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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
G. Thomas Cooper, Jr., Circuit Court Judge

Appellate Case No: 2019-001983

THE STATE,

RESPONDENT,

v.

JULIO ANDRES CASTILLO,

APPELLANT.

RECORD ON APPEAL
VOLUME I OF II

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STATE OF SOUTH CAROLINA.

-----x

STATE, Case Nos:
Plaintiff, 2016GS4602193
2016GS4602195-99

-against-

JULIO ANDRES CASTILLO,
Defendant.

-----x

November 18-22, 2019
York, S.C.

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Aileen Butler

Official Court Reporter

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	State			
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2	2	Photo	premarked	279
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1 THE COURT: Be seated. Thank you. All right.
2 Solicitor this is the case of the State versus Julia
3 Andrea Castillo, is that correct?

4 MS. JOYNER: Yes, sir, Your Honor.

5 THE COURT: And it's my understanding that there
6 are some pretrial matters that need to be taken up
7 before jury selection, is that correct?

8 MS. JOYNER: That is correct, Your Honor.

9 THE COURT: All right. Are there any motions?

10 MS. JOYNER: Yes, sir, Your Honor.

11 THE COURT: By the State or by the defendant?

12 MS. JOYNER: By the State.

13 THE COURT: All right.

14 MS. JOYNER: Your Honor, as we discussed in
15 chambers the first issue that will be before the Court
16 involves -- will ultimately determine which charges
17 are presented to the jury for trial.

18 There are six charges involving victim 1

19 and two charges involving --

20 THE COURT: Slow down. Let me get this. Six?

21 MS. JOYNER: Yes, sir, six charges as to the
22 victim 1

23 THE COURT: victim 1

24 MS. JOYNER: C.

25 THE COURT: All right.

1 MS. JOYNER: And there are two charges as to his
2 brother, victim 2 ---.

3 THE COURT: And those six charges are all CSC with
4 a minor in the first degree?

5 MS. JOYNER: No, sir. As to victim 1
6 there are two counts of 2nd degree CSC with a minor.

7 THE COURT: Two times second.

8 MS. JOYNER: Yes, sir. And there are two -- I'm
9 sorry, four lewd acts.

10 THE COURT: Four? Four?

11 MS. JOYNER: Four lewd act charges.

12 THE COURT: That is CSC third --

13 MS. JOYNER: Well, lewd act because they occurred
14 --

15 THE COURT: Before the statute was changed?

16 MS. JOYNER: Yes, sir. And I had thought I had
17 provided a motion in -- a memo in support of joinder
18 on the list of charges, which I don't believe the
19 defense is fighting joinder any longer but I do have a
20 chart that I can pass up to the Court.

21 THE COURT: Are these Indictments?

22 MS. JOYNER: Yes, sir, it has a chart of all the
23 charges. (Handed)

24 THE COURT: Thank you. And that is the six as to
25 victim 1 and two as to victim 2

1 MS. JOYNER: Yes, sir.

2 THE COURT: All right.

3 MS. JOYNER: So we originally had drafted that
4 motion in anticipation of a challenge to joinder of
5 their cases but it is my understanding that the
6 defense is no longer going to challenge joinder.

7 THE COURT: Is that correct Mr. Swerling?

8 MR. SWERLING: Your Honor, Melissa Wilson is going
9 to be arguing the legal issues.

10 THE COURT: Miss Wilson, is that correct?

11 MS. WILSON: That is correct, Your Honor.

12 MS. JOYNER: So Your Honor, we now have a motion.
13 We would like to introduce Lyle 404(b) common scene or
14 plan evidence into the trial.

15 THE COURT: From?

16 MS. JOYNER: A gentleman named *witness 1*

17 THE COURT: *witness 1* Wait a minute. What's his
18 last name?

19 MS. JOYNER: *witness one*

20 THE COURT: Two words?

21 MS. JOYNER: Yes, sir. *witness 1* .

22 THE COURT: He's the 404(b) witness?

23 MS. JOYNER: Yes, sir.

24 THE COURT: Okay. Those are statements or
25 testimony?

1 MS. JOYNER: We're going to offer his testimony,
2 Your Honor. We have all the witnesses' testimony
3 prepared to proffer today.

4 THE COURT: Okay. But no statements?

5 MS. JOYNER: I'm sorry, of the defendant?

6 THE COURT: By witness 1

7 MS. JOYNER: Witness 1 he is here to testify,
8 Your Honor.

9 THE COURT: He is here?

10 MS. JOYNER: Yes, sir, he is here.

11 THE COURT: Okay. I'm sorry. No, I thought it
12 was written.

13 I'm with you.

14 MS. JOYNER: Okay, as we discussed in chambers,
15 Your Honor, it is the State's belief that Witness
16 one 's testimony is incredibly important to the case.
17 And we would seek a finding as to the admissibility of
18 his testimony as to each of the brothers, victim 1 :
19 and victim 2 and depending on the Court's testimony we
20 may only be calling victim one's trial today or
21 tomorrow.

22 THE COURT: Okay.

23 MS. JOYNER: And then at that point if the Court
24 were to rule that witness one 's Lyle testimony is
25 inadmissible in a trial versus victim two 's

1 charge the State would be moving to introduce victim
2 two's testimony --

3 THE COURT: Wait a minute. Hold it. Who?

4 MS. JOYNER: victim 2 the brother of victim 1.

5 THE COURT: Okay, victim 2.

6 MS. JOYNER: Yes, sir.

7 THE COURT: All right. I'm just trying to get the
8 players.

9 MS. JOYNER: I'm sorry.

10 THE COURT: You know a lot more about it than I
11 do.

12 All right. And what did you just say?

13 MS. JOYNER: In the event that Your Honor were to
14 determine that witness one's testimony could not
15 be introduced in a case or trial in which victim two's
16 charges were also being presented to the jury, the
17 State would want to pull or sever victim two's case and
18 still offer victim 2 as a 404(b) witness in
19 victim one's case.

20 THE COURT: witness 1 would testify in
21 victim one's case and victim 2 would testify in
22 victim one's case?

23 MS. JOYNER: Yes, sir.

24 THE COURT: Okay. All right. You may proceed.

25 MS. JOYNER: Thank you, Your Honor.

1 We have filed -- I did --

2 MR. SWERLING: Judge, first of all we're not
3 objecting to the joinder of ~~victim 2~~ and ~~victim 1~~ I just
4 want the court to understand that. That was the
5 original proposition by the State which we do not have
6 any objection to try those cases together.

7 Now, as far as testimony, we had no idea the State
8 intended to present testimony today. Just proffers
9 and in briefs. But testimony I have no idea what --
10 did not expect that at this time to go ahead and
11 present testimony on the Lyle issue.

12 THE COURT: What does the defense know at this
13 point? You mentioned some briefs.

14 MS. JOYNER: I did, Your Honor, I will pass it up
15 to Your Honor.

16 But, Your Honor, it's my understanding on
17 admissibility of Lyle the Court has to find by a clear
18 and convincing evidence, that we have to proffer the
19 testimony of the witness.

20 THE COURT: Well, Mr. Swerling knows that. He's
21 just saying that he was not prepared for that today.

22 MS. JOYNER: Okay.

23 MR. SWERLING: That's correct. Yeah, I'm sorry.
24 I don't think I was notified that they intended to
25 offer testimony today. That was the whole purpose of

1 trying not start the testimony until tomorrow. I
2 mean, I had no idea -- and I'm not trying to mislead
3 anybody but that was the whole idea when I came in
4 this morning and advised the Court that I did not
5 think that I could make any -- I'm sorry, that I could
6 do anything with the testimony today because of the
7 way I feel. So I thought we were going to argue a
8 legal issue and not go ahead and offer testimony. So
9 if anybody misunderstood that I apologize. But that
10 was my intention from the beginning.

11 MS. JOYNER: And I apologize, Your Honor.

12 THE COURT: You have a -- you said you -- what did
13 you say you have the testimony, a transcript of the
14 testimony?

15 MS. JOYNER: No, sir, Your Honor. I'm prepared to
16 offer their testimony in support of the motion.

17 THE COURT: Live testimony?

18 MS. JOYNER: Live testimony. And I apologize. I
19 assumed that we were all on the same page because the
20 Lyle requires the clear and convincing finding. I
21 wasn't trying to in any way --

22 THE COURT: He knows that. But I can't -- I mean,
23 it appears to be a surprise. I don't think defense
24 counsel would be in a position to challenge or to
25 cross examine the witnesses if they just been told

1 about it.

2 MS. JOYNER: Well, we discussed -- this was our
3 discussion this morning which I think there's the
4 misunderstanding regarding the testimony --

5 THE COURT: Well, if you agree there is a
6 misunderstanding then maybe we don't go forward with
7 the testimony until tomorrow.

8 MS. JOYNER: I don't have an issue. I thought Mr.
9 Swerling wanted to go forward on it and my
10 misunderstanding was because the Lyle requires the
11 clear and convincing requires testimony. That's just
12 the nature of it.

13 THE COURT: He's not arguing that.

14 MR. SWERLING: No.

15 MS. JOYNER: Okay. I apologize, Your Honor.

16 THE COURT: Okay.

17 MR. SWERLING: Sorry judge.

18 THE COURT: Is there anything else we can take up
19 this afternoon while we're on the record?

20 MR. SWERLING: Erin has given us a bunch of
21 photographs which we have seen before and we are just
22 going to go through them again. And we're going to
23 look at some evidence. We have some evidence we've
24 turned over to the State. Perhaps we can get that
25 resolved but it doesn't have to be on the record. I

1 don't think there's anything else on the record today.

2 We do have some voir dire which we could give the
3 Court.

4 THE COURT: Please do.

5 MR. SWERLING: To take a look at it.

6 THE COURT: I am going to advise the clerk on the
7 six o'clock phone call not to bring the jury in until
8 11. Do you think if we meet nine or 9:30 that you can
9 proffer the testimony at that time?

10 MS. JOYNER: I do, Your Honor.

11 THE COURT: Is that enough time?

12 MS. JOYNER: It should be, Your Honor.

13 THE COURT: All right.

14 MR. SWERLING: I appreciate that.

15 THE COURT: We will do it in the morning. In the
16 meantime since this is the first time I've seen your
17 brief I will take the afternoon to review it. Does
18 the defense have anything you want me to review?

19 MR. SWERLING: Judge, we had a brief based upon
20 what was filed not last night but something that was
21 Friday, or Saturday. But anyway we have done a brief
22 but it doesn't address all the issues now.

23 THE COURT: Does it address 404?

24 MR SWERLING: Yes.

25 MS. JOYNER: It does.

1 THE COURT: Let me have that.

2 MR. SWERLING: I think Miss Joyner will agree as
3 far the -- the way she wants to do it now is pretty
4 new. We discussed this morning.

5 MS. JOYNER: The approach, but the underlying
6 issue would be the same.

7 MR SWERLING: The approach. The approach. We
8 knew about the 404. I'm not suggesting that.

9 MS. JOYNER: And Your Honor, I do have the case
10 law. I'll hand up to Your Honor and to Mr. Swerling.

11 THE COURT: All right.

12 MS. JOYNER: And I may have some additional cases
13 that I'll argue tomorrow but I will go ahead and hand
14 up all the cases.

15 THE COURT: That you rely on.

16 MS. JOYNER: Yes, sir.

17 THE COURT: All right.

18 THE COURT: Give me something to do this
19 afternoon. Do you have them with you?

20 MS. JOYNER: Yes, sir. Your Honor, and not all of
21 these may ultimately become relevant. I just tried to
22 anticipate any case that could become relevant outside
23 of my brief.

24 THE COURT: How many do you have? Limit it to
25 five or six at the most.

1 MS. JOYNER: Limit it to five?

2 THE COURT: Five or six. I understand 404.

3 MS. JOYNER: Okay.

4 THE COURT: And this is under what exception?

5 MS. JOYNER: Common scheme or plan.

6 THE COURT: B?

7 MS. JOYNER: Yes, sir.

8 MS. WILSON: Your Honor, here is our voir dire.

9 THE COURT: Defense's voir dire. For your

10 information I have is prepared a questionnaire for the

11 jury. I told you about it in chambers and they will

12 be instructed as to how to use them tomorrow.

13 Is there a witness list on here too?

14 MS. JOYNER: My witness list --

15 THE COURT: I will need it in the morning. I

16 don't need it now.

17 The defense have a witness list?

18 MR. SWERLING: We have a preliminary one, judge.

19 Some of it is going to depend upon your ruling.

20 THE COURT: All right.

21 MR. SWERLING: We can give you what we have right

22 now. (Handed up)

23 THE COURT: Anything else?

24 MS. JOYNER: No, sir, Your Honor.

25 THE COURT: Anything else from the defense?

1 MR. SWERLING: Judge, we will just give you a
2 couple more names now. We'll give you a couple more
3 just so you have them. It may change after the
4 rulings tomorrow.

5 THE COURT: Anything further?

6 MS. JOYNER: No, sir.

7 MR. SWERLING: No, sir.

8 THE COURT: We be at ease until 9:30 in the
9 morning.

10 (WHEREUPON trial continued on November 19, 2019.)

11 THE COURT: Be seated please. Counsel approach
12 the bench please.

13 (WHEREUPON, there was an off the record
14 discussion.)

15 THE COURT: All right. Miss Joyner, you may
16 proceed.

17 MS. JOYNER: Thank you, Your Honor. As we
18 discussed yesterday the State intends to offer Lyle
19 testimony in the form of *witness one*' s testimony
20 into the cases of *victim1* and *victim 2*.

21 The defense has already conceded the joinder of
22 *victim one and victim two's* charges is appropriate.

23 THE COURT: Say that again.

24 MS. JOYNER: The defense has conceded that a
25 *victim1* *victim2*
joinder of - and - 's charge is appropriate

1 under the case law. It's the State's intention to
2 Lyle ~~witness one~~ 's testimony.

3 So, as we discussed yesterday on the record if the
4 Court were to determine that ~~witness one~~ 's
5 testimony could come in as to ~~victim 1~~ but not
6 come in as to ~~victim 2~~ , the State at that point
7 would sever ~~victim two~~ 's charges and offer
8 ~~victim 2~~ as a Lyle witness in ~~victim one's~~
9 case.

10 So we'd like to begin with offering the testimony
11 of each young man on the issue of their abuse for the
12 Court's consideration.

13 THE COURT: All right.

14 MS. JOYNER: We first want to call ~~victim one~~.

15
16 THE COURT: Hold it. Hold it. I thought you were
17 just moving forward on ~~witness 1~~ testimony.

18 MS. JOYNER: Well, yes, sir, we would like to Lyle
19 ~~witness 1~~.

20 THE COURT: So you want to call ~~victim 1~~ for
21 comparison's sake?

22 MS. JOYNER: Yes, sir.

23 THE COURT: All right.

24 MS. JOYNER: And Your Honor, I would inquire if
25 there is going to be a sequestration if all of the

1 potential victims should be sequestered if Mr.
2 Swerling is going to make that motion.

3 THE COURT: I don't know.

4 MR. SWERLING: Yes, I am. At this point, yes.
5 Yes, I am and I would be doing that during the trial
6 as well. The difference is at this point for the voir
7 dire for the jury or at the trial we don't know who
8 the victims are going to be. But I would move to
9 sequester under these circumstances.

10 MS. JOYNER: So I would ask that you take all of
11 the witnesses out except for victim one if
12 you would remain.

13 THE COURT: Please come forward.

14 victim 1 -----, called as a witness, having
15 been duly sworn by the clerk, was examined and
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MS. JOYNER:

19 Q Mr. victim 1 can you please state your full name for
20 the record.

21 A victim one

22 Q How old are you today Mr. victim 1

23 A I'm 24 years old.

24 Q What is your date of birth?

25 A .

1 Q Do you currently live in Rock Hill?

2 A No, ma'am.

3 Q And have you ever lived in Rock Hill?

4 A I have.

5 Q Tell me the names of your parents?

6 A Keith and Susan C.

7 Q And is your brother victim 2

8 A Yes.

9 Q Is he older or younger.

10 A He is younger, 20 months.

11 Q Can you tell me just for point of comparison when you
12 graduated from high school?

13 A I graduated high school 2014.

14 Q 2014. Did you skip any grades?

15 A Did not.

16 Q Did you graduate on time?

17 A I did.

18 Q So, that would have been your 2013 to 2014 school year,
19 is your graduation?

20 A That is correct.

21 Q Do you know the defendant in this case Julio Castillo?

22 A Yes, I do.

23 Q And how do you know him? What do you call him?

24 A Andy.

25 THE COURT: What did you say?

1 THE WITNESS: Andy.

2 THE COURT: Andy.

3 Q And did you know the defendant when you were growing
4 up?

5 A Yes, I did.

6 Q Were you part of the youth choir at your church, Church
7 of our Savior?

8 A I was.

9 Q And were you in youth choir as and elementary student?

10 A Yes.

11 Q Was Andy assistant choir director?

12 A He was.

13 Q And what was the address of your childhood home?

14 A

15 Q And did you ever live next door from the defendant?

16 A Two doors down.

17 Q Two doors down. And when you first met the defendant
18 he was your assistant choir director did he live in your
19 neighborhood?

20 A He did not.

21 Q At some point did he move to your neighborhood?

22 A That is correct.

23 Q And were your parents -- did your parents develop a
24 close relationship with him?

25 A They did.

1 Q Did you develop a close relationship with him?

2 A Yes.

3 Q And what about victim 2

4 A Yes. He was very close with the entire family.

5 Q Was it -- were you ever a guest in the defendant's
6 home?

7 A Yes.

8 Q And how old do you think you were when you began going
9 over to the defendant's home?

10 A Elementary school, third or fourth grade.

11 Q And would victim 2 some times go with you?

12 A Yes.

13 Q Was there ever a time that your family took a trip with
14 the defendant?

15 A Yes.

16 Q And where was that trip to?

17 A We went to Daufuskie Island.

18 Q And where were you going on Daufuskie Island? Where
19 were you going to stay?

20 A We were staying in a house that was owned by one of
21 Andy's family members.

22 Q And did anything -- did anything noteworthy happen when
23 you were on Daufuskie Island?

24 A Yes.

25 Q Please tell the Court what happened?

1 A One morning the defendant exposed his penis to myself
2 and my brother in bed.

3 Q Okay. And was there anything that you noted at that
4 time about the defendant's body?

5 A Yes, I noted that the defendant's penis was
6 uncircumcised.

7 Q Did you know what that word was at the time?

8 A I did not. I know that it looked different and I asked
9 him about it.

10 Q And what was his explanation?

11 A He said that it was uncircumcised.

12 Q After Daufuskie Island did anything else inappropriate
13 happen with the defendant?

14 A Yes.

15 Q And could you tell the judge just generally what
16 inappropriate things would happen with the defendant?

17 A There were massages that would happen in his bedroom at
18 his house when he had moved closer to us into our neighborhood.
19 There was masturbation that happened in his bedroom. There was
20 massages and masturbation that happened in the attic upstairs at
21 his house and there was oral sex or fellatio that he performed
22 on me both once in his bedroom and once in a bedroom in our
23 house the day before his wedding. The night before his wedding.

24 Q Okay. So I am going to go back just step by step. So
25 you said massages in the bedroom, is that correct?

1 A Correct.

2 Q And then you said massages and masturbation?

3 A Yes, in the bedroom.

4 Q In the bedroom. Did masturbation occur any other
5 location?

6 A Yes, in the attic at his house.

7 Q And did any other activity occur in the attic beside
8 the masturbation?

9 A There was massages in the attic as well. At one point
10 he hogtied me in the attic.

11 Q Okay. So prior -- do you recall any of these events
12 happening prior to Daufuskie Island?

13 A No, ma'am.

14 Q And you said the last incident occurred the night
15 before the defendant's wedding?

16 A That's correct.

17 Q So, after Daufuskie Island what is the first type of
18 inappropriate conduct you remember occurring?

19 A Massaging.

20 Q Okay. And can you explain to the Court what you mean
21 by massaging?

22 A Absolutely. I would lay on my stomach on the bed and
23 he would sit on my legs and would massage my back, my arms and
24 my legs usually it was with clothing on. He would massage over
25 the clothing and then at times put his hands under the clothing

1 as to massaging direct skin touch and then he would flip me over
2 and would massage me doing the same thing above the clothing and
3 then would sometimes slip his hands under the clothing and at
4 times when I was on my back there was inadvertent touching -- or
5 so I thought -- inadvertent touching of my penis.

6 Q At some point did the nature of those massages change
7 from inadvertent touching of your penis?

8 A Yes, the nature changed one day when the first incident
9 of masturbation occurred.

10 Q And where was the -- tell me where the first instance
11 of masturbation was?

12 A That was on his bed.

13 Q And is that at the house that was two doors down from
14 you?

15 A Correct, on Egret Court.

16 Q And what type of bed was that?

17 A It was a waterbed.

18 Q And tell me what you remember about how that incident
19 of masturbation began?

20 A I was in 5th grade. I had recently heard a joke from
21 one of my friends and I asked Andy about it. I can recite the
22 joke.

23 Q Please tell the joke?

24 A The joke involved a pregnant woman who had been shot
25 three times and she had the kids and then throughout their

1 childhood the kids would come up to her. One came up to her and
2 said, mommy, mommy, I pee'd out a bullet. The next kid said
3 mommy, mommy I pooped out a bullet and then the third kid came
4 up what and she like, oh, happened this time? I was jacking off
5 and I shot the dog.

6 THE COURT: This is right between you and me.

7 (Judge moves a pitcher.) I can't see you very well.

8 Go ahead.

9 A I had not heard that term before. I did not know what
10 that was and I asked Andy what that was and he offered to show
11 me.

12 Q Did he show you?

13 A He did.

14 Q And by showing you can you please tell the Court what
15 he did?

16 A He masturbated me. It was not to completion but he
17 masturbated me on his waterbed.

18 Q Okay and masturbation -- if you could explain to me or
19 define that term?

20 A Yes, he used his hand on my penis. Stroked it up and
21 down.

22 Q And you say not to completion?

23 A Yes, ma'am.

24 Q Were you physically able? Would you have been
25 physically able at that age?

1 A That was the first experience I had ever had with that,
2 but I don't believe that I was able to complete anything.

3 Q After that incident were there other incidents where
4 masturbation occurred?

5 A Yes.

6 Q And would those occur alongside massages or separate
7 from massages?

8 A Alongside massages. The massages kind of turned into
9 that. So if when I when was pushed on my stomach the massage --
10 I'm sorry laying on my back the massage would then turned to him
11 masturbating me.

12 Q And what location did those massages -- by the way,
13 that first incident of masturbation was alongside a massage?

14 A Yes.

15 Q And the other incidents of masturbation did they all
16 occur in the bedroom?

17 A No.

18 Q Did some also occur in the attic?

19 A Yes.

20 Q Now, we talked about Daufuski and we talked about the
21 wedding. Just so the judge has an understanding of the attic,
22 when you first met the defendant did he have a living space
23 converted in his attic?

24 A He did not.

25 Q And at some point in the time that you knew him did he

1 begin to construct and change a part of that attic space into
2 some space that was a living space or hanging out space?

3 A Yes.

4 Q Okay. And can you describe generally what that attic
5 looked like?

6 A Sure. When you went into the house you took a left and
7 then a right and there was a room that had a bunch of computers
8 in it and on the left side of that room there was a ladder that
9 he had created. It was wire ladder with wooden steps and you
10 climbed up through like a square in the ceiling up into the
11 attic and then you got into the attic there was a black table
12 with a glass top with some pictures in it and there was a TV up
13 on the wall and there was a bed. It was kind of raised up in
14 like a wooden frame off to the side. If you're up standing
15 facing it's to the right. There's a futon in there as well.
16 And there was some shelves on the side of the bed.

17 Q So, do you recall -- do you recall when that attic
18 began to change over?

19 A I don't recall when exactly that happened but we had
20 known the defendant for some time and I had been to his house
21 before the attic had been converted.

22 Q Okay. So when the massages would happen in the attic
23 would they happen in a particular location in the attic?

24 A Yes, on the bed.

25 Q Now, through the time that you knew him you testified

1 earlier there were times that you and ^{victim 1} I'm sorry you and
2 ^{victim 2} went over there together?

3 A Yes.

4 Q Did you ever spend the night at the house?

5 A Yes.

6 Q And was there ever times that you were over there
7 alone?

8 A Yes.

9 Q Do you recall when the events that you're describing
10 occurred whether ^{victim 2} would be there or not be there?

11 A My memories of the events in specific detail are of
12 what happened to me but I do recall him being there in the
13 general timeframe of some of the abuses.

14 Q Now, the massages -- once the massages came to
15 incorporate masturbation was it always the defendant
16 masturbating you?

17 A For the most part but not always.

18 Q Do you recall how many times you masturbated him?

19 A There was one instance that I can remember that he had
20 been masturbating me and that I -- that was paused and he had me
21 touch him and massage him as well, but then it switched back to
22 him masturbating me. It seemed like he was more interested in
23 that.

24 Q So, when -- was there any other instance where you gave
25 the defendant a massage?

1 A Not other than that one that I can remember.

2 Q Was there any other instance where you touched his
3 penis?

4 A No, ma'am.

5 Q Now, moving on you testified earlier that there was
6 also fellatio involved?

7 A That's correct.

8 Q I think you said it happened in two different
9 locations. I am going to start with the bedroom. You said it
10 was the defendant's bedroom?

11 A Yes.

12 Q And do you know when exactly that occurred?

13 A I don't remember when exactly that occurred. I
14 remember certain details. I remember he had a beard at the time
15 that it occurred.

16 Q Do you remember whether -- did fellatio happen before
17 or after masturbation had begun?

18 A After masturbation had begun.

19 Q And just going back, masturbation began some time in
20 the 5th grade?

21 A Yes, that's when I heard the joke. I heard the joke
22 from one of my elementary school friends.

23 Q Okay. And regarding this incident, who performed
24 fellatio?

25 A He did. He performed fellatio on me.

1 Q And do you recall how exactly that came about?

2 A It just progressed from masturbation. In that instance
3 it was just a progression. He was just introducing something
4 new it seemed to that sequence.

5 Q Do you recall if anybody -- was Nick there to your
6 recollection of that incident?

7 A No, ma'am, it was just the two of us.

8 Q And when -- did you -- when he would perform fellatio
9 on you did you ejaculate?

10 A No, ma'am.

11 Q Were you able to at that point?

12 A At that point I believe that I was able. I had
13 completed before, but not like the full on ejaculation.

14 Q Okay. But did you not ejaculate this time?

15 A No, ma'am.

16 Q Now the second incident of masturbation -- I'm sorry
17 fellatio you said occurred at your house?

18 A Yes, ma'am.

19 Q Can you please explain the circumstances of why the
20 defendant was at your house when this happened?

21 A The night before Andy's wedding he and Kathryn had been
22 staying at their house and they wanted to stay apart the night
23 before their wedding and so we invited Andy to come stay in our
24 guest bedroom at our house so they could have some separation.

25 Q And where in your house did this fellatio occur?

1 A In the guest bedroom.

2 Q And was this the defendant performing fellatio on you
3 or you performing on him?

4 A Performing on me.

5 Q And how did it come to be that you were in the guest
6 bedroom with the defendant at this time?

7 A So my parents had gone to bed and ^{victim 2} and I were
8 staying in the living room. So the living room was located here
9 (indicating) and there is a hallway. One way leads to my
10 parents's room and the other leads into the guest bedroom where
11 Andy was staying, and ^{victim 2} and I had set up blankets in the
12 living room which we would do from time to time when we were
13 watching a TV. We had a big old TV in the living room. We
14 didn't have anything like that in the bedroom. And the
15 defendant was out there with us watching the show or the movie
16 we had been watching and then ^{victim 2} had fallen asleep and then
17 Andy started going towards the bedroom and we both went to the
18 bedroom together.

19 Q Was it some kind of agreement you that you had that
20 would go to the bedroom together?

21 A From my recollection it seemed -- it seem like there
22 was an agreement. It was just kind of -- I don't remember like
23 specific words that he said for me to come with him, but it was
24 implied that he wanted me to come with him.

25 Q And when you got into the bedroom did you have any kind

1 of conversation?

2 A We did. I asked him if there was a way that I could
3 improve how masturbation felt.

4 Q And what did he say?

5 A He offered -- he offered, he said let me show you and
6 he performed fellatio on me.

7 Q And was this to completion?

8 A It was not.

9 Q And what stopped it?

10 A I did.

11 Q And why did you stop it?

12 A I told him this needed to stop.

13 Q Okay. Had you ever said anything like that to him
14 before?

15 A I had not.

16 Q And why did you decide to say that to him in this
17 instance?

18 A Looking back on it, I think it was not only was it in
19 my own house. To me it was something that I knew somewhat was
20 wrong because I couldn't tell my parents about it and so knowing
21 that it was something that was happening in my house under my
22 parents's roof and the fact that he was getting married the next
23 day, those two combined just made it feel that it was not
24 something that should continued.

25 Q Now, at this period of time am I correct that Andy got

1 married in July of 2009?

2 A I believe that's correct. I'm sorry I don't have that
3 date memorized so --

4 Q Was it during the summertime between grades?

5 A Yes.

6 Q And by that point had you been spending lots of time at
7 Andy's house over the years?

8 A Yes.

9 Q Had you been spending go lots of time there since
10 Daufuski?

11 A Yes.

12 Q Had you on occasion spent the night there?

13 A Yes.

14 Q Did Andy attend your sporting events?

15 A He did.

16 Q Was Andy the mentor of your youth choir?

17 A He was.

18 Q When you became a member of the youth group was he a
19 volunteer for the church youth group?

20 A Yes.

21 Q And were there times when Andy was allowed to take you
22 ^{with him} and on special outings?

23 A Yes.

24 Q Did he take you to shows in Charlotte?

25 A Yes.

1 Q Did he take you to play laser tag?

2 A Yes, that was a youth group event.

3 Q How at the time that all of this was going on, the
4 massages, the masturbation and the fellatio, how did you view
5 Andy?

6 A I viewed him as a friend. We had a very close
7 relationship in the sense that we spent a lot of time together.
8 He was a very close family friend. I mean, he was always
9 welcome over at the house. There would be times where he would
10 be out and about and he would just come over and stop by and say
11 hello. It didn't mater if my parents were home or not. He was
12 just very close to all of us.

13 He was like a mentor to me. I asked him to be confirmation
14 mentor when I was confirmed at the church. He was very close
15 with my family and myself.

16 Q So did you maintain that same close relationship with
17 him after the night before his wedding?

18 A Yeah. It was a relatively close relationship, yes.

19 Q Okay. Now I just want to get into a few specifics of
20 what you have talked about just to make sure I have all the
21 information correct.

22 Going back to the -- we talked about the attic. There was a
23 time when the attic was converted. You indicated there was
24 massages and masturbation in the bedroom and in the attic.

25 After the attic was completed was there ever instances where you

1 received a massage or were masturbated in the defendant's
2 bedroom?

3 A Yes.

4 Q Do you have any specific recollection of any of those
5 events?

6 A I do. There was one night where ^{Victim 2} and I were both
7 over and we were spending the night and we were in the bed
8 upstairs in the attic and ^{Victim 2} had fallen asleep and Andy had
9 gone downstairs but mentioned that I should come see him
10 downstairs and eventually I went downstairs and he masturbated
11 me on his bed.

12 Q Did that also involve a massage?

13 A Yes, as well.

14 Q Did any of the massages or the masturbation with Andy
15 involve baby oil?

16 A Yes, he used baby oil on his fingers a couple times in
17 the attic during masturbation sessions.

18 Q So the baby oil then was not for the full body?

19 A No, it was for his fingers. It acted as a lubricate
20 when he touched my penis.

21 Q Now, you mentioned that you were hogtied in the --
22 during an event. Can you just kind of explain to the Court what
23 you mean by being hogtied?

24 A Sure. It involved having a rope around my wrists and
25 ankles and all tied together in such a way that they were all

1 constrained with each other.

2 Q Was there anybody else present when that hogtying
3 incident occurred?

4 A Yes, Victim 2 was present.

5 Q And did anything sexual happen during the course of
6 that hogtying?

7 A No.

8 Q Were will ever instances that involved rope that were
9 sexual?

10 A I have a faint memory of some times he would bind an
11 appendage like a leg and have it at attached to something in the
12 room that I couldn't see. There were posts near the bed but I
13 never saw it attached or anything but I do remember having my
14 leg tied up during masturbation.

15 Q Was it like a tight tie or was it just a loose tie?

16 A It was kind of like a tie a noose around my ankle.

17 Q Is that the only recollection you have of the ropes
18 other than the hogtie?

19 A Yes.

20 Q So you testified there were two incidents where the
21 defendant performed fellatio, is that correct? Do you have any
22 kind of estimate of approximately how many times the massages
23 with masturbation occurred?

24 A I would say probably five to six times.

25 Q Okay. And is that in addition to the massages that

1 happened before masturbation?

2 A Yes.

3 Q When all of this was going on you testified Andy was
4 your next door neighbor?

5 A Yes.

6 Q To your knowledge did he own the house that he lived
7 in?

8 A To my knowledge yes.

9 Q Was he an adult at the time?

10 A Yes.

11 Q Do you know how old he was exactly?

12 A I do not. I believe he was in his twenties.

13 Q And did Andy have any roommates?

14 A He did not until Kathryn moved in.

15 Q I sorry.

16 A Until Kathryn moved in, his wife or to be wife and then
17 wife.

18 Q Just so I understand, so as the massages -- I think you
19 did a pretty thorough description of the massages. When the
20 massages began to include masturbation did your state of dress
21 change?

22 A He would just like unzip my pants and pull them down.

23 Q And the time that you said that during a massage that
24 you touched him, masturbated him, do you recall what the
25 defendant was wearing?

1 A Just street clothes. Just normal. It was nothing
2 anything special about what he was wearing.

3 Q Thank you, very much. Please answer any questions the
4 defendant has?

5 MR. SWERLING: Excuse me for one minute, Your
6 Honor.

7 CROSS EXAMINATION

8 BY MR. SWERLING:

9 Q I am Jack Swerling. How are you?

10 A I am doing okay.

11 Q Okay. I have just a few followup questions that Miss
12 Joyner was asking you about?

13 A Okay.

14 Q Let me just get my papers. So, you are now 24 years of
15 age. How old were you when this series of events started with
16 Mr. Castillo?

17 A The Daufuski trip was my third grade year and the first
18 incident of masturbation was my 5th grade year.

19 Q I'm sorry.

20 A The Daufuski trip was my third grade year.

21 Q Third grade.

22 A And the masturbation first occurred in my 5th grade
23 year.

24 Q And what year would that have been, do you recall?

25 A I'm sorry. I would have to like do the math on that.

1 Q What was your date of birth?

2 A

3 Q So at Daufuskie Island you had he had already -- he had
4 known you and your family when you were invited with your family
5 down to Daufuskie Island, correct?

6 A That's correct.

7 Q And how did it come about that he exposed his penis?
8 Was he walking around? Tell me a little bit about that?

9 A No, in the morning he was in his bedroom that was
10 separate from ours and he had been staying in there. ^{Video 2} and I
11 went to go see him. It was just like hey, good morning, kind of
12 thing and we were hanging out in the bedroom with him and he was
13 laying on the bed when he exposed himself.

14 Q How did that happen? Did he say you just want to see
15 something or did -- was it something you all asked? How did
16 that come about?

17 A To my recollection he just did it. He may have said
18 something to us but I don't recall specifically enough to be
19 able to answer that. Just to know that he did expose himself.
20 It -- from my understanding it was intentional.

21 Q Your understanding would be on what basis?

22 A On the basis that he didn't quickly like cover it back
23 up like, oh, I'm sorry. You shouldn't have seen that.

24 Q Was he naked in bed or did he -- did he pull down his
25 underwear? Did he get up?

1 A I believe he had his boxers on and it was through the
2 flap of the boxers.

3 Q Now, prior to that you are saying nothing sexual had
4 happened, is that correct?

5 A That's correct.

6 Q And you were in the third grade at the time and victim 2
7 would have been was grade? What age?

8 A If I was in third grade he was in the second grade.

9 Q He was just one year behind?

10 A He is 21 months younger than I. So one grade, yes.
11 Because his birthday is in July so he is one grade behind me.

12 Q And let me ask you about, you said there were massages
13 took place in his bedroom and his attic.

14 A Yes.

15 Q The room going up to the attic that was not the bedroom
16 that was the computer room?

17 A That's correct.

18 Q And do you know how long this -- do you have any idea
19 about the time period that he completed the attic or started
20 working on the attic?

21 A I personally do not have specific dates.

22 Q Is it fair to say that you -- a lot of your memories
23 about this are very sketchy? That you really do not have an
24 accurate or complete recollection of all these events?

25 A I don't think that that's accurate at all. I have more

1 have vivid memories of specific incidents. My memory of when
2 exactly the attic was completed is not entirely there but my
3 memories of the trauma are more intact.

4 Q Based upon the statement you gave to Detective Thomas
5 you pretty much said you had put this all out of your mind and
6 moved on with it. Is that pretty correct?

7 A You are referring to the first interview?

8 Q Yes.

9 A Yes, sir.

10 Q So this was not on your mind all the way through your
11 growing up in your teenage years into your adult life?

12 A No, sir.

13 Q So you didn't really have an opportunity to go ahead
14 and try and recall these things until your brother ^{victim 2} decided
15 to come forward, is that correct?

16 A That is correct.

17 Q And prior to that time did you and he talk about coming
18 forward or what Andrew had done to you?

19 A No, sir.

20 Q So there was no conversation at all between the two of
21 you?

22 A No, sir. We had no conversation about that. He called
23 me and told my parents and he was reporting it to the police.

24 Q Okay. And were you at that point did you have second
25 thoughts about going forward yourself or did you decide

1 automatically that you were going to come forward as well?

2 A I decided that I was going to come forward as well.

3 Q And how long old were you at the time that you made
4 that decision and ^{Victim 2} made the decision?

5 A I was a sophomore in college.

6 Q So were you about 20?

7 A 19, 20, yeah.

8 Q And ^{Victim 2} would have been just -- he would have been a
9 freshman? Did he go to college?

10 A He did. He started college. He did not complete it.

11 Q So from the 5th grade all the way up to your second
12 year of college you really didn't discuss it with anybody?

13 A No, sir. Well, not 5th grade because 5th grade was
14 when the first masturbation happened.

15 Q Okay, so when did --well that's a good question. When
16 did it all end? How old were you at that point?

17 A It was the night before his wedding.

18 Q That was in July of 2005?

19 A I believe Erin said 2009.

20 Q 2009 I mean. 2009?

21 A Yes.

22 Q So from 2009 until you came forward. I think it was
23 2016 -- 2015, 2016 when you came forward?

24 A I believe that sounds correct.

25 Q So it would have been probably six years, seven years

1 from the last incident to when it was reported?

2 A Yes, sir.

3 Q The massages took place in the bedroom in the attic. I
4 just want to make sure I understand about the massages. Were
5 either of one of you naked during these massages?

6 A No, sir.

7 Q So it was always with your clothes on?

8 A Yes, but he would put his hand under my clothing at
9 times whether it would be shirt or shorts.

10 Q But they would start out with you on your stomach?

11 A Yes, sir.

12 Q And then did you say that you get flipped over or you
13 would flip over?

14 A Yes, sir, he was sitting on my legs when I was stomach.

15 Q Sitting on leg or legs?

16 A Legs.

17 Q Legs?

18 A Legs and then when I would be flipped over on my
19 stomach he would sit beside me.

20 Q And what did he do he unzipped your pants or pulled
21 your pants down?

22 A For the massages, yes, sir, he would put his hand under
23 my clothing or would massage above the clothing. I wore shorts
24 for the majority of my young adult life.

25 Q Okay. And what was his condition? Was he dress as

1 well --

2 A Yes.

3 Q During these massages?

4 A Yes.

5 Q Now, the massages led there was masturbation or were
6 they together?

7 A Eventually after the joke had occurred massages and
8 masturbation were something that happened together. The
9 massages would start and then the masturbation would come.

10 Q Okay. Did you ever observe him doing the same thing to
11 victim two?

12 A I -- my -- like I said earlier my specific memories of
13 the traumas are very from my point of view. I remember victim 2
14 being there at times and on days the trauma occurred to myself
15 but I do not have any specific instances where I observed victim 2
16 that I can remember victim 2 being traumatized.

17 Q You don't have any specific recollection of him doing
18 anything to victim 2 that's what you're saying?

19 A That is correct.

20 Q All right. And do you have any specific recollection
21 of victim 2 being present when he did something to you?

22 A The hogtying victim 2 was there.

23 Q That was the incident that you're talking about?

24 A Well, there is that incident and then the night that
25 the three of us fell asleep together or we were in the bed

1 together and we fell asleep there and then the defendant went
2 downstairs and told me to come downstairs at later time and then
3 I went downstairs. We were in the bed together, the three of us
4 were.

5 Q And that was up in the attic?

6 A That was up in the attic, yes, sir.

7 Q So those are the two occasions that you are talking
8 about that you can specifically recall ~~victim 2~~ being present?

9 A That I can specifically recall ~~victim 2~~ being present when
10 something happened to me?

11 Q Right.

12 A Yes.

13 Q But at no time were you present when -- or don't have
14 any recollection of your being present when something happened
15 to ~~victim two~~?

16 A Yes, sir.

17 Q I understand.

18 A Because a lot of my memories of the trauma are from my
19 perceptive. Like they stand out to me in the sense that they
20 happened to me and so those are specific memories that have
21 stuck with me.

22 Q All right. So, you had the massages and did all of the
23 massages eventually lead to masturbation?

24 A After the masturbation joke, that's correct.

25 Q After the joke about shooting the dog?

1 A Yes, not before.

2 Q And masturbation was -- now his bedroom was not the
3 room that let up to the attic, correct?

4 A That's correct. His bedroom was on the right side of
5 the house. That room was on the left side of the house.

6 Q How many occasions -- the impression I am getting were
7 you over there on occasion when Victim 2 was not present?

8 A That's correct.

9 Q How many times do you recall that you might have been
10 there at the house alone with him and Victim 2 not being there?

11 A At least a few.

12 Q A few?

13 A At least. I mean, there was the -- there was the time
14 where he -- there were times when he massaged me. There was the
15 time where he performed oral sex on me so it had to have been --
16 it had to have been like I said, there were five or six times
17 that I remember masturbation and massaging occurring and that's
18 not including the fellatio so it was upwards of five or at least
19 I would say.

20 Q Okay. And you said that occurred in his bedroom with
21 some masturbation?

22 A Some in his bedroom and some in the attic.

23 Q In the attic. Do you have any recollection when the
24 attic was finished?

25 A Year wise?

1 Q Or when you started going up to the attic?

2 A Year wise?

3 Q Yes.

4 A No, I do not sir.

5 Q But before the attic -- before you starting going up to
6 the attic it all took place in his bedroom on his waterbed?

7 A Yes, before the Daufuski when he exposed himself.

8 Q You mentioned something about being hogtied. Now you
9 said your hands and your legs were bound together?

10 A Yes, sir.

11 Q Were you kind of like in a ball or were you laid out?

12 A No, it was like kind of like in a ball as it would be
13 kind of difficult to be laid out when you have your hands --

14 Q Yeah, that's what I was wondering so there was and you
15 said it was nothing sexual about that being hogtied?

16 A No, there were no sexual acts performed while I was
17 hogtied.

18 Q But you do recall on one occasion where your legs were
19 bound on the bed?

20 A There was -- my leg had a rope around it and I could
21 feel there was tension on the rope so my -- my understanding is
22 that it was bound somewhere. It was tied to something that was
23 providing that tension.

24 Q But you never saw that?

25 A No, sir.

1 Q Both legs?

2 A Just the one that I can remember.

3 Q What about your hand?

4 A No, sir.

5 Q They were not bound?

6 A They were not bound.

7 Q So am I correct -- and I want you to correct me if I'm
8 wrong. Am I correct at no time was any masturbation done when
9 both of you were unclothed?

10 A Both of us?

11 Q Both of you were unclothed?

12 A Both Andy and I unclothed you mean?

13 Q Right.

14 A Fully naked you mean?

15 Q Yeah.

16 A That is correct.

17 Q At no time were you fully naked when the masturbation
18 took place or was Andy fully naked?

19 A Correct.

20 Q So it was always with clothes on?

21 A To a varying degree. I mean, if my pants were pulled
22 down I guess they were technically on.

23 Q Right, but there're still on. So the first
24 masturbation was in his waterbed and do you recall whether Nick
25 was there or not?

1 A He was not.

2 Q And you specifically remember that?

3 A I do.

4 Q And Miss Joyner was talking to you about alongside
5 massage. Would you describe that to the Court what that means?

6 A Alongside. Like I was saying, when I was on my stomach
7 he would sit on my legs and massage my back and my legs but when
8 I would switch over to my back he would be alongside me and that
9 way he could put his hands up my shorts because he couldn't do
10 that if he was sitting on my legs.

11 Q When he doing that was he masturbating or was massaging
12 you?

13 A No, sir, he was massaging me. Before the masturbation
14 it was -- to me it seemed like it was an inadvertent touching of
15 the penis. He would touch the penis when he went up my pant
16 legs. But then after the masturbation joke then the massages
17 would turn in to then he would pull my pants down.

18 Q Let me ask you, did you stop by his house? Did he
19 invite you all the time or did you just stop by thereafter
20 school or different times?

21 A No, it was by invitation that I can remember.

22 Q Always?

23 A From what I can remember I never like wandered around
24 and stopped by his house.

25 Q So that never happened?

1 A Not that I can remember.

2 Q And would he make a phone call to you? How did he
3 communicate with you to go ahead and come over to his house?

4 A Some times he would just kind of come over and then
5 talk to us. We communicated in person. We saw him frequently
6 at the church. I believe that he emailed my parents at some
7 point. There were various ways of communication.

8 Q And he extended invitations just to you but not to
9 victim two?

10 A Correct.

11 Q Okay. Let me ask you, did you ever just go to his
12 house without an invitation?

13 A Not that I can recall.

14 Q So you were talking about with Miss Joyner fellatio.
15 That was after masturbation occurred?

16 A Yes, sir.

17 Q In one of these --

18 A Sorry. After in the timeline or after on that same
19 night?

20 Q On that same night.

21 A No. Masturbation that he massaged me and I guess yeah
22 he massaged me and touched my penis but masturbation not to
23 completion. But yes, masturbation and then fellatio.

24 Q With the same situation he had his clothes on and you
25 had your clothes on?

1 A Yes, sir.

2 Q And it was one of these alongside situations?

3 A Yes, sir.

4 Q And a your testimony was you did not ejaculate on that
5 occasion?

6 A That's correct.

7 Q And you would have been what? Do you have any idea
8 what age you would have been at that time or what grade you were
9 i?

10 A I don't have a specific memory of when that was.
11 There's nothing that I have to -- it was after the masturbation
12 joke so it was after 5th grade.

13 Q After fifth grade, is that what you said?

14 A Masturbation joke happened in 5th grade so it was after
15 5th grade.

16 Q And then you said it happened at his house on occasion,
17 the fellatio?

18 A Yes, that's correct.

19 Q So the first time was at your house. Second time was
20 at your house the night before his wedding?

21 A That's correct.

22 Q And let me ask you, despite this all continuing -- this
23 was kind of an ongoing thing -- despite all that you continued
24 to go our to his house?

25 A Yes, throughout.

1 Q Throughout?

2 A Throughout, yes.

3 Q And you continued to go on activities with him and your
4 brother and have social interaction with your parents and him?

5 A That's correct.

6 Q And why did you continue to do that?

7 A Andy was, like I said, a very close family friend.
8 Andy was a mentor to me. In my mind Andy -- if there was
9 something that was going on Andy it just became a part of our
10 relationship. I had no reason to think that he had any
11 malicious intent towards me and so it didn't register to me that
12 was something that like was wrong and like was something that
13 should not be happening.

14 I didn't -- I didn't have a reason to suspect that Andy
15 would do anything to hurt me.

16 Q So you did not at that time with the masturbation, the
17 massages or the fellatio, you did not know there was anything
18 wrong about it?

19 A I -- as I said earlier I felt -- I felt that it was in
20 wrong enough that it was something I shouldn't tell my parents.
21 More so like it was a taboo thing more than a wrong thing.

22 I had my full trust in Andy. He was a mentor to me. I had
23 no reason to think that he was going to hurt me. And so, and on
24 top of it all he introduced masturbation to me. I had not -- I
25 was a fifth grader who had never known what it felt like to do

1 this kind of thing. So, there was definitely an air of interest
2 there just because it's something I had never explored myself.

3 Q You said the second time occurred at your house the
4 night before his wedding. On this occasion at your house you
5 went in to the bedroom where he was at?

6 A We went in together.

7 Q Okay. That's where he was staying in that bedroom?

8 A Yes.

9 Q Okay and that was the guest room or ~~Victim 2's~~ room?

10 A At the time -- I think at the time my parents were here
11 and there was a bedroom where I think -- I'm trying to remember
12 if it was ~~Victim 2's~~ room at that time or if it was guest room. At
13 one point ~~Victim 2~~ and I shared a bedroom which was not that room
14 and then ~~Victim 2~~ and I got our own bedrooms. Mine was the farther
15 one and that guest bedroom became ~~Victim two's~~ bedroom. So there was
16 a time when that was the guest bedroom and there was a time that
17 was ~~Victim two's~~ bedroom.

18 Q After you had asked him at that point how to make
19 masturbation feel better?

20 A Yes, sir.

21 Q That was even after the first time?

22 A After the first incident of fellatio, correct.

23 Q So, that was something you asked him the second time?

24 A I didn't ask him to perform fellatio on me. I asked
25 him how I could make masturbation feel better.

1 Q Now, after this last event which you said took place
2 the night before his wedding at your house you continued to have
3 a relationship with him personally, did you not?

4 A Yes, that is correct.

5 Q And you told him no more sex. You didn't want to have
6 anything to do with the masturbation or the fellatio?

7 A That's correct.

8 Q There's no question -- and I'm not going to go through
9 the list, but he helped you in chess club, correct?

10 A That was earlier on.

11 Q Earlier than that. Choir? Were you still in the choir
12 at that time?

13 A I don't believe I was still in the choir at that time.

14 Q What about youth groups?

15 A Youth group, yes.

16 Q And I looked at it. There's a whole list of missions
17 that you all went on together?

18 A Yes, sir.

19 Q Down in Gravatt, South Carolina?

20 A Yes, sir. I was on the design team. Yes, there was a
21 youth retreat that we were on the design team together.

22 Q This is just once a year but you went on many of them?

23 A They were two times a year, the retreat was.

24 Q Twice, and then were you also on the design team which
25 planned the events, right?

1 A Yeah, they planned the events and then went on the
2 events, yes, sir.

3 Q And they'd go to Clinton for those meetings with Andy
4 that's?

5 A Correct.

6 Q And then going down to Gravatt on those several
7 occasions twice a year or more and also going to Clinton several
8 times for the design team you road with him, correct?

9 A That's correct.

10 Q And this was after all the sexual activity?

11 A That's correct.

12 Q And you went on ski trips, ski resorts with him through
13 the church?

14 A Through the church.

15 Q There was a lot of activity?

16 A Yes, sir.

17 Q And even after -- at what age were you confirmed?

18 A I was in high school.

19 Q And so that was after these events?

20 A Yes, sir.

21 Q You asked him to be your confirmation sponsor,
22 correct?

23 A That's correct.

24 Q Despite what had happened before?

25 A Yes, sir.

1 Q And I believe -- so you would have seen him and his
2 wife even after that situation?

3 A Yes, sir.

4 Q Now, you said some times you were up in the attic with
5 Nick and him but you would all go down -- you and he would go
6 downstairs into his bedroom where he would go ahead and
7 masturbate you?

8 A There was that one instance, yes.

9 Q Pardon?

10 A There was that one instance.

11 Q One time?

12 A Yes.

13 MR. SWERLING: Excuse me one minute, Your Honor.

14 Judge, that is all I have.

15 THE COURT: Any redirect?

16 MS. JOYNER: Yes.

17 REDIRECT EXAMINATION

18 BY MS. JOYNER:

19 Q Mr. , was there ever an instance where you were
20 completely naked and the defendant was naked?

21 A Yes, there was.

22 Q Can you tell the Court about that incident?

23 A There was a time that we were at Andy's parent's house.

24 It was just the three of us; me, ^{victim 2} and the defendant and we

25 went skinny dipping in the pool and hot tub at the parent's

1 house.

2 Q And you said you went skinny dipping. So in the hot
3 tub -- was Andy in the hot tub?

4 A Yes, he was.

5 Q And did he have his clothes on?

6 A Yes.

7 Q I'm sorry.

8 A Andy was naked, yes.

9 Q And where were you?

10 A I was also in the hot tub.

11 Q Naked?

12 A Yes.

13 Q Where was Victim 2?

14 A Victim 2 was in the pool naked.

15 Q And do you recall ever an incident of playing truth or
16 dare in the attic?

17 A Yes.

18 Q Was Victim 2 present for that?

19 A Yes. It's one of the memories that I have of Nick
20 being present. I remember a truth or dare game. I don't
21 remember specifics. Like I don't remember specifically seeing
22 anything happen to Victim 2 but I do remember there being a truth or
23 dare game.

24 Q And regarding chess club, you said you were in
25 elementary school?

1 A Yes.

2 Q Do you recall having your chess club end of the year
3 party one year at the defendant's house?

4 A Yes.

5 Q Did you have part of that party in the attic?

6 A Yes.

7 Q Was the attic relatively put together at that point for
8 you to have a chess club party there?

9 A Yes.

10 Q Okay. And do you recall what grade you were in when
11 you did chess club?

12 A I believe it was 5th grade. I'm sorry. I am trying to
13 remember. It was later in elementary school.

14 MS. JOYNER: I have no further questions.

15 MR SWERLING: Just one.

16 RECROSS EXAMINATION

17 BY MR. SWERLING:

18 Q This situation was over at his parent's house?

19 A That is correct.

20 Q When ^{Victim 2} was in the pool and you were in the hot tub?

21 A That's correct.

22 Q Did anything sexual happen on that occasion?

23 A Not that I can remember.

24 Q You just were both naked in the hot tub?

25 A Yes, sir.

1 MR. SWERLING: Thank you.

2 THE COURT: All, right, sir, you may come down.

3 MS. JOYNER: We would call Victim two

4 Victim two called as a witness, having been
5 duly sworn by the clerk, was examined and testified as
6 follows:

7 DIRECT EXAMINATION

8 BY MS. JOYNER:

9 Q Victim 2 can you please state your full name for the
10 record?

11 A Victim two

12 Q Mr. Victim 2 how old are you now?

13 A I am 22.

14 Q What's your date of birth?

15 A

16 Q And you currently live in Georgia?

17 A I do.

18 Q Prior to moving to Georgia did you live in Rock Hill?

19 A I did.

20 Q And did you live on Veery Lane?

21 A Yes.

22 Q Okay. And when did you move from Veery Lane?

23 A I was 18. Four years ago.

24 Q And can you tell the Court when you graduated from high
25 school? What year?

1 A It would be class of 2014.

2 Q 2015?

3 A Well, I haven't done the math. I suppose, yeah, 2015.

4 Q Did you graduate one year after Chris graduated?

5 A I did. Yes, I am sorry.

6 Q All right. And so going through school did you ever
7 skip any grades?

8 A I did not.

9 Q And did you graduate on time?

10 A I did.

11 Q Okay. So, do you know the defendant in this case Andy
12 Castillo?

13 A I do.

14 Q And how old have you known the defendant?

15 A Since I was very little about five.

16 Q And growing up did you know him as an associate leader
17 of the youth choir?

18 A Yes.

19 Q And at some point after he was youth choir leader did
20 he become your next door neighbor?

21 A Two doors down.

22 Q Could you see his house from your house?

23 A Yes.

24 Q Okay. Is he situated on a cul-de-sac right behind your
25 house?

1 A Cul-de-sac, yes.

2 Q So, did you recall -- or growing up how do you recall
3 your relationship with the defendant?

4 A I recall it as -- I mean, he was definitely an
5 authority figure. I would say that the dynamics -- this is of
6 course me speaking now and not speaking with the words that were
7 spoke to as a child, but I would say the dynamics was somewhere
8 between like my relationship with N adult and relationship with
9 like someone my age in the sense that he was young adult and he
10 made efforts to be more personable then strictly speaking an
11 authority figure.

12 Q Okay. Now, was he also a friend to your parents?

13 A He was.

14 Q Okay, and did you see him as a friend to your brother
15 victim one?

16 A Yes.

17 Q Now, going back do you recall your family taking a trip
18 with the defendant to Daufuskie Island?

19 A Yes, I do.

20 Q And on this trip do you recall anything inappropriate
21 happening between you and the defendant?

22 A There was a time where -- and I don't know if I would
23 have the perspective to this say it was an inappropriate thing.
24 There was a time where he was reading a book to us on the bed
25 and he was in his boxers and that's about it. That's all I

1 remember like happening at Daufuski.

2 There was also a moment where well I had a splinter in my
3 foot and it was stuck out but that wasn't strictly speaking.

4 Q When he read a book to you in his boxers did you see
5 his penis?

6 A Like -- not like the skin of it but I mean he was in
7 his boxers but the indentation.

8 Q Now, before your family had taken that trip to
9 Daufuskie Island do you recall the defendant doing anything
10 sexually inappropriate with you?

11 A No.

12 Q Okay. After your family's trip to Daufuski Island do
13 you recall the defendant ever being inappropriate with you?

14 A Yes.

15 Q Okay. Can you please explain to the Court in what way
16 the defendant was inappropriate with you?

17 A So, for like massages. He would have me lay on the bed
18 in his attic an he'd first start massaging my legs and just
19 moving his hands like gradually up and down my body, massaging
20 along the way going under clothes. And there were incidents
21 where he also touched my penis underneath.

22 Q And I know this is very difficult and I'm sorry to be
23 asking you these questions but I want to talk about these
24 massages a little more because I want to make sure I have the
25 exact right information for the Court. So you said they were

1 full body massages?

2 A Yes.

3 Q You said you had clothes on. Did the defendant have
4 clothes on?

5 A Yes.

6 Q And can you explain how you would be positioned when
7 the massages began?

8 A Sure. I would be laying on either my back or my
9 stomach.

10 Q You said laying on your stomach, is that right?

11 A Well, I mean, for parts of it I would lay on my back
12 but, yeah, on my stomach.

13 Q Okay. And then what would be the next thing that would
14 happen?

15 A Like I would get on my back and that's usually when he
16 was massaging my thighs and like inching closer to my pelvis and
17 that's when he would --

18 MR. SWERLING: I sorry, can you speak into the
19 mic. I'm having a hard time hearing him.

20 THE WITNESS: I'm sorry. Is that better?

21 MR. SWERLING: Thank you.

22 THE WITNESS: Certainly. Do you want me to repeat
23 anything that I said?

24 MR. SWERLING: No, not for me. I can hear you now
25 clearly.

1 A Okay. Sure. So yeah, he would work up my thighs and
2 then towards my pelvis and fondle my penis usually.

3 Q Okay. So let me back up a little bit. As you're
4 laying on your stomach before you flip over, where was he
5 massaging you?

6 A Legs, arms, shoulders. I mean like did pretty much
7 everywhere. Back.

8 Q While he is doing that part of the massage where he is
9 in relation to you?

10 A The side. Some times like sitting over my legs, like
11 dangling my legs.

12 (Whereupon there was construction noise and the
13 questioning stopped.)

14 THE COURT: Kind of like being in a dentist
15 office.)

16 Q Where we left off, I asked you how he was positioned
17 relative to you when you were laying on your stomach?

18 A Yes. Sometimes to the side. Like if he was massaging
19 one leg with both hands, but if he was massaging my torso or
20 arms like he may like straddle my legs. But mostly to the side
21 of me.

22 Q If he was straddling your legs would he put his body
23 weight down on you?

24 A I mean like just -- yeah. I mean he wasn't like
25 sitting on my torso. Yeah. I mean -- yeah.

1 Q I'm sorry. I didn't hear the last?

2 A No, I just like in the sense that -- like I remember
3 him sitting with his -- like sort of on his knees. So like
4 sitting on my legs but some of the weight was probably on his
5 own legs as well. Do you kind of get like the position?

