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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 II OF II

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1 A \$1,500.

2 Q That's the total amount that you are invoicing for all
3 of your work in the State of South Carolina versus Julio
4 Castillo?

5 A Today that is what I've billed, yes, ma'am.

6 Q Are you billing that for the testimony today?

7 A I'm sorry, I didn't understand.

8 Q Is that just for your testimony?

9 A No, that was for review of the file and to assist the
10 defense.

11 Q So you're aware of what the allegations were?

12 A Yes.

13 MS. JOYNER: Thank you. No further questions.

14 MS. WILSON: No redirect.

15 THE COURT: You may come down, ma'am. Thank you.

16 THE WITNESS: Thank you.

17 MS. WILSON: May the witness be excused.

18 MS. JOYNER: Without objection.

19 THE COURT: You are free to go. Thank you.

20 MR. SWERLING: We call Julio Andy Castillo

21 JULIO ANDRES CASTILLO: Called as a witness,

22 having been duly sworn by the clerk, was examined and
23 testified as follows:

24 DIRECT EXAMINATION

25 BY MR. SWERLING:

1 Q Andy, go ahead and identify yourself for the jury
2 please.

3 A My name is Julio Anres Castillo. Most people call me
4 Andy.

5 Q And who are your parents?

6 A My father is deceased his name was Bill. My mom is
7 Sarah Castillo.

8 Q And what did your dad do?

9 A My dad was a professor at Winthrop for most of his life
10 and my mom was a high school teacher at Fort Mill High School
11 and North Western.

12 Q Pardon.

13 A And North Western for a while.

14 Q And were you born in Rock Hill?

15 A I was born in Charlotte but spent my entire life in
16 Rock Hill growing except for the time I spent in college.

17 Q And what is the address of your parents' home?

18 A

19 Q Does your mom still live there?

20 A Yes.

21 Q And was that the residence that you grew up in?

22 A That is.

23 Q What year were you born?

24 A 1981.

25 Q Did you attend the public schools in York County?

1 A I spent grades one through four at Saint Ann's Catholic
2 School. I went to 5th grade in public school elementary and
3 then was in middle school at Rawlinson Road and high school at
4 North Western.

5 Q What year did you graduate high school?

6 A 1999.

7 Q And when you were in high school what kind of interest
8 did you have?

9 A I played band, marching band my freshman year and then
10 very quickly found out I didn't want to be in the sun all the
11 time so I switched over to chorus and was in chorus the rest of
12 my high school career.

13 Q So you have been in chorus since your high school year?

14 A Yes.

15 Q Did you ever participate in the chorus in the
16 community?

17 A I sang first -- when I first started singing I was
18 about six years old and I sang for the church. After that I
19 progressed into adult choir when my voice changed and then I
20 also started Chorus Society for York County.

21 Q Now, when you were in high school did you know Cat V

22 ..

23 A I did.

24 Q And were you dating her from time to time during your
25 high school years?

1 A We dated on and off from the 10th grade through 11th
2 grade.

3 Q And it was back and forth some times? Was it steady
4 all the way through or were there interruptions?

5 A We had a couple of moments where she dumped me on
6 occasion and we started back dating after that.

7 Q All right. Did you get friendly with her family?

8 A I did.

9 Q Her brother *witness 1* who testified?

10 A Yes, sir.

11 Q What -- describe for the jury what the relationship was
12 between you and the V family?

13 A So I'm an only child as *witness 1* said, I always wanted a
14 little brother and so when Cat and I were introduced by a mutual
15 friend and we started dating. I started spending time at their
16 house. At that point fairly early on in the relationship I met
17 *witness 1* and we kind of hit it off. We had some of the same
18 interests and we kind of became like brothers. We called each
19 other "bro". His mom I called mom two. She was in my phone as
20 mom two. It was kind of running joke that I was son two to her.

21 Q Did you have any siblings?

22 A I do not.

23 Q And he had a sister? *Witness 1* had a sister?

24 A Yes, sir.

25 Q But he had no brothers?

1 A Correct.

2 Q And how much older were you at that time then he was
3 when you were in high school?

4 A About eight years difference.

5 Q Did you find that your relationship with him was
6 enjoyable?

7 A I did. It was fun having someone like that to talk to
8 about brotherly kind of things.

9 Q How old would you have been when you first had been
10 introduced to him and had relationship?

11 A I think I was 16.

12 Q So he would have been?

13 A Eight.

14 Q And Cat is younger or older?

15 A She is a year younger than I am.

16 Q Did you have a good relationship with the V
17 family?

18 A I did.

19 Q Were you fond of them?

20 A I was. Like I said I considered Susan especially like
21 a second mother.

22 Q And at the time did it appear that they were fond of
23 you?

24 A Yes, sir.

25 Q Did you spend a lot of time over their house?

1 A I did.

2 Q Did you go places with them?

3 A I know we went on I think one vacation together. But
4 most of the time we were just kind of hanging out at their house
5 or as ~~witness 1~~ said he came over to my house sometimes.

6 Q Did you feel that you were welcome at their house any
7 time?

8 A Yes, sir.

9 Q Even when you were not dating Cat?

10 A Yup. Cat and I stayed friends the entire time.

11 Q So the relationship was not solely based on Cat but it
12 was your relationship with the family?

13 A Yes, sir.

14 Q In general, is that right?

15 A Yeah.

16 Q Tell the jury some of the things that you and the
17 family did and then you and ~~witness 1~~ did?

18 A I attended a lot of ~~witness 1~~ basketball games. Some of
19 Cat's basketball games. They were members of Oakland Avenue
20 Presbyterian Church so they had some events at church that I
21 attended with them.

22 They would come over to my house for dinner on occasion. We
23 did Christmas together either at my house or their house. We
24 trimmed the tree at my house. My parents had a really big
25 Christmas tree and that was a really big thing for us so we

1 would do that almost every Christmas. *Witness 1* and I would play
2 video games. Go to movies. That kind of stuff.

3 Q When you were in high school did you develop an
4 interest in computers?

5 A I did. It was actually before that. In elementary
6 school my parents signed me up for computer camp at Winthrop and
7 from there I got very interested and spent the rest of my life
8 doing IT.

9 Q Were there occasions when the V; would come over
10 to your mother's house?

11 A Yes, sir.

12 Q And for what different kind of activities?

13 A Birthdays or Christmas. Mainly holiday type events.

14 Q And they knew your parents from church?

15 A No. They -- our two families became close.

16 Q I'm sorry. That's the C . I apologize?

17 A Yes, sir.

18 Q No the V. and your parents did not know each
19 other from church?

20 A From church, yes, sir. They met through Cat and my
21 relationship.

22 Q Would you describe your room at your parents' house?

23 A My parents with me being an only child let me kind of
24 have free reign in my room. When we re-carpeted the house they
25 let me put bright green carpet in. I think they regret that to

1 this day. I had a waterbed. Had bookshelves all over the room.
2 I was a very avid reader. I did have a computer over time I
3 would cobble together computers from stuff that I purchased at
4 Goodwill and other places.

5 Q And were there occasions when ~~Witness 1~~ would come over to
6 your house and spend the night?

7 A Yes.

8 Q Sleep overs?

9 A Yeah.

10 Q What would be the -- what would cause that to happen or
11 whether there events that took place that would cause that to
12 happen?

13 A I don't know honestly remember the first time that I
14 invited him over. But yes, he did spend the night at my house
15 multiple occasions.

16 Q Okay. Let me ask you this. Was it always -- was it
17 open -- any kind of effort to conceal anything?

18 A No, sir.

19 Q Was it a pretty open relationship between you and the
20 V ?

21 A Yes, sir.

22 Q And if he wanted to spend the night over your place or
23 you wanted him to come over and spend the night with you nobody
24 ever raised any kind of questions about it, any concerns about
25 it?

1 A No, sir.

2 Q How many beds are in your room?

3 A Just the one.

4 Q All right. And during the times that he would come
5 over and I believe he's testified it was something like 15 or 20
6 times that he might have spent the night at your house -- your
7 parents house -- would you dispute that number?

8 A I don't have a specific recollection of specific
9 numbers of times that he came over, but it was fairly often
10 during that time period.

11 Q And what time period -- do you disagree with the time
12 period that he said?

13 A No, sir.

14 Q From like 3rd to 5th grade I believe or 3rd to 6th
15 grade?

16 A Something like that. Along those lines, yes, sir.

17 Q And where did he sleep?

18 A He slept in the bed with me.

19 Q Would you explain that to the jury. Tell them what --
20 how did that happened and why?

21 A It's one of the things that looking back at it I kind
22 of wish we hadn't done. But he was like a little brother to me.
23 It was something that seemed okay to me. It was something that
24 was okay with Cat. She knew I had only a single bed in the
25 room. It was something that was okay with parents. So I never

1 felt that it was inappropriate.

2 Q So you're saying that they knew there was just one bed
3 there?

4 A Yes, sir.

5 Q But did you ever discuss that with them?

6 A I never came out and said directly, *witness Q* and I are
7 sharing a bed when he comes over.

8 Q You are just saying because they were there at the
9 house they would have known there was just one bed?

10 A Yes, sir.

11 Q Let me ask you something. Did you ever sleep naked
12 with him?

13 A No, sir.

14 Q Did he ever sleep naked?

15 A No, sir.

16 Q So that didn't happen?

17 A No, sir.

18 Q At your house did you ever act inappropriately with
19 him?

20 A I did not.

21 Q Did you ever give him massages as he has described?

22 A No, sir.

23 Q Did you ever touch his penis?

24 A No.

25 Q Any of his private area?

1 A No, sir.

2 Q And likewise, did you ever have him touch you in a
3 private area?

4 A No, sir.

5 Q And did you ever have -- did he ever have inappropriate
6 contact with you?

7 A No.

8 Q So what he testified to do you know anything about as
9 far as sexual activity?

10 A I do not.

11 Q You said that the parameters of your relationship were
12 about what he testified to, 2005, 2006?

13 A Yes.

14 Q Did you continue to see him even after the 2000, 5th or
15 6th grade?

16 A We did.

17 Q It just didn't stop?

18 A No, sir.

19 Q And during that period of time what kind of
20 relationship did you have?

21 A It was close. It stayed like my brother.

22 Q But did he spend the night anymore?

23 A On occasion, yes, sir. As he got older he started
24 having his own friends that he hung out with a little bit more
25 than he did with me.

1 Q And what year did you move from your mother's house?

2 A I moved in 2004 when I bought my first house.

3 Q And that was on what street?

4 A On Egret Court in Rock Hill.

5 Q All right. And then of course you got married. Or you
6 met Cat, correct?

7 A I met my wife, Kathryn.

8 Q And what year did you met her?

9 A We started dating somewhere around like '05, '04.

10 Q So the relationship wasn't terminated. Did he come
11 over as often during that period of time?

12 A Once I moved out he came over on I think a couple of
13 occasions before his 16th and 17th birthdays that I hosted for
14 him.

15 Q All right. Now you graduated high school what year?

16 A '99.

17 Q Let me ask you this, was your relationship with him a
18 totally open relationship?

19 A Define open please.

20 Q Was there any secrets? Any type of concealment again I
21 guess is the best word?

22 A No, sir.

23 Q Was there anything to concealed?

24 A No, there wasn't.

25 Q And were you available if anybody ever wanted to

1 question you about anything that he may have said happen?

2 A Uh-huh.

3 Q And nobody ever did, did they?

4 A No, sir.

5 Q The -- so you graduated high school what year?

6 A '99.

7 Q And were you toward the top of your class? Were you a
8 good student?

9 A I was.

10 Q Did you finish in the top 20 I believe?

11 A I do believe, yes, sir.

12 Q And how many were in your class?

13 A Well over three hundred. I couldn't tell you specific
14 numbers.

15 Q And what was the degree you got?

16 A In high school I went through a program called the
17 international baccalaureate which is a program like AP, if
18 you're familiar with that. The idea behind IB program was that
19 you could travel internationally and pick up school from if you
20 were one country you could pick up one IB program in a different
21 country.

