
13 you put the lid on it, and you tied it up, and you
14 left for 30 minutes. You came back, you untied
15 it, you opened the box, and there's nothing in the
16 box but the cat. And you say, well, the cat must
17 have eaten the mouse. And do it again. Take a
18 box, put the cat in, put the mouse in, shut the
19 lid, tie it up, walk away for 30 minutes, come
20 back, open the box, still just the cat.

21 But you take that box and you look down
22 in the corner -- you actually look. You get down,
23 you peel it back, and you say, well, what is that,
24 and there's a hole just right size for a mouse,
25 and the mouse has left. That hole is reasonable

1 doubt.

2 Now, let's talk about the holes in the
3 government's case against Michael Wiggs. The
4 first hole in the government's case is this whole
5 timeline thing. The testimony was all over the
6 place. Admittedly, it was extremely difficult to
7 follow. You may need to rehear some of the
8 testimony about that. I don't know. Of course,
9 when you talk to one another, you can figure that
10 out.

11 So there were these allegations that were
12 leveled and accusations 2013, 2014, three times.
13 Okay, so when then? When in 2013 and 2014?

14 Now, Her Honor is going to read to you
15 the indictment. The government, for whatever
16 reason, chose to make a decision to indict
17 Michael Wiggs for a timeframe of November 1st,
18 2013 to February 1st, 2014. This is just one
19 month in 2014.

20 And so if you look at that, two of the
21 allegations, two of the accusations that come
22 through this testimony you've heard fall far
23 outside the actual indictment that you are
24 considering.

25 And, as the prosecutor just said, 2014

1 when Michael Wiggs is living in the Varnville and
2 Ridgeland area. Pearlle Mae told you that he left
3 out of her house sometime in 2014.

4 Now, the second hole in the government's
5 case, oh, my goodness, the manner of questioning
6 of Jeremiah Fraser to this young man. For
7 example, think of this way: You're walking down
8 the street, a cop walks up to you, searches you,
9 finds some marijuana in your pocket, and he says
10 to you, look here, buddy, if you bought that
11 marijuana that's one thing, but if somebody gave
12 it to you, it's another. You know, it's still
13 illegal whether you bought it or whether somebody
14 gave it to you. So, I'm going to lie to you. I'm
15 going to try and trick you.

16 And, in this case, you heard testimony
17 from Jeremiah Fraser, yeah, that's my old standard
18 routine. That's my old standard technique with
19 these fellows. You know, I'm going to convince
20 the young man that it's legal to sexually touch a
21 young girl age 12 or 13 if she agrees to the
22 touching, if she consents. Oh, what, did she come
23 on to you? Because, you know, it makes a huge
24 difference. So if you force her, if you raped her
25 versus if she agreed, if she consented. That's

1 how we're going to change the outcome here, young
2 man.

5 Yeah, I know it's not the law. And he uses the
6 lie about the law in South Carolina to lure young
7 men accused of such sexual touchings into the
8 belief that if I just tell him it was consensual,
9 then it's okay. But it's not okay. It's not okay
10 to lie the way Fraser did to these young men.
11 It's not okay to lure them. It's not okay to
12 treat young men like this.

25 Look, man, you're not leaving here today

1 arrested. You're going home. We're not putting
2 the cuffs on you. Tell me she agreed. Tell me it
3 was consensual. A young man, foolish, immature,
4 no experience with law enforcement. You don't
5 hear anything about him having some rough
6 background where he's always in and out of the
7 law, no. He never been in this situation before,
8 and there he is being told, hey, tell me what I
9 want to hear and you're walking out the door.

10 But the truth that Michael never let go
11 of was that he never had sexual intercourse with
12 her. And despite the lies and the tricks by
13 Jeremiah Fraser, he stood firm.

14 If you think that that behavior by
15 Jeremiah Fraser is acceptable toward our young
16 men, then okay. But, if it's not acceptable, if
17 you think that such lies about the law and how
18 you're aren't going to be arrested could have
19 affected Michael's knowing and intelligent waivers
20 or statements by going along with the she
21 consented, it wasn't rape plan by Fraser, then you
22 can toss out -- the Judge will tell you, you can
23 take that whole statement and toss it out of
24 evidence. You are the final judges on that
25 statement. Was it knowing? Did he understand?

1 Was it voluntarily in the sense that Jeremiah
2 Fraser -- those lies he told pollute the internal
3 coherence and integrity of any statement Michael
4 made.

5 The third hole in the government's case,
6 the 911 call. There is absolutely no doubt that
7 on January 8, 2016, when Shenaye Wiggs called 911
8 to report her daughter's allegations and
9 accusations of a sexual assault, she told law
10 enforcement, well, we don't know who sexually
11 assaulted her. We don't know when she was
12 sexually assaulted. Okay, so is that a lie? Is
13 that the truth? The testimony appears to be from
14 Pearlie Mae, the grandmother, that the accusation,
15 in fact, had been made, and that there had been
16 some sort of a family meeting between Pearlie Mae
17 and her two daughters and her granddaughter.

18 And so -- and think about Pearlie Mae. I
19 mean, there's not many people that know you as
20 well as your grandmother and she said, I didn't
21 believe, I couldn't believe, I don't believe that
22 Michael did this.

23 Now, where there's just one clear
24 undeniable lie, then you are free to give any
25 other information or statements in this case the

1 questioning and suspension that they deserve.

2 The fourth hole in the government's --
3 case, Tessa Trask. Okay, so she's clearly an
4 advocate for the government. The government tries
5 to use her in their cases to convince you that
6 Shenaye -- I mean, excuse me, that **Minor**
7 behaviors in 2015 and 2016 were the result of
8 post-traumatic stress disorder or trauma. But,
9 you know, it's just as likely -- anybody that's
10 raised a teenager, it's just as likely that those
11 behaviors -- goodness.

12 You heard that testimony that the child
13 had been in a home where men were violently
14 abusing her mother. You heard Tessa Trask admit
15 that the same behaviors that the State wants to
16 attribute to this situation and accusation can
17 exactly fit the format for someone who has been
18 exposed to domestic violence.

19 So, the fifth hole, and I'm sure you'll
20 be happy to know the last, **Minor** was, as I
21 said, in 2015 and 2016 somewhat a typical teenager
22 with Pearlle Mae saying rebelling, smoking
23 marijuana, running away from home, being caught up
24 in the DJJ process for her behaviors. You know,
25 the intake questions, common experiences, agencies

1 like that, but one of the first things they do
2 when they get a hold of you is they say, have you
3 been sexually assaulted?

4 So the focus shifts then from sexual
5 assault -- okay, sexual assault equals victim,
6 equals leniency, equals a way out, but the way out
7 took a life of its own. So now the train is
8 rolling. So, what are we doing? How are we
9 dealing with this? Like I said, oh, my God, all
10 of a sudden special interviews are going on at
11 Hope Havens and now it's racing forward. It's
12 rolling and nothing to do but stay on the train.
13 If you get off now -- if you jump off now, it's
14 going to be worse. The consequences are going to
15 be worse than they were before.

16 Tessa Trask told you -- and I didn't have
17 any questions for her -- false accusations are
18 real. False accusations happen.