6 Q Okay. So the weight would go to his knees?

7 A Well, partially. Yeah, sorry. I'm trying to get a
8 clear of a picture.

9 Q That's okay. Do you recall telling me previously that
10 he never --

11 MR. SWERLING: Objection. Leading.

12 THE COURT: Sustain the objection.

13 Q So victim 2 you said once you would flip over that is when
14 the massages would get close to your private area?

15 A Yes.

16 Q Do you recall approximately how many massages you
17 experienced like this?

18 A Four.

19 Q And did all four of those involve -- well, take me
20 through the first massage. Did that first massage involve
21 direct fondling of your penis?

22 A Yes.

23 Q Okay. Can you describe what that was?

24 A So, it wasn't strictly speaking masturbation. It was
25 just playing with it like pushing it to the side.

1 Q Pushing it to the side?

2 A Well, yeah, kind of -- he felt it up.

3 Q Did the nature of the touching of your penis change
4 from that first massage to the last massage?

5 A No.

6 Q Now, was this -- do you remember the location of these
7 massages?

8 A Yes.

9 Q And what was the location of these massages?

10 A Andy's house in the attic.

11 MR. SWERLING: I'm sorry, I couldn't hear the
12 question.

13 MS. JOYNER: The locations of massages.

14 Q Now, at the time that these massages happened where
15 within Andy's attic that these massages occurred?

16 A On the bed.

17 Q Was there anything else in appropriate that happened
18 with you -- was the defendant inappropriate with you in any
19 other way other than these massages?

20 A Yes.

21 Q Okay. Please tell the judge about another instance?

22 A There was an instance where we had spent -- by we I
23 mean ^{with me} myself and Andy had spent considerable amount of the
24 day together and in the evening we were staying at Andy's house
25 for the night and we went up to the attic. We watched one of

1 the Matrix movies and afterwards we were being put to bed and
2 Andy stayed with us and there was a game of truth and dare
3 initiated where not initially but gradually like became more
4 sexual in nature with the dares. It was mostly dares. There
5 were initially things like telling us to put our penises in
6 various places whether it be touching one of the support beams
7 in the room or and then after that it became sexual acts. Dry
8 humping. Giving and receiving oral sex and that was giving and
9 receiving the dry humping. And that lasted for a while. We
10 eventually went to bed and Andy was with us and would spoon us
11 and --

12 THE COURT: What did you say.

13 THE WITNESS: Spoon us.

14 THE COURT: Smoke?

15 THE WITNESS: Spoon in the bed.

16 THE COURT: Spoon? Go ahead. I'm not familiar
17 with that term.

18 THE WITNESS: Do you want me to describe it.

19 THE COURT: Well, yeah.

20 THE WITNESS: Yeah. Laying in a bed and like
21 having -- having one person being on the outside and
22 the other person with their back to that person. So
23 like one person is like facing the other person's back
24 and sort of laying like --

25 THE COURT: Close?

1 THE WITNESS: Yeah, close.

2 Q I don't want to interrupt you ^{Victim 2} I wasn't sure if
3 you were done. So just to make sure the record is clear, would
4 spooning be with two people who are laying facing the same
5 direction?

6 A Yes.

7 Q Okay. That night you said -- well, you said there was
8 a giving and receiving of oral sex. Can you please explain to
9 the judge what you mean by the giving and receiving oral sex?
10 Involving who?

11 A Well, from myself and Andy, ^{Victim 1} and Andy as well as
12 ^{Victim 1} and myself.

13 MR SWERLING: I am sorry, can you repeat that.

14 THE WITNESS: Sure.

15 A ^{Victim 1} and -- well, me and Andy, ^{Victim 1} and Andy,
16 and myself.

17 Q Specifically regarding you and the defendant. Can you
18 tell the Court exactly how that came about?

19 A The oral sex?

20 Q Yes.

21 A Well, it was a game and I mean, I didn't know, you
22 know, what it was exactly.

23 Q My question may have been to broad.

24 A Yeah, I don't understand.

25 Q I apologize for that. Specifically who first performed

1 the oral sex between you and Andy? Did you or did he first
2 perform the act? Or do you remember?

3 A I think I did.

4 Q And what did that act consist of?

5 A Me putting my mouth over the end of his penis and
6 moving it down the length of his penis.

7 Q Did that go on for a long time or a short time?

8 A I think like the dares were like a certain amount of
9 movements. Like -- so not a very long time.

10 Q Okay. Now, was it the same length of time for when the
11 defendant put his mouth on your penis? Was it also short?

12 A Yes.

13 Q Okay. ^{Victim 2} do you have any recollection of anything
14 specific about the defendant's anatomy?

15 A Well, I mean he was uncircumcised. I assume you mean
16 his genitalia or just general?

17 Q That he was uncircumcised.

18 A Yeah, he was uncircumcised.

19 Q ^{Victim 2} do you recall the defendant's wedding?

20 A Yes.

21 Q And do you recall anything inappropriate happening with
22 the defendant after he got married?

23 A No.

24 Q Now am I correct the truth or dare was also in the
25 attic?

1 A Yes.

2 Q Okay. And do you recall at Andy's house did he always
3 have the converted attic?

4 A No, that he was an addition he did himself.

5 Q When you first started going over there was that attic
6 completed?

7 A No.

8 Q At some point did that attic become completed enough
9 there would be furniture up there?

10 A Yes.

11 Q Now, the incident I will call it the truth or dare, the
12 truth or dare night that were you speaking of?

13 A Okay.

14 Q Do you recall where within the context of the massages
15 that you described do you recall whether that -- do you have
16 like gauge for whether the truth or dare night was before or
17 after the massages?

18 A Before.

19 Q You think it was before. Okay. And at the time that
20 the incident occurred, do you have a recollection of how the
21 attic appeared?

22 A Before -- can you repeat?

23 Q The night of the truth or dare do you have a
24 recollection of how the attic appeared that night?

25 A Yes.

1 Q And what is your recollection?

2 A My recollection is that it was not complete. There was
3 bare and unfinished wood on the frame of the bed. The walls had
4 not yet been painted the brown that they are now. There was
5 dark -- like dark gray or black sort of construction and stars
6 like a -- like little lights like stars glow in the dark on the
7 ceiling.

8 Q Okay. Do you recall in elementary school participating
9 in chess club?

10 A Yes.

11 Q And who actually taught you how to play chess?

12 A Andy.

13 Q And was Andy involved with your school chess club?

14 A Yes, he was.

15 Q And was ~~Vicki~~^{Victim} also involved in chess club?

16 A He was.

17 Q And during one of those years of chess club -- and
18 again, was that in elementary school?

19 A It was in elementary school.

20 Q Okay. And did you have a chess club party at Andy's
21 house?

22 A We did. It was to celebrated the end of a tournament.

23 Q And were you in -- were you in the 5th grade when you
24 did chess club?

25 A 5th grade?

1 Q Do you recall what years you did chess club?

2 A I think that it was earlier then 5th grade.

3 (Whereupon, State's exhibit 27 was marked for ID
4 purposes.

5 Q Vickm 2 I am going to show you for identification
6 purposes only as State's Exhibit 27.

7 A Okay.

8 Q Do you recognize the individuals that were in that
9 photograph?

10 A Yes.

11 Q And who are those individuals?

12 A That is myself and my brother.

13 Q And can you tell what event that is a photograph of?

14 A Yeah, I think that's the chess club tournament.

15 Q And where is that tournament held?

16 A That is in Andy's attic.

17 Q And what identifying clues are there that you see in
18 the picture that let you know or make you believe that's the
19 chess club party?

20 A Those play mats are the exact kind that we used at the
21 chess club. Yeah, and the pieces as well.

22 Q And do you recall any other instance other than the
23 chess club party where you would have been using those mats and
24 those pieces upstairs in the attic?

25 A No.

1 Q Okay. And I know you don't recall when exactly you
2 were in the chess club but when we were speaking about the night
3 of the truth or dare. The truth or dare night is the attic --
4 is the attic in the state you see in that picture or would that
5 based on the condition of the attic in that picture would the
6 truth or dare night been before that chess club?

7 A Before.

8 Q Now, ^{victim 2} was there ever an instance in the attic
9 where you saw the defendant use ropes?

10 A An incident in the attic?

11 Q Where you saw the defendant use ropes?

12 A Yes.

13 Q Can you please explain to the Court what that was?

14 A Yes. So I was with ^{victim 1} as well and he was showing us
15 what hogtying was and he showed by example. He hogtied one of
16 us and then hogtied the other with the same rope. He would
17 untie us in between.

18 Q Okay. And did anything sexual happen in connection
19 with that hogtying?

20 A No.

21 Q Did you ever see any other instance of the rope in the
22 attic?

23 A I don't recall.

24 Q Now the incident that you relayed regarding the truth
25 or dare night --

1 A Yes.

2 Q You indicated that you and victim 1 were made to do things
3 to each other. Did that happen more than one time or is that
4 the only instance of that that you can recall?

5 A Can you repeat the question?

6 Q Did -- were you and victim 1 were you and
7 encouraged to do things to each other on that night only or was
8 there was more than more instance?

9 A That night.

10 Q Do you recall any other instance?

11 A I don't.

12 Q Okay. And other than that night of the truth or dare
13 night do you have a specific recollection on the truth or dare
14 night of what happened to victim one?

15 A It's not as detailed of a recollection of my own
16 experiences.

17 Q Okay. Other than truth or dare night, do you recall
18 any other instance of observing anything happen to --

19 A I think -- no.

20 Q Do you have other than the truth or dare night do you
21 have any recollection of victim 1 being present when something
22 happened to you?

23 A Well, I mean sometimes he was there for the massages
24 but usually nothing happened.

25 Q Sometimes what?

1 A He was there for the massages but usually that was
2 alone.

3 Q So you are saying some times ^{Victim 1} was there for your
4 massages?

5 A Yeah.

6 Q Okay. Were you ever there for ^{Victim 1}'s massages to your
7 recollection?

8 A I can't recall specifically.

9 Q Okay. Other than these incidents we discussed which is
10 the massages and the truth or dare, is there anything else about
11 your interactions with the defendant where you believe he was
12 inappropriate?

13 A Yes.

14 Q Okay.

15 A There was one instance where we were walking in a
16 forest it was behind a subdivision. There were houses
17 relatively near by and we walked for a while and then we sat
18 down and he revealed his penis and didn't -- didn't give
19 commands to do anything with his penis but I picked up an ant
20 and put it on his penis and the ant bit him.

21 Q Was there anybody else on the hike?

22 A I'm sorry, ^{Victim 1} was also there.

23 Q Thank you, ^{Victim 2} Please answer any questions that Mr.
24 Swerling has for you.

25 A Certainly.

1 THE COURT: Cross examination.

2 CROSS EXAMINATION

3 BY MR SWERLING:

4 Q Mr. Victim 2, I'm am Jack Swerling?

5 A Hi.

6 Q How old are you now?

7 A I'm 22.

8 Q 22?

9 A 22.

10 Q And how far behind Victim 1 were you in school?

11 A One school.

12 Q So let me just ask you while I'm thinking about this.

13 State's Exhibit number 27 is the picture of the chess club?

14 A Yes.

15 Q And there's a date on it, May 31st of 2008?

16 A Yes.

17 Q Okay. So you would have been how old at that time,
18 nine?

19 A Born in '97.

20 Q You were born in '97. So this would have been 2008 so
21 would you have been 11?

22 A Eleven or ten.

23 Q Between 10 and 11?

24 A Well, yeah, my birthday is July so not yet 11.

25 Q And you're saying that the truth -- I don't want to put

1 words in your mouth. The truth or dare night was before this?

2 A Yes.

3 Q And how long before this was the truth or dare night?

4 Was it a year before? Two years before? Three years before?

5 A I can't recall with absolutely certainty.

6 Q Well, has whatever was going on between you and Victim 1

7 and Andy, was it still going on when you were having chess club

8 or had that predated all that?

9 A What exactly are you referring to?

10 Q Well, you talked about massages?

11 A The massages.

12 Q Things of that nature did. At this point in 2008, May

13 31st 2008, had that all occurred previous to this?

14 A No.

15 Q So, what was this? It all happened after this or some

16 before, some after?

17 A Yeah.

18 Q Yeah what? I am trying to figure out what line of

19 demarkation this is, May 31st of 2008?

20 A I don't what you mean by line of demarkation.

21 Q About events that happened before, after, what events

22 were before and what events were after?

23 A Yeah, well, the massages happened after the --

24 Q Massages happened after this?

25 A They happened after the truth and dare. I think some

1 happened before and some after. I don't -- it's hard to have
2 like that distinct photo timeline based on that event. It's not
3 like how I memorized them.

4 Q Let me ask you this, the truth or dare was that the
5 only occasion there was any oral sex? I got confused in what
6 you were testifying to?

7 A The truth or dare was the only case of oral sex.

8 Q And how old were you at that time? What grade were you
9 in at that time? Because I think somewhere you said it started
10 when you were about eight years old?

11 A Yes.

12 Q Is that correct?

13 A Correct.

14 Q Or before?

15 A Eight.

16 Q So you would have been -- you would have been eight
17 years old in 2005? You would have turned eight. '97 is your
18 birthday so you would --

19 A Yes. Yes.

20 Q So the truth or dare would have occurred during that
21 year in 2005? Is that right?

22 A I'm sorry, I'm just nervous answering questions for you.

23 Q I understand. When you're eight years old what grade
24 are you in? I frankly can't remember. I'm not trying to trick
25 you. Third grade?

1 A I kind of in the same boat. Yeah, well, five in
2 kindergarten, so probably six in first grade. So yeah, eight in
3 third.

4 Q So these events took place while you were you in third
5 grade starting the sexual activity with Andy.

6 A Yes.

7 Q And that would have been in 2005?

8 A Yes.

9 Q When you turned eight, is that right?

10 A Yes.

11 Q Okay. What was the first recollection of sexual
12 activity? What was the circumstances that you remember as to
13 the first circumstances surrounding sexual activity. Was it a
14 massage?

15 A I remember the truth or dare incident as if not the
16 first incident, very early on. There might have been things
17 that he did to condition us to like think that was okay.

18 Q You don't remember?

19 A I remember -- as I remember it like the truth or dare
20 was the first.

21 Q And that would be when were you in third grade and
22 eight years of age?

23 A Yes.

24 Q And the attic at that point was finished at that time
25 because you're playing truth or dare in the attic?

1 A No.

2 Q Where were you playing truth and dare?

3 A In the attic. It wasn't finished but it was --

4 Q Under construction?

5 A It was under construction.

6 Q So it was under construction at that time and it took
7 place in the attic?

8 A Yes.

9 Q So prior to that time were there any massages, or you
10 just don't remember?

11 A I remember more clearly massages after it.

12 Q After?

13 A Yes.

14 Q Tell me about the massages. Were they done always with
15 all clothes on? Your clothes on and Andy's clothes on?

16 A Yes.

17 Q Never naked?

18 A Well, I mean sometimes clothes would be pulled aside,
19 like slightly but not fully naked, no.

20 Q And so the massages were they necessarily sexual in
21 nature or not sexual in nature?

22 A I think it would be -- I mean, full body massages and
23 like he would touch my penis on some of them. I would argue
24 that yes, there's a sexual nature to that.

25 Q As far as that goes, now you would be on your stomach

1 on some on the massages, correct?

2 A Yes.

3 Q And how would he touch you? How would he massage you?
4 Under your clothes? Above your clothes?

5 A Under it.

6 Q And how he would get under your clothes if your clothes
7 were on?

8 A Reach like under. Like in my pant leg. I don't
9 understand what is confusing.

10 Q Well, I'm trying to get to how he would be touching
11 your penis?

12 A Yeah, under my clothes.

13 Q But if you were on stomach he wouldn't be accessing --

14 A Well, no, that's like at that point I would be on my
15 back.

16 Q That's what I'm asking.

17 A Okay.

18 Q So where was he positioned at that time because I'm
19 confused about that as well? Is he sitting on your legs?

20 A Mostly to the side.

21 Q He was to the side of you?

22 A Yeah. So I said earlier on my legs and I think I was
23 confusing there. On the side. It happened during the truth or
24 dare so I apologize for that mistake.

25 Q Sitting on your legs took place during the truth and

1 dare?

2 A Well, I mean straddling me in general. Like during the
3 humping. But no, like the massages themselves were like had
4 nothing to do with. He was sitting to the side.

5 Q Sitting to the side. And ^{Victim 1} was there during these
6 occasions, correct?

7 A No. Not all of them, no.

8 Q You wouldn't go over his house by yourself. You went
9 over with ^{Victim 1}.

10 A No, I did sometimes go over myself.

11 Q You did?

12 A Yeah. Some times yeah.

13 Q Would you say most of the time you were with ^{Victim 1}.

14 A No. Well, no, I haven't said that.

15 Q No, I'm saying would you say?

16 A Well, I wouldn't even necessarily think to frame it
17 that way. But no, I wouldn't say that.

18 Q Would most of the time that anything inappropriate
19 happen as Miss Joyner called it, ^{Victim 1} was there, correct?

20 A No, not every time.

21 Q I said most of the time?

22 A Yeah, a fair amount of the time.

23 Q He was there the truth or dare night?

24 A Yes, he was.

25 Q I believe that's what you testified to.

1 A Yes, he was certainly there.

2 Q But you said the massages took place like three or four
3 times. Is that what you are saying?

4 A Four.

5 Q Pardon?

6 A Four.

7 Q Four times. Okay. And to your recollection they did
8 not take place until after the truth or dare or they took place
9 before the truth or dare? I'm totally confused about that?

10 A After.

11 Q After. So nothing sexually happened before truth or
12 dare, is that correct?

13 A I can't explicitly remember anything happening before
14 the truth or dare.

15 Q The massages that you describe, were they all in the
16 attic?

17 A Mostly, yeah.

18 Q Mostly.

19 A Yeah.

20 Q Do you ever recall being naked with Andy?

21 A Yes.

22 Q Where and when?

23 A Well, there was one instance where we were skinny
24 dipping at his parents's house. The three of us.

25 Q And were you -- where were you when you were skinny

1 dipping?

2 A His parents house.

3 Q At his parent's house?

4 A Yes.

5 Q His parents were there?

6 A No.

7 Q And where were you and where was he and where was
8 Chris?

9 A We were all there. We were all at his parent's house.
10 We were in the jacuzzi and then we would go into the pool and
11 then back into the jacuzzi.

12 Q Together?

13 A Together, naked all three of us.

14 Q All three of you were in the jacuzzi together or in the
15 pool together?

16 A Yes.

17 Q So, your recollection was that the chess club that
18 picture was -- or the events took place prior to that chess
19 which was in 5th grade. So that would be consistent about what
20 you are saying about third grade, is that correct?

21 A What answer are you trying --

22 Q The inappropriateness?

23 A They were all inappropriate.

24 Q So but they started when you were in third grade.

25 Whatever was inappropriate?

1 A You haven't specified -- okay.

2 Q Whatever. Whatever they were?

3 A Yes.

4 Q Okay. Did he masturbate you when he was massaging or
5 was it just massages?

6 A Just massages.

7 Q So no masturbation?

8 A No.

9 Q And you didn't masturbate him?

10 A Not -- no, not during the massages.

11 Q Okay. Did you ever masturbate him?

12 A Not to --

13 Q No, I asked did you ever masturbate him? Not to some
14 point. Did you ever masturbate him?

15 A During the truth or dare, yeah.

16 Q You did?

17 A Yeah.

18 Q Okay. And so what was the state of the attic when that
19 truth or dare took place? Under development or finished?

20 A Under development.

21 Q So truth or dare is the first real thing you remember,
22 is that right?

23 A Yes.

24 Q And that would have been in the third grade when you
25 were eight years old.

1 Now, I'm very confused about what you said happened at that
2 truth or dare event. Tell them -- describe how you play truth
3 or dare. I'm a little old so I don't remember if I ever played
4 it. What would you do?

5 A So, one person says, well -- one person is asked truth
6 or dare and then he answers either truth or dare and if they say
7 dare then they are told to do something. And it's usually
8 something that they don't -- risque or something that they might
9 not want to do or is like maybe uncomfortable. But like that's
10 the game.

11 Q If you had to say truth or dare why would you say dare
12 if you knew it was something not good. I'm not sure if I
13 understand the game.

14 A Well, usually games of truth or dare are not sinister
15 like child grooming so...

16 Q All right. So you were playing truth or dare. *Victim 1*
17 was there. You were up in the attic, correct?

18 A I'm sorry, what?

19 Q You're playing truth or dare. *Victim 1* was there and you
20 are up in the attic?

21 A Yes, we were in the attic.

22 Q And so what -- what was inappropriate that happened
23 there? I'm just trying to figure this out. I'm sorry I just
24 lost your train of thought?

25 A What was inappropriate?

1 Q What was inappropriate that happened during the truth
2 or dare events?

3 A Well, I received and gave oral sex to Andy.

4 Q So you dared him or he dared you? How did that come
5 about? Do you recall? Do you have any recollection of those
6 events?

7 A He dared me.

8 Q He dared you what?

9 A To perform oral sex on him.

10 Q On him?

11 A Yes.

12 Q And how did he get to perform oral sex on you?

13 A I might have dared him.

14 Q You don't recall?

15 A No, I must have dared him. Yeah.

16 Q Was did it to ejaculation on either one of you?

17 A No.

18 Q And that was the only time that happened, the oral sex?

19 A Yes.

20 Q It never happened again?

21 A No.

22 Q All right. And ^{Victim 1} was -- was this in bed that this
23 took place?

24 A Yes.

25 Q And ^{Victim 1} was there when this happened?

1 A Yes.

2 Q So he would have seen you giving oral sex to him, to
3 Andy and he would have seen Andy doing oral sex on you, correct?

4 A Well, I can't speak for what he saw.

5 Q Well, he was right there in the bed with you.

6 A I would assume so, yes.

7 Q And was there any masturbation in the bed when you were
8 playing truth or dare?

9 A Yes.

10 Q And who is masturbating who when you were playing truth
11 or dare in the bed?

12 A Me to Andy and Andy to us.

13 Q Us?

14 A Yeah.

15 Q So ~~Victim 1~~ was masturbated as well?

16 A Yes.

17 Q In front of you?

18 A Yes.

19 Q You have a specific recollection of that?

20 A Yes.

21 Q Okay. Did either one of you say anything at that time
22 about what was going on? What was happening?

23 A I remember being told not to talk about.

24 Q What now?

25 A I remember being told to not talk about it.

1 Q So, that would have been said in front of ^{Victim 1} as
2 well?

3 A It would have been.

4 Q Were you fully dressed when you were in the bed playing
5 truth or dare?

6 A No, we were naked.

7 Q You were naked?

8 A Well, it started with us not doing explicitly sexual
9 acts to one another so at that point we were clothed. By the we
10 were dry humping each other and --

11 Q Who was dry humping who?

12 A I'm sorry, have I not answered that question before.

13 Q Maybe to Miss Joyner not to me. I never asked you
14 about dry humping?

15 A Okay. I remember dry humping Andy and Andy dry humping
16 me.

17 Q Now before I asked you about being naked. You said
18 that happened in his pool and in his jacuzzi?

19 A I wasn't saying that it happened just at his pool and
20 jacuzzi.

21 Q So you and ^{Victim 1} and Andy were naked up in the bed in
22 the attic playing truth or dare?

23 A Yes.

24 Q And did ^{Victim 1} -- did ^{Victim 1} perform oral sex on either
25 Andy or did Andy perform it on him that night?

1 A I don't recall well enough to say yes or no on that.

2 Q But you recall being naked?

3 A Yes, and I recall the acts that happened to me.

4 Q Which was masturbation and then oral sex?

5 A Yes, and I know that ~~Victim 1~~ was dry humped but I don't
6 know if he performed or had performed on him oral sex.

7 Q Let me ask you about Daufuski Island. It's my
8 understanding that he had boxers shorts which had a split at the
9 -- in the front?

10 A Yes.

11 Q You just happened to see his penis in the split in the
12 boxer shorts, correct?

13 A No, I saw the indentation like -- I mean, like the
14 shape of his penis.

15 Q The shape of it. So you never saw it? He never took
16 it out, is that correct?

17 A No, I mean -- yeah, I don't remember seeing it. No.

18 Q Okay.

19 THE COURT: Counsel approach the bench please.

20 (WHEREUPON, there was an off the record
21 discussion.)

22 THE COURT: You may proceed.

23 Q Excuse me one minute. I just want to make sure there
24 was no other incidents of oral sex, is that correct? I may have
25 asked you that but I just want to make sure.

1 A Correct.

2 Q And this walking into the forest and he revealed his
3 penis and you put an ant on it?

4 A Correct.

5 Q And ^{Victim 1} was there?

6 A ^{Victim 1} was there.

7 Q I never heard about that before in your oral statement.
8 It's not there.

9 A It's something I discussed in other formats.

10 Q Something you discussed where?

11 A It's something that I had discussed with Erin
12 previously. It's -- to -- there are certain things that are a
13 little hazier in my mind and so.

14 Q That's fine.

15 A That's why it wasn't mentioned then because that's not
16 --

17 Q I don't want to cut you off but are you done?

18 A No, I just -- go ahead.

19 Q Have you ever discussed this case with witness one?

20 A No.

21 Q You and he have never had any discussion?

22 A I mean --

23 Q It's a yes or no answer?

24 A No, I just -- yes, it's a vague question.

25 Q No, it's not vague. Have you and he ever discussed the

1 case about what happened to either one of you?

2 A No. Well, yeah I just didn't know if it was...

3 MR. SWERLING: Nothing further.

4 THE COURT: Any redirect.

5 MS. JOYNER: Just briefly.

6 REDIRECT EXAMINATION

7 BY MS. JOYNER:

8 Q Victim 2 do you know exactly when particular things
9 happened? Do you have an exact date for anything that happened
10 to you Mr. Castillo?

11 A No.

12 Q Did the massages occurred in the attic?

13 A Yes.

14 Q Did the truth or dare occur in the attic?

15 A Yes.

16 Q Now again, did anything happen -- to your knowledge do
17 you have any recollection of anything happening passed the date
18 that Mr. Castillo married his wife?

19 A Nothing happened after that date, no.

20 MS. JOYNER: No further questions.

21 THE COURT: Is that it?

22 MR SWERLING: Yes, sir.

23 THE COURT: You may step down. You're finished.

24 MS. JOYNER: The next substantive witness witness
25 one. It might be important to flush out a few

1 dates which can be done through a very quick witness
2 that would be Susan C that would just go to the
3 age of the victims at the time the incidents occurred.

4 THE COURT: My response was call your next
5 witness.

6 MS. JOYNER: Yes, sir. Thank you. Can you please
7 ask Miss Susan C to come in.

8 SUSAN C called as a witness, having been
9 duly sworn by the clerk, was examined and testified as
10 follows:

11 DIRECT EXAMINATION

12 BY MS. JOYNER:

13 Q Ma'am, can you please state your full name for the
14 record?

15 A Susan G C.

16 Q And are you the mother to ^{victim 1} and ^{victim 2} ?

17 A I am.

18 Q And do you know the defendant in this case Andy
19 Castillo?

20 A I do.

21 Q Was he formerly your neighbor?

22 A Yes, he was.

23 Q And I am just wanted to very quickly ask you some
24 questions regarding some pertinent dates?

25 A Sure.

1 Q Did your family take a vacation with the defendant to
2 Daufuskie Island?

3 A Yes, we did.

4 Q And do you know the date of trip?

5 A It was June 17th through 19th of 2005.

6 THE COURT: 2000 what?

7 THE WITNESS: Five.

8 Q And following that date or that time did the boys spend
9 time at Mr. Castillo's residence?

10 A Yes.

11 Q Was that a frequent occurrence?

12 A Frequently yes.

13 Q Were they some times together?

14 A Yes.

15 Q Were they sometimes alone?

16 A Yes, they were.

17 Q Going back to July of 2017 do you recall having new
18 carpet installed in house?

19 A We replaced the pad and the carpet in our house.

20 Q And at the time when that happened was Mr. Castillo
21 redoing an attic space?

22 A He was. He was modifying a space and we offered him
23 the remnants because when they cut the carpet there was overage
24 and so we offered him that to finish his space.

25 Q Okay. And so then was the attic -- was the remodeling

1 of the attic was a known thing?

2 A Yes.

3 Q Okay. And subsequently were you aware that the boys
4 would go over to the house when the attic was complete?

5 A Yes.

6 Q Now, do you recall victim 1 and victim 2 participating chess
7 club?

8 A Yes, they participated in chess club in elementary
9 school. victim one's 5th grade year and victim two's 4th and 5th grade
10 year.

11 Q Now, at some point after the end of victim 2's 5th grade
12 year was there a chess club party?

13 A Yes.

14 Q And was that held at Mr. Castillo house?

15 A It was.

16 Q Okay. And would that have been at the ending of 2007,
17 2008 school year?

18 A It was May of that year.

19 Q Now, were you -- do you recall the defendant's wedding
20 to his wife Kathryn?

21 A I do.

22 Q And was your husband in fact in that wedding?

23 A He was.

24 Q And did you attend that wedding?

25 A Yes, we did.

1 Q What was the date of his wedding?

2 A His wedding was July 25th, 2009.

3 Q Did he spend the night at your house the night before?

4 A He did.

5 Q Thank you, very much. Please answer any questions Mr.
6 Swerling has?

7 MR. SWERLING: No questions.

8 THE COURT: All right. You may come down. Thank
9 you very much.

10 MS. JOYNER: May you get *witness one*

11 *Witness one*, called as a witness, having been
12 duly sworn by the clerk, was examined and testified as
13 follows:

14 DIRECT EXAMINATION

15 BY MS. JOYNER:

16 Q Can you please state your full name for the record?

17 A *witness one*.

18 Q *Mr. Witness 1* how old are you today?

19 A I am thirty years old.

20 Q What is your date of birth?

21 A It is

22 Q Do you know the defendant in this case?

23 A I do.

24 Q How do you know the defendant in this case?

25 A So, I was in -- so my sister is seven years older than

1 me. She was in high school at the time, North Western. She was
2 dating the defendant at the time and so he came to our house and
3 I first met him there.

4 Q Okay. So you said your sister is seven years older.
5 What year did your sister graduate from high school, do you
6 remember?

7 A She graduated in 2000.

8 Q And are you aware of what year the defendant graduated?

9 A I believe it was 1999.

10 Q And what year did you graduate from high school?

11 A 2007.

12 Q Did you graduate on time?

13 A I did.

14 Q Did you skip any grades?

15 A No.

16 Q Where were you living at the time that you met the
17 defendant?

18 A I was living at _____ in Rock Hill,
19 South Carolina, 29722.

20 Q And when you first met the defendant where was he
21 living? You don't have to know the exact address. Was he
22 living with his parents?

23 A He was. House in _____ in Rock Hill.

24 Q So when the defendant started dating your sister did he
25 become close with your whole family?

1 A He did absolutely.

2 Q Would he frequently come to your house?

3 A He would.

4 Q Was it unusual for him to come to your house even when
5 Kat wasn't there?

6 A Yes. As time progressed he would come and visit. He
7 was there for like holidays and family gatherings and for day
8 parties, et cetera.

9 Q Okay. Did you end up spending a lot of time with him
10 as well?

11 A Yes.

12 Q Would you sometimes spend time with him at your house?

13 A I would.

14 Q Were there occasions where you would go to his house?

15 A Yes.

16 Q And were there occasions where you would spend the
17 night at his house?

18 A Yes, that did happen.

19 Q Okay. At some point in the time that you spent with
20 the defendant did anything inappropriate happen?

21 A Yes.

22 Q Okay. Can you tell the judge generally and then we'll
23 get into some specifics, generally what inappropriate things
24 were going on?

25 A So, the first thing that occurred to me that was

1 strange was when I would spent the night at the defendant's
2 house. He would make me sleep in the same bed as him, in his
3 water bed every single time.

4 It gradually progressed to massages in which we were both
5 naked and then from there there were incidents in his parent's
6 jacuzzi tub where I was forced to masturbate the defendant,
7 yeah.

8 Q Okay. Let's kind of go step by step. Do you remember
9 how many times you spent the night with the defendant over the
10 course of -- well let me ask you this first. The first time you
11 spent the night with the defendant it's your testimony you had
12 to sleep in the same bed with him?

13 A Yes.

14 Q Okay. Other than sleeping in the same bed with him did
15 anything strange happen at that sleep over?

16 A No.

17 Q You said it progressed to massages. Can you tell the
18 jury, tell the judge, kind of explain what you mean by massages?

19 A So it was basically full body massage. I would be
20 laying face down. The defendant on top of me on my back.
21 Massage back, arms, legs, yeah.

22 Q At any point would you flip over during the massages?

23 A Yes.

24 Q And what would happen when you flipped over?

25 A Again, so it was a full body massage. So the defendant

1 would massage, arms, down my legs. Sometimes brushing my penis
2 or that area. Depending -- I would have to then again as this
3 went on I would have to massage the defendant or sometimes he
4 would be kneeling next to me and I would have to hold on to his
5 penis as he massaged me.

6 Q Okay. Let me kind of I will just slow it down a little
7 bit.

8 A Sure.

9 Q And go from -- about how many times had you slept over
10 when you received your first massages?

11 A I would say probably may be the third or fourth time is
12 when the massages started.

13 Q Now, with those massages you said that the massages
14 progressed?

15 A Right.

16 Q The initial massage -- did the initial massage involve
17 him -- any masturbation at all?

18 A It did not.

19 Q And in those initial massages would he touch your
20 penis?

21 A It's possible that he maybe like when he was giving me
22 the massage he would brush it but it wasn't like direct contact.

23 Q Now, you said as the massages progressed there was
24 masturbation. Tell the Court, if you can, about the first
25 incident of masturbation?

1 A Is that during massage or --

2 Q The first time that masturbation was introduced into
3 this equation?

4 A So it was actually at -- well, in his parent's jacuzzi
5 tub when his parents were not there, there was -- I guess I was
6 interested at the time about what masturbation was. So there
7 was a discussion about it and I remember bathing in a tub.
8 Again, I was naked. He was naked. He forced -- well so, he was
9 explaining masturbation. I had to grab his penis and then
10 masturbate him until he ejaculated.

11 Q Did he masturbate you as well?

12 A I believe he tried to at that time. I don't think I
13 was able to ejaculate or -- or anything like that.

14 Q So you said he grabbed you and tried. Can you kind of
15 explain?

16 A So he basically grabbed my penis and moved it up down.
17 Worked it up and down.

18 Q And you said you had to grab his penis?

19 A Yes.

20 Q And you said you masturbated him?

21 A Yes.

22 Q Did he ejaculate?

23 A He did.

24 Q Now, prior to that particular incident had their been
25 masturbation involved with the massages?

1 A No, actual masturbation. Mainly again, it was just a
2 control thing I guess of me having to him grab on to his erect
3 penis as he was massaging me.

4 Q So once -- so take us to like the incarnation of the
5 massage that involves you holding on to his penis. Were they
6 different in -- were they different other than the holding of
7 the penis and the -- I'm sorry. Scratch all that.

8 A You previously describe the massage.

9 A Yes.

10 Q That would involve you face down on the bed. There was
11 some massage and then you would flip over?

12 A Yes.

13 Q So was that the same type of massages that would happen
14 once you began to hold on to his penis? Was there any other
15 difference for the massages?

16 A So, some times the defendant would try to masturbate me
17 during the massages as well.

18 Q Did that happen before or after the jacuzzi tub?

19 A That was after the jacuzzi tub incident.

20 Q The defendant would try and masturbate you during the
21 massages?

22 A Yes.

23 Q Going backing to -- take you back before the
24 masturbation began as part of the massages, before the first
25 jacuzzi incident, you said that he would have you hold on to his

1 penis. During this period of time did you ever massages him?

2 A Yes, some times. So basically it would be like he
3 would massage me and then he expected me in return for me to
4 start massaging him as well.

5 Q While you were massaging him would he hold on to your
6 penis?

7 A Some times he would grab my penis during that part as
8 well.

9 Q So the first incident in the jacuzzi tub where you were
10 curious or interested in masturbation, do you recall or can you
11 estimate how far in to these massages this inappropriate conduct
12 that was?

13 A So that was probably I would say about six months to a
14 year in.

15 Q So once the jacuzzi tub incident occurred, did the
16 masturbation then become part of the massage?

17 A So generally after that, yes. Every single time there
18 was something of that nature as I describe.

19 Q Okay. Now, the massages, was there one particular
20 location where the massages always occurred?

21 A Yes, it was in Andy's room on his water bed.

22 Q Now, the massages that occurred post jacuzzi tub
23 incident, you said masturbation would be part of that massage.
24 Would that mean you masturbating the defendant or the defendant
25 masturbating you or both?

1 A So it was -- can you repeat the question one more time?
2 I'm sorry.

3 Q So after the first incident in the jacuzzi tub you said
4 that masturbation became part of the massage. So does that mean
5 that as part of the massage that the defendant was masturbating
6 you, you were masturbating him or both?

7 A So generally he would try to masturbate me.

8 Q And you say "try", at this point in time are you able
9 to -- or at any point did you ever become -- did you have a
10 physical response?

11 A Yes, I would think so at this point.

12 Q Now, the earlier jacuzzi tub incident, was that the
13 only time you were in the jacuzzi tub with the defendant?

14 A So that actually happened multiple times.

15 Q Okay. And in the jacuzzi tub what types of things
16 would happen?

17 A That was always where it was basically me masturbating
18 him to ejaculation.

19 Q Did he ever try masturbate you in the jacuzzi tub
20 again?

21 A Yes, he did.

22 Q Was that less frequent then you masturbating him in the
23 Jacuzzi?

24 A I would say so.

25 Q Now regarding the incident in the Jacuzzi tub would

1 there be anybody home when those would occur?

2 A No.

3 Q And this is the jacuzzi tub is in the parent's bedroom?

4 A It was in the parent's bedroom so his parents were not
5 be there. There would be no one there but us.

6 Q With the other incidents in his room would there
7 sometimes be a parent home?

8 A Yes, some times they were there and we were just in his
9 bedroom with the door shut.

10 Q Would you ever see his parents when you were there in
11 his bedroom?

12 A No. They would not check on us. Usually when I went
13 over there I would see them maybe when I first got there. Maybe
14 at dinner, but then no.

15 Q Now, did you also -- were there ever incidents where
16 you showered with the defendant it?

17 A Yes, that happened.

18 Q And where would that occur?

19 A In the hall bathroom at his parents' house.

20 Q Would his parents be home?

21 A Some times they were there.

22 Q And was there any touching that occurred during the
23 showering?

24 A No, not during that. Generally no.

25 Q So, the massages that you described involved you

1 getting on your stomach and flipping on to your back, correct?

2 A Yes.

3 Q And were you naked for those?

4 A Yes.

5 Q Okay. Was the defendant?

6 A Yes.

7 Q Okay. When they progressed to masturbation did those
8 massages still occur in the defendant's bedroom?

9 A They did.

10 Q And would they follow the same format of getting on
11 your -- laying face down and then flipping over?

12 A Yes. And I will note the first time that it occurred,
13 the first massage, I believe we did not get naked. I believe we
14 were both in our underwear.

15 Q Okay. And whose idea was it for you to be either in
16 your underwear or naked?

17 A It was Andy's.

18 Q Now, after masturbation became part of the massages
19 then he would generally try and masturbate you during the
20 massages?

21 A Yes.

22 Q Were there ever instances where you were made to
23 masturbate him during massages?

24 A Yes.

25 Q Was that ever to ejaculation?

1 A Not that I remember from the massages, no. It was only
2 in the hot tub that that occurred.

3 Q Okay. That's the Jacuzzi tub in his parents' room?

4 A Right. Correct.

5 Q Now, do you recall exact dates of when these different
6 things happened involving the defendant?

7 A So I don't remember exact dates. I remember the first
8 time that I spent the night. The defendant picked me up. It
9 was -- I was playing church basketball. So it was definitely in
10 the fall and I believe I was in the third grade.

11 Q When you initially reported did you initially say that
12 you thought it was the second grade?

13 A I did. I was just going I think generally what age I
14 thought I was based on my sister's age. So, yes, I did.

15 Q Okay. Now, at some point while -- can you guess --
16 estimate how many times something inappropriate happened with
17 the defendant while you were at his house?

18 A During the period it was probably from when I guess I
19 was about third grade until about fifth grade, I would say it's
20 about 10 to 20 times at least.

21 Q And do you remember -- or was there any event that you
22 correlate when this abuse stopped?

23 A So it was once I got in to middle school I started
24 basically telling the defendant to stop and get off. And again,
25 this was in the context of me sleeping in the same bed. Because

1 before that time period the defendant would try to grab me and
2 cuddle me at night. Try to get close. I could feel his erect
3 penis behind me in my back. You know because he was right there
4 behind me. Kind of smothering me when I was trying to sleep.
5 And so, once I got a little bit older into middle school I would
6 say around 2000 or so -- 2001 -- I started telling the defendant
7 to stop and get off and it taper off from there although I did
8 still sleep in the bed.

9 Q Did you continue a relationship with the defendant
10 after the sexual abuse stopped?

11 A I did.

12 Q And so you said you still slept in the bed. At that
13 point did he any longer try and touch you?

14 A Again, as I protested, I mean he would be angry about
15 it but no, it stopped.

16 Q And did you continue to be friends with him past middle
17 school?

18 A Yes.

19 Q Did you remain in contact with him through high school?

20 A I did.

21 Q And did you still have occasion to go around him even
22 when he moved over to the house next to the

23 A Yes, I went over to that house.

24 Q And did you bring friends over to the house in high
25 school?

1 A Yes.

2 Q And hang out at the house some times?

3 A Yes.

4 Q And you said you graduated high school in what year?

5 A 2007.

6 Q And do you remember the last time you were at the
7 defendant's house on Court do you recall whether he was
8 building that attic?

9 A I know that he was building the attic room upstairs but
10 it was not started, I don't think -- or even definitely not
11 completed. I don't know if he had started it by then but I know
12 he had plans to create the room upstairs.

13 Q Now ^{witness 1} back when this was going on, did you tell
14 anybody what was happening?

15 A I did not.

16 Q Why did you maintain a relationship with the defendant
17 after the sexual abuse?

18 A So, the main reason I think was the manipulation that I
19 experienced. I think overall the defendant made it seem like --
20 well, I always wanted an older brother so the defendant I think
21 used that against me and then I think it was more of like a
22 relationship in which I -- he rewarded me. Well, at that time
23 he rewarded me with I guess like video games and computers and
24 different things and so I think that part did continue as far as
25 just I guess those interests of mine.

1 So I did maintain the relationship and he had already gotten
2 in with my family. I think the main thing I was afraid of was
3 that it would get out and I would seem like something was wrong
4 with me. Like I was broken or just -- I didn't want to have
5 that happen, anything other than that I was just a normal kid.

6 Q Okay. And so in addition to you maintaining your
7 relationship did your parents maintain a relationship?

8 A Yes, they did.

9 Q Thank you, very much. Please answer any questions Mr.
10 Swerling has.

11 A Thank you.

12 THE COURT: Cross examination.

13 CROSS EXAMINATION

14 BY MR SWERLING:

15 Q *Witness one* right?

16 A Yes, sir.

17 Q I'm Jack Swerling. How are you?

18 A Okay.

19 Q Let me try and get through this pretty quick.

20 A Okay.

21 Q You and Andy were like brothers, correct? I think you
22 described that relationship that way.

23 A I would say other than the abuse, yes.

24 Q And more or less he was like a member of the family?

25 A He was.

1 Q He got so close to your sister and your family more
2 like a member of the family?

3 A Correct.

4 Q He went on trips with you guys?

5 A Yes, sir.

6 Q And you went on trips with him?

7 A Yes.

8 Q You went to Daufuskie, correct?

9 A Yes.

10 Q Nothing happened at Daufuskie Island, right?

11 A Correct.

12 Q And I think you had described in your audio statement
13 that you had always wanted an older brother and he sort of fit
14 that bill?

15 A Right.

16 Q Now, as far as the -- what was the period of time from
17 the beginning to the end of when he was doing these sexual
18 things to you?

19 A It was 1997 to around 2000.

20 Q Okay. And how old were you at that point?

21 A Eight years old to about ten years old.

22 Q So eight to ten?

23 A Yes, sir.

24 Q That would have been like third grade to fifth grade,
25 sixth grade?

1 A Right. Exactly.

2 Q There was never any oral sex, correct?

3 A Correct.

4 Q What we're dealing with is we're dealing with massages.
5 For the most part that was mostly the activity, is that correct?

6 A Yes.

7 Q Now, when you would go over his house as I understand
8 it, and correct me if I am wrong, but you and he slept together
9 in his bed in his room on every occasion?

10 A Yes.

11 Q Okay. And that was I think you had estimated something
12 like 15 times when you made your oral statement, correct?

13 A Yes, sir.

14 Q And you did you ever sleep naked with him?

15 A Yes.

16 Q Most of the time, correct?

17 A After -- it was probably after the first massage so
18 probably about maybe the third or fourth time staying over there
19 I would say yes, it did happen.

20 Q And he slept naked with you?

21 A Yes.

22 Q So, that would have been if there were a total of --
23 and it's just an estimate -- total of 15 times, the first few
24 were not, but probably another ten times you were all sleeping
25 naked in the bed?

1 A Yes, at least.

2 Q At least?

3 A Yes.

4 Q You all showered together, correct?

5 A Some times.

6 Q And that was at his parents' house?

7 A Yes.

8 Q Was there anything sexual that took place in the shower
9 or you just showered together?

10 A Just showered.

11 Q And you would go into the Jacuzzi together, is that
12 correct, both of you naked?

13 A Yes.

14 Q And did anything happen in the Jacuzzi sexual?

15 A Yes.

16 Q And what happened in the Jacuzzi?

17 A I was forced to masturbate the defendant to completion.

18 Q Okay. And that was the time it went to completion, is
19 that correct?

20 A Yes, there were several.

21 Q Several. Now, these massage situations -- and I don't
22 mean to have you repeat it again. Where did the massages take
23 place? In his bed?

24 A In his waterbed.

25 Q Waterbed. And that's the bed you are talking about

1 where you slept, correct?

2 A Yes.

3 Q So the massages -- did the massages -- well, let me ask
4 you this. Massages were naked as well?

5 A Yes.

6 Q Okay. You were naked? He was naked?

7 A Yes.

8 Q On each one of those occasions?

9 A Yes.

10 Q And when it first started off he was just glancing on
11 your penis? There was no direct contact where he was holding on
12 to it or you were holding on to him?

13 A Correct.

14 Q But then it went to a situation where he would -- you
15 would be naked and he would be massaging you and have you flip
16 over and he would try and masturbate you?

17 A Correct.

18 Q And how many times did that happen?

19 A So I would estimate probably at least ten times.

20 Q And how many times did you do that to him?

21 A Can you repeat the question.

22 Q How many times did you masturbate him to ejaculation?

23 A So that was in the hot tub but -- or the Jacuzzi tub.
24 But that was probably at least three or four times.

25 Q In the Jacuzzi?

1 A Yes, sir.

2 Q And on each one of the occasions that you are talking
3 about when you slept in the bed, were his parents not there or
4 were they there sometimes but not other times?

5 A Sometimes they were there. Sometimes they were not.
6 They would travel a good bit.

7 Q I think you had described him as being a little
8 controlling?

9 A Yes.

10 Q And I think you also said that he -- you looked at what
11 he was doing or what you were doing he would reward you with
12 things, is that correct?

13 A Correct.

14 Q For example what kind of rewards? Did you got computer
15 games? Tell us what you got as reward?

16 A So usually, for example, like for the massages or
17 whatever he asked me to do I would have to do that before I
18 would be able to go for example, play a certain game or go down
19 to the basement. We would wrestle around or fight or things
20 like that at the time.

21 Q But there was always some kind of reward at the end of
22 this if you did what he wanted you to do?

23 A I feel like it wouldn't be every single time as far as
24 having a reward, but it did occur.

25 Q It did occur. Did he buy you things?

1 A During our relationship, yes.

2 Q And what kind of things, toys? You were young so toys,
3 video games, X-box? That kind of stuff? All of which is
4 unfamiliar --

5 A It was before X-box.

6 Q I know. Totally unfamiliar with me.

7 A Yes. That's sounds right.

8 Q That was the kind of thing he would go ahead and reward
9 you with buying you things?

10 A Sometimes. I think mainly more just souvenirs if he
11 would travel. And then as far as like the computer I know he
12 built me a computer. It was probably after this time period.
13 But yes, in general I would say, yeah, your correct.

14 Q And he actually continued to give you things. Didn't
15 he build or rebuild you a stereo?

16 A It was a sub-woofer box.

17 Q Sub-woofer.

18 A Yeah.

19 Q And this was not a short period of time. You're
20 talking about almost three years from 1997 to 2000 I believe is
21 what you said?

22 A Yes, around that time.

23 Q That was the parameters, both the beginning and the
24 end?

25 A Correct.

1 Q Excuse me one minute.

2 MR. SWERLING: That's all I have judge.

3 THE COURT: Redirect.

4 MS. JOYNER: No redirect, Your Honor.

5 THE COURT: You may come down. Thank you, very
6 much.

7 THE WITNESS: Yes, sir.

8 THE COURT: Next witness.

9 MS. JOYNER: There are no further witnesses, Your
10 Honor.

11 THE COURT: All right.

12 MS. JOYNER: Your Honor, the State is seeking in
13 the matters of the criminal charge involving victim
14 one to admit the testimony of witness one as a
15 Lyle witness. Also to admit the testimony as to victim 2

16 THE COURT: Slow, slow, slow.

17 MS. JOYNER: I'm sorry.

18 THE COURT: Slow down please. Witness one as
19 to Lyle in the case of victim one

20 MS. JOYNER: Yes, sir.

21 THE COURT: All right.

22 MS. JOYNER: And as to victim two

23 THE COURT: And as to victim two

24 MS. JOYNER: But I believe it's appropriate to
25 analyze his testimony separately as to each, both

1 victim one and victim 2 for similarity.

2 THE COURT: Okay. I don't see much similarity.
3 That's the thing.

4 MS. JOYNER: Well, that is the more difficult
5 case. Yes, sir, Your Honor.

6 THE COURT: I didn't say it was difficult.

7 MS. JOYNER: victim 2 does seem to be outlier in terms
8 of the testimony between victim one

9 THE COURT: I would agree with that.

10 MS. JOYNER: Yes. So understanding that which is
11 why we had the fall back position regarding victim 2 that
12 if witness 1 was not sufficiently similar to victim 2 we
13 would sever victim 2's charges and present victim 2 also as a
14 Lyle witness to victim 1 because there are similarities
15 to victim one's testimony. It's victim one's abuse.
16 There's also -- and so I think in that scenario if
17 victim 2 is Lyle witness to victim 1, and witness 1 is a Lyle
18 witness to victim 1, there's no longer necessary for there
19 to be a similarity between victim 2 and witness 1. The
20 central issue would be --

21 THE COURT: I agree.

22 MS. JOYNER: Okay. So, my first argument would be
23 as to witness one. And I do believe Your Honor,
24 that there is a great deal of similarity between their
25 testimony.

1 THE COURT: I agree.

2 MS. JOYNER: Thank you, Your Honor.

3 I believe that approximate age, location,
4 relationship to the defendant, I think those are
5 sufficiently similar.

6 THE COURT: They're common.

7 MS. JOYNER: Sorry.

8 THE COURT: They are common.

9 MS. JOYNER: Yes, sir. I believe when we get to
10 it is the fourth Wallace factor, neither of these
11 young men recalls feeling threatened, which was one of
12 the factors in State versus Wallace and I think their
13 manner of occurrence is very, very similar.

14 Victim 1 and witness 1 describe the beginning as
15 massages. And the difference in those massages is
16 there state of dress, but other than that I think they
17 are very similar. They're occurring on a water bed.
18 They are occurring in the bedroom and they are
19 occurring in a similar fashion as beginning with the
20 young man faced down on his stomach and then he flips
21 over. And in both instances the massaging begins with
22 the sort of moving the hand into the area of the penis
23 without it being blatant touching.

24 There is a progression to masturbation which
25 occurs during I believe a similar timeframe although

1 the timeframes are not identical. If victim one is
2 -- victim one testified he was in the fifth grade
3 when the masturbation joke happened which puts that
4 into the 2006 -- I'm sorry, 2006, 2007 school year.
5 Before the masturbation came the massages. They began
6 after Daufuskie at some point. So we just have a
7 progression that sort of tracks to witness one
8 progression of six months to a year when the massages
9 transitioned to include masturbation. In both cases
10 there's a significant incident between the defendant
11 and the young man. In the case of victim 1 he is asking
12 a question about a joke that he doesn't understand.
13 Masturbation is introduced in that context to explain.
14 For witness 1 he has testified he was sort of interested
15 in the topic and it was introduced in that way. And
16 then both of those incidences involved the defendant
17 performing masturbation on the boy at that time.
18 Masturbation then became incorporated into the
19 massaging.

20 In the case of victim 1 it progressed to oral but
21 since we're entering witness 1 as a Lyle witness to
22 that progression is not problematic under the case
23 law. So I would submit in both cases the boy did have
24 to masturbate the defendant. In the instance it was
25 only one time. In the instance of witness 1 it was more

1 than one time but that is similarity in their abuse
2 and I think it tracks very, very closely to the
3 factors of State verses Wallace.

4 THE COURT: How about ^{Victim 1} to ^{Victim 2}?

5 MS. JOYNER: ^{Victim 1} to ^{Victim 2} I believe as far as
6 ^{Victim 1} to ^{Victim 2} the massaging, I think it's very clear
7 that ^{Victim 2} massages never involved masturbation,
8 but those massages did track with the early initial
9 massages that ^{Victim 1} experienced.

10 Now, the incident of truth or dare, that's a
11 little bit more of a -- to kind of place that into a
12 context, I will tell the Court I think based upon the
13 timeline that we know -- none of this young know
14 exactly when this happened. But that's the reason I
15 brought Miss C in to testify was to help aid
16 with some of those dates. With Daufuskie being a very
17 significant date of June 17th of 2005. They come back
18 on June 20th. So the earliest date that anything
19 could have happen to either boy is that June 20th of
20 2005. So the attic although we don't have an exact
21 completion date, Miss C recalls the carpet. She
22 installs new carpet in her house and offers the
23 defendant carpet because he's in the process -- he
24 renovating the attic in July of 2007. And so, I point
25 that out only to say that, while ^{Victim two} was

1 somewhat unclear on how old it was and was
2 guesstimating the third grade. I think the timeline
3 bears out that if he is being abused in the attic he
4 is passed third grade and he's more in the fifth grade
5 area.

6 THE COURT: The truth or dare is an event.

7 MS. JOYNER: I'm sorry.

8 THE COURT: I don't why people can't hear me.
9 Truth or dare is an event, not a series of activities.

10 MS. JOYNER: It is event, not part of a
11 progression.

12 THE COURT: Right.

13 MS. JOYNER: But I point out to the Court within
14 the context of ~~Victim 1~~'s testimony. ~~Victim 1~~'s abuse is
15 very clear. It began earlier then ~~Victim 2~~ because ~~Victim one~~
16 is describing the massages that occurred before the
17 attic. So within the progression of events that
18 happens to ~~Victim 1~~ he's already being abused when this
19 truth or dare incident occurs. Now ~~Victim 1~~ vaguely
20 remembers the truth or dare incident. Doesn't have
21 any recollection of all those specific things
22 happening. I would submit to the Court that is from
23 ~~Victim 2~~'s testimony the fellatio aspect of that is a
24 little bit more problematic because it is not as
25 similar to ~~Victim 1~~'s fellatio. However, I think it sort

1 of still fits into the context of the overall
2 timeline. ~~Victim 1~~ does recall a truth or dare incident
3 happening just without all the specificity of all the
4 sexual abuse occurring.

5 THE COURT: Well, you certainly can try the
6 defendant as to ~~victim 2~~ in a standalone trial.

7 MS. JOYNER: Yes.

8 THE COURT: No question about that. The question
9 obviously is whether that testimony in a trial just
10 involving ~~victim 2~~ would be admissible and it would. But
11 as 404 issue I'm not convinced at this point.

12 MS. JOYNER: Regarding ~~victim two's~~?

13 THE COURT: Yes.

14 MS. JOYNER: I would submit that perhaps the
15 redaction of that incident but ~~victim 2's~~ testimony
16 regarding the massages would be appropriate under 404
17 (b). I will acknowledge to the Court that there's a
18 timing issue regarding the fact that happened early on
19 and the massages came later, but just on the point of
20 showing massaging as being part of a common scheme or
21 plan I think that testimony --

22 THE COURT: You already got that with ~~witness one~~.

23 MS. JOYNER: Yes, sir.

24 THE COURT: Let me hear from the defense.

25 MS. WILSON: Thank you, Your Honor. Well,

1 preliminarily we think that the way the State is
2 trying to do this is kind of back-dooring in evidence
3 regarding ~~Victim 2~~-- or evidence regarding ~~witness 1~~ that
4 she wouldn't be able to get in if the trial was
5 joined.

6 The State did originally ask for the trial to --
7 for ~~Victim 2~~ and ~~Victim 1~~ to be joined. She noticed it for
8 trial this week and so we find that if she can't get
9 ~~witness one~~ 's testimony in because of inconsistencies with
10 ~~Victim two~~ to then sever them and get it in any way seems
11 like she's sliding it in the backdoor when it
12 otherwise wouldn't be admissible.

13 We also believe that the trial should be joined
14 between ~~Victim 1~~ and ~~Victim 2~~ because it is -- they are in
15 and of themselves kind of an inner-connected story and
16 also for judicial efficiency. It's going to be the
17 same witnesses for the most part, the same officers,
18 the same parents. If she's going to try in a separate
19 trial -- if they're going to try and Lyle in the other
20 brother's information anyway, or testimony, it would
21 be the same brothers testifying twice. So basically
22 it would be almost two identical trials which would
23 waste a lot of Court resources and time.

24 Like I said, it's the same general nature
25 involving these connected transactions between ~~Victim 1~~

1 and Victim two.

2 THE COURT: Is joinder still an issue?

3 MS. JOYNER: No, I didn't believe so.

4 MS. WILSON: Well, at this point she's trying to
5 sever them, so we're arguing that they should be
6 joined and not severed.

7 THE COURT: Well, the indictments certainly sever.
8 I can't make the decision as to which indictment to go
9 forward on. Grand Jury of York County has indicted.
10 I don't know how many there are, six or seven or eight
11 different cases here. One, two, three four -- eight
12 cases and the choice of which case to go forward on
13 unfortunately belongs to the State.

14 MS. WILSON: And I understand that. I just think
15 that as far as our court resources go to have two
16 identical trials seems like a waste. If they're not
17 joined then we don't believe that ^{Victim 2} should come in
18 under Lyle, or witness one.

19 Let me get to that. So to admit the evidence
20 obviously it has to be -- Lyle evidence has to be
21 relevant, admissible under 404, which they are trying
22 to show common scheme or plan. And it has to be
23 then -- if all of that is found it has to come in
24 under 403 and be more probative than prejudicial.
25 First of all, I don't think that the evidence

1 regarding ^{witness 1} is relevant to victim 1 It is its own
2 unique fact pattern. It's separate in time and place.

3 THE COURT: No, its not. Not separate in time and
4 place.

5 MS. WILSON: It happened ten years before the
6 allegations between the victim boys in a different
7 place. In a different home.

8 THE COURT: Go ahead.

9 MS. WILSON: It also doesn't tend to make the
10 allegations by the victims any more or less probable.
11 The State is seeking to admit it to just show
12 propensity for child molestation.

13 As far as under 404(b), the common scheme or plan,
14 the evidence has to be clear and convincing, first of
15 all, which I don't believe it was shown. The
16 testimony that was provided today was inconsistent
17 with itself. It was inconsistent with some of the
18 other testimony that we heard. So I don't find -- I
19 don't think that we can get to clear and convincing as
20 to the evidence.

21 Secondly, there has to be a close degree of
22 similarity to the crimes that have been charged. I
23 don't know that that's is found under the Wallace
24 factors. And if you look historically at common
25 scheme in Lyle it's applied to such cases where

1 evidence of acts prior and subsequent to the charged
2 indictments show continued illicit intercourse between
3 the same parties. Here we have a totally different
4 party with ~~witness 1~~ and the defendant. As far as the
5 Wallace factors, the boys were approximately the same
6 age. We do concede that. As far the second factor
7 though, I think they have very different
8 relationships. With ~~witness one~~ and the defendant
9 they were more like brothers. In fact you will hear
10 testimony that they were blood brothers. ~~Witness one~~
11 called the defendant "bro". They were only eight
12 years apart so they were a lot closer in age at the
13 time. With the ~~victims~~ they were 14 and 16 years
14 apart from the defendant. The defendant was an adult.
15 He was out of college. He owned his own house. I
16 mean, we heard testimony today that ~~victim 1~~ described
17 him as mentor and a close family friend. ~~Victim two~~
18 describes him as an authority figure but a little more
19 personable because he wasn't quite the age of a
20 parent. The defendant spent a lot of time alone with
21 the ~~victims~~ He took them on trips. He was allowed
22 to pick them up from school. He wasn't of the age
23 where he could take ~~witness 1~~ on trips alone. So it
24 was a completely different relationship between them.