22 Both my parents were Spanish teachers so the idea of being
23 able to pick up if they decided they wanted to travel somewhere
24 for research or something that was something that really
25 appealed to my family and me and it was a very rigorous program

1 to study in high school.

2 Q Did you get the Palmetto Scholarship?

3 A I did.

4 Q What did that allow?

5 A That allowed me to go any instate school for free.

6 Q And did you -- where did you go?

7 A I applied to one school, USC, and got in the Honor's
8 College there. Columbia.

9 Q What is the Honor's College?

10 A The Honor's College is a select kind of smaller group
11 of students and specific classes that are available at USC.
12 Most of the classes are taught by experts in the field. As an
13 example, I was taught by a marine biologist course by one of the
14 only women that had ever been in Alvin Two submarine. So lots
15 of very in depth courses at the Honor's College.

16 Q Now, let's go back for a moment to when witness 1 had been
17 in 6th grade. So you had been eight years advanced from that?

18 A Yes, sir.

19 Q So you would have already been in USC?

20 A Yes, sir.

21 Q Did you continue to see the V. family after you
22 went to USC?

23 A I would come home on weekends. Sometimes I had in some
24 semesters I had Friday off so I might drive home on a Friday
25 morning and in some cases picked him up from school.

1 Q And did he ever have an occasion to come down to USC to
2 spend some time with you?

3 A There was one occasion that I remember that he came
4 down and spent the weekend down at USC.

5 Q So, the relationship didn't end in his 5th grade or 6th
6 grade year or in 2005, 2006, it continued on?

7 A Yeah. It kind of tapered off once he went down to
8 college. At that point I was very busy with my career. He
9 moved down to Charleston so I wasn't really seeing as much of
10 him at that point.

11 Q He was going to the College of Charleston?

12 A Yes, sir.

13 Q So when you were at Carolina you still would see them.
14 Still would talk to them?

15 A Uh-huh.

16 Q And still see him and talk to him?

17 A Yes, sir.

18 Q When you were at Carolina did you participate -- what
19 kind of program was it that you actually participated in?

20 A I got my bachelor of science in computer science down
21 there and I think the thing that probably effected my career the
22 most was I got a job in computer science department helping
23 manage all the systems and stuff that ran their computers. That
24 kind of thing.

25 Q And that was what at the -- where was that particular

1 job?

2 A In the computer science department.

3 Q Okay. And you were working was it a special project
4 you were working on?

5 A That job started off as kind of fairly simple student
6 intern thing and my boss very quickly realized that I had a
7 drive to do more. Within the next year or so a lot of the
8 professors that had pet projects would have me administer these
9 systems. These were one hundred thousand dollars or more
10 systems that they gotten on grants. Anywhere from parallel
11 computing clusters to brand new processing chips that they were
12 trying to develop.

13 Q So you got pretty fairly well educated in the computer
14 area?

15 A I was very lucky to have that opportunity. Yes, sir.

16 A At that time computer science was basically -- what
17 were the basic courses?

18 A Basic programing, but I had everything from computer
19 architecture to computer design to programing. Various levels,
20 and various languages and techniques.

21 Q And what year did you graduate USC? I'm sorry, I
22 already asked you that.

23 A 2003.

24 Q And where did you get your first job?

25 A My first job was York County Government for the IT

1 department as webmaster there.

2 Q And how long did you work there?

3 A I stayed there about three and a half years.

4 Q And what were you doing there?

5 A I started off as a webmaster just in charge of the York
6 County Gov.com website and fairly soon after that started taking
7 over more and more responsibilities of the county.

8 Q And how long did you stay there?

9 A About three years.

10 Q And after the York County job that you got where did
11 you go to work?

12 A I was made an offer for a local company here called
13 Sturgis Web Services that does online taxes. So if you pay your
14 taxes on line that's the company that I work for.

15 Q And when did you get that job?

16 A That was 2006 I think.

17 Q Are you still employed at that job today?

18 A I am. I still work there.

19 Q During your college years did you ever start
20 volunteering at a place called York Place?

21 A Yes.

22 Q What was York Place?

23 A York Place was an Episcopal home. Started off as an
24 orphanage a long time ago and it was owned by the Episcopal
25 Church and after they saw that there was a need for a

1 residential treatment center. They converted that orphanage
2 over to a treatment center for kids of all ages. The youngest
3 they took was about five and the oldest would have been about
4 16.

5 Q And was that volunteered based?

6 A It was.

7 Q And how long did you do that?

8 A I started off in college originally, coming home on
9 weekends and I had a young man that I volunteered with there and
10 in the end I -- I should clarify. These kids -- York Place is
11 essentially one step away from hospitalization for most kids
12 that are there. These are kids that have been sexually abused,
13 physically abused, pretty much anything that can happen to a kid
14 that's bad there will be some example of a kid that's been at
15 York Place.

16 So, the young man I was working with I think had been
17 physically abused. They never went into details and I didn't
18 want to hear them. But I went to give him a high five and he
19 cringed because he thought I was going to hit him. It was so
20 built into him that he couldn't get that out of his mind. So I
21 realized that I was too young and too immature to stay
22 volunteering there and I stopped.

23 Q How old were you at that point?

24 Q Probably 20 -- 19, 20.

25 Q So emotionally you were having a hard time with it?

1 A Yes, sir.

2 Q Did you ever go back and work and volunteer there?

3 A I did. Once I started working at York County
4 Government which is about five minutes away from York Place I
5 felt a call to go back and I called up the volunteer coordinator
6 and she welcomed me back with open arms. And in the time I was
7 there up until my first child was born I probably volunteered
8 with eight or nine little boys of varying ages.

9 Q Did you ever have any complaints from anybody?

10 MS. JOYNER: Your Honor, I object.

11 THE COURT: Overruled. I don't understand the
12 basis.

13 MS. JOYNER: Well, he's asking him whether he had
14 any complaints from other --

15 THE COURT: I understand.

16 MS. JOYNER: -- and I think that's inadmissible.

17 THE COURT: Overruled.

18 A No, sir, I never had any complaints. In fact my wife
19 was a volunteer coordinator there and we met there.

20 Q That's where you met?

21 A Yes, sir.

22 Q Was there a time there that you thought about adopting
23 a child?

24 A There was a little boy named Travis. He was about ten.

25 Q And what happened with that?

1 A I went through the whole process of becoming DSS.
2 Everything from home visits to classes, to interviews, and in
3 the end when I started the process I talked with my priest. I
4 talked with his therapist. I talked to some of the other staff
5 that I knew at York Place and they all told me to go through
6 with it. But in the end he was selected to go to a different
7 family by DSS.

8 Q And how did you feel about that?

9 A I was devastated.

10 Q You were counting on the adoption?

11 A I had put myself out there and just wasn't -- I wasn't
12 ready to be rejected like that.

13 Q Was it the other family was further along in the
14 adoption process?

15 A Yes, sir. DSS actually after that continued to send me
16 -- they sent me two or three different bios of other boys that
17 were looking to be adopted and I just I wasn't interested in
18 adopting just as a whole. I was interested in adopting this
19 little boy.

20 Q When you were in high school and college did you have a
21 group of friends? Was there a social group that you had?

22 A I did. It was a very small group of us. Two brothers
23 and another guy. It was the four of us that hung out.

24 Q Was Cat in your social group as well?

25 A When Cat met that group of friends through me and we

1 all kind of became close and hung out sometimes.

2 Q And these were people that you socialized with and you
3 were at each over homes, that kind of thing?

4 A Yes.

5 Q Was it a close-knit group?

6 A It was. It was very close.

7 Q Let's talk about the church. What church were you a
8 member of?

9 A I was essentially born into the Church of Our Savior.
10 My parents were attending there before I was born and that's
11 where I grew up.

12 Q And tell the jury about what kind of activities did you
13 do at church? Were you pretty involved in the church?

14 A Starting about six years old I started in the kids
15 choir there. I had some very good choir directors that taught
16 music and singing and made me the musician that I am today.
17 After that, I was the youngest person to ever join the adult
18 choir. I got out of the kids choir and went directly into the
19 adult choir after my voice changed. I was probably 12 or 13 at
20 that point and then kept singing in the adult choir until I went
21 down to USC where one of my old choir directors was and I
22 started singing in his church in Columbia.

23 Q Did you also learn to play the piano during that period
24 of time?

25 A I did. I started piano when I was six or seven.

1 Q What other positions did you have in the church as a
2 young person, young man?

3 A The choir took up all my time as a youth. So the youth
4 group didn't really exist at that point. But after I got back
5 from college and I started my career and all that, once we hired
6 a new youth minister she invited me. She saw that I was working
7 with the kids choir so I went back to that and she saw that I
8 was very good with youth at that point. She invited me to start
9 working with the youth group itself.

10 Q Let me go back one minute before I move on. Go back to
11 *witness one* for a moment. Whether it be 4th, 5th, 6th grade
12 or even after 6th grade, or after whatever line of demarcation
13 people talk about, was there ever any inappropriate contact
14 between you and him?

15 A No, sir.

16 Q None?

17 A None.

18 Q So you deny all the allegations?

19 A I do.

20 Q Now, let me -- was there an occasion when he came to
21 you. You had already moved to have a birthday party at your
22 house?

23 A Yes, sir.

24 Q And where were you living at that time?

25 A I was at ' was Egret Court.

1 Q And what birthday would that have been?

2 A I think it was his 16th birthday.

3 Q And we have a couple of photos. Prior to that, did you
4 also help him with his remodeling his stereo system?

5 A I did.

6 Q And on his 17th birthday did he ask you whether or not
7 he could have a party at your house?

8 A Yes, sir.

9 Q Was that unusual?

10 A No. We weren't seeing as much of each other at that
11 point but I was perfectly happy to.

12 Q But you were not surprised by the fact that he would
13 reach out to you to want to have a birthday?

14 A No.

15 Q Did you attend his graduation?

16 A I did.

17 Q What was the circumstances surrounding that?

18 A I believe I received an invitation.

19 Q Who do you recall you got an invitation from?

20 A From *witness one*.

21 Q Pardon?

22 A From *witness one*.

23 Q Your wife was a teacher there?

24 A Not at that point, no, sir.

25 Q Later on?

1 A Yes, sir.

2 Q All right. So after you were participating in the
3 youth choir and you now are an adult, what other kinds of
4 positions did you have in the church?

5 A So while the Priest Mary Cat was there I assisted her
6 with many youth events. During my time while she was still
7 there there's the diocese is the controlling body for the State.
8 So there's an upper half of South Carolina is a diocese. The
9 lower half of South Carolina is a diocese. So the diocese has a
10 church wide leadership and in that group there's a group called
11 the DYLC, Diocese Youth Leadership Counsel. It's a group of
12 high schoolers with four or more adults. Normally no more than
13 six or so. Eighteen plus high schoolers that run and manage all
14 diocese youth events for youth. Youth being anywhere from 5th
15 grade up to high school.

16 So new members are elected or are suggested by the youth in
17 the committee and whether that is other youth that are coming in
18 or other adults that they want. So after spending some time at
19 some youth events that Mary Cat had me assist with, these other
20 high schoolers saw that I was really good with youth and felt
21 that I was called to work with them and they extended an
22 invitation to join DYLC.

23 Q And at some point did you become the youth director?

24 A Never in an official capacity. So when Mary Cat left
25 she took a job in New York.

1 Q Let me ask you, Mary Cat was a priest.

2 A Mary Cat was a priest, yes. In the Episcopal Church we
3 have both male and female priests.

4 So the last mission trip that she went on she and I had a lot
5 of conversations about what would happen to the youth and she
6 finally said Andy why don't you just try taking it over. No one
7 else in the church had step forward and I had sunk years at that
8 point into the youth and I didn't want to see the program fail.
9 This was all about the same type that I was getting married so I
10 was a little concerned about it. But for about two years I ran
11 all youth activities, again middle school and up. There were
12 other staff that managed Sunday school and that kind of thing.
13 But I would run events at the church. About once a month if not
14 more we led services at the church. We had lock-ins at the
15 church which was essentially a sleep over at the church where
16 there would be other adults and the youth. We did mission
17 trips. We did diocese events down to Camp Gravitt and any kind
18 of event like that for youth.