19 So, who -- okay. At that point, who can
20 stop the train? Who can stop the train as it
21 speeds towards the cliff? Well, it should be a
22 totally reliable, a totally fair, and a totally
23 sound and thorough police investigation to make
24 absolutely sure that an innocent young man is not
25 arrested, tried, and convicted on a false

1 allegation.

2 But, if Jeremiah Fraser is in charge of
3 that investigation, and, you know, he's told you
4 he has a way of doing things, he's got this
5 technique, there's no search for the truth.
6 There's no police work to peel back the layers.
7 Just look. Just do -- all you had to do was look.
8 Look at the Facebook posts. Look at the photos.
9 Look at the Instagram and the Twitter. Just step
10 over the threshold at 41 Joe Capers Road, go in
11 the house, see exactly where Pearlie Mae's room is
12 where this is supposed to have happened.

13 Locate and interview Bobby Wiggs. This
14 is a witness. This is a potential witness. I
15 mean, you got the testimony, the information.
16 He's living in the same house. He's about
17 Michael's age. Where is he? Where was he? What
18 does he know? We're never going to know that.

19 Get the mental health records. Get the
20 DJJ records. Get the doctor's records. Go talk
21 to Felicia, Michael's girlfriend. Pin down the
22 discrepancies that you see and know exist in 2014.

23 Michael gave Jeremiah Fraser -- he
24 trusted him. He essentially gave him, hey, look,
25 this is -- my alibi is here. I wasn't even here

1 then. I'm living over there.

2 And Jeremiah Fraser with his techniques
3 does nothing. Do something in the police
4 investigation other than lie to this young man,
5 misrepresent the law, and lure him into a false
6 confession.

7 Okay. So a false allegation, then a
8 false confession started by a teenager facing down
9 the consequences of the Department of Juvenile
10 Justice.

11 The State of South Carolina has stood up
12 here and they have said to you, go back in that
13 jury room, gather together and pick up that
14 accusation and carry it back in here with a guilty
15 verdict. They have said to you, stamp your
16 approval on what Jeremiah Fraser did.

17 As jurors in this case, you took an oath,
18 and under your oath, you are sworn. You are not
19 allowed to ask, why didn't Michael say this? Why
20 didn't Michael do that? Why didn't Michael bring
21 in some witnesses? Those types of questions,
22 those types of thoughts are improper. You are not
23 allowed to think it. You are not allowed to talk
24 about it.

25 And any thought in your mind that a man

1 needs to do something, to say something, to
2 produce something to somehow demonstrate his
3 innocence must be wiped clean from your thoughts
4 as you walk down that hallway, because, if those
5 matters were to enter your mind and influence your
6 deliberative process, then you have shifted the
7 burden of proof. You have shifted the burden of
8 proof from the government to an accused man, and
9 that begins to crack the foundation of this
10 courthouse. It begins to slowly crack, and a
11 slippery slope it is for whomever sits at that
12 table next week and the week after that.

13 So if you take those five holes together
14 and you look at the State's case that they have
15 given you, I believe that you can return to this
16 courtroom and that you can deliver a verdict of
17 not guilty knowing that you did not condemn an
18 innocent man.

19 The kind of burden of proof that the
20 government has in this country is the kind of
21 proof, as you're sitting in your jury room you
22 feel the walls of innocence fall down, blast
23 completely down around you, and the evidence
24 you've been given completely ripped up reasonable
25 doubt like a jack hammer so that it's gone.

1 Now, finally, as you retire to the jury
2 room and consider this case before you, the State
3 talked about it and I'm going to finish with it,
4 the credibility of witnesses.

5 So in terms of reasonable doubt, when I
6 was child growing up, my father used to take us to
7 Grandfather Mountain up in North Carolina. It's a
8 beautiful place, but it's kind of scary because of
9 that swing bridge. So there's like these two
10 little mountain peaks, right, and there's this
11 good long bridge there, and you want to walk out
12 on it, but you're hesitate a little bit because
13 you're not sure.

14 So think of this way: If the witnesses
15 and if the evidence the State gave to you, if
16 those were the planks of wood on that bridge, if
17 that evidence, if those witnesses built that
18 bridge for you, and you look down, and it's a mile
19 down, and you're about to step out on it --
20 because they want you to walk from that one
21 mountain, where you are right now, and they want
22 you to walk across that bridge to the mountain top
23 of guilty. And you're standing there and you feel
24 that in your stomach, that hesitation, that's
25 reasonable doubt, and that is not guilty.

1 Thank you.

2 MS. LUTTRELL: May we approach, Your
3 Honor?

4 THE COURT: Sure.

5 (Bench conference off the record.)

6 THE COURT: Ladies and Gentlemen, does
7 anyone need a quick break? You all okay? You
8 need a break? Let's take a very quick break.

9 Ladies and Gentlemen, absolutely, leave
10 your pads in your seats. I will also tell you
11 that my jury charge will take roughly about 15 or
12 20 minutes or so, and we are ordering you lunch,
13 so when you begin your deliberations, your lunch
14 will be here sometime after that. I'm going to
15 excuse you back to your jury room. Don't discuss
16 this case. Okay? Thank you.

17 (Jury exits the court room at 11:50 a.m.)

18 THE COURT: All right. Would you all
19 give this to -- let Miss Luttrell and
20 Miss Campbell look at the verdict form?

21 I'm just going to give you a quick five
22 minutes, if you need to stretch. Obviously, you need
23 a break.

24 (A break was taken from 11:50 a.m. to 12:02 p.m.)

25 THE COURT: Is there any objection to the

1 verdict form from the State?

2 MS. LUTTRELL: No, Your Honor.

3 THE COURT: From the defense?

4 MS. CAMPBELL: No, Your Honor.

5 (Jury enters the courtroom at 12:02 p.m.)

6 THE COURT: Madame Foreperson, Ladies
7 and Gentlemen, you have followed very patiently
8 and listened very attentively to the presentation
9 of the evidence in this case, and I want to thank
10 you for that.

11 At this time, it is my duty as the trial
12 judge under the constitution of this state to
13 charge and instruct you on the law that's
14 applicable to this case, and it's your duty, as
15 jurors, to apply and accept the law just as I will
16 tell you to do.

17 As jurors, it is your exclusive duty to
18 decide all the issues of fact in this case. You
19 must determine the effect, the value, the weight
20 and the truth of the evidence. Both the State of
21 South Carolina and the defendant, Mr. Wiggs, have
22 the right to expect that you will carefully
23 consider and evaluate the evidence and apply the
24 law of the case to the evidence. And by doing
25 that, both the State and the defendant will

1 receive a fair and impartial trial in this matter.

2 Now, the State of South Carolina, by the
3 bill of indictment in this case, charges the
4 defendant, Michael Wiggs, with the offense of
5 criminal sexual conduct with a minor in the second
6 degree, and that indictment states that in
7 Beaufort County, South Carolina on or about
8 November 1st of 2013 through February 1st of 2014,
9 the defendant Michael Wiggs did engage in sexual
10 battery with **Minor** Lenaye Wiggs, who was 14
11 years of age or less, but who was at least 11
12 years of age at the time of this sexual battery,
13 all in violation of South Carolina Code Section
14 16-3-655(b)(1).