25 Even the relationship the defendant had with their

1 parents was different in that the 'V family' he was
2 more like a son to the C family and with the C family
3 he was more like a peer or a friend to them as well
4 because he was not very far off from their ages.

5 As far as the third factor, location, the State
6 generalizes the abuse occurred in the defendant's home
7 and while they were both his homes the witness 1 abuse
8 was alleged to have occurred in his parents' home and
9 also in specifically the Jacuzzi tub and in the
10 waterbed. Victim one claims -- both of the victims

11 claim it happened in the attic and also the
12 defendant's bedroom. But victim one also says
13 there was some abuse in his own house and in Daufuskie
14 Island. There has been testimony about some incident
15 in the forest. So I think the places are also very
16 separate.

17 The fourth factor, victim 2 claims he was threatened
18 by the defendant and not told to tell anyone. No one
19 else has that claim. In fact witness 1 actually
20 continued the relationship since he was getting
21 presents and rewards. Victim 1 never said he felt
22 threatened. In fact both of them continued the
23 relationship well after the abuse ended.

24 The last factor, is regarding the difference in
25 the sexual abuse and I think there is a lot of

1 difference here. Victim 2's abuse is different. Victim 2
2 claims of abuse are very different. There was the
3 massaging that was fully clothed but he also talks
4 about dry humping. Giving and receiving fellatio. He
5 doesn't have any mention of the use of oils. He was
6 fondled. He was never masturbated. Victim 1 also was
7 clothed with massages but he talks about giving and
8 receiving masturbation, receiving fellatio. Both the
9 victims talk about the use of ropes and being
10 hogtied. None of that happened with the witness one.
11 In fact he talks a lot about control which I think is
12 also a very different theme, if you will, between the
13 two. I mean, witness 1 is claiming this young, 16 year
14 old boy is controlling him. You would think that
15 level of control would get even worse as the defendant
16 got older as applicable to these two other boys. So
17 with witness 1 there were no claims of rope or
18 fellatio. There was no humping. He was forced to
19 grab the defendant's penis and masturbate him. He
20 talked a lot about control and force which again, is
21 something the victims don't talk about.

22 In addition to some other factors, the case law
23 does mention that there can be other factors as well.
24 witness one claims he knew it was wrong. And the others
25 don't seem to make that claim. And also, as far as

1 abuse and how the boys handled it. Victim2 didn't bury
2 his abuse but Victim1 and Witness1 did. If we can get
3 through all that I do think under 403 the prejudice
4 highly outweighs any probative value here. I think it
5 is to remote a time period. It's a different victim.
6 Different allegation. The abuse alleged is very
7 different. And I think that there's a large issue --
8 a large concern for confusing the jury with all these
9 separated victims and charges and what he's on trial
10 for and what he is not on trial for. So, you know,
11 it's our position that this evidence shouldn't come in
12 under Lyle and that it should be excluded.

13 And in addition, Witness1 also claimed that there
14 was a lot more nudity with Witness1: then there was
15 with the Victims. He claimed he slept naked there
16 every time. There was naked showers, naked baths.
17 And that wasn't alleged through the Victims.

18 MS. JOYNER: Well, Your Honor, at this point I
19 think that I'm only -- I know Victim2 was mentioned and
20 to the extent that I was not clear earlier, I am
21 willing to kind of just cut Victim2 out of the scenario
22 and only look at the similarities between Witness1 and
23 Victim one. I do think that this type of evidence is
24 relevant. It's not simply propensity of evidence.
25 There is multiple cases which allow this type of

1 evidence to come in.

2 I think even under State versus Wallace they say
3 Rule 404(b) allows the admission of common scheme or
4 plan, such evidence is relevant because proof of one
5 is shown proof of the other. And that's cited 383 SC
6 433.

7 THE COURT: Okay. I got it in front of me.

8 MS. JOYNER: And I think in this case we have a
9 situation where it's extremely relevant. This is
10 going to be a case that is going to come down to the
11 credibility of the State's witness in this case, *victim*
12 *one*. I think there is very clear aspect to the
13 sexual abuse. I think that it is very relevant
14 evidence that there has been this pattern of conduct
15 in the past.

16 Regarding 404(b) I just want to make note about
17 the comment that historically it has been applied to
18 continuous elicit intercourse. There's a lot of case
19 law regarding that but that is normally as to the
20 admission of other bad acts to the same victim and
21 while the cases do cite back and forth to each other,
22 ultimately, the Wallace factors -- we have Wallace and
23 we have Clasby that are decided the same day.

24 Clasby involves the same victim. Wallace involves
25 a different victim. And that's sort like our most

1 relevant case law on prior bad act, common scheme or
2 plan, the sexual abuse context comes from. Those two
3 cases in 2009 and to the cases they cited back to. I
4 do think there -- I don't think there's a significant
5 difference in the relationship. Obviously, younger
6 man -- young boy, older man, who ingratiated himself
7 with the family. Has a significant relationship with
8 other members of the family. Spent time with the boy.
9 Takes him fun places. Does fun things with them.
10 Invites them over. Has them over to the house.

11 I think the location, I would submit the
12 difference between residences is distinction without
13 difference. And again, either *victim1* or *witness1* had
14 ever recalled being told not to tell. I mean I think
15 that some of the other factors that are cited on how
16 the boys responded to abuse which I don't think
17 necessarily goes towards any similarity or
18 dissimilarity because we're looking at what the common
19 scheme or plan was and the similarity or
20 dissimilarity. Not these victims reaction to it.

21 The fact there is oral in *victim1*'s case and ropes
22 in *victim1*'s case and not in *witness1* is not issue because
23 *witness one* is a Lyle witness, therefore he's not
24 testifying to things beyond what the charged victim
25 testifies to.

1 I would just submit that the progression to --
2 from massaging to masturbation, to the way that
3 masturbation is introduced. We have situations where
4 each boy masturbates the defendant. Different
5 frequencies but it's the same act. Both boys
6 masturbated during the course of massages.

7 THE COURT: All right.

8 MS. JOYNER: And I don't think the nudity -- the
9 amount of nudity is dispositive. I would say that's
10 is not a sufficient dissimilarity.

11 THE COURT: I think I am going to grant your
12 motion as to ~~witness one~~ and you have withdrawn
13 your motion as to ~~victim two~~.

14 MS. JOYNER: Yes, sir.

15 THE COURT: I think reading Wallace and after
16 hearing all the testimony I can point to at least four
17 of the five Wallace factors that are very similar.
18 But I want to emphasis, I'm going to quote the
19 concluding line of the paragraph that outlines the
20 similarity issue.

21 "We emphasis these factors set out merely for
22 guidance and that other factors may be relevant in
23 weighing the similarities and dissimilarities between
24 the crime charged and the bad act evidence." And I
25 think that's without relying strictly on those five

1 tenets of Wallace. There are other factors that set
2 forth by the State that make me believe that the 404
3 evidence should come in.

4 Now the Court also says that a 403 analysis must
5 be -- once that decision is made the 403 analysis must
6 be made. Miss Joyner what about the 403 analysis?

7 MS. JOYNER: Well, Your Honor, I think that under
8 the 403 analysis the Court should again weigh the
9 similarities versus dissimilarities.

10 THE COURT: What's the probative?

11 MS. JOYNER: What is the probative --

12 THE COURT: The probative value of this testimony?

13 MS. JOYNER: The probative value of the testimony.
14 I think the probative --

15 THE COURT: Of witness 1 testimony.

16 MS. JOYNER: Of witness one's testimony. Yes, sir.
17 I will say -- I would want to point out to the Court
18 that I believe that under State versus King -- and I
19 didn't include that. I do have a copy.

20 THE COURT: Just tell me what it says.

21 MS. JOYNER: I believe in State versus King what
22 they say in a footnote -- they say footnote number
23 six, sometimes 403 -- Rule 403 is sometimes misstated.
24 See State versus Wallace citing to the Supreme Court
25 opinion.

1 THE COURT: I would be citing to the decent.
2 Pleicones didn't think it was a very good idea.

3 MS. JOYNER: Well, they also say the correct test
4 is the opposite. They talk about the fact that the
5 403 is often misstated. They say the correct test is
6 the opposite whether the probative value of the
7 evidence is substantially outweighed by the danger of
8 unfair prejudice. And I think the probative value of
9 this *witness one* 's testimony remains that when we
10 are in a common scheme or plan context that we are
11 essentially looking at a case where we're dealing with
12 very peculiar sets of circumstances as evidenced by
13 the fact they have this level of similarity. We are
14 looking to prove the defendant committed conduct and
15 to show this common scheme or plan is incredibly
16 relevant and probative of whether he committed the
17 crimes against *witness one* if he had previously
18 engaged in a common scheme or plan.

19 THE COURT: Okay. All right. Anything further?

20 MS. WILSON: I just think the prejudicial value --
21 it's highly prejudicial to bring that information in.
22 Again, it is very remote. I mean this is alleged
23 conduct that happened 20 years ago for the *witness*
24 boy. I mean it's from 1997 to 2000. And in Clasby
25 the Court does say that while not dispositive time is

1 pertinent to determining the total probative value. I
2 think that these allegations are so old or so remote
3 that they aren't very probative at this point and the
4 prejudice to the defendant is very substantial.

5 MS. JOYNER: Your Honor, if I could just add,
6 regarding --

7 THE COURT: She's not finished.

8 MS. JOYNER: I'm sorry.

9 MS. WILSON: Additionally, we -- our position is
10 that the conduct is different. That the controlling
11 factor, you know, the allegations of control and the
12 conduct as far as them being naked in bed together and
13 taking showers and baths, it is completely different
14 conduct and it's not the same and it's not -- it's
15 very prejudicial to our client.

16 THE COURT: I understand. That's a problem in a
17 lot of these cases it is prejudicial. There's no
18 question about it. But the State has the burden of
19 proving beyond a reasonable doubt. And they believe
20 this evidence is probative. I think it is probative.
21 They don't tell us how to weigh the difference -- the
22 probative versus prejudicial factor under 403 but at
23 least we've considered it and --

24 MS. JOYNER: I believe State versus King in that
25 footnote and I can hand up --

1 THE COURT: Well, I'm ready to rule. I'm going to
2 allow it.

3 MS. JOYNER: Thank you, Your Honor.

4 THE COURT: Now, we got a jury waiting. Been
5 waiting for an hour. How would you like to proceed?

6 MS. JOYNER: Mr. Swerling, I think, had a few more
7 issues. We could swear the jury, or select the jury.
8 Not swear the jury.

9 THE COURT: Well, I am more concerned about the
10 court reporter then I am about --

11 MS. JOYNER: Oh.

12 THE COURT: -- Since we haven't had a break. Is
13 the jury all present?

14 THE CLERK: Yes.

15 THE COURT: They can't imagine what we're fooling
16 around doing.

17 MS. JOYNER: Your Honor, if we are bringing the
18 jury up I do have a question about one of Mr.
19 Swerling's voir dire questions.

20 THE COURT: I will not bring them up right this
21 minute.

22 All right. Let's take a break. Thirty minutes.
23 Thirty minutes. Reconvene at 2:25. Thirty minute
24 lunch.

25 (WHEREUPON, court was in recess.)

1 THE COURT: Is the state ready to proceed?

2 MS. JOYNER: We are Your Honor.

3 THE COURT: Defense ready to proceed?

4 MR SWERLING: Yes, sir.

5 THE COURT: Any further motions?

6 MS. JOYNER: Your Honor, the State does have an
7 objection to one of the defense's voir dire requests.

8 THE COURT: Which one?

9 MS. JOYNER: Number ten.

10 THE COURT: All right. I don't ever ask that.

11 MS. JOYNER: Thank you, Your Honor. That would be
12 my request under State versus Adams, 1983.

13 THE COURT: Okay. Now, any other motions?

14 MR. SWERLING: Just on the search. We can handle
15 that later.

16 THE COURT: Later.

17 MR. SWERLING: Yeah, I don't think it needs to be
18 addressed right now.

19 MS. JOYNER: No sir, we have a few minor motions
20 that we ask the jury to not be sworn after they are
21 selected so we can take those up briefly.

22 THE COURT: Well, what do you want me to do with
23 the jury after they're selected.

24 MS. JOYNER: I think we only have the search issue
25 and then I have two -- two or three quick matters for

1 the record.

2 THE COURT: I understand that. Do you want me to
3 send the jury home again?

4 MS. JOYNER: I do not. I do not, Your Honor.

5 MR. SWERLING: I'm here no matter what.

6 THE COURT: Why can't we do it now.

7 MS. JOYNER: Okay, we can. I thought Your Honor
8 wanted to pick the jury this moment.

9 THE COURT: I want to pick the jury when we're
10 ready to start the trial.

11 MS. JOYNER: Yes, sir.

12 Your Honor, I did want to advise the Court of a
13 stipulation of facts that the defense and I have
14 agreed to and wanted to place it on the record.

15 THE COURT: I would like to see a copy of it.

16 MS. JOYNER: Yes, sir. I will pass it up.

17 (Handed)

18 THE COURT: I am glad we don't have to prove that.

19 MS. JOYNER: Yes, sir, Your Honor.

20 I did put all the indictment numbers on the top so
21 some of those I can strike and hand up a new copy.

22 THE COURT: Not necessary, but it would help the
23 Court to know which Indictments you are going forward
24 on.

25 MS. JOYNER: Yes, sir. The State is going to

1 proceed today under --

2 THE COURT: Let me get them. All right.

3 MS. JOYNER: Thank you, Your Honor. We are
4 proceeding to trial on two counts of criminal sexual
5 conduct with a minor.

6 THE COURT: Give me the indictment numbers.

7 MS. JOYNER: The Indictment numbers are -- the
8 indictment numbers ending in 2195 --

9 THE COURT: 195?

10 MS. JOYNER: Yes, sir. 193

11 THE COURT: Wait a minute. 193?

12 MS. JOYNER: Yes, sir.

13 THE COURT: 195?

14 MS. JOYNER: Yes, sir. 196.

15 THE COURT: 196.

16 MS. JOYNER: 197.

17 THE COURT: 197.

18 MS. JOYNER: 198.

19 THE COURT: 198.

20 MS. JOYNER: And 199.

21 THE COURT: And 199. So the only one you are not
22 proceeding on is 194?

23 MS. JOYNER: And 2200.

24 THE COURT: And what?

25 MS. JOYNER: 200.

1 THE COURT: 2200.

2 MS. JOYNER: Yes.

3 THE COURT: Okay. Do you understand that Mr.
4 Swerling?

5 MR. SWERLING: Yes. Judge, under our voir dire
6 then *victim two* 's name would be taken out from
7 our voir dire.

8 THE COURT: He just doesn't need to be mentioned
9 at all, is that correct.

10 MS. JOYNER: I'm sorry.

11 THE COURT: *victim two*

12 MS. JOYNER: *victim two* he is still on the witness
13 list, Your Honor, but not as a victim.

14 THE COURT: Not as what?

15 MS. JOYNER: He's not a charged victim in the case
16 but we do have him on our witness list and intend to
17 keep him on witness list. Mr. Swerling was saying to
18 strike him from his voir dire.

19 MR. SWERLING: The voir dire has to be with the
20 criminal charges. That's why I'm saying strike him
21 from that.

22 MS. JOYNER: Oh, the number 15 where you are
23 listing the complainants?

24 MR SWERLING: Yes. Judge, excuse me one minute.

25 Your Honor, I guess *victim two* and *witness*

1 one should be listed as witnesses but obviously not
2 in our questions concerning the crimes charged.

3 MS. JOYNER: It is number 15.

4 MS. WILSON: The first pages has all the counts
5 listed out, so the criminal sexual conduct with a
6 minor --

7 THE COURT: I'm not going to read that.

8 MR. SWERLING: Judge, can we approach one second.

9 THE COURT: Yes.

10 (WHEREUPON, there was an off the record
11 discussion.)

12 THE COURT: All right.

13 MS. JOYNER: Your Honor, the State also has a
14 motion in limine to exclude any reference to witness
15 one 's August 2018 DUI arrest.

16 THE COURT: Any objection?

17 MR. SWERLING: Yes, Your Honor. It is my
18 understanding that's the reason he came forward right
19 after that arrest. So, we do think it's relevant. We
20 don't have to go into the facts of it and I think it
21 was dismissed at the preliminary hearing. But
22 obviously it's something that brought him forward so
23 we should be permitted to cross examine him about his
24 interest, bias, motive, et cetera.

25 THE COURT: All right, I agree.

1 MS. JOYNER: Your Honor, if I could address that
2 though and clarify some of the facts about that arrest
3 and his coming forward.

4 Witness one was arrested August 2018 for
5 driving under the influence. He did not come forward
6 to the state. His sister, Katherine W came forward
7 to the State. I previously approached Katherine W
8 in 2016 to speak with me because there had always been
9 concern that given the close relationship that the
10 defendant had with witness 1 At the time we never
11 connected with witness 1 We never spoke with him. We
12 weren't able to make contact with him but the witness 1
13 family was firmly in his camp at that point believing
14 that Andrew Castillo was innocent. What we know --

15 THE COURT: What does that have to do with the
16 DUI?

17 MS. JOYNER: Well, it has to do with the DUI is
18 that he had actually made disclosures to his family
19 members regarding the sexual abuse by Andy Castillo
20 prior to his arrest for the DUI.

21 THE COURT: That's a factual issue whether he came
22 forward. When did he come forward to law enforcement
23 is the issue.

24 MS. JOYNER: Well, to the extent that it suggests
25 that the jury hears that he was arrested in August and

1 he was interviewed in September and then his DUI was
2 dismissed. It's suggesting to them a result. There's
3 just simply no connection. For example, the dismissal
4 at prelim, that was a judge's determination to dismiss
5 his case. He -- but to bring up a DUI, the DUI
6 doesn't explain him being in rehab. He went to rehab
7 after he was released from jail, but his sister came
8 forward to the State about his disclosure that
9 predated his DUI arrest. And so, if they're going to
10 be allowed to ask him about his DUI arrest I think
11 that definitely at that point they're raising or
12 attempting to imply that he has come forward to gain a
13 benefit. I think that's the implication that the
14 defense is attempting to draw from bringing in the
15 facts of his arrest.

16 THE COURT: You can clarify that in your
17 examination with him. I'm going to allow it.

18 Anything else?

19 MR. SWERLING: I know you wanted to get started.
20 We're not going into the search at this point yet. We
21 can do after.

22 THE COURT: You can do that after we have
23 testimony today. You are going to be prepared to open
24 to this jury as soon as we qualify.

25 MR. SWERLING: Absolutely.

1 MS. JOYNER: Yes, sir. My question is, if there
2 is some adverse ruling on the search warrant issue if
3 the jury has already been sworn, we would at that
4 point --

5 THE COURT: Do you plan to use the results of the
6 search warrant.

7 MS. JOYNER: We plan to bring into evidence
8 photographs that were taken during the execution of
9 the search warrant. We plan to bring into evidence
10 one photograph that was seized from the residence.
11 There will be testimony --

12 THE COURT: I looked at the return. Are any of
13 the items on the return what you plan to offer?

14 MS. JOYNER: The photograph should be listed.

15 THE COURT: There are no photographs on here.
16 Amazon tablet, Apple I-pad. Sony laptop. There are
17 no pictures listed here.

18 MR. SWERLING: The pictures were taken as a result
19 of the search.

20 THE COURT: I understand that. How else would
21 they be taken?

22 MR. SWERLING: Right.

23 MS. JOYNER: Yes, sir.

24 MR. SWERLING: Sometimes I state the obvious.
25 Sorry.

1 MS. JOYNER: There should have been a photograph
2 that was taken from the residence that was listed in
3 the return and it is not.

4 THE COURT: Well, somebody took a picture of
5 something to do with the chess club.

6 MS. JOYNER: That was Mr. Swerling's exhibit.

7 MR. SWERLING: That was an exhibit that we gave to
8 State.

9 THE COURT: So none of the 13 items listed on the
10 return are going to be offered in evidence, is that
11 correct?

12 MS. JOYNER: That is correct, Your Honor. Beg the
13 Court's indulgence one minute.

14 THE COURT: What's the search warrant issue?

15 MR. SWERLING: Pardon.

16 THE COURT: What's the search warrant issue?

17 MR. SWERLING: Because there were pictures that
18 were taken inside the attic.

19 THE COURT: Well, I think you can take this up
20 after the jury is sworn. I just don't see why that
21 has to --

22 MR. SWERLING: I agree.

23 THE COURT: -- be an issue.

24 MS. JOYNER: Beg the Court's indulgence for just
25 one moment. I apologize.

1 THE COURT: That's all right. If they're in
2 they're in. If they're out they're out.

3 MS. JOYNER: Well, in this case the photographs --
4 yes, the photographs are an extremely important part
5 of the case.

6 THE COURT: Okay. You can argue that. All right.
7 Let me hear your motion Mr. Swerling. We're not
8 getting very far.

9 MR. SWERLING: Can I have that search warrant,
10 judge. I gave you my copy.

11 Judge, the issue for us is fairly simple. We are
12 asking you to look at the four corners of the
13 affidavit and the search warrant. If you look at the
14 affidavit, the affidavit says on January 8, 2016 ~~victim~~
15 ~~two~~ , reported what had happened between him Andy
16 Castillo at Egret Court. ~~victim two~~ was interviewed by
17 Detective Thomas and stated between the years 2001 and
18 2010 these incidents took place. He also stated his
19 brother was a witness to these incidents. He was
20 between the ages of five and 15, ~~victim 2~~ was.

21 THE COURT: All right.

22 MR. SWERLING: ~~victim one~~ was interviewed
23 separately. He provided a corroborating statement.
24 So if you go back to 2010, actually the testimony
25 today is nothing really took place after 2005, I

1 understand or 2006. Then this information is stale
2 under State versus Wynborn, State versus Black, State
3 versus Thompson.

4 There's no probable cause that's stated in this
5 affidavit for search warrant that would -- there's no
6 information in this search warrant that would
7 establish probable cause because the information is
8 more than nine years old. And interestingly enough,
9 they're not asking to search the attic or photograph
10 the attic. They're asking to go ahead and seize the
11 computers because they believe that there could be
12 some important --

13 THE COURT: Once they're inside--

14 MR. SWERLING: Right.

15 THE COURT: They're inside.

16 MR. SWERLING: Oh, yeah, once it's lawful, it's
17 lawful.

18 THE COURT: Right.

19 MR. SWERLING: But the thing I was trying to point
20 out, they're not even seeking in the search warrant to
21 try and examine the attic or find anything in the
22 attic that's been testified to that might have been
23 used in this case. For example, the ropes, the oil,
24 the bed. So, there's no way that something is nine
25 years old, or ten years old could in any way be

1 anything but stale. There's no reason to believe that
2 any information they're looking for would be in that
3 attic at this time. That the search warrant was
4 issued.

5 THE COURT: Even though the officers knew this was
6 a delayed disclosure.

7 MR. SWERLING: They didn't, as far as I know.

8 THE COURT: They had to know. They had to know
9 that it was a delayed disclosure. They go to the
10 Magistrate. Tell him it's a delayed disclosure and
11 the Magistrate issues the warrant to search the
12 premises.

13 MR. SWERLING: Right. But that doesn't mean the
14 issuance of the search warrants was appropriate. You
15 still have to have probable cause, nine years or ten
16 years -- at least nine or ten years.

17 THE COURT: How about it Miss Joyner?

18 MR. SWERLING: Its stale.

19 MS. JOYNER: Your Honor, we would just want to
20 make a copy of the search warrant a court's exhibit.
21 And I understand, Your Honor has a copy.

22 MS. JOYNER: This will be marked as Court's
23 Exhibit One.

24 (WHEREUPON, search warrant marked as Court's
25 Exhibit One.)

1 MS. JOYNER: I will note that actually in the
2 search warrant, in addition to the computers the
3 officer specifically requested to take photographic
4 documentation of the attic, so --

5 THE COURT: Where is that?

6 MS. JOYNER: That is on page three of six under
7 description of property sought.

8 MR. SWERLING: Not in the affidavit though.

9 MS. JOYNER: Well, it's --

10 THE COURT: It is the affidavit on page three.

11 MR. SWERLING: No, that's the description of the
12 property. The affidavit of the search warrant is
13 another page three.

14 THE COURT: Well, that's funny because Detective
15 Brooks signed it as the affiant in front of the judge.
16 If it's not an affidavit I don't know what is.

17 MR. SWERLING: It is an affidavit I agree. It's a
18 three-page affidavit but what Miss Joyner is talking
19 about is the description of the property which is not
20 part of the affidavit.

21 THE COURT: Well, look at page three.

22 MR. SWERLING: Description of the property.

23 THE COURT: What is up at the top? What does it
24 say it is?

25 MR SWERLING: Description of property sought.

1 THE COURT: No, at the very top.

2 MR SWERLING: Affidavit.

3 THE COURT: And on page four it is signed see
4 attached affidavit and the affiant signs it and the
5 judge signed it.

6 I understand what you're saying. Where do you see
7 photographs? Where do you see photographs?

8 MS. JOYNER: Photographs in the affidavit?

9 THE COURT: Yeah.

10 MS. JOYNER: The photographic documentation of the
11 finished room in the attic.

12 THE COURT: Where are you reading? On page three?

13 MS. JOYNER: On page three.

14 THE COURT: What line?

15 MS. JOYNER: I am sorry, the first line under
16 description of property sought.

17 THE COURT: Okay. I see what you are saying.
18 Photographic documentation of finished room in the
19 attic in which the subject abused his victims, etc.,
20 etc. Right?

21 MS. JOYNER: Yes, sir. And so, I would just
22 submit to the Court that the information as to
23 specific request for that property of the photographic
24 documentation is supported by several instances in the
25 affidavit in support of the application.

1 The application -- the affidavit specifically
2 provides --

3 THE COURT: The search warrant provides for it
4 also.

5 MS. JOYNER: Yes. So we know that what we can
6 tell is presented to the Magistrate is that the dates
7 are 2001 to 2010 which are admittedly a little broad,
8 but what we're looking at is actually testimony that
9 abuse occurred no later than July 24th of 2009 in the
10 residence. So the dates are date ranges within the
11 date range alleged. The ages of the children are a
12 little broader but we do have information that
13 juveniles were interviewed and that abuse occurred
14 specifically in an attic space at the residence and it
15 is still the defendant's residence.

16 THE COURT: Even though Mr. Swerling said it's
17 stale.

18 MS. JOYNER: And I think it's not stale because
19 when you look at case law, I think that timing is an
20 issue but --

21 THE COURT: I don't see how they can when they
22 know they have a delayed disclosure. Just assume for
23 a moment that the laptops contained videos of this.
24 In other words, videos that were preserved of the
25 events that are in the indictment. I think law

1 enforcement has a right to seek a search warrant for
2 those kinds of documents even though they were ten
3 years old. They're preserved. Could be preserved in
4 photographic equipment.

5 MR. SWERLING: I understand.

6 Judge, the only thing I would point out is that
7 all three, witness 1, victim 2, and victim 1 all said that
8 they're not aware of any photographs taken. There was
9 no camera. So I just point that out.

10 THE COURT: I don't know if law enforcement knew
11 that when they --

12 MR. SWERLING: They were interviewed by law
13 enforcement.

14 MS. JOYNER: Victim 1 and victim 2 had been interviewed.
15 Not Andrew.

16 THE COURT: Was the warrant issued after that or
17 before that?

18 MS. JOYNER: The warrant was issued after their
19 interviews. But I mean that aside, I think it is
20 still appropriate for seeking photographic
21 documentation of a finished room and I think it
22 wouldn't be stale because we're talking about the
23 layout of a house and the affidavit alleges a very
24 specific set up and very unique and particular
25 incident location. Not one subject to change.

1 THE COURT: All right. Motion is denied.

2 MR. SWERLING: I understand. Respectfully, Your
3 Honor, can I put on the record one thing.

4 THE COURT: Sure.

5 MR. SWERLING: I've never actually seen a search
6 warrant like this with an affidavit about the
7 description of the property sought and description of
8 the premises to be searched so what I'm asking the
9 Court and what I am stating that is not part of the
10 probable cause affidavit which is contained on the
11 back so the probable cause affidavit we say is stale
12 and the information contained is not part of this, so
13 that's all I want to say.

14 THE COURT: Okay. Well, I have to let somebody
15 else decide that.

16 MR. SWERLING: I guess we need to put this copy in
17 the record.

18 MS. JOYNER: I did.

19 THE COURT: It's in the record.

20 MS. JOYNER: And Your Honor, there is no other
21 evidence other than the photographs that we intend to
22 bring in from the search warrant. There maybe
23 reference to as part of the investigation some
24 cuttings that were taken from the search warrant and
25 yielded no evidence of the victim's DNA in the crime.

1 I just wanted to place that on the record to make sure
2 there is no objection from Mr. Swerling.

3 MR. SWERLING: We'll see how that goes before I
4 say no.

5 THE COURT: All right. Ready for the jury?

6 MS. JOYNER: Yes, sir.

7 THE COURT: State ready. Defense ready for the
8 jury?

9 MR. SWERLING: Yes, sir.

10 THE COURT: We got enough room for the jury.

11 THE CLERK: We think so.

12 THE COURT: Some of these people may have to move.
13 Bring the jury in.

14 (WHEREUPON, the jury enters the courtroom.)

15 THE COURT: Is the jury all present?

16 THE BAILIFF: Yes, sir.

17 THE COURT: Are you sure?

18 THE BAILIFF: Yes, sir.

19 THE COURT: Got everybody here.

20 BAILIFF: Yes, sir, Your Honor.

21 THE COURT: Thank you. Good afternoon.

22 JURORS: Good afternoon.

23 THE COURT: Can you hear me okay. I thought I was
24 going to have the same problem I had in qualification.

25 Well, again welcome, I feel like I need to

1 you for coming. Your service is important and I hope
2 you realize that. I would hope -- I believe I told
3 you on Monday that you now have an exemption for the
4 next two years from jury service but I would hope that
5 if you are called to serve some time during those two
6 years that you will come and be willing to sit and
7 listen and resolve these cases in your community. So
8 good luck to all of you. Thank you very much for
9 coming. You are now dismissed.

10 All right, counsel. State ready to proceed?

11 MS. JOYNER: Yes, Your Honor.

12 THE COURT: Defense ready to proceed?

13 MR. SWERLING: Yes, sir.

14 THE COURT: All right. Madam clerk, swear the
15 jury please.

16 THE CLERK: Please stand and raise your right
17 hand. You shall well and truly try and true
18 deliverance make between the State of South Carolina
19 and the defendant at the bar whom you shall have in
20 charge and true verdict give according to the evidence
21 and the law. So help you God? Please acknowledge by
22 say I will.

23 JURORS: I will.

24 THE CLERK: You may be seated.

25 THE COURT: All right. Ladies and gentlemen of

1 the jury, before we begin the trial I want to tell you
2 a few things to basically acquaint you with the
3 process that we will follow in the course of this
4 trial. But before we begin the trial I want to tell
5 you this trial may be different from what you might
6 expect. Many people do not have a chance to attend
7 actual court sessions as you are now doing and may
8 think from watching television or movies or reading
9 books that trials are always full of a lot of action
10 and drama and things of that sort. While all these
11 things may be true at times, this trial is not for
12 entertainment. It is a fundamental part of our
13 democracy. An effort to make sure that justice is
14 done between the parties before the court. That
15 process making sure that justice is done is often a
16 slow, deliberate and repetitive process. The opposite
17 of what you may have seen on television or read in
18 books or seen in movies. This courtroom is a place of
19 honor dedicated to the protection and preservation of
20 citizens' rights who many have called the greatest
21 justice system ever created. The attorneys appearing
22 before you are advocates for the parties they
23 represent, but first and foremost, they are officers
24 of this court, sworn to uphold the integrity and
25 fairness of our judicial system and to help you to

1 evaluate this case. You should expect them to be
2 professional, competent and ethical in the
3 representation of their client's interest and remember
4 that you have just taken an oath to try this case to
5 reach a fair and just verdict. And you are also
6 expected to professional reasonable and ethical.

7 Now, what I say to you at this time is not meant
8 to serve -- it's only meant to serve as an
9 introduction to the trial of the case. These remarks
10 are not a charge on the law of the case, that is the
11 law of the state of South Carolina. I will instruct
12 you on the law at the end of the trial and before you
13 retire to decide the case. Before the trial begins I
14 want to explain to you the procedure that we will
15 follow so that you can better understand the process
16 during the course of the trial.

17 Now, the defendant is charged with several
18 indictments which I read to you yesterday. There are
19 six different indictments and each -- you'll be asked
20 to consider a verdict on each of the six indictments
21 that are the subject of this trial. Because there are
22 six indictments I probably should have had this
23 prepared for you before you were impaneled, but I will
24 give you -- I will allow you to take notes. You will
25 have a notepad and pencil shortly, but because there

1 are six indictments it's going to be important that
2 you listen to this evidence and because you're going
3 to be asked to apply the evidence, or the facts that
4 are presented during the course of this trial to each
5 of these indictments ultimately if the case goes to a
6 verdict. So I'm going to go on with my instructions.
7 But before the evidence begins I am going to make sure
8 you have notebook -- notepads and pencils and I will
9 go over the indictments for you at that time.

10 You have been selected as fair and impartial
11 jurors who purposes is to find and determine the facts
12 in this case. You are the soul judges of the facts.
13 If at any time I make any comment about the facts you
14 are to disregard my comments. The indictments are
15 simply as I state it again to you, the charge by which
16 the case is brought into court and it is not in any
17 sense evidence of any of the allegations they contain.

18 The defendant has plead not guilty to these
19 indictments and the State therefore has the burden of
20 proof on each of the elements of the indictments
21 beyond a reasonable doubt. And it will be your duty,
22 ladies and gentlemen to decide whether the State has
23 met that burden. It is especially important that you
24 perform your duty consciously and diligently because
25 ordinarily there is no way to correct an erroneous

1 determination of the facts by a jury. When you comply
2 with your oath to impartially determine the facts of
3 this case you will have fulfilled your duty as jurors
4 and no one will have the right to criticize your
5 verdict.

6 On the other hand, and with equal emphasis, the
7 same law that makes you the judges of the facts makes
8 me the judge of the law. You must accept and follow
9 the law even though you may disagree with it. I can
10 not tell you what the facts are. You should not
11 disagree with me with what the law is or what the law
12 should be. Your job is to take the law as I explain
13 it to you and apply it to the facts as you find them
14 from the testimony of the witnesses and any other
15 evidence and after doing that you will render your
16 verdict under the solemn oath you just took as jurors.

17 Now, the procedure that we will use is basically
18 that the State will present its evidence first in the
19 form of witnesses testimony and/or exhibits that may
20 be part of the record. Be made a part of the record.
21 The defendant will then have the opportunity to
22 present his defense, bearing in mind however, there is
23 absolutely no burden on the defendant to present any
24 evidence at all. Following that, the attorneys will
25 be allowed to sum up their case and I will instruct on

1 the law of the State of South Carolina as it applies
2 to this case and after that, this case will be turned
3 over to you for a decision.

4 Now, let me remind you of two legal principals
5 that will guide this trial. First, is the legal
6 yardstick you will use in judging or measuring the
7 evidence in this case. That legal yardstick is known
8 as the burden of proof. And in a criminal case the
9 burden of proof is on the State to prove guilt beyond
10 a reasonable doubt. Should the State fail to met that
11 burden of proof it would be your duty to find the
12 defendant not guilty.

13 There is absolutely no burden whatsoever on the
14 defendant to prove or disapprove anything. There is
15 no burden on the defendant to testify or present any
16 evidence because the burden is and remains on the
17 State to prove guilt beyond a reasonable doubt.
18 Second, I ask you to you recall my earlier comment to
19 the entire jury panel concerning the presumption of
20 innocence. This is a carnal and fundamental rule of
21 law that the defendant will always be presumed
22 innocent of the crime or crimes for which he is
23 indicted. Presumption of innocence is not a simple
24 legal theory, simple legal phrase, it is a substantial
25 right to which any accused including this defendant is

1 is entitled and until you begin your deliberations
2 ladies and gentlemen, please do not discuss this case
3 with anyone including your fellow jurors, friends or
4 family members, or anyone involved in the case. And
5 after the case is submitted to you must discuss it
6 only in the jury room with your fellow jurors. And I
7 will remind you of this admonition several times
8 during the course of the trial.

9 I am going to ask you not to read or listen to or
10 watch any news reports of the case. I don't if there
11 will be any. There apparently has been one so far.
12 And the reason for this is a reporter's impression of
13 what goes on in the courtroom may not be what you saw
14 and heard. You're going to see and hear all the
15 evidence in this case and someone writing a story
16 about the case may not see it the same way you do.
17 You are the ones that are going to be responsible for
18 determining the facts in this case not a news
19 reporter. So I am going to ask you and I will caution
20 you at the end the day about dealing with the news.

21 Now, in just a moment the attorney for the State
22 will make what is called an opening statement. The
23 attorney will explain to you what the issues in this
24 case are. At least what the attorneys think the issue
25 are and what the testimony will reveal. The attorney

1 for the defense will also make an opening statement.
2 What the attorneys tell you in their opening
3 statements is not evidence in this case. It's only
4 their contention as to what the issues are and what
5 the evidence will show. The evidence in this case
6 will be presented to you by testimony of sworn
7 witnesses from this witness stand and any other
8 exhibits that may be introduced during the course of
9 the trial.

10 Now, in determining what the facts are in this
11 case you must decide whether or not the testimony of
12 any witness is believable or not believable. In
13 deciding whether to believe a witness you have the
14 right to consider whether the witness has an interest
15 in the result of the trial, whether the witness is
16 prejudiced towards either the State or the defendant,
17 the opportunity for the witness to have seen the
18 matters and things about which the witness may testify
19 and the way the witness acts on the witness stand.

20 Now, ladies and gentlemen, you and I do not ask
21 questions of witnesses. We do offer any exhibits.
22 This is not CSI. Your duty is to listen openly and
23 honestly to the evidence. Keep an open mind. Do not
24 form any conclusions or judgements until you received
25 and considered all the evidence in this case, the

1 arguments of the attorneys and my final instructions
2 to you on the law as it applies to this case.

3 Now, if you can not hear a particular witness or
4 myself or one of the attorneys please let us know so
5 we can speak up more clearly. If your view of an
6 exhibit is obstructed for any reason please let us
7 know so we can correct that. If you need to bring
8 anything to my attention during the course of the
9 trial please notify one of the bailiffs. If you need
10 to contact me it may be necessary for the bailiff to
11 require you to put such a question in writing so that
12 we can have a record of it and will I respond to you
13 as quickly as I can to the extent the law permits me
14 to do so.

15 Let me get you your pencils and pads because you
16 may want to make some notes during the course of the
17 attorney's opening statements so just relax for a
18 minute. They are on the way up. I guess that means
19 sort of the way that you came which is up here, down
20 here and over there.

21 MS. JOYNER: Your Honor, I am going to sequester
22 the witnesses.

23 THE COURT: Please do. Ladies and gentleman what
24 you are witnessing is the what is call the
25 sequestration of witnesses. The reason being that

1 each witness's testimony is not to be influenced by
2 the testimony of any other witnesses. Witnesses are
3 asked to stay outside the courtroom while a witness is
4 testifying so that there will not be any spillover
5 from one to the other.

6 (WHEREUPON, the jurors were handed notepads and
7 pencils.)

8 THE COURT: Everybody got them. I suggest you put
9 your juror number on it because we will take them up
10 at the end of the day and then redistribute them to
11 you the next day.

12 Now, ladies and gentlemen, I read to you the
13 indictments to the full panel. Now that you have been
14 seated that was quite a while ago. I am just going to
15 read the indictments to you again. And again, this is
16 so you can keep everything straight when we have a lot
17 of Indictments. I think that's is the best course.

18 To begin with there are four charges of lewd act
19 upon a child. Each of them is spelled out in each of
20 these indictments. And I can't do anything other than
21 read the indictments. The first is the defendant,
22 Julio Castillo, who is over 14 years old, did on or
23 about July 1, 2007 through July 23, 2009 in York
24 County, South Carolina commit the crime of lewd act
25 upon a child by willfully and lewdly permitting or

1 attempting to commit an lewd or lascivious act upon or
2 with the body or its parts of the minor victim,
3 victim One who is under 16 years of age with
4 the intent of arousing, appealing to or gratifying the
5 lust, passions or sexual desires of the actor or the
6 child. To wit; the defendant made the victim touch
7 his penis in the attic at Egret Court, all in
8 violation of the law of the State of South Carolina.

9 Lewd act number two. The defendant, Julio Andres
10 Castillo, who is over 14 years of age, did on or about
11 July 1, 2007 through July 23, 2009 in York County,
12 South Carolina commit the crime of lewd act upon a
13 child by willfully and lewdly committing or attempting
14 to commit an lewd or lascivious act upon or with the
15 body or its part of the minor victim, victim

16 One who is under 16 years of age, with intent of
17 arousing appealing to or gratifying the lust, passions
18 or sexual desires of the actor or the child. To wit;
19 the defendant massaged the victim's body and/or
20 masturbated the victim while in the attic of
21 Egret Court, all in violation of the laws of the State
22 of South Carolina.

23 Third lewd act upon a child. The defendant, Julia
24 Andres Castillo, who is over 14 years of age, did on
25 August 1, 2006 through July 23 of 2009 in York County,

1 South Carolina, commit the crime of lewd act upon a
2 child by willfully and lewdly committing or attempting
3 to commit an lewd or lascivious act upon the body or
4 its part of the minor victim, victim one, who
5 was under 16 years of age, with the intent of
6 arousing, appealing to or gratifying the lust, passion
7 or sexual desires of the actor or the child, to wit;
8 the defendant masturbated the victim while in the
9 defendant's bedroom at . Egret Court all in
10 violation of the laws of the State of South Carolina.

11 Lewd act number four. The defendant, Julio
12 Andres Castillo, who is over 14 years old, did on or
13 about June 20, 2005 through July 1, 2007 in York
14 County commit the crime of lewd act upon a child by
15 willfully and lewdly committing or attempting to
16 commit a lewd or lascivious act upon or with the body
17 or its parts of the minor victim, victim one
18 who is under 16 years of age with the intent of
19 arousing, appealing to or gratifying, the lust,
20 passions or sexual desires of the actor or the child,
21 to wit; the defendant massaged the victim's body while
22 in the defendant's bedroom at ; Egret Court.

23 The remaining two indictments are criminal sexual
24 conduct with a minor in the 2nd degree. The first of
25 which is the defendant, Julio Andres Castillo, did on

1 about November 8, 2006 through July 23, 2009 in York
2 County, South Carolina commit the crime of criminal
3 sexual conduct with a minor in the 2nd degree by
4 engaging in a sexual battery with a minor, victim

5 One who is 14 years of age or less, but who is at
6 least 11 years of age, to wit; fellatio in the
7 defendant's bedroom at Egret Court. All in
8 violation of the laws of the State of South Carolina.

9 And the second criminal sexual conduct with a minor in
10 the 2nd degree, the defendant, Julio Andres Castillo,
11 did on or about July 24, 2009, in York County, South
12 Carolina, commit the crime of criminal sexual conduct
13 with a minor in the 2nd degree by engaging in a sexual
14 battery with the minor, victim one who was
15 14 years of age or less but who was at least 11 years
16 of age, to wit; fellatio. All in violation of the
17 laws of the State of South Carolina.

18 All right, ladies and gentlemen, thank you for
19 kind attention. I trust you will give the same kind
20 and undivided attention to the attorneys and the
21 parties in this case. And we will now begin with
22 opening statements. Solicitor you may begin.

23 MS. JOYNER: Thank you, Your Honor. A child's
24 world is very, very small. As a child at least my
25 world was small. I grew up in a very, very small

1 community down by the coast and my husband he says
2 like Mayberry, and it kind was. I had almost every
3 member of my family close by. I had a neighborhood
4 full of people that were almost like family to me.
5 Right behind me lived Mr. Joe and Miss Sheila and my
6 dad worked with Mr. Joe and my mom had gone to the
7 high school with Miss Sheila and they had five kids.
8 My parents had three kids. We were all about the same
9 age. We played together. It was wonderful.

10 In front of us was Mr. George and Miss Judy, my
11 mom's high school friend and college roommate right
12 across the street. Four kids. My parents three kids.
13 All about the same age. Next to Mr. Joe and Miss
14 Sheila was my church and next to that was the rectory
15 where my priest lived and I actually sometimes go over
16 there and eat ice cream and stop in and say hello. My
17 elementary school was just about a half mile away and
18 I was allowed to ride my back all the way to the
19 playground which was just past my elementary school
20 but no further. My world was very, very small
21 geographically and very, very small in all kinds of
22 ways.

23 Now, I got older and like everybody I think that
24 small world began to grow and eventually that small
25 world that we have as children sort of blend

1 seamlessly into the bigger world. We know longer live
2 in that bubble, that place. We live out in the big
3 wide world.

4 Now, when I was a child and I was living close to
5 my grandparents and eating ice cream at my neighbors
6 house and riding my bikes to playgrounds I really I
7 had no idea that this was a pretty amazing childhood.
8 That was just the think that I you knew. The world
9 that I lived in. I had absolutely no point of
10 comparison. I had no way of nothing that I was very,
11 very lucky. Now, as is in the case of life, we get
12 older, we grow, we mature. And I submit to you we
13 look back at those experiences in life. Look back to
14 the past and situations and relationships and we are
15 able to view them through a new lens. The new lens
16 with new knowledge, maturity, experiences and we come
17 to understand them in a very different way. Now, as a
18 parent I can look back at my childhood with a
19 completely different perceptive through a completely
20 new lens and understand and appreciate it. In a
21 completely different way. And I realize now that
22 little small world of me riding my bike to the
23 playground, living by the people that my parents knew
24 and living close to my school. Now, things that were
25 great about it, some of them were luck. But a lot of

1 it was by no accident. That wonderful small world
2 that I lived in was built and it was constructed by
3 choices that my parents made. By the people that were
4 allowed into my life.

5 During this trial you are going to met a young man
6 named *Victim One* He is an adult now. He is
7 a young adult. And he had to look back and he has
8 looked back at his childhood and he has come to see
9 parts of his childhood. He comes to terms with those
10 things. He's had to look back and come to terms with
11 things that happened to him in his childhood. Things
12 that the defendant did to him in his childhood.
13 Things that when he was a child he didn't speak up.
14 That he didn't understand fully that they were wrong.
15 But things that now as an adult looking back he
16 understand are wrong.

17 You are also going to meet his parents, Susan and
18 Keith C. These were parents who believed that
19 they had constructed, built this small world that was
20 a happy and safe place for their son. They were
21 unaware that the trust they had placed in their
22 friend, in their neighbor, the defendant, was actually
23 undermining that safe world, that life that they
24 wanted to create.

25 Now, as the judge told you the defendant stands on

1 trial today for six charges. Two counts of criminal
2 sexual conduct with a minor in the second degree and
3 four counts of lewd acts. And as he explained to you
4 the burden is upon the State in any criminal trial and
5 in this criminal trial for us to prove the defendant's
6 guilt beyond a reasonable doubt. And the judge has
7 read the indictments to you and those indictments
8 track the language of the statute. So just briefly --
9 and as the judge said he is going to give you an
10 instruction at the close of the trial -- so just
11 briefly so as you're listening to evidence, you're
12 listening to testimony, you understand what it is that
13 you are looking for. What you are going to be asked
14 to decide later.

15 In order for you to find the defendant guilty of
16 criminal sexual conduct with a minor in the 2nd degree
17 you must find that the defendant committed a sexual
18 battery in that, the victim, in this case Victim
19 one was between the ages of 11 and 14 at the time
20 of that occurrence. Now sexual battery is defined by
21 the law to include many things, but specific to this
22 case and for your consideration is fellatio. Fellatio
23 is included in that definition.

24 Now lewd act upon a child, the language of those
25 indictments I know are very, very, wordy and sort of

1 difficult to understand in my opinion. It does track
2 the language of the statute and I am going to tell you
3 what I believe the State is required to prove to you
4 beyond a reasonable doubt as to that lewd act upon a
5 child statute. We are required to prove to you that
6 the defendant was over the age of 14 at the time of
7 the occurrence. That the victim was less than 16 at
8 the time. And that there, when the indictment and the
9 statute says that he did willfully and lewdly, that is
10 willfully, purposefully, intentionally, lewdly. That
11 is sexual intent. In that he did attempt to commit --
12 or did commit or attempt to commit a lewd and
13 lascivious act upon or with the body, or its part of a
14 child. It's a lot of words, but I will submit to you
15 what you are looking for is an act that involves a
16 touching of the child, or the touching by the child or
17 the attempt to commit that act. And finally, that
18 there is intention on the part of the defendant to --
19 a sexual intention, intention of arousing, appealing
20 to or gratifying the lust or passions or sexual
21 desires of the defendant or the child.

22 As I said to you, you are going to meet ~~victim~~
23 one He is going to talk to you about his
24 relationship with the defendant in this case, Julio
25 Andres Castillo, who he called Andy. That

1 relationship of being involved with the youth choir,
2 meeting him through his volunteer role, the
3 defendant's volunteer role in the youth choir when
4 Victim 1 was young. And then Andy becoming his neighbor,
5 his parents' friend. A man that he trusted. A man
6 that he came to regard as a mentor and as a friend.
7 He will talk to you about the things that happened to
8 him when he was a child. Things that happened
9 beginning some time after a family trip to Daufuskie
10 Island. In that trip I submit evidence will show that
11 trip occurred between June 17th and June 19th of 2005.
12 Some time after that began massaging and some time
13 around Victim 1's 5th grade year massaging progressed to
14 masturbation. And that masturbation then became part
15 of massaging and that these early acts occurred in the
16 defendant's bedroom. Later acts occurred -- some acts
17 occurred in a converted attic. And then eventually
18 there was a progression to oral sex. One of those --
19 the beginning some time after the masturbation, two
20 incidents, one at the defendant's home. The other at
21 the victim, Victim one 's home occurring the
22 night before the defendant was married. The night
23 before his wedding when he was staying as a guest in
24 the Victim 's home.

25 Ladies and gentlemen, I ask that you listen

1 intently to Victim one's testimony and I know
2 you will, and listen intently to all the other
3 evidence that will be presented to you during this
4 case so when the time comes to finally deliberate you
5 will be able to reach and fulfill your oath as jurors
6 to well and truly try this case and a true verdict
7 give.

8 Thank you.

9 THE COURT: Mr. Swerling.

10 MR. SWERLING: If it please the Court, solicitor.
11 Good morning ladies and gentlemen. Thank you for your
12 patience. It's been a couple of days. I know you are
13 probably wondering what was going on while you were
14 downstairs and why you had to wait. And as the judge
15 explained yesterday there are legal matters that come
16 up prior to a trial and in fact during a trial which
17 have to be dealt with by the judge. You are the
18 judges of the facts. His honor, is the judge of the
19 law. So often there are legal issues that come up
20 before trial and there're going to be legal issues
21 that come up during the trial. So if you hear one the
22 of the lawyers object, me or Miss Wilson or the
23 solicitor, we're objecting on some legal principle.
24 Which is what we are required to do. We are required
25 to be zealous advocates. As the judge told you we are

1 officers of the court. We're suppose to maintain the
2 integrity of the court. Suppose to act ethically, and
3 I you have no doubt that all the lawyers in this
4 courtroom will carry that out. But we do have a job
5 to do as far as protecting the legal issues in the
6 case. The rules of evidence, legal issues that come
7 about as result of case law. So if during the trial
8 you hear an objection, just understand, either the
9 solicitor or the defense is making an appropriate
10 objection for the judge to rule on the admissibility
11 of evidence or the inadmissibility of evidence.

12 So with that said I would like to introduce, I am
13 Jack Swerling. We met yesterday briefly. I am from
14 Columbia and I have been coming -- thank God I have
15 been coming up to York County for almost forty years
16 and handling cases in this area and I have seen the
17 area grow. And I have seen the courthouses grow. You
18 now have a very beautiful courthouse as an extension
19 to the original courthouse. So I appreciate all the
20 courtesy I've always gotten in York County and I
21 appreciate being here now. My associate is Melissa
22 Wilson. She works with me in the Columbia office and
23 helps me in the courtroom and preparing motions, legal
24 issues, researching, and also doing and handling
25 witnesses. She's very capable. She's a graduate of a

1 law school and she is doing very well in our office
2 and proud of her. Don't tell her I say that.

3 So we come from Columbia and we are here we're
4 representing Mr. Castillo. Mr. Castillo is a resident
5 of York County and he has appeared in court and he has
6 entered a plea of not guilty. His position is he is
7 not guilty of these offenses in which he is charged.

8 Now, what that does, that sets in motion as the
9 judge was telling you, the Court process. Of course
10 under our system of justice you can accuse someone of
11 doing something but in order for that person to be
12 convicted the State has to come forward with evidence
13 showing that individual committed a crime and all the
14 elements of that crime beyond a reasonable doubt.

15 Now, that is not just some mere fantasy, some kind of
16 legal phrase that is not -- you know, you hear it on
17 the TV, you hear it in the movies, you read about it,
18 but it is really the bedrock of our system.

19 Absolutely. We don't function as a society the way we
20 do without the two principles that the judge talked
21 about. One is the presumption of innocence and one is
22 proof beyond a reasonable doubt. We are unique in
23 that system and those principals of law and they have
24 been in existence in this country from the beginning.
25 All the way from the beginning. And they are

1 applicable in ever state and every county and all over
2 the country people sitting right now doing exactly
3 what you're doing, sitting in judgement of the cases
4 being presented to them. Only after you believe that
5 the State has proven a case beyond a reasonable doubt
6 can you return a verdict of guilt. Only after that.
7 You are the sole judges of that.

8 On the other hand if the State has failed to prove
9 guilt beyond a reasonable doubt the oath that you took
10 is very sacred oath. It requires you to find a person
11 not guilty. It has not been proven beyond a
12 reasonable doubt that you are required to come back
13 with a verdict of not guilty.

14 Now, so reasonable doubt, the judge will explain a
15 little bit further at the end of the case right before
16 you deliberate. But a reasonable doubt is something
17 you apply in all the more important aspects of your
18 life. You want to buy a car you weigh the issues.
19 You talk to people. You talk to salesmen. You talk
20 to your friends. You talk to your family. And if you
21 are satisfied that you can afford that car or that
22 house or that television you go ahead and make that
23 purchase. But if you have a doubt that you can do it
24 well, often times we still go ahead and do it, but the
25 difference between making those decisions outside the

1 courtroom and inside the courtroom is that if you have
2 that doubt, if you hesitate -- if you hesitate to act
3 and are not convinced beyond a reasonable doubt that
4 you should do that in the courtroom you must resolve
5 that in favor of the person who is accused of a crime.
6 You must find that person not guilty. And at the end
7 of the case, at the end of the evidence, when you get
8 the case to deliberate on, deliberate on the verdict
9 in the case, we believe that you -- we submit to you
10 that you will go ahead and find that the State has not
11 proven the case beyond a reasonable doubt and that you
12 will be required to return a verdict of not guilty.

13 Now, let me go over just a couple of other things
14 if I can with you and I will sit down and get started
15 with the case.

16 One is we spent a good bit of time yesterday and
17 this morning selecting a jury in this case. And there
18 were challenges for certain reasons. People one
19 reason or another, either the judge, or the solicitor
20 or I, or Miss Wilson we didn't feel that person could
21 fairly and impartially decide the evidence in the case
22 and return a fair and impartial verdict. And we went
23 through a long process and asked a lot of questions.
24 A lot of them were personal questions. But that was
25 all designed to go ahead and make sure that the people

1 we got on a jury that are going to sit in judgement of
2 this case, the 12 of you who will eventually
3 deliberate on this case, we want to be satisfied; the
4 judge, solicitor and me, that we would have the best
5 jury possible out of York County that came out of that
6 panel yesterday that you were eventually qualified to
7 serve.

8 So the judge asked some questions and we went
9 back, if you remember, back in the jury room and there
10 were other questions that asked of more personal
11 nature and number of people were eliminated for one
12 reason or another because one of the three parties in
13 this courtroom; the judge, the solicitor, or us did
14 not feel that those people could render a fair and
15 impartial verdict. But folks, you won the lottery.
16 You are the 12, 14 people with the two alternates who
17 all of us believe can render a fair and impartial
18 verdict in this case. We are all satisfied of that
19 based upon the answers you gave, the questions we
20 explored in the jury room and everything that you have
21 said here in the courtroom. If you remember as you
22 were presented up here there was another part of the
23 process of eliminating jurors. The State struck a
24 number of jurors. We struck a number of jurors.
25 Those are call preemptory challenges. We don't even

1 have to give a reason. For whatever reason we want to
2 go ahead and strike a juror we can strike a juror. So
3 we both exercised those rights. And the 12 of you,
4 the 14 of you, represent who we believe are a fair and
5 impartial jury in this case. I am satisfied of that.
6 I'm sure I will be satisfied of that at the end of the
7 trial as well.

8 So folks you are the most important people in my
9 opinion in this courtroom because you will resolve the
10 facts. Nobody is going to tell you how to vote in
11 this case. No one is going to tell you that you were
12 wrong in this case. No one is going to criticize you
13 because what you're going to do, you're going to weigh
14 the evidence and you will decide the case based on the
15 legal principals we just talked about; proof beyond a
16 reasonable doubt and presumption of innocence.

17 Now, the other theory that is the bedrock of our
18 system is the presumption of innocence. And that
19 presumption of innocence is a powerful tool. It's a
20 witness in and of itself. Sort of like you can
21 compare to a witness in a case that presumption of
22 innocence stays with the defendant, anybody accused of
23 a crime until and unless the State has eliminated that
24 presumption of innocence. Done away with presumption
25 of innocence by evidence, proof beyond a reasonable

1 doubt. So technically when you retire from this
2 courtroom to go ahead and deliberate on this verdict,
3 you are still suppose to presume that he's innocent.
4 Anybody sitting in that position is innocent. It's
5 only when you go back in the jury room and you
6 deliberate and you believe at that point that the
7 State has met its burden of proof can you eliminate
8 the presumption of innocence. But if you are not
9 satisfied beyond a reasonable doubt that presumption
10 of innocence requires an acquittal. A verdict of not
11 guilty.

12 You will hear evidence in this case and I will not
13 go ahead and anticipate what evidence you are going to
14 hear. The solicitor kind of laid out what she expects
15 she will be able to show in this case. A couple of
16 things I would like to consider because we don't teach
17 jurors how to resolve these disputes. Use your good
18 common sense as you use every day at home, at work,
19 school, wherever you are. Just use that same common
20 sense. Weighing what somebody is telling you.

21 Weighing what the evidence is in the case. All right.
22 You need to go ahead and when you look at the evidence
23 you need to see whether the evidence is consistent.
24 Has the witness been consistent on every single
25 occasion or have their been inconsistencies? Has the

1 witness -- is the witness consistent with the evidence
2 in the case, the physical evidence in the case? Is
3 the witness consistent with other witnesses in the
4 case or are there inconsistencies. These are all the
5 things you weigh and these are all the things that
6 will help you resolve whether or not the State has met
7 its burden of proof or they have not met their burden
8 of proof.

9 We submit to you that they will not meet their
10 burden of proof in this case beyond a reasonable
11 doubt. One thing I would like to mention to you
12 before I sit down is this is a very serious case, very
13 serious allegations as you heard the judge read.
14 There's a lot of responsibility here on everybody in
15 this courtroom including the jury.

16 One of the things I would like to tell you before
17 we even seen start is, that the disclosure in this
18 case made by victim one was ten years or
19 more after these events supposedly took place. I ask
20 you to consider that right from the very beginning as
21 to whether or not there's a reasonable doubt in this
22 case. That's one of the things I will talk to you
23 about now and it's another thing I will talk to you
24 about at the end of the case. It is reasonable that
25 someone would wait ten years. And you will hear a lot

1 of conduct about ~~Uichm one~~ over the period of time
2 over those ten years. But it is reasonable that
3 person did not know it was wrong what he says
4 happened, and number two, did his conduct and his
5 actions disapprove in and of itself what he's alleging
6 in this case. And the fact that he waited ten years
7 is another factor.