19 Q So while you were at the church did you have occasion
20 to met the C family?

21 A I did.

22 Q And you obviously were a member prior to them being a
23 member?

24 A Yes.

25 Q And would you describe your relationship with the

1 parents in that case? The situation when you finally met them?

2 A When I first met them at least victim1 was in the choir.

3 I remember victim2 standing outside wanting to join. And as I

4 started to get to know them I became very close with them.

5 Q And so you would describe your relationship as fairly

6 close?

7 A Yes, sir.

8 Q And even before you moved did you see them?

9 A I did. I saw them most Sundays. I was at church every

10 Sunday so if they were there I would see them.

11 Q And about when would victim1 have joined choir? How old

12 do you have to be?

13 A I think kids had to be seven or eight. I don't

14 remember exactly.

15 Q All right. But eventually did he join the choir?

16 A Yes, sir.

17 Q Is that before or after you moved?

18 A That was before.

19 Q So, you became friendly with them and socially

20 interacted with them?

21 A As I did with other families at that church.

22 Q And I assume some of those families were there as long

23 as your parents were there?

24 A They were or longer, yes, sir.

25 Q So were you living at your parents house at that point

1 when you met the C ?

2 A Yes, sir.

3 Q And did your parents met the C :?

4 A They knew them through church, yes.

5 Q Did the C ever come over to your parents' house
6 during that period of time?

7 A I don't believe so, no.

8 Q You decided to move. What was reason that prompted you
9 you to go ahead and move?

10 A I had a career. I wanted my independence. I didn't
11 want to be under my parents roof. I had started saving up as
12 much money as I could on the salary that I made in York County
13 and started looking for houses.

14 Q And did you look at a number of houses?

15 A I looked all over York County. My mom and I went up to
16 Charlotte to look at some apartments up there. I was looking
17 for something close to my church. Something close to my
18 parents. Something close to work and when I finally found the
19 house on Egret Court it fit those requirements. It was a
20 smaller house in a larger neighborhood so it was a good deal. I
21 knew it was not going to be a forever home for me. It was
22 something I was hoping to start a family and move out. So it
23 was house I could afford and it fit everything that I was
24 looking for.

25 Q Did you know when you looked at the house that the

1 C were living in that neighborhood?

2 A I did.

3 Q Was that just an added benefit?

4 A It was a plus knowing someone there.

5 Q Were you close to your work?

6 A I was about 15 minutes away from the county.

7 Q How about your parents?

8 A I was about five minutes away from my parents.

9 Q Walking distance?

10 A Yes, sir.

11 Q Describe the house if you would?

12 A It was a one story, 1500 square foot, three bedroom,
13 two bath. Pretty standard started house.

14 Q So you moved into that house what year, do you
15 remember?

16 A 2004, I believe.

17 Q And what was the year you believe you met the C. s?

18 A 2003 is when ~~Uichm1~~ joined the choir.

19 Q So it was a pretty short period of time there. When
20 you moved in what kind of relationship did you and the C
21 have?

22 A I would say very close. Keith would be out cooking and
23 some times he might invite me over for dinner. I was not a cook
24 or else I would have invited them over for dinner. They came
25 over to watch Superbowl once or twice. I would go over there to

1 watch movies. We'd watch TV together.

2 Q Did you like the C family?

3 A I did.

4 Q The parents?

5 A Yes.

6 Q And Victim one?

7 A Yes.

8 Q And Victim two?

9 A Uh-huh.

10 Q Now, what kind of interaction would you have with --
11 let's talk about Victim 1 when you were at your house? You talked
12 about -- or somebody talked about the garage door. What was
13 that all about?

14 A Fairly early on after I moved in there the boys would
15 be out playing in the cul-de-sac. It was kind of a -- the
16 neighborhood was mainly an older neighborhood so there weren't
17 that many families with kids there. But they would come over.
18 See me pull in from work and ask if they could come over and I
19 finally just told the C , if the garage door is open
20 they're ever welcome to come over. If the garage door is closed
21 then I either need my privacy or I'm a not there. That kind of
22 thing.

23 Q What kind of thing would Victim 1 do when he came over?

24 A We'd play games, watch movies, talk, play chess.

25 Q Was there a bigger gap in the age difference between

1 you and Victim 1 then it was between you and Victim two?

2 A Yes, sir.

3 Q So what did you feel like your relationship was with
4 Victim one?

5 A The C and I once discussed like I was a member
6 of their family. So I couldn't really tell you exactly how I
7 would describe that relationship, but it was close.

8 Q It was a close relationship?

9 A Yes.

10 Q So the boys would come over, Victim 1 or Victim 2 either
11 together or separate?

12 A Uh-huh.

13 Q Is that correct?

14 A Yes, sir.

15 Q And so when they would come over what kind of
16 activities were there?

17 A Again, video games, movies, talking, chess, you know,
18 playing around.

19 Q Did you teach them chess?

20 A I did. We did some projects together. I was really
21 into Halloween. So we put spiderwebs all over everything.
22 Built a spider out of cardboard and stuff and that kind of
23 thing.

24 Q Let me ask you this. Did you ever do or was there
25 every anything inappropriate with Victim one?

1 A No, sir. No, sir.

2 Q You heard him testify about various things that he
3 allege you did and in fact you're charged with, four counts of
4 lewd act?

5 A Yes, sir.

6 Q Which included masturbation and massages?

7 A Yes, sir.

8 Q Did you ever touch his genitals?

9 A No.

10 Q Did you ever have him touch your genitals?

11 A No, sir.

12 Q There is also two counts of criminal sexual conduct,
13 second degree?

14 A Yes, sir.

15 Q And he described two events of fellatio. Did you ever
16 perform fellatio on him?

17 A No, sir.

18 Q Did you ever ask him to perform fellatio on you?

19 A No, sir.

20 Q Do you deny all the events that he talked about?

21 A I deny all the sexual events he talked about.

22 Q That's what I meant. You deny all the sexual events
23 and including but not limited to the ones that he testified to,
24 were there any inappropriate sexual events?

25 A No, sir.

1 Q There was some testimony about you building an attic?

2 A Yes.

3 Q Will you tell us about that?

4 A So, I actually built the attic when the adoption of the
5 little boy from York Place fell through. As I said I was
6 devastated. I was very driven in my career but I would come
7 home and I just sit there and not know what to do with myself
8 and so I've always been kind of good with my hands building
9 things. That kind of thing. So I kind of wanted a man cave.
10 My house didn't have any space for that, so I got into my head
11 to finish off my attic.

12 Q And what did you do?

13 A As has been described, I started finishing off the
14 attic itself. Insulated everything. Put up walls. Pulled the
15 electrical up there. Built the frame of the bed and then once I
16 had everything to a point where it was fairly airtight I cut the
17 hole in the ceiling in my office and built the ladder.

18 Q So the purpose of it was what?

19 A A man cave. A place that I could sleep. It was
20 incredibly dark up there. If I had worked a late night at work,
21 with IT some times you are having to be maintenance in the wee
22 hours of the morning. So I could come home and go up there and
23 didn't know if the sun was shining or not and go to sleep.

24 Q What year did you start building?

25 A '07.

1 Q And what year was it completed?

2 A I want to say late 2008. It was a lot of work.

3 Q At various times did you have people up there?

4 A Yup.

5 Q Was Victim 1 ever up there?

6 A Yes, sir.

7 Q Anything inappropriate happen up there?

8 A No, sir.

9 Q Did anything inappropriate happen in your bedroom?

10 A No, sir.

11 Q And you know what I'm talking about inappropriate, any
12 touching?

13 A No.

14 Q All right. Either way?

15 A No, sir.

16 Q At some point did your future wife move in with you?

17 A She did.

18 Q And when was that?

19 A I want to say 2008 timeframe.

20 Q Okay. And when were you married?

21 A July 25th of '09.

22 Q Now, were you still having a very close relationship
23 with the C. at that time?

24 A I did.

25 Q And did you ask to spend the night at their house the

1 night before your wedding?

2 A I did.

3 Q You heard what victim1 testified to, went into the guest
4 room there or victim2's room. I don't know what it was at that
5 time, but that you performed fellatio or he performed it on you
6 or you performed on him? Actually I don't remember which one
7 that was, but was there any fellatio performed that night?

8 A No, sir.

9 Q Do you know anything about what he was talking about
10 any kind of sexual activity in his own home?

11 A There was no sexual activity in his own home.

12 Q Do you know where his parent's bedroom was?

13 A It was right down the hall.

14 Q The next morning you were -- you went back home?

15 A After my wife was finished getting ready for the
16 wedding.

17 Q And you got married on that day?

18 A I did.

19 Q And was Keith in your wedding?

20 A He was.

21 Q Were the boys invited?

22 A They were invited. I think they did hand out programs
23 or something like that.

24 Q Were the V invited?

25 A Yes.

1 Q So, this was in 2009?

2 A Yes, sir.

3 Q All right. So at point Cat was living in the house
4 with you?

5 A Kathryn.

6 Q Kathryn?

7 A Yes.

8 Q Was living in the house with you?

9 A Uh-huh.

10 Q And did you continue to see the C kids?

11 A After we got married not as much, but yes, we's still
12 see them. I think we went over there for Christmas at some
13 point. They probably came over to our house, but not as
14 frequently as before I got married.

15 Q Do you remember inviting them to Daufuskie Island?

16 A I do.

17 Q And the date I think some time in 2005? You're not
18 sure?

19 A No, I'm not positive.

20 Q But the family went with you?

21 A Yes, sir.

22 Q Did anything inappropriate happen at Daufuskie Island?

23 A No, sir.

24 Q What do you recall about the events that had been
25 described about in your bedroom? Do you remember anything about

1 that event?

2 A I do. I remember it very clearly. That night, the
3 night before Victim 2 had woken up with night terrors and I woke up
4 to someone screaming in the house and I was really -- I won't
5 say terrified but I didn't know what was going on. Came out of
6 my room and saw that Victim 2 was screaming right as Keith and Susan
7 were coming up the stairs. The next morning I was sitting in
8 bed. I just hadn't decided to get up yet and Victim 1 walked into
9 the room and sat down on the bed.

10 Q Did one or the other of his parents come in?

11 A Yes, sir.

12 Q Was anything happening?

13 A The door was open. There was nothing happening. He
14 was just sitting there talking.

15 Q Did anything of a sexual nature happen?

16 A No.

17 Q At all?

18 A No.

19 Q And I think after that trip to Daufuskie Island there
20 were some pictures that were taken by Mr. C or Mrs.

21 C ? I don't know which one.

22 A Yes, sir.

23 Q But those are of the trip to Daufuskie Island, is that
24 correct?

25 A Yes, sir.

1 Q Okay. And up in the -- let's talk about the attic for
2 a second. Let me go back. Did you participate in the chess
3 club?

4 A I did.

5 Q And you were already out of school obviously?

6 A Already owned my house.

7 Q And who invited you to participate in the chess club?

8 A My recollection is that the C boys were telling
9 me about it and they were looking for additional leaders because
10 they didn't have enough adults and so the introductions was made
11 between me and the adults that were already leading it.

12 Q And did you go over to the school to conduct chess
13 classes?

14 A Yes. I pretty much could walk out of my back door,
15 over a berm and cross Highway 5 to get there.

16 Q And how long did you do that?

17 A At least a couple of years.

18 Q The attic, did you have rope up in the attic?

19 A I did.

20 Q And were there any kind of eye hooks anywhere in attic?

21 A There were.

22 Q Okay. As embarrassing as it may be, what was the
23 purpose of that? What were you going to do with that?

24 A My finance at that point, Kathryn and I were talking
25 about something that we could make to make our sex life more

1 interesting and we discussed it. But never ended up using it.
2 Neither of us were -- after discussing it we weren't okay --
3 comfortable with doing it.

4 Q Did you ever tie [redacted] up --

5 A No.

6 Q -- as he described?

7 A No.

8 Q Were the ropes ever used?

9 A No.

10 Q But you admit that something you and your wife had
11 contemplated?

12 A Yes, sir.

13 Q Okay. Did your wife go up to the attic as well?

14 A Yeah.

15 Q All right. So after you were married did you continue
16 your relationship with the C [redacted] family?

17 A Uh-huh.

18 Q And the V [redacted] family?

19 A By that point ~~witness 1~~ had gone to college. Cat had her
20 own life. So I would see them on occasion but nothing like I
21 did when I was in high school.