15 Now, I remind you the fact that the
16 defendant was arrested, charged, and indicted in
17 this case is not evidence in this case and cannot
18 be considered by you as evidence of guilt in this
19 case, nor does it create any presumption or
20 inference of guilt. An indictment is simply the
21 formal written instrument which contains the
22 charge made against the defendant. It's the
23 formal document by which the case is brought into
24 this court.

25 Now, the defendant, Mr. Wiggs, has pled

1 not guilty to this indictment, and that plea puts
2 the burden on the State to prove the defendant
3 guilty beyond a reasonable doubt.

4 Now, a person charged with committing a
5 criminal offense in South Carolina is never
6 required to prove himself innocent. I charge you
7 that it's an important rule of law that a
8 defendant in a criminal trial, no matter what the
9 seriousness of the charges may be, will always be
10 presumed innocent of the crime for which an
11 indictment was issued unless guilt has been proven
12 by evidence satisfying you, the jury, of that
13 guilty beyond a reasonable doubt.

14 Now, this presumption of innocence does
15 not end when you begin your deliberations but it
16 accompanies the defendant throughout the trial
17 until you reach a verdict of guilt based on
18 evidence satisfying you have of that guilt beyond
19 a reasonable doubt.

20 Now, the presumption of innocence is like
21 a robe of righteousness that's placed about the
22 shoulders of the defendant, and it remains with
23 the defendant until it has been stripped away by
24 evidence satisfying you of the defendant's guilt
25 beyond a reasonable doubt. The presumption of

1 innocence is not a mere legal theory. It is not
2 just a legal phrase we use. It is a substantial
3 right to which every defendant is entitled unless
4 you, the jury, are satisfied from the evidence of
5 the defendant's guilt beyond a reasonable doubt.

6 So, what is a reasonable doubt in the
7 law? A reasonable doubt is the kind of doubt that
8 would cause a reasonable person to hesitate to act
9 in the most important decisions. The State has
10 the burden of proving the defendant guilty beyond
11 a reasonable doubt. The term reasonable doubt
12 must be given its plain and ordinary meaning.
13 However, to the extent that I may define it for
14 you again, a reasonable doubt is the kind of doubt
15 that would cause a reasonable person to hesitate
16 to act in the most important of their personal
17 decisions.

18 The defendant is entitled to every
19 reasonable doubt arising in this case. If upon
20 any issue of fact essential to a conviction, you
21 have a reasonable doubt as to how that issue
22 should be resolved, you must resolve that
23 reasonable doubt in favor of the defendant.

24 Now, some of you may have served as
25 jurors in civil cases where you were told that it

1 was only necessary to prove that a fact is more
2 likely true than not true, such as by the greater
3 weight or preponderance of the evidence, or by a
4 standard that we call clear and convincing
5 evidence. Those lesser standards are used only in
6 civil cases.

7 In criminal cases, the State's proof must
8 be more powerful than that. It must be beyond a
9 reasonable doubt. Suspicion, no matter how
10 strong, is insufficient to convict a person
11 charged with a crime. That the facts and
12 circumstances presented may seem suspicious, and
13 the defendant's guilt may seem probable, this is
14 not sufficient in the law to convict. Proof
15 beyond a reasonable doubt is proof that leaves you
16 firmly convinced of a defendant's guilt.

17 Now, there are very few things in this
18 world that we know with absolute certainty. In a
19 criminal case, the law does not require proof that
20 overcomes every possible doubt. If based on your
21 consideration of the evidence, you are firmly
22 convinced the defendant is guilty of the crime
23 charged, you must find the defendant guilty. If,
24 on the other hand, you think there is a real
25 possibility that the defendant is not guilty, you

1 must give the defendant the benefit of the doubt
2 and find him not guilty.

3 Now, I remind you that during this trial
4 you and I have certain duties to perform. As the
5 judge, it's my responsibility to preside over the
6 trial of this case, and I also have the duty to
7 rule on the admissibility of the evidence that's
8 offered during the trial. You are to consider
9 only the competent evidence that's before you.
10 You are to consider only the testimony which is
11 been presented from this witness stand and any
12 exhibits which may have been part of the record in
13 this case. I have the additional duty to charge
14 you with the law that's applicable to this case.
15 I'm the sole judge of the law of this case. And
16 it's your duty as jurors to accept and apply the
17 law as I now state it to you.

18 If you have any idea as to what the law
19 is or what the law ought to be and it does not
20 agree with what I now tell you the law is, you
21 must abandoned this idea because you are sworn to
22 accept the law and apply the law exactly as I
23 state it to you.

24 Now, in every case tried in this court
25 before a jury, the jury becomes the sole and

1 exclusive judge of the facts. The trial judge
2 cannot intimate, comment on, or make any statement
3 to a trial jury about the facts in a case. And
4 since you, the jury, are the sole judge of the
5 facts in this case, you are not to infer from what
6 I've said during the progress of this trial in
7 ruling upon the admissibility of evidence or
8 otherwise, or anything that I say now during the
9 course of this instruction to you, that I have an
10 opinion about the facts in this case. The law
11 does not allow me to have an opinion about the
12 facts in this case. This is a matter solely for
13 you, the jury, to determine. And as jurors, it is
14 your duty to determine the effect, the value, the
15 weight and the truth of the evidence presented
16 during this trial.

17 Now, there are two types of evidence
18 which are generally presented during a trial;
19 direct evidence and circumstantial evidence.

20 Direct evidence is the testimony of a
21 person who claims to have actual knowledge of a
22 fact, such as and eyewitness. It is evidence
23 which immediately establishes the main fact to be
24 proved.

25 Circumstantial evidence is proof of a

1 chain of facts and circumstance indicating the
2 existence of a fact. It is evidence which
3 immediately establishes collateral facts from
4 which the main fact may be inferred.

5 Circumstantial evidence is based on inference, and
6 non-personal knowledge or observation. Ladies and
7 Gentlemen, crimes may be proven by circumstantial
8 evidence. The law makes no distinction between
9 the weight or value to be given to either direct
10 or circumstantial evidence. However, to the
11 extent the State relies on circumstantial
12 evidence, all of the circumstances must be
13 consistent with each other, then, when taken
14 together, point conclusively to the guilt of the
15 accused beyond a reasonable doubt. If these
16 circumstances merely portray the defendant's
17 behavior as suspicious, the proof has failed.

18 The State has the burden of proving the
19 defendant guilty beyond a reasonable doubt. This
20 is burden rests with the State regardless of
21 whether the State relies on direct evidence,
22 circumstantial evidence, or some combination of
23 the two.

24 Now, Ladies and Gentlemen, in this case
25 the defendant is charged with second degree

1 criminal sexual conduct with a minor. Now, the
2 State must prove beyond a reasonable doubt that,
3 first, the defendant engaged in a sexual battery
4 with the victim. A sexual battery is sexual
5 intercourse, cunnilingus, fellatio, anal
6 intercourse, or any intrusion, however slight, of
7 any part of a person's body or any object into the
8 genital or anal openings of another person's body,
9 except when the intrusion is accomplished for
10 medically recognized treatment or diagnostic
11 purposes.