8 So let's get started. I appreciate you're being
9 here. Look forward to spending the week with you and
10 we will have an opportunity to talk to you again at
11 the end of the case.

12 Thank you.

13 THE COURT: All right. Ladies and gentlemen.
14 Let's take a short break. I don't know how much
15 coffee you drank, but I drank my share. Let's take an
16 about a ten-minute break after which we will begin
17 with the first witness. All right. Please go to the
18 jury room. Do not talk about the case while you are
19 in the jury room. You can leave your pads on the
20 chair if you want to or however you want to do that.

21 (WHEREUPON, there was a short recess.)

22 THE COURT: State ready for the jury.

23 MS. JOYNER: Yes, sir.

24 THE COURT: Defense ready for the jury.

25 MR. SWERLING: Yes.

1 THE COURT: Bring the jury.

2 MR. SWERLING: Judge, the State is going to be
3 introducing a number of photographs through the first
4 witness. I don't have any additional motions other
5 that the motion to suppress.

6 THE COURT: Based on the search warrant?

7 MR. SWERLING: Yes.

8 THE COURT: I'll put that on the record.

9 (WHEREUPON, the jury enters the courtroom.)

10 THE COURT: All right. Solicitor, call your first
11 witness.

12 MS. JOYNER: Thank you, Your Honor. We call to
13 the stand Ryan Thomas.

14 RYAN THOMAS, called as a witness, having been duly
15 sworn by the clerk, was examined and testified as
16 follows:

17 DIRECT EXAMINATION

18 BY MS. JOYNER:

19 Q Mr. Thomas, can you please state your full name for the
20 record.

21 A Ryan Thomas.

22 Q How are you employed, sir?

23 A Right now?

24 Q Yes, currently.

25 A I work for Westminster Presbyterian Church.

1 Q In what capacity?

2 A I'm the Director of Worship there.

3 Q Prior to serving as Director of Worship at the church
4 what was your occupation?

5 A I was a detective with the Rock Hill Police Department.

6 Q How long were you with the Rock Hill Police Department
7 total?

8 A A little over 12 years.

9 Q How long were you with the detective division?

10 A Six years.

11 Q And when did you leave Rock Hill to move to being that
12 the Worship Director?

13 A May of this year.

14 Q May of 2019?

15 A Yes.

16 Q Okay. So were you employed -- going back to February
17 of 2016, were you employed with the Rock Hill Police Department
18 then?

19 A Yes, I was.

20 Q And in what capacity at that time?

21 A I was a detective in the violent crimes division.

22 Q And during February of 2016, were you part of an
23 investigation into allegations against the defendant, Julio
24 Castillo, of sexual contact that had occurred some years prior?

25 A Yes, I was.

1 Q And was the alleged victim ~~one~~ ?

2 A Yes, he was.

3 Q As part of your investigation did you interview
4 victim ~~one~~ ?

5 A Yes.

6 Q Did you also interview family members?

7 A Yes.

8 Q And after those interviews did you develop or through
9 your investigation did you develop information about a possible
10 incident location for some of the allegations that
11 had made?

12 A I came up with three specific locations.

13 Q Okay. And what were those locations?

14 A Two of them were at one residence, Egret Court in
15 Rock Hill which is where Mr. Castillo lived at the time. And
16 the other Veery Lane in Rock Hill, which is where the
17 victim ~~one~~ lived at the time and they are just several
18 doors apart from one another.

19 Q And are both of those locations in Rock Hill within the
20 city limit?

21 A Yes.

22 Q Are they within York County?

23 A Yes, they are.

24 Q Now, specific to the Egret Court and am I correct
25 that was the defendant's residence?

1 A Yes.

2 Q And within the residence did your investigation -- from
3 your investigation did you become interested in a specific area
4 of the home?

5 A Yes, there were two specific areas of the home that
6 *Victim 1* identified to us. One was Mr. Castillo's own bedroom
7 that was inside the house and the other was the attic of the
8 house which was a finished attic.

9 Q Okay. Was there any other specific information
10 regarding the attic that you were seeking or that you had based
11 on your investigation?

12 A Yes. *Victim one* / was quite specific about what the
13 attic looked like. I explained that when you enter the home you
14 go to a room that's on the left. There's a computer.

15 MR. SWERLING: Object, to any hearsay.

16 THE COURT: Instruct him on that.

17 MS. JOYNER: Yes, sir.

18 Q Mr. Thomas, if you could just in general explain
19 through your investigation that you did a general description of
20 the attic?

21 A Yes. It was essentially you have a ladder made of wire
22 with wooden steps that went from the lower floor through the
23 ceiling into the attic, through a whole in the ceiling. The
24 attic was a dark color, paint color, futon, television, a bed
25 that was designed into a raised platform that had some shelving

1 around it. That there were some specific items that had been in
2 the attic including a rope.

3 MR. SWERLING: Your Honor, I still need to object.
4 This is all based upon what he was told so it's
5 hearsay.

6 MS. JOYNER: I am offering it to explain why is
7 going to the location or his interest in the location.

8 THE COURT: He was there. He went to the
9 location.

10 MS. JOYNER: Yes. Yes.

11 THE COURT: Describe what he saw.

12 MR. SWERLING: He saw, yeah.

13 MS. JOYNER: Yes.

14 THE COURT: Describe what you saw.

15 A Yes, sir.

16 Q After completing your interviews with ~~Vickmore~~ and
17 his family did Rock Hill seek a warrant to photograph and
18 examine the attic of Egret Court?

19 A Yes, we did.

20 Q And did Rock Hill in fact obtain that warrant?

21 A Yes, we did.

22 Q And did you -- was the warrant, the search warrant
23 executed on February 29th of 2016?

24 A Yes, it was.

25 Q And were you present during the search?

1 A I was.

2 Q Okay. And I'm going to show you what has been marked
3 for exhibits purpose as State's Exhibit One. Do you recognize
4 State's Exhibit one?

5 A Yes, I do.

6 Q And what is that a picture of?

7 A Egret Court, the defendant's home.

8 Q Is that a truthful and accurate representation of how
9 that home appeared that day?

10 A Yes, ma'am.

11 MS. JOYNER: Your Honor, we moved State's Exhibit
12 One into evidence.

13 THE COURT: Over the defendant's objection.

14 (WHEREUPON, State's Exhibit One was received in
15 evidence.)

16 Q Now when were you on the scene what observations did
17 you make about the general layout of the downstairs?

18 A Upon entering the home there's a large family area,
19 sort of straight ahead with the bedrooms to the right which is
20 where the master bedroom was on that day that I was there. To
21 the left was a smaller room that had a computer desk set up and
22 that's the room where we found the wire ladder. It looked like
23 it was handmade with wooden steps. Kind of had a wooden
24 paneling behind it. It looked really nice, and it went from the
25 ground up through a square whole in the ceiling. Upon climbing

1 that ladder I found myself in a finished space that was
2 obviously an attic space. The walls were dark brown. Ceiling
3 was black. There were like whit Christmas lights hung around
4 for some lighting. Futons, coffee table, television. Some just
5 random items in there and then a large bed that was raised up on
6 a platform, a wooden platform that seemed to have been
7 constructed in place.

8 There was a door there that lead to the rest of the attic
9 which was normal attic storage.

10 Q All right. Well, I'm going to show you what has been
11 marked as State's six, seven and eight. Please take a look and
12 look up to me when you are ready to answer any questions.

13 Do recognize those photographs?

14 A Yes, I do.

15 Q And what do you recognize those photographs as?

16 A This is inside Egret Court and this is the
17 computer room that I'm mentioning where we found the ladder, the
18 attic and this is a picture of that ladder.

19 Q Okay.

20 MS. JOYNER: Your Honor. We move State's 6, 7 and
21 8 into evidence.

22 THE COURT: Over the defendant's objection.

23 (WHEREUPON, State's Exhibits 6, 7 and 8 were
24 received in evidence.)

25 Q Now, you mentioned that you could go through -- there

1 was another door to a storage area of the attic, is that
2 correct?

3 A Yes.

4 Q I am going to show you what has been marked for exhibit
5 purposes as State's Exhibit four and five. Take a look at those
6 exhibits. Do you recognize State's Exhibit four and State's
7 Exhibit five?

8 A Yes, I do.

9 Q What do you recognize those as?

10 A This is the second portion of the attic I was
11 mentioning that is unfinished and just regular attic storage
12 space.

13 Q Do those photos truthfully and accurately reflect what
14 you saw that day on February 29th 2016?

15 A Yes, they do.

16 MS. JOYNER: Your Honor, we moved this into
17 evidence.

18 THE COURT: Over the defendant's objection?

19 (WHEREUPON, State's Exhibit 4 and 5 were received
20 in evidence as of this date.)

21 Q In addition to the ladder that you had climbed that was
22 in computer room was there any other way to enter or exit the
23 attic space?

24 A Yes, in the garage there was normal attic ladder that
25 you would pull down from the ceiling.

1 Q I am going to show you what has been marked as State's
2 Exhibit two and three. If you could please take a look at
3 those? Do you recognize State's Exhibit two and three?

4 A Yes, I do.

5 Q What do you recognize those as?

6 A This is the pull down attic ladder located in the
7 garage that leads to the unfinished normal storage space in the
8 attic.

9 Q And do those photographs truthfully and accurately
10 reflect how the stair way appeared in the garage and this angle
11 looking down from the stairway?

12 A Yes. We opened it that day. It was closed when we
13 first arrived but we opened it and that's how the rooms were.

14 MS. JOYNER: Your Honor, we move States two and
15 three in evidence.

16 THE COURT: Over the objection of the defendant.

17 (WHEREUPON, State's Exhibit two and three were
18 received in evidence.)

19 Q I am going to show you what has been marked for
20 exhibits purposes as State's Exhibit 13 through 18. Please take
21 a look at those. Do you recognize those photographs?

22 A Yes, I do.

23 Q And what do you recognize those photographs as?

24 A This is the inside of the finished attic space.

25 Q And do they truthfully and accurately reflect the

1 condition of that attic space when you were there on February
2 29th of 2016?

3 A Yes, they do.

4 MS. JOYNER: Your Honor, we moved to enter 13
5 through 18 into evidence.

6 THE COURT: Over the defendant's objection.

7 (WHEREUPON, State's Exhibits 13 through 18 were
8 received in evidence.)

9 Q I will show you -- I am going to show you what has been
10 marked for exhibits purposes as 10, 11 and 12. If you please
11 take a look at those and please tell me if you recognize those
12 exhibits?

13 A Yes, I do.

14 Q And what do you recognize those exhibits as?

15 A These are photographs of the -- for lack of better
16 term, coffee table that was in the finished space of the attic.

17 Q And do those photographs truthfully and accurately
18 reflect what you saw on February 29th of 2016?

19 A Yes, they do.

20 MS. JOYNER: Your Honor, move to enter State's
21 Exhibits 10, 11 and 12 into evidence.

22 THE COURT: Over the defendant's objection.

23 (WHEREUPON, State's Exhibits 10, 11 and 12 were
24 received in evidence.)

25 Q Mr. Thomas I am handing you what has been marked for

1 exhibits purposes as State's Exhibit 19, 20, 21, 22, 23, 24 and
2 25. If you please take a look at those exhibits for me.

3 A Yes, ma'am.

4 Q And do you recognize those exhibits?

5 A I do.

6 Q And what do you recognize these photographs to be off?

7 A This is the bed that had been built into a frame in the
8 finished space of the attic.

9 Q And going first to State's 19. Is that how the bed
10 appeared when you were there for the search warrant on February
11 the 29th of 2019?

12 A Yes, it was.

13 MS. JOYNER: Your Honor, moved State's Exhibit 19
14 into evidence.

15 THE COURT: Over the defendant's objection.

16 Q I'm showing you what has been marked as State's Exhibit
17 20. Did you also see that bed that day without the blue cover
18 on top?

19 A Yes, once we pulled it back.

20 Q And is that how it appeared on February 29th 2016?

21 A Yes.

22 Q Is that a truthful and accurate representation?

23 A Yes, it is.

24 THE COURT: Your Honor, I moved State's Exhibit 20
25 into evidence.

1 THE COURT: Over the defendant's objection.

2 (WHEREUPON, States' Exhibit 20 was received in
3 evidence as of this date.)

4 Q You mentioned the mattress was pulled back. Were you
5 present when that occurred?

6 A Yes.

7 Q And I'm showing you State's Exhibit 21. Is that a
8 photograph of the mattress pulled back?

9 A Yes, it is.

10 Q Is it a truthful and accurate reflection of part of
11 what you saw on February 29th of 2016?

12 A Yes, it is.

13 MS. JOYNER: Your Honor, I move State's Exhibit 21
14 into evidence.

15 THE COURT: Over the defendant's objection.

16 (WHEREUPON, State's exhibit 21 was received into
17 evidence.)

18 Q And I am showing you now -- I am handing you back 22,
19 23, 24 and 25, can you please explain what those photographs
20 depict?

21 A Once we lifted the mattress we found that in the frame
22 portion just underneath the mattress there were four hooks that
23 had been installed in the corners underneath the mattress on the
24 frame of the bed. They're sort of the hooks that you would wrap
25 your blind's cord around to keep it from dangling around. There

1 were four of them. One in each corner.

2 Q And are these truthful and accurate depiction of those
3 photographs of what you saw that day?

4 A Yes.

5 MS. JOYNER: We move State's Exhibits 22 through
6 25 into evidence.

7 THE COURT: Over the defendant's objection.

8 (WHEREUPON, State's Exhibits 22 through 25 were
9 received in evidence.)

10 Q Through your investigation Mr. Thomas, did you come to
11 learn what the defendant, Julio Castillo's birth date is?

12 A Yes.

13 Q Can you please tell the Court?

14 A It's of '81. I had to write it down to remember
15 it. It's

16 Q '81. Just to follow up, ultimately did Rock Hill
17 Police Department seek an arrest warrant for Mr. Castillo
18 regarding the allegations made by *Victim one*.

19 A Yes, we did.

20 Q Had you already obtained one at the time the search
21 warrant was served?

22 A We already had one in place.

23 MS. JOYNER: Thank you, very much. Please answer
24 any questions --

25 THE COURT: Cross examination.

1 CROSS EXAMINATION

2 BY MR. SWERLING:

3 Q Good morning Detective Thomas?

4 A Good morning.

5 Q Just a few questions. The search warrant that was
6 obtained in the case was not only to go ahead and photograph the
7 attic and view the attic, but it was also to go ahead and seize
8 any kind of electronics like computers or phones, I-pads,
9 anything like; is that correct?

10 A Yes, sir.

11 Q And the purpose of that was there is a -- you've been
12 trained that people who commit --

13 MS. JOYNER: Your Honor, I will object to this
14 testimony. May we approach.

15 THE COURT: You may approach but I don't know what
16 the objection is.

17 (WHEREUPON, there was an off the record
18 discussion.)

19 Q Now, you headed up the investigation?

20 A Yes, sir.

21 Q Okay. And as part of the investigation there is a
22 belief -- and you know Detective Felmet?

23 A I do.

24 Q He's the one that did the search warrant or applied for
25 the search warrant in the case?

1 A Yes, sir.

2 Q And the search warrant that he applied for said that
3 people who commit these types of crimes often photograph the
4 offense?

5 MS. JOYNER: I am going to object.

6 Q Is that correct?

7 THE COURT: Overruled. Go ahead.

8 Q Isn't that correct?

9 A That is correct.

10 Q And they often have pornography as result of their
11 interest in children? Child pornography?

12 A That does happen some times, yes.

13 Q And that was so when the affidavit was presented to the
14 Magistrate to have the Magistrate sign and authorize a search of
15 the residence, those representations were made that you were
16 also looking for photographs that may have been made of the
17 events that had been described to you, correct?

18 A Yes, sir.

19 Q A well as child pornography?

20 A Yes, sir.

21 Q And along that line a Amazon tablet was seized, an
22 Apple I-pad was seized, a black Sony laptop was seized, a black
23 I-pad was seized, a Cannon camera was Seized, a black Nikon
24 camera was seized, and Apple I-pad was seized, another Apple
25 I-pad was seized, a G4 Apple computer was seized, a Gateway

1 computer was seized, a blue computer was seized and his phone
2 was seized, is that correct?

3 A If that's the evidence list then I agree with you. I
4 don't have it memorized but it sound right.

5 Q Well, I don't want to trick you or anything. This is
6 what I was referring to. Do you recognize that as the evidence
7 list in the case?

8 A Yes, sir, this is the list.

9 Q Did I accurately read to you what was seized?

10 A Yes, sir.

11 Q Okay.

12 A That's it.

13 Q And when you execute a search warrant you have to list
14 on the return to the search warrant for the Magistrate purpose
15 what was seized during that, is that correct?

16 A Yes, sir.

17 Q And all of these items to your knowledge as a chief
18 investing officer in the case were examined, is that correct?

19 A The electronics?

20 Q Yes.

21 A Yes, sir.

22 Q And there was no child pornography on any of these
23 devices, isn't that true?

24 A That's what was reported to me by Detective Felmet who
25 is a technician.

1 Q And furthermore there was nothing on any of these
2 electronic devices that memorialized or photographed any kind of
3 sexual acts that was alleged that the defendant participated in,
4 isn't that true?

5 A Again, that is what the technician told me. I go with
6 his word on it.

7 MR. SWERLING: Thank you no further questions.

8 THE COURT: Any redirect?

9 MS. JOYNER: Just briefly, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. JOYNER:

12 Q Prior to executing the search warrant had you been
13 given any specific information from victim one that he had
14 been -- that he had been photographed or recorded or anything
15 like take to his knowledge?

16 A No. He had no knowledge of any camera being set up
17 during any incident.

18 MS. JOYNER: Nothing further.

19 THE COURT: All right, sir. Anything further?

20 MR. SWERLING: No, sir.

21 THE COURT: May the witness be excused?

22 MS. JOYNER: Yes, Your Honor.

23 THE COURT: Without objection. Next witness.

24 MS. JOYNER: The State's next witness is victim
25 one.

1 Victim one , called as a witness,
2 having been duly sworn by the clerk, was examined and
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MS. JOYNER:

6 Q Can you please state your full name for the record?

7 A Victim one .

8 Q How old are you today?

9 A I am 24 years old.

10 Q What is your date of birth?

11 A

12 Q Where do you currently live?

13 A I live in Easley, South Carolina.

14 Q Who do you live with?

15 A My wife and two cats.

16 Q What is your wife's name.

17 A Sara C.

18 Q And how long have you been married?

19 A We have been married for two and a half years.

20 Q Now, are you currently employed?

21 A I am.

22 Q And where are you employed?

23 A At Thomas & Hutton in Greenville. It's an engineering
24 firm.

25 Q What is your occupation?

1 A I am a designer engineer in training.

2 Q How long have you been employed there?

3 A Just over a full time a year and a half.

4 Q Prior to that did you work there part time?

5 A I did as an intern, summer intern.

6 Q Did you begin working there when you graduated from
7 Clemson?

8 A Yes, sir.

9 Q What year did you graduate?

10 A 2018.

11 Q 2018 what was your degree?

12 A Civil engineering.

13 Q Can you please tell the jury the names of your parents?

14 A Susan C and Keith C

15 Q Did you have any brothers or sister's?

16 A I do. I have one younger brother, *Uichm two*

17 Q Did you grow up here in York County?

18 A He did.

19 Q And what was the address of your childhood home?

20 A *V Lane, Rock Hill.

21 Q How long did you live in that home?

22 A For the better part of my grade school years. From
23 elementary school all the way up until I graduated from high
24 school?

25 Q And when you graduated from high school is that when

1 you went to Clemson?

2 A Yes.

3 Q Would you still come home to that house before summer
4 vacations?

5 A Yes, before my parents moved out of the house.

6 Q So growing up school did you attend Rock Hill schools?

7 A I did.

8 Q What was the name of your elementary school?

9 A York Road Elementary School.

10 Q What was the name of your middle school?

11 A Rawlinson Road Middle School.

12 Q What was the name of your high school?

13 A North Western High School.

14 Q Now, tell when you graduated waited from high school?

15 A 2014.

16 Q And did you finish on time?

17 A Yes, ma'am.

18 Q Did you skip any grades?

19 A No, ma'am.

20 Q And so I think we are going to be talking about some
21 different periods of your life so I want to quickly go back
22 based on your graduation date of 2014, would your 12th year have
23 been 2013 to 2014?

24 A Sounds about right.

25 Q If you don't mind, if you graduated in 2014, 12th grade

1 is 2013 through 14, correct?

2 A Correct.

3 Q Would that make 11th grade 2012 to 2013?

4 A Correct.

5 Q Your 10th grade year 2011 to 2012?

6 A Yes.

7 Q Your 9th grade 2010 to 2011?

8 A Yes.

9 Q So your 8th grade year would be 2009 to 2010?

10 A That's correct.

11 Q And your 7th grade 2008 to 2009?

12 A Correct.

13 Q And your 6th grade, am I correct, 2007 to 2008?

14 A Yes.

15 Q Your 5th grade 2006 to 2007?

16 A Yes.

17 Q Your 4th grade 2005 to 2006?

18 A Yes.

19 Q And your 3rd grade year of 2004 to 2005?

20 A Yes.

21 Q So going back and talking about your early elementary,
22 do you recall in elementary school when you were at York Road
23 participating in extra curriculum activity?

24 A Yes.

25 Q What type of extra curriculum activities?

1 A Church basketball and soccer.

2 Q Was that soccer through the rec league?

3 A Yes, soccer through the rec league and elementary
4 school I participated in the chess club.

5 Q When you had progressed to middle school did you also
6 participate in extra curriculum activities?

7 A Yes.

8 Q What kind of activities did you participate in?

9 A Sports like basketball and soccer.

10 Q And what about high school?

11 A Participated in soccer in high school. Not through the
12 high school but through.

13 Q Through a rec league?

14 A Correct.

15 Q ~~Uichman~~ do you know the defendant in this case Julio
16 Castillo?

17 A I do.

18 Q And who do you name do you call him?

19 A Andy.

20 Q How long have you known Andy?

21 A We met through church when I was in the first grade.

22 Q So going back doing the math, would first grade 2002 to
23 2003?

24 A Yes, that's correct.

25 Q And where did you meet the defendant first?

1 A At church.

2 Q I will talk to you a little bit about church really
3 quick. What church is that?

4 A Episcopal Church of Our Savior in downtown Rock Hill.

5 Q Was that your church growing up?

6 A Yes.

7 Q And did you participate specifically in activities
8 involving the church other than the church basketball that you
9 mentioned?

10 A I did. I was in the youth choir and I was also acolyte
11 and lector at the church.

12 Q Acolyte and a what?

13 A A lector. I did testament readings during the service.

14 Q Did you also eventually do youth group?

15 A Yes, that's correct.

16 Q So when you first met the defendant you said you were
17 in the first grade and you met him at church?

18 A Yes, ma'am.

19 Q At that time were you involved with the youth choir?

20 A I was.

21 Q Was he involved with the youth choir?

22 A He was.

23 Q At the time that you first met the defendant was he
24 your neighbor?

25 A He was not.

1 Q At some point did it he become your neighbor?

2 A Two doors down.

3 Q And do you recall -- and if you don't exactly -- but if
4 you recall generally when he moved in near you and became your
5 neighbor?

6 A I don't recall the exact date.

7 Q Now, you spoke a moment ago about some activities that
8 you completed through the church and I want to make sure I'm
9 correct. It was youth choir, acolyte, lector and then youth
10 group?

11 A That's correct. Youth group was not after all those.
12 Youth group was something that occurred throughout. As you get
13 older you move into different youth groups.

14 Q Youth group would be something that you would start as
15 little person and keep moving through?

16 A Correct.

17 Q Now, you said that you met the defendant at choir and
18 he participated with youth choir. What was his role with the
19 youth choir?

20 A He was assistant director with the youth choir.

21 Q And do you remember who the director was?

22 A Ginny Moe (phonetics).

23 Q And how long did you do the youth choir?

24 A Through elementary school and into middle school from
25 my recollection.

1 Q And during the entire time that you did youth choir was
2 the defendant always involved with it?

3 A Yes.

4 Q Was there other work that the defendant did at the
5 church?

6 A Yeah. He was part of the youth group.

7 Q Now, the youth group that could mean different things
8 to different people, different churches, different organizations
9 might have different activities. What types of things would the
10 youth group do?

11 A Sure. The youth group would meet some mornings before
12 service. We also have events that we would meet for. Whether
13 it be at the church or outside of the church. Also through our
14 youth group we participated in retreats through the diocese.
15 There's one fall retreat and one spring retreat that in junior
16 high school we were allowed to attend. It was Aiken, South
17 Carolina.

18 Q So the retreats would have been when you got out of
19 middle school?

20 A Yes, and then you the opportunity if you had been to at
21 least one retreat you had the opportunity to serve on the design
22 team for the spring retreat which both myself and the defendant
23 served on the design team.

24 Q So the design team would plan the spring retreat?

25 A That's correct.

1 Q How many years were you a part of the design team?

2 A Three years I believe.

3 Q All three years was the defendant part of it?

4 A Yes.

5 Q About how old -- can you explain to me what being an
6 acolyte laid is?

7 A Sure. In the Episcopal church there is a procession
8 into the church. The acolytes help guide that procession. So
9 the acolytes had the first cross that heads the procession
10 followed by two torches right behind him or her. Then the
11 clergy processes and then there's a smaller cross that is behind
12 the clergy and the choir procession is behind the second cross.

13 Q And so it's sort of like alter boy? Some people have a
14 concept of what an alter boy would be?

15 A Sure. There were duties throughout the service that
16 certain acolytes participated in as far as like getting the
17 blessed sacrament. There are certain symbolic things that
18 happen during the service that the acolytes also participate in.

19 Q And you said you were also a lector?

20 A Yes.

21 Q Is that a reader?

22 A Yes.

23 Q How old were you doing the acolyte and the lector?

24 A It was middle and high school that I was an acolyte and
25 lector was more so in high school. I want to say I was an

1 acolyte in elementary school as well but you have to be a
2 certain age because you wouldn't be able to carry the torches
3 and the crosses.

4 Q Now, specific to youth choir, so the activities that
5 you participated in at church that involved direct contact with
6 the defendant, am I correct it would be youth choir and youth
7 group?

8 A That's correct and it also included the retreats.

9 Q Were the retreats different then youth group?

10 A So the retreats -- we as a youth group were allowed to
11 attend the retreats but it was a separate outing, so to speak.

12 Q So going back to the choir, I think I already asked you
13 this. How long did you participate in the choir?

14 A I believe through elementary school and middle school.

15 Q And with the youth choir is there a certain sort of
16 hierarchy within the youth choir?

17 A Yeah. When you originally go into the youth choir you
18 have just the black robe and once you have been -- once you're a
19 certain age and have been there for a long enough time you adorn
20 the white robe that goes on top of the black robe and that's
21 what the more experienced choir members would wear.

22 Q Were there also colored strings or something you could
23 get to denote your progress?

24 A There were. From my memory there was a blue one, light
25 blue one and then a green. A blue or green ribbon with a medal.

1 Q And would those be more advanced then just having the
2 white?

3 A Correct.

4 Q Do you remember how far you got in that progression?

5 A I do believe I received both medals that I can
6 remember, both the green and blue.

7 Q With youth choir how often would you practice?

8 A Once a week.

9 Q And how often did you perform?

10 A It was not every Sunday just because there were certain
11 Sundays in the year that the youth choir would perform with the
12 adult choir. Some times we would sit out with the adult choir
13 and some times we then come in during the communion but it was
14 not ever Sunday.

15 Q Where would the youth choir practice take place?

16 A In the choir room at the Church of Our Savior.

17 Q How would you get to those choir practices?

18 A I would some times ride with my parents and sometimes I
19 would ride with Andy, the defendant. He lived two doors down
20 from us and was willing and offered to take us to choir
21 practice.

22 Q I'll ask you to go back in your mind to a time when --
23 wait before I go there let me ask one more question.

24 Approximately how many kids at any give time would be in the
25 youth choir?

1 A At least ten I would say of varying ages.

2 Q Now, going back kind of to the beginning around 2002 or
3 2003, when you're first meeting the defendant and getting to
4 know him. Back then did you have an opportunity to watch him
5 interact with your parents?

6 A Yes.

7 Q And did your parents seem to like him?

8 A They did.

9 Q Did you have opportunity to watch him interact with
10 other members of your church?

11 A Yes.

12 Q And did they seem to like him?

13 A Yes.

14 Q And going back in your mind to that time period, the
15 2002, 2003 when you're first meeting him and getting to know him
16 do you remember what you thought of him?

17 A I saw my parents trusted him and I trusted him and I
18 enjoyed spending time with him. He became a friend of the
19 family and friend of mine as well.

20 Q Now, so you said that your parents seem to get along
21 with him and he became like a family friend. Did your family
22 spend time together with him all together, them and him?

23 A Yes.

24 Q And what types of things would you all do together as a
25 family with the defendant?

1 A There was one instance where we took a trip together as
2 a family with Andy.

3 Q We will come back to the trip in the minute. Are there
4 any other things that you recall that activities or events that
5 would include all of you and the defendant?

6 A Well, like soccer games. He attended some soccer games
7 and basketball games that my parents would also be in
8 attendance.

9 Q Was it common -- did the defendant ever come to your
10 home?

11 A Yes, he did.

12 Q How often would he come to your home?

13 A The frequency varied, but it was very much so and open
14 invitation. There would be times where he would some times just
15 arrive at the home and just to say hey. I mean, it was two
16 doors down. He was welcome at the home. That was just a
17 general understanding.

18 Q Now when Andy first moved in two doors down in his home
19 did anybody else live with him?

20 A No, ma'am.

21 Q The whole time that you knew the defendant at any point
22 did anybody else come to live with him?

23 A His wife Kathryn moved in with him before they were
24 married.

25 Q During the time that you lived next door to the

1 defendant did you ever go to his home?

2 A Yes.

3 Q And how often would you go to his home?

4 A It was relatively a decent amount. There were things
5 at his home. He had an Xbox with a bunch of video games on it
6 and there were varying reason we would go over there but it was
7 multiple times.

8 Q Okay. Would sometimes you go with your brother ~~Victim 2~~?

9 A Yes.

10 Q And sometimes you go alone?

11 A Yes.

12 Q I want to kind of talk about the various kinds of thing
13 that he had at his house that you found entertaining to help us
14 understand. You said Xbox. Was there other types of video
15 games and computer games.

16 A The Xbox was chipped so it had a wide variety of games
17 and then he eventually had a projector screen or projector hole
18 cut into the wall that projected onto the wall next to it so we
19 can watch movies there. He had piano, 7 foot piano and given we
20 were in the choir he would play and sing together sometimes.

21 Q And do you remember when it was that you started going
22 over to the defendant's house?

23 A It was elementary school before my 5th grade year.

24 Q Now, you mentioned a moment ago that your family took a
25 trip with the defendant?

1 A That's correct.

2 Q Where was that trip too?

3 A That was to Daufuskie Island.

4 Q And where were you going to stay in Daufuskie Island?

5 A We were staying at a home that was owned by a member of
6 Andy's family.

7 Q Who all went on the trip?

8 A The four of us in my immediate family, my parents, my
9 brother and Andy and myself.

10 Q Do you remember exactly when that Daufuskie trip was?

11 A I believe I was in the third grade when that happened.

12 Q And kind of going through thinking back to that
13 Daufuskie trip, is there anything about that Daufuskie trip that
14 stands out to you?

15 A Yes.

16 Q And could you please tell me, tell the Court what about
17 the Daufuskie trip stands out to you?

18 A One morning the defendant exposed himself to me.

19 Q Okay. And what was the location when the defendant
20 exposed himself to you?

21 A It was in the bed that he had been staying in at the
22 house.

23 Q And when you say he exposed himself do you mean that he
24 showed you his penis?

25 A That is correct.

1 Q And from that incident do you have a recollection of
2 anything distinctive about the defendant anatomy?

3 A Yes, I do. His penis looked different then mine and I
4 asked him about it and he told me he was uncircumcised. I
5 didn't know what that looked like at the time but that is what I
6 observed.

7 Q Now, on Daufuskie Island, when that happened did you
8 tell your parents?

9 A I did not.

10 Q And prior to Daufuskie Island had anything
11 inappropriate like that happened?

12 A No, ma'am.

13 Q After Daufuskie Island, after you returned with your
14 family did anything inappropriate happen with the defendant?

15 A Yes.

16 Q We will he get into the specifics in just a minute.
17 But if you could just kind of lay out for me the things that
18 happened with the defendant and you that you feel was
19 inappropriate?

20 A There were massages, eventually masturbation and he had
21 me touch him and massages him and there was also two counts of
22 -- two instances of fellatio or oral sex he had performed on me.
23 And there was one instance where he hogtied me but no sexual act
24 occurred on that incident.

25 Q I will come back to each one of these things

1 individually. Of the things that you just talked to jury about
2 which to your recollection happened first?

3 A The massages.

4 Q Now massages could mean different things to different
5 people so I'm sorry to ask you to spell out what that means in
6 more specific terms. Let me start off by asking you the initial
7 massages that you mentioned that happened at the beginning,
8 where did those occur?

9 A It occurred in the defendant's bedroom at his house.

10 Q I assume there was a bed in that room?

11 A Yes, there was a waterbed in the room.

12 Q And was that where the massages occurred?

13 A Yes.

14 Q Going back in your mind to the earliest massages that
15 you can remember. If you could explain to me when the massages
16 began how were you laying?

17 A I was laying on my stomach at first and the defendant
18 was sitting on my legs and was massaging my back and my arms.
19 He would massage over the clothing. I was clothed and he was
20 clothed at the time. He would massage over my clothing and then
21 would put his hand under my clothing to massage skin on skin
22 which it eventually progressed he would put me over on to my
23 back and would sit beside me and do the same massage on the
24 front half my body. The same process. It would be clothed and
25 then he would put his hand under my clothing, under my shirt and

1 under my shorts.

2 Q Now, during any of these massages do you recall whether
3 his hand touched your penis?

4 A Yes.

5 Q And can you describe for me the way, initially, when
6 the massages started how would his -- would his hand touch your
7 penis in those initial massages?

8 A Yes, it almost seemed inadvertent. He would have his
9 hand over my pants and kind of go up my leg and brush against
10 it. It seemed like almost inadvertent at the time.

11 Q As the massages progress did the way that he touch your
12 penis change?

13 A After a certain instance, yes.

14 Q Okay. So let's talk now about that certain instance.
15 Can you please explain to the jury what the change? What that
16 incident was?

17 A Yes, there was the first incident where he masturbated
18 me.

19 Q Do you recall approximately what grade you were in when
20 that happened?

21 A I do. I was in the 5th grade when that happened.

22 Q Now, what helped you remember that you were in the 5th
23 grade when that happened?

24 A I was told a joke by one of my fifth grade friends that
25 I then confided with Andy and that was the how it happened.

1 Q Could you please tell the jury what that joke was?

2 A Absolutely. So the joke was that there was a pregnant
3 woman who had been shot three times while she was pregnant and
4 she survived and went on to have the kids. And throughout their
5 childhood they came up to her individually. The first one came
6 up and said mommy, mommy, I was peeing and I peed out a bullet
7 and she said okay. And the second one, mommy, mommy I pooped
8 and I pooped out a bullet. The third one came up to her and she
9 said, oh, what to you and he said I was jacking off and I shot
10 the dog. I didn't know what that meant and I asked Andy what
11 that meant and he offered to show me and proceeded to masturbate
12 me.

13 Q When you say masturbate, can you explain to me what
14 action the defendant was taking with you?

15 A He used his fingers and touched my penis and stroked up
16 and down with his hand on my penis.

17 Q Now, at that point in time was your body physically
18 responsive to that touch?

19 A It was stimulating but it did not go to completion.

20 Q Okay. Were you able -- would you have been able to do
21 that at that point?

22 A That was my first experience with anything of the sort,
23 but I was not able. I was not -- I did not at that time.

24 Q And that incident, where did that incident occur?

25 A On the victim's bed.

1 Q The defendant?

2 A I'm sorry, the defendant's bed.

3 Q Is that in the bedroom downstairs?

4 A Correct.

5 Q Was that part of a massages or was that separate from
6 massage?

7 A It was after a massage. He had massaged me and then I
8 told him the joke and asked him about it.

9 Q Now, after that incident did your massages change?

10 A Yes.

11 Q In what way did they change?

12 A The massages from that instance on included
13 masturbation at the end. It was a massage followed the same
14 general progression but then in instead of inadvertent touching
15 he would unzip my pants and masturbate me.

16 Q And where would those massages with masturbation?

17 A They were multiple instances. Some occurred on his bed
18 in his bedroom. Some occurred in the finished attic at his
19 house.

20 Q Okay. Let me stop you and I am going to ask you a few
21 questions about the attic.

22 When you first met the defendant did his home have a
23 finished attic?

24 A It did not.

25 Q And at some point were you aware that he was outfitting

1 and building this attic?

2 A Yes.

3 Q And do you know exactly -- and if you know that's fine,
4 but do you know generally when that attic was renovated?

5 A I do not. We had known him for some time. It was not
6 immediate when he moved into the house.

7 Q Now, going back in your mind to some of those things
8 that happened in the attic, can you describe for the jury what
9 you remember as a child the attic looking like once it was
10 completed?

11 A Sure. You would go in the house and then to the left
12 there was a room that had a piano in it at the front of the
13 house, there was bathroom and then there was the room with the
14 computers in it that had a wire ladder that went up. There were
15 wooden slats on the wires. There two wires here and two wires
16 here and then slats that went into a square in the ceiling where
17 you would enter the attic. So if you walked up the ladder you
18 would be facing a wall and then you turn around and you see the
19 rest of the attic. And in the attic there was a brown finish on
20 the walls. There is a coffee table, black coffee table with a
21 glass top that had some pictures in it. There is a white futon
22 and then there was a raised bed. It was like a wooden frame for
23 the bed. There was some shelves next to the bed as well.

24 Q Okay.

25 A And then a door -- the bed was here (indicating) and

1 there is a door here that lead into an unfinished portion of the
2 attic.

3 MS. JOYNER: Your Honor, I am going to be asking
4 ~~Victim one~~ about some different photographs that have
5 previously be entered. I will be publishing them to
6 the jury so I would ask the madam clerk to turn on the
7 Elmo so we can display some of these.

8 Q So ~~Victim one~~, you talked about the room, the ladder in the
9 room leading up to the attic. I am going to show you what has
10 been marked as -- it's already entered as State's Exhibit 8.
11 Does that ladder look like the ladder that was in place in the
12 home when you knew the defendant?

13 A Yes, not immediately, but once he finished the attic.

14 Q Once he finished it.

15 A Yes.

16 MS. JOYNER: I will publish State's Exhibit eight.

17 Q At the time you would go over to the defendant's house
18 and were in the attic, how many futon couches were there?

19 A I remember seeing one futon couch. It was a white one.
20 It was wooden. It was like a wood color. Had white cushions.

21 Q I am going to show you what has been previously entered
22 as State's Exhibit 13, 14, 15, 16, 17, and 18. Take a look at
23 those. When you had enough time to look at them if you can look
24 back up at me.

25 Now ~~Victim one~~ is this the same general layout out that this

1 room had at the time that you knew the defendant and would spend
2 time in this attic?

3 A Generally, yes. The white futon I described is there.
4 I don't fully remember the other futon being there, but
5 generally yes, futon facing that direction and most everything
6 else is what I remember seeing.

7 Q Okay. So back then there was just one futon not two?

8 A From my recollection.

9 Q Okay. Some of the items that are stored in the attic
10 are those new or different from when you would spend time there?

11 A There are bits and pieces like the lamp I don't -- I
12 don't recall the tall lamp. I don't have a clear memory of.
13 But there does seem like there are some differences.

14 Q I am going to publish State's Exhibit 14. *Victim 1*, you
15 can take a look up at the screen. And am I correct, I'm
16 pointing to this futon being the one that you recall?

17 A That's correct.

18 Q Have you of seen that blue cover that is on the bed?

19 A Yes.

20 Q You have?

21 A Yes.

22 Q I am publishing State's Exhibit 15. Is that the ladder
23 -- is that how the ladder would come up back when you knew the
24 defendant?

25 A Yes, as I described when you're coming up, you're

1 coming up the front side of the ladder you're facing the wall
2 and you have to turn around to see the rest of the room.

3 MS. JOYNER: Your Honor, I am going to publish
4 State's Exhibit 16.

5 Q Uchm 1 is that a view from if you are coming off the
6 ladder and you turn around?

7 A So the ladder faces this way, so if you were looking to
8 -- like if you turned around and looked to your right that is
9 the view you would see.

10 Q And I will publish State's Exhibit 13. Was there a TV
11 up in the attic once it was completed as is reflected in this
12 photo?

13 A Yes. I can't comment as to whether that is the same
14 exact TV but there was a TV.

15 Q In this same place?

16 A Yes.

17 Q Now Uchm 1 a moment ago you testified something about
18 being hogtied?

19 A Correct.

20 Q Can you please explain to the jury what you mean when
21 you say hogtied?

22 A So, he had white rope that was used to bind my wrists
23 and my ankles together so I could not move one independently
24 from the other. They were all kind of confined together in
25 front of me.

1 Q That was not in the context of any sexual activity?

2 A No, ma'am.

3 Q Was there any incident that you can recall of a rope
4 being involved in sexual activity?

5 A I do have one memory of a rope, same white colored rope
6 being tied around my ankle and I could not see where it was tied
7 to but I could feel tension against said rope. So it seemed
8 like it was tied against something.

9 Q And your memory of that incident, where were you when
10 that happened?

11 A That was on the bed in the attic.

12 Q And what do you remember was occurring during that
13 time?

14 A He masturbated me while that was happening.

15 Q And was it one leg or both legs?

16 A I remember the one leg being tied.

17 Q And you never saw what if anything it was hooked to?

18 A No, ma'am.

19 Q Now, at some point you testified that there was oral
20 sex. Can you tell me to the best that you can recall when that
21 progression happened from just masturbation and massage to oral
22 sex?

23 A There were two instances of oral sex. The first one I
24 don't know exactly when it happened, but it was after
25 masturbation had already started. And the second one I remember

1 exactly when that happened.

2 Q Okay. Let's start with the first incident of oral sex.
3 What was the location where that occurred?

4 A It was on the defendant's waterbed in his bedroom.

5 Q And you said that was after masturbation had begun to
6 occur?

7 A Yes.

8 Q And masturbation began in 5th grade?

9 A That is correct.

10 Q Now, you said that you know specifically when the
11 second incident occurred?

12 A That's correct.

13 Q And how do you know specifically when the next incident
14 occurred?

15 A Because it was the at my house. It was the night
16 before the defendant's wedding.

17 Q Going back to that first incident, if you could please
18 tell the jury what you remember of that first incident of oral
19 sex?

20 A I remember being on the bed on my back. I remember he
21 was clothed and I was also clothed but he unzipped my pants and
22 pulled them down to have access to my penis. I remember the
23 defendant had a beard and that he used his mouth to perform oral
24 sex on me. It was not to completion.

25 Q I'm sorry what?

1 A It was not to completion.

2 Q Do you remember -- can you recall how that transition
3 occurred specifically that event, how you were laying on the bed
4 and it went to oral sex?

5 A It was the same progression of massaging and
6 masturbation and then he proceeded to perform oral sex.

7 Q Do you remember was there any discussion? Do you
8 remember him saying anything to you?

9 A Not that I remember.

10 Q Victim 1 you said the last night was the night before the
11 defendant's wedding?

12 A Correct.

13 Q Why was he at your house?

14 A So he and Kathryn had been living together at the time
15 and they wanted to spend their last night apart before they got
16 married. Like bad luck to see the bride on the wedding day. So
17 he stayed at our place while she stayed at his house or their
18 house at the time.

19 Q And do you remember if you went to the rehearsal
20 dinner?

21 A I don't remember. My dad was a groomsman at the
22 wedding so I imagine that I did go to the rehearsal dinner
23 because he was part of the wedding.

24 Q , Did you also hand out like bulletins or did you
25 participate at all to your recollection in the wedding?

1 A Not to my recollection. I may have, but not to my
2 recollection.

3 Q Okay. So the night before the wedding the defendant is
4 at your house and tell me how it comes to be that there is oral
5 sex that happens in your home?

6 A So my parents had gone to bed and my brother and I we
7 were -- we set up shop. Like we set up blankets and stuff in
8 the living room because that's where we had a big TV and we
9 wanted to keep watching TV while we went to sleep. So the
10 living room is here (indicating). There is a small hallway with
11 my parents bedroom is here, and then a bedroom that Andy was
12 staying in and then a third bedroom which is where my brother
13 and I would have been staying if we hadn't been sleeping in the
14 living room. But Andy was out there with us while we were
15 watching TV and laying there. And eventually ^{and} fell asleep
16 and Andy went towards the bedroom and I went with him.

17 Q Do you remember why it was that you went with him? Was
18 there something said? Do you recall?

19 A I don't recall anything specific being said, but it was
20 almost like understood that I was to go with him when he went to
21 the bedroom.

22 Q And when you got to the bedroom what happened?

23 A We got in to the bed and I asked him if there was
24 anything that I could do to make masturbation feel better and he
25 was the one who introduced me to masturbation. I was asking him

1 if there was something that I could do personally to make
2 masturbation feel better and he responded let me do this and he
3 proceeded to perform oral sex on me.

4 Q Was that to completion?

5 A No, ma'am.

6 Q And in this particular incident why did -- what if
7 anything stopped it?

8 A I did.

9 Q Okay. How did you stop it?

10 A I told him that this needed to stop.

11 Q Now ~~when~~ if I'm going to come back to this point in a
12 minute. But you had known the defendant at this point for a
13 number of years, is that correct?

14 A Correct.

15 Q At this point approximately how many times had he
16 masturbated you?

17 A I would say five to six times.

18 Q Had he made you touch him?

19 A Yes.

20 Q We haven't talked about that. Could you please explain
21 that to me, when that was? What it was?

22 A Yes. There was once instance in the attic where he was
23 masturbating me and there was a brief pause in that where he
24 unzipped his pants and I -- he had me touch his penis in the
25 same manner, masturbation, as well as massage him some. But it

1 seemed liked we quickly went back to him performing acts on me.
2 It seemed like he was more interested in that then me performing
3 acts on him.

4 Q Is that when you say he had you masturbate and massage,
5 is that in one incident?

6 A So, yes. So, it was masturbating. Not at the same
7 time because you can't physically do that. But masturbating and
8 then massaging as well in that same time span.

9 Q In the same setting you were masturbating him and
10 massaging him?

11 A Correct.

12 Q And over the course of this period of time, just some
13 time after the Daufuskie all the way up to the wedding, at any
14 point had the defendant ever told you not to tell?

15 A He did not, but he at one point told me that he had
16 talked to my parents and that they -- he had told them that
17 there was some things that he had shown me that they wouldn't
18 necessarily approve of. But he told me that he had talked to
19 them about that and it sort of made me seem -- sort of made me
20 feel like they knew what was going on and it was okay. And the
21 thing is like I had no reason to think that he had capacity or
22 reason to hurt me and so it was not -- it wasn't -- it didn't
23 raise any alarms in my head to the extent that it was wrong.

24 Q So during this period of time after Daufuskie all the
25 way up to the wedding, were you still in choir at this point?

1 A Yes.

2 Q Was the defendant still involved with the youth choir?

3 A Yes.

4 Q During this period of time I think you said in
5 elementary school you were in the chess club?

6 A Correct.

7 Q How did you learn how to play chess?

8 A Andy taught me how to play chess.

9 Q Okay. And when you joined the -- what's involved with
10 joining the chess club?

11 A So the chess club we would get together and we would
12 always play different games but towards the end of the year we
13 had -- towards-- at one point we had a tournament that involved
14 us going against each other. Kind of like a bracket format.

15 Q Did the defendant, did he participate in the chess
16 club?

17 A He hosted an event for the chess club.

18 Q Is that at the end of the year tournament?

19 A Yes.

20 Q Where did that happen?

21 A At his house.

22 Q Was there a specific room where that occurred?

23 A There were games being played in the attic.

24 Q Okay. During this period of time are you doing the
25 recreational sports, the basketball and soccer?

1 A Yes.

2 Q Did the defendant come to your games?

3 A He did.

4 Q And during this period of time was he living next door
5 to you?

6 A Yes, two doors down. Yes.

7 Q And was he on good terms with your parents?

8 A Yes, he was.

9 Q So, on that final night, the night before his wedding
10 when you told him no, what were you thinking at that point?

11 A Looking back on it there were a few things going on.
12 Not only it was in my own house and so I you knew -- I didn't
13 know something was wrong but it you was something I couldn't
14 talk about with my parents. So there was this -- this knowing
15 that it was happening in my own house while my parents were in
16 the other room, and like it was just like they wouldn't of -- it
17 was in that moment if was like they wouldn't approve of this
18 happening and the fact that he was getting married the next day.
19 Just those things combined made it feel like it was wrong for
20 these kinds of things to continue to happen.

21 Q Prior to that had you thought about whether this
22 conduct was right or wrong?

23 A No, ma'am.

24 Q At the time did you like the defendant?

25 A I did.

1 Q Did you enjoy spending time with him?

2 A I did.

3 Q The night after that night at your house when you told
4 him it had to stop did he stop?

5 A Yes.

6 Q Did you go to his wedding the next day?

7 A I did.

8 Q Did he continue to be your neighbor?

9 A Yes.

10 Q How long was he your neighbor?

11 A Through when I graduated high school.

12 Q Okay. During this time after his wedding did you
13 remain on friendly terms with him?

14 A Yes.

15 Q And did he continue some times to come to sporting
16 events?

17 A Yes.

18 Q You said you were involved with the choir?

19 A Correct.

20 Q Was he also involved with the choir?

21 A Yes. And eventually I stopped being involved with the
22 choir but continued on with the youth group and the youth
23 retreats as well and then through church I was also confirmed
24 and I asked him to be my confirmation mentor.

25 Q ^{Victim 1} why did you ask the defendant to be your

1 confirmation sponsor?

2 A Because he was a mentor to me. Throughout my childhood
3 he was somebody that I looked up to. That I respected. That
4 was also a friend of mine. We had this relationship that I at
5 the time thought was a great relationship and he seemed like to
6 be the perfect person to have that role in my life, in that
7 instance of my life.

8 Q I want to go back through and just make sure that I
9 understand and the jury understands the different things that
10 happened to you.

11 So ~~victim~~ when the massages began you described a format of
12 being first on your stomach and then flipping over on to your
13 back. Did that -- was that consistent throughout the massages
14 that you received?

15 A Yes.

16 Q And the massages again they occurred in which rooms?

17 A The bedroom at the defendant's house and the attic as
18 well.

19 Q The massages, did they occur before the attic was
20 completed?

21 A Yes.

22 Q And did they continue after the attic was completed?

23 A Yes.

24 Q So you described the massages with the masturbation.

25 Tell me again approximately how many times you believe that

1 occurred?

2 A Five to six times.

3 Q And the rooms where that occurred?

4 A The bedroom and the attic as well.

5 Q Now, regarding these incidents, did you some times
6 spend the night at the defendant's house?

7 A Yes.

8 Q Did anything inappropriate happen on any of the times
9 that you spent the night at his house?

10 A Yes. One of the instances of masturbation occurred
11 when I spent the night at his house.

12 Q Please tell me about that?

13 A Sure. I was staying in the bed in the attic and Andy
14 had gone downstairs and had told me that I should go downstairs
15 in a little bit as well and I did, and I went downstairs into
16 the bedroom and he masturbated me then.

17 Q On that particular night was your brother ^{victim2} sleeping
18 upstairs?

19 A He was.

20 Q So the defendant told you to come downstairs?

21 A At a later time. So the three of us had been up there
22 and he went downstairs and told me I should come meet him at a
23 later time.

24 Q And did you in fact go downstairs?

25 A I did. Yes, down the ladder.

1 Q Down the ladder. Tell me again what happened when you
2 got to the room?

3 A He massaged and masturbated me on the bed.

4 Q The incident that you describe regarding the rope, the
5 hogtying, tell me again where did that occur?

6 A In the attic.

7 Q The other incident involving the rope, where did that
8 occur?

9 A Also in the attic.

10 Q And where were you in the attic when that occurred?

11 A On the bed.

12 Q And did you see what the rope was tied too?

13 A No, ma'am.

14 Q And you believe it was tied to something. Why?

15 A Because there was tension between my leg and it seemed
16 like there was tension in the rope.

17 Q Did you ever see in the attic hooks or anything like
18 that connected to the bed?

19 A No, ma'am.

20 Q And can you describe the rope? Can you describe what
21 the rope looked like?

22 A It was white and braided.

23 Q And the instance of oral sex -- well, let me move back
24 up and make sure. You said there was an incident where you
25 touched the defendant?

1 A Yes.

2 Q And explain to me again how you touched him?

3 A I touched his penis in a masturbation fashion.

4 Q Was his penis erect?

5 A Yes.

6 Q And you said you attempted to masturbate him?

7 A Yes, not to completion.

8 Q It was not to completion?

9 A No, ma'am.

10 Q And what was the reason that it was not to completion?

11 A We then -- he then moved back to masturbating me.

12 Q In that same incident did you massage the defendant?

13 A I did.

14 Q And where did that occur?

15 A In the attic.

16 Q Was that on the bed?

17 A Yes.

18 Q At the time that you spent time at the house in the
19 attic, was there a coffee table?

20 A Yes.

21 Q Were there pictures underneath?

22 A Yes.

23 Q Do you recall what pictures were there?

24 A This was pictures of his cars. There was a picture of
25 myself and my brother. There were pictures of other people as

1 well.

2 Q I am going to show you what has already been entered as
3 State's Exhibit 10 and 11 -- and I'm not asking you for specific
4 recall on every one of these pictures but is it similar to how
5 the coffee table would have looked?

6 A Generally yes.

7 MS. JOYNER: At this time I am publishing State's
8 Exhibit 11 for the jury. Your Honor, I'm not sure if
9 the jurors's monitor are on?

10 THE CLERK: They're not.

11 MS. JOYNER: I believe they can turn on. Hit a
12 button that --

13 THE COURT: Bottom right. It should be a button
14 on the bottom right on the screen at least there is on
15 mine.

16 Q I am zooming in on State's 11, and I know it is a
17 little blurry when we zoom in. But that picture in the middle
18 of these two boys on the swings, do you recognize that picture?

19 A I do.

20 Q And who is that a picture of?

21 A That is myself on the left and my brother on the right.

22 Q And do you recall when that picture was taken?

23 A I believe that picture was taken at Daufuskie.

24 Q That is a little fuzzy. Are you able to make out what
25 that picture is?

1 A That is the green cabins as Camp Gravatt at Atkin where
2 we would have our youth retreats.

3 Q Are you in that picture?

4 A It's hard to tell. I've seen that picture before.
5 It's hard to tell seeing it zoomed in like that but I am in that
6 picture, yes.

7 Q ~~Victim~~ ^{one} you testified that you continued interactions
8 with the defendant after the abuse had ceased. What was it like
9 in your mind at that time to continue to interact with him?

10 A In my mind is I -- after these events transpired I took
11 it upon myself that I decided that I was going to pretend like
12 they never happened. I was going to move on with my life and
13 live it out as if these things never happened to me. I just
14 wanted to move past it. In the last moment when I told him to
15 stop like there was a realization that it was -- it was more of
16 shameful thing and I just wanted to move past it and to not have
17 anyone ever know about it. Just to move on with my life outside
18 of that.

19 Q While all these things were going on, did the defendant
20 ever talk to you about the abuse? Did you two ever discuss it?

21 A Do you mean while the abuse was occurring?

22 Q While the abuse was going on.

23 A No.

24 Q After that night before his wedding, after the last
25 thing happened, did you guys ever talk about it?

1 A No, ma'am.

2 Q Now, February of 2016, did you speak with then
3 Detective Brian Thomas of the Rock Hill Police Department about
4 what had happened? What the defendant had done to you?

5 A I did.

6 Q And do you recall how old you were at the time?

7 A I was sophomore in college.

8 Q And you were in college where?

9 A At Clemson.

10 Q Was the defendant still your parent's neighbor at the
11 time?

12 A Yes.

13 Q And ~~victim~~ ¹ I know we have been talking about somebody,
14 we've been saying the defendant and we have been saying Andy.
15 The person that you have talked about that massaged you,
16 masturbated you, had you touch him and performed oral sex on
17 you, do you see that person in the courtroom today?

18 A I do.

19 Q Could you please point him out to the jury?

20 A (Pointing).

21 Q What is he wearing?

22 A He is wearing a suit and tie and glasses.

23 MS. JOYNER: Let the record reflect he has
24 identified the defendant.

25 THE COURT: The record will so reflect he has

1 identified the defendant.

2 Q ~~Victim one~~ at the time that you spoke to Detective Thomas
3 at the Rock Hill Police Department, prior to that had you ever
4 spoken to anybody substantively about what had happened?

5 A No, ma'am.

6 Q Okay. What was it like to speak those words for the
7 first time?

8 A It was difficult. I had spent so many years not
9 thinking about it. It was difficult to kind of stir those
10 things back up. But, it was difficult. I felt like I was able
11 to articulate myself well and I was able to give a good account
12 of what had happened to me because no matter how long it had
13 been since I had thought about it things like that don't really
14 ever go away.

15 MS. JOYNER: Thank you ~~Victim 1~~. Please answer any
16 questions Mr. Swerling has.

17 I apologize. One more.

18 Q The home that these occurred was that the defendant's
19 address of Egret Court?

20 A That is correct.

21 Q And the incident in your bedroom was that Veery
22 Lane?

23 A Not my bedroom, but yes, the bedroom that the defendant
24 was staying in.

25 MS. JOYNER: Thank you.

1 THE COURT: Cross examination.

2 MR. SWERLING: Judge can we approach one second
3 is.

4 THE COURT: Certainly.

5 (WHEREUPON, there was an off the record
6 discussion.)

7 THE COURT: All right. Ladies and gentlemen it is
8 one o'clock. We will break for lunch now. Hold on
9 one moment. We ordered lunch for you. I don't know
10 how happy you are going to be, but it is food.
11 Tomorrow we may do something a little different but
12 today we got pizza. Sorry.

13 Don't discuss the case among yourselves while you
14 are in the jury room. When they arrive they will be
15 delivered to you and after you have your lunch I am
16 going to ask the bailiffs to be available, maybe some
17 of the officers, security officers. If you wish to
18 take a little walk around the courthouse or something
19 just I am going to ask you not to leave the grounds
20 because we want to start back promptly at two o'clock.
21 All right. You may go to the jury room and just relax
22 for a few minutes and again do not discuss the case
23 among yourselves while you are in the jury room.

24 (WHEREUPON, the jurors exit the courtroom.)

25 THE COURT: All right. Stand at ease until two

1 o'clock.

2 (WHEREUPON, the jury was in recess for lunch.)

3 THE COURT: Be seated thank you. Mr. *Victim one*
4 come back up.

5 Bring the jury in please.

6 (WHEREUPON, the jury enters the courtroom.)

7 THE COURT: All right. Mr. Swerling, cross
8 examination.

9 MR SWERLING: Thank you.

10 CROSS EXAMINATION

11 BY MR. SWERLING:

12 Q *Victim one*, I'm Jack Swerling and I just wanted to ask
13 you a few questions following up on your direct examination with
14 Miss Joyner, okay?

15 A Yes, sir.

16 Q You are at this time you said you are 24?

17 A Yes, sir.

18 Q And whatever abuse there was started when you were in
19 the 5th grade?

20 A No, the first incident was when he exposed himself to
21 me in the 3rd grade and then there were massages between then
22 and the 5th. The 5th grade was the first instance of
23 masturbation.

24 Q So you were in the 3rd grade when you went down to the
25 Daufuskie Island, is that correct?

1 A Yes.

2 Q All right. I think I got that mixed up and you would
3 have been hold old at that point in 3rd grade?

4 A I would have to do the math.

5 Q But it was third grade?

6 A Yes, third grade.

7 Q And it was two years later when masturbation took
8 place?

9 A That's correct.

10 Q Now, up until in 2003 when you went down to Daufuskie,
11 you had known him for some period of time at that point,
12 correct?