22 Q Tell us about the mission trips for the church?

23 A Yes. That was one that Mary Cat had some connections
24 down to a church in Augusta, Georgia, that was a combination of
25 church and school. It was a very large Episcopal Church down

1 there. And it's a mission trip run by Homeworks. They have
2 missions all over South Carolina, mainly assisting either
3 building homes or fixing homes. So the first time I went victim 1
4 was not old enough to go. So I went with I think two middle
5 school youth males and then I think one or two girls. So Mary
6 Cat went as a chaperone for the girls and I went as a chaperone
7 for the boys.

8 Q How often did you do that?

9 A I did that for probably six years running. Six or
10 seven years running.

11 Q And how often a year did that missions happen?

12 A Every year around June.

13 Q And did victim one go with you on a number of those
14 mission trips?

15 A He did.

16 Q And did that go -- that extended for those six or seven
17 years that you're talking about?

18 A Yup. The way they ran it you could be -- I want to say
19 like a rising 6th grader to a rising 9th grader. So you could
20 potentially go four years. So I believe he attended all four
21 years and then I went on two more after that with other youths.
22 Every time we went we took five or more youths of varying
23 genders.

24 Q And did you -- tell us about the design team?

25 A So when I was invited and accepted in DYLC, as I said

1 they are in charge of all events. There are specific events
2 that are open to more than just the DYLC members. And so, those
3 events anyone that has gone to a youth event for the diocese can
4 then be essentially picked to be on a design team. And those
5 design team meetings were normally before every event. Two or
6 three meetings Aikin. Aiken is the geographic center of upper
7 South Carolina.

8 Q What was in Clinton?

9 A I'm sorry, Clinton. You're right. Aikin is where the
10 camp itself is.

11 Q So the meetings were around the Aikin area, Gravitt.

12 A The retreats were in Aikin, Gravitt area.

13 Q And the design groups were in Clinton?

14 A Yes, sir.

15 Q And did ~~you~~ ride with you down to Gravitt?

16 A Yup.

17 Q Did he ride back home with you?

18 A Yup.

19 Q Did he ride with you to Clinton for the design group?

20 A Yes, sir.

21 Q And back?

22 A Uh-huh.

23 Q And you said that continued -- that would have been
24 what age were you at already at that point?

25 A I was probably -- I was probably 24, 25, 26. All the

1 way up to my thirties.

2 Q And did you ever go on ski trips with a bunch of youth?

3 A Yes, sir.

4 Q And where were the ski trips?

5 A We went to Winterplace one time. We went to Snow Shoe
6 Mountain I think. That was one that Mary Cat was very good at.
7 She was able to find accommodations at a state park. So we
8 would rent out two or three cabins depending on the number of
9 youth we were taking and number of adults with us. So we would
10 stay at the state park and then go off to whatever skiing,
11 snowboarding place we were going to.

12 Q Did victim 1 go on those trips with you?

13 A Yes, sir.

14 Q And did you drive?

15 A I drove the church bus.

16 Q And did you attend any graduations --

17 A I did.

18 Q -- for victim one?

19 A Yes.

20 Q Which one?

21 A Just his high school graduation. I guess I went to his
22 5th grade graduation as well.

23 Q Pardon?

24 A I believe I went to his 5th grade graduation as well.

25 A Repeat.

1 Q Let me ask you step down for a minute because I don't
2 have each one of those -- whatever it's called to show the
3 projector. Come on down. I am borrowing the solicitor's.

4 MR. SWERLING: I guess these need to be marked.
5 Do you any objection to these?

6 THE COURT: Without objection?

7 MS. JOYNER: Without objection.

8 (WHEREUPON, Defendant's Exhibit 7-16 were received
9 in evidence.

10 Q We will go through these pretty quick. All right. What
11 is that a picture of?

12 A That the beginning construction in the attic room.

13 Q That's Defendant's Exhibit 6. Number 7, tell the jury
14 what that is a picture of?

15 A A more finished picture of the attic room.

16 Q Are there dates on the side of those pictures?

17 A Yes, sir.

18 Q How are those imprinted on the pictures?

19 A Any time you take a digital picture there's specific
20 information metadata that is encoded into the image. It's
21 called EXIF data and one of the things that's encoded in is the
22 date that the image was taken.

23 Q And what is the date on this?

24 A It says 10-30-2007.

25 Q Does that square with your recollection?

1 A Yes, sir.

2 Q Exhibit number eight?

3 A That is a very, very early picture of the construction.

4 Q And what is date on that?

5 A 2-17 of 2007.

6 Q So it was it was under construction?

7 A Very much under construction.

8 Q There is Defendant's Exhibit Number ten. What is that?

9 A It's a screen grab of the church news, announcing
10 victim one 's confirmation.

11 Q And were you his sponsor?

12 A I was.

13 Q And what did that encompass?

14 A Multiple meetings with the priests. We had to fill out
15 a workbook together. Together and separately. A whole bunch of
16 knowledge about church history, church practices. That kind of
17 thing.

18 Q And how old would he have been when he was confirmed?

19 A In his mid to late teens. I don't remember the exact
20 age.

21 Q Defendant's Exhibit number 9. Was does that represent?

22 A Picture of the youth group.

23 Q Okay, and where are you?

24 A I'm the one that is covering his face because I didn't
25 really like having my picture taken. In the back, black

1 t-shirt.

2 Q All right. And this is the youth group from the
3 church?

4 A Yes, sir.

5 Q And is anybody -- victim 1 and victim 2 in this picture?

6 A Victim 1 is the one poking his head over the kid throwing
7 the peace sign in the black hat.

8 Q This is Defendant's Exhibit Number 11. What is that?

9 A That's a picture of the children's choir in 2004.

10 Q And are either one of them in that picture?

11 A Yes, victim 1 is the farthest on the screen left wearing
12 the white cassock.

13 Q What is date of this picture?

14 A 2004.

15 Q This is Defendant's Exhibit Number 12. What does this
16 represent?

17 A This is was a whole bunch of kids playing chess at that
18 chess tournament at my house. They're were kids upstairs. There
19 were kids downstairs playing chess games along with their
20 parents.

21 Q And did the C come over?

22 A They did.

23 Q And were some of the tables set up in attic?

24 A Yes, sir.

25 Q What is the date on this timestamp?

1 A You to move it a little bit for me. 5/31/2008.

2 Q Does that square with your recollection?

3 A Yes, sir.

4 Q This is Exhibit Number 13, what does that represent?

5 A That is a sub-woofer that I was assisting ~~witness~~ in
6 making or making the box.

7 Q What is a sub-woofer?

8 A Sub-woofer is a speaker that would enhance bass
9 frequency from the car.

10 Q And what era would that have been? What year?

11 A There is a date on there.

12 Q What's the date on that time stamp?

13 A 2005,

14 Q Number 14. What does this represent?

15 A I believe that was his 16th birthday.

16 Q Which one is him?

17 A He's the one in the foreground of the picture.

18 Q And this was where?

19 A This was at some place that he found that was a laser
20 tag or something like that. It was not -- I think it was kind
21 of an indoor sports arena. They had all kind of different
22 stuff.

23 Q And then did you eventually go to your house for the
24 party?

25 A Yes, sir.

1 Q And what date was that?

2 A It says of 2006.

3 Q Let me show you Defendant's Exhibit 15. What does that
4 represent?

5 A That was after we come back to my house.

6 A That same party with *Witness one*

7 A Yes, sir.

8 Q And number 16, what does that represent?

9 A You have to show me the date, but I believe that was --
10 this one is the 16th birthday. The other one was the 17th
11 birthday. The year is 2005 instead of 2006.

12 Q And did he have another birthday party at your house
13 after that?

14 A It was just the 16th and 17 birthday parties.

15 Q Just the two of them. Let's me ask you this. Are you
16 uncircumcised?

17 A I am.

18 Q And I'm sorry I have to ask you that. Is it possible
19 that *witness 1* or *victim 1* at some point saw you naked?

20 A I don't have a specific recollection of *witness 1* seeing
21 me naked. I do have a specific recollection of *victim 1* seeing me
22 naked.

23 I had been mowing my yard that day and he was out and about
24 and I remember him asking if he could come over. I said I'm
25 going to need to go inside and take a shower so give me a little

1 bit and it was fine for him to come over after he gave me some
2 time. So I ended up taking a shower and when I got out I saw he
3 was in had I room and I very quickly covered up. Told him to go
4 out into the living room.

5 Q So it's possible that he saw you that day?

6 A Yes, sir.

7 Q And do you have any specific recollection of when
8 ~~Witness~~ I might have see the fact that you were uncircumcised?

9 A I don't. It wasn't -- my friends knew. It was
10 something we had talked about so maybe he overheard us or I may
11 have mentioned it to him at some point.

12 Q All right. Let me ask you one other question. Was
13 there anything ever inappropriate or sexual contact at your
14 parents' house?

15 A No, sir.

16 Q With ~~Victim~~ one?

17 A No, sir.

18 Q All right. Go ahead and answer any questions that the
19 solicitor may have.

20 A Okay.

21 THE COURT: Cross examination.

22 MS. JOYNER: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MS. JOYNER:

25 Q Mr. Castillo, let me show you some of the same

1 photographs that Mr. Swerling showed you. And before I start
2 that let me ask you, about how old was victim 1 did you say that he
3 came in to your house and might have seen you?

4 A Probably nine or ten.

5 Q And why do you think it was about nine or ten?

6 A Because I remember him just at that age. I don't have
7 a specific timeframe of when that was.

8 Q But victim 1 was allowed in your bedroom.

9 A He was allowed in my house. The only thing I could
10 figure out was he looking for me to see where I was.

11 A And you were walking around naked.

12 A No, but I gotten out of my shower.

13 Q And is your bathroom is it en suite?

14 A Yes, ma'am.

15 Q So why do you think that victim 1 had seen you naked?

16 A Because I walked out of the shower and I looked out of
17 the door in my bathroom into my bedroom and saw him there.

18 A And you of course at that point you immediately called
19 Susan or Keith C. and you said, hey, a little issue.

20 A I did not. I was embarrassed.

21 Q Okay. Now going back, you were talking with Mr.
22 Swerling a little bit about birthday parties that witness 1 had at
23 his house. You can look down at your monitor. This is
24 Defendant's Exhibit 6 and is the date on that of
25 2007?

1 A Yes, ma'am.

2 Q So at that point you already had a floor and a ladder,
3 correct?

4 A Yes, ma'am.

5 Q And you already had some of that black stuff on the
6 ceiling?

7 A Uh-huh.

8 Q And I am going to show you number seven, which has the
9 same date, correct?

10 A Yes, ma'am.

11 Q And you already have the bed installed in that picture,
12 don't you?

13 A It looks like it, yes, ma'am.

14 Q Okay. And you already have the coffee table up there,
15 that's October of 2007?

16 A Yes, ma'am.

17 Q Okay. Do you recall the C giving you some
18 carpet?

19 A I do.

20 Q Did you use the carpet?

21 A I didn't use the carpet itself but I did use some of
22 the padding.

23 Q What did you use the padding for?

24 A Around the bed.

25 Q Around the bed. So if we go to the photograph of the

1 finished product there is going to be some of the C 's
2 padding?

3 A You wouldn't be able to see the padding itself but the
4 upholstery over it.

5 Q Oh, so you had upholstery over the top of it. This is
6 Defendant's Exhibit 16 and I'm correctly pointing that's ~~witness~~
7 ~~one~~ with the cap?

8 A Yes, ma'am.

9 Q And this is the date on this is May 26th of 2005?

10 A Correct.

11 Q Was that the date that it was created?

12 A That was the day the picture was taken, yes, ma'am.

13 Q Who took that picture?

14 A I believe I did it.

15 Q Did you take that picture and give him that picture?

16 A I don't believe so, no, ma'am.

17 Q Okay. So that picture was Defendant's Exhibit 16. I
18 am going to put up State's Exhibit 11. You've seen that coffee
19 table before haven't you?