12 Second, the State must then prove beyond
13 a reasonable doubt that the victim was, at least,
14 11 years of age but not more than 14 years of age
15 at the time of the sexual battery.

16 Now, consent, willingness, indifference,
17 or ignorance on the part of a minor, if any, as to
18 what was taking place does not in any way affect
19 the charge of criminal sexual conduct with a
20 minor, because an unmarried woman under the age of
21 14 cannot legally consent to sexual intercourse.

22 Now, Ladies and Gentlemen, if you do not
23 find that the defendant is guilty of criminal
24 sexual conduct with a minor in the second degree,
25 you may then consider whether the defendant is

1 guilty of the lesser included offense of assault
2 and battery in the first degree. A person is
3 guilty of assault and battery in the first degree
4 if they unlawfully injure another person and the
5 act involved nonconsensual touching of the private
6 parts of a person, either under or above clothing
7 with lewd and lascivious intent.

8 Now, if you do not find the defendant is
9 guilty of either criminal sexual conduct with a
10 minor in the second degree or assault and battery
11 in the first degree, you may then consider whether
12 the defendant is guilty of assault and battery in
13 the second degree.

14 A person is guilty of assault and battery
15 in the second degree if they unlawfully injure
16 another person or offer or attempt to injure
17 another person with the present ability to do so,
18 and the act involved the nonconsensual touching of
19 the private parts of the person either or above
20 clothing.

21 Now, Ladies and Gentlemen of the Jury, it
22 is your duty to determine the credibility of the
23 witnesses who have testified in this case. And
24 credibility simply means believability. It's your
25 duty, as jurors, to analyze and to evaluate the

1 evidence and determine which evidence convinces
2 you of its truth. In determining the
3 believability of witnesses who have testified in
4 this case, you may believe one witness over
5 several witnesses, or several witnesses over one
6 witness. You may believe a part of the testimony
7 of a witness and reject the remaining part of the
8 testimony of that same witness. You may believe
9 the testimony of a witness in its entirety, or
10 reject the testimony of a witness in its entirety.

11 You may consider whether any witness has
12 exhibited to you any interest, bias, prejudice, or
13 other motive in this case.

14 You may also consider the appearance and
15 manner of a witness while on the witness stand.

16 Now, normally, in a trial, a person
17 cannot give what we call opinion testimony.
18 Normally, when a person testifies, they must
19 testify as to what they either saw, heard, or
20 sensed by smell, or something of that nature.
21 However, there is an exception when someone is
22 qualified because of education or experience.
23 They are permitted to give their opinions in
24 certain areas if the Court qualifies them that
25 way. And that evidence, Ladies and Gentlemen, is

1 for you to use in any way you see fit, and give it
2 the weight and credibility you believe is
3 appropriate.

4 Now, a statement alleged to have been
5 made by the defendant has been admitted into
6 evidence in this case. And while the Court has
7 determined that the statement is admissible, I
8 instruct you that you, the jury, make the ultimate
9 decision of whether or not the defendant made this
10 statement.

11 If the defendant did make the statement,
12 you must determine whether the statement was made
13 by the defendant voluntarily and of his own free
14 will. This means that this statement was not
15 caused by pressure, force, fear, threats,
16 coercion, or intimidation, or by hope or a promise
17 of a leniency or an award of any kind.

18 In determining whether the statement was
19 voluntarily, you should consider both the
20 characteristics of the defendant and the details
21 of the questioning. Some of the factors that you
22 must consider are, the age of the defendant, the
23 defendant's education or lack of education, the
24 defendant's mental ability or capacity, the
25 defendant's IQ or intelligence, the defendant's

1 background and environment, the place and length
2 of the detention, the nature of the questioning,
3 and any advice or lack thereof to the defendant of
4 his constitutional rights, including, but not
5 limited to, the right to remain silent, then any
6 statement can be used against him in a court of
7 law. The right to have a lawyer present. That if
8 you cannot afford a lawyer, a lawyer will be
9 appointed to represent him without any cost. And
10 that he can stop making a statement at any time.

11 You must carefully consider all the
12 surrounding circumstances before you give any
13 weight to an alleged statement.

14 The State has the burden of proving
15 beyond a reasonable doubt that the alleged
16 statement was voluntary. If you determine it was,
17 you may give the statement any further
18 consideration that you deem proper. You must
19 decide what weight, if any, should be given to the
20 alleged statement.

21 If you determine that the alleged
22 statement was not a free and voluntary statement
23 of the defendant, you should not consider the
24 statement at all.

25 Now, I instruct you and emphasize the

1 fact that the defendant did not testify is not a
2 factor to be considered by you in any way in your
3 deliberation and in your consideration on the
4 question of the guilt or the innocence of the
5 defendant. It must not be considered by you in
6 any manner whatsoever. A defendant has a
7 constitutional right to remain silent. The
8 assertion of this right must not be considered by
9 you in your deliberations. I repeat, under your
10 oath, you are to draw conclusion whatsoever from
11 the fact the defendant in this case did not
12 testify. The fact that the defendant did not
13 testify should not even be discussed in the jury
14 room. The burden of proof, as I stated to you, is
15 on the State. The defendant is not required to
16 prove his innocence. And the burden of proof
17 remains on the State to prove guilt beyond a
18 reasonable doubt.

19 Now, Ladies and Gentlemen, I permitted
20 you to take notes during the trial of this case.
21 Your notes should be used only as aids to your
22 memory and should not be allowed to take
23 precedence over your independent memory of facts.
24 The notes are only for each juror's personal use
25 in refreshing recollection of the evidence. When

1 in deliberations at the end of this case, do not
2 rely on the recollection of a juror who took notes
3 about the testimony of a witness solely because
4 the juror took notes. And you should not be
5 unduly influenced by the notes of other jurors.
6 As we all know, notes can be wrong. Notes are not
7 entitled to any greater weight than each juror's
8 memory of the evidence.

9 Those jurors who did not take notes,
10 should rely on their independent recollection of
11 the evidence and should not be influenced by the
12 fact that another juror has taken notes.

13 Ladies and Gentlemen, keep in mind that
14 every word that was spoken in this case was audio
15 recorded and can be replayed for you during your
16 deliberations, if necessary. Madame Foreperson,
17 you would just simply send me a note that says we
18 like you to replay a certain witness' testimony.
19 Please understand though, Ladies and Gentlemen, if
20 I'm required to play a certain witness' testimony
21 and we bring you back in here, I am required to
22 play you back that entire witness' testimony. In
23 other words, the direct exam, the cross, any
24 re-cross or redirect, if appropriate. All right?

25 Madame Foreperson, Members of the Jury,

1 as you retire to begin your deliberations, I wish
2 to express the hope that each of you are mindful
3 of the importance of your responsibility here
4 today. You're not called upon very often to serve
5 as jurors, and the proper performance of that duty
6 requires each of you to reach the height of
7 freeing your mind of all improper influences. So
8 please don't get the idea, Ladies and Gentlemen,
9 that I'm trying intimate to you how you should
10 decide this case. As I've already told you are
11 the laws of the state of South Carolina, you, the
12 jury, are the sole judge of all facts, and it
13 would be highly improper for me to influence you
14 in your performance of that duty.