13 A Yes. I met him when I was in 1st grade so it had been
14 a couple of years.

15 Q So he moved -- he was living in what, two doors down
16 from you? You could see his house from your house?

17 A Eventually, yes. Not when we met first but he did move
18 two doors down.

19 Q And you all went to the same church, your family and
20 him?

21 A Yes.

22 Q Now that was the Episcopal Church?

23 A Episcopal Church of our Savior in Rock Hill.

24 Q How long do you think you knew him before you were in
25 the 3rd grade?

1 A A couple of years.

2 Q And do you recall prior to the 3rd grade having
3 interaction with him?

4 A Yes.

5 Q It wouldn't be unusual for you to be over at his house
6 or him to come over your house as understand it?

7 A No, sir.

8 Q And this is before anything happened, correct?

9 A Yes, sir.

10 Q You were neighborhood kids and --

11 A Well, yeah.

12 Q Okay. And so he and your parents were friendly?

13 A Yes.

14 Q And I assume that meant as I understand it he would
15 come over to your house some times for dinner? Barbecues?

16 A We didn't do a whole lot of barbecues. It was more
17 kind of stop in and say hello.

18 Q Did your family ever go to his place for dinner or
19 barbecue?

20 A Not that I can remember.

21 Q But there was interaction between the two families?

22 A Yes, sir.

23 Q Him and your family. Did -- was there any occasions
24 when he babysat for you?

25 A No, sir.

1 Q Not that you remember?

2 A No, sir.

3 Q But there are many occasions where he would drive you
4 to different locations?

5 A That's correct.

6 Q For example, when was choir Sunday on afternoon, choir
7 practice?

8 A From what I can remember, yes, that's correct.

9 Q And so he would pick you up for choir practice and he
10 would take you home from choir practice?

11 A Once we lived near each other.

12 Q Right.

13 A Yes.

14 Q And as well as any other church activities?

15 A Some times. Some times my parents would take us.

16 Q But other times he would drive you back and forth?

17 A Yes, sir.

18 Q And as time went on you said he would come to your
19 supporting events?

20 A Yes, sir.

21 Q Did you ever go to any sporting events that he or his
22 wife were involved in?

23 A I'm sorry any --

24 Q Any supporting events that he or his wife would have
25 been involved in?

1 A As in any sports that they participated in?

2 Q Yeah.

3 A Not that I can remember.

4 Q Do you recall ever going to Charlotte to the theater or
5 to movies or plays?

6 A Yes, sir.

7 Q So he would drive you up there and take you back?

8 A Yes, sir.

9 Q And that was -- nothing happened on those occasions,
10 correct?

11 A No, not to my recollection.

12 Q So it started in 2003 when you said he exposed himself
13 to you at Daufuskie?

14 A When I was in 3rd grade, yes.

15 Q When you all were at Daufuskie Island -- remind me now,
16 was he wearing a pair of boxer shorts?

17 A He was laying in bed so -- we came into the room early
18 in the morning.

19 Q Okay. And you happen to see his penis, correct?

20 A That's correct.

21 Q It was inadvertent, wasn't it, because there was a
22 split in the boxer shorts?

23 A I believe if it had been inadvertent he would have
24 quickly arranged himself in a way that it would no longer be
25 visible and the fact that I asked him about why it looked

1 different because it was uncircumcised. If I had asked that
2 question to him he -- if it was inadvertent he would have
3 covered himself back up.

4 Q Did he cover himself at all after you raised that
5 question?

6 A Not to my recollection, no, sir.

7 Q How long were you in the room?

8 A No more than thirty minutes.

9 Q Nothing sexual, of a sexual nature happened between you
10 and him at that point?

11 A No, sir.

12 Q And after that, as I understand, your dad took some
13 pictures and sent him some pictures of a group at Daufuskie
14 Island. Do you recall that?

15 A I do not.

16 Q But let me ask you, it was a friendly meeting, is that
17 right?

18 A At Daufuskie?

19 Q Yes.

20 A Yes.

21 Q And nothing inappropriate happened at that time?

22 A Other than him exposing himself.

23 Q Other than what you just testified to?

24 A No, sir.

25 Q Did you tell anybody about that?

1 A No, sir.

2 Q You just asked him a question and he answered you, is
3 that right?

4 A That is correct.

5 Q So it was two full years before anything happened?

6 A No, sir, it was two full years until masturbation
7 started. It was massages in between.

8 Q Okay, so the massages. When you were doing these
9 massages did either one of you get naked?

10 A No, sir.

11 Q And even as time went on and other things developed did
12 either one of you get naked?

13 A The only time one of us was naked was the incidence at
14 the defendant's parents house.

15 Q And that was in a pool?

16 A In a pool and hot tub, yes.

17 Q So, all of these instances that you are talking about
18 did not take place when either one of were you naked?

19 A All the massages and the masturbation not fully naked,
20 no, sir.

21 Q Okay. And even the situation when you were over his
22 parent's house in the Jacuzzi there was nothing sexual about
23 that either, was there?

24 A No, sir, not outside of the fact of being naked
25 together.

1 Q I got you. But, so you were naked in the Jacuzzi but
2 nothing inappropriate happened in the Jacuzzi?

3 A Being naked together in the Jacuzzi. I do think being
4 naked with a minor is inappropriate. I am not trying to be
5 difficult.

6 Q No, what I asked you, did anything happen in the
7 Jacuzzi?

8 A No, sir.

9 Q That was my question.

10 A Sorry.

11 Q Now, there were massages that were taking place. Did
12 you tell anybody?

13 A No, sir.

14 Q You had friends didn't you? You had some friends that
15 were your age?

16 A I did.

17 Q Did you express to them any kind of concerns you had
18 about what was going on with the massages?

19 A No, sir.

20 Q Did you think that they were sexual in nature when you
21 were giving and receiving the massages?

22 A I don't know that I had the capacity to think about it
23 in that way. I was very young at that time and I didn't really
24 have a full understanding of sexuality.

25 Q Well, you would have been eight years old, at least

1 eight?

2 A That's -- yeah, well depending on in third to fifth
3 grade.

4 Q When it started?

5 A Yes, sir.

6 Q So, I mean, let me ask you this and I may be completely
7 wrong when you go to school don't they educate you about people
8 touching you inappropriately?

9 A I mean, I had a health class in middle school.

10 Q Yeah.

11 A That was in middle school.

12 Q Well, middle school that's part of when you alleged
13 things happened at well?

14 A Yes, sir, I understand.

15 Q And you still maintain according to your testimony that
16 you didn't know that there was anything wrong about it?

17 A Yes, sir.

18 Q You but you had a health class?

19 A I had.

20 Q And they told you it was inappropriate to let somebody
21 touch you?

22 A Not in so much as that. They taught us the anatomy.
23 They taught us about the anatomy and physiology of sex.

24 Q They never told you about reporting someone who might
25 touch you inappropriately?

1 A Not that I can remember.

2 Q Are you sure about?

3 A It may have happened but its not to say -- I mean, I
4 was in a position where I trusted Andy. I had no reason to
5 think there was anything -- that anything he was doing was to my
6 detriment. To hurt me.

7 Q Well, if somebody told you that it you was
8 inappropriate for someone to touch you other than let's say a
9 physician then you would have known it was inappropriate?

10 A If that happened potentially, but even so, the mind of
11 a child -- I had no reason to doubt him. No reason to think
12 other wise.

13 Q So you had no reason to doubt this man who is what, ten
14 years older then you, about?

15 A Yes, sir.

16 Q The fact that he was masturbating you is not
17 inappropriate? That's what you're telling these folks that ten
18 years of age you did not know that? Eight to ten years of age?

19 A Yes, sir.

20 Q You didn't know it was inappropriate?

21 A Yes, sir.

22 Q And I assume your parents never told you about someone
23 touching you? Is that what you're telling the jury as well?

24 A Yes, sir, I'm telling you that.

25 Q You're parents never said anything either?

1 A (Shakes head)

2 Q So at age eight to ten you thought because you trusted
3 Andy all of this was appropriate? It was not unusual about what
4 he was doing?

5 A It was part of our relationship at that point. To me,
6 I just I didn't think anything wrong of it in the sense. I just
7 didn't.

8 Looking back on it it's so easily to say obviously this is
9 wrong or how on earth -- I question myself -- how on earth could
10 you let this happen. But there's no other way to say it but in
11 that instance I just didn't see it for what it was.

12 Q And that's what your testimony is, but you're also
13 telling everybody no one ever told you it was inappropriate?

14 A No instance of people telling me that stands out, yes.
15 And I understand that should have been said to me, but I'm also
16 saying that like my childhood was a very -- when something --
17 when something happens you just kind of truck through it. My
18 entire childhood was -- I didn't talk to my parents very much
19 about things like -- just things in general. I didn't. I
20 didn't communicate with my parents very much. To this day I
21 still am a very sheltered person when it comes to expressing
22 feelings. A lot of times I will just go through things in life
23 and just kind of truck through. It never occurred to me to talk
24 to somebody about that.

25 Q But you were close with your parents? It was a close

1 family unit, wasn't it?

2 A It was a close family, correct.

3 Q And your mother and father are people you could talk to
4 if you wanted to talk?

5 A Could of, yes.

6 Q Plus you had I guess coming up in elementary school and
7 in middle school you probably had some favorite teachers, did
8 you not?

9 A Yes, sir.

10 Q I don't know, do they have guidance counselors in the
11 middle school?

12 A Yes, sir.

13 Q Did they have nurses there at the different schools?

14 A Yes, sir.

15 Q I'm sure that some of those people were people that you
16 had confidence in, in the schools, teachers, guidance
17 counselors, nurse, something of that nature, correct?

18 A Yes, sir.

19 Q And you never felt like you needed to disclose to them
20 anything that was going on between you and Andy?

21 A No, sir.

22 Q And of course your parents. And the fact of the matter
23 you held this in. It didn't bother you at all according to your
24 testimony. You just kind of moved on with life and never really
25 weighed on you very heavily, correct?

1 A I forced myself to not. I didn't want to let it weigh
2 on me.

3 Q So the answer to my question is yes?

4 A Yes, sir.

5 Q And from what I can see you were a pretty good student.
6 Didn't effect you in anyway academically, did it?

7 A No, sir.

8 Q You graduated high school, were you salutatorian?

9 A I was third in my class.

10 Q You were third in your class. I saw your transcript.
11 You were third in your class. This is North Western?

12 A North Western High School.

13 Q North Western High School. You were third in your
14 class out of 390 people?

15 A Yes, sir.

16 Q That's pretty impressive. And you graduated -- well,
17 it looks like you had a pretty strong GPA. It is looks like
18 there's a miss print. But no question you were third in your
19 class out of 390 students, correct.

20 A Yes, sir.

21 Q So, it didn't effect you academically?

22 A No, sir.

23 Q Didn't effect you socially?

24 A No, sir.

25 Q You had social interaction with people all throughout

1 different schools; elementary, middle school, high school and at
2 Clemson, correct?

3 A Yes, I had friends throughout the years. That is
4 correct, and social interactions.

5 Q Okay. And those friends --- normally, if something is
6 really important, something really bothers you something that
7 you think is inappropriate if you can't discuss it with your
8 parents you would discuss it with a friend. I'm sure you
9 discussed a lot of significant things with your friends over the
10 years?

11 A There were things that I discussed with my friends,
12 yes.

13 Q So, you would agree with me that there were all kinds
14 of people from -- oh, by the way church. You were very active
15 in the church, in the Episcopal Church?

16 A Yes, sir.

17 Q And you were not just somebody who went there on Sunday
18 with your family but you participated in youth groups,
19 participated in the choir. What other kind of activities were
20 there at the church?

21 A I was an acolyte and lector at the church as well.

22 Q So you had a close relationship I assume with the
23 priests at the church?

24 A Yes, but not as close as the relationship I had with
25 Andy at the church.

1 Q And the youth director was it Mary Kat?

2 A Mary Kat, yes.

3 Q She was the youth director?

4 A That's correct.

5 Q And so those people were people that you trusted as
6 well, correct.

7 A Yes, sir.

8 Q And those are people you could have also disclosed to
9 as well, correct?

10 A Yes, sir.

11 Q But yet you went from 2009 which you said was the last
12 event to 2016. With all these people that were in your life
13 that you could disclose to you didn't disclose? You didn't say
14 a word until you went to the police in 2016, correct?

15 A Correct. I did not disclose to anybody else.

16 Q Not only did you not disclose but you continued the
17 relationship with him for a long, long time, didn't you?

18 A Yes.

19 Q Let's talk about the -- so after Daufuskie it was
20 somewhat in the two-year period there were some massages. What
21 I understood you to say was three or four times or four or five
22 times?

23 A I don't know specifically how many times there were
24 massages between then and the first instance of masturbation but
25 there was a multiple.

1 Q That's what you told Miss Joyner it was like four or
2 five times?

3 A I said five or six times. There were a number of times
4 that he masturbated me.

5 Q And how many times that you were masturbated?

6 A Sorry.

7 Q How many times were you masturbated?

8 A That's what I said, five or six times that I was
9 masturbated.

10 Q And that started what, two years after the Daufuskie
11 trip?

12 A Correct.

13 Q And in between there were the massages?

14 A There were massages.

15 Q How many massages did he give you?

16 A I don't know specifically how many massages but there
17 were multiple massages that happened.

18 Q And they were at his house only?

19 A Yes.

20 Q Or did any of them take at your house?

21 A No, sir, only at his house.

22 Q Around your parents and around your friends did you
23 ever act uncomfortably when Andy was around?

24 A Not to my recollection. Not to my recollection I
25 didn't and also it's hard to know how other people perceived me

1 in those moments.

2 Q Were your parents never seemed to be concerned about
3 it, did they?

4 A Not to my recollection, no.

5 Q So you would assume that there was nothing
6 inappropriate that happened or anything you demonstrated
7 inappropriate in front of your parents?

8 A Sorry rephrase. Repeat the question.

9 Q What I'm saying is, your parents didn't seem concerned
10 about your relationship, did they?

11 A No.

12 Q And that was based upon a lot of interaction between
13 you and Andy as well?

14 A Yes.

15 Q You had no hesitation to him coming to your house,
16 correct?

17 A That's correct.

18 Q And you had no hesitation going to his house, is that
19 correct?

20 A That is correct.

21 Q I know after the massages and the masturbation and even
22 the fellatio you still went over to his house? You had no
23 problem going over there, did you?

24 A No, sir, I did not have a problem with it.

25 Q And I believe you testified that on one occasion you

1 you were up in the attic and you went down to his bedroom? Some
2 time prearranged plan to go down to his bedroom?

3 A That's correct.

4 Q And that is one of the times you were masturbated?

5 A That is correct.

6 Q And based upon what had happened between you and him
7 you had no problem going down there into his bedroom and getting
8 masturbated, is that correct?

9 A That is correct.

10 Q How old were you then at that time at the wedding?
11 That would have been 2009. So you if were born in 19 --

12 A '95.

13 Q 95 in 2009 you would be 14, correct?

14 A 1995 to 2009, correct.

15 Q I went to Clemson too. You were an engineer. I
16 wasn't. Okay. So, at that time you would have been 14 years of
17 age?

18 A Yes, sir.

19 Q And are you still -- are you telling the jury you still
20 didn't know it was wrong?

21 A I'm telling the jury that in the confines of my
22 relationship with Andy I did not for a second believe that what
23 he could do -- what he was doing to me was to my detriment. I
24 didn't think that he was capable. I had put him on such a
25 pedestal. He was such an important figure in my life that I

1 could not see him doing any wrong by me.

2 Q But yet you're saying you didn't even know it was
3 wrong? That's what I am trying to understand. You said you
4 didn't even -- not that he would not do anything to hurt you but
5 you're saying -- telling the jury now that you didn't even know
6 it was wrong? You want to stick with that, that you didn't know
7 it was wrong?

8 A Sir?

9 Q Do you want to stick with that line?

10 A I didn't.

11 Q You didn't?

12 MS. JOYNER: Your Honor, he answered.

13 MR. SWERLING: I'll move on.

14 THE COURT: Cross examination.

15 Q So, 2009 your 14 and you wait until 2016 to disclose to
16 the police, correct? You agree with that?

17 A Yes, 2016 is when I spoke with Detective Thomas.

18 Q Pardon.

19 A Yes, 2016 is when I spoke to Detective Thomas.

20 Q So, the night that you were at -- well, he came over.
21 I guess he didn't want to spend the night with his wife before
22 the wedding, is that what happened?

23 A Yes, that's correct.

24 Q So your parents had no problem going ahead and inviting
25 him over to your house, is that correct?

1 A That is correct.

2 Q And you had no problem with him coming over to the
3 house, isn't that true?

4 A That is correct.

5 Q So whatever was going on between the two of you still
6 had not effected you to the point that you said, hey mom, pop,
7 you know, don't let him come over here. Is that true?

8 A That's true.

9 Q And on that occasion he slept in ~~Victim 2's~~ room or was
10 there a guest room?

11 A So at one point that room was ~~Victim 2's~~ room in the house
12 at then another point in time ~~Victim 2~~ and I shared a bedroom at one
13 point in time and another point in time that became ~~Victim 2's~~ room.
14 So it was a guest room and then it was ~~Victim 2~~'s room. I'm not one
15 hundred percent sure at that tie which purpose it served but it
16 was -- that was the room he stayed in.

17 Q And where were you and ~~Victim 2~~ in the house? You said in
18 the living room you were watching TV?

19 A Yeah, we had set up blankets in the living room in
20 front of the TV. There was a big TV in the living room and we
21 had been watching a movie and it was not uncommon for us to set
22 up sleeping arrangements in the living room so we can watch a
23 movie and go to sleep that way.

24 Q This room, where is it in proximity to where your
25 parents' room is?

1 A So the living room is here which (indicating) shares a
2 wall with my parents room. There's a small hallway if you are
3 in the living room to the right and then if you go left at that
4 hallway is my parents' room. If you go right at that hallway it
5 would lead to the guest room which is where Andy was staying.

6 Q Would you say is like 20 feet maybe?

7 A Sure, yes.

8 Q Door to door or 15 feet maybe?

9 A Maybe less than twenty.

10 Q So what you're telling the jury is that after he went
11 to bed you went into that room as well?

12 A I went with him.

13 Q And on that occasion was there oral sex, is that what
14 you're saying?

15 A Yes, sir.

16 Q So, you're in your own house. You're in a bedroom
17 right near your parents, correct?

18 A Yes, sir.

19 Q And your testimony is that's when he gave you oral sex?

20 A That's correct.

21 Q With your parents sleeping very close by?

22 A Yes, sir.

23 Q And you went in that room on your own. He didn't pull
24 you in the room? There was never any force, correct?

25 A It was not forced, no.

1 Q But you went in. He let you come into that room and he
2 performed oral sex on you with your parents sleeping 15 feet
3 away?

4 A That's correct.

5 Q And your brother was where in the living room?

6 A Asleep in the living room, yeah.

7 Q When you got up in the morning were you in his bed when
8 you got up in the morning or did you go back to the living room?

9 A No, sir, I went back to the living room.

10 Q Was that the situation you said that you wanted to know
11 how you could get masturbation to feel better?

12 A Yes, sir.

13 Q So, as far as the -- I guess there was some sort of is
14 sexual excitement for you having this done, is that correct?

15 A I believe so. Considering that my experience is when
16 he masturbated me that was the first experience of that sort
17 that I had ever had and I throughout -- throughout I think there
18 was always that sort of draw to it because there was -- because
19 it was this new thing. This sexual excitement was this new
20 thing that I had not felt before. And so, yes, I do think that
21 there was some element of that.

22 Q So you presented yourself in his room to have that
23 done?

24 A No. Well, when we went in there he looked to me to go
25 in there with him. It was not --

1 Q What? Was it prearranged or just come up that night?

2 A It didn't come up that night, but it wasn't that he
3 went in there and I then went in there without his knowledge.

4 Q He never took any you pictures of you did he?

5 A Not to my knowledge.

6 Q He never shown you any pornography did he?

7 A No, sir.

8 Q He never really discussed any pornography did he?

9 A No, sir.

10 Q No cameras, no video, but all of that stuff was in his
11 room, correct, you agree with that?

12 A He did have cameras.

13 Q Cameras, video. He had a massive number of computers,
14 I-pads, smart phones, all kinds of things, is that right?

15 A Yes, sir.

16 Q But he never talked to you or showed you any kind of
17 child pornography or have you pose for him in any way in any
18 kind of sexual manner?

19 A No, sir.

20 Q I think as you said you never really got naked either
21 one of you?

22 A That's correct. Accept for at his parents.

23 Q At the time in the Jacuzzi.

24 A Yes.

25 Q By the way, where were his parents at that time, the

1 house that his parents lived?

2 A They were on vacation at the time. That's what he told
3 us.

4 Q Do you know where they were?

5 A I do not. They took trips I believe to South American
6 at times. His family is of Chilean descent.

7 Q Do you remember what time of year it was? What season?

8 A I don't but we were in pool so it couldn't have been
9 too cold.

10 Q Fair enough. But you just don't remember exactly?

11 A I don't remember exactly when it was.

12 Q All right. Tell me about this situation the solicitor
13 keeps asking you about being hogtied? As I understand what your
14 testimony was, it was nothing sexual about it? It was a game?

15 A There were no sexual acts performed during the
16 hogtying. That's correct.

17 Q So basically is what two kids would do. Tie each other
18 up.

19 A Maybe two kids but not two kids and an adult.

20 Q Well, that's your opinion. But it was a game you were
21 playing weren't you?

22 A I wouldn't necessary call it a game.

23 Q Well, let me ask you something. Why would he hogtie
24 you and not -- if you all try to transfer this into a sexual
25 issue, nothing happened, correct?

1 A Nothing sexually happened.

2 Q So, what's the big deal about that. It was a game to
3 you and him at that point tying you up. You were fully clothed?

4 MS. JOYNER: Your Honor, I object to the form of
5 the question.

6 THE COURT: Ask a question.

7 Q Were you fully clothed?

8 A Yes.

9 Q Did he try anything with you sexually?

10 A No.

11 Q And when you said you were hogtied, what were your
12 hands were tied to your feet?

13 A Yes, sir.

14 Q So you were like in a ball?

15 A Yes, sir.

16 Q And was that something sexual as far as you are
17 concerned?

18 A In my perceptive?

19 Q Yes.

20 A No.

21 Q Who made it sexual, the solicitor? The police? Who
22 inferred it was sexual?

23 A Nobody has inferred that it was sexual. It's not
24 necessarily -- I didn't infer it as sexual.

25 Q But you didn't though?

1 A No, I just testified to.

2 Q All right. Now, Miss Joyner, asked you about the chess
3 club?

4 A Yes, sir.

5 Q You asked Andy -- was it you that asked Andy to come to
6 school and teach chess to the students?

7 A I don't recall but he was the one that taught me how to
8 play chess.

9 Q He taught you how to play chess. And somebody
10 suggested he come to the school to go ahead and teach the chess
11 club, isn't that true?

12 A I don't know if someone suggested it or he suggested
13 himself. I can't comment on the nature.

14 Q Forget about who asked who. He did come to the school
15 and he did instruct the chess club?

16 A Yes, sir.

17 Q For a period of time. At least a year or two years,
18 correct?

19 A Yes.

20 Q And you were in the chess club?

21 A I was in the chess club.

22 Q And was that one day a week? One day every two weeks?

23 A I can't remember.

24 Q Do you remember how many people were in the chess club?

25 A At least 10, 15 people.

1 Q And do you remember what grade that would have been for
2 you or how old you would have been?

3 A I believe if I was in the chess club one year in the
4 5th grade.

5 Q So, that would have been -- you would have been, what
6 ten at that time, 5th grade.

7 A I think that is correct.

8 Q Somewhere around ten. Did he teach you as chess pretty
9 well?

10 A I won the chess club that year.

11 Q Well, that was pretty good teaching. Did you go over
12 to his house to learn chess?

13 A He had a chess pieces that he had made out of wood.
14 They didn't follow the normal shape of chess pieces. I'm not
15 exactly sure what style it was, but it was pretty cool, but we
16 also had a chess board at our house.

17 Q So he would come over to your house and teach you chess
18 as well?

19 A I believe I played chess at both locations.

20 Q Do you still play chess?

21 A On occasion.

22 Q But you had gotten pretty good with his instructions?

23 A Yes, sir.

24 Q And was chess club after school?

25 A Yes, sir.

1 Q All right. So he would come to school after school and
2 instruct you and the friends in chess?

3 A Yes.

4 Q What else did he participate in that you were doing? I
5 know the church, he was very involved in the church, correct?

6 A Yes.

7 Q He was at one point choir director, correct?

8 A I don't know that he was choir director but he assisted
9 the choir director.

10 Q He assisted and then another time when Mary Kat left I
11 think she went to New York at some point?

12 A That's correct.

13 Q He became the youth director, is that correct?

14 A Yes, a year or so.

15 Q Did you participate a lot in the youth activities at
16 your church?

17 A Yes, sir.

18 Q And what kind of activities were there?

19 A There was one outing the laser tag. Some times we
20 would have youth groups at the church we would do things like
21 fight hundred where we bagged dry meals. We go on youth events
22 like the youth retreats. We would some times played laser tag.
23 We would have outings like that.

24 Q Was it something once a week or twice a week?

25 A It wasn't as regular as once a week but it was at least

1 once a month.

2 Q Now, you were confirmed at what age, 15?

3 A It was in high school.

4 Q It may have been 15. I'm not sure but you wouldn't
5 disagree with that?

6 A That I was confirmed.

7 Q At 15?

8 A I couldn't tell you the age right now, but I do believe
9 it was in high school.

10 Q Okay. And you needed a sponsor, is that right?

11 A Yes, sir.

12 Q So this would have been some five years after. Let's
13 see 2009 was the last event when he got married and this would
14 have been when you were at 15 in high school. So you would have
15 been a few years older than that, correct?

16 A Yes, sir.

17 Q And the one -- one person in the world that you went to
18 be your sponsor for confirmation out of everybody you could have
19 asked because you had friends, correct?

20 A That's correct.

21 Q They had parents, correct?

22 A I didn't have friends -- the friends that I had within
23 the church were not as close and the friends I had outside the
24 church were not Episcopalian.

25 Q But there was an assortment of people if you wanted to

1 you could have chosen from to be your sponsor?

2 A That is correct.

3 Q Out of all those people the one you choose was the guy
4 who supposedly abusing you back when you were in 5th grade?

5 A Yes, sir.

6 Q Up to 2009, is that right?

7 A Yes, sir.

8 Q And this is not just a simple thing about going ahead
9 and getting confirmed. You have you to study for it, is that
10 right?

11 A There was a little bit of studying, yes, sir.

12 Q Would he come over to your house and help you study for
13 your confirmation?

14 A No, not that I can remember. From my recollection it
15 was pretty self driven. We had meetings in which he had to be
16 present but -- so I guess in that sense, yes. Those meetings
17 were at the church.

18 Q So meetings at the church. Did you go over to his
19 house and learn any of your confirmation lessons?

20 A Not that I can remember.

21 Q As far as the chess club you hosted or he hosted the
22 chess club tournament in his house, isn't that correct?

23 A That's correct.

24 Q You knew that was something he extended an invitation
25 to everybody?

1 A I was aware that it was going to be at his house.

2 Q And all the students came?

3 A Yes, sir.

4 Q And they came with their parents?

5 A I am sure they did.

6 Q Well, you came with your parents?

7 A I believe so.

8 Q When he got married you guys were at the wedding. Your
9 father was in the wedding but you attended the wedding?

10 A Yes, sir.

11 Q A couple years later when his father died you took off
12 school and went to the funeral, isn't that true?

13 A That is correct.

14 Q Okay. After all of this happened?

15 A Yes, sir.

16 Q You shared with him -- let me see if I understand.
17 When you graduated was there a 5th grade graduation?

18 A There probably was.

19 Q You invited him, didn't you?

20 A To a 5th grade graduation?

21 Q Yeah.

22 A I'm sorry, I can't recall.

23 Q Do you recognize this?

24 A It looks familiar.

25 Q Is that the year you graduated?

1 A I do believe so.

2 MR. SWERLING: I would like to offer this as
3 defendant's exhibit.

4 MS. JOYNER: No objection.

5 THE COURT: Without objection.

6 (WHEREUPON, Defendant's Exhibit 1 was received in
7 evidence.)

8 Q When you graduated high school -- well, after all this
9 happened you invited Andy and his wife to your graduation, high
10 school, didn't you?

11 A I wanted them to be there and I didn't -- I don't
12 believe I extended an invitation because I knew that he was the
13 spouse -- his wife at the time was working at North Western so I
14 knew he would be there regardless and he didn't need an
15 invitation from me because you only have a certain number of
16 invitations.

17 Q But you secured him two additional invitations, didn't
18 you?

19 A I don't recall that but I believe it potentially
20 happened. I'm not denying.

21 Q You can't deny that is what happened?

22 A No, I'm not denying.

23 Q Did you guys send each other cards around Christmas
24 time? Birthday cards?

25 A I don't recall sending cards. I didn't send many

1 cards. I don't recall sending any cards. There were times I do
2 remember him giving me a Christmas present at least one year
3 and he gave my brother and I shirts. One of the shirts that he
4 gave to my brother was an "I am Ninja" shirt which is reference
5 to a series of videos that he showed us.

6 Q This is a card you sent him, isn't it? (Handed.) Do
7 you remember this?

8 A I technically seen that card before, yes, sir.

9 Q And that is postmarked 2007, is that correct?

10 A That is correct.

11 Q And you sent him from Camp Gravatt, isn't that true?

12 A I may have. I remember sending cards from Camp
13 Gravatt. I didn't get to read it when you handed it up here.

14 Q Take a look at it. Does its appear to have been
15 written from Camp Gravatt when you were there?

16 A Yes, sir.

17 Q I would like to offer this, Your Honor.

18 MS. JOYNER: No objection.

19 THE COURT: Without objection.

20 (WHEREUPON, Defendant's Exhibit Two was received
21 in evidence.)

22 Q You talked with Miss Joyner when she was asking you
23 some questions about going on various church related activities
24 with Andy, is that right?

25 A Yes, sir.

1 Q And at least twice a year there was a mission down at
2 Camp Gravatt around the Aiken, Augusta area.

3 A It was a retreat, yes, sir.

4 Q And on those occasions what age did you go to those
5 retreats?

6 A I attended in middle school and served on the design
7 team and also in high school. You had to go one year to be able
8 to be eligible.

9 Q And the design team actually designed the program for
10 the retreat?

11 A That's correct. It was a the same structure every year
12 but we would meet to determine who was doing what.

13 Q And the design meetings were done in Clinton, South
14 Carolina?

15 A That is correct.

16 Q Who did you ride with to Clinton?

17 A Andy.

18 Q Who did you ride back to Rock Hill after those
19 meetings?

20 A Andy.

21 Q Who did you ride to the retreats with down in Gravatt?

22 A Andy and the youth. The congregation that was
23 attending.

24 Q Who did you ride back with?

25 A The same.

1 Q And that happen on numerous occasions, isn't that true?

2 A That is correct.

3 Q Well after these events that you are talking about took
4 place?

5 A Yes, sir.

6 Q Not only did you have missions where there were a
7 number of youngsters who went to that missions down in Gravatt,
8 that's where they are normally held, correct?

9 A Yes, sir, Camp Gravatt.

10 Q The retreats. And I believe it's at least like twice a
11 year?

12 A There is one in the fall and one in the spring.

13 Q And so there were numerous children and there were
14 numerous parents there?

15 A Yes, there were adults chaperoning. Not everybody's
16 parents were there but there were adults chaperoning.

17 Q And Andy since he was at that point director of the
18 youth group he went and not only went to the retreats but also
19 went to the design meetings and took you to both?

20 A That's correct.

21 Q And when did that all end? When did you stop attending
22 the retreats?

23 A It was in high school. I can't remember if I did it my
24 senior year but I was on the design team for most of high
25 school.

1 Q Let me show the jury what we are talking about. This
2 is one of the brochures that you helped design, isn't it?

3 A No, this is something that was different. This was a
4 mission trip that we went on to in Georgia. This is different.

5 Q But you help prepared this?

6 A Yes, we gave a presentation in front of the
7 congregation back at our home church on this mission trip when
8 we got back from the mission trip.

9 Q So you recognize it?

10 A I do recognize that yet.

11 MR. SWERLING: Your Honor, I would like to
12 introduce this.

13 THE COURT: Any objection?

14 MS. JOYNER: No objection.

15 THE COURT: Without objection.

16 (WHEREUPON, Defendant's Exhibit 3 was received in
17 evidence.)

18 Q So, if I said that there was a retreat in 2000 -- two
19 of them in 2007 you wouldn't dispute that?

20 A 2007 I wouldn't dispute that there was a retreat. Are
21 you saying that I went on?

22 Q Yeah.

23 A 2007, I can't do the math so great. That would be
24 in -- that's 12 years. Yeah, I believe I would have been on the
25 retreat.

1 Q And it goes all the way 2008, 2009, 2010, these are
2 retreats that you went down at Gravatt with Andy?

3 A Yes, sir.

4 Q You never resisted going? Driving with him down there
5 or driving with him back to your home?

6 A No, sir.

7 Q You never resisted saying anything about going to
8 Clinton back and forth?

9 A No, sir.

10 Q For these meetings, is that correct?

11 A That's correct.

12 Q In addition to those retreats and those meetings down
13 at Gravatt the church youth group also went on ski trips at
14 least once a year, isn't that true?

15 A That is correct.

16 Q And where would you go?

17 A I would say we would go up north out of state. I think
18 we went to -- I think we went to a winter place one year.

19 Q Okay. And in 2011 -- well, let me ask you. How many
20 ski trips do you think you went on with him?

21 A I think I went on few ski trips.

22 Q A few?

23 A Yeah, I remember two.

24 Q He drove you?

25 A I think we took a van. I don't remember who was

1 driving. There were other adults on the trip.

2 Q But he was with you?

3 A He was with me.

4 Q And other adults as well?

5 A That's correct.

6 Q In fact the church had asked him to take over the youth
7 group after Mary Kat left?

8 A I believe so, yes.

9 Q So you graduated high school. What year would that
10 have been?

11 A 2014.

12 Q So after high school, 2014, you waited another two
13 years before you ever reported this?

14 A Yes.

15 Q To anybody, is that correct?

16 A Yes, sir.

17 MR. SWERLING: Excuse me one minute, Your Honor.

18 Thank you.

19 THE COURT: Redirect.

20 MS. JOYNER: Yes, sir, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. JOYNER:

23 Q I know you have been up here a long time and I don't
24 want to keep you up here any longer than I need to. Just a few
25 more questions for you.

1 So tell me your date of birth again.

2 A

3 Q So you're almost to the end of the calendar year?

4 A Yes, ma'am.

5 Q So in calculating how old you were during a particular
6 year, your birthday is going to come very late. Almost to the
7 end of the year?

8 A That's correct.

9 Q Okay. So we went through this on your direct. The
10 years of your schooling based on your graduation so I don't want
11 to go back over those dates specifically, but I want to talk
12 about a few points that were brought up.

13 Mr. Swerling asked you on cross he talked about Daufuskie
14 being in 2003. Do you know when Daufuskie happened?

15 A I said I was in third grade when Daufuskie happened.

16 Q So you would have been in the third grade in 2004 to
17 2005?

18 A You wrote it down earlier so would you have a better
19 idea.

20 Q Okay. So, moving from not 2003, it's 2005 then,
21 correct?

22 A Okay.

23 Q Now, going back through the hogtie incident. Nothing
24 sexual happened, correct?

25 A That's correct.

1 Q Was there another incident involving the rope?

2 A Yes. I you testified to that earlier.

3 Q Okay. And did that incident involve a sexual act?

4 MR. SWERLING: Your Honor, that is not redirect.

5 THE COURT: I will allow it. Go ahead.

6 Q Thank you. Did that incident involve a sexual act?

7 A Yes.

8 Q Now, you testified about -- on cross, about the
9 incident where you went down to the defendant's bedroom by
10 prearrangement?

11 A Yes.

12 Q Do you know exactly how old you were when that incident
13 happened?

14 A I don't, but it was in between 5th grade and the day he
15 was married or the day before he got married.

16 Q And you know that because why?

17 A Because the night before he got married was the last
18 event that occurred of a sexual nature.

19 Q And why do you know it was after the 5th grade?

20 A Because -- because masturbation -- the first incident
21 of masturbation happened in the 5th grade with the joke.

22 Q Okay. What location -- where had you come from when
23 you went down to his room?

24 A The bed in the attic.

25 Q The attic. So would the attic -- the fact that there

1 was a bed in the attic provide additional context as to when
2 that event occurred?

3 A It might. My dates as far as when the attic was
4 completed, I don't have access to that. But it might.

5 Q So there was a bed in the attic at the time that
6 happened?

7 A That is correct.

8 Q Now, going back through -- back to the chess club
9 party. Do you remember exactly when the chess club was?

10 A I believe I was in the 5th grade when I was in the
11 chess club.

12 Q And Mr. Swerling brought up Mary Kat. Tell me just to
13 make sure who is Mary Kat?

14 A Mary Kat was the pastor of our church and was also in
15 charge of youth coordination.

16 Q Okay. So, youth coordination is does that youth group?

17 A She did lead youth group, that is correct.

18 Q So at some point you said moved to New York is that
19 right?

20 A That's correct.

21 Q And who replaced her over the youth group?

22 A I believe Andy was the one who then headed up the
23 youth.

24 Q So had somebody at the church appointed him or chosen
25 him to lead the youth group?

1 A That I don't know the process that was involved in him
2 taking on responsibilities of that nature.

3 Q I'm sorry. Jumping back to the chess club party. Do
4 you recall whether there were parents present?

5 A I don't recall specifically if there were parents
6 present, no. But, yeah --

7 Q Could there have been parents?

8 A There could have been.

9 Q Now, the incidents that occurred that were
10 inappropriate involving you and the defendant in his home, were
11 your parents there in the home when that happened?

12 A No, ma'am.

13 Q Going back to the last night, the night before the
14 wedding, going to the room. Do you recall exactly how it was
15 that you got back -- that you ended up in the guest room or the
16 bedroom with Andy?

17 A I walked back with him.

18 Q Victim one when these things were going on, some time after
19 Daufuskie onward, while this abuse was going on did you respect
20 the defendant?

21 A Yes.

22 Q Did you like the defendant?

23 A Yes.

24 Q Did you consider him your friend?

25 A I did.

1 Q When the abuse stopped and you continued to live next
2 door to him did you like the defendant?

3 A Yes.

4 Q Did you care about him?

5 A I did.

6 Q Did you trust him?

7 A I did.

8 Q The things that you would do with him with the youth
9 group did you enjoy the youth group?

10 A I did.

11 Q Did you enjoy participating in -- I got kind of lost in
12 it but the design -- what was it the design committee?

13 A Yeah, design team for the retreats that we went on.

14 Q Do you like planning things?

15 A I enjoyed the design team, yes, and those retreats.

16 Q I am going to look at Defendant's Exhibit Two that has
17 been entered. Camp Gravatt, is that a camp that you and Nick
18 went to every summer?

19 A It is summer camp as well.

20 Q All right. Were you in that camp in 2007?

21 A I was at that camp elementary school and in middle
22 school, and Archery is a class that they had in the summer camp.

23 Q And so -- can you read what that card says?

24 A Would you like me to read it out loud.

25 Q Yes please.

1 A Okay, it says, "What's up. Camp Gravatt rocks. You
2 were right. Archery is the best of them all. See you when I
3 get pack. Peace out."

4 Q Did you write that?

5 A Yes.

6 Q Okay. And would you assume the postmark on this is
7 correct?

8 A It says 2007.

9 Q June 30th of 2007?

10 A Yes.

11 Q And so, going back I just want to make sure I got this.
12 If you graduated high school in May of 2014. Then the summer of
13 2007 would that be the summer between your 5th and 6th grade
14 years?

15 A Doing the math, yeah.

16 Q So had you prior to going to Camp Gravatt had you
17 talked to the defendant about going to camp?

18 A I don't know. I wouldn't put it passed me though.
19 That was something I was always very excited about going to.

20 Q You were excited about going to summer camp?

21 A Yes.

22 Q So if that is postmarked June of 2007, now going to
23 Defendant's Exhibit One. That's your bulletin from your
24 graduation from the 5th grade. What is the date on that?

25 A May 23, 2007.

1 Q Okay. And that's correct, that's your bulletin from
2 graduating from 5th grade?

3 A I believe so and I looked in there and there are names
4 of classmates of mine.

5 Q Okay. So you believe that is correct?

6 A I do believe that is correct.

7 Q Okay. So, then this would be sent between 5th and 6th
8 grade?

9 A Yes.

10 Q So if the summer of 2007 is between the 5th and 6th
11 grade going to Defendant's Exhibit Three, what is the date on
12 that?

13 A June 20th to the 24th of 2008.

14 Q Okay. And so that would have then been -- am I
15 correct, that it would be the summer after the 6th grade?

16 A Correct.

17 Q Okay. Would this be before the defendant had gotten
18 married?

19 A Yes.

20 Q So during that period of time would inappropriate
21 things have been going on?

22 A Yes.

23 Q Can you explain to me again this youth mission. You
24 went to Augusta Georgia?

25 A Yes, ma'am. It's called Homeworks. We went to Augusta

1 Georgia and we stayed at a church. There were multiple churches
2 that came together and we were helping out local houses in the
3 community. We like painted houses, power washed and we were
4 helping multiple families in need in the area. We split up into
5 groups.

6 Q Okay. And how many kids from your group? Do you even
7 remember how many kids went on this mission trip?

8 A From my church?

9 Q Yes.

10 A I don't remember specifically. My brother was there.
11 I believe there were a few others there. There were a lot of
12 kids in general there but I know for a fact I was there and I
13 believe my brother was there as well.

14 Q And you were doing -- were you doing community service?
15 You were doing a service project?

16 A Yes, we would like -- we had ladders up against the
17 house and we would climb the ladders and we would do some
18 painting and some pressure washing and things of that nature.

19 Q Okay. And what did you say about presenting this to
20 the church afterwards?

21 A Yeah. So some of the members of the church wanted to
22 hear about our experience there and so we made a power point
23 presentation and got up in front of the congregation in one of
24 the gyms and presented it to the congregation of what had
25 happened.

1 Q So you would have been about 12 years old when you
2 stood in front of the church and told them about your mission
3 trip?

4 A I'm sorry. Just like the years and the dates are hard
5 to correlate but you have them so ...

6 Q And did you consider that a great honor to stand in
7 front of the church?

8 A I did feel special. It was kind of like I was an
9 ambassador to the church at the point and I did something and
10 was able to speak about it.

11 Q Do you remember who else stood up there with you?

12 A I believe Andy stood up there and Victim 2 as well.

13 Q Now Mr. Swerling asked you a lot of questions about
14 growing up whether you understood that this was wrong or
15 inappropriate. Looking back on these experiences that you had
16 with the defendant, have they effected you?

17 A I do believe they have effected me, yes.

18 Q How have they effected you?

19 A Just because I -- just because I have to -- to what Mr.
20 Swerling has said, they still weigh on me and I still think
21 about them and I'm not -- it comes in my mind, there was another
22 situation where I had a friend who through my wife's family she
23 had --

24 MR. SWERLING: Your Honor I object to any other
25 situation. I don't know what's coming.

1 THE COURT: Well, I don't either.

2 MS. JOYNER: Well, can I rephrase the question.

3 THE COURT: Rephrase the question.

4 Q Without getting to the specifics of anybody else's
5 situation, how has it effected you?

6 A I been more alert in thinking about other people and
7 other situations that people are in.

8 MS. JOYNER: Thank you, very much. I have no
9 further questions.

10 THE COURT: Recross.

11 MR. SWERLING: Nothing further.

12 THE COURT: All right, sir, you may come down.
13 Thank you, very much. Next witness.

14 MS. JOYNER: Your Honor, at this time I do have a
15 matter of law for the Court regarding my next witness.
16 If we could approach, Your Honor.

17 THE COURT: Approach and tell me what it is.

18 (WHEREUPON, there was an off the record
19 discussion.)

20 THE COURT: All right, ladies and gentlemen, I
21 have to take this up on the record with the attorneys.
22 I am going to ask you to go to jury room for a few
23 minutes and don't always believe me when I say a few
24 minutes. But we will conclude this as quickly as we
25 can. Don't discuss it among yourselves while you are

1 in the jury room.

2 (WHEREUPON, the jurors leave the courtroom.

3 THE COURT: All right call your witness.

4 MS. JOYNER: Thank you, Your Honor. The State
5 calls Lynn McMillan.

6 LYNN McMillan, called as a witness, having been
7 duly sworn by the clerk, was examined and testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MS. JOYNER:

11 Q Can you please state your full name for the record?

12 A Doctor Lynn McMillan.

13 Q Miss McMillan, where are you currently employed?

14 A I am employed at the University of South Carolina
15 Upstate.

16 Q In what capacity?

17 A I am director of the Center for Child Advocacy Studies.

18 Q Miss McMillan, how long have you held the position of
19 Director of Child Advocacy Studies?

20 A I was promoted to that position in 2018.

21 Q And just generally for the court's information what
22 does being a Director of Child Advocacy Studies mean?

23 A We have a center for Child Advocacy Studies at USC
24 Upstate and there are various centers on campus and this one is
25 part of the Child Advocacy Studies curriculum in the psychology

1 department and being director means I have administrative
2 responsibilities for the center as well as I teach three
3 courses.

4 Q Okay. And prior to pulling that position were you
5 previously employed at USC Upstate?

6 A Yes, I have been there full time since 2013 and I was
7 adjunct there since to 2012.

8 Q Now, I want to go a little bit into your education
9 background. Can you please tell the Court about any college or
10 postgraduate work that you completed?

11 A I have an undergraduate degree in social work from East
12 Carolina University, North Carolina. I have a master's degree
13 in social work from the University of South Carolina, College of
14 Social Work and then I have a PHD in social work from the
15 University of from the University South Carolina College of
16 Social Work.

17 Q And can you please tell the Court what professional
18 licenses and certifications you hold?

19 A I'm licensed as a social worker in both South Carolina
20 and North Carolina. In South Carolina I have an advanced
21 clinical licensure which is called LISW-CP which is Licensed
22 Independent Social Worker for Clinical Practice and I'm also a
23 supervisor for social workers obtaining there advanced clinical
24 practice.

25 In North Carolina I'm licensed as a clinical social worker.

1 Q And what is meant by being a clinical social worker?

2 A It means that we have education and training specialty
3 around clinical issues. It might be mental health issues, other
4 kinds of clinical certifications in clinical situations for
5 clients and we also have that advanced training and experience
6 in supervision.

7 Q And does clinical mean you would be able to counsel
8 someone?

9 A If I was in private practice I could diagnose and
10 treat, correct. I just choose not to do that.

11 Q And your PHD is that a research level PHD?

12 A It is a research level PHD.

13 Q And what was your topic?

14 A My topic for my dissertation it had to do with mothers
15 of sexually abused children and how they decide whom to believe
16 when the alleged offender is mother's current or former intimate
17 partner.

18 Q And have you been continuously employed in the social
19 work field for the last 40 years?

20 A Forty years, yes, I have.

21 Q And were you obtaining your different levels of
22 education after your graduation from college?

23 A I'm sorry, I don't follow.

24 Q While you were working you were continuing your
25 education, is that correct?

1 A Yes.

2 Q Okay. Now, part of your work at USC Upstate, can you
3 please tell the Court what classes you are currently teaching
4 and what classes you have taught in the past?

5 A I am going to refer to my notes if that's okay. I'm
6 currently teaching three courses and three classes in system
7 responses to child of maltreatment. It's an upper level class
8 which is part of the child advocacy curriculum. And I'm also
9 teaching prevention intervention strategies for child
10 maltreatment.

11 I previously taught introduction to child maltreatment and I
12 also teach the graduate level for our graduate certificate.

13 Q And those classes that you teach do they touch upon or
14 do you teach on the dynamics of child sexual abuse?

15 A Oh, yes.

16 Q And within that is there delayed reporting and
17 grooming?

18 A Yes.

19 Q And in addition to the classes that you taught have you
20 ever presented on any of those topics?

21 A Yes, I have.

22 Q What have you presented on?

23 A Let me look it up. Well, I teach on the topic partly
24 has to do with dynamics of child sexual abuse is part of ACE's
25 training; adverse childhood experiences. I'm an ACE master

1 | trainer and I have done many, many, many of those trainings for
2 | the community and for the school and that is part of that
3 | training.

4 | I've also done -- incorporated that information into a
5 | presentation on intergeneration transmission for risk of abuse
6 | and neglect. I've presented on the grooming process, building
7 | trust with children in their families. Again, I've incorporated
8 | a lot of that into Mother's perceptive of risk.

9 | I've presented on my own research at an international
10 | conference and national conference. I have a list of them if
11 | you need to see them.

12 | Q All right. Now you also received advanced --
13 | personally received advanced training on some of these topics as
14 | well?

15 | A Yes.

16 | Q And which are those trainings implicate the subject
17 | matter asked about?

18 | A Well, particularly as a ACE master trainer and that is
19 | through the South Carolina children's trust and just the
20 | different conferences. As being a master trainer there was
21 | specific training for that. Various conferences that I have
22 | attended.

23 | Q Okay. Now, have you ever been offered as a blind
24 | expert on the dynamics of child sexual abuse, delayed disclosure
25 | and grooming?

1 A Yes.

2 Q How many times?

3 A As a blind expert once.

4 MS. JOYNER: Your Honor, we would offer her as
5 expert in the areas of child dynamics, childhood
6 sexual abuse, delayed disclosure and grooming.

7 THE COURT: Any objection or voir dire?

8 MS. WILSON: No objection.

9 Q So Miss McMillan, I would like to talk about what is
10 meant by the term delay disclosure?

11 A May I ask that you call me Dr. McMillan.

12 Q I'm sorry?

13 A I just prefer that.

14 Q Yes, ma'am, I'm so sorry.

15 A Thank you. Can you please repeat the question.

16 Q Yes. Can you please explain what is meant by the term
17 delayed disclosure?

18 A Well, disclosure means telling about something and
19 delayed means you don't tell right away. So delayed disclosure
20 in terms of child sexual abuse just means that there may have
21 been an incident of child sexual abuse and the child just didn't
22 tell. The delay could be days, weeks, months, years.

23 Q And is delayed disclosure common in child sexual abuse
24 cases or instances?

25 A Delayed disclosure is common. Many, many studies agree

1 on the delay of disclosure for really most children. In fact
2 most children don't tell as children about the sexual abuse.

3 Q Okay, and is the topic of delayed disclosure is that --
4 the fact that delayed disclosure is common, is that universally
5 accepted within the field of child sexual abuse experts and
6 professionals?

7 A Yes, it is. There are various experts in the field of
8 child of sexual abuse, social work, psychology, legal, medical
9 and there is general consensus about delayed disclosure.

10 Q And is that topic been the subject of studies in
11 literature?

12 A Yes, it is.

13 Q And are those studied of literature peered reviewed?

14 A The ones that are published, yes.

15 Q And you have been trained on this topic and educated on
16 this topic?

17 A Yes.

18 Q Okay. And do you in turn teach and train on this?

19 A Yes, I do.

20 Q Okay. Can you explain to the judge what is meant by --
21 what is meant by the term grooming?

22 A Grooming is any activity that prepares a child to be
23 abused. Quite simply. And it's usually in cases of child
24 sexual abuse, but it may not. It also parallels with cases of
25 domestic violence or other types of abuse. So the grooming

1 process is to groom the child. The offender may need to groom
2 themselves and they need to overcome any inhibition they may
3 have to act on their desires. So the objective is to groom a
4 child to gain access, have them be compliant with it, maintain
5 secrecy and they do that by grooming the child, by grooming the
6 family and also institutions; law enforcement, medical and other
7 places as well.

8 Q And is the topic of grooming, is that concept of
9 grooming, is that universally accepted as a phenomenon within
10 the child sexual abuse experts and professionals?

11 A Yes, it is.

12 Q Is it the subject of study and literature?

13 A Yes, it is.

14 Q And is the study and literature peer reviewed?

15 A Yes, they are.

16 Q Have you been educated and trained on the topic of
17 grooming?

18 A Yes, I have.

19 Q And do you in turn teach on that topic?

20 A Yes, I do.

21 Q Now, are there certain dynamics that can contribute to
22 a child's delay in disclosing sexual abuse?

23 A Yes, there are some common dynamics that are present
24 when you look at delayed disclosure.

25 Q Can you tell us what some of those common dynamics are?

1 A Some of the dynamics maybe the child themselves. They
2 may have fears of being blamed. They may have fears of outing
3 somebody and that person might get in trouble for it. Other
4 dynamics might be family dynamics. Is there any pressure to not
5 reveal something that is going on? Has the child ever disclosed
6 anything before and not been believed. So there are family
7 dynamics.

8 The relationship with the offender, the alleged offender.
9 How long have they known them. And also the abuse dynamics.
10 The severity of the abuse. How long it's been going on.

11 Q And are those dynamics, some of the factors that you
12 laid out, are those universally accepted and recognized as
13 factors that factor in the child's delayed disclosure within the
14 area of child sexual abuse experts and professionals?

15 A Yes, they are some of the dynamics and I think the
16 field is always trying to identify other dynamics that might
17 affect the disclosure as well and some of those have been less
18 studied.

19 Q So within the ones that you have listed, have those
20 been studied and reported on in literature for the field?

21 A Yes, they have.

22 Q And are those studies in the study and literature
23 peer reviewed?

24 A Yes, they are.

25 Q And accepted in the field?

1 A Yes, they are.

2 Q Have you been trained and educated on those factors?

3 A Yes, I have.

4 Q And do you in turn also train your students and other
5 people who attend your presentations about those?

6 A Yes, I do.

7 Q And specifically as to this case, have you been
8 provided any information at all about what this case is?

9 A I have been provided none.

10 MS. JOYNER: Okay. That's the case proffer, Your
11 Honor.

12 THE COURT: Cross examination?

13 CROSS EXAMINATION

14 BY MS. WILSON:

15 Q Good afternoon Doctor McMillan.

16 A Hello.

17 Q My name is Melissa Wilson. I just have a couple of
18 questions for you. Are you being compensated to be here today?

19 A I am, yes.

20 Q And what is that compensation?

21 A You mean the amount?

22 Q Yes.

23 A I am going invoice for a hundred dollars an hour plus
24 travel.

25 Q Have you met with the victim or reviewed any of the

1 transcript or the videos?

2 A None.

3 Q You testified regarding delayed disclosure being
4 common. Is it as common to delay when there's someone outside
5 of the family that the children could tell; a coach, or a
6 teacher, someone that they trust?

7 A I'm sorry, is it less common?

8 Q Is it less common to delay?

9 A I don't think it's based specifically on the
10 relationship as far as a blood relationship. But the closeness
11 of the relationship so it could be a coach or teacher or someone
12 who is not biologically related to the family but has a close
13 relationship and I think that's the caveat is just the close
14 verses a stranger is what I'm saying.

15 Q Right, so if there's someone outside of the child --
16 close to -- they're more willing to disclose earlier?

17 A I don't know the literature supports that.

18 Q You commented on that most children don't tell as
19 children. Do you have percentages?

20 A I'll cite the textbook that I used which is APSAC. It
21 stands for the American Professional Society on the Abuse
22 Children. It's 2018 4th addition handbook and it's a textbook
23 that I use for both of my courses. And within one of the
24 chapters there are several citations. One from Ramona Alonto
25 (phonetics) and she is from the University of Toronto and she

1 gives the statistics of 60 to 80 percent of children don't
2 report as children. I know Steven Cece, he and his colleagues
3 have done a lot of research around disclosure and they've
4 reported like two thirds of children never report as children
5 and those are usually determined by talking to adults about
6 their childhood experiences.

7 Q And are these studies -- these studies have some
8 inherent problems though considering that we can't have a
9 controlled group for this type of science?

10 A Correct.

11 Q Are there studies -- there's really no gold standard as
12 far as these studies? I mean, they inherently have some issues?

13 A The gold standards would be randomized controlled
14 studies. That's not going to be the case in cases of trauma.
15 And again, I mentioned Steven Cece because he's really pointed
16 out a lot of methodological issues. Some are large population
17 samples. Some are small clinical samples and he has challenged
18 that, but even challenging that he's said it is commonly
19 accepted that most children do not tell and delayed disclosure
20 is common for children even when they tell as children.

21 Q But that's including delayed disclosures that could be
22 one day or --

23 A And that's part of the methodology that he has been
24 concerned about is where is the delay. How do you calculate the
25 delay and that varies.

1 Q When you're speaking of delay you're speaking of
2 anywhere from one day to 20 years. It's just children who don't
3 immediately report?

4 A Correct. Again, whatever study is happening they would
5 define that in the study.

6 Q You spoke about grooming and secrecy. One of the main
7 components of grooming is for the person doing the grooming, the
8 perpetrator, to try to keep the child from telling anyone, isn't
9 that correct?

10 A That's one of the objectives to keep the child from
11 telling or if the child does tell the child is not believed.

12 Q So part of the grooming process would be to instruct
13 the child to keep it a secret or use a threat to keep the child
14 from telling?

15 A It could be instruction. It could be a threat. It
16 could be coercion. They may insert themselves into the life of
17 that child or to the family in the way that they're very well
18 accepted into that family so if there is a connection with the
19 family then child may not want to tell on them because they care
20 about them. So it isn't just threats or an instruction on
21 keeping a secret.

22 Q As far as some of the common dynamics you spoke about,
23 there's other things in the family that could cause those
24 dynamics. I mean, there could be other family dynamics going
25 on?

1 A I probably only mentioned a few. The family dynamics
2 are incredibly complex to understand. And so there could be
3 other dynamics that could effect disclosure of course.

4 Q There could be parental discourse or some other type of
5 abuse going on in the household?

6 A Possibly.

7 Q You mentioned studies. Many of these studies there are
8 other contradictory studies that may have different percentages
9 or numbers?

10 A Not contradictory in the outcome so much as
11 contradiction in -- or inconsistency of the methodology. For
12 instance, you may do -- some of our data is through national
13 population studies where you're talking to lots and lots of
14 people all over the country, not just people who have been a
15 victim of a crime or victim of sexual abuse. And so you're
16 getting population data. You may get crime statistic data. You
17 may get child protection services data. You may have a sample
18 of say children who are being treated at children's advocacy
19 center or adults who are being treated substance abuse center or
20 mental health and those may be a very small population samples
21 so there is inconsistency on the methods. But again, the
22 outcomes, the general consensus about grooming, the general
23 consensus about delayed disclosure is still there.

24 Q So depending on where the information is coming from.
25 There's an issue with where the information is coming from.

1 Some information is coming from law enforcement for a study or
2 some information is coming from DSS for a study. It could
3 effect the way the outcome of this study?

4 A No, I don't think it does. And I don't call it an
5 issue. It's just the way data is reported or data is gathered
6 in different kinds of ways and then having to interpret that
7 data. Again the consistency has been the outcome.

8 MS. WILSON: Beg the Court's indulgence. No
9 further questions, Your Honor.

10 THE COURT: Anything further of this witness.

11 MS. JOYNER: Nothing further for the proffer.

12 THE COURT: All right. You may come down. Might
13 have to call you back. Solicitor.

14 MS. JOYNER: Your Honor, the State's position is
15 that the testimony proffered is proper under State
16 versus Jones 423 SC 631. I think that Miss McMillan
17 is clearly qualified to testify.

18 THE COURT: There is no objection to her
19 qualifications.

20 MS. JOYNER: I think that beyond that, Your Honor,
21 I think that obviously the subject matter is of
22 grooming, delayed disclosure, other dynamics that
23 contribute to delayed disclosure. I think that's
24 outside of the common knowledge of the jury. I think
25 it's recognized in State versus Jones and I think also

1 in other cases as proper subject matter for expert
2 testimony.

3 I think that she is testifying very similarly to
4 the way in which the expert in State versus Jones
5 testified to establish the reliability of what she is
6 -- of the subject matter of her testimony. In State
7 versus Jones the Supreme Court's decision and also the
8 Court of Appeals decision goes more into exactly what
9 Shauna Galloway-Williams testified to. But again, I
10 think her testimony very closely tracks to that
11 testimony establishing that these are -- this is
12 information that is accepted, commonly accepted within
13 the field subject to studies, peer review and just
14 common universally accepted within the field.