20 A Yes, ma'am.

21 Q And that's the coffee table that was in attic?

22 A Yup.

23 Q Okay. I am going to zoom in. And where I got my pen
24 there's a photograph that is kind of between?

25 A That's the same photo.

1 Q That's the same photo?

2 A Yes, ma'am.

3 Q So this photo that was taken originally on May 26th of
4 2005, correct, and it's included in this coffee table?

5 A Yes, ma'am.

6 Q And it was included in this coffee table -- I am
7 looking at State's Exhibit 7 -- some time after of
8 2007?

9 A Yes, ma'am.

10 Q Okay. So you choose that photograph?

11 A I choose many photographs for that table as you can
12 see.

13 Q That table is full of photographs of important things,
14 right?

15 A Yes.

16 Q So I got *victim one* ? (Pointing)

17 A Yes.

18 Q I got *victim one* ?

19 A Yes, ma'am.

20 A That's *victim one*, as Daufuskie.

21 A Yes, ma'am.

22 Q That's *witness one*

23 A Yes, ma'am.

24 Q Is this photograph down the right hand corner, my right
25 hand corner that I'm pointing at, what is that a picture of?

1 A One of ~~witness one~~ -- the other birthday party that I
2 threw for him.

3 Q Another one of ~~witness 1's~~ birthday parties?

4 A Yes, ma'am.

5 Q Okay. So that attic, the pictures that we looked at a
6 moment ago, and I'll put back up here just for a point of
7 reference; Defendant's 7 from [redacted] of 2007. There's a
8 bed. There's a futon. There's a coffee table, correct?

9 A Yes, ma'am.

10 Q And you can walk. There's a floor. And then moving to
11 Defense's Exhibit 12, the date on that photograph is May 31st of
12 2008?

13 A Yes, ma'am.

14 Q And there is a lot of progress?

15 A Yup.

16 Q Correct?

17 A Yes, ma'am..

18 Q Walls are painted. You have the ladder. You got the
19 lights.

20 Now this picture right here, Defendant's Exhibit 13. You
21 took a picture of a subwoofer.

22 A And a fiberglass box we were building for it.

23 Q And you kept that picture?

24 A I kept thousands of pictures.

25 Q And you agree that you went to Daufuskie Island?

1 A I do.

2 Q And looking at Defendant's Exhibit 4, the date that you
3 received those photos from Mrs. C , Sunday, June 19th,
4 2005?

5 A Yes, ma'am.

6 Q Presumably you received those photos close in time to
7 your trip?

8 A They came into my email on the date that is on the
9 email.

10 Q Okay. That is a really beautiful house here on page
11 five of six?

12 A I agree. Yes, ma'am.

13 Q Would you go to that house often?

14 A My aunt after she purchased it was had opened it up to
15 my family to go when he she wasn't using it.

16 Q Well, how often would you go?

17 A I probably went three or four times.

18 Q Okay. So when did your aunt purchase that?

19 A I have no idea, ma'am.

20 Q Well, was the trip in 2005 was that the first trip?

21 A No. I had been there on a couple of occasions before
22 that with my family.

23 Q With your family meaning --

24 A My mom and dad and my aunt and uncle.

25 Q So you were there may be three or four times total?

1 A I don't have specific recollection of times aside from
2 that.

3 A I want to kind of go back through, if we can. Some
4 information that you were giving to Mr. Swerling and I just want
5 to make sure I got the timeline correct.

6 So you graduate high school in 1999.

7 A Yes, ma'am..

8 Q How old were you when you graduated high school?

9 A I think I was 18.

10 Q And you went off to the University of South Carolina?

11 A Yes, ma'am.

12 Q The fall of '99. And you graduated when?

13 A 2003.

14 Q When you came back in 2003 you went to live with your
15 parents?

16 A Yes, ma'am.

17 Q And you purchased your home in June of 2004?

18 A Yes, ma'am.

19 Q Now, going backwards, what year were you in high school
20 when you starting dating Cat?

21 A It would have been '96, '97.

22 Q What grade were you in?

23 A I believe it was tenth grade.

24 Q Could it have been 11th grade?

25 A It could have been. No, no, it was in 10th grade

1 because I had a girlfriend in 9th grade.

2 Q So you're saying it wasn't 10th grade or it was?

3 A It was 10th grade.

4 Q Okay. And when you left to go off to University of
5 South Carolina you would come home pretty much every weekend,
6 wouldn't you?

7 A Not every weekend, but many weekends.

8 Q Many weekends. And many weekends your first stop would
9 be at the V 's house, wouldn't it?

10 A My first stop would be my parent's house.

11 Q Your first stop would be your parents' house?

12 A Yes, ma'am.

13 Q All right. You would visit the V 's home when
14 you were home on the weekends?

15 A Sometimes.

16 Q And you would visit ~~witness 1~~ when you were home on
17 the weekends?

18 A Yes, ma'am.

19 Q And when you were at University of South Carolina you
20 came back and you also helped volunteer at the church. You were
21 doing youth choir before you graduated, weren't you?

22 A I did.

23 Q Okay. So you would come back on the weekends to do
24 youth choir?

25 A I would come back on the weekends to sing. Sometimes I

1 would help out with youth choir but I was not as active with
2 youth choir at that point because I was in school.

3 Q So if you could help me understand. You said you did
4 it some volunteering at York Place?

5 A Yes, ma'am.

6 Q When you were 19?

7 A I was around that age, yes, ma'am.

8 Q Was that over the summer or you were coming home?

9 A If I came home I would try and go up to York Place to
10 see the young man I was volunteering.

11 Q His name was?

12 A His name was Josh.

13 Q So, you would come home from college to stop in and see
14 Josh and you quit doing that for a while?

15 A I did.

16 Q Okay. So when you graduated in 2003 you started
17 working for the county?

18 A I did.

19 Q And at that time were you dating anybody?

20 A I was not.

21 Q And you worked for the county until about 2006?

22 A Yes, ma'am.

23 Q And in between that time you started volunteering again
24 at York Place?

25 A Yes, ma'am.

1 Q So about when did you start volunteering again at York
2 place?

3 A It would have been late 2003 early 2004. No, I'm
4 sorry, 2006, 2007.

5 Q 2006, 2007. Okay. So at that time were you also
6 involved with the youth choir?

7 A Yes, ma'am.

8 Q You were also doing youth group?

9 A I was not doing youth group. No, ma'am. It would have
10 just been starting around that time.

11 Q Okay. And then you testified at some point you wanted
12 to adopt a boy name Travis?

13 A Yes, ma'am.

14 Q When was that?

15 A I couldn't tell you the exact date. I have it written
16 down but I'm not one for dates. I don't really remember the
17 month very well.

18 Q I understand that. When did you get engaged to
19 Kathryn?

20 A We got engaged 11/05/2006, I think.

21 Q You didn't get married until July of 2009?

22 A Yes, ma'am.

23 Q And so you were trying to adopt -- you were trying to
24 adopt before you were married?

25 A Yes.

1 Q Were you dating Kathryn?

2 A Kathryn and I started dating right around the same time
3 the adoption fell through.

4 Q Now, that is also around the time you started -- I'm
5 sorry, when did you and Kathryn start dating?

6 A I think it would have been around 2006, 2017.

7 Q I thought you were engaged 11/05/2006. Did I write
8 that down wrong?

9 A I think we got engaged fairly quickly. Like, as I
10 said, ma'am, I don't remember specific dates.

11 Q Okay. So that would have also have been -- you started
12 dating Kathryn around the time the adoption fell through. You
13 quickly gotten engaged and you were working on the attic the
14 same time you're having a whirlwind romance and getting engaged?

15 A I know the time tables on that. I couldn't tell you
16 exact time tables on other things.

17 Q But the attic was around the time the adoption fell
18 through?

19 A Yes, ma'am.

20 Q Okay. And the two bedrooms -- neither of the two
21 bedrooms in your house would be sufficient for a man room? Man
22 can I have.

23 A I had an office that I used where the ladder was. If I
24 was doing work from home that's where I would do it. And I had
25 a guest room for I had friend come over. Something like that.

1 Q So you had three bedrooms if you included the office?

2 A Yes, ma'am.

3 Q Okay. So at this point I am kind of getting to 2006,
4 around this time, May of -- of 2006 we got a picture of
5 witness 1's I guess 16th birthday.

6 A I want to say 2006 was his 17th birthday. So this
7 would have been his 16th. (Indicating)

8 Q This picture is 16th?

9 A Yes, ma'am.

10 Q So, you are not dating Kathryn yet?

11 A I don't believe I was, no, ma'am.

12 Q So by the time we get to Defendant's Exhibit 15, 5/24
13 of 2016 are you dating Kathryn at this point?

14 A Probably. Yes, ma'am.

15 Q And at some point right after this, we're in 2007.

16 witness 1 is going to graduate from high school and go off to the
17 College of Charleston?

18 A Okay.

19 Q And you agree that you guys kind of lost touch at that
20 point in time?

21 A Yes.

22 Q But you did stay friendly with the V 's family,
23 didn't you?

24 A I did.

25 Q And from the time that you first started dating Cat

1 they welcomed you with open arms?

2 A Cat in high school, yes, ma'am.

3 Q And you were never turned away from their house?

4 A I can't think of an occasion where I was.

5 Q And you could have shown up there whenever you wanted?

6 A I would say within reason, yes, ma'am.

7 Q Okay. So in 2017 when you lost touch with ~~witness~~ I did
8 you lose touch with the rest, Mr. and Mrs. V :?

9 A No, I still go over there on occasion just to check in
10 and see how they were doing.

11 Q And that's one of the reasons you invited them to your
12 wedding, right?

13 A Yes, they're family friends.

14 Q Okay so 2009 they're still family friends. They come
15 to your wedding, correct?

16 A Yes, ma'am.

17 Q Did they come to your rehearsal dinner or just the
18 wedding?

19 A Just my wedding.

20 Q So the rehearsal dinner was a smaller -- that was a
21 smaller thing, right?

22 A My wife is one of -- her dad is one of 12 brothers and
23 sisters so it was a pretty large family affair.

24 Q Okay. So at this point -- and I'm just going to kind
25 of go back a little bit. So at this point now its when you

1 graduate in 2003, you've been coming back and you have been
2 doing youth choir so you've met the C family at this
3 point, right?

4 A Correct.

5 Q So, I am going to put up on the screen Defendant's 11.
6 What's the date on that? Is it October 3rd of 2004?

7 A Yes, ma'am.

8 Q Is that a picture that you took?

9 A No, because I'm standing in the picture.

10 Q Okay. Sorry, your right. Who took picture? Was that
11 with your camera? Your phone?

12 A Yes, it looks like it.

13 Q Okay. So, you would have asked somebody to take that
14 picture for you?

15 A I believe Ginny actually asked somebody to take that
16 picture.

17 Q The we heard her name, Ginny Moe we heard her name.
18 She was the head of the youth choir?

19 A She's the adult in the middle.

20 Q So right there. So, am I correctly pointing to Victim
21 two, the littlest guy on the left side, my left?

22 A Yes.

23 Q And next to him who is that?

24 A That's Victim one.

25 Q So at this point to my understanding if I'm looking at

1 this photo correctly, Victim 2 is only wearing a black robe. So
2 that means he's newer. He hasn't progressed as far in the
3 choir?