15 So, again, I'm not trying to tell you
16 what your verdict should find, but as the
17 presiding officer over this court, I am vitally
18 concerned that whatever verdict you reach will be
19 the result of you going back into your jury room
20 and confining your consideration to the evidence
21 and the law that you heard here in this courtroom
22 weighing it fairly and impartially. I have the
23 confidence you will.

24 Madame Foreperson, I remind you, your
25 verdict must be unanimous. It must be the verdict

1 of all 12 jurors. And to that end, my law clerk
2 has prepared a verdict form. It has three
3 questions. It simply has the caption at the top
4 of the case. It's the State of South Carolina vs.
5 Michael Wiggs, and it says verdict, and it has the
6 case caption. It says, as to question number 1:
7 "As to the charge of criminal sexual conduct with
8 a minor in the second degree, we, the jury, find
9 the defendant, Michael Wiggs," and it either says
10 guilty -- you check guilty or not guilty.

11 It says underneath that question, "If you
12 answered guilty, you have reached a verdict in
13 this case," and you will stop your deliberations.
14 Madame Foreperson, you would sign the bottom of
15 this form and date it, knock on the door, and we
16 will accept you back in to take your verdict.

17 If you answer not guilty to question
18 number 1, then, and only then, would you go on
19 question number 2. And question number 2 says,
20 "As to the lesser included charge of assault and
21 battery in the first degree, we, the jury, find
22 the defendant, Michael Wiggs," again, guilty or
23 not guilty. So if you answered guilty to question
24 number 2, you have reached a verdict. You would
25 stop your deliberations. You would sign the

1 bottom of the form and knock on door and we would
2 bring you back in.

3 It says, "If you answered not guilty to
4 question number 2, you would then go on to
5 question number 3."

6 Now, I'm going to tell you right now, I
7 just found a scribner's error here and I'm going
8 change it with my own blue pen. Okay? So that's
9 me that's doing that.

10 Number 3, which is the last question you
11 would go to only if you found Mr. Wiggs not guilty
12 as to the first two charges of criminal sexual
13 conduct with a minor in the second degree or
14 assault and battery in the first degree, the third
15 question asks -- it's the lesser included charge
16 of assault and battery in the second degree. "We,
17 the jury find the defendant, Michael Wiggs," again
18 either guilty or not guilty. At that point, if
19 you do get to that question, you have reached a
20 verdict. You will sign it, Madame Foreperson, and
21 again, knock on the door and we will accept you
22 back in from the jury room.

23 Ladies and Gentlemen, for the very last
24 time, I am going to tell you to go back to your
25 jury room and tell you not to begin your

1 deliberations. If there's something further on
2 the law that the lawyers want me to charge you,
3 I'm going to bring you back out here and charge
4 you further.

5 If not, you're going to get the verdict
6 form, the jury charge, and the evidence that was
7 entered into this case, and that's going to be
8 your indication, Madame Foreperson, to begin your
9 deliberations. All right?

10 Also, it's my understanding, I think we
11 are working on getting you some lunch. As soon as
12 it gets here, we will give it to you. Okay? Just
13 understand that sometimes the bailiffs may have to
14 come in to bring lunch. When they knock on the
15 door, say they're entering, you are to stop your
16 deliberations. You are not to speak to the
17 bailiffs about what you're doing in any way.
18 Okay?

19 All right. Ladies and Gentlemen, go back
20 to your jury room. At this point, you may take
21 your note pads. Yes, you may.

22 Again, Madame Foreperson, when I send
23 this verdict form and the evidence in, you may
24 begin. All right? If not, I'll bring you all
25 back out here and charge you further. Okay, thank

1 you.

2 (Jury exits the court room at 1:15 p.m.)

3 THE COURT: Any exceptions or additions
4 from the State?

5 MS. LUTTRELL: No, Your Honor.

6 THE COURT: Any exceptions or additions
7 from the defense?

8 MS. CAMPBELL: Just the remaining
9 exception continuing to the "firmly convinced"
10 language.

11 THE COURT: Thank you.

12 All right. You all, have you been through
13 the evidence?

14 MS. LUTTRELL: There's not very much.

15 (Jury exits the courtroom at 12:25 p.m.)

16 (Off the record.)

17 (Alternate jurors enter the courtroom.)

18 THE COURT: Come on in, Ladies. Right
19 there is fine. You're perfectly fine where you
20 are.

21 I'm going to go ahead and excuse you from
22 the trial of this case. I will also tell that you
23 that I brought the rest of panel back for today
24 because I'm going to pull another jury that's
25 starting this afternoon to begin another short

1 just one-day trial. I'm not going to ask you all
2 to stay. I think you've done your duty.

3 JUROR: I would like to.

4 THE COURT: I know. Every time judges
5 say, it's like going to the prom but you don't get
6 to dance. I've been saying that for forever. But
7 I will tell you at this point, you all are
8 permitted to discuss this case with other people.
9 You can go home and say what you're doing. I will
10 tell you, sometimes the lawyers, or maybe an
11 investigator wants to know what your feelings are.
12 You are permitted to talk about it if you wish to,
13 but, of course, you are never required to. If you
14 have no interest, say, no thank you, and go about
15 your business.

16 But I tell you, if you have made friends
17 with this jury panel, or other people that's on
18 the jury, I don't want you to speak to them until
19 they've reached a verdict. Sometimes a jury will
20 go overnight, and I just want to make sure that
21 you have talked to them until then.

22 Additionally, we have your numbers, and
23 if you like us to, and you would like to know what
24 the verdict is, we will tell you. Certainly
25 we can call you and let you know. I like to say,

1 as a rule of thumb, typically, if you see it the
2 newspaper tomorrow, if you see a conviction, then
3 you know it's a conviction. If you don't see it
4 in the newspaper tomorrow, it was probably a not
5 guilty or a hung jury. So those are typically how
6 it runs. But if you like, just leave us, you
7 know, a good phone number and we're happy to call
8 you.

9 But I'm going to excuse you for the rest
10 of the week. As I said, I'm going to pull two
11 more cases on my roster that potentially could go
12 forward. I think they're going to last this
13 afternoon and tomorrow. And after that, I'll take
14 guilty pleas and do some other cases. I know
15 Judge Buckner is still over there trying his case,
16 and I expect him to be trying it probably until
17 through Thursday. So that's another one that I
18 can tell you that I know you asked some questions
19 about it in voir dire. If it's a guilty verdict,
20 it will be in the newspaper. If it's not, it
21 won't. So, anyway, that's, kind of, the
22 indication.

23 Ladies, thank you. I really appreciate
24 it. You are excused, and certainly on the
25 exemption for the next three years. If you do get

1 called after a year and want to come back, we'd
2 love to have.

3 Thank you.

4 (A break was taken at 12:33 p.m.)