15 THE COURT: All right.

16 THE COURT: Miss Wilson.

17 MS. WILSON: Your Honor, I think that while I
18 recognize that the courts generally allow this type of
19 information, this type of testimony, I think that
20 within the passed couple years that this is within the
21 common knowledge of a juror. I mean, the media has
22 covered many examples of sex abuse. You have Doctor
23 Kimpson (phonetics) and the gymnast. You have Michael
24 Jackson. There was Sandusky. I think even looking at
25 yesterday, you know, almost a third of our jury pool

1 probably had some kind of abuse that they had talked
2 about or had within their own family. So this isn't
3 kind of a taboo subject any more. It is a more common
4 thing within the general public. So we submit to you
5 that this expert testimony is within the knowledge of
6 an average juror and that they don't need to -- they
7 don't need this testimony to inform them about this
8 type of topic.

9 Further, I think that this testimony although it
10 is blind bolsters the victim. Even though the doctor,
11 Doctor McMillan, is a blind expert and hasn't seen or
12 heard any of the victim's testimony or read of the
13 discovery, she's still is clearly here for the
14 prosecution. She has been working, you know, as a
15 forensic interviewer for a long time before she was at
16 the college. She was children at the Children's
17 Advocacy Center in Spartanburg. So I believe that her
18 testimony really isn't neutral. And lastly, I think
19 the underlying methodology of child sex abuse dynamics
20 is unreliable. There really can't be a controlled
21 group with this non-scientific data. There's no way
22 to ascertain consistency because we can't have a
23 controlled group obviously with abused children.

24 So we would submit that the testimony is within
25 the knowledge of the jury. The testimony will

1 improperly bolster the victim's testimony and the
2 underlying methodology behind it is unreliable and the
3 testimony should be excluded.

4 THE COURT: All right.

5 Well, I may agree with you that sexual abuse cases
6 are certainly in the news, but the issue here is the
7 science behind the identification of delayed reporting
8 and I do think that knowledge is beyond the scope of
9 the layman's knowledge and is ripe for expert
10 testimony.

11 I find that the evidence will assist the trier of
12 fact. That the expert acquired the requisite
13 knowledge and skill to qualify as an expert in that
14 particular subject matter and the substance of the
15 testimony is reliable pursuant to counsel and that the
16 witness, Doctor McMillan has not interviewed or is not
17 knowledgeable about the facts of this case and I think
18 therefore it does not rise to the point of bolstering
19 any of the witnesses' testimony to date.

20 I find that the testimony is admissible regarding
21 the general behavioral characteristics of child sex
22 abuse victims and non-offending caregivers although
23 that was not part of her testimony. But her testimony
24 does not bolster the testimony as I say of any of the
25 witnesses in this case, and could assist the jury in

1 understanding some of the aspects of the behavior of
2 victims of sexual abuse and provide some insight into
3 the abused child's perhaps strange demeanor that the
4 jury might think is strange demeanor.

5 Her testimony is also I think crucial in
6 explaining to the jury why child sex abuse victims are
7 often unable to effectively relay incidents of
8 criminal sexual abuse. I therefore respectfully deny
9 your motion and will allow the witness to testify.

10 MS. WILSON: Thank you, Your Honor.

11 MS. JOYNER: Thank you, Your Honor.

12 THE COURT: Bring the jury please.

13 (WHEREUPON, the jury enters the courtroom.)

14 THE COURT: All right, solicitor, call your next
15 witness.

16 MS. JOYNER: Thank you, Your Honor. The State
17 calls Doctor Lynn McMillan.

18 LYNN McMillan, called as a witness, having been
19 duly sworn by the clerk, was examined and testified as
20 follows:

21 DIRECT EXAMINATION

22 BY MS. JOYNER:

23 Q Doctor McMillan, can you please state your full name
24 for the record?

25 A Lynn McMillan.

1 Q How are you employed?

2 A I am employed at the University of South Carolina
3 Upstate in Spartanburg.

4 Q In what capacity?

5 A I'm the director of child advocacy studies at the
6 Center for Child Advocacy Studies at the University.

7 Q And if you could give the jury a general idea of what
8 your job entails?

9 A The Center for Child Advocacy Studies is actually an
10 inner-disciplinary minor housed in the Psychology Department at
11 USC Upstate and we have a center. There are varios centers on
12 campus. On our particular one teaches courses in the minor and
13 graduate certificate program to help out students understand
14 about lots of dynamics that effect children in families. So I
15 have administrative responsibilities and I also teach three
16 classes.

17 Q Now, prior to holding the position of Director of Child
18 Advocacy Studies were you also employed at the University of
19 South Carolina Upstate?

20 A Yes. I've been employed there full time since 2012 and
21 adjunct since 2012 and full time since 2014.

22 Q And by adjunct that means you would teach classes but
23 weren't there full time?

24 A Correct.

25 Q Now, regarding your educational background, can you

1 please tell the jury about any graduate and postgraduate degrees
2 that you hold?

3 A Okay. I hold three degrees. They're all in social
4 work. A bachelors degree is social work from a very long time
5 ago. I hold a master's degree in social work from University of
6 South Carolina, College of Social Work and I also hold my
7 Doctorate, PHD from University of South Carolina, College of
8 Social Work.

9 Q Doctor McMillan, can you please explain to the jury
10 generally what is meant by social work, the social work field?

11 A Social work, we're really very much social justice
12 advocates and work within our a life span capacity to help
13 people who might be in vulnerable situations.

14 Q Okay. And can you please tell the jury what licenses
15 and certificates you hold?

16 A To be a social worker in South Carolina you have to be
17 licensed by the State to practice and I'm a licensed social work
18 for clinical practice which is the highest clinical practice in
19 South Carolina and I'm also a supervisor for other social
20 workers who are advancing to the advanced clinical licensure and
21 I also hold a license in social work in North Carolina.

22 Q And with a license in clinical social work is that a
23 license that allows you to be counselor?

24 A Yes. I could do therapy, diagnose, treat. Correct.

25 Q Now, when you received your college degree, your BSW in

1 1979 did you at that point begin working in the social work
2 field?

3 A Yes, I did. I was medical social worker in a hospital
4 setting.

5 Q And you have worked continuously in the social work
6 field since 1979?

7 A Yes, I have I.

8 Q Were you working when you were obtaining your advance
9 degrees?

10 A Yes, I was.

11 Q Now, you mentioned earlier that you teach classes at
12 the University of South Carolina Upstate. Can you tell the jury
13 the names of some of the classes that you have taught over the
14 years?

15 A Certainly. Two courses that I'm teaching right now is
16 called system responses to child maltreatment.

17 MS. WILSON: Your Honor, we'll stipulate to her
18 qualifications if the State's wants.

19 MS. JOYNER: Okay. Thank you.

20 THE COURT: However you wish to proceed.

21 MS. JOYNER: Thank you, Your Honor.

22 THE COURT: She's qualified.

23 MS. JOYNER: Thank you, Your Honor. Qualified as
24 an expert in child abuse dynamics and latent
25 disclosure and grooming.

1 THE COURT: Yes.

2 MS. JOYNER: Thank you, Your Honor.

3 Q Doctor McMillan, just to finish out briefly, the
4 classes that you teach at the University of South Carolina do
5 they -- part of the curriculum do you teach about child sexual
6 abuse?

7 A Yes, I do.

8 Q Okay. And have you been educated on that topic
9 extensively?

10 A Yes, I have.

11 Q Okay. Now, I want to first have you explain a few
12 terms and concepts to the jury. So the first one I want to talk
13 about is the term delayed disclosure. Among upon professions in
14 child sexual abuse field does the term delayed disclosure have
15 say specific meaning?

16 A Yes, it's a common term in the field of child sexual
17 abuse.

18 Q Can you please tell the jury what that term means?

19 A Certainly. So delayed disclosure, certainly delay
20 means somebody doesn't tell something right away and disclosure
21 means to tell. To tell somebody about something that happened
22 to them. So we use the term delayed disclosure in terms of
23 child sexual abuse that if a child is victimized or is a victim
24 of child abuse it just means they didn't tell somebody right
25 away.

1 Q Now within the field is there a child sexual abuse
2 professionals is there consensus on the prevalence of delayed
3 disclosure in child sexual abuse cases?

4 A Yes, there is.

5 Q And what is that consensus?

6 A The consensus among all professionals in the field of
7 child sexual abuse is that delayed disclosure is very common and
8 in fact a lot of studies have shown and indicated that most
9 children who have been sexually abused never tell about the
10 sexual abuse as children and that comes from lots of studies of
11 both children and adults who are reflecting on things that they
12 experienced as children.

13 Q So, is that -- you said you there is a consensus. Have
14 there been studies on this issue?

15 A There have been many studies on this issue.

16 Q Has there been literature published on this issue?

17 A Yes.

18 Q And is that literature and the studies peer reviewed?

19 A They're peer reviewed meaning other professionals with
20 like minded backgrounds review it before it is published. And
21 it is also published in our text book that we use in my classes.

22 Q So then you have been trained and educated on this
23 topic?

24 A Yes.

25 Q And you've trained and educated on this topic?

1 A Yes.

2 Q Okay. Now, I want to ask you next about the term
3 grooming. Is there a commonly understood definition of what
4 grooming means among child sexual abuse professionals?

5 A Yes, there is.

6 Q And can you please tell the jury what that definition
7 is?

8 A Grooming, general consensus is grooming means that
9 somebody is preparing a child to be abused. And that may take
10 on different kind of activities to prepare that child. They
11 want to be able to gain access to the child. They want the
12 child to be compliant with what is happening with the abuse.
13 They want to maintain some secrecy or have the child not tell
14 about what happened, or if the child does tell about what
15 happened that they won't be believed. And part of the grooming
16 process also in keeping it a secret is try and not get
17 discovered in addition to the child may be telling, somebody
18 coming in on them and catching it.

19 And so, we know that the literature tells us that the
20 grooming is not just the grooming of the child to be compliant
21 the but rather some times the offender may have to groom
22 themselves to override any inhibitions they may have to act on
23 there desires. And we also know that they have to groom the
24 family or institutions, people around them to be able again to
25 insert themselves into that family unit or into the

1 organization. If they're a volunteer or a worker whether where
2 there are children around and want to be that kind of person
3 that they want to have there and that's part of the grooming of
4 these institutions. Again, so if a child does tell about what
5 happened or the abuse is discovered the child may not be
6 believed.

7 Q And is there one set -- according to the literature in
8 the field is there one set method of grooming?

9 A No, it can take various forms.

10 Q Okay. Are there various forms toward the ultimate goal
11 of access and secrecy?

12 A Correct. It could be in the form of outright threats
13 to the child if they don't comply or threats to the child if
14 they tell. They may threaten the family in front of the child,
15 but other ways they may groom would be not threats at all but
16 rather coercion or having just a really strong relationship, a
17 strong bond with that child that makes that child want to be
18 with them.

19 Q And I think I already asked this, but is grooming
20 recognized or consensus within the community of sexual abuse
21 professionals about grooming? Is it accepted?

22 A Yes, it's generally accepted.

23 Q Has it been the subject of studies and literature?

24 A Yes, it has.

25 Q And are those peer reviewed?

1 A Yes.

2 Q Have you been educated and trained on the topic of
3 grooming?

4 A Yes.

5 Q And do you teach your students on the teaching of
6 grooming?

7 A Yes, I do.

8 Q Okay. Have you also -- other than teaching to students
9 given presentations on topics of delayed disclosure and
10 grooming?

11 A Yes, I've given presentations to other professionals.

12 Q Now, within the child sexual abuse professional
13 community, is there any sort of consensus on other factors or
14 what factors may lead a child to delay the disclosure of sexual
15 abuse?

16 A Yes.

17 Q Can you please tell the jury some of those factors?

18 A They're complex. For any one child understanding what
19 might have interfered with that child being able to tell what
20 happened to them is complex. And part of that has to do with
21 just the child and may be there personality or what may be going
22 on in their life at the time but we also known that there are
23 family dynamics that might be at play as well.

24 If the child is concerned that someone in the family might
25 not believe them if they told what happened to them. Sometimes

1 the child my feel like they are going to get blamed. Again,
2 there maybe threats in the family dynamics but it also may be
3 that this person is important to the family. It doesn't mean
4 they're blood related but an important person to the family in
5 some kind of way or the family knows that person is important to
6 the child and that can influence a child not to tell to get
7 somebody in trouble. They may decide to stay on the secret side
8 of that.

9 Q Are there other factors that also can come in to play?

10 A There could be other factors. One thing, my own source
11 and my own work has been really family dynamics about how
12 grownups in a child's life might be able to maybe suspect that
13 something is wrong with the child or there might be something
14 happening to the child not specifically sexual abuse but
15 something happening with the child and how do they kind of
16 process those signals with the child and how that adult or that
17 parent or that caregiver's own childhood experiences may
18 influence that. There is a lot to understand about that.

19 Q And so we're speaking about the different factors that
20 may cause a child to delay in disclosing. The factors that you
21 have recited to the court, are those factors that are generally
22 recognized as consensus within the field of child sexual abuse
23 professionals as factors that do contribute to the delay of
24 disclosure?

25 A Those are factors that are generally agreed upon and we

1 continue to identify other factors that are not researched as
2 well that might have influence on children as well.

3 Q And are those factors that you just discussed the
4 subject of studies and literature?

5 A Yes, they are.

6 Q That are peer reviewed?

7 A Yes, they are.

8 Q Have you been trained and educated on these things?

9 A Yes, I have.

10 Q And do you teach and train other people about these
11 facts?

12 A Yes, I do.

13 Q And Doctor McMillan, do you know anything about the
14 case that is before the court?

15 A I know nothing about the case.

16 MS. JOYNER: Thank you. No further questions.

17 Please answer any questions the defense has.

18 THE COURT: Cross examination.

19 CROSS EXAMINATION

20 BY MS. WILSON:

21 Q Good afternoon. I just have a few questions for you?

22 A Okay.

23 Q Are you being compensated to be here today?

24 A Yes, I am.

25 Q And what is that compensation?

1 A I'm invoicing the solicitor's office for a hundred
2 dollars an hour.

3 Q Okay. I just have a few brief questions for you. You
4 discussed delayed disclosure and you said it was when a child
5 delays telling about an incident of abuse. When you say delays,
6 you are talking about all delays that don't occur immediately
7 after the abuse, correct?

8 A That is how I'm referring to it. In the different
9 studies that would come to that conclusion about using the words
10 delay they vary in how they might define how long the delay was,
11 a day, a week, a month, years. So any individual study might
12 define how they did it.

13 Q So the individual studies may be more specific and say
14 this study about one-day delays or this study is about five-year
15 delays, et cetera?

16 A Correct.

17 Q But in general the term encompasses anything that is
18 not immediately disclosed?

19 A Correct.

20 Q You discussed grooming and talked about having a strong
21 bond with the child and interweaving themselves into a child's
22 activities, et cetera, isn't it true though that there are
23 people that do those things that aren't grooming children for
24 sexual abuse? That they're just taking an interest in their
25 children or may be a friend's child?

1 A Of course.

2 Q Finally, you talked about factors regarding child abuse
3 dynamics. Isn't it true that these factors can be caused by
4 other types of abuse or family dynamics?

5 A I am not sure what you're asking.

6 Q The factors that you discussed aren't specifically
7 characteristics of a child who is sexually abused? They could
8 be caused by other things?

9 A I'm not sure what you mean by caused by. The factors
10 that may influence a child to delay disclosing could be factors
11 in other kinds of abuse as well. I'm not sure what you mean by
12 causing.

13 Q That good. That's all. Thank you.

14 THE COURT: Any redirect?

15 MS. JOYNER: No, Your Honor.

16 THE COURT: You may come down. Can this witness
17 be excused?

18 MS. JOYNER: Yes, Your Honor, we ask that she be
19 excused.

20 THE COURT: Without objection.

21 MS. JOYNER: The State's next witness is going to
22 be Susan C

23 SUSAN C called as a witness, having been
24 duly sworn by the clerk, was examined and testified as
25 follows:

1 DIRECT EXAMINATION

2 BY MS. JOYNER:

3 Q Good afternoon Miss C

4 A Good afternoon.

5 Q Can you please state your name for the record?

6 A Susan C C

7 Q Miss C are you married?

8 A I am.

9 Q What is your husband name?

10 A Keith Alan C

11 Q How long have you been married?

12 A Twenty-five years.

13 Q And do you have a sone named *Victim one*?

14 A I do.

15 Q And son name *victim2* as well?

16 A I do.

17 Q Please tell the jury what *Victim one* 's date of birth
18 is?

19 A

20 Q Where do you currently live?

21 A Suwanee, Georgia.

22 Q And are you originally from Georgia?

23 A No.

24 Q Where are originally from?

25 A I grew up in Florida but I lived in Rock Hill previous

1 to Georgia.

2 Q When did you -- do remember when you moved from Florida
3 to Rock Hill?

4 A We moved in January of 2000.

5 Q Now, when you moved to Rock Hill in January of 2000 am
6 I correct that victim 1 would have been four years old?

7 A Yes.

8 Q Do you recall what months you moved to Rock Hill?

9 A January. Just before the snow to Rock Hill.

10 Q To Rock Hill in January of 2000?

11 A Yes.

12 Q Now, when you first moved here did you purchase a home?

13 A No, we rented for a couple of years.

14 Q When you first moved here did you find a church?

15 A We found a church. It took us a little while to find a
16 church. The boys began preschool at Episcopal Day School in
17 September of 2000 and we joined the church shortly after that.
18 The boys with baptized in the church in November of 2002.

19 Q Okay. So in September of 2000 you said victim 1 began
20 preschool. Had he been four years old at that time?

21 A He was. He had a late birthday.

22 Q And in that year of preschool he turned five?

23 A He did.

24 Q The following school year did he begin Kindergarten?

25 A He did at York Road Elementary School.

1 Q Would that have been August of 2001?

2 A It was.

3 Q Now, when you moved to Rock Hill at some point did you
4 get a job?

5 A I did. The year that ~~Victim 1~~ first started at York Road
6 was ~~Victim 2~~'s second year at Episcopal Day School and I began
7 teaching at a Episcopal Day School then.

8 Q Was that a full time job?

9 A It was to begin with half day Monday, Wednesday, Friday
10 then the subsequent year it was five half days.

11 Q How many years did you work at the day school?

12 A Six years.

13 Q And during that whole time were you also attending
14 church there?

15 A After the first year we attended church there
16 regularly, yes.

17 Q Okay. Now do you recall kind of looking back when
18 ~~Victim 1~~ began the youth choir there?

19 A He began youth choir there in first grade. So, that
20 would have been 2000 -- just give me a second to do the math.

21 Q Would it be 2002?

22 A Yes.

23 Q And was excited about joining the choir?

24 A He was.

25 Q Now at that time am I correct you were teaching at the

1 church as well?

2 A I was. I was teaching.

3 Q Do you recall how victim 1 came to be involved with the
4 church choir? Was it his idea to join?

5 A Yes. Yes, absolutely. Jeana was the music director
6 there and she was always inviting the kids and students as they
7 aged in to come and join and yes, he was excited. There were
8 badge marks. You get medals for different books. For achieving
9 different levels so that was a big deal for him.

10 Q Was victim 1 the kind of kid that like to achieve?

11 A Yes, absolutely.

12 Q Now, with the children's choir, how often would the
13 children's choir practice?

14 A Every week during the school year.

15 Q And how often did they actually perform?

16 A Four-ish times a year. They would do Christmas Eve and
17 they would do the blessing of the animals and then they would do
18 certain Sundays.

19 Q Would victim 1 be excited about performing?

20 A Yes.

21 Q Do you remember about how long victim 1 remained involved
22 with the church choir?

23 A Five or six years. Until he went to middle school.

24 Q And other than the church choir were there other events
25 or activities? What was he involved in at the church?

1 A Yes, he was an acolyte which is a young person who
2 helps on the alter with the service and he was a reader at the
3 service. And then he also participated on the diocese level
4 planning the middle school retreats once he was old enough to do
5 that. And he was on the diocese youth leadership counsel which
6 helped plan different events.

7 Q Do you remember how old ~~old~~ ^{old} ~~1~~ was when he moved into
8 being a acolyte and reader?

9 A It was elementary school. I would say he -- I would
10 say it was roughly 2007, but it may have been earlier then that.
11 I'm a not sure.

12 Q When he moved up and began participating in the
13 planning the retreats was he excited about that?

14 A Absolutely. And he was very excited to be selected for
15 the diocese youth leadership counsel because that was something
16 you have to apply for. So you have to file out an application
17 and send off all your credentials. So that was a big deal.

18 Q And regarding the basketball team, was that through the
19 church?

20 A It was.

21 Q And how many years did he play on basketball team at
22 church?

23 A Six years. If you can call the first year playing.

24 Q Now, you testified earlier that you all moved to Rock
25 Hill in 2000. At what point did you purchase your home?

1 A August of 2003.

2 Q Is that close to your birthday?

3 A On my birthday.

4 Q And what was the address of that home?

5 A Veery Lane.

6 Q How long did you reside in that home?

7 A Until September of 2016.

8 Q Is that when you moved to swan any?

9 A It is.

10 Q So August of 2003, about how old would ~~Uchm1~~ have been
11 when he first moved into the Veery Lane house?

12 A He was seven.

13 Q Okay. Seven.

14 A Yeah.

15 Q Do you recall what grade he would have been going into?

16 A Second grade.

17 Q And so I don't keep asking you the same -- so I don't
18 keep asking you to figure out which school year, calendar year
19 or something was or how old ~~Uchm2~~ was, I just want to establish
20 some dates for you with your testimony and then we can kind of
21 reference back through those dates.

22 Do you recall when ~~Uchm1~~ graduated from high school?

23 A In 2014.

24 Q So his 12th grade year would have been the 2013/2014
25 school year?

1 A Correct.

2 Q Now at the time that he graduated he would have been 18
3 years old?

4 A Yes. Wait.

5 Q Would have been 18 or 17?

6 A I'm doing the math. Eighteen. Right?

7 Q I think that is right, 18. Now throughout Victim One's
8 academic career did he attend Rock Hill public schools?

9 A He did.

10 Q And he graduate in 2014 did he graduate on time?

11 A He graduated on time and with honors.

12 Q Did he skip any grades in between?

13 A He did not.

14 Q Tell me what was his elementary school?

15 A York Road Elementary.

16 Q His middle?

17 A Rawlinson Road Middle.

18 Q And his high school?

19 A North Western High School.

20 Q Was Victim 1 a good student?

21 A He was.

22 Q Kind of just going back and talking to you about some
23 activities that you recall Victim 1 participating in. I know we
24 talked about a lot of things he did at church over the years.
25 But specifically to elementary school other than the church

1 choir and basketball. Were there any other activities that he
2 participated in?

3 A Sure. He did honors choir and he participated in chess
4 club.

5 Q What is honors choir?

6 A That is an auditioned choir that represents the county.
7 I think they perform twice during the year.

8 Q So that is something through the school?

9 A Yes, through the school.

10 Q Okay. In middle school outside of the activities that
11 we already discussed at church, what activities did he
12 participate in?

13 A Soccer. In fact soccer started in elementary school
14 with the city and he played on through 2011 I think was his last
15 year. He was team captain that year.

16 Q Did he decide he just didn't want to do it anymore?

17 A His course work at Northwestern was very rigorous and
18 so scheduling became an option he had to make some choices.

19 Q So in high school other than the stuff we talked about
20 with the church and the soccer that you just mentioned, what
21 other activities did he participate in?

22 A Beta club, junior marshall, Olympians, Spanish club.
23 Band, jazz band.

24 Q Now Miss C. do you know the defendant in this
25 case?

1 A I do.

2 Q And do you recall where you first met the defendant?

3 A At Church of our Savior.

4 Q Do you remember how it was that you came to met him?

5 A He was volunteering with the youth choir.

6 Q Do you remember approximately when that was?

7 A It was some time in the year 2002.

8 Q At that point -- at some point did he become your
9 neighbor?

10 A He did. He purchased a home two doors down from us in
11 June of 2004.

12 Q Okay. So, you first met him in 2002. Did you become
13 friendly with him after you met him?

14 A We did. He would come over and spend time with us and
15 spend time with the boys and he would offer to drive them to
16 choir. May I have some water?

17 Q Oh, yes, ma'am. You say he would come over and he
18 would offer to give the children rides?

19 A Yes, he would offer to take them to choir.

20 Q And would you allow that?

21 A Sometimes I would. Sometimes I would be going to work
22 in my classroom so sometimes it was convenient, but sometimes I
23 would just take them.

24 Q The choir practice was at the church?

25 A Yes.

1 Q Where your work was also?

2 A Right.

3 Q Okay. So, in August of 2003 you said you purchase your
4 home?

5 A Yes.

6 Q Did the defendant ever come to that home?

7 A Yes.

8 Q Do you remember how often?

9 A He came a couple of times before he purchased his home
10 but then much more frequently once he lived two doors down.

11 Q So when he purchased his home in June of 2004 were you
12 surprised that he had bought the home or had you had
13 conversations with him about it?

14 A No, we knew that he was aware of the house. The house
15 was being ability and we knew he was aware of the house being
16 built and he was at a point in his life where he was looking to
17 put money into a house and start his grown up life and so we
18 knew that was coming.

19 Q Not to put you on the spot about your age, but around
20 the time that you had just purchased your house and the
21 defendant is buying his house about how old are you?

22 A I was 32.

23 Q You were 32 when you purchased the house and a year
24 later in June of 2004 about how old was the defendant, do you
25 remember?

1 A He was about nine years younger then I am so he was in
2 his early twenties.

3 Q Now, you said that once he purchased the home and him
4 coming by was much more frequent?

5 A Yes.

6 Q How often after he purchased the home next door and
7 moved in would he come by?

8 A Well, he'd probably come by once a week but when he
9 moved in he came over and he said -- I mean, he's a bachelor
10 living on his own. So he would say, all right, so this will be
11 the rule. If the garage is up the boys can come over. They
12 don't have to call first to come over. They can just come on
13 over and if the garage door is down then I'm not home or I'm
14 busy doing something else. So it was very open and inviting for
15 us to know that we could come over and go back and forth.

16 Q Okay. And during this period of time was he still
17 involved with the youth choir?

18 A Yes.

19 Q And during the entire time that ~~victim 1~~ would stay
20 involved with the youth choir was the defendant still an
21 assistant leader?

22 A Yes.

23 Q So kind of going back when he first moved in and sort
24 of open-door -- open garage door policy so to speak, was it
25 unusual for ~~victim 1~~ or your other son ~~victim 2~~ or both to go over to

1 the house?

2 A It was not. Usually it was at his invitation.

3 Q By invitation you mean the defendant's?

4 A Yes.

5 Q And how would he extend those invitations?

6 A Sometimes he would ask the boys. Sometimes he would
7 send me a text or e-mail asking if they could come over.

8 Q And during this period of time you've been interacting
9 with the defendant for some period of time and he's a neighbor.
10 Did you view him as good neighbor.

11 A Absolutely. He had a key to our house. We had a key
12 to his house. You get locked out or you need to get in or the
13 boys get home from school and I'm not home there's a key.

14 Q Was he a helpful neighbor?

15 A Absolutely was. He helped us set up our router. He
16 helped my parents set up their router. If we were out of town
17 he would offer to check on the dog. That kind of thing.

18 Q And during the period of time up until -- well,
19 throughout the time that you were neighbors with him, did you up
20 until you learned about what had happened with Victim 1 was there
21 a friendly relationship?

22 A Absolutely. After he got married and had a child I
23 would keep her if there was instance where she couldn't go to
24 Episcopal Day School and I kept her several times all the way up
25 until --

1 Q All this came out?

2 A Yeah.

3 Q Now, from your particular perceptive when you were
4 dealing with the defendant who is you say nine years younger
5 than you, what would you consider the nature of your
6 relationship to him?

7 A I thought of Andy much in the way that I thought of my
8 youngest brother. They are about the same age. They were
9 making transitions into adulthood and it's hard at that age to
10 find community and Andy was very good with the boys. He was
11 very caring towards them and I loved him. I took him in to my
12 family.

13 Q So did you -- was it common for you and your husband to
14 spend time with him as well?

15 A We would mostly spend time with him with the kids.
16 Sometimes I would spend time with Andy at the Vestry, which is
17 the church leadership group, or if we were at an adult kind of
18 meeting but mostly it was either him coming over to our house
19 when the kids were there.

20 Q So just to kind of go back to the vestry. Will you
21 just explain to me a little bit about what vestry is?

22 A It's group of people elected to participate in
23 leadership of the church and it's three-year term.

24 Q Were you at one point elected to vestry?

25 A I was. I was on vestry from 2005 to 2008.

1 Q And at some point was Andy, the defendant on vestry?

2 A Yes. We overlapped not my first year. I don't know if
3 we overlapped one or two years?

4 Q To just kind of circle back to the last thing that you
5 said before I asked you about vestry, you said that he would
6 come over to the house?

7 A He would.

8 Q And when he would come over to the house would he visit
9 with you and Keith?

10 A He would talk to us, but he would spend more time with
11 the boys then he would with us. He taught them how to play
12 chess.

13 Q Now, you said there were other family time. Did you
14 guys ever take a trip with the defendant?

15 A We did. In June of 2005 we took a trip to Daufuskie
16 Island.

17 Q And do you remember whose idea it was for you to take
18 the trip to Daufuskie?

19 A It was Andy's idea. He invited us.

20 Q Where were you suppose to stay?

21 A At his aunt's house.

22 Q Do you remember -- is Daufuskie the Island where you
23 leave your car and you take the ferry?

24 A Yes. Yes, you have to park and take the ferry and then
25 you get by ferry. The same thing. There are only golf carts.

1 Q When you road down to the Daufuskie how did you get
2 there?

3 A We road in Andy's minivan so we could all ride
4 together.

5 Q Who all road in the car?

6 A Victim1, victim2, Keith, Andy and myself.

7 Q And how long was that trip?

8 A The drive or the duration?

9 Q I'm sorry, the duration?

10 A The 17th through the 19th of June.

11 Q Was that in 2005?

12 A It was.

13 Q And is that only time that you or your family went to
14 Daufuskie Island with the defendant?

15 A It is.

16 Q So then you Victim1, victim2, your husband Keith and the
17 defendant, was there anybody else on the trip with you?

18 A No.

19 Q And if you could describe what you remember about the
20 house on Daufuskie Island where you stayed?

21 A Sure. It was beautiful. It was two stories and on the
22 main floor there was a guest room with an en suite bathroom, a
23 living room, kitchen, dining area and like an office space and
24 then upstairs there were three bedrooms. One of the bedrooms
25 had three twin beds and another bedroom had a larger bed either

1 a queen or king and then the master bedroom I believe also had
2 an en suite.

3 Q Okay. Where did you sleep?

4 A We slept downstairs in the guest room with the en suite
5 bathroom.

6 Q And by we, do you mean you and Keith?

7 A Keith and I, yes.

8 Q Where did Victim 1 and Victim 2 sleep?

9 A They slept in the bedroom with the three twin beds.

10 Q Where did the defendant sleep?

11 A He slept in the middle bedroom. Not the master
12 bedroom. That was the bedroom that he said was the bedroom he
13 was accustomed to sleeping in when he went. So he picked that
14 bedroom.

15 Q Whose idea was it for where everyone else slept?

16 A Well, Andy said that the master bedroom was his aunts
17 and that typically guests do not use that. So we used the one
18 downstairs with the bathroom.

19 Q You said that the trip to Daufuskie was June 17th
20 through 19th?

21 A Yes.

22 Q The morning that you were set to leave from Daufuskie
23 Island did anything unusually happen?

24 A It did. That morning -- so the procedure for cleaning
25 up at his aunt's house was to go through a small list of

1 household items so that the space would be ready for
2 housekeeping to come in and tidy up in case someone else is
3 coming in. And so I got up because we had to meet the ferry and
4 I went upstairs to wake everybody up and I went in to the
5 bedroom and Victim2 was in his bed, but Victim1 was not in his bed.
6 And so I walked down the hall and I opened Andy's bedroom door
7 immediately to see, you know, where is Victim1. And you know,
8 what's going on and Andy and Victim1 were in that bed together.

9 Q Were they -- from your view was there anything
10 inappropriate going on other than perhaps the fact they were in
11 bed together?

12 A No.

13 Q And what did you do when you discovered -- how old
14 would Victim1 have been at this age?

15 A In June of 2005 he was nine.

16 Q June of 2005 he was -- nine. Okay.

17 A He turned ten that following November.

18 Q Had he just completed the third grade?

19 A Yes.

20 Q What was your reaction to finding them in bed?

21 A Well, my first reaction was what the heck is going on
22 but I did a quick visual assessment and Andy did not look
23 stressed and they were both clothed and then I thought about
24 when we would go to visit my mom's house it would be a normal
25 thing for my mom to say, hey, go wake up Uncle Michael and

1 everybody body would go dog pile on Uncle Michael and jump on
2 his bed and wake him up. So I thought okay. It don't look like
3 anything is wrong here. It doesn't look like anything is going
4 on here but...

5 Q Did you have a conversation with Victim one?

6 A I did.

7 Q And what did you say to him?

8 A I told Victim 1 that it's not appropriate to get into bed
9 with other adults. It's different crawling into bed with mommy
10 and daddy and that wasn't an okay thing to do.

11 Q Did at the time did it concern you that they had been
12 if bed together?

13 A It did concern me.

14 Q But following that trip did you continue your
15 relationship with the defendant?

16 A We did.

17 Q Did you continue the friendship?

18 A We did.

19 Q Did you continue to allow the boys to go over to his
20 house?

21 A We did.

22 Q Now going back to that period of time -- and I'm sorry
23 to can you about this -- during the summer of 2005 was there
24 anything else going on in your life that was within your family?

25 A Yes.

1 Q What was that?

2 A In 2005 -- in August of 2005 my father died. So in the
3 year before my father died I spent a sum total of six weeks in
4 Florida. A long weekend here. A week there. He was declining
5 rapidly. And that was hard on the boys. They were little, you
6 know, and.

7 Q Were they nine and seven?

8 A Yes.

9 Q Was it hard on you to be away from them so often?

10 A It was.

11 Q Were you driving back and forth?

12 A Accept for one trip, yes, I did drive back and forth.

13 Q And when you would go would you go by yourself?

14 A Yes. Typically I would. We took them over spring
15 break but other then that I may those trips by myself.

16 Q Now to the best of your knowledge was the defendant
17 aware that your father was sick?

18 A He was aware that my father was sick and after my
19 father had a surgery and I went to spend time with him he came
20 over and he brought me trouble dolls and I don't know if you
21 know what they are. They're little dolls. His were in a bag
22 and you tell them your troubles before you go to sleep and then
23 you put them on your night stand and they're suppose to help you
24 sleep easy because they are taking care of your problems. And
25 he told me that he would be praying for me and praying for my

1 dad.

2 Q Now moving in to that 2005, 2006 school year when Victim 1
3 was starting the fourth grade. At some point in this time
4 period does he begin chess club?

5 A Chess club began in 2005, 2006 school year.

6 Q Okay. So that's Victim 1's fourth grade year?

7 A Fifth grade year. Yeah. Wait. Is that right? Chris
8 was if fifth grade in 2004, 2005.

9 Q 2006 to 2007?

10 A Yes. I did the math wrong. Sorry.

11 Q That's okay.

12 A Yes, 2006 to 2007.

13 Q Did he remain in chess club through 2000 to the next
14 year?

15 A He was no longer officially in chess club because he
16 had gone on to Rawlinson Middle School but he still came because
17 his brother participated in chess club.

18 Q That's Victim 2 a school year younger?

19 A Yes.

20 Q And do you recall how Victim 1 learned how to play chess?

21 A Andy taught both boys how to play chess.

22 Q And did Victim 1 come to love chess?

23 A Yes.

24 Q As a mind of an engineer was he good at it?

25 A Yes, very good at it. The first year of chess club

1 Victim1 and Victim2 played each other in the semifinals and then
2 Victim1 went on to the finals.

3 Q And do you recall at some point a chess club end of the
4 year party?

5 A Yes.

6 Q And where did that occur?

7 A That occurred at Andy's house.

8 Q And do you remember when that was?

9 A That was in May of...

10 Q Was that the first year?

11 A The second year. It was 2008, May of 2008.

12 Q Do you remember or do you how the idea came up for the
13 finals and the party to be at the defendant's house?

14 A Andy would come to chess club regularly at York Road
15 and so the conversation happened, you know, well, what are we
16 going to do and he offered to have the party at his place.

17 Q And this period of time when the chess club is going on
18 and also the youth choir is going on is Victim1 spending a lot of
19 time with the defendant?

20 A Yes.

21 Q And also Victim2 spending a lot of time with the
22 defendant?

23 A Yes.

24 Q You testified earlier that the boys -- it was common
25 for the boys to go over to the house?

1 A Yes.

2 Q Would they some times go together?

3 A Yes.

4 Q Would they some times go separately?

5 A Yes.

6 Q Would you and your husband go with them?

7 A Not typically. Every once in a while we might go over
8 there but no, not typically. They would go on there own.

9 Q Now to -- the best that you can recall, did Victim1 and
10 his brother Victim2 did they go to summer camp?

11 A Oh, yeah, they went to Camp Gravatt from 2007 until --
12 for five years Victim1 went.

13 Q Did both boys go for five years?

14 A No. After that year Victim1 started having conflicts
15 with jazz, camp and stuff so Victim2 continued as a junior
16 counselor but Victim1 stopped going an replaced it with other
17 things.

18 Q I'm sorry, how long did Victim1 attend Camp Gravatt?

19 A He attended Camp Gravatt until 2011.

20 Q Did Victim1 -- was Victim1 always excited to go to camp?

21 A Yes.

22 Q Was 2007 his first year?

23 A It was.

24 Q Going back to that summer of 2007 when Victim1 and Victim2
25 were at Camp Gravatt did you and your husband take a trip?

1 A We did. It was our first trip with no kids in a very
2 long time. We went to Saint Simons Island.

3 Q And was that time deliberately because the boys were
4 going to be at camp?

5 A It was. We dropped them off on the way.

6 Q How did you plan to pick the boys up?

7 A We picked them up -- we spent several days in Saint
8 Simons Island and we went back and picked them up.

9 Q How far away is the camp from your house?

10 A An hour and 20 minutes maybe.

11 Q And is it located between here and Columbia?

12 A It's in a rural area right outside of Columbia. In
13 Aiken.

14 Q Now going back to that summer of 2017 at any point did
15 you have any communication with the defendant about the boys
16 being at camp?

17 A 2007.

18 Q 2007, I'm sorry.

19 A No problem. Yes, he offered to pick the boys up from
20 camp for us because he was going to be in Columbia visiting
21 someone so he offered to pick the boys up.

22 Q And did you allow him to pick the boys up?

23 A No, we did not.

24 Q Now, when the defendant first purchased his home, did
25 you have occasion to see what the home looked like?

1 A Yes.

2 Q And at the time that he first purchased the home was
3 the attic in any kind of stage converted for living?

4 A No, it was not.

5 Q Okay. And do you recall at some point the defendant
6 telling you that he was going to convert part of the attic?

7 A Yes.

8 Q What was your understanding of what the plan was? What
9 was the attic suppose to be like?

10 A It was going to be a space where he could game and hang
11 out.

12 Q At that time did anybody else live with the defendant?

13 A No.

14 Q How many bedrooms did he have in that house?

15 A Three.

16 Q Do you recall during the summer of 2007 that you had
17 some carpet installed in your house?

18 A We did. We replaced the carpet and the padding.

19 Q And did you have any left over carpet?

20 A We had a lot of left over carpet and we offered that
21 carpet and padding to the defendant.

22 Q What was the offer was that specific to the attic?

23 A Well, we knew that he was trying to finish the space,
24 so we offered it to him to use for the space.

25 Q Do you recall whether you went to -- at the point of

1 time that you made the offer of the carpet was the attic already
2 under construction?

3 A It was.

4 Q Was it close to being finished?

5 A It seemed to me like it was finishing touches kind of
6 thing.

7 Q And with going -- I'm jumping around a little bit and I
8 apologize for that, Miss C But going to the chess club
9 party in May of 2008. Do you recall if you went to that party?

10 A I recall being in and out but not being there for it.
11 Like I may have brought food and drink over but not hanging out.

12 Q Was any portion of that party held in the attic, do you
13 remember?

14 A I do not recall.

15 Q Just making sure I understand. So Camp Gravatt the
16 first trip was in 2007?

17 A Yes.

18 Q And that was the summer the defendant offered to pick
19 the boys up?

20 A Yes.

21 Q And that also was the summer that you offered the
22 carpet?

23 A Yes.

24 Q After the summer of 2007 did the boys continue to go
25 over to the defendant's house?

- 1 A Yes, absolutely.
- 2 Q Were they sometimes together?
- 3 A Yes.
- 4 Q Were they sometimes alone?
- 5 A Yes.
- 6 Q And did that continue up until the defendant's wedding?
- 7 A Yes.
- 8 Q And at any point in time did either victim1 or victim2 spend
- 9 the night at the defendant's house?
- 10 A Yes.
- 11 Q Do you recall how many times that was?
- 12 A Probably three or four times.
- 13 Q Now, throughout this time so kind of pre-Daufuskie all
- 14 the way up to the defendant's wedding you said he was like a
- 15 part of the family?
- 16 A Yes.
- 17 Q Was it normal for you to include him at the holidays?
- 18 A Yes, when we were home we would invite him to come
- 19 over, you know, and participate with us whether it was on
- 20 holidays or around the holidays.
- 21 Q Would he purchase Christmas presents for the boys?
- 22 A He did.
- 23 Q What about birthday presents?
- 24 A He did.
- 25 Q Were there ever times that he took victim1 and victim2 to do

1 special things?

2 A He did. He took them to see Peter Pan and the Lion
3 Kind and Phantom of the Opera all at Blumenthal. He would take
4 them to laser tag.

5 Q During this period of time were either of the boys
6 involve with youth group yet, do you recall?

7 A Yes, they were.

8 Q And did ~~Uichm1~~ enjoy youth group?

9 A He did.

10 Q Now the mission trips as part of the youth group, were
11 those going on when the boys were -- when ~~Uichm1~~ was in middle
12 school?

13 A Yes.

14 Q And do you recall a time where he stood up in front of
15 the church and he presented about one of the mission trips that
16 he had gone on?

17 A Yes.

18 Q Was he proud?

19 A Very much so.

20 Q Was that a trip in 2008, do you recall?

21 A Yes.

22 Q Did he do other retreats after that?

23 A Yes.

24 Q Was the defendant part of those retreats?

25 A Yes.

1 Q And during this period of time did you view defendant's
2 relationship with Uchm1 as close?

3 A Yes.

4 Q Now, I am going to talk to you a little bit about the
5 defendant's wedding. Do you recall what day the defendant got
6 married?

7 A On July 25, 2009.

8 Q Were either you or your husband in that wedding?

9 A My husband was a groomsman in that wedding.

10 Q And who did the defendant marry?

11 A Kathryn Cody.

12 Q I will ask to you direct your attention back to the day
13 before the wedding. Would be July 24th of 2009?

14 A Yes.

15 Q Did you attend the rehearsal dinner?

16 A We did.

17 Q Did you as a whole family?

18 A Yes, we did.

19 Q Where was the rehearsal dinner held?

20 A At Catherine's parents house.

21 Q Where did they live?

22 A In York.

23 Q And after the rehearsal dinner who ended up back at
24 your house?

25 A Well, earlier in the week Andy had asked me if he could

1 crash at our place the night before the wedding because he
2 Kathryn were living together, and you know superstition, he
3 didn't want to see the bride the day of the wedding and so we
4 said sure, no problem. So we came home and then he came to the
5 house after.

6 Q Do you recall where ~~victim 1~~ and ~~victim 2~~ were when the
7 defendant came over after the rehearsal dinner?

8 A They were at the house.

9 Q Do you recall specifically what room they were in or
10 what room they slept in that night?

11 A In their bedroom.

12 Q Were they in the living room at any point watching
13 television?

14 A I believe we were all up still watching television when
15 the defendant came over.

16 Q At some point did you and Keith go to bed?

17 A We did.

18 Q And who was left in the living room at that time to the
19 best of your recollection? Or do you remember?

20 A I don't recall.

21 Q And did the defendant in fact spend the night in your
22 house that night?

23 A Yes, he did.

24 Q And the next morning did you see the defendant?

25 A Yes.

1 Q Tell me -- tell the jury about what that interaction
2 with the defendant was like the next morning?

3 A So the next morning he was up relatively early as we
4 were. As the adults were. And my aunt who had been visiting my
5 parents was leaving for the airport and she came by to say good
6 by to us. So Andy and my aunt and Keith and I were all sitting
7 around the table talking and talking about the honeymoon he was
8 going on. Waiting for Kathryn to be ready enough to leave the
9 house so he could go home and get ready.

10 Q And the next time you saw him after that at the
11 wedding?

12 A It was.

13 Q Where did he get married?

14 A Episcopal Church of our Savior.

15 Q Did ~~Victim1~~ or ~~Victim2~~ have any kind of special role in the
16 wedding?

17 A They passed out the programs.

18 Q After Kathryn married the defendant did you continue to
19 live next door?

20 A We did.

21 Q And did you remain friendly?

22 A We did.

23 Q Were there still times that the defendant would invite
24 the boys over after that?

25 A Yes.

1 Q Were there visits as frequent?

2 A No.

3 Q Throughout the course of time not just post wedding but
4 beginning from the time that the defendant first met the boys at
5 choir practice and moved in, was it common for him to attend
6 their supporting events?

7 A Absolutely. It was uncommon for him not to. He would
8 come to basketball games and he would come to their soccer games
9 and then even after they got married if Catherine's school
10 schedule permitted they would both come.

11 Q When he would come to those sporting events was that by
12 your invitation?

13 A He would always ask me to send him their schedule so he
14 could come and see them play.

15 Q What is his wife, Kathryn's occupation?

16 A She's a teacher.

17 Q At some point did she come to be employed at North
18 Western High School?

19 A She did.

20 Q Was that while Victim 1 was attending North Western High
21 School?

22 A It was.

23 Q I am going to ask you about Victim one's graduation.

24 A Okay.

25 Q When Victim 1 graduated did the defendant attend the

1 graduation?

2 A He did.

3 Q Was that by your invitation?

4 A It was getting close to graduation and he asked me if
5 he could sit with us because Kathryn was going to precess
6 because she was on the faculty, and we said of course that he
7 could. But she had a ticket for him so he didn't need a ticket
8 from us.

9 Q Now Miss C looking back -- well, let me ask you
10 this. At some point did you become aware that victim 1 was
11 alleging that the defendant had been inappropriate with him in
12 childhood?

13 A Yes.

14 Q Prior to that time had their been any falling out
15 between your family and the defendant?

16 A No.

17 Q Had their been any kind of falling out between your
18 family and the defendant's wife?

19 A No.

20 Q Were you aware of any difficulties that existed between
21 Chris and the defendant?

22 A No.

23 Q Looking back to Daufuskie how do you feel about what
24 you said to victim one?

25 A I feel terrible. I did not ask appropriate questions.

1 I did not make space for him to tell me anything and I chastised
2 him, a little boy.

3 Q Miss C the man that you have been speaking about
4 that you call Andy, your neighbor, do you see him in the
5 courtroom today?

6 A Yes, he is sitting right there.

7 Q Can you please point to him.

8 MS. JOYNER: Your Honor, let the record reflect
9 she identified the defendant.

10 THE COURT: The record will show reflect.

11 MS. JOYNER: Thank you, very much, Miss C
12 Please answer any questions that the defendant has.

13 THE COURT: Cross examination.

14 CROSS EXAMINATION

15 BY MS. WILSON:

16 Q Good afternoon Miss C

17 A Good afternoon.

18 Q Let's first talk about the Daufuskie trip in 2005?

19 A Sure.

20 Q When you walked in you walked unexpectedly into the
21 room?

22 A I did.

23 Q And what were ~~you~~ and Andy doing when you walked into
24 the room?

25 A They were just laying their talking.

1 Q Were they under the covers?

2 A The covers may you have been partially pulled up but I
3 could see that they were both clothed.

4 Q They were both fully clothed?

5 A Yes.

6 Q Did Victim 1--- you had said you had conversation with
7 Victim 1 afterwards. Did he disclose that anything happened?

8 A He did not, but I did not ask.

9 Q And you didn't talk to him at that point at all about
10 inappropriate touching or if something was going on?

11 A I did not.

12 Q Did you sit down with the defendant at all and have a
13 conversation with him?

14 A I did not at that time.

15 Q At another time did you speak with Andy?

16 A We told Andy at another time that he needed to back
17 off.

18 Q When you say "back off" what exactly do you mean?

19 A That he was being -- he was being too much. It was too
20 much attention. Too much time spent at our house and engaging
21 the boys.

22 Q So the at that point did you have some sort of
23 suspicion or --

24 A Just it was intensity.

25 Q You felt his presence was just too intense?

1 A Yeah.

2 Q And obviously you felt it was intense in a bad way?

3 A It was just too much. We needed some space.

4 Q And at that point you never had any discussion with
5 your kids about what was going on?

6 A No.

7 Q Back to the Daufuskie trip. After the trip do you
8 remember sending some pictures to Andy?

9 A I am sure that I did. I took a bunch of pictures.

10 Q Do you recognize this e-mail and these pictures?

11 A I do.

12 Q Thank you.

13 MS. WILSON: The defense would like to offer this
14 as an exhibit.

15 THE COURT: Any objection?

16 MS. JOYNER: No, Your Honor.

17 THE COURT: Without objection.

18 (WHEREUPON, defendant's exhibit 4 was received in
19 evidence.)

20 Q During the trip you had walked in to the bedroom and
21 seen something you thought was possibly inappropriate, is that
22 correct?

23 A Correct.

24 Q And then can you tell me what date and time these
25 pictures were sent to the defendant.

1 A June 19th 2005.

2 Q So that would be the day you returned home from
3 Daufuskie?

4 A Yes.

5 Q And one of these pictures has a pictures of John¹ and
6 his brother without any shirt on in just bathing suits?

7 A Uh-huh.

8 Q So is it -- do you think that that's appropriate if you
9 felt that something inappropriate was going on to then send Andy
10 pictures of your children half undressed?

11 A I had a concern when I opened the door but by the time
12 we had left and traveled home I had explained away his behavior
13 so I sent him pictures from the trip that we shared together
14 because I trusted him.

15 Q Okay. Moving on to the attic. The attic -- Andy
16 didn't build the attic a secret, isn't that true?

17 A No, not at all.

18 Q He was open about it?

19 A Absolutely.

20 Q In fact you gave him carpet?

21 A Yes.

22 Q Did you ever see the attic?

23 A Yes.

24 Q So you actually were in the attic?

25 A Yeah.

1 Q And in May of 2003 there was a chess club party that
2 was held at Andy's house?

3 A Yes.

4 Q The parents were present at that party?

5 A Yes.

6 Q But you're unsure if the children were in the attic?

7 A I don't remember whether the kids were in the attic. I
8 don't remember going up into the attic that day.

9 Q Okay. When the kids would come over Andy would ask
10 your permission to invite ~~Victim 1~~ over?

11 A Yes, or ask the kids to ask my permission.

12 Q And ~~Victim 1~~ would ask you for that?

13 A Right.

14 Q So there was nothing secret about ~~Victim 1~~ coming over?

15 A No.

16 Q At one point in time did you recommend Andy to be on a
17 committee to search for a new priest?

18 A I did.

19 Q And when was that?

20 A It was -- we started the search before my father died.
21 So it was probably 2005 but I can't tell you off the top of my
22 head. I know we were searching when my father was still living.

23 Q Okay. At that time did you still have any suspicion or
24 question about Andy's behavior?

25 A No, I trusted him.

1 Q You also testified that Andy bought Christmas
2 represents and birthday presents?

3 A Yes.

4 Q Did he buy Christmas presents for you and Keith as well?

5 A Sometimes he would, but its not uncommon in my family
6 to exchange with the kids. Like Keith and I would get something
7 for Andy but Andy would get something for the kids.

8 Q So you guy bought him Christmas presents as well?

9 A We did.

10 Q So it was mutual exchange between all of you?

11 A Uh-huh.

12 Q And you attended his wedding in 2009?

13 A Yes.

14 Q And he stayed the night at your house the night before?

15 A Yes.

16 Q Do you remember what room he slept in that night?

17 A The guest room.

18 Q It was the guest room it wasn't Victim2's bedroom?

19 A Well, Victim2's bedroom was originally the guest room.

20 Q At that time do you remember which one it was?

21 A I don't.

22 Q The next day do you recall Victim1 acting strange at all?

23 A There was a lot of excitement at my house the next day
24 because they were getting ready to be in a wedding.

25 Q So that would be no?

1 A That would be I wouldn't have noticed.

2 Q Okay. When you testified that Andy had keys to your
3 house?

4 A Yes.

5 Q And you had a key to his house?

6 A Yes.

7 Q He had alarm code?

8 A We didn't have alarm.

9 Q He set up your wifi password?

10 A He set up wifi, yes.

11 Q He would go on vacation with you guys occasionally?

12 A We went to Daufuskie together.

13 Q If you went away he would take care of your dog?

14 A He would offer too but he didn't because the dog was
15 not a fan of his.

16 Q He would take your kids to choir?

17 A Yes.

18 Q Take them on overnight youth group trips?

19 A Yes.

20 Q And so this whole time you never saw anything else that
21 made you suspicious about him at all?

22 A No.

23 Q I have one last -- had you spoke to Detective Thomas
24 back in February of 2016?

25 A Yes.

1 Q At that point do you recall telling Detective Thomas
2 that you had been suspicious of Andy for some time but you were
3 never able to pinpoint or find any hard evidence of anything?

4 A That -- I believe I used the word suspicious, but I --
5 I had an uneasiness but I had no evidence to prove that there
6 wasn't anything just me being hypersensitive.

7 Q How long would you say you had an uneasiness for?

8 A It would be on and off during different times like
9 before we told him to back off and right after Daufuskie.

10 Q But although you told him to back off and after
11 Daufuskie you never -- ~~which~~ never stopped having interactions
12 with Andy? He was allowed to go over there alone and on trips
13 with Andy?

14 A Yeah.

15 MS. WILSON: No further questions.

16 THE COURT: Redirect.

17 MS. JOYNER: Just briefly.

18 REDIRECT EXAMINATION

19 BY MS. JOYNER:

20 Q Miss C I am going to show you what already use
21 been entered as Defendant's Exhibit 4 and this is a six-page
22 document so I will refer to the page numbers.

23 I am going to show you picture three. I will put it up on
24 the screen. You should be able to see it at your monitor. Just
25 because it can be some times hard to tell from people childhood

1 photos to their adult photos. Which of those young boys is
2 victim one?

3 A The one on the left. The one with the darker tan.

4 Q Okay. And that was the day that you left Daufuskie
5 Island?

6 A It was probably the day before because the day we left
7 we left relatively early.

8 Q And Daufuskie -- for those of who have never been
9 there, is an island, so I assume there is a beach?

10 A Yes.

11 Q And did you guys go out and go to the bench?

12 A Yes.

13 Q Did the boys enjoy the bench?

14 A Yes.

15 Q Do you remember what was going on when this photo was
16 taken?

17 A They were playing video games and Keith and Andy were
18 playing chess.

19 Q Okay. Have they been to the bench is that why they
20 were shirtless?

21 A Yes.

22 MS. JOYNER: Thank you. That's all the questions
23 I have Your Honor.

24 MS. WILSON: No further questions.

25 THE COURT: All right you may step down. Thank

1 you, very much.

2 Approach the bench please.

3 (WHEREUPON, there was an off the record
4 discussion.)

5 THE COURT: All right. Ladies and gentlemen of
6 the jury counsel tells me that the next witness is
7 rather likely to be lengthy and its five o'clock so I
8 am going to excuse you now for the evening. I want to
9 make a few comments about the evening. We're going to
10 reconvene tomorrow morning at 9:30 so I will ask you
11 to be back in the jury room at 9:30 at which time the
12 testimony will continue. But over the evening hours,
13 now I have been instructed and I think it's very good
14 information that all courts are instructed to talk to
15 a jury about internet investigation. I am going to
16 ask you not to do so. With all the social media
17 that's available I have no idea if there is anything
18 out there about this case but it would be highly
19 improper to try and do some independent investigation
20 about this case. I have had it happen and I have had
21 to deal with it in not so much pleasant terms and I
22 don't want to get into that situation. That's not
23 meant to be any kind of threat or anything. I'm just
24 advising you that internet investigation of a case.

25 I mentioned before you are going to hear all the

1 evidence right here. It's not appropriate to be
2 trying to find out more about the case. I would like
3 to like liken it to the situation more like in a civil
4 case where there's a wreck at such and such
5 intersection and its always tempting when the jury
6 leaves to just drive through that intersection to see
7 maybe I can figure out this thing happened. But I am
8 going to ask you not to do any independent research on
9 this case. I am going to ask you just have a pleasant
10 evening and not worry about this case until tomorrow.
11 And secondly, we had an incident this morning of a
12 report in the press. I have no idea whether there has
13 been anybody from the press in here today, whether
14 there will be any report tomorrow but I am going to
15 ask you not to read it. Not to pay attention to it.
16 We did find out today that only two people out of the
17 whole sixty read the Herald so that's pretty good
18 evidence right there.

19 The third thing I am going to ask you to do, when
20 you return in the morning is select one of your
21 members. You've gotten to know each other a little
22 bit now to be the foreperson of the jury. Now that
23 person's only responsibility will be to write the
24 verdict if the case goes all the way to a verdict. To
25 write the verdict and preside in the jury room during

1 the discussions that would take place in the jury room
2 once the evidence is turned over to you. That person
3 will take the chair that the gentleman here on front
4 row with the blue jacket is occupying. And the
5 foreperson can be anybody on the jury. I will caution
6 you that the foreperson doesn't get paid any more than
7 anybody else but I do need somebody to handle that
8 responsibility for me or for the jury for that matter
9 and we will take that seat where the gentlemen is
10 seated on the front row and maintain that seat
11 throughout the trial. Of course the rest of the seats
12 don't have any names on them, so you're certainly
13 welcome to seat wherever you are most comfortable
14 during the remainder the trial. I will ask that the
15 alternates retain the two seats that they have been
16 occupying today. And the fourth thing I will ask you
17 to do is have a pleasant evening and we will see you
18 at 9:30 in the morning.

19 Thank you very much. Again you can your notepads
20 in the jury room. They will be protected. Nobody is
21 going to read them.

22 (WHEREUPON, the jury leaves the courtroom.)

23 All right stand at east until 9:30.

24 (WHEREUPON, the trial was in recess.)

25 (WHEREUPON, the trial resumed on November 21, 2019)

1 THE COURT: Is the State ready to proceed?

2 MS. JOYNER: State is ready to proceed.

3 THE COURT: Defense ready to proceed?

4 MR. SWERLING: Yes.

5 THE COURT: Bring the jury.

6 (WHEREUPON, the jury enters the courtroom.)

7 THE COURT: Good morning.

8 JURORS: Morning.

9 THE COURT: Ready to continue with the trial Mr.
10 57?

11 JUROR: Yes, sir.

12 THE COURT: Getting use to being known by a
13 number. Thank you, you for agreeing to serve as
14 foreperson of this jury.

15 JUROR: Yes, sir.

16 THE COURT: Solicitor call your next witness.

17 MS. JOYNER: The State call witness one .

18 witness one called as a witness, having been
19 duly sworn by the clerk, was examined and testified as
20 follows:

21 DIRECT EXAMINATION

22 BY MS. JOYNER:

23 Q Mr. Witness 1 can you please state your full name for
24 the record?

25 A It is witness one

1 Q What is your date you have birth?
2 A Its
3 Q Did you grow up here in Rock Hill?
4 A I did.
5 Q Do you still live here in Rock Hill?
6 A I do.
7 Q Are you married?
8 A I am.
9 Q Please tell the jury what's your wife's name is?
10 A My is wife's name is Maggie V
11 Q And is her legal name Julia Margaret V
12 A It is.
13 Q When did you first met your wife Maggie?
14 A I first met my wife in 2008 during the summer down in
15 Charleston.
16 Q And when did you two get married?
17 A We got married September of 2015.
18 Q Can you tell the jury the names of your parents?
19 A My parents names are David and Susan V
20 Q Do you have older sister?
21 A I do.
22 Q And what is your older sister's name?
23 A Her name is Katherine or Kat W
24 Q Where do your parents live now?
25 A My parents live in Rock Hill,

1 29732.

2 Q Is that your childhood home?

3 A So, I moved there when I was in 8th grade. Before that
4 we lived in Swan Meadows, . again Rock Hill,

5 29731.