4 A That would have been his first year.

5 Q And Victim 1 has got on the white robe. How do you get to
6 wear the white robe?

7 A I believe the white part was given after a year of
8 service to the choir.

9 Q Somebody is wearing something red. Is that significant
10 at all?

11 A Yes, ma'am. She was the choir leader at that point.

12 Q Okay. Is that a child who is the choir leader? Is
13 that a young adult?

14 A I think at that point she must have been either late
15 middle school or early high school.

16 Q So a child could progress to like almost like a special
17 position in the choir?

18 A Yes, ma'am.

19 Q Okay. So, that's 2004. So at this point you already
20 been to Daufuskie Island with the C or no?

21 A No.

22 Q No, not yet. This is before Daufuskie.

23 A Yes, ma'am.

24 Q So you then continue friends. You're friendly. You're
25 living next door at the time that photo is taken, right?

1 A Yes, ma'am.

2 Q And a you are also welcomed with open arms, aren't you?

3 A That's correct, into that family, yes, ma'am.

4 Q And who is idea was it to go to Daufuskie?

5 A Mine.

6 Q And it was your idea to go with a married couple and
7 two small children?

8 A Yes, because I considered them friends and they
9 considered me a friend.

10 Q Okay. And so now post Daufuskie. You agree that Uichm1
11 would come over to your house?

12 A Yes.

13 Q And hang out with you?

14 A Yes, ma'am.

15 Q And you guys played video games? You watched movies?

16 A Yes, ma'am.

17 Q You talked?

18 A Uh-huh.

19 Q What kind of stuff did you talk about to a child?

20 A He would tell me about school. He was interested in
21 computers a little bit. So some times I would show him some
22 stuff about that. I don't have a specific recollection of
23 specific conversations that we had.

24 Q Would he talk to you about his problems?

25 A Some times, yes, ma'am.

1 Q Did you give him advice?

2 A I did.

3 Q Now, kind of going through that kind of special
4 relationship. He would come over and talk to you about his
5 problems?

6 A He did not make a habit of talking to me about his
7 problems but there were times where he did.

8 Q Did Victim 1 talk a lot about problems?

9 A No, ma'am.

10 Q So, at some point -- well, let me ask you this. Do you
11 when the boys went to camp, Camp Gravatt?

12 A I remember them going on occasion.

13 Q Okay. And it has already been entered as Defendant's
14 Exhibit 2. And I think that Victim 1 identified this during his
15 testimony. He said that he sent this to you?

16 A Yes, ma'am.

17 Q Is that correct?

18 A I received it, yes, ma'am.

19 Q Okay. And you kept it?

20 A I kept many things.

21 Q What is the postmark on that?

22 A It says June of 2007.

23 Q June 30th of 2007?

24 A I believe, yes, ma'am.

25 Q And that year do you you remember Susan and Keith going

1 to Saint Simon Island?

2 A I honestly don't remember that.

3 Q You don't remember that. Do you remember contacting
4 them and offering to pick the boys up from camp that year, Camp
5 Gravatt?

6 A I don't.

7 Q Did you give the boys rides to places?

8 A Sure.

9 Q Would you offer to give them rides?

10 A On occasion, yes, ma'am.

11 Q Okay. And so if you got that Defendant's Exhibit we
12 just looked at during the summer of 2007 when the boys were at
13 Camp Gravatt victim 1 is 11, right.

14 A Okay.

15 Q And did you send them letters to camp?

16 A No.

17 Q So right before Camp Gravatt when you got that postcard
18 that you saved, this 2007. Right before that you went to
19 victim 1's 5th grade graduation?

20 A Yes, ma'am.

21 Q Okay. At 8:30 in the morning?

22 A If that's what time it says on there, yes, ma'am.

23 Q Okay. Did you save this flier?

24 A I did.

25 Q So now progressing forward, your still spending a lot

1 of time with Victim1 and sometimes Victim2 to, right?

2 A In that timeframe, yes, ma'am.

3 Q And the family?

4 A Yes, ma'am.

5 Q Okay. And the chess club picture, you taught them to
6 play chess?

7 A I don't remember specifically teaching them to play
8 chess but I know we did play chess.

9 Q And when would chess club happen?

10 A After in the evenings.

11 Q In the evening like after work?

12 A Yes, ma'am.

13 Q So a school activity would happen after work?

14 A Yes, ma'am.

15 A It was not a school -- it was not a school activity.
16 The school just allowed the leadership of that club to run in
17 that school.

18 Q Gotcha. And you agreed to host the party?

19 A I did.

20 Q So the stamp on this photo is -- it's Defendant's
21 Exhibit 12, is May 31st, of 2008, is that right?

22 A Yes.

23 Q Who is pictured in this photograph?

24 A Victim1 and Victim2 I think there is another young man in
25 it.

1 Q I'm looking at somebody maybe else's arm or leg at the
2 bottom?

3 A Yeah.

4 Q And at that point you got that stereo equipment up in
5 the corner?

6 A Yes, ma'am.

7 Q Still up there when the police came to your house?

8 A Yes, ma'am.

9 Q And there were times where you took the boys to shows
10 in Charlotte?

11 A I did. I believe that was an important thing that their
12 parents wouldn't have done.

13 Q Their parents wouldn't have done it?

14 A To further their education in music.

15 Q Okay. Now, you also -- beg the Court's indulgence. So
16 going back to the shows. Do you remember how many shows you
17 took them to?

18 A I believe like Susan said was correct. It was three of
19 them.

20 Q Lion King, correct?

21 A Yes, ma'am.

22 Q Phantom?

23 A Yes, ma'am.

24 Q And what was the third?

25 A I don't remember. It may have been Peter Pan.

1 Q Peter Pan. Okay. And you don't remember when those
2 shows were?

3 A No recollection.

4 Q And so how many mission trips did you go on with Uichim1

5 A Uichim1 would have attended four mission trips.

6 Q Were you very active in the church?

7 A I was very active in church.

8 Q And Uichim1 was very active in the church?

9 A Yes, ma'am.

10 Q The church was important to Uichim one.

11 A I think that's a fair statement. Yes, ma'am.

12 Q And he did the youth choir with you until when?

13 A Until his voice changed. I couldn't tell you when that
14 was.

15 Q And what happened when his voice changed?

16 A Then he decided to pursue other activities in church.

17 Q Would the youth group have picked up right around that
18 same time?

19 A Yes, ma'am.

20 Q Do you recall with regards to Defendant's Exhibit 3
21 which is the June of 2008 retreat, do you recall standing up in
22 front of the church with Uichim1 and giving a presentation about
23 your retreat?

24 A I don't believe I actually stood up with him. It was
25 something they wanted to lead.

1 Q Would that have been something that was a pretty big
2 deal for the kids in the youth group to stand in front of the
3 church?

4 A Yes, ma'am.

5 Q At what point did you say Mary Cat had left and she was
6 priest?

7 A She was the assistant priest.

8 Q Was she also heavily involved with the youth group?

9 A She was in charge of youth activity. She was the youth
10 minister.

11 Q So was ~~victim~~ in the youth group when Mary Cat was in
12 charge of it?

13 A Yes.

14 Q And did everybody know that you had sort of
15 unofficially been passed the torch?

16 A I spoke with the priest. I spoke with the other
17 leadership of the church and we discussed that and we agreed
18 that was a good thing for me to do.

19 Q And the kids knew that you were now the unofficial head
20 of the youth group?

21 A Yes, ma'am.

22 Q So at some point -- and you kept doing the youth group
23 with Chris up until when?

24 A I kept doing the youth group until the day of my
25 arrest.

1 Q When did Victim 1 stop doing the youth group do you
2 remember?

3 A When he went down to college.

4 Q So Victim 1 stayed with the youth group through high
5 school?

6 A Yes, ma'am. I do believe.

7 Q And you were with the youth group the whole time?

8 A Once my daughter, E was born I started to step
9 back from youth group just because I needed to devote more time
10 to my family.

11 Q When was your daughter born?

12 A 2013.

13 Q 2013?

14 A Yes, ma'am.

15 Q Now, after your wedding -- and you asked Keith C
16 to be in your wedding?

17 A I did.

18 Q That must mean -- am I correct, that he was a pretty
19 important person?

20 A Yes, ma'am

21 Q The C family they were important people?

22 A Yes, ma'am.

23 Q And you said Kathryn came from a really big family?

24 A Yes.

25 Q There most have been lots of kids in that family,

1 right?

2 A She was one of four.

3 Q I mean in terms of -- you gave Victim 1 and Victim 2 the job
4 of handing out your programs, right?

5 A They were actually no other young kids came from my
6 wife's family.

7 Q Okay. There were no other kids to hand out programs.
8 And you agree that you spent the night at the C home on
9 July 24th of 2009?

10 A Yes, ma'am.

11 Q You agree that Victim one spent the night at your
12 home on several occasions?

13 A I do. On two occasions.

14 Q You said on two occasions. And what is your
15 recollection of why Victim one spent the night at your house?

16 A Keith and Susan had a kind of standing date night and I
17 believe one of those occasions was them having a date night. I
18 just bought a convertible and they took out for the night. The
19 other occasion I think was Victim 1 was doing a small performance
20 for Christmas Eve so we had been practicing and he spent the
21 night after that.

22 Q To your recollection where did he sleep when he was
23 there?

24 A The first time he spent the night in that bed in the
25 attic and I slept downstairs and on the second time I slept in

1 that bed and he slept on the futon.

2 A And the second time you slept in the attic.

3 A I slept on the bed and he slept on the futon.

4 Q Okay. Now, after your wedding you didn't have any kind
5 of falling out with the C ?

6 A No, ma'am.

7 Q After the wedding you didn't have any kind of falling
8 out with the V ?

9 A No, ma'am.

10 Q You never had an argument with *witness one* ?

11 A No, ma'am. We had arguments about things but nothing
12 substantial.

13 Q You never had a big argument with *victim one* ?

14 A No, ma'am.

15 Q Okay. In fact Susan C would some times help out
16 with your family if your daughter was sick?

17 A Yes, ma'am.

18 Q Thank you very much Mr. Castillo.

19 THE COURT: Redirect.

20 MR. SWERLING: Two questions.

21 THE COURT: Sure.

22 REDIRECT EXAMINATION

23 BY MR. SWERLING:

24 Q One, and I can't believe I didn't ask you it, but the
25 solicitor asked you about when your daughter was born. What is

1 her name?

2 A E

3 Q And how old is she now?

4 A She's six.

5 Q Did you have any other children after that?

6 A My wife was pregnant when I was arrested and she gave
7 birth fairly soon after I was released on bond. So we have my
8 second child her name is C She's three and since then
9 we have had a little boy. His name is K

10 Q So you have three children?

11 A I do.

12 Q Let me ask you about this Andy. Do you -- were you in
13 the habit of saving a lot of memorabilia?

14 A Yes. I have large amounts of storage on my computer so
15 I don't delete anything. I don't delete emails. I don't delete
16 photos. It's something that a boss of mine bred into me that
17 you should never delete anything you might need. Mainly for
18 work but it went in my personal life as well.

19 Q And those computers were seized by law enforcement?

20 A Yes.

21 Q Have they been returned?

22 A Yes, ma'am -- yes, sir. Excuse me.

23 Q What about the paper materials?

24 A I had a couple of scrapbooks. Not really scrapbooks
25 but more photo albums of pictures and other things that I

1 received.

2 Q So was it usual for you to retain things like that?

3 A No, sir.

4 MR. SWERLING: I have nothing further.

5 MS. JOYNER: No redirect.

6 THE COURT: You may come down. Approach.

7 THE COURT:: All right ladies and gentlemen.

8 I'm trying to get a handle on the schedule. It looks
9 the defense has subpoenaed some witnesses but they
10 subpoenaed them for tomorrow morning. I hate to do
11 this but I am going to have to let you go. Seriously,
12 we will adjourn for day now. I will ask you to be
13 back in the jury room at 9:30 in the morning. Again,
14 don't please don't do any internet research about this
15 case. Please don't avail yourself of any news reports
16 if there are any news reports about it. Again, as I
17 say, you're hearing all the evidence, not what
18 somebody else may write about it or think about the
19 evidence.

20 Have a pleasant evening. Don't discuss the case
21 when you return to the jury room or with anyone else
22 over the evening hours. Thank you, very much. 9:30.
23 We'll conclude the case tomorrow.

24 (WHEREUPON, the jury leaves the courtroom.)

25 THE COURT: All right, counsel, might as well

1 address this now. Any request to charge from the
2 State?

3 MS. JOYNER: Your Honor --

4 THE COURT: I have a set of charges.

5 MS. JOYNER: May we review your set of charges?

6 THE COURT: You may. We will make it available to
7 you.

8 MS. JOYNER: And also Your Honor, we spoke with
9 Miss Butler about the agreement to strike.

10 THE COURT: Yes, that was my next question.

11 MS. JOYNER: Miss Butler advises there is no way
12 to officially strike it from the record and Mr.
13 Swerling and I spoke informally that I could perhaps
14 draft an instruction if the Court was agreeable to
15 that for the jury to disregard.