5 THE BAILIFF: Jury is entering the
6 courtroom, Your Honor.

7 THE COURT: Welcome back, Ladies and
8 Gentlemen. It's my understanding, Madame
9 Foreperson, that you would like to see a video,
10 again, which was State's Exhibit Number 3, and you
11 wanted to hear **Minor** testimony. Is that
12 correct?

13 All right. We're going to go ahead and play
14 the video. It's already keyed up. And then after
15 that, we'll play you the audio of the testimony.

16 MS. CAMPBELL: Can the volume be up so we
17 can hear?

18 THE COURT: We'll do our best.

19 MS. LUTTRELL: It's as loud as it can go.

20 JUROR: We can change seats? That will
21 help.

22 THE COURT: Were you okay hearing?

23 JUROR: I'm fine.

24 THE COURT: Let's do that. Maybe -- I'm
25 going to go ahead and ask you, maybe, ma'am, you

1 in the back, you said something when we started,
2 you want to come and sit a little closer?

3 JUROR: Oh, sure.

4 THE COURT: Does that help you at all?
5 Anyone else want a front row seat. If it's really
6 back, Ladies and Gentlemen, I can put a seat right
7 there next to the speaker.

8 JUROR: I think we're good. We're going
9 to give it a go.

10 (State's Exhibit 3 played in its entirety.)

11 THE COURT: Now, Ladies and Gentlemen,
12 our court reporter does take things down by
13 stenograph, you may presume there is a written
14 transcript. There is not. There is just the back
15 up audio. We always play it by audio. I had a
16 jury last we didn't have a clean version of the
17 testimony. We just don't have one, so Sharon is
18 going to play it for you. I'm just going to ask,
19 if any of you can't hear, just raise your hand.

20 THE COURT REPORTER: Okay, Judge?

21 THE COURT: You ready? Thank you.

22 (The testimony of Minor [REDACTED] was
23 played in its entirety.)

24 (Jury exits the courtroom.)

25 (3:40 p.m.)

1 THE COURT DEPUTY: All rise.

2 THE COURT: Please be seated. It's my
3 understanding the jury has reached a verdict. I
4 just want to let everyone know who is in the
5 courtroom that regardless of what the verdict is,
6 I want to make sure you can keep back yourself.
7 If for any reason, there's any outburst, I'll have
8 to take you into custody. I don't want to have to
9 do that, so if you don't think you can contain
10 yourself, then I'm going to ask you to remove
11 yourself before the verdict. Okay?

12 All right. Let's bring the jury in.

13 THE BAILIFF: Jury is entering the
14 courtroom.

15 THE COURT: Thank you.

16 (Jury enters the courtroom at 3:40 p.m.)

17 THE COURT: Welcome back, Ladies and
18 Gentlemen, Madame Foreperson. I understand the
19 jury has reached a verdict.

20 FOREPERSON: Yes, we have.

21 THE COURT: Would you please hand it to
22 the bailiff.

23 If you would, please rise, Mr. Wiggs.

24 THE COURT: In the State of South
25 Carolina vs. Michael Wiggs as to the charge of

1 criminal sexual conduct with a minor in the second
2 degree, we, the jury, find the defendant, Michael
3 Wiggs, not guilty.

4 As to the lesser included charge of
5 assault and battery in the first degree, we, the
6 jury, find the defendant, Michael Wiggs, guilty.

7 It's signed by the Foreperson and signed
8 date. You may be seated. Thank you.

9 Is there anything further requested of this
10 jury from the State?

11 MS. LUTTRELL: No, Your Honor.

12 THE COURT: From the defense?

13 MS. CAMPBELL: We'd like the jury polled,
14 please.

15 THE COURT: All right. Ladies and
16 Gentlemen, what I am going to do is this, I am
17 going to say your jury number and I want you to
18 raise your hand so I know who I'm looking at, and
19 I'm going to ask you if this is your verdict and
20 is this still your verdict. Okay?

21 So, juror number 229. Sir, is this your
22 verdict.

23 JUROR 229: Yes, ma'am.

24 THE COURT: Is this still your verdict?

25 JUROR 229: Yes, ma'am.

1 THE COURT: Juror number 40, is this your
2 verdict?

3 JUROR 40: Yes, ma'am.

4 THE COURT: Is this still your verdict?

5 JUROR 40: Yes, ma'am.

6 THE COURT: Juror number 133. Sir, is
7 this your verdict?

8 JUROR 133: Yes, ma'am.

9 THE COURT: Is this still your verdict?

10 JUROR 133: Yes, ma'am.

11 THE COURT: Juror number 313. Sir, is
12 this your verdict?

13 JUROR 313: Yes.

14 THE COURT: Is this still your verdict?

15 JUROR 313:

16 THE COURT: Juror number 310. Sir, is
17 this your verdict?

18 JUROR 310: Yes, ma'am.

19 THE COURT: Is this still your verdict?

20 JUROR 310: Yes, ma'am.

21 THE COURT: Juror number 324. Sir, is
22 this your verdict?

23 JUROR 324: Yes, ma'am.

24 THE COURT: Is this still your verdict?

25 JUROR 324: Yes, ma'am.

1 THE COURT: Juror number 295. Is this
2 your verdict?

3 JUROR 295: Yes, ma'am.

4 THE COURT: Is this still your verdict?

5 JUROR 295: Yes, ma'am.

6 THE COURT: Thank you.

7 Juror number 268. Sir, is this your verdict?

8 JUROR 268: Yes, ma'am.

9 THE COURT: Is this still your verdict?

10 JUROR 268: Yes, ma'am.

11 THE COURT: Juror number 301. Is this
12 your verdict?

13 JUROR 301: Yes, ma'am.

14 THE COURT: Is this still your verdict?

15 JUROR 301: Yes, ma'am.

16 THE COURT: Juror 113. Is this your
17 verdict?

18 JUROR 113: Yes, ma'am.

19 THE COURT: Is still your verdict?

20 JUROR 113: Yes, ma'am.

21 THE COURT: Juror number 7. Is this your
22 verdict?

23 JUROR 7: Yes, it is.

24 THE COURT: Is it still your verdict?

25 JUROR 7: Yes, it is.

1 THE COURT: And juror number 170. Is
2 this your verdict?

3 JUROR 170: Yes.

4 THE COURT: Is this still your verdict?

5 JUROR 170: Yes, ma'am.

6 THE COURT: Is there anything further
7 required from this jury?

8 MS. CAMPBELL: No. Thank you, Your
9 Honor.

10 THE COURT: All right. Ladies and
11 Gentlemen, to begin, I want to thank you for your
12 service on this case. You have completed your job
13 as jurors here. What I have left to do is
14 sentence Mr. Wiggs pursuant to the charge that he
15 was convicted of, which I will do in the next five
16 minutes or so. Ladies and Gentlemen, you are
17 welcome to stay for that or not. It is completely
18 up to you. But, if you are going to stay, I am
19 going to ask that you just keep where your seats
20 are right now and just stay where you're at.