6 Q Growing up did you at attend Rock Hill schools?

7 A I did.

8 Q Where did you go to elementary school.

9 A I went to Ebinport elementary.

10 Q What about for middle school?

11 A Sullivan Middle School.

12 Q What about the high school?

13 A North Western.

14 Q ~~Witness one~~ what year did you graduate from North
15 Western High School?

16 A I graduated if 2007.

17 Q Did you graduate on time?

18 A I did.

19 Q Did you skip any grades?

20 A No.

21 Q And so just going to very briefly do some math with you
22 to sure that I understand what years you were in particular
23 grades. You said you graduated if 2007?

24 A Yes, that's correct.

25 Q Would that make your 12th grade academic year of

1 2006/2007?

2 A Right.

3 Q So then counting backwards was your 11th grade 2005 to
4 2006?

5 A Yes, that's correct.

6 Q If I continue to count backwards am I correct that the
7 10th grade would be 2004 to 2005?

8 A Yes.

9 Q Would that make your 9th grade year 2003 to 2004?

10 A That's right.

11 Q Your 8th grade year 2002 to 2003?

12 A Yes.

13 Q That would make your 7th year 2001 to 2002?

14 A Yes.

15 Q Your 6th grade year 2000 you 2001?

16 A Yes, that's right.

17 Q Does that make your 5th grade year 1999 to 2000?

18 A Yes, ma'am.

19 Q Your 4th grade 1998 to 1999?

20 A Yes.

21 Q And your 3rd grade 1997 to 1998?

22 A That's right.

23 Q Your sister Kat is she older than you or younger?

24 A She is seven years older than me.

25 Q Do you remember when your sister graduated from high

1 school?

2 A She graduated in 2000 from North Western.

3 Q Do you know the defendant in this case?

4 A I do.

5 Q And how do you know the defendant?

6 A So when my sister was in high school, again, she's
7 seven years older than me. She had -- the defendant was her
8 boyfriend and so I remember the first time meeting him when she
9 brought him over to our house in Swan Meadows.

10 Q Was the defendant your sister's age?

11 A He was one year older than her.

12 Q So, making him about eight older than you?

13 A That's right.

14 Q Was he still in high school when you first met him?

15 A He was.

16 Q And do you recall what grade you were in when you first
17 met the defendant?

18 A I believe I was in the third grade.

19 Q Is that the year that your sister started dating him?

20 A So she started dating him I believe when she was in
21 10th grade, so yes, that would be right.

22 Q And prior to your sister beginning to date him had you
23 ever met the defendant?

24 A I had not.

25 Q When you met him did you call him Julio or did you call

1 him something different?

2 A I called him Andy.

3 Q Is that what everybody called him?

4 A Yes.

5 Q Now you say you first met him at your home?

6 A That's right.

7 Q Once your sister started dating him would Andy come to
8 the house a lot?

9 A He would. So he became a friend of our family. He
10 would come over for any type of family events like birthdays.
11 He was there during the holidays. He was definitely a friend of
12 the family at that time.

13 Q At some point did your sister break up with him?

14 A They did break up and Andy still would come over to the
15 house and would still come again to the same family events.

16 Q During this time period did you have an opportunity to
17 see the defendant interact with your parents?

18 A I did.

19 Q And did he seem to get along well with your parents?

20 A Yes, he did.

21 Q From your perspective did your parents seem to like him?

22 A They did.

23 Q Did you have opportunity to watch him interact with
24 your sister Kat?

25 A I did.

1 Q And from your perceptive did they seem to pretty much
2 get along well?

3 A Yes. They had the same friend's group. They got along
4 well I would say even after they broke up.

5 Q When the defendant would come to your house was it
6 always for the purpose of visiting Kat?

7 A At first that's how it was and then I think as time
8 progressed it was more to come and see me and hang out with me.

9 Q Did he also come and hang out with your parents some
10 times?

11 A He did.

12 Q In the times that he would come over to hang out with
13 you would your sister be home?

14 A Generally she was there. There are times though when
15 she was not.

16 Q Through this connection to your family at some point
17 did you become would you say friends with the defendant?

18 A Yes.

19 Q And what types of things would you do with the
20 defendant?

21 A So usually it was we both enjoyed playing video games.
22 Computers at the time were becoming big so that was common
23 interest. At the time I also -- the defendant had a bunch of
24 like swords and different weapons and things. I was interested
25 in that different weapons and kind of wrestling, fighting type

1 things. That's usually what we were doing.

2 Q You testified that he would come over and see you.

3 What kind of things would you do at your house?

4 A Usually again, just like playing video games, talking.
5 Just kind of hanging out really.

6 Q Were there ever types that you went over to his house?

7 A Yes, there were.

8 Q At the time was he living with his parents?

9 A He was.

10 Q And were there times that you would go over and spend
11 the night with him?

12 A That did happen, yes.

13 Q Do you recall how it was -- how it came to be that you
14 ended up spending the night with him the first time?

15 A And so the first time I believe it was Andy's idea. I
16 remember I was in third grade so I was playing church basketball
17 and it was in the fall I guess of '97. So I was at a church
18 basketball game at the activity center. The defendant came to
19 the game. It was a Friday and then after that I went home and
20 spent the night with Andy.

21 Q Did he stay you for the whole basketball do you
22 remember?

23 A I believe he just came and picked me up at the end.

24 Q When you spoken in the past about this first time you
25 that you spent the night had you ever previously indicated that

1 it was the second grade?

2 A Yes. I think I was trying to remember just based off
3 of how old my sister was and how many years were between us and
4 I think I did say second grade but it was the third grade.

5 Q Okay. Now, when you went to go spend the night at his
6 parents' house, did your parents know where you were going?

7 A Yes, they did.

8 Q Had they agreed to let you go?

9 A Yes.

10 Q And did you want to go?

11 A Yes.

12 Q When you got to his parents' house do you recall if his
13 parents were home?

14 A Yes, they were there at the time.

15 Q At his parents' house can you describe for the jury
16 what you recall about his parents' house?

17 A Sure. So it's a house in Meadow Lakes in Rock Hill.
18 It had a steep driveway up to the house. It was kind of like a
19 Spanish villa type house. Like it had the whole like shingled
20 roof. It was a one story house but it had a basement and then
21 the defendant's bedroom as you go in was to the right down the
22 hallway. It was on the right hand side.

23 Q Where was his parents' room?

24 A His parents' room was again to the right as you go in
25 the house, first door on the left down that same hallway.

1 Q Down the same hallway?

2 A Right.

3 Q Can you describe for the jury what you recall about the
4 appearance of the defendant's bedroom?

5 A So Andy's room it was basically he had his door closed
6 I would say most of the time. It was usually kept darker in
7 there. He had some black lights and he turned those on so it
8 was just the black lights and lights were off. There was
9 waterbed against the window. The far wall. There was a cabinet
10 at the end of the waterbed that held like all of his different
11 knives and weapon and things that I was saying I was interested
12 in. And then there was a book shelf that ran along the top
13 around the wall of his room.

14 Q Were there video games to play in there?

15 A He did. He usually had at any time one to multiple
16 computers.

17 Q So did you play games on the computers?

18 A Yes, that's right.

19 Q The first night that you spent the night with Andy at
20 his house -- well, let me ask you this. Ultimately do you
21 remember spending the night with Andy more than that first time?

22 A Yes, I do.

23 Q About how many times did you spend the night at his
24 house over the period of say from the 3rd grade to the 5th
25 grade?

1 A I would say at least -- I would say probably 15 to 20
2 times during that period.

3 Q The first night that you spent the night did anything
4 unusual happen?

5 A The only thing I can recall is at the time if I go over
6 to any of my other friends houses I didn't sleep in the same bed
7 as them but Andy made me sleep in the same bed with him. I
8 remember that being kind of strange at the time.

9 Q Did you agree to sleep in the same bed with him?

10 A I did.

11 Q Now, as you continue to spend the night at Andy's house
12 did you continue to sleep in the bed with him?

13 A I did.

14 Q At any point during that time during that time period
15 when you were spending the night with him did anything happen
16 while were you sleeping in bed with him?

17 A Yes. So it wasn't until probably I would say maybe the
18 third or fourth time when we went to bed before that just to as
19 like a relaxation thing he said, because I was young, we were
20 doing a lot of active stuff. I guess I was kind of wound up.
21 So he said as a relaxation thing he would give me a massage
22 before I went to bed.

23 Q And the word massages can mean different things to
24 different people so I am going to ask you some specific
25 questions --

1 A Sure.

2 Q -- about the massage. First of all, did you agree to
3 be massaged?

4 A Yes, I did.

5 Q And where did that massages take place?

6 A On Andy's waterbed.

7 Q Is that the water bed that was in his room?

8 A Yes.

9 Q Do you recall what you were wearing during that
10 massage?

11 A I believe during the first massages we were both in our
12 underwear.

13 Q And how exactly did he massage you? Kind of walk me
14 through your position and his position to the best that you can
15 recall?

16 A So I was laying face down for the first part. Again it
17 was like a full body massage. So he massaged my back, my arms,
18 my legs down all the way. I would flip over and usually that
19 was when like he -- so he would like do my arms and then down
20 the front of my legs at that point. And possibly at that point
21 maybe as he was going by like my private parts, like brush them
22 at that time during that first one. But I don't remember him
23 actually going for and grabbing it. Like my penis or anything
24 like that.

25 Q Now the massage that you described, was that the only

1 messages that you received from the defendant?

2 A It was not.

3 Q How often -- or how many more times if you can recall
4 were you massaged?

5 A So it was almost every other time that I stayed there.
6 I would say that some massaging happened before bed.

7 Q At any point did you ever say to the defendant, no, I
8 don't want to be massaged?

9 A During that period no. Once I got a little bit older
10 so I guess around 2000. Like when I was going into middle
11 school that's when I started to push back against the defendant
12 and say no and tell him to stop or get off of me when that would
13 occur.

14 Q So the massages that you said would happen almost every
15 time was the position and the position that you described at the
16 beginning by laying face down and then flipping over was that
17 consistent throughout the massages?

18 A It was. It did escalate though after that first one
19 almost every time the defendant and me were both naked during
20 the massaging.

21 Q *Witness one* did these massages ever progress pass
22 simply touching your private parts?

23 A Yes. So the massages from there once we were both
24 naked usually Andy would give me like if he was massaging me he
25 would some times be kneeling next to me and make me hold on to

1 his penis while he was massaging me. Other times when I would
2 flip over or when he was massaging me also, I would flip over
3 and he would try to grab my penis and masturbate me as well.
4 And then it was also the case that he started to expect after he
5 massaged me for me to get on his back and massage him and again
6 this was all when we were both naked.

7 Q Talking about at some point the masturbation began?

8 A Yes.

9 Q Can you tell the jury what you remember about how
10 masturbation became part of the massages?

11 A So that became part of it. There was actually a time
12 when Andy's parents were not there and in his parents room they
13 had a Jacuzzi tub in their bathroom. During that incident so we
14 were both it was like bath time I guess before we were going to
15 bed and we were both in there. I guess at the time I was
16 getting a little bit older. This is probably a year into the
17 relationship or so. I asked him about masturbation or he
18 brought up masturbation and then went on to explain it to me.
19 And then at that time he made me basically grab on to his penis
20 and masturbate it until he ejaculated.

21 Q Did he also in that incidence grab on to your penis?

22 A I believe at a time he did. However I was still young
23 at this point and I don't believe anything happened on my end.

24 Q Nothing happened on your end. Was he making the
25 motions to masturbate you?

1 A Yes, he was.

2 Q So you said nothing happened on your end meaning that
3 you were not old enough?

4 A Exactly.

5 Q So, I think you testified a moment ago that they became
6 part -- masturbation became part of the massaging at that point?

7 A Yes. After that point, yes.

8 Q Now, the incident that you just mentioned was it in the
9 Jacuzzi tub?

10 A Yes, it was in his parents' bathroom.

11 Q The other massages that you received from the defendant
12 prior to that incident were they all in the bedroom?

13 A They were.

14 Q And after the Jacuzzi tub incident the massages -- you
15 continued to receive massages, correct?

16 A I did.

17 Q And were those massages in the bedroom?

18 A Yes, they all were.

19 Q Were they all on the waterbed?

20 A Yes.

21 Q Okay. I think you said that the massages changed.

22 From then forward was masturbation a component in the massages
23 you received?

24 A Yes, it was.

25 Q Would that be the defendant masturbating you?

1 A Yes, it was.

2 Q Were there ever times when you massaged him?

3 A There definitely were. Again, when I would have to
4 hold on to him and from there it progressed. So I would have to
5 masturbate him but I don't remember a time in the bed during the
6 massages that he ever ejaculated at that time.

7 Q Okay. And I just want to make sure I kind of get all
8 the facts. So kind of going back to post -- I will call it the
9 Jacuzzi incident.

10 A Yes.

11 Q Post Jacuzzi incident, did each massage involve him
12 trying to masturbate you?

13 A Yes.

14 Q During each of those massages did you also have to
15 massage him?

16 A Yes, at some point.

17 Q I'm sorry.

18 A At some point, yes.

19 Q And at that point did that massage, you massaging him,
20 involve you touching his penis?

21 A Yes.

22 Q Were you masturbating his penis?

23 A I would say yes, but again, not to completion.

24 Q Okay. You referenced a moment ago during massages
25 being made to hold on to his penis?

1 A Yes.

2 Q Is that a separate act then what you were talking about
3 masturbating him?

4 A Yes.

5 Q Now, you said that the incidents in the bedroom where
6 you masturbated him were not to completion?

7 A Right.

8 Q Were there other -- elsewhere in the house did other
9 incidents occur?

10 A They did not. Just in the bedroom, again on the bed
11 and then the Jacuzzi tub in his parents' room. In the bed
12 however I would say at night it was every time that I slept
13 over. From, I would say the first incident of the massage there
14 was always like him trying to like cuddle or get close to me at
15 night. Trying to like put his arm around me and basically hold
16 me. And this would usually involve again we were either in our
17 underwear, naked, and I could like feel his penis like in my
18 back. Like my lower back. Again, he was always trying to get
19 close to me during those periods, when again even after the
20 massage or anything else that occurred that night when we were
21 sleeping.

22 Q I will backtrack a little bit.

23 A Okay.

24 Q Regarding the Jacuzzi were there any further incidents
25 in the Jacuzzi?

1 A Yes, that happened probably three or four times I would
2 say something in the Jacuzzi tub.

3 Q And what would happen in the Jacuzzi?

4 A That was the times I be forced to masturbate him until
5 ejaculated.

6 Q Did he ever touch you in the Jacuzzi other than the
7 first incident you talked about?

8 A Yes, he did.

9 Q Now, I think you testified earlier that at some point
10 you told him no?

11 A Yes, that's correct. As I got a little bit older, as I
12 was going into middle school I started -- especially at night,
13 again, when we were trying to sleep he was always trying to like
14 cuddle or get close and I started telling him to get off, get
15 away.

16 Q And did he listen to that? Did he stop?

17 A Yes. I could tell though that he was not happy. Like
18 he would get upset. Kind of angry about it but he would
19 eventually, you know, he stopped.

20 Q And roughly what was the timeframe from when you told
21 him to stop?

22 A So it was probably like some time I would say around
23 2000 that I started telling him to stop. So I was probably in
24 the sixth grade at that point.

25 Q Now after -- let me ask you Mr. Van Zile, in your

1 interactions with the defendant during this time period --

2 A Yes.

3 Q -- did you ever make any observation about his anatomy?

4 A Yes. Andy was uncircumcised.

5 Q Now after you told Andy to stop did you continue to go
6 over to his house?

7 A I did.

8 Q Did you continue to sleep in his bed with him?

9 A Yes, that did continue.

10 Q While this -- the things that we discussed were going
11 on, starting with the massages, were his parents home when those
12 massages happened?

13 A Generally they were still there. So for the massages
14 some times they were there. Some times they weren't. With all
15 of the hot tub incidents that was always when they were not
16 there.

17 Q When you would be at Andy's house and his parents were
18 there how often would you interact with them?

19 A So generally I wouldn't interact with them very much at
20 all. Usually I would see them maybe when I got there to the
21 house and then maybe when we were eating dinner I you would see
22 them. Other than that we would be in Andy's room again with the
23 door shut and they wouldn't ever check on us.

24 Q You mentioned bath time?

25 A Yes.

1 Q Other than in being in the Jacuzzi with the defendant
2 was there any other bathing that happened?

3 A Yes. At the end of that hallway where Andy's room was
4 there's a bathroom and I do recall I did shower in that bathroom
5 and he would shower in there as well.

6 Q At the same time?

7 A Right.

8 Q Was there any touching at that time?

9 A No, not during take time.

10 Q And this maybe a dumb question but I want to be clear.
11 Were you wearing anything?

12 A No, I was not.

13 Q Now during this period of time that all of this is
14 going on is Andy also coming over and hanging out at your house?

15 A He did during that time.

16 Q Did anything like this ever happen at your house?

17 A The only thing I remember at my house was he was
18 babysitting one time for me or for my parents, I guess, and he
19 came in I remember when I was showering.

20 Q Did he touch you?

21 A No, he did not. He just came in the bathroom.

22 Q When he was there and your parents were there and you
23 were hanging out would any touching happen?

24 A No, nothing happened over at my house.

25 Q Would you and the defendant would you go places

1 together?

2 A We did. I remember one particular trip we went to
3 Daufuskie Island to --

4 Q Let me stop you?

5 A Okay.

6 Q During the period of time so maybe from the third grade
7 to the fifth, beginning of sixth grade, other than going to your
8 house and his house would you go places together?

9 A No, we wouldn't. Sometimes he would pick me up from
10 school but that would just be to go back to my house and then I
11 would stay over his house and that was it.

12 Q So he would pick you up from school and take you home?

13 A Yes.

14 Q And hang out after that?

15 A Yes.

16 Q Now during this period of time is he coming over for
17 family events?

18 A He was.

19 Q Birthdays?

20 A Yes.

21 Q Holidays?

22 A Yes.

23 Q Do you recall if your parents ever hosted a birthday
24 party for him?

25 A Yes. I don't think usually he would get one from his

1 parents and so my parents kind of stepped in and kind of gave
2 him one every year.

3 Q So after the beginning of the sixth grade did you
4 continue to spend time with him?

5 A Yes, I did.

6 Q And did your family continue to spend time with him?

7 A Yes.

8 Q At that point did you guys start going different places
9 together?

10 A Yes, that did happen.

11 Q So what types of places would you go together?

12 A Anything from like the movies -- again, he would be
13 involved with birthdays. So like in middle school probably 7th
14 this or 8th grade we started going to like Laser Quest which is
15 up in Pineville for my birthday. Again, he took me to his -- I
16 can't remember if it was his aunt -- I think it was his aunt's
17 house down in Daufuskie Island with one of my friends.

18 Q Did you ever -- you said birthday, middle school Laser
19 Quest?

20 A Yes.

21 A Did that become a tradition.

22 A It did and that continued into high school.

23 Q And when you guys would go to Laser Quest would it just
24 be you and he?

25 A No, it would be him driving me and my friends up there.

1 Q And do you recall when the Laser Quest days ended?

2 A Probably my 17th birthday I would say. I think that
3 was the last time that we did that.

4 Q And during this period of time is he continuing to
5 attend family events?

6 A Yes, he was.

7 Q And at this point by the time you are in high school
8 had he moved into the house on Egret Court?

9 A He had, yes.

10 Q And did you ever go over there?

11 A I did go over to that house.

12 Q Did you ever bring friends over there?

13 A Yes, I did.

14 Q And after -- from the time that you told him to stop,
15 like all of these outings that you are going on was he ever
16 inappropriate with you again?

17 A No, after that point he was not.

18 Q Did you guys ever at any point during all of the abuse,
19 during that period of time from 3rd to 5th or 6th grade --

20 A Yes.

21 Q -- did you ever talk about what was going on with Andy?

22 A I don't think we actually talked about what was going
23 on. He kind of made it seem like even from that first time when
24 I went over there that he was like a brother and that the things
25 that we did over at his house were normal I guess and that was

1 just what happened like when we were over at his house during
2 those times. So he made it seem like it was normal.

3 Q Did he ever expressly tell you not to tell?

4 A I don't remember expressly telling me not to tell
5 anyone about it.

6 Q Did he ever threaten you anyway?

7 A No, he did not.

8 Q After it had had all stopped and you are continuing to
9 spend time with him do you ever discuss it with him then?

10 A No, I don't believe that I ever discussed it with him.

11 Q What was it like kind of moving and transitioning from
12 those massages and masturbations to continue that relationship?
13 How were you able to do that?

14 A I think for me it was at the time and then after it was
15 a lot of manipulation and so he would generally even then while
16 the abuse was going on he treated it as a kind of like a reward
17 almost. So like he would have some game that I wouldn't be
18 allowed to play until I did whatever he asked me to do and then
19 I would get to do what I wanted to do. And so from that time on
20 I think he also would like whenever we would travel he would
21 bring me gifts. He built me a computer probably when I was in
22 7th grade when I didn't have the means to get one. He would
23 download games for me. Taught me about computers and things
24 like that and I think it was those things that kept the
25 relationship going.

1 Q Now, at some point did you drift away from the
2 defendant?

3 A Yes, I would say towards the end of high school is when
4 the relationship tapered off and stopped.

5 Q At the time, ~~witness one~~ that this was going on did
6 you talk to anybody about it?

7 A So during the time that it was going on, no, I didn't.
8 Even while it was going on I kind of separated it from myself.
9 Buried it deep down. And then never told anyone about it until
10 when I met my wife. I was very drunk at one of her sorority
11 events at Clemson in 2009 and I said something about it that I
12 was abused as a child then but I didn't say who it was.

13 Q Is that the first time that you even said that out
14 loud,

15 A Yes, that was the first time that I told anyone about
16 what had happened to me.

17 Q What was it like to say that out loud?

18 A I can't remember much, honestly. I was very drunk at
19 the time. So I don't really remember what exactly I said. But
20 I guess at that time that there was someone from Rock Hill that
21 came to the sorority event -- again at Clemson -- and that I
22 recognized and I guess for me that had triggered something and
23 made me think about what had happened to me. I was just I guess
24 in a bad emotional state and so it kind of brought up those
25 feelings and for some reason that's when I wanted to get it out

1 and so I told Maggie at the time.

2 Q And you said you ended up marrying Maggie, correct?

3 A Yes, I did.

4 Q At some point back in 2016 did you become aware that
5 the defendant had been arrested?

6 A Yes, my sister called me or texted me first while I was
7 at work and then I called her and she told me that Andy had been
8 arrested.

9 Q At that point did you talk to anybody about what had
10 happened to you as a child?

11 A At that point I still didn't want to tell anyone about
12 what had happened, so I did not reach out to anyone. I didn't
13 contact the police when they tried to call me. I didn't call
14 them back. No, I didn't want to tell anyone at that time.

15 Q Did you talk with Maggie about it?

16 A I did talk with Maggie more about it. She kind of
17 brought it up because she remembered when I talked about it back
18 in 2009 so I did disclose to her that the abuse happened and
19 went into more detail and said it was Andy that abused me.

20 Q Now, in 2000 -- September of 2018 did you speak with
21 the State for the first time about this?

22 A I did.

23 Q And did you -- how did it come to be that you were
24 interviewed by the State of South Carolina regarding Mr.
25 Castillo, to the best of your knowledge?

1 A So, in August of 2018 I was arrested for DUI and my
2 parents basically gave me a choice I can either stay in jail
3 until my trial or I can go to basically a rehab program in
4 Florence, South Carolina, called the Owl's Nest. So I at that
5 point it was easy decision. So I went to the rehab facility and
6 probably about a month into my treatment the director, Scott
7 there at the Owl's Nest contacted me and said that --

8 MR SWERLING: Objection to hearsay.

9 THE COURT: Sustained.

10 Q Without saying what somebody said, can you tell were
11 you made aware that the State was requesting to interview you?

12 A I was.

13 Q Okay. Had you contacted anybody to be interviewed?

14 A I had not and I was made aware at that time that my
15 sister had actually been the ones to contact them on my behalf
16 because I was in a safe place I guess she assumed that I may
17 want to talk about it at that time.

18 Q Had you asked your sister to contact anybody?

19 A I had not.

20 Q Witness one, there should be a screen. Is that screen
21 on? There is no picture on it yet but is it on?

22 A Yes, it's turned on.

23 Q Witness one, in just a moment I am going to ask you
24 about what has already been entered as Exhibit 11. But for
25 right now I am going to run back through with you at the time

1 that you were in high school, were you aware of the defendant
2 building or planning to build an attic?

3 A Yes, I was. At the time once he moved into the house I
4 went up in that attic room but it was not -- the construction
5 was not started at that time. Andy had just said basically he
6 wanted to make that into another room upstairs.

7 Q So you never saw the completed attic?

8 A I did not.

9 Q So you never saw a coffee table in the attic?

10 A No, I did not.

11 Q I will direct your attention now to State's Exhibit 11
12 and do you -- are you able to recognize that photograph right
13 there?

14 A Yes.

15 Q And what do you recognize that photograph as?

16 A So that was a birthday party that I had over at the
17 defendant's house, I believe my 16th birthday party.

18 Q Okay.

19 A And this picture was after I guess we had gone to Laser
20 Quest and then came back to his house.

21 Q *Witness one* was it difficult for you to come forward
22 and talk about what happened to you?

23 A Absolutely.

24 Q Let me ask you this, have you struggled through the
25 years?

1 A Yes. So I had my first drink of alcohol when I was 12
2 years old. I first smoked marijuana when I was 13 years old. I
3 think from a young age I knew that I needed something to
4 basically try to numb myself. Try to just not think about what
5 happened to me and again I buried it extremely deep. Never told
6 anyone and then trying to self medicate used many substances to
7 try to numb myself and again not have to think, not have to
8 feel.

9 Q When you found out that you were going to be coming to
10 court how did you feel?

11 A I was definitely afraid for this to be out in public.
12 I think from that age the reason -- one of the reasons I didn't
13 tell anyone's is that I didn't want to appear broken. I didn't
14 want anyone to know and look at me differently, I guess. So I
15 was definitely scared to come, but I knew -- I felt also a lot
16 of guilt that I hadn't said anything I think because I heard --

17 MR. SWERLING: Objection what he heard.

18 Q Are you referring to the charges? You heard about the
19 charges?

20 A I did. Yes. And I knew that I wasn't the only one so
21 that made me feel guilty that I didn't speak up all those years
22 and I didn't say anything.

23 Q Were there times that I asked you to come up to talk to
24 me in preparation of the trial and you didn't come?

25 A Yes, there were.

1 Q And is there times that you told me you were at work?

2 A Yes.

3 Q Were you at work?

4 A Sometimes, yes. Sometimes no.

5 Q And why did you say you were at work when you weren't?

6 A Again, I you think I was feeling overwhelmed with all
7 this coming back up. For me its been over 20 years and so it's
8 a lot of -- a lot of trama that I have not dealt with still
9 properly, I believe. I've gotten sober. I have been sober for
10 over a year and a half, but I think its still something that
11 since now I can't numb myself. I don't use substances on
12 myself. It's still something I haven't fully dealt with and so
13 it's been hard for me to still deal with it at this time.

14 Q Thank you. Please answer any questions the defense
15 has.

16 A Thank you.

17 THE COURT: Cross examination.

18 CROSS EXAMINATION

19 BY MR. SWERLING:

20 Q *Witness one*, how old are you now?

21 A I am 30 years old.

22 Q Let me start from where you sort of finished off here
23 about when you finally came forward and disclosed. Okay?

24 A Yes.

25 Q In 2016 you heard of Mr. Castillo'S arrest, is that

1 correct?

2 A That's correct.

3 Q And you were asked by your family whether there was any
4 connection between Mr. Castillo doing anything sexual with you
5 by your parents and your sister, correct?

6 A I was.

7 Q And you denied it?

8 A Yes, at that time I still was in denial. I still said
9 nothing happened.

10 Q That's right. You told them nothing happened whenever
11 they asked about that?

12 A Right, my family.

13 Q And as a matter of fact one of the reasons why you
14 spoke with your sister about it when you told her nothing
15 happened, is that she had been contacted by the solicitor's
16 office to see if you would be interviewed, correct?

17 A That's correct.

18 Q And as a result of that contact she asked you if
19 anything had happened, isn't that true?

20 A Right.

21 Q And that's when you denied it?

22 A Yes.

23 Q So for two years after Mr. Castillo was arrested you
24 totally denied that anything ever happened between the two of
25 you?

1 A When I first told my family it was in 2017. So that's
2 not completely true.

3 Q It took you a year?

4 A Yes. So I did disclose to my wife when it first
5 happened in 2016 when he was arrested. Just my family I did
6 not.

7 Q I'm sorry.

8 A Just my family I would say I did not for about that
9 year.

10 Q For a year?

11 A Yes.

12 Q And then you went ahead and disclosed and went to law
13 enforcement when your sister mentioned something to law
14 enforcement after she finally found out that you're claiming
15 that Mr. Castillo assaulted you, correct?

16 A Right. So again she found out in 2017 and then while I
17 was in a rehab facility in 2018 that's when she had contacted
18 law enforcement and I was interviewed.

19 Q So it wasn't a surprise at that point. Your sister
20 went ahead and arranged because she had already previously been
21 contacted and told the solicitor's office or I guess based upon
22 what you had told her nothing had happened, correct?

23 A I don't know what my sister told at that time in 2016.

24 Q Well, she obviously didn't tell them were you molested
25 because you denied it?

1 A Correct.

2 Q So when you went into the rehab facility that was Owl's
3 Nest up in Florence?

4 A Yes, sir.

5 Q And the only reason you went in to Owl's Nest is
6 because of what your parents told you that you were either going
7 to jail or you are going to go ahead and deal with your
8 problems?

9 A Right. Yes.

10 Q And how long were you at Owl's Nest?

11 A I was there for two months.

12 Q After your sister went and made an arrangement then
13 some detective came out there to speak to you about what you are
14 now claiming after having denied it previously to your family?

15 A Right, until 2017 when I told them.

16 Q And you were interviewed that day and it was recorded
17 interview, correct?

18 A The first interview was not recorded. It was a
19 detective and he basically just asked me the questions. The
20 facts of what happened to me.

21 Q So when would the interview have been recorded?

22 A The second interview was recorded.

23 Q That would have been October 23rd?

24 A I don't remember the exact date.

25 Q Well, at any rate, you spoke with a detective and then

1 there was a recorded interview made?

2 A Right. Yes, sir.

3 Q And that was the first time -- and that interview was
4 October 23, 2018?

5 A Yes, that's sound right.

6 Q So basically two years after Castillo was arrested for
7 victim one 's charges is when you actually spoke to law
8 enforcement?

9 A Yes.

10 Q All right. And do you remember what came first either
11 that interview or the interview before at Owl's Nest? Was this
12 the second interview or the first interview?

13 A The recorded interview?

14 Q Yes.

15 A I believe that was the second interview at the Owl's
16 Nest.

17 Q The first interview was on September 10th, 2018?

18 A Yes.

19 Q And then October 23rd?

20 A Yes, that's when I was at the Owl's Nest.

21 Q I just wanted to get that clarified. So you were at
22 Owl's Nest and you were being at that time treated for substance
23 abuse?

24 A That's correct.

25 Q Is that correct?

1 A Yes, that is correct.

2 Q And that arrest that had you for DUI, was a DUI 3rd
3 offense, correct?

4 A Yes.

5 Q So were you looking at serious consequence for that?

6 A Yes.

7 Q When you finally made that decision to go to Owl's
8 Nest?

9 A Yes.

10 Q And it's only when you went to Owl's Nest that you
11 decided to go ahead and come forward, is that correct?

12 A The decision wasn't mine to come forward at that time,
13 but yes, that is when I came forward.

14 Q When you came forward but it was because somebody else
15 went ahead and set it up?

16 A Correct.

17 Q You still were not willing to come forward? You still
18 were not willing to disclose?

19 A At that time I don't think I would have necessarily
20 come out to law enforcement as it happened if my sister hadn't
21 reached out.

22 Q Your sister is how much older you, seven, eight years?

23 A Seven years.

24 Q And when you were at Owl's Nest a lot of your problems
25 were alcohol abuse?

1 A Correct.

2 Q You had -- how long had you been abusing alcohol; a
3 year? Two years? Three years?

4 A At that point I would say maybe ten years.

5 Q Ten years. So you would have been at that point
6 probably around 18 or 20?

7 A When the problem --

8 Q You started?

9 A -- when the problem escalated. I started drinking when
10 I was 12 but when the problem got worse, yes, that's sounds
11 right.

12 Q And so in addition to alcohol you disclosed that you
13 were using marijuana, mushrooms, LSD and ecstasy?

14 A At different points, yes. The marijuana was probably
15 an everyday thing. The rest it did happen here and there.

16 Q And you laying all of the fact that you you were trying
17 to subdue your feelings and deal with your feelings?

18 A I'm not saying that's the reason that I did all of it,
19 but absolutely as far as starting the substance abuse and then
20 it definitely escalated from there. But yes, the things that I
21 did the most the alcohol, the marijuana, absolutely to numb
22 myself. The other things, I mean, recreational purposes come
23 in, yes, but for the most part the biggest things I had problems
24 with were because of the abuse.

25 Q And that would have been the last time you said was in

1 5th grade, is that right?

2 A Correct.

3 Q Now, you pretty much were able to suppress that and go
4 on with life and not have any difficulty all those years, isn't
5 that true?

6 A I've always had difficulties with I would say my
7 motivation to be successful. I've always struggled to find my
8 purpose in life. I've never been able to really figure out
9 exactly what I want to do and succeed in that area. I've jumped
10 from job to job. I've never had a career per se. And I've had
11 a lot of marital issues and issues with my family too. A big
12 thing with them is just that I was never reliable I guess you
13 could say.

14 Q A lot of that had to be with your substance abuse?

15 A Yes.

16 Q As would in any family who would have a child that was
17 abusing substances, correct? Don't you think so?

18 A I think.

19 Q But your high school years were pretty natural. Did
20 you participate in sports?

21 A So I did. I ran cross country in high school.

22 Q You were have very social? You had a group of friends?

23 A I would say I did have friends, yes.

24 Q It didn't impair your socially?

25 A No, not at that time.

1 Q You dated young ladies?

2 A Yes, I did.

3 Q And you went to school. Where did you go to college?

4 A So I first went to College of Charleston for about
5 maybe a year and a half. Again down in Charleston I was I would
6 say partying more than going to class. So I came back to Rock
7 Hill and from there I just got a job and worked a couple of
8 years and then went back to Winthrop and graduated from Winthrop
9 with my undergraduate degree.

10 Q When did you finish at Winthrop?

11 A I believe that was in 2015.

12 Q So you went and were able to complete college?

13 A I was eventually.

14 Q And in high school you were outstanding student,
15 weren't you?

16 A Yes.

17 Q You had a class there -- what school did you go to,
18 North Western?

19 A North Western.

20 Q You had a class, senior class of 548 people?

21 A That sounds right.

22 Q And do you remember where you graduated? What your
23 class rank was?

24 A Eleventh.

25 Q Pretty high up. It looks like you had an about 4.7

1 grade point?

2 A That sounds right.

3 Q So academically whatever happened in the past you
4 weren't effected by that academically or socially?

5 A Yes, you can say that.

6 Q Are you working now?

7 A I am not.

8 Q When was the last time you worked?

9 A Probably about three weeks ago. Two weeks ago
10 actually. Two weeks ago.

11 Q Where was that?

12 A Waiter's Choice Cafe. Its off of Arrowwood Road.

13 Q How long were you working there?

14 A I've probably only been working about three months
15 there.

16 Q Why did you leave there?

17 A Because of I think a lot of emotions and things that
18 were brought up from the preparation I think even for the trial.
19 I was missing days of work and for me I didn't want them -- this
20 was a person that I worked for previously. I didn't want to let
21 him down if I was not able to focus and give me best and so I
22 went my separate way and they have someone else now.

23 Q Do you know when you got out of Owl's Nest?

24 A I got out of Owl's Nest in October 7th I believe of
25 last year.

1 Q 18th?

2 A 18th.

3 Q About a year ago from now?

4 A Yes.

5 Q You had also attended Keystone at some point?

6 A So after my second DUI -- well, actually both. The
7 first two I had to do non-extensive program. That was like
8 weekends for like a month or something like that and then I did
9 a longer program. It was probably about three months at
10 Keystone after the second one.

11 Q And that DUI 3rd that you were arrested for in August
12 of 18th was eventually dismissed at the preliminary hearing,
13 correct?

14 A That's right.

15 Q And that was after you made the disclosure?

16 A Right.

17 Q Now, after you made the disclosure you started seeing a
18 doctor -- I don't know if he was a doctor or not -- David
19 Steward, a counselor?

20 A I saw Dave maybe a couple of times, yes.

21 Q And that was since you made the disclosure?

22 A Right.

23 Q And one of the things that he was trying to help you
24 with and you were needing help with is about testifying in
25 court, correct?

1 A I don't remember that being one of the things that he
2 was trying to help me with.

3 Q Would you deny there is a note in his record that he
4 went over direct examination and cross examination questions
5 with you in court.

6 A If he says that in the report, yes, I just don't
7 recall.

8 Q Well, I'm asking if you remember. That was only a year
9 ago?

10 A I don't recall. I mean I think I told him about the
11 case, about what I was possibly facing, but I don't remember him
12 going into any kind of detail about it.

13 Q But wasn't your purpose in going there to go ahead and
14 be able to deal with coming to court?

15 A It was actually just about continuing coping skills and
16 continue recovery. Continued recovery plan for me.

17 Q Now, I assume you spent a lot of time with the
18 solicitor getting ready for this case?

19 A I did.

20 Q And did you come up here to the courthouse and go over
21 the case with her a number of times?

22 A I did.

23 Q And who else was present when you did that?

24 A I believe the first time that I came here my wife came
25 with me and then -- is there a specific person you are asking

1 about?

2 Q No, I'm asking you.

3 A At different times I believe there was -- it was
4 someone that works Erin that was in the room. I don't remember
5 his name.

6 Q Someone who worked with who?

7 A Erin.

8 Q Erin?

9 A Yes.

10 Q Did you ever come in to a courtroom and practice
11 getting -- sitting in the witness chair and having questions
12 asked you?

13 A I did not come in and sit in a witness chair.

14 Q But you were asked a lot of questions by Miss Joyner
15 obviously and whoever was associated with her?

16 A Right. This past weekend we did do some questions
17 where she would ask me questions I guess in preparation for the
18 questions she would ask me up here.

19 Q So I guess the point I'm trying to make is, you have
20 gone over this story that you are telling the jury today a
21 number of different occasions with the prosecutor?

22 A I have.

23 Q And also with law enforcement?

24 A I have.

25 Q Let me ask you something. The first time when were you

1 interviewed by Detective Thomas you don't mention anything about
2 masturbating Andy Castillo. You mentioned that he masturbated
3 you. Not the other way around, isn't that true?

4 A I can't recall exactly what I said the first time. I
5 don't know if the detective wanted me to go into full details at
6 that time. I think that the initial shall one -- are you
7 referring to the one that was recorded or not.

8 Q The one that was recorded?

9 A The one that was recorded I believe I did say something
10 about it.

11 Q Well, it says here on page five -- and you can read it
12 if you want.

13 MS. JOYNER: Would it proper if he's trying to
14 refresh his recollection to show him.

15 THE COURT: Sure.

16 (The witness was handed a transcript.)

17 Q That's a transcript of that statement that you made.
18 It talks about "Rhe next thing I remember --

19 THE COURT: What line.

20 MR. SWERLING: Line six.

21 Q "The next thing I remember --

22 MS. JOYNER: Your Honor, I would ask him to give
23 him an opportunity to read it and see if it refreshes
24 his recollection.

25 MR. SWERLING: I thought he read it.

1 A Your fine. I read it.

2 Q "So the next thing I remember this is probably when I
3 was nine years old again in the Jacuzzi tub he was masturbating
4 and wanting me to hold on to him and he masturbated until he
5 ejaculated.

6 So you were holding on to him and he was masturbating, isn't
7 that true?

8 A Yes, that is what I said. I think what I was meaning
9 there is that I was basically masturbating him until he
10 ejaculated. Just assuming that if he wanted me to hold on to
11 him and he was masturbating then I was helping in the process.

12 Q Well, don't the words speak for themselves. He was
13 masturbating. Wanted me to hold on to him and he masturbated
14 until he ejaculated. Not that you masturbated him. That's not
15 something you told law enforcement?

16 A That is what the words say here, but --

17 Q Well, that's word for word, aren't they?

18 A Yes.

19 Q You're not disputing what's written on that transcript,
20 are you?

21 A The part though that I am saying he was masturbating.
22 Wanted me to hold on to him. If I'm holding on to him and he's
23 masturbating am I not helping in the process?

24 Q I'm not denying that you are saying you held on to him?

25 A Okay.

1 Q What I'm saying is here you said he masturbated himself
2 until he ejaculated. That's not what you told the jury at the
3 beginning of your testimony? What you told the jury at the
4 beginning of your testimony was that he had you masturbate him.
5 That has not been said?

6 Now, would you look at that and tell me, isn't that true?

7 A Yes, from this transcript.

8 Q And are you saying -- is there any other reference that
9 you can make to anything that shows that you said that you
10 masturbated him?

11 A I mean, as far as this interview, I would have to look
12 through it. When I was being interviewed the case I was trying
13 to make is that during the hot tub incident basically I was
14 forced to masturbate him. Is that what you're asking?

15 Q Well, what I'm saying is where does it say that? When
16 did you first say that, that you had to masturbate him during
17 your trial preparation?

18 A I mean, again, as far as what I said, if you want to go
19 go strictly by the words that I said in here that's fine.

20 Q That's what I want to go.

21 A Yeah.

22 Q That's what I am asking you to tell the jury. That
23 doesn't say what you said in your testimony, isn't that true?

24 A That's true.

25 Q The other thing that is not in here is you're talking

1 about that you were laying on your stomach and he was massaging
2 you. When did that come up that you started talking about the
3 fact that you would laying on your stomach and then he would
4 flip you over because in these 27 pages that's not mentioned at
5 all. Is that also during trial preparation?

6 A I believe so. And again, so this interview, this was
7 the first initial interview. I don't think that I told the
8 detective every single detail about what exactly happened.

9 Q That was the purpose though, wasn't it, to go ahead and
10 tell what happened?

11 A I did tell what happened. I didn't tell every single
12 detail of everything that happened in this interview.

13 Q So you would agree that today you're telling a couple
14 of things that were never told in your interviews, true?

15 A In my interviews with the solicitor or --

16 Q Interviews with police because I don't know anything
17 about the interviews with the solicitor. That is
18 attorney/client work product. We don't get that.

19 A That's possibly true, yes.

20 Q So, that would have been since then?

21 A Yes. Yes, sir.

22 Q And so that's something that has just come in your head
23 in the last year when you were going through trial preparation?

24 A As far as details, yes, I would say.

25 Q And details came from continuing to talk about it,

1 about what happened to you, is that right?

2 A Right. I think as Erin went through it when she was
3 asking more specific details then any of the questions that the
4 detective asked me, yes, it was more defiantly -- the entire
5 story was defiantly flushed out more as far as what exactly
6 happened.

7 Q Were you ever made aware of what victim one
8 was saying about him being massaged?

9 A I never heard anything about what exactly happened with
10 victim one.

11 Q So you don't know and you're saying -- you're under
12 oath right now. You're are telling the jury that you have no
13 idea what victim one said about massages?

14 A I had no idea about.

15 Q Not had. Do you have now?

16 A As far as what happened to him I still have no idea
17 what happened to him. I have not heard his testimony.

18 Q Have you all run into each other in the courthouse?

19 A We have.

20 Q Discussed the case?

21 A We have not.

22 Q Never discussed it with him?

23 A We have not.

24 Q And you don't know what he testified to here yesterday?

25 A I do not know.

1 Q And your testimony is you never have been made aware of
2 that?

3 A I have not.

4 Q Did you ever read any discovery in this case?

5 A I have not read anything about it, no.

6 Q All right. You went to Daufuskie Island with some of
7 your friends?

8 A Yes, that's right.

9 Q Nothing inappropriate happened down there, correct?

10 A No, it did not.

11 Q Your testimony is though that almost every time you
12 went over to house you got naked, correct?

13 A I would say after probably the first massage, probably
14 the third or fourth time I was over there, yes.

15 Q And you slept all night naked with him?

16 A Yes.

17 Q And that went on for from what the third grade?

18 A Third grade.

19 Q To the 5th grade?

20 A Around 5th, yes.

21 Q Now, let me ask you. You all had a really close
22 relationship, didn't you?

23 A Yes.

24 Q It was like brothers?

25 A Yes.

1 Q He looked at you like a brother and you looked at him
2 like a brother?

3 A I would say so.

4 Q He didn't have any male siblings?

5 A Right.

6 A Or any siblings?

7 A Yes, he's was an only child.

8 Q And you didn't have any other male siblings?

9 A I did not.

10 Q So your relationship was from the very beginning like a
11 brother; you to him and him to you, correct?

12 A I think that was the initial thing that directed me to
13 Andy was I had always wanted an older brother, yes.

14 Q And he made you aware that he had always wanted a
15 brother as well?

16 A Right.

17 Q So a lot of the things you did together, the activities
18 you did, were things that probably brothers do?

19 A Yes, that's correct.

20 Q Absent of what you say the sex thing?

21 A Right. Exactly.

22 Q And I think you described you went to different places
23 together. He took you places that you wanted to go to. Places
24 he wanted to go to. And when you went to those places there was
25 nothing untoward that happened, isn't that true?

1 A Right.

2 Q He never -- whenever you went he never did anything to
3 you?

4 A Not at those places, no.

5 Q The only places he ever did anything to you was in his
6 mother and father's house?

7 A Yes, that's right.

8 Q And your testimony is that they were home on a number
9 of those occasions?

10 A Yes.

11 Q And not home on other occasions?

12 A Right.

13 Q How close is where the bedroom that you slept in from
14 where his parents slept?

15 A So it was probably across the hall. I would I say you
16 maybe ten feet.

17 Q So your testimony is that he would do these massages
18 with you lay and naked, sleep in the same bed with you ten feet
19 from his parents?

20 A Yes, that's correct. And I will say so the house that
21 they were in is a kind of an older style house so the doors in
22 that house were extremely thick. Like now the doors are like
23 not real wood, I guess. They could be thin like plastic or
24 whatever they're made of. These were thick like maybe oak or
25 something and there was no sound or limited sound that would

1 come out.

2 Andy was usually playing music in his room. And again, it
3 was usually dark in there, so yes.

4 Q So all his mother and father would have to do is just
5 walk into the room?

6 A He kept his door locked as well.

7 Q So he locked it now, is that what you're saying?

8 A Sometimes he would have the door locked, yes.

9 Q And his parents never tried to get in the door at all?

10 A I don't remember his parents ever coming to check on
11 us, no.

12 Q So now -- you didn't mention that before, but now when
13 you are in his room he locked the door?

14 A True. At some points I am sure it was locked, yes.

15 Q Sure it was locked or you think it was locked?

16 A I think it may have been locked, yes.

17 Q That's a pretty dangerous? To have your parents right
18 across your hall and you're in bed naked with a young boy
19 wouldn't you think so? Pretty dangerous?

20 A Again, as far as the relationship between him and his
21 parents I don't think he had ever expected his parents to come
22 in and check on him ever. They kind left him alone.

23 Q You didn't know what he was thinking?

24 A No, I can't say that I know exactly what he's thinking
25 but that's what I gathered.

1 Q So let me ask you between 3rd and 5th grade you would
2 have been between what ages?

3 A Eight to ten.

4 Q You were around ten years old?

5 A Eight to ten.

6 Q Eight to ten. Let me ask you something. You knew what
7 you were doing or you knew what was being done was wrong?

8 A Yes.

9 Q Okay. You said that before to Detective Thomas, didn't
10 you?

11 A Yes.

12 Q And even though you knew it was wrong you never made a
13 disclosure about that to anybody?

14 A Right.

15 Q And you were taught if anybody touched you should make
16 a disclosure to somebody? Tell somebody; a guidance counselor,
17 a teacher, a parent, somebody at church? Your family were
18 members of a church, weren't you?

19 A Yes, that's right.

20 Q Which church?

21 A Oakland Avenue Presbyterian Church.

22 Q So there were numerous people you could have gone to
23 tell them to say what was happening to you?

24 A There were, yes.

25 Q And you choose not to?

1 A Yes.

2 Q All right. And you were getting -- I think you
3 testified that you were getting -- you would do what he want to
4 do and you would get some sort of reward. Like he would do
5 something for you, buy something for you, fix something for you.
6 Is that what you're saying?

7 A Right. That was part of the manipulation, yes.

8 Q And that was your manipulation. You were trying to get
9 something out of him. That's what you told Detective Thomas?

10 A I don't think that's is correct --

11 Q Well, let's take a look.

12 A -- that I was trying to get something out of him.

13 Q Well, let's take a look. Page 14.

14 A Okay.

15 Q Take a look at line nine. Let me know when you finish
16 reading nine to 17.

17 A You said page 14?

18 Q Page 14, correct. Have you you read it?

19 A Yes.

20 Q Doesn't it say starting on line 11, "I guess I used the
21 relationship. I guess to get -- like he would like build me a
22 computer and like give me things." You used the relationship is
23 what you're saying there, correct?

24 A So like the computer I know that happened probably in
25 the 7th grade.

1 Q I'm asking you what's written there.

2 A Right. You're asking me, I used the the relationship I
3 guess like he would build me a computer and like give me things.

4 Q Correct.

5 A Yes, that is what I said.

6 Q Okay.

7 A And that's in context of why I kept the relationship
8 going.

9 Are you asking me about the abuse and you're saying I used
10 Andy?

11 Q Isn't that what that says there? That you used the
12 relationship?

13 Here's exactly what it says, "I would be wanting to do
14 something else like, you know, play something but he would, you
15 know, want to like do the massage or do something else." That's
16 on page 15.

17 On page 14 you said, "I guess I used the relationship. I
18 guess to get like he would like build me a computer and like
19 give me things?

20 A Right. So you're tying together two different threads.
21 So basically the context of the part that I just read was why I
22 I kept the relationship going. As far as the first thing that
23 you said is, he would want to do the massage and then he would
24 reward with me something is basically just the manipulation that
25 occurred while the abuse was going on. Is that clear?

1 Q I'm a not sure. Let's see. You're talking there I
2 guess I used the relationship I guess to get like build me a
3 computer and like give me things. That is present when the
4 abuse was going on. I used the relationship.

5 A I used the relationship?

6 Q I am just asking you to acknowledge what is written
7 there.

8 MS. JOYNER: Your Honor, I think it has been asked
9 and answered and I think he's explained it.

10 MR. SWERLING: I'm trying to get an answer. I'm
11 sorry.

12 THE COURT: Just answer the question.

13 THE WITNESS: Yes.

14 THE COURT: As best you can.

15 THE WITNESS: Yes.

16 THE COURT: You can fully answer the question.

17 THE WITNESS: Yes, Your Honor.

18 Q You -- even after this relationship stopped, you told
19 him to stop that was in the 5th grade?

20 A It was probably in the 6th grade.

21 Q 6th grade?

22 A Yeah.

23 Q You didn't terminate the relationship?

24 A Right.

25 Q And by the way, let me ask you this. Whatever he was

1 doing, you're going over to his house and spending the night and
2 having sleep overs or whatever else was going on about having
3 the sleep over, going over his house. I'm not saying what you
4 say happened, but all of that was out in the open, wasn't it? I
5 mean, nobody hid the fact that you were going over to sleep at
6 his house?

7 A Right. That's right.

8 Q And in the bedroom he had it was just one bed wasn't
9 there?

10 A It was, just his waterbed.

11 Q And your parents had been to that house?

12 A Yes, I don't know if they been in Andy's room at that
13 point.

14 Q But your testimony is that he went -- you went there 15
15 or 20 times and this happened?

16 A Between those ages, yes.

17 Q Between those ages?

18 A Right.

19 Q You knew it was wrong and my question to you is an
20 obvious question. If you knew it was wrong why did you keep
21 going back to have the same thing done to you?

22 A I think again at that age I was a bit in naive as far
23 as what I could do about it I think, and I didn't know I guess
24 how to go about telling anyone. Just because like I said in
25 here is I didn't want to seem broken or defective or be looked

1 at differently by anyone including my family and I think going
2 back there was to give the appearance of normality and so nobody
3 would ask, you know, why do you suddenly not want to go over
4 Andy's house. Like did something happen.

5 Q Well, I would submit to you that it's natural for
6 someone to try and protect them self and if you thought -- knew
7 it was wrong and it was not something --

8 MS. JOYNER: Can he ask a question.

9 MR. SWERLING: I'm trying to.

10 THE COURT: Ask a question. Go ahead.

11 Q Wouldn't it be natural to try and just cease going over
12 there? Nobody was making you go over there, isn't that true?

13 A That's correct.

14 Q Okay. So it wasn't a question of telling someone or
15 telling him or anything like that it was just a question of
16 saying I'm not going.

17 A Yes.

18 Q That would have terminated it, wouldn't it?

19 A It would have.

20 Q But you didn't?

21 A Right.

22 Q And I also want to ask you something about this. So
23 you continued to go. Didn't say anything to anybody. We
24 understand it was a whole lot of people you could have gone to.
25 You were successful in school, successful socially, but you just

1 kept going over there?

2 A Yes.

3 Q And when you ceased the relationship, when you said it
4 was in the 5th or 6th grade, correct?

5 A No.

6 Q When did you cease the relationship that he wanted to
7 have with you?

8 A Oh, yes. That part, yes, it was around 6th grade.

9 Q 6th grade?

10 A Yes.

11 Q You never had to see him again did you?

12 A At that point right. I mean I never had to see him in
13 the first place I guess.

14 Q No, I'm talking about after that. You never had to.
15 You could have just made a decision not to see him again?

16 A Right. I could have.

17 Q But yet he continued to go over to your house?

18 A Yes.

19 Q With your sister and as I understand it was on again,
20 off again relationship?

21 A I believe before that. At that point I think it was
22 just mainly they had the same friend group so they stayed in
23 touch.

24 Q And he was friends with your parents so he would go
25 over there and you didn't just as I said just terminate with

1 him. You invited him to your high school graduation, isn't that
2 true?

3 A I don't remember if I invited him to the graduation.

4 Q Did you graduate in 2007?

5 A Yes.

6 Q Let me show you that and see if you recognize it.

7 (Handed.)

8 Q Yes, I do remember that.

9 Q And this is for the class of 2007, correct?

10 A Yes, sir.

11 MR. SWERLING: I would like to mark this please.

12 Any objection?

13 MS. JOYNER: No objection.

14 (WHEREUPON, Defendant's Exhibit 5, was received in
15 evidence.)

16 Q So you wrote on that as "Bro", that's what's written on
17 the invitation?

18 A It is.

19 Q And that's how you and he referred to each other, isn't
20 that true?

21 A Yes.

22 Q "Bro" meaning what, brother?

23 A Yes.

24 Q Now, when he was at Carolina did you go down to
25 Columbia to visit him at one time at Carolina?

1 A I did, yes.

2 Q And you spent the weekend down there?

3 A Yes.

4 Q So this is well after everything ceased, correct?

5 A Right.

6 Q You went down there to go ahead and visit him when he
7 was at Carolina?

8 A Yes, that's is correct.

9 Q And let's see on May 26, 2005 you had his birthday
10 party?

11 A Yes, that sounds right.

12 Q That was your 16th birthday?

13 A Right, yes.

14 Q And you had a bunch of friends. Where did you invite
15 them to come to?

16 A The house at Egret Lane.

17 Q Andy's house?

18 A Yes, his house.

19 Q So you had called Andy and said can I have a party over
20 your house for my 16th birthday?

21 A Yes.

22 Q Well, after the cessation of what you claim happened to
23 you?

24 A Right.

25 Q And not only did you you have your 16th birthday party

1 there, but you had a 17th birthday party there in 2006?

2 A Yes, that's correct.

3 Q And again, you called him and said Andy can I have some
4 friends over and we have a birthday party at your house?

5 A Yes.

6 Q So that's the second time you went over to his house
7 with your friends and had a birthday party with the person who
8 sexually abused you?

9 A Yes.

10 Q In July of 2009 you and your parents attended his
11 wedding didn't you?

12 A I did not.

13 Q You did the not go?

14 A No.

15 Q Forgive me. I withdraw that then. On March 28, 2016
16 that's when you declined to met with the solicitor. Do you
17 agree with that? You never wanted to go --

18 A Can you repeat that one more time.

19 Q On March 28, 2016 you declined to go to solicitor?

20 A I believe someone contacted me from may be the police
21 department and I did not call them back.

22 Q You declined?

23 A Yes. Yes.

24 Q And when Miss Joyner was trying to prepare this case
25 there were times that you you did not show up?

1 A Yes, that's right.

2 Q And would you agree that indicated a lack of interest
3 on your part about going forward in this case even though you
4 had told them you were willing to go forward?

5 A It wasn't because of a lack of interest. It was just
6 me basically feeling overwhelmed and not again wanting to
7 revisit these things over and over again with her.

8 In our session, again, we would have to go back over the
9 interview, over everything that happen and she was asking me
10 detailed questions about the incidents that happened which for
11 me was bringing up a lot of things that again I buried for over
12 20 years. So yeah, I wouldn't say it was lack of interest.

13 Q Didn't you owe her the respect to come here if she was
14 trying to help the case and prosecute the case?

15 A I do agree with that, yes. Yeah, I'm not saying I did
16 the right thing. I'm just telling you the reason.

17 Q I think you testified that he would give you things if
18 you did what he wanted you to do?

19 A That did happen as far as during the abuse, yes.

20 Q And all that happened at night, right?

21 A Right.

22 Q At bed time in his bed?

23 A Most of it, yes.

24 Q Well, there was no rewards given at that time?

25 A I mean --

1 Q So it was not a quid pro quo which we all heard about a
2 lot in the last few days?

3 A As far the reward it was mainly things overall. For
4 example he would start downloading a certain game that I wanted
5 to play. While that game was downloading the internet was not
6 as fast as it is now so it will take a lot of time and so during
7 that time perhaps there would be the massage during that time.
8 And so I would have to massage him and then after that time the
9 game was done down loading and would I get to play it.

10 Q So that's what you're talking about getting some sort
11 of reward?

12 A Right.

13 Q And let me ask you one last question. Apparently right
14 after your 16th birthday, same year November, you went to him
15 and asked him to help upgrade your car stereo system?

16 A It was to build a fiberglass case. Basically a box for
17 my sub woofer, yes, for my car.

18 Q The man who had sexually abused you?

19 A Yes.

20 Q Excuse me one minute.

21 A Yes.

22 Q I will ask you you to take a look at this? Do you
23 recall what that is?

24 A No, I don't know what this is.

25 Q Was that the picture -- let me see if I can refresh

1 your memory. Wasn't this the picture that was outside the
2 reception when you got married and everybody signed it including
3 you? Isn't that your signature?

4 A That is my signature there, yes.

5 A Yes.

6 MR. SWERLING: I would like to offer this is
7 exhibit.

8 MS. JOYNER: No objection, Your Honor.

9 (WHEREUPON, Defendant's Exhibit 6 was received in
10 evidence.)

11 Q One last question. You had said you didn't know
12 anything about the case but you knew that he had been arrested
13 back in 2016, correct?

14 A Yes.

15 Q And you're not denying you read that big newspaper
16 article about the details of the case are you?

17 A I did not read that article.

18 Q You did not read it?

19 A No, sir.

20 Q So that didn't call your attention to the fact that
21 Andy had been arrested?

22 A The only time that -- the only reason I knew that he
23 had been arrested was because of my sister. But as far as the
24 details of the case I never read that article. I believe maybe
25 my parents told me that -- who the defendants -- defendant (sic)

1 was, but again, I don't think I ever met them. Possibly the
2 parents at a gathering at his parents' house. They use to have
3 like dinner parties but as far as the identity I never met them
4 I don't believe, and I didn't really know anything about it now.

5 Q You're talking about the C You met them at
6 dinner party?

7 A Right.

8 Q I just want to make sure?

9 A Yes.

10 Q All right. That's all I have. Thank you.

11 THE COURT: Redirect.

12 MS. JOYNER: Yes, sir, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. JOYNER:

15 Q Andy, I know that you have been up there for a while.
16 I just have a few more questions for you.

17 A Okay.

18 Q Now, just kind of go back through there was mention of
19 several meetings. The meetings with the Detective Thomas while
20 you were at Owl's Nest is that the meeting that was -- the
21 interview that was recorded?