16 THE COURT: That will be fine if it's agreeable.

17 MR. SWERLING: I don't have any problem. I think
18 I stood up and apologized for that. Totally my fault.

19 THE COURT: I don't think that the jury really
20 picked up on it, but I'll be glad to instruct the
21 jury. The only question might be the appellant
22 record, but if you both agree to a stipulation then
23 that could be made a part of the record and we
24 wouldn't have to worry about it.

25 MS. JOYNER: Yes, sir.

1 MR. SWERLING: The only thing I would ask if it's
2 stated an inadvertent error.

3 MS. JOYNER: I don't have any issue with that. I
4 do believe it was inadvertent.

5 THE COURT: Put that in the stipulation.

6 MS. JOYNER: Yes, sir.

7 THE COURT: The defense have any request to
8 charge?

9 MR. SWERLING: Judge, believe the standard charges
10 would be applicable.

11 THE COURT: Yes, as far as I know everything I
12 drafted is fairly typical. I will give you each a
13 copy. All right. Anything further? Anything else?

14 MR. SWERLING: No.

15 THE COURT: Stand in ease until 9:30. I will have
16 a set of charges available in my office within ten
17 minutes.

18 (WHEREUPON, the trial was in recess for the day.)

19 (WHEREUPON, the trial resumed on November 22,
20 2019.)

21 THE COURT: State ready to proceed?

22 MS. JOYNER: Yes, Your Honor.

23 THE COURT: Defense ready to proceed?

24 MR. SWERLING: Yes, sir.

25 THE COURT: Mr. Swerling, any motions?

1 MR. SWERLING: Yes, sir. I would like to at this
2 time we're going to rest.

3 THE COURT: The defense is going to rest.

4 MR. SWERLING: Yes, sir. And in order to not
5 cause the jury to have to go in and out of the
6 courtroom I would like to if the Court permits make my
7 motions for a directed verdict at this time.

8 THE COURT: You may proceed.

9 MR. SWERLING: Basically, Your Honor, what I would
10 do is incorporate herein the motions I made at the
11 conclusion of the State's case and renew them without
12 any further argument.

13 THE COURT: All right. With respect to I think
14 adequately ruled on those motions. Any comment from
15 the State.

16 MS. JOYNER: No, sir, we would just ask you to
17 deny the motion based on all the reasons you
18 previously cited.

19 THE COURT: All right. Motion denied
20 respectfully.

21 MR. SWERLING: Respectfully. All right, Your
22 Honor at this time also we have reviewed the charge
23 and with respect to 2016-GS-46-20195, we ask for the
24 lesser included which was at that time of the alleged
25 crime ABHAN was a lesser included with CSC with a

1 minor, 2nd degree. So as to that indictment we ask
2 for the lesser included offense.

3 THE COURT: What is the State's position?

4 MS. JOYNER: Your Honor, I hadn't anticipated that
5 request, but it's my belief that based upon what is
6 contained in the record the defendant has denied all
7 inappropriate contact with the victim in this case so
8 I believe under that -- under that evidence as
9 presented to the jury either fellatio occurred and
10 that is a sexual battery or a CSC or nothing occurred
11 and so I don't believe that ABHAN.

12 THE COURT: No facts upon which would support --

13 MS. JOYNER: A lesser included.

14 THE COURT: -- a lesser included.

15 MS. JOYNER: Yes, sir.

16 THE COURT: I think I agree.

17 MR SWERLING: My response would be that particular
18 indictment has a dated range whereas the other CSC
19 with minor 2nd degree has a specific date. So, having
20 not proved the specific date that that was not -- that
21 that was CSC second with a minor then we believe that
22 we are entitled to the lesser as to that particular
23 indictment.

24 THE COURT: State.

25 MS. JOYNER: I don't think the date range changes

1 the dates for the allegation that we are alleging the
2 incident of fellatio, and so the reasoning that I
3 previously stated would still be true.

4 THE COURT: All right. Respectfully denied.

5 MR SWERLING: Yes, sir. Of course we did advise
6 the Court we are asking for the State versus Logan
7 language on substantial evidence.

8 THE COURT: Yes, sir. Any opposition to that?

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

10 THE COURT: All right. Granted.

11 MR. SWERLING: The other I believe I brought to
12 the Court's attention is on --

13 THE COURT: Well, let me -- at the beginning of
14 the trial there was a motion to allow 404 (b) evidence
15 which you I granted. During the trial -- well, even
16 at the beginning of the trial and/or during the trial
17 there was no motion in limine to exclude that
18 testimony. I believe that the fact that I ruled on
19 the 404(b) issue on the merits would have prevented
20 me from limiting -- from granting a motion in limine.
21 So my 404(b) ruling I think was adequately articulated
22 and I feel that had a motion in limine been made it
23 would have been denied.

24 I think the 404(b) ruling was a much more
25 substantive ruling than a limine would have -- could

1 have resulted in. So, I stand by my ruling and for
2 the record had a motion in limine been made it would
3 have been denied.

4 MR. SWERLING: And Your Honor, that would be
5 considered, we agree, was a final ruling.

6 THE COURT: That was a final ruling, yes, sir.

7 MR. SWERLING: Thank you, Your Honor. The other
8 issue on page eight of the charge, I think you said
9 you were going to strike that but I wanted to make
10 sure.

11 THE COURT: I struck there is a real possibility.

12 MR. SWERLING: Okay. Other than that we are
13 satisfied with the charge and the verdict form and the
14 next issue, Your Honor, there was an article last
15 night apparently on line. We ask it be made part of
16 the record and we ask the Court to make an inquiry
17 just as a precautionary matter as to anyone
18 inadvertently seen or looked at any TV or online
19 issues. The article obviously is very prejudicial.

20 THE COURT: All right. Well, I haven't read it.
21 I see you handed it up but I will make it part of the
22 record and will caution the jury.

23 MR. SWERLING: And judge, as far as the
24 stipulation offered about Mr. C seeing a doctor,
25 in preparation for the trial. It was an inadvertent

1 comment. It actually was another person that the
2 doctor saw and so I agree with that remark to the jury
3 basically a curative instruction.

4 THE COURT: I have a stipulation to that fact and
5 will so advise the jury.

6 MR. SWERLING: Your Honor, we be prepared to go
7 ahead and rest in front of the jury and just proceed
8 into argument which I understand will be under State
9 versus Baity procedure and we're ready to go.

10 THE COURT: Satisfactory to the state.

11 MS. JOYNER: Yes, Your Honor and I understand I
12 will open in full and have a chance to reply.

13 THE COURT: All right. Bring the jury please.

14 (WHEREUPON, the jury enters the courtroom.)

15 THE COURT: All right, ladies and gentlemen. Good
16 morning. I hope you had a pleasant evening.

17 One thing has come up over the evening and that is
18 a apparently a story about, trying to have that.
19 Apparently there was a story on the internet about the
20 case. And I need to ask if any member of the jury
21 panel happened to see this on the internet last night.
22 Anybody that did please raise your hand. (No
23 response). Thank you, very much ladies and gentlemen.
24 I appreciate you respecting my instructions.

25 Now, there was a point in the testimony yesterday,

1 actually it was cross examination of witness one.
2 The lawyers have entered into a stipulation about that
3 cross examination. And I am just going to read it to
4 you. I don't know if you remember this, but we need
5 to correct it on the record. "The State represented
6 by assistant solicitor Erin Joyner and the defendant
7 represented by Jack Swerling have entered into the
8 following stipulation of fact. Questions asked during
9 the cross examination of witness one regarding
10 sessions with Doctor Seworth, specifically whether he
11 had practiced direct and cross examination with the
12 Doctor Seworth should not be considered by you. The
13 State and the defense agree that defense counsel made
14 an inadvertent mistake as to the contents of witness
15 one 's records." And I will make this part of the
16 permanent record.

17 THE COURT: All right Mr. Swerling, any further
18 witnesses?

19 MR. SWERLING: No, Your Honor at this time we
20 rest.

21 THE COURT: All right. That's it ladies and
22 gentlemen. That's all the evidence that will be
23 presented during the course of this trial. The
24 remaining portion of the trial will consist of the
25 final summations or arguments of counsel and my

1 instructions to you on the law of the State of South
2 Carolina as it applies to this case. We will now
3 proceed with final arguments. Solicitor you may
4 begin.

5 MS. JOYNER: Thank you, Your Honor.

6 When Susan and Keith C. moved to Rock Hill in
7 2000 and they settled into their life with their young
8 sons. They thought they were building a good life for
9 their family. They thought that they were going out
10 into this community and they were finding parts of
11 this community and incorporating parts of the
12 community into their life and it was going to create
13 this wonderful small safe world for their sons. They
14 found a church and Susan started working at the church
15 and then they joined and ~~joined~~ joined choir and they
16 joined choir and they were very active in that church.
17 They bought a house and they settled in. They just
18 didn't buy a house and move two years later. They
19 bought a house in 2003 and they stayed until 2016.
20 They bought their family home. They bought the home
21 their children's childhood home and they lived there
22 and they made their life there. And they made choices
23 for their children, for their son ~~and~~. And they
24 thought everything was going great. He is involved in
25 school. He was involved in extra curriculum

1 activities. He played sports. You heard what a good
2 student he was. They really thought that they were
3 doing a good job in making that wonderful small world
4 for him. That safe place for him.

5 Now, part of that safe world, part of that world
6 that they built involved relationships with lots of
7 people and one of those people was the defendant, Mr.
8 Andy, Andy Castillo. In all the while that Susan and
9 Keith C are building this world and building
10 this life for their kids Mr. Castillo is building
11 something different with *victim one* He's building
12 this relationship with him. He's building this
13 relationship with the parents. And Susan and Keith
14 C they think it's friendship. They think it's
15 friendship. But *victim one* testified for you about
16 what that relationship really was. And I submit to
17 you that relationship to him at that time in his
18 childhood was friendship. It was to him. But what
19 that relationship really was looking backwards,
20 looking through the lens of age and experience and
21 maturity, was abuse. He told you about abuse. He
22 told you about this man that he respected, that he
23 cared about and he trusted and liked being around him.
24 He liked choir. He was his choir director. He liked
25 to go over to his house and play video games and talk

1 and watch movies. That sounds like a friend. If
2 you're a kid that sounds like a friend. And he was
3 older and he would some times the defendant said even
4 once in a while talk about problems but Uichm1 wasn't
5 much of a talker about problems. That might important
6 later for you to consider and think about. And Uichm1
7 took this family trip and we'll talk a lot about the
8 family trip and you might be tired about the family
9 trip. But he took this family trip and before that
10 family trip this relationship was building and
11 building and now they're close enough to this family
12 they're going to go to this kind of isolated place.
13 Not isolated in the sense of not civilized but you're
14 going to take a ferry and hang in a house out with
15 someone all weekend. You're close. And this event
16 happens. And after that event happens that
17 relationship that was building it finally got to one
18 of the places that it was building to. And that's
19 when right after the Daufuskie Island trip or some
20 point after that Daufuskie Island trip the massages
21 started. And so now Uichm1 is -- and I'm sorry with
22 all the dates and the school years and all of that. I
23 know it's hard to keep up with. But Daufuskie Island
24 Uichm1 would have been nine. Coming up on his 10th
25 birthday. Going into the 4th grade. And he comes

1 home from Daufuskie and he goes into the 4th grade and
2 he tells you that at some point after Daufuskie he
3 starts getting these massages. And he's laying down
4 on this defendant's waterbed in his bedroom and he's
5 being rubbed. And so it would start out with him face
6 down. I guess the way a massage goes, if there's a
7 typical way that happens. And he rubs his back and
8 his shoulders and his legs and then he flips over and
9 sort of the same thing up top. And sometimes it slips
10 underneath the clothing and oops, well then sometimes
11 he would touch him but he didn't really get what that
12 was. And he keeps going over there because this is
13 his friend and this is his trusted person and there's
14 fun stuff to do at the house. And these massages in
15 his mind he doesn't really get what they are because
16 he's not a 24-year old man. He's not the 24-year old
17 man that sat on this witness stand. He was a nine
18 year and ten year old boy. So then he goes into the
19 5th grade and at some point in time in the 5th grade
20 this friend tells them a joke. And I don't remember
21 exactly how the joke goes. He told the joke on the
22 witness stand and it's clearly a joke about
23 masturbation and he didn't understand it. And he's
24 not going to go ask his dad because I mean, he kind of
25 probably understood. You get that there's something

1 kind of going on with that joke. So he goes to this
2 person that he can asked questions like that of
3 because he's got this person in his life that's his
4 friend. Lives right next door. And he's already
5 given him massages and he just asks him and that's
6 when it goes. That's when it changes. So now the
7 second thing that has building, and building, and
8 building and building. Now we get to the next place.
9 And so then those massages from there begin to change
10 because now we have a whole new element to
11 incorporate. And those things are happening in that
12 bedroom downstairs because at this point that's what
13 there is in this house. There's the downstairs.
14 Okay.