21 I will also tell you, Ladies and
22 Gentlemen, at this time, when you go home, you are
23 permitted to discuss the case. You can talk to
24 people about what you did. And sometimes the
25 attorneys or a witness or an investigator for one

1 of the two sides may want to ask you what your
2 opinion is about certain things. You are
3 permitted to talk to them if you choose to, but,
4 of course, you're not required to in any way. If
5 anyone asks you anything and you did not wish to
6 speak with them, just say, no, thank you, I do not
7 want to speak about it. But you can if you want
8 to. It's completely up to. All right? If
9 anyone, for some reason, were to persist, you can
10 just say, respectfully, no, thank you, and you
11 just need to let me know who it is and I'll
12 lecture them on that. Okay? No one is to invade
13 the province of a jury, and, obviously, you don't
14 have to speak with anyone. Okay?

15 So, at this time, Ladies and Gentlemen, I'm
16 also going to excuse you for the remainder of the
17 week. I pulled a jury this afternoon while you were
18 deliberating for a case that we are going to start in
19 the morning, and that case will be tried. It will
20 take probably pretty much of the day. And then after
21 that, on Friday, I'll be doing motions and guilty
22 pleas and other things that we are doing. But at this
23 time, Ladies and Gentlemen, I am going to go ahead and
24 excuse you, if you choose to be excused.

25 And again, Ladies and Gentlemen, you are

1 welcome to stay for my sentencing if you would
2 like to, or you would like to just leave, now is
3 the time to remit yourself. So whatever you
4 choose. Okay.

5 THE COURT: Do you have the sentencing
6 sheet?

7 MS. LUTTRELL: I am working on it, Your
8 Honor.

9 THE COURT: Okay. Pass it up to
10 Miss Campbell? All right. On behalf the State,
11 is there anyone that wants to speak?

12 MS. LUTTRELL: No, Your Honor.

13 THE COURT: And is there a recommendation
14 for sentencing in this case from the State?

15 MS. LUTTRELL: The State would recommend
16 the full 10 years, Your Honor. He has a minimal
17 criminal history. However, you heard the
18 testimony from the victim in this case. And I
19 will tell you, Your Honor, that in meeting with
20 her, it was difficult for her to come and testify.
21 It did cause her to go through quite a bit of
22 emotional -- set her back a bit. So she did
23 counseling and is working on that, but this was
24 very difficult for her, and this has, sort of,
25 pounded her since it happened back in 2013, 2014.

1 So the State is seeking the 10 years.

2 THE COURT: Miss Campbell, what would you
3 like to tell me on behalf of Mr. Wiggs? If his
4 mother or grandmother is here and would like to
5 speak, I'm certainly happy to hear from her as
6 well.

7 MS. CAMPBELL: Thank you, Judge. I
8 talked with Michael's family, and they are going
9 to leave it to me at this point. I've also
10 advised Michael not to make any statements.
11 Obviously, since there is a guilty verdict, there
12 will be a procedure for us to file an appeal for
13 him, and I would not want to damage any issues for
14 him on an appeal.

15 I would ask Your Honor to consider the
16 fact that -- what I'm going to request of you now
17 is that under assault and battery in the first
18 degree, it's a sentencing range of zero to 10
19 years. There's no criminal record. As the State
20 has said, there's a misdemeanor magistrate level
21 larceny situation or something. At most. At
22 best.

23 This is a gentleman approaching 30 years
24 old, who is demonstrated service through the
25 Department of Corrections, you know, for the

1 community, where he was employed. And,
2 principally, the State has not requested, although
3 may they may at this point -- it was not stated on
4 the record -- that you require him to register as
5 a sex offender. So it's discretionary with the
6 Court upon a conviction or a plea to an assault
7 and battery in the first degree.

8 So what I'm going ask Your Honor is to
9 consider this. I would like to have Dr. Gerald
10 McKee, who has worked with this court many times,
11 and he just -- in fact, testified as an expert
12 here in court last month on a matter that we had.
13 Judge John heard testimony -- and to issue an
14 opinion to the court whether or not Michael would
15 be classified as a sexually violent predator, ergo
16 requiring some sort of registration as a sex
17 offender. I just think it would be a helpful tool
18 for Your Honor to know more about this young man,
19 and Dr. McKee can do that for us, and I think that
20 would ultimately delay the final disposition of
21 the case, because then you would make a decision
22 on that matter at later date. And, thus, any
23 post-trial motions that I have, I'm going to seek
24 advice from Your Honor weather or not you would
25 want them made procedural maybe later today, or

1 tomorrow, or wait until final disposition.

2 Thank you, Your Honor.

3 THE COURT: Okay.

4 MS. LUTTRELL: Your Honor, just briefly
5 on that.

6 THE COURT: Yes.

7 MS. LUTTRELL: The State would request
8 sex offender registration. Miss Campbell told me
9 that she was going to ask to defer that for an
10 evaluation. If, Your Honor, does decide to defer
11 on the sex offender registry, the State would ask
12 that you do sentence him and just reserve
13 jurisdiction to make that particular ruling.
14 We've done that in another case recently, the one
15 she was speaking of with Judge John. The
16 evaluation, I think, took about --

17 MS. CAMPBELL: Two or three months.

18 MS. LUTTRELL: At least. Since he was
19 sentenced in October and we just did the hearing
20 in May. So we would request that you sentence him
21 and just reserve as to that portion of his
22 sentencing.

23 MS. CAMPBELL: And I'll just say, I think
24 was when Judge John was going to be back here in
25 Beaufort. Dr. McKee can meet with Michael, do the

1 necessary research and deliver his opinion to the
2 Court probably pretty quickly.

3 But the solicitor is correct that that
4 did take a little bit longer.

5 THE COURT: Does it require keeping him
6 here in Beaufort County?

7 MS. CAMPBELL: It does not. As far as
8 I'm aware, Dr. McKee, you know, can go all over
9 the state. And I will also remind the Court, in
10 terms of the statute, and credit for time served,
11 Michael did about five months in Beaufort County
12 Detention Center before I was able to get him, you
13 know, in front of the Circuit Court and address
14 the bond. He's been out on bond for a couple
15 years now. Not a single issue with the law.
16 Nothing.

17 Thank you.

18 THE COURT: All right.

19 MS. CAMPBELL: Your Honor, I don't mean
20 to say that you can't, you know, at this juncture,
21 just of your own decision-making, say I'm not
22 going to require him to register. My point was,
23 if that was something you were considering, I was
24 simply going to request that we be allowed to have
25 Dr. McKee voice an opinion. Thank you.

1 THE COURT: Okay. I am going to go ahead
2 and hold in abeyance whether or not he needs to
3 register on the sex registry. I think some
4 guidance from Dr. McKee would be helpful for the
5 conviction assault and battery in the first degree
6 versus criminal sexual conduct, which would be
7 mandatory, so I'm going to go ahead and allow that
8 process, and certainly we'll include the finding
9 for that, Miss Campbell.

10 As far as the sentence is concerned, on
11 indictment 2016-GS-7285 for assault and battery in
12 the first degree, the sentence of this Court is
13 you be committed to the Department of Corrections
14 for a period of 7 years. I'm giving you credit
15 for the time you have served before you made bond.
16 And, again, we will hold the sexual registry in
17 abeyance.