22 A Yes, that was with Ryan Thomas.

23 Q Okay. So prior to that had someone come out just to say
24 do you want to talk?

25 A Yes, that was Tanner Davis.

1 Q Okay. And then the separate interview referred to in
2 October was that maybe Detective Reed of the sheriff's office?

3 A Yes, I did do another one. Yes.

4 MR. SWERLING: Your Honor, I think I made a
5 mistake. It was Owl's Nest record. My mistake.

6 Your Honor, I would move to strike the part of my
7 cross examination dealing with what he told when he
8 went to the Stewart counseling service for. I had it
9 mistaken with another record. So, I would ask that be
10 struck just in fairness to the witness and the State.

11 MS. JOYNER: Your Honor, if we can just verify for
12 the record that was the question regarding whether he
13 had been asked by a counselor questions and cross
14 examination questions. That's the specific question
15 that Mr. Swerling is referring to.

16 THE COURT: You want to confirm that for the
17 record, is that what you said?

18 MS. JOYNER: Yes, I'm just placing on the record
19 the question he is referring to is where he cross
20 examined the defendant -- I'm sorry, the victim, about
21 whether a therapist had posed questions and possible
22 cross examination questions to him.

23 MR SWERLING: My mistake. I conflicted two things
24 so it should be struck.

25 THE COURT: We'll have to get with the court

1 reporter to do that. First break.

2 MS. JOYNER: Yes, sir. Thank you, Your Honor.

3 Q Witness one, going back through, when you were sent to
4 the Owl's Nest, did you want to go to the Owl's Nest originally?

5 A I would not say that rehab was the place that I wanted
6 to go, no.

7 Q Are you glad that you went to the Owl's Nest?

8 A Absolutely. I believe that it definitely saved my
9 life. It was on on a path where I was going to end up in either
10 jail or dead.

11 Q And the DUI that you had when you went to Owl's Nest
12 was dismissed as prelim, is that correct?

13 A That's right.

14 Q And so that was not part of any sort of deal that was
15 made in order for you to talk to me?

16 MR. SWERLING: Objection to leading.

17 Q Was that part of any deal, the DUI ever part of your
18 agreement to speak to the state?

19 A It was not. I never heard of any deal. No one offered
20 me a deal about speaking about this case.

21 Q And am I correct the DUI is no longer pending? Is that
22 correct?

23 A That's correct.

24 Q When you talk about having a relationship with the
25 defendant what do you mean by the term relationship?

1 A I think it just meant that we had a kind of friendship
2 where, you know, we can talk about pretty much anything. I knew
3 him during a lot of times like in my life where there were a lot
4 of changes going on and so I think that again I had a lot of
5 questions as far as just how things worked and just -- I don't
6 know, getting older. Growing up.

7 Q When you were referring to in the record that you were
8 back and forth with Mr. Swerling about -- do you still have that
9 transcript?

10 A I do.

11 Q Back to page 14, those lines I believe they were nine
12 to 17. When you're saying I guess I used the relationship.
13 Help me understand. What do you mean when you're saying within
14 the context of those lines nine through 17, "I used the
15 relationship, I guess, to get like, he would like build me a
16 computer and like give me things. Like things like that and so
17 after it stopped and so I felt I didn't want to go back and
18 bring that up."

19 What was the relationship you were referring to at that part
20 of the transcript?

21 A I think that was basically the overall relationship
22 that I had with the defendant including after the abuse had
23 stopped.

24 Q When Detective Thomas came out to met with you did you
25 answer the questions that he asked you?

1 A Right. Exactly. Most of the things that I stated as
2 far as any kind of detail were just things that he asked me
3 directly, yes.

4 Q And if he didn't -- I'm sorry. Going back to the
5 transcript on the interview did you tell Detective Thomas about
6 masturbation?

7 A Yes, I did.

8 Q Did you tell the Detective Thomas about massages?

9 A Yes, I did.

10 Q Did you tell Detective Thomas about the Jacuzzi?

11 A Yes, I did.

12 Q And during this period of time when the abuse is going
13 on did you like the defendant?

14 A I think at the time I still did. I think overall
15 his -- the things that I like outweighed what was happening to
16 me at the time and again I didn't want to raise the issue
17 because of just the perception of me being broken.

18 I think later on it turned in to me not wanting to seem like
19 I was like -- because this happened to you like I'm gay or
20 something like that. There was a lot of fear, like homophobia
21 as far as me, myself, being gay. A lot of conflicting feelings
22 that brought up in me.

23 Q As you maintained a relationship with the defendant
24 after the abuse was he also maintaining a relationship with your
25 family?

1 A Yes, he was.

2 Q While the abuse was going on from like from the 3rd
3 grade to maybe the beginning of the 6th grade was the defendant
4 coming go to your house?

5 A Yes, he was.

6 Q Was he spending time with your parents?

7 A He was.

8 Q And was that the house where you lived?

9 A Yes.

10 Q Was he coming go over to spend time with your sister?

11 A When she was there, yes.

12 Q After you you stopped the abuse did the defendant
13 continue to come to your house?

14 A Yes.

15 Q Did he continue to come to holidays?

16 A Yes, he did.

17 Q From the time that you graduated high school were your
18 parents still close with the defendant?

19 A Yes, I believe so. Yes.

20 Q Do you recall going to the wedding?

21 A I do not at all.

22 Q Do you recall that he was married?

23 A I do.

24 Q Do you recall being aware that he was getting married?

25 A So I had never really met his wife. I didn't really

1 know her at all. But, Yes, I was aware that he was getting
2 married.

3 Q When you were at the defendant's home in the bedroom --

4 A Yes.

5 Q -- and the massages were going on were you -- and the
6 door was closed. Was was the door also closed when you were in
7 defendant's house and you were in his room just hanging out?

8 A Absolutely, every single time.

9 Q So was the door then closed if there was no sexual
10 abuse going on?

11 A It was.

12 MS. JOYNER: Thank you very much.

13 THE WITNESS: Thank you.

14 MR. SWERLING: Nothing further.

15 THE COURT: All right sir. You may step down.
16 Thank you very much. Can the witness be excused?

17 MS. JOYNER: Yes, sir, I have no objection.

18 MR. SWERLING: No objection.

19 THE COURT: No objection.

20 All right ladies and gentlemen. Let's take a
21 morning break at this time. Just relax in the jury
22 room and we will call you in about ten minutes. Thank
23 you very much.

24 (WHEREUPON, the jury leaves the courtroom.)

25 THE COURT: We will stand at ease for ten minutes.

1 (WHEREUPON, there was a recess.)

2 THE COURT: State ready for the jury?

3 MS. JOYNER: We are. Just for its clerk we do
4 anticipate this is going to be your final witnesses
5 barring anything coming up on cross examination that
6 we need to address.

7 Logistically, we do have a stipulation that has
8 been entered between Mr. Swerling and I. I don't know
9 if that needs to be published prior to the State
10 resting its case.

11 THE COURT: Well, it wouldn't harm anything to do
12 so.

13 MS. JOYNER: Yes, sir. If it's okay I will ask
14 the Court at the conclusion.

15 THE COURT: I'll publish it.

16 MS. JOYNER: Thank you, Your Honor.

17 THE COURT: As long as they don't think its coming
18 from me.

19 Bring the jury please.

20 THE COURT: All right, solicitor, call your next
21 witness.

22 MS. JOYNER: Thank you. Your Honor, the State
23 calls Keith C Can you please ask Mr. C:
24 to come in.

25 KEITH C called as a witness, having been

1 duly sworn by the clerk, was examined and testified as
2 follows:

3 DIRECT EXAMINATION

4 BY MS. JOYNER:

5 Q Mr. C , can you please state your full name for
6 the record?

7 A Keith Allen C

8 Q Are you married sir?

9 A I am.

10 Q Who are you married to?

11 A Susan C.

12 Q How long have you been married?

13 A Twenty-five years this year.

14 Q Do you have a son name *Victim one?*

15 A I do.

16 Q Was is his date of birth?

17 A It's

18 Q You also have a son *Victim two?*

19 A I do.

20 Q And he is about a year and a half younger than Chris?

21 A He is. He was born in

22 Q Where do you currently live?

23 A At Place in Suwanee, Georgia.

24 Q How long have you lived in Suwanee, Georgia?

25 A About three years.

1 Q Prior to living at Suwanee, Georgia?

2 A It was Veery Lane in Rock Hill.

3 Q Is that within York County?

4 A It is.

5 Q And how long have you live at Veery Lane?

6 A About 14 years.

7 Q Do you recall when you moved in to that address?

8 A It was in 2003 August.

9 Q Is there a specific reason you can remember it was
10 August of 2003?

11 A It was my wife's birthday when we closed on the house
12 so I have been using that ever since.

13 Q And prior to moving into that house on Veery Lane had
14 you been living in Rock Hill?

15 A We were. We moved to Rock Hill in 2000. We rented a
16 house for three years.

17 Q And when you you first moved to Rock Hill in 2000,
18 ultimately did you find a church?

19 A We did. We found a church at Episcopal Church of Our
20 Savior in downtown Rock Hill.

21 Q And how long did you attend that church?

22 A We started attending that church in the early 2000's
23 and were members there until we moved.

24 Q At some point after you moved did Victim1 and Victim2 begin
25 to go to the day school at the church?

1 A Yes, they did. The boys started day school both of
2 them in 2000 when we moved here.

3 Q And at some point did Susan begin working at the
4 school?

5 A She did. In 2001 she was a teacher at the day school.

6 Q And how long was she a teacher at the day school?

7 A I would say until around 2007.

8 Q At that point did she move to different employment or
9 did he she decide to stay home?

10 A She did some substitute teaching in Rock Hill School
11 District and then she started working at the Goddard School in
12 Fort Mill.

13 Q Now, was ~~Uichm~~1 active in activities in the church?

14 A He was.

15 Q And what types of activities did he do within the
16 church.

17 A The first real activity he started with was choir,
18 youth choir in 2002 and he was very young, but he was very
19 active in church throughout his youth group's diocese
20 committees. All kinds of activities; mission trips, ski trips.
21 All kinds of things.

22 Q With ~~Uichm~~1 when he began youth choir, was it his idea
23 to join youth choir or your idea?

24 A I don't really recall.

25 Q Back in those early days when he first joined youth

1 choir did he seem to enjoy it?

2 A I believe so yes.

3 Q Now, through the church did you meet the defendant in
4 this case, Andy Castillo?

5 A We did met Andy Castillo in 2002 when Uichm1 started
6 choir.

7 Q What was the defendant's connection to choir?

8 A He was the assistant to the choir director, music
9 director at the church.

10 Q And as assistant to the choir director did he
11 participate in the practices with the boys?

12 A He did. He was during practices and performances, and
13 practices were once a week during the school year.

14 Q In addition to Uichm1 being involved with all those
15 activities that you listed did, for example, your wife, did she
16 have other involvement with the church besides her employment
17 there?

18 A She did. She was on the vestry at one point in time
19 which is kind of a governing group of the church.

20 Q And did your son Uichm2 also participate in activities
21 through the church?

22 A He did. Very much so.

23 Q When you first met the defendant in 2002 was he your
24 neighbor?

25 A No, he was not.

1 Q At some point after your first meeting with him did he
2 become your neighbor?

3 A He did. In 2004 he bought a house two houses down from
4 us in our neighborhood.

5 Q I am going to show you what has been marked and entered
6 already as State's Exhibit One. Do you recognize that
7 photograph?

8 A Yes, I do.

9 Q And what is that photograph of?

10 A That is a photograph of the defendant's house.

11 Q And is that house in York County, South Carolina?

12 A It is.

13 Q It's within the city limits of Rock Hill?

14 A Yes.

15 Q So, to kind of understand how your house is relative to
16 -- how your house at Veery Lane was relative to that house, can
17 you explain to the jury?

18 A Sure. So if I was standing in the cul-de-sac facing
19 the defendant's house, there's a house directly to the left and
20 then the back side of our house. Our house doesn't face the
21 cul-de-sac. We face a different street. So the back of my
22 house I can look out the back windows of my house and see the
23 the defendant's house.

24 Q From the back of your house would you be able to see
25 this view of the house?

1 A Yes.

2 Q Okay. Would you be able on see if the garage door was
3 opened or closed?

4 A Yes.

5 Q So at the time that he moved in am I correct you had
6 been in your house for less than a year?

7 A Yes, it was just less than a year.

8 Q And prior to him moving in had he ever been to your
9 home?

10 A I believe that he had been by the house before. You
11 know, possibly to give one of the boys a ride to choir.

12 Q At the time that he bought the house behind --
13 basically your next door neighbor -- at the time that he bought
14 that house was it surprise to you that he purchased the house?

15 A Well, he had told us that he was going to buy the
16 house. You know, we were a little surprised when he said that
17 he was going to buy that house but, yeah, we new in advance.

18 Q After he became your neighbor did you continue to have
19 have a friendly relationship with him?

20 A We did.

21 Q And did ~~you~~ ^{him} continue to have a friendly relationship
22 with him?

23 A Yes.

24 Q Would you have called the defendant a good neighbor?

25 A Sure. Friendly, and we would spend time together.

1 Q What kind of things would you spend time together
2 doing?

3 A You know, some times he would just come over to the
4 house and we'd chat. He'd visit with the boys. You know, just
5 normal neighborly things. Borrowing tools from each other and
6 just those kinds of thing like normal neighbor.

7 Q Did you have a key to his house?

8 A I did.

9 Q Did he have a key to your house?

10 A He did.

11 Q Did he help you? Was he a helpful neighbor?

12 A Sure. Yeah. I mean, we got each other mail when we
13 went on vacation. Like I said, just normal neighborly things.

14 Q Did he help you set up your wireless router?

15 A Yeah, he was good with technical stuff. IT stuff which
16 I didn't know much about. So he helped us network and do
17 computer things and things like that.

18 Q You had already mentioned giving rides to the boys, to
19 ~~Victim 1~~ to choir practice?

20 A I believe so yes.

21 Q Now, was -- after he moved in and became your neighbor
22 were there instances where ~~Victim 1~~ or ~~Victim 2~~ or both would go over
23 to his house?

24 A Yes.

25 Q And generally how would it come about that one of those

1 boys would go to house?

2 A Usually Andy would inquire if one of them or both of
3 them could come over.

4 Q And would you allow them to go over?

5 A Some times yes.

6 Q Now, at some point did your family take a trip with the
7 defendant?

8 A Yes.

9 Q And where was that trip to?

10 A That trip was to Daufuskie Island. I believe the place
11 we went was the house owned by his aunt.

12 Q Was that the only trip to Daufuskie Island you took
13 with the defendant?

14 A Yes.

15 Q Do you recall whose idea it was to go to Daufuskie?

16 A It was Andy's idea.

17 Q And who was invited to go to Daufuskie?

18 A Just my family.

19 Q By your family is that you, Susan, ~~victim 1~~ and ~~victim 2~~?

20 A Yes.

21 Q Okay. I am going to show you what's already been
22 entered as part of a Defendant's 4 that photograph?

23 A That is the house we visited.

24 Q It looks large in the picture. Was it large in person?

25 A Yes, it was large. It was a beautiful, gorgeous house.

1 Q And when you were at Daufuskie do you recall where you
2 slept?

3 A I believe Susan and I slept on the first floor.
4 There's a bedroom on the first floor. The remainder of the
5 bedrooms were upstairs.

6 A Where did the boys sleep.

7 A They slept in one bedroom.

8 Q And do you know where the defendant slept?

9 A He slept in a separate bedroom on that floor.

10 Q Whose idea was it for you to sleep on the first floor
11 and the boys to sleep on the second floor?

12 A I believe Andy had indicated that he would sleep in the
13 room that he normally slept in and gave us what was the master
14 bedroom on the main floor.

15 Q Now, during this time period were you friends with the
16 defendant?

17 A Yes.

18 Q And tell me a little bit about how you got to Daufuskie
19 Island? What mode of transportation you took to get there?

20 A Well, since we had five people and with young kids you
21 end up bringing lots of stuff, but we borrowed Andy's mini van
22 and all drove together. Both Andy and I drove.

23 Q Switched off?

24 A Switched off at some point in time.

25 Q I will publish this. It's part of that same

1 Defendant's Exhibit. Do you recognize that picture?

2 A I do.

3 Q And where is that picture taken?

4 A That was at the house in Daufuskie.

5 Q And is that you in the red shirt?

6 A It is.

7 Q What are you guys doing?

8 A It looks like we're playing chess.

9 Q Was that something that you would normally do with the
10 defendant?

11 A On occasion. I don't play chess very much. I'm not
12 very good at strategic games but Andy played with the boys a
13 good bit.

14 Q Now, I am going to show you as part of that same
15 exhibit on page three. Do you recognize the individuals that
16 are in this picture?

17 A Yes.

18 Q And starting and I will just go with the tannest. Who
19 is the little boy that is tannest?

20 A That is my son Uichm one

21 Q And the other boy is Uichm two

22 A My son Uichm two

23 Q And does that look like same room that the chess
24 picture was taken in?

25 A I believe so. It was the couch in that room.

1 A What are the boys -- can you tell what are the boys
2 doing in that picture.

3 A It looks like they are playing on their gameboys which
4 is a little electronic device which was big at that time.

5 Q And while you had all had been out at Daufuskie had you
6 taken the boys to the beach?

7 A We did.

8 Q Had you also gone on a boat ride?

9 A We had to go on a boat ride. That is the photograph
10 that shows the ferry that he was referring to get to Daufuskie
11 because there are no roads that lead there.

12 Q Am I correct there are no vehicles on Daufuskie?

13 A No. There is not. You bike or golf cart or walk.

14 Q Which did you all do?

15 A There was a golf cart in the bottom part of the house
16 that was available for us to use. That was our primary mode of
17 transportation.

18 Q While you were at Daufuskie Island on this trip did
19 your wife, Susan, at any point make you aware of something
20 unusual that she had seen?

21 A She did.

22 Q And without saying what she told you, what did you come
23 to understand about what she had seen?

24 A It was my understanding that she observed --

25 MR. SWERLING: I'm sorry, the only way he can know

1 that is what his wife told him.

2 MS. JOYNER: I will rephrase Your Honor.

3 THE COURT: Sorry.

4 MS. JOYNER: I will rephrase.

5 Q Based on what your wife told you, did you become
6 concerned?

7 A Yes.

8 Q Was your concern regarding the defendant?

9 A Yes.

10 Q Now, at some point or after Daufuskie did your
11 relationship with the defendant continue?

12 A It did.

13 Q And did your family relationship, you with the
14 defendant continue?

15 A It did.

16 Q And how were you able to continue that relationship
17 despite the concern that you had developed on Daufuskie Island?

18 A My wife and I had a discussion with Andy where we tried
19 to set some boundaries on his interactions with our children.

20 Q And following that, were you able to continue to be
21 around him?

22 A Yes.

23 Q While were you in Daufuskie during that period of time
24 the pictures that we were just looking at was ~~victim~~ in youth
25 choir?

1 A Yes.

2 Q Was Andy the youth choir assistant director?

3 A Yes.

4 Q And was it summertime two to you five it was in June?

5 Q Following the Daufuskie Island trip did anything else
6 happen within your family?

7 A My wife's father passed.

8 Q Where had he been living at the time that he passed?

9 A In Florida.

10 Q Was that difficult for your wife?

11 A It was very difficult.

12 Q Was it difficult for the boys?

13 A It was. They enjoyed their relationship with their dad
14 it was hard for all of us.

15 Q Prior to him passing had he had been ill?

16 A He protracted illness that year where Susan was gone a
17 lot.

18 Q Was that her being gone a lot difficult for boys?

19 A It was. It is always hard when mom isn't around, but
20 yeah, it was.

21 Q Now the start of that next school yes, sir 2005 a.m. I
22 correct that victim 1 was entering the 4th grade? You don't have
23 to do the math?

24 A Yeah, I can't say without doing the math.

25 Q And during elementary did victim 1 play any sports?

1 A He did.

2 Q What sports do you recall him playing?

3 A I know the primary sport that Victim1 played was church
4 basketball and soccer.

5 Q Was that soccer through the school or through a rec
6 league?

7 A It was through a rec league.

8 Q Who would go to Victim1's soccer game?

9 A Sue and myself, but Andy was a frequent attender of
10 soccer games and church basketball games.

11 Q Was he there by your invitation?

12 A No, most of the time he would want to see the schedule
13 or hear about what the schedule was for those games and he would
14 ask for them.

15 Q You mentioned a moment ago that Andy played chess with
16 the boys?

17 A Yes.

18 Q Did he teach them how to play chess?

19 A He did.

20 Q Were you aware of whether Victim1 participated in chess
21 club?

22 A He did.

23 Q And did the defendant have any involvement with the
24 chess club?

25 A He did. He was one of the adult leaders of that chess

1 club despite the fact that he had no association with that
2 school. It was kind of a club that met at school.

3 Q Now, at the time we are talking about and I think I
4 forgot to ask you this. Let me back up.

5 Mr. C. _ how old are you?

6 A I'm 47.

7 Q Forty-seven. So going back to 2002 you would have been
8 how old?

9 A Probably thirty-one.

10 Q How old was the defendant when you first met him
11 approximately?

12 A In his early twenties.

13 Q With the defendant did you invite him to family
14 functions?

15 A On occasion. He might have been at a birthday party or
16 something like that. But that's probably the extent of it.

17 Q Did he by the boys birthday presents?

18 A He did.

19 Q Did he buy the boys Christmas presents?

20 A He did.

21 Q Did you and Susan buy him Christmas presents?

22 A Nothing big. Something inconsequential but some times.

23 Q And would Andy some times like attend special events?

24 A He would. You know, maybe an award ceremony or
25 performance of some kind. He went to a large number of things

1 that the boys participated in.

2 Q Now, going back to award ceremonies, do you recall
3 whether the defendant went to Victim 1's fifth grade graduation?

4 A I don't recall.

5 Q If I show you -- I will you this put this on the Elmo
6 here. Do you remember what the flier or pamphlet looked like
7 from Victim 1's 5th grade graduation?

8 A It doesn't look unfamiliar, although I couldn't
9 guarantee that was -- I don't recognize it, but yeah.

10 Q So, does the date May 23, 2007 that is roughly coincide
11 when Chris would have completed 5th grade?

12 A Yes.

13 Q Okay. And you -- that summer following the 5th grade
14 did Victim 1 go to -- and I think I am going to say the name of
15 this camp wrong -- Gravitt?

16 A Camp Gravatt.

17 Q Camp Gravatt. And did Victim 2 go with him as well?

18 A Both Victim 2 and Victim 1 camped at Gravatt from 2007 to
19 2010.

20 Q Was that the first year, 2007, was that the first time
21 that you and Miss C had had both boys gone at the same
22 time?

23 A Yes.

24 Q And did you take that as an opportunity to take a trip?

25 A We did. While the boys were at camp we went to Saint

1 Simons Island.

2 Q Saint Thomas Island did you receive any communication
3 with the defendant regarding the boys being at camp, do you
4 recall?

5 A It was not uncommon for Andy to ask how camp went or
6 how they were doing. Even offered one time to pick them up from
7 camp for us.

8 Q Did you allow him to pick the boys up from camp?

9 A No, we did not.

10 Q Okay. So, if Uichm1 graduated from the 5th grade in
11 2007 he's going into the 6th grade in 2007 to 2008, does that
12 sound right?

13 A It does.

14 Q And do you recall whether during this period of time
15 he's participating youth groups and taking youth mission trips?

16 A Yes, he did that the regularly.

17 Q All right. This is defense Exhibit Three. I would ask
18 you to flip through that and I will ask you some questions about
19 it.

20 A Okay.

21 Q Do you -- looking through -- if you can look through
22 some of these photographs and tell me if at any point in this
23 photographs you see a picture of Uichm one.

24 A I do.

25 Q Okay.

1 A I do on this first page.

2 Q On the first page. Let me put just this up on the
3 screen for everybody.

4 You have that up on your screen as well. Can you help me
5 zero in if you would where Victim 1 is in the picture?

6 A It's easy to find Victim 1. If you look at the tallest
7 person in the back row in the middle that's Andy and Victim 1 is
8 standing in front of him just to his right.

9 Q If you could continue to look through and tell me if
10 you see any other pictures.

11 A Am I looking for Victim one

12 Q Yes, sir.

13 A On the second page.

14 Q Well, any of the pages. You tell me when you come
15 across photograph?

16 A Well, I'm saying on the second page the bottom photo is
17 the back side of Victim one.

18 Q Okay. Could you continue to look through?

19 A Sure. On this page.

20 Q Okay.

21 A I don't know what number that is.

22 Q I will put it up. This is final page of that defense
23 exhibit. I will zoom out. Could you please describe the shirt
24 that Victim 1 is wearing?

25 A It's a green shirt.

1 Q Who is that standing behind him?

2 A That would be the defendant.

3 Q And who is on the ladder?

4 A That is my youngest son, Victim two

5 Q Okay. And was this -- is this picture -- this is a
6 Defendant's Exhibit. Has a marking of June 20th of 2008. Was
7 that about what Victim 1 would have looked like? Do you believe
8 that would be a picture from that time period?

9 A Yes.

10 Q Okay. Do you recall whether Victim 1 was ever asked to
11 stand up in front of the church and talk about a mission trip?

12 A I do. That was pretty common practice.

13 Q And when that would happen would Victim 1 be excited to
14 stand up and talk about a mission trip?

15 A I think in general. You know when they would go on a
16 trip like that they would be going outside the community and
17 would want to talk about it.

18 Q And did Victim 1 continue to be involved with youth group
19 passed that point in that photo, of that pamphlet of 2008, do
20 you recall?

21 A I believe so. He aged out at some point of that
22 particular youth group, but yes.

23 Q So going back -- and I'm just going to kind of start
24 back when Victim 1 was younger. So beginning back may be 2002,
25 200e onward. In those early days were there ever times where

1 the defendant would take ~~Uchim~~^{Uchim1} or ~~Uchim~~^{Uchim2} or both on special
2 outings?

3 A Yes.

4 Q What kind of special outings do you recall?

5 A Some times Andy would take one or both boys into
6 Charlotte for a play, or something like that.

7 Q And you mentioned earlier that he would attend ~~Uchim one's~~
8 sporting events. Was that during these early days or did that
9 continue?

10 A That continued on to when they were teenagers.

11 Q And to go back to those special outings, plays and
12 stuff was that just early on or did that continue throughout?

13 A We I can thing of two specific instances where they
14 went to performances the Lion King, which I believe was in 2007
15 and then Phantom of the Opera which was in 2009.

16 Q And during this period kind of lit me ask you a
17 question during the course of your friendship and being at
18 neighbor to defendant did you ever have an opportunity to go to
19 his house?

20 A We did. On occasion we would go swimming there. Maybe
21 go to birthday party of his there.

22 Q Are you referring to his mom's house or his house?

23 A I was referring to his parents' house.

24 Q So you would go to his parents' house. Tell me a
25 little bit about that?

1 A So, we knew Andy's family from church. So we would
2 interact there. Sometimes they would host youth events there
3 because they had a pool. But in particular I remember a
4 Christmas Eve where our family was invited over to Andy's house
5 on Christmas Eve to help decorate the tree and participate in
6 some of their family traditions there.

7 Q Do you remember when that was?

8 A It was in early 2000's. I would say right around 2004,
9 2005.

10 Q Now at some point did the defendant meet a woman named
11 Kathryn?

12 A Yes.

13 Q That would become his wife?

14 A Yes.

15 Q And do you recall the date that he married Kathryn?

16 A Yes, it was July 25th, 2009.

17 Q And at the time that he married Kathryn was he still
18 your neighbor?

19 A He was.

20 Q And were you in the wedding?

21 A I was. He asked me to be a groomsman so I was part of
22 the wedding.

23 Q Do you remember if either of your sons, Victim 1 or Victim 2
24 had any kind of special role in the wedding?

25 A I think they had some kind of role in the wedding, but

1 it was minor. Yeah.

2 Q At the time that Andy or the defendant married Kathryn
3 was she living in his home?

4 A Yes.

5 Q Prior to that time had their ever been any other adult
6 living in his home?

7 A No.

8 Q Had he ever had any roommates?

9 A No.

10 Q The night before the wedding, the night before the
11 defendant's wedding, did you attend his rehearsal dinner?

12 A Yes.

13 Q Do you recall who you attended with?

14 A I attended with my family; Susan, ~~Uichm1~~ and ~~Uichm2~~ It
15 was at his finance's then parents house.

16 Q After the rehearsal dinner did the defendant come back
17 to your residence?

18 A He did. He asked if he could stay the night, the night
19 before the wedding because Kathryn was going to be at his house
20 and they didn't want to see each other the wedding day so we
21 invited him into our house. So yes.

22 Q And did he in fact spend the night?

23 A He did.

24 Q The next morning when you woke up was the defendant
25 there do you remember?

1 A I believe he was yes.

2 Q How did he seem that morning?

3 A As nervous as a groom usually is, you know that
4 morning. I don't recall anything out of the ordinary.

5 Q I am going to use Daufuskie as a sort of line of
6 demarcation. Prior to Daufuskie did the defendant take an
7 interest in Victim one?

8 A Yes.

9 Q Did he come over to your house and stop in and hang out
10 with Victim one?

11 A Yes.

12 Q Did Victim 1 go over to his house?

13 A Yes.

14 Q After Daufuskie did he continue to have that same type
15 of relationship with Victim one?

16 A Yes, he did.

17 Q At some point did -- and I was coming to that point
18 earlier and I think we got sidetracked. At some point did the
19 defendant do some remodeling to his house?

20 A He did.

21 Q And what do you recall that remodeling was?

22 A Andy converted a portion of his attic space into a
23 room, some additional living space.

24 Q And do you have any frame of reference to when you
25 believe that was going on?

1 A I know that was going on in June or July of 2007
2 because we replaced carpet at our house. We had some excess
3 carpet and padding which we gave to Andy for him to use in the
4 attic room.

5 Q Do you know if he actually used it?

6 A I think he installed it at one point in time but I
7 think he switched the floor out later.

8 Q And so prior -- after Daufuskie, but prior to when that
9 attic was being built would Victim 1 go over to the defendant's
10 house?

11 A Yes.

12 Q And during that period of time between Daufuskie and
13 the approximate time of the attic did the defendant attend Victim
14 one 's supporting events?

15 A Yes.

16 Q Was he involved at that time with the youth choir?

17 A Yes.

18 Q After roughly this approximate time when the attic was
19 complete up until the point of the defendant's wedding did that
20 same relationship exist between Andy and Victim 1?

21 A It did.

22 Q Were there ever times during that period of time
23 between Daufuskie and the wedding that Victim 1 spent the night at
24 Andy's house?

25 A I believe so, yes.

1 Q And when Victim1 would go over to Andy's house were you
2 with him?

3 A Sometimes I was with him, sometimes I wasn't.
4 Sometimes myself or Susan would be invited over and sometimes
5 the boys would be over there alone.

6 Q Was there times when Victim1 was over there alone?

7 A Yes.

8 Q After the wedding did -- at that point is Kathryn
9 living in the house?

10 A She is.

11 Q Do you continue to be friendly with the defendant?

12 A We were friendly with the defendant. We did not
13 interact with them as much. Wife and other things going on but,
14 yes, we were still friendly.

15 Q Now, back when Victim1 graduated so I think that would be
16 --

17 A 2015.

18 Q 2014?

19 A '14. Excuse me.

20 Q Did the defendant attend his graduation?

21 A He did.

22 Q And do you remember the circumstances of how the
23 defendant came to attend that graduation?

24 A I believe since his wife was a teacher at North Western
25 High School that she had access to tickets and so he was able to

1 attend graduation with tickets that he got on his own.

2 Q Did you personally directly extend an invitation for
3 him to come with you?

4 A No, we did not.

5 Q Did you allow him to sit with you?

6 A We did.

7 Q At the time -- well, let me ask you this. In
8 February he of 2016, did you become aware that your son Ulrich
9 had made allegations against the defendant?

10 A Yes.

11 Q Up until that point in time had you maintained a
12 friendly relationship with your neighbor, the defendant?

13 A Yes.

14 Q Had there been any arguments?

15 A No.

16 Q Had there been any argument that you know of with the
17 defendant and Ulrich one?

18 A None that I am aware of.

19 Q Again, your residence, your home, is that within Rock
20 Hill, York County, South Carolina at the time?

21 A At the time, yes.

22 Q And the defendant's home contained in State's Exhibit
23 One, the picture that you looked at was that in York County,
24 South Carolina?

25 A It is.

1 Q Within Rock Hill?

2 A It is.

3 Q And the man that we have been talking about today, that
4 was your neighbor, do you see him in the courtroom?

5 A I do.

6 Q Can you please identify him?

7 A He's sitting right there.

8 Q Let the record reflect he has identified the defendant.

9 THE COURT: The record will so reflect.

10 MS. JOYNER: Thank you Mr. C . Please answer
11 any questions the defense has.

12 THE COURT: Cross examination.

13 MR. SWERLING: Very briefly.

14 CROSS EXAMINATION

15 BY MR. SWERLING:

16 Q Do you remember the chess club they had at school?

17 A Yes, I do.

18 Q And ~~Victor~~ 1 and ~~Orin~~ 2 were in that chess club?

19 A They were.

20 Q And Andy was an instructor or assisted in that chess
21 club?

22 A He was a facilitator for the club along with a couple
23 other parents of the children.

24 Q And they were not on the faculty of the school but they
25 would as you said a facilitator for the chess club?

1 A I believe so, yes.

2 Q And is it true that you and your wife sort of helped
3 him get that position? Introduced him to the people so he could
4 have that position?

5 A I don't recall how he got that position to be honest
6 with you.

7 Q That's fine. No further questions?

8 THE COURT: Anything else.

9 MS. JOYNER: Nothing else from this defendant.

10 THE COURT: You may come down. Thank you very
11 much.

12 MS. JOYNER: You Honor, we would ask he be excused
13 and to remain in the courtroom.

14 MR. SWERLING: No objection.

15 MS. JOYNER: Your Honor, at this time the State
16 requests you publish the stipulation of facts to the
17 jury.

18 THE COURT: Ladies and gentlemen of the jury, some
19 times in a trial the parties agree on some facts and
20 they are called stipulations. There is one minor
21 stipulation in this case. And the stipulation is and
22 I will read it to you.

23 The State, represented by Assistant Solicitor Erin
24 Joyner, and the defendant represented by Jack
25 Swerling, have entered into the following stipulation

1 of fact: Fact is the defendant, Julio Castillo's
2 penis is uncircumcised. Very well.

3 MS. JOYNER: Thank you, very much, Your Honor. At
4 this time the State rests.

5 THE COURT: All right, ladies and gentlemen, that
6 concludes all the evidence that is going to be offered
7 by the State. As I told you at the beginning of this
8 trial the defendant now has the opportunity to present
9 his defense if he wishes to do so but is under no
10 obligation to do so and I think I've explained that
11 prior to right now.

12 However, at this time I'm going to inquire about
13 the defense's plans but I have to take up a matter of
14 law with the attorneys first and so I am going to ask
15 you to go to the jury room. Now, I think your meal is
16 going to be there around one o'clock. It's 12:40
17 right now. It may that you can just stay in there and
18 have your lunch and frankly that might be the easiest
19 thing to do when it comes. We will reconvene at two
20 o'clock.

21 Again, when you finish your lunch if anybody -- do
22 we do we have any smokers? There's usually always
23 one. But anyway, as yesterday if you feel the need to
24 get out and get a little fresh air I think coming in
25 today it liked like a pretty good day to walk around

1 what I call the campus here. You are welcome to do
2 so. You will have to work that out with the bailiffs
3 and security. But they know you may ask when you
4 finish your lunch.

5 So don't discuss the case while you're in the jury
6 room. We will reconvene at two o'clock and have a
7 pleasant lunch.

8 (WHEREUPON, the jury leaves the courtroom.)

9 THE COURT: Any motions?

10 MR. SWERLING: Yes. Your Honor, at this time we
11 would move for a directed verdict on these Indictments
12 and I'll list them in the record. Taking all the
13 evidence in light most favorable to the State we
14 submit they have failed to offer sufficient proof to a
15 allow these cases to go to the jury.

16 Specifically, Your Honor, starting with docket
17 number 2016-GS-46-02193, which is alleges a criminal
18 sexual conduct with a minor, 2nd degree, that would
19 apply to that. On 2195 additional grounds that I
20 would offer are that the State did not prove that
21 between November 8, 2006 and July 23, 2009 with any
22 degree of specificity to submit to the jury that there
23 was a criminal sexual conduct with a minor 2nd degree
24 crime committed.

25 THE COURT: Under 2195?

1 MR. SWERLING: Yes, other than the one that they
2 alleged on 24th of July. So there's two of them.

3 THE COURT: Okay.

4 MR. SWERLING: And then 2196, 2197, 2198 and 2199,
5 what they've done Your Honor what the State has done
6 without proving any specificity as to the date.
7 They've just alleged that the defendant was over 14
8 years of age and they alleged wide-spread dates of
9 what they considered the alleged offenses without
10 proving when they were. July 1st, 2007 to July 23,
11 2009, that is in 2199. And they had the same dates
12 alleged in 2198. The same dates allege in 2197 and
13 the same dates alleged in 2196; July 2005 until July
14 -- well, they have July 2007 on this one. The other
15 three are 2009. That's right. So Judge, without --
16 basically they allege four counts of lewd act during a
17 certain period of time without proving with any degree
18 of specificity when those crimes took place or that
19 they are not redundant and actually the same charge,
20 all arising out of the same transaction.

21 THE COURT: Wouldn't that have been a subject for
22 a motion to quash the indictments?

23 MR. SWERLING: I believe it would be a directed
24 verdict at this point.

25 THE COURT: All right. At this point.

1 MR. SWERLING: Yes, sir. And the reason I believe
2 it is a directed verdict is because they failed to
3 prove that there were four different events within
4 that timeframe or with any specificity.

5 THE COURT: All right. What is is the State's
6 position?

7 MS. JOYNER: Your Honor, the State's position is
8 that we sufficiently presented sufficient evidence to
9 present all these charges to the jury. In a light
10 most favorable to the State beginning with indictment
11 ending in 2196 for lewd act. That indictment alleges
12 an incident date from June 20th of 2005 to July 1st of
13 2007. It alleges that the defendant massaged the
14 victim's body while in the defendant's bedroom at
15 Egret Court. The beginning date is on or about.
16 Obviously, we do not have a specific date of any of
17 these incidents accept for the final one. But it is
18 based on the timeframe and the State is allowed to
19 allege a timeframe in cases such as this. It is based
20 upon the return from Daufuskie Island which the
21 Daufuskie Island trip was June 17th through June 19th.
22 Making the earliest date that any abuse could have
23 occurred June 20th of 2005 because ~~Victim 1~~ testified
24 that there was nothing inappropriate that happened to
25 him before Daufuskie Island. He testified that when

1 he returned from Daufuskie Island that at some point
2 massaging began. Massaging began in the bedroom and
3 massaging began, Your Honor, before overt
4 masturbation. And he testified overt masturbation
5 included or occurred sometime in the 5th grade. So
6 ~~Uichimone's~~ 5th grade year would have begun in 2000 -- beg
7 the Court's indulgence. I believe was the 2007, 2008
8 school year. Additionally, Your Honor, the July 1st
9 of 2007 is an approximation of when that attic was
10 under construction. The attic is another demarkation
11 point. So I think this indictment tracks to the
12 testimony that has been presented. The massages began
13 occurring after Daufuskie. It occurred before
14 masturbation which occurred in 5th grade and it
15 occurred in the defendant's bedroom.

16 Your Honor, going on to indictment 2197 -- I'm
17 sorry, just a moment ago I misspoke on the end date of
18 July 1st of 2007. That would be the approximate date
19 of the attic. But that also would take us through
20 ~~Uichimone's~~ 5th grade year in school because his 5th grade
21 year was 2006 to 2007. And would track with his
22 testimony that was before the Court.

23 Moving to indictment 2197 it alleges that on or
24 about August 1st of 2006 through July 23rd of 2009 and
25 the specific allegation is that the defendant

1 masturbated the victim while in the defendant's
2 bedroom at Egret Court. And as Your Honor may
3 recall, Victim 1 testified that the massages transitioned
4 to masturbation. That occurred in the defendant's
5 bedroom and it occurred some time in the 5th grade
6 because that is the year of the joke. So it is
7 separate and distinct from the first indictment that I
8 have talked about in that we are alleging a separate
9 conduct, meaning the massaging in 2196 to encompass
10 those massages that occurred before masturbation was
11 incorporated into the massaging and specifically to
12 the bedroom, downstairs.

13 So August 1st of 2006 would be a date that tracks
14 to the first day of the month in which the school year
15 would begin. Sometime at the end of August of 2006.
16 So that 5th grad year would have run 2006 to 2007. Victim
17 one testified there was still massaging with
18 masturbation that occurred downstairs even after the
19 attic was complete. So this end date takes us all the
20 way to the day before the last incident. So I think
21 there is ample evidence in the record to go forward.

22 Your Honor, regarding 2198, also lewd act. It
23 alleges that on or about July 1st of 2007 through July
24 23rd 2009. So, it is a similar but not exact
25 timeframe as the last indictment that I discussed.

1 But it specifically alleges that the defendant
2 masturbated the victim and/or massaged the victim
3 while in the attic. So we can tell that it is a
4 separate and distinct act from the previous
5 indictment. The July 1st of 2007 being an
6 approximation of when that attic would have been
7 complete. Could have been a little later, but I think
8 it certainly just an approximation for purposes of the
9 indictment -- all the way to July 23rd of 2009 which
10 is the day before the last incident that occurred.
11 Regarding indictment 2199 it alleges an incident date
12 of July 1st of 2007 and it is the exact same timeframe
13 through July 23rd of 2009 of the last indictment, but
14 it specifically alleges obviously a distinct offense
15 because it allegation the defendant made the victim
16 touch his penis in the attic of Egret Court and
17 there was testimony from Victim 1 that there was one
18 incident where he was made to massage and touch the
19 defendant's penis.

20 So I think that those are all just very distinct
21 and track to the testimony that was presented based
22 upon the timeline that was presented not just by Victim 1
23 because he didn't have exact dates, but as
24 supplemented by his mother and father. Those were
25 specific dates and timeframes that they could provide.

1 Regarding indictment 2913 for criminal sexual
2 conduct with a minor in the second degree, that is the
3 one specific date that we know; July 24th of 2009 and
4 we know that of course because that is the night
5 before the wedding. There's ample evidence in the
6 record from the testimony of Victim 1 and then
7 corroboration that the defendant was in fact in the
8 residence that night.

9 And finally, 2195, it alleges an incident date for
10 CSC with a minor, second, on or about November 8th of
11 2006 through July 23rd of 2009. Which again, July
12 23rd of 2009 is the last -- is the day before the last
13 incident. Victim 1 testified there was one other
14 incident of fellatio that occurred in the defendant's
15 bedroom and that occurred some time after masturbation
16 had begun. Masturbation began some time in the 5th
17 grade. So going back to when Victim 1 would have been if
18 5th grade. Victim 1 would have been in the 5th grade
19 beginning August of 2006. He turned 11 on November
20 8th of 2006. So he testified the masturbation began
21 some time in the 5th grade and after that the oral sex
22 began. So there is testimony in the record that
23 supports the timeframe, and I think it is the most
24 specific timeframe that we can give.

25 So I would ask the Court respectfully to deny the

1 defense's motion and I believe Victim 1's testimony
2 supports all of these charges going to the jury. And
3 I don't have them with me but I think State versus
4 Tumbleson, 376 S.C. 90 is one of the many cases that
5 talks about date and time not being an element of
6 these offenses.

7 THE COURT: All right. I felt that the fact that
8 all of these events according to the testimony not
9 only by Victim one _ but the other members of his
10 family that these dates have been established not just
11 by Victim one _ but other testimony and I think that
12 the testimony of Victim one because he identified
13 these events with school years when he was in the 3rd
14 grade, when he was 4th grade, when he was in the 5th
15 grade, you can link those school years to the dates in
16 the indictments. And I think -- of course it is
17 ultimately a jury question whether that proof has been
18 made as to each indictment, but I think that there is
19 sufficient amount of testimony to avoid a directed
20 verdict at this stage of the trial.

21 So, as to the motion for directed verdict I feel
22 the evidence goes beyond that of mere conjecture or
23 suspicion. That there's evidence either direct or
24 circumstantial or some combination of both which
25 reasonably tends to prove the guilt of the defendant

1 or from which that guilt might be logically and
2 reasonably deduced if that evidence is taken in a
3 light most favorable to the State. So Mr. Swerling, I
4 must respectfully deny your motion for a directed
5 verdict.

6 Now, at this time I'll ask, does the defendant --
7 well, let me do this. I would like to advise your
8 client of his constitutional rights at this time.

9 MR. SWERLING: Okay.

10 THE COURT: Mr. Castillo, will you stand up
11 please.

12 At this time I am going to explain certain of your
13 rights to you.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: If you do not understand anything I
16 say please let me know. If you want me to explain
17 anything in more detail please let me know. Do you
18 understand?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: We have now reached the stage of this
21 trial where you may present your defense. You have
22 the right to claim protections given to you by the
23 Fifth Amendment to the constitution of the United
24 States. This amendment states in part no person shall
25 be compelled in any criminal case to be a witness

1 against himself. This means that you can not be
2 required to testify in this case.

3 You have right to testify on your own behalf.
4 However, no one can make you testify. This is a
5 personal right and no one can waive this right except
6 you. If you decide to testify you will be subject to
7 the same rules that govern other witnesses and you may
8 be examined and cross examined on any relevant issue
9 in this case. In addition, if you have any
10 convictions involving dishonesty or false statement or
11 for crimes punishable by imprisonment for more than
12 one year and this Court determines that the probative
13 value of admitting this evidence outweighs its
14 prejudicial effect to you the solicitor will be able
15 to introduce your record to attack your credibility.

16 If you decide to testify this decision on your
17 part must be freely, voluntarily and intelligently
18 made, with the knowledge and protections given to you
19 by the Fifth Amendment and the consequences of your
20 decision to testify.

21 If you decide not to testify I will instruct the
22 jurors they can not give the fact that you did not
23 testify any consideration whatsoever and that there is
24 to be absolutely no prejudice to you because you did
25 not testify. It is left entirely up to you whether or

1 not you testify. You may talk with your attorney,
2 your family and friends or anyone else, but the final
3 decision will be left entirely up to you.

4 Do you understand what I have explained to you?

5 THE DEFENDANT: I do, Your Honor.

6 THE COURT: Do you have any questions about what I
7 have explained to you.

8 THE DEFENDANT: No, sir.

9 THE COURT: Have you discussed with your lawyer
10 whether or not you should testify?

11 THE DEFENDANT: I have, Your Honor.

12 THE COURT: Now, solicitor are there any
13 impeachable offenses that this the defendant needs to
14 know about --

15 MS. JOYNER: No, sir.

16 THE COURT: -- prior to making his decision.

17 MS. JOYNER: There are no impeachable offenses.

18 THE COURT: Thank you.

19 Do you wish to talk to your attorney any more
20 about this issue?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: Do you wish to testify?

23 THE DEFENDANT: I do, Your Honor.

24 THE COURT: All right. Thank you, very much.
25 We'll reconvene at two o'clock.

1 (WHEREUPON, court was in recess for lunch.)

2 THE COURT: State ready to proceed.

3 MS. JOYNER: State is ready to proceed, Your
4 Honor.

5 THE COURT: Is the defense ready to proceed.

6 MR. SWERLING: Yes, sir.

7 THE COURT: Bring the jury please.

8 (WHEREUPON, jurors enter the courtroom.)

9 THE COURT: All right. Mr. Swerling, you may
10 present your defense.

11 MS. WILSON: The State calls Gaye Allen Cook.

12 GAYE ALLEN COOK, called as a witness, having been
13 duly sworn by the clerk, was examined and testified as
14 follows:

15 DIRECT EXAMINATION

16 BY MS. WILSON:

17 Q Good afternoon.

18 A Hey.

19 Q Please state your name for the jury?

20 A Gaye Allen Cook.

21 Q Where are you employed Miss Allen Cook?

22 A I have a private practice in Florence, South Carolina.

23 Q Can you please tell us your educational background.

24 A Sure. I have a bachelor's degree in early childhood
25 education, a master's degree in clinical counseling, post

1 graduate studies in trauma and abuse. And I was pretty close to
2 finishing my doctorate and due to some family issues I decided
3 to take a break from that.

4 Currently, I practice in Florence in a private practice
5 treating patients of various ages.

6 Q What kind of training have you had in the area of child
7 sexual abuse dynamics?

8 A Well, my first experience with that is when I was
9 employed with child advocacy center which would have been from
10 2005 to 2007. That was when my studies really began in that
11 area and since I've continue that. I make sure that I keep my
12 license obviously up to date with those continuing education
13 credits. I attend trauma and abuse workshops, conferences. I
14 lead those all over the country. I'm considered to be
15 nationally accredited trauma and abuse expert and I currently
16 practice in the model that we accept in South Carolina to be the
17 best practice for children of child abuse and also training that
18 model regularly.

19 Q Okay, and who do you typically work for?

20 A It really depends. A lot of time I get court appointed
21 through maybe family court. Some times families will find me
22 and ask me to work with them. Often times I may get appointed
23 maybe through like a Department of Juvenile Justice order.
24 Something like that, as far as treating patients go. As far as
25 testing goes, through my 19 years of practice I have worked for

1 the prosecution and the defense.

2 Q How many times have you been qualified as expert?

3 A I keep this up to date on my CV. In family court over
4 350 times. In civil courts over 75 times and in criminal court
5 over 175 times.

6 MS. WILSON: Your Honor, at this time we would
7 like to offer Miss Allen Cook as an expert in child
8 sex abuse dynamics.

9 THE COURT: Any objection or voir dire?

10 MS. JOYNER: Voir dire, briefly, Your Honor.

11 THE COURT: Certainly.

12 VOIR DIRE EXAMINATION

13 BY MS. JOYNER:

14 Q Miss Allen Cook, just briefly. You said that you have
15 attended trauma workshops?

16 A That's correct.

17 Q Are they listed on the CV that I am looking at?

18 A They are not. They are way too numerous to list.

19 Q Okay. So you don't have any advance training listed on
20 the CV?

21 A I do have some. I just don't list specific, you know,
22 workshops as far as titles go.

23 Q Okay. Okay. And you said you were nationally
24 accredited.

25 A Trauma and abuse therapist.

1 Q Trauma abuse therapist and who is that through?

2 A Through the national children's alliance and through
3 the trauma focus cognitive behavioral therapy groups.

4 Q National children alliance and what was the second?

5 A The trauma focused cognitive behavioral therapy groups.
6 What happens is once you've practiced in that field long enough
7 you can apply for national accreditation. I did and was
8 accepted.

9 Q When was that?

10 A That would have been four years ago.

11 Q And what was your work at the Durants Children Center,
12 the children's advocacy center from October of 2005 to November
13 of 2007?

14 A I was a forensic interviewer and also helped them start
15 their theriatric program where we did therapy for children's
16 families.

17 Q And regarding your being qualified as an expert in
18 criminal court are you qualified as a expert in child sexual
19 abuse dynamics?

20 A Yes, I you have been qualified hundreds of times.

21 Q Specifically for that expertise?

22 A Yes, I have been qualified for that. I don't know an
23 exact number, but the majority of the ones listed on my CV would
24 encompass child abuse dynamics, yes, ma'am.

25 Q Would those be speaking generally on concepts or as to

1 your knowledge as to specific cases?

2 A It would be both.

3 Q How many would be just generally as to concepts versus
4 specific cases?

5 A Well, I mean even in specific cases I will do general
6 testimony. So I'd be afraid to give a percentage of that. I
7 would not want to say something that would be inaccurate.

8 MS. JOYNER: I have no further questions. I don't
9 object to her qualifications.

10 THE COURT: Without objection. You may proceed.

11 CONT'D DIRECT

12 BY MS. WILSON:

13 Q Do you need some water?

14 A Yes, that would be great.

15 Q Can you explain to the jury the concepts of delayed
16 disclosure?

17 A Yes. The delayed disclosure is when an alleged victim
18 comes forward and tells a story of something that happened to
19 them. Delayed of course meaning that the disclosure did not
20 happen immediately following an alleged incident. That's pretty
21 much the definition of it.

22 Q Would you say that it's common?

23 A I would have say it's common and uncommon. I think I
24 would have to say both.

25 Q Can you explain that?

1 A Yes. Often times when children are in a family
2 situation where the offender is in that family. May be it be a
3 parent or a grandparent. Somebody who lives in that home who is
4 responsible for taking care of that child often times the child
5 will delay disclosing out of fear of what may happen to their
6 family.

7 It's atypical to see a delayed disclosure in children who
8 have lots of people they can tell. What I mean by that is maybe
9 a child who doesn't go to school. Maybe he's home-schooled.
10 He's just kind of in that family unit would not have access
11 necessarily to other trusted adults. Whereas a child who was in
12 school or maybe was in sports or various civic organizations or
13 something like that, they would have other people that they
14 could share any possible disclosure with.

15 Q Thank you. You mentioned a trusted adult. Could you
16 give us some examples of who trusted adults would be for a
17 child?

18 A Typically for children it's a parent. Grandparent.
19 Maybe a coach. Maybe a teacher or somebody within that school
20 system.

21 In my opinion schools do a really good job of educating
22 children of how safe they can be in school as far as who they
23 can talk to; teachers, guidance counselors, nurses, people of
24 that expertise.

25 Q And when you say delayed disclosure we're talking about

1 anything that is disclosed not immediately following the alleged
2 incident?

3 A Correct.

4 Q Whether one day or ten years?

5 A Correct.

6 Q The jury has heard previously about the concept of
7 grooming. Can you tell us when offenders groom do they seek out
8 a specific type of child usually?

9 A My experience tells me in 19 years of practice the
10 majority of offenders are going to select a child --

11 MS. JOYNER: Your Honor, I am going to object.

12 THE COURT: What's the objection?

13 MS. JOYNER: The reliability. She's speaking from
14 training and experience. She's not citing to any
15 studies or providing any information. She's speaking
16 strictly from her experience.

17 THE COURT: Overruled. Go ahead.

18 A Sorry. Can you ask that again?

19 Q Sure. When a offenders groom do they seek out a
20 specific type of child?

21 A Yes. My experience of 19 years as a therapist has
22 shown me that typically offender is going to seek out a child
23 that they don't believe will tell on them. A child that maybe
24 more introverted. A child who may be comes from some kind of
25 fragmented family dynamics where the offender can feel a little

1 more secure that may be that child wouldn't have other people to
2 tell.

3 Q And although you are speaking from experience is that
4 concept backed by research?

5 A The thing that's difficult about the research in this
6 field is that there are so many schools of thought and the
7 research and the practice of child sex abuse is not an exact
8 science. And so you have professionals who kind of land on both
9 sides of the coin, I guess, to say. And so what happens is
10 there's no exact testing that we can do to say yes or no, that
11 abuse occurred and so it does often make it difficult when you
12 are trying to cite certain studies because you may have one that
13 says one school of thought and then another that may come back
14 and combat that.

15 Q Okay.

16 MS. WILSON: Beg the Court's indulgence. Answer
17 any questions the solicitor may have. Thank you.

18 CROSS EXAMINATION

19 BY MS. JOYNER:

20 Q Miss Cook, so just to kind of circle back around, you
21 say the delay reporting is common and uncommon.

22 A Yes.

23 Q So it's your testimony that typically children who have
24 lots of people to tell are going to tell?

25 A Not always, no.

1 Q Okay. Maybe I misunderstood because I have written
2 down, often times when the children are in a family situation
3 that they will delay telling, but it's atypical to have a child
4 who has lots of people around them to delay disclosing?

5 A That is true, but I did not say that says happens in
6 every case. Obviously like I explained to the other attorney,
7 there's really no exact science to it. It really can vary which
8 is what makes this field somewhat difficult.

9 Q Okay. So fair enough. When you say atypical" you are
10 not saying that children who have lots of people in their lives
11 are going to immediately tell?

12 A Not always, but they can.

13 Q They can, sure, but they also can not?

14 A Of course, yes.

15 Q Okay. And so you started out with talking about a
16 family member. A family member as the abuser?

17 A Yes.

18 Q But not all the time in every case is the family member
19 the abuser?

20 A No, definitely not.

21 Q So, grooming, is it fair statement to say that grooming
22 is a process of gaining access and insuring secrecy?

23 A I would say it is definitely way of gaining access. I
24 don't know that I can certainly say that it is always a way of
25 gaining secrecy.

1 Q Well, to insure secrecy?

2 A I don't think always can be used in that sentence. Not
3 in my experience and not from my studies.

4 Q Am I correct, that grooming is a perpetrator engaging
5 in a pattern of behavior that is suppose to make the child more
6 and more comfortable accepting more and more behavior, correct?

7 A That is part of grooming, yes.

8 Q So, the offender will take little baby steps and see if
9 they get away with it, is that right?

10 A Sometimes.

11 Q Well, how else could grooming be accomplished? Can you
12 explain to me?

13 A Well, when you say small baby steps I guess, you know,
14 that kind of confuses me. Because what I don't know are you
15 meaning that they may try to do something they can get away with
16 and then go further. Is that what you're asking me.

17 Q Well, that would be one way. Would that not be one way
18 that an offender would progress in his behavior towards a child?

19 A That could be one way. I mean typically someone who is
20 looking to groom a child would try to build a relationship with
21 them, but typically the groomer goes for a child that they do
22 not feel or may be from knowing that child they don't have to
23 worry that that child would then tell on them.

24 Q So they're looking to insure secrecy?

25 A They can. I guess where I want to be clear is there is

1 not an always necessarily in this science of sex abuse. I want
2 to be very clear and say that.

3 Q I understand. I understand. So, you say that in your
4 opinion schools do a great job of explaining to kids about sex
5 abuse?

6 A No. What I said was I believe, my experience is that
7 schools do a great job of helping children understand that it's
8 a safe place and that there are people there in the school
9 setting where these children could disclose anything to. And
10 they do a really good job of educating them. You can talk to
11 your teachers and you can talk to your guidance counselors. You
12 can go to school nurse. And most schools that I deal with are
13 very clear to children that these are people that are mandated
14 reporters and so there to help the children. That's what I was
15 explaining.

16 Q So you're speaking of what your experience is of the
17 school system currently?

18 A In the years that I have done this and what I have seen
19 from families and children and even from having my own children
20 and children that are in my own life in the school system.

21 Q Okay. So you did your first work in this field in
22 October of 2005 is when you began that work?

23 A I began practicing in 2000. I did treat children in
24 the mental health center that did have abuse allegations. But
25 what I was explaining is pouring my life into this field had

1 started when I began at the Durant Center because that was a
2 child advocacy center and it's very victim minded, victim
3 focused, but I did treat children beginning in 2000 that did
4 have abuse dynamics.

5 Q So you believe in 2000 that school districts were doing
6 a wonderful job of explaining to children about safe places?

7 A I think they've always done a good job based on my
8 practice.

9 Q Okay. But you acknowledge that delay reporting does
10 happen?

11 A Of course, yes.

12 Q And there are many, many, many studies in this field
13 that just talk about the topic of delay reporting?

14 A Yes.

15 Q Can you think of one study that supports your
16 proposition that it is atypical for a child who has lots of
17 support around them to delay telling?

18 A I can not cite you an exact study but there are several
19 studies that support that, yes.

20 Q There are several that support that?

21 A Yes.

22 Q Okay. You don't have any of those studies to tell the
23 jury today?

24 A I don't have them on me. I'm sorry.

25 Q And there are studies that talk about all kinds of

1 different factors that can factor into a child delaying their
2 disclosure? There is all kinds, right?

3 A Yes, of course.

4 Q So, the familial connection is just one of many factors
5 recognized within this field as a factor contributing to delayed
6 disclosure?

7 A Yes, that is a factor.

8 Q Okay. And within the studies delay disclosure means
9 different -- can mean varying lengths of time?

10 A Yes.

11 Q Okay. But would you agree there is a consensus, there
12 are many, many, studies in this area that support the percentage
13 -- fairly sizeable percentage of people who delay reporting for
14 significant periods of time?

15 A I think there are victims who do delay reporting for a
16 significant period of time. I just do not feel comfortable
17 quoting a percentage on that because like I said they change and
18 it varies. There are various school of thought on that.

19 Q I appreciate that.

20 Q Now you've been expert a number of times?

21 A I have.

22 Q And you're paid when you're an expert, is that right?

23 A Yes, of course.

24 Q Okay. How much have you been paid regarding your work
25 to this specific case?