18 Good luck to you, sir.

19 MS. CAMPBELL: Thank you, Judge. When
20 would you like to hear any post-trial motions?

21 THE COURT: Do you have time tomorrow?

22 MS. LUTTRELL: I will be here, Your
23 Honor.

24 THE COURT: Let's do that. So my jury is
25 coming in at 10:00. We do pre-trial motions in

1 the morning. How about when my jury is
2 deliberating? Let's just do it tomorrow
3 afternoon, although I'm sure Miss Gordan has a
4 number of pleas.

5 MS. LUTTRELL: We do, Your Honor.

6 THE COURT: When would you like me to
7 hear post-trial motions? Would it better for you,
8 Miss Campbell, if we go ahead and schedule them
9 for Friday morning.

10 MS. CAMPBELL: Friday morning is fine
11 with me.

12 MS. LUTTRELL: That's fine.

13 MS. CAMPBELL: Is that okay with you?

14 MS. LUTTRELL: Or we can also do next
15 Tuesday when we have non-jury.

16 THE COURT: That works. I can do that
17 well.

18 MS. LUTTRELL: I'll be here all day.

19 THE COURT: You'll be here all day.
20 You're not going anywhere.

21 Miss Campbell, how about next Tuesday, your
22 availability.

23 MS. CAMPBELL: Tuesday morning is fine.

24 THE COURT: Is that okay?

25 MS. CAMPBELL: Yes.

1 THE COURT: Let's do it Tuesday morning.
2 There's plenty of time. There's plenty of
3 business this week. So you can get pleas done.
4 We'll go ahead and do that.

5 (Off the record.)

6 THE COURT: All right. Ladies and
7 Gentlemen, thank you. I'm going to go ahead and
8 excuse you at this time. We'll make sure you get
9 to your cars safely. You are excuse from jury
10 service for not only the rest of the week but also
11 for the next three years. Certainly, we
12 appreciate you serving.

13 Thank you. You're excused.

14 (Jury panel exits the courtroom at 4:50 p.m.)

15 THE BAILIFF: The jury is clear and the
16 door is closed.

17 THE COURT: We'll give them the
18 opportunity to leave, and we'll come back tomorrow
19 morning at 9:15. Thank you.

20 (The trial was concluded at 4:40 p.m.)

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2
3 I, SHARON G. HARDOON, Official Circuit
4 Court Reporter, II for the State of South Carolina at
5 Large, do hereby certify that the foregoing is a true,
6 accurate and complete Transcript of Record of the
7 proceedings had and evidence introduced in the trial
8 of the captioned case, relative to appeal, in General
9 Sessions for Beaufort County, South Carolina.

10
11 I do further certify that I am neither kin,
12 counsel, nor interest to any party hereto.
13

14 January 25, 2020
15

16 
17

18 _____
19 Sharon G. Hardoon, CSR
20 Official Circuit Court Reporter, II
21
22
23
24
25

WITNESSES

Jeremiah Fraser - Beaufort County
Sheriff's Office

ARREST WARRANT NUMBER

2016A0710200050

[Signature]
Foreperson of Grand Jury
Date: APR 14 2016

VERDICT

True Bill

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2016GS0700285

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2016

THE STATE

vs.

Michael Wiggs

Indictment For

Criminal Sexual Conduct With Minor,
2nd degree

SC Code: 16-3-655(B)(1)

CDR Code: 0396

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

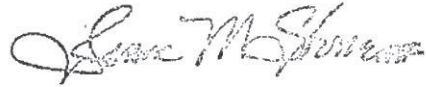
INDICTMENT
2016GS0700285

At a Court of General Sessions, convened on April 14, 2016, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct With Minor, 2nd degree

That in Beaufort County, South Carolina, on or about November 1, 2013 through February 1, 2014, the Defendant, Michael Wiggs, did engage in sexual battery with Minor [REDACTED] who was fourteen years of age or less but who was at least eleven years of age at the time of the sexual battery, all in violation of Section 16-3-655(B)(1), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor



BEAUFORT COUNTY SHERIFF'S OFFICE

Miranda Warning Form

Case Number: 16s006138

Location Where Miranda Issued: Investigations Office

Name: Michael Wiggs Date of Birth: [REDACTED]

Statement of Rights

- MW 1. You have the right to remain silent.
(Initials)
- MW 2. Anything you say can and will be used against you in a court of law.
(Initials)
- MW 3. You have the right to have an attorney present before or during questioning.
(Initials)
- MW 4. If you cannot afford an attorney, one will be appointed for you before any
(Initials) questioning, if you wish.

Waiver of Rights

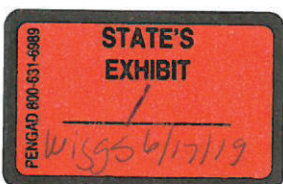
Do you understand each of these rights I have explained to you? YES: MW NO: _____
(Initials)

Having these rights in mind, do you wish to talk to us now? YES: MW NO: _____
(Initials)

Signature: Michael Wiggs Date: 2/2 Time: 10:35 AM

Witness: [Signature] Date: 2-2-16 Time: 1035

Witness: [Signature] Date: 2-2-16 Time: 1035



Date 2-2-2016 Page No. _____

STATEMENT OF:

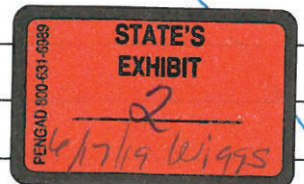
Name: Michael Wiggs DOB: [REDACTED] H: 843-271-9681Add: _____ SSN: [REDACTED] C: _____

W: _____

I Michael Wiggs did not touch my niece in any type of way.
Nor had sex with her or try to convince her to have sex with me.



X Michael Wiggs



BEAUFORT COUNTY SHERIFF'S OFFICE

YOUR RIGHTS

Before I ask you any questions, you must understand your rights.

You have the right to remain silent.

Anything you say, can and will be used against you in a court of law.

You have the right to talk to an attorney before I ask you any questions and to have him/her present with you during questioning.

If you decide to answer questions now, without an attorney present, you will still have the right to stop answering questions at any time.

I have read this statement of my rights and I understand what my rights are.

Signed X Michael Vigg

Waiver of Rights

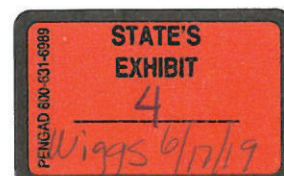
I am willing to make a statement and answer questions. I do not want an attorney at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind, has been used against me.

Signed Michael Vigg

Witness Deon Sanders

DATE 2/9/16

DOCUMENT #7



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Amended Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Amended Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

RECEIVED

Jan 14 2021

s/ Victor R. Seeger

Victor R Seeger

Appellate Defender

SC Court of Appeals

South Carolina Commission on Indigent Defense

Division of Appellate Defense

PO Box 11589

Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 14th day of January, 2021.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Jan 14 2021

SC Court of Appeals

Appeal from Beaufort County
Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL WIGGS,

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Amended Record on Appeal in the above-referenced case have been served upon Scott Matthews, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 14th day of January, 2021.

s/ Victor R. Seeger
VICTOR R. SEEGER
Appellate Defender

ATTORNEY FOR APPELLANT