15 Now, there's a lot of talk about the attic and the
16 attic is important I would submit to you more for the
17 ultimate location of abuse than anything else and how
18 that ties to some of the abuse because eventually that
19 attic gets made. And so now the massages with the
20 masturbation aren't just happening in the bedroom
21 downstairs. They're also happening in the attic. And
22 in one of those massages up in the attic he -- *victim one*
23 massages the defendant and has to masturbate him too.
24 But even while things are going on in the attic there
25 are sometimes things that still happen downstairs

1 because victim1 remembers that one, he remember this
2 night where he was sleeping up in the attic and by
3 prearrangement -- because victim2 was up there too, and
4 by prearrangement he came downstairs to see the
5 defendant in his bedroom and again he's massaged and
6 he's masturbated. And that's really an interesting
7 point and I want you to keep that in your head because
8 when you go back to Mr. Castillo's testimony he says
9 that the defendant spent the night twice and he
10 remembers one of those nights that victim1 was sleeping
11 up in the attic and he was sleeping downstairs.

12 Victim1 also told you about this next thing that
13 happened. So we got this relationship and it built
14 itself to massages and it built itself to this
15 masturbation and then one night in the defendant's
16 bedroom some time after masturbation is started the
17 defendant performs fellatio on victim one for the
18 first time downstairs in his bedroom. And ultimately
19 ladies and gentleman what victim one told you is
20 that this course of conduct went on until the night
21 before the defendant's wedding and that last incident
22 occurred in his parents' home and that was finally
23 when victim one as a 13-year old something finally
24 clicked and in his head he went I shouldn't be doing
25 this under my parents' roof. I shouldn't be doing

1 something that I can't tell them about. I you
2 shouldn't be doing this with somebody who is getting
3 married. That's why at that time realized I shouldn't
4 -- I can't do this.

5 Madam clerk, can you please publish this. Now
6 ladies and gentlemen, while we deal with our technical
7 difficulties, the defendant stands trial today. He
8 stands trial for four counts of lewd act upon a child.
9 Four counts of lewd act upon a child and two counts of
10 criminal sexual conduct with a minor in the 2nd
11 degree. Judge Cooper at the close of -- or before you
12 go back for deliberations he's going to give you a
13 lengthy instruction. He's going to tell you that in
14 order for you to find the defendant guilty of these
15 offenses you first of all must find that the State has
16 proven to you beyond a reasonable doubt every element
17 of the offense and have you to consider each
18 indictment and you have to consider guilt as to each
19 of these Indictments. Okay.

20 To tell you that in order for you to find the
21 defendant guilty of lewd act upon a child, you must
22 find that the defendant did --

23 THE COURT: It's on the small screen.

24 MS. JOYNER: In order for you to find the
25 defendant guilty of lewd act upon a child you must

1 must find that the defendant did either willfully and
2 lewdly attempt or attempted to commit a lewd or
3 lascivious act upon or with the body of a child under
4 the age of 16 years. Ladies and gentlemen, you must
5 find that he was more than 14 years old. You have to
6 find he was more than 14. *Victim one* was less than
7 16. And that he did commit or attempt to commit a
8 lewd or lascivious act with *victim 1* with the body of a
9 child or upon the body of a child. So as I you told
10 you in the opening, it is my summary -- just to kind
11 of cut through the legalese -- you got the age
12 requirement and you have it's a touch upon a child or
13 with a child, or attempt to do that and you have this
14 lewd and lascivious intent. It's a sexual intent.

15 For criminal sexual conduct with a minor in the
16 2nd degree you have to prove -- the State has to prove
17 to you beyond a reasonable doubt sexual battery which
18 in this case is fellatio, and we have to prove to you
19 that *Victim one* was between the ages of 11 and 14
20 years of age.

21 So in this case, the defendant is charged with
22 events that occurred between two very distinct dates.
23 The first date -- here we go. Sorry about that ladies
24 and gentlemen. The first date, ladies and gentlemen,
25 is Daufuskie Island. So we have Daufuskie Island,

1 June 17th through June 19th of 2005. Because as we
2 discussed there's a build up in this relationship.
3 There's nothing inappropriate physically that happens
4 before that date and so we have a very specific ending
5 date of the rehearsal dinner night, July 24th of 2009.
6 So, when you consider the defendant's indictments --
7 and I know it sounds kind of overwhelming. You're
8 like this lewd act and that lewd act and how am I
9 going to keep track of all of them. Ladies and
10 gentlemen I hope that I will break this down in a way
11 that is understandable.

12 So, when you look at these different charges I
13 want you to look at them and I want you to consider
14 first the date or date range that is alleged, the
15 location that is alleged, and the specific conduct
16 that is alleged. And I've added in here the
17 defendant's date of birth, . So when
18 you're looking at those lewd acts charges for the
19 purposes of all those lewd acts charges he's over the
20 age of 14 years. So going through 2016-2196, lewd act
21 upon a child. So it includes all of that very long
22 lengthy language. This is what an indictment looks
23 like. You've probably never seen one before, but I
24 want you to circle in this date range, June 20th of
25 2005 through July 1st of 2007. So that's your date

1 range. And the conduct alleged is the massage.
2 Massaging the victim's body. And this is what
3 occurred in the defendant's bedroom Egret Court.
4 Okay. So when Victim 1 talks about the massages that
5 begin when he gets back from Daufuskie, the massages
6 before the masturbation, this indictment is directed
7 towards that conduct. Going to 2197. Okay. It looks
8 the same. If you just looked at it quickly you
9 wouldn't see the differences. Okay. So the date
10 range, August 1st of 2006 through July 23rd of 2009.
11 Remember -- and look also at the conduct so it's a
12 different conduct that's alleged in that 2196. It is
13 the defendant masturbated the victim while in the
14 defendant's bedroom at Egret Court. Okay.
15 August 1st of 2006, where does that date come from?
16 Okay. Victim one testified that that masturbation
17 joke happened some time in the 5th grade. At the end
18 of August of 2006 Victim one was entering the 5th
19 grade and so this date begins the first day of the
20 month where he will become a 5th grader and it takes
21 him -- takes you all the way through to the night
22 before or the day before the last incident, the
23 rehearsal dinner incident. So remember, 5th grade
24 masturbation began and that's when it became
25 incorporated into these massages and that continued.

1 Victim 1 testified it wasn't just a one time thing. It
2 happened -- it happened many times and it even
3 continued to happen sometimes downstairs in the
4 bedroom even after the attic was complete because
5 again he remembers that incident of going downstairs
6 to be with Andy after Victim 2 had fallen asleep. 2198,
7 we have July 1st of 2007 through July 23rd of 2009.
8 Again, directing you to the conduct that's alleged in
9 this indictment; massaging and/or masturbating the
10 victim while in the attic. So now we have a change of
11 location. We're not talking about the conduct that
12 happened in the bedroom. We're talking about the
13 conduct that happened in the attic.

14 July first of 2007 it's meant to catch. It maybe
15 a little early into the construction of the attic, but
16 it is meant to contemplate the period of time when a
17 person could have been in that attic and could have
18 been abused in that attic.

19 Finally 2199, July first of 2007 through again
20 July 23rd of 2009. And this one is specifically
21 making Victim One touch his penis. And
22 Victim One testified there was one incident of massaging
23 and him having to touch the defendant's penis in the
24 attic at Egret Court. So when you are thinking about
25 those lewd acts and you go back to deliberate look for

1 the time periods, look for the locations and look for
2 the specific content that is alleged in each of those
3 indictments.

4 Now, regarding criminal sexual conduct with a
5 minor in the second degree, indictment 2195. Again,
6 you're looking for dates and I will point out the
7 difference to you. So this one is November 8th of
8 2006 through July 23rd of 2009. So where does the
9 date of _____, come from? Well, ladies
10 and gentlemen, that is *Victim one's* 11th birthday.
11 Criminal sexual conduct with a minor in the second
12 degree the victim has to be between 11 and 14. So
13 while *Victim one* doesn't know exactly when that
14 first act of fellatio occurred. He knows -- he's
15 testified that happened after the masturbation joke
16 which was in the 5th grade okay. Okay. *Victim one*
17 turned 11 two months into the 5th grade. So this
18 indictment contemplates the fellatio, the first act of
19 fellatio that occurred, and it occurred some time
20 during the period of abuse which ran up until the
21 rehearsal dinner but excluding the night of the
22 rehearsal dinner because that occurred in the
23 defendant's bedroom. And then we get to the final
24 count which occurred. We have an exact date. We have
25 exact date because we know it's the day before the

1 wedding, July 24th of 2009. And again, *Victim one*
2 would have been 13 years old at the time of that last
3 incident.

4 So, you are going to go back in the jury room and
5 you're going to have to figure out a lot. You will
6 have to answer a lot of questions. So I think it's
7 less overwhelming if you start out with the things
8 that you know. And I don't say that in any way to
9 diminish the obligation for the State to prove all of
10 the facts to you. I'm simply submitting that during
11 the course of this case there has been certain
12 information that has been presented to you that
13 appears pretty straight forward and uncontested. All
14 right.

15 So again, with the dates, not to belabor these
16 dates, and if you kind of want to go back and go where
17 is the math coming from about what grade he was in and
18 what age he was in. You got a date of birth of

19 You know when he graduated from
20 high school which was 2014 and he didn't skip any
21 grades and he graduated on time and so you can track
22 back to what grade he was and what age he was if you
23 had any of those questions. Okay. So we do know
24 these specific dates. And what do we know about that
25 is events? We know that Daufuskie Island with those

1 specific dates. We know it was summer between 3rd and
2 4th grade and Victim 1 was nine years old. We also know
3 interestingly, that at some point in fact according to
4 Susan C on June 19th of 2005 she found Victim 1 in
5 bed with the defendant.

6 Now the defendant claims the door was open and
7 Victim One had just walked in and it was no big deal. But
8 you know, that something -- something happened with
9 Victim One in the bedroom at Daufuskie Island when
10 he was nine years old. And you know the rehearsal
11 dinner night Victim 1 is 13 between 7th and 8th grade,
12 you know what date that happened and you know the
13 defendant was in the home with Victim 1 over night that
14 night.

15 So what do we know about Egret Court? Now this is
16 State's Exhibit One, the picture. You got the garage
17 door. We talked about the open garage door policy.
18 There you can see his house and this is what the
19 C would basically be able to see from their
20 back door. We know this address is within Rock Hill,
21 within York County, South Carolina. So you don't have
22 to worry about the jurisdiction in this case and you
23 also know the C residence is two doors away and
24 is also in Rock Hill in York County. You know that as
25 it was newly built this house has three bedrooms. I

1 say three bedrooms. The defendant said he had two
2 bedrooms with a computer room, but I'm calling that
3 three bedrooms. A master, guest and computer room and
4 the attic was later converted to contain some kind of
5 living space.

6 Do we know -- what do we know about when it was
7 construct? We know it was being constructed in July
8 of 2007 when the C gave the new carpet. The
9 leftovers. And we know the defendant received that
10 because he testified about that and there has been
11 some exhibits about the varying stages of its
12 completion and there is some defendant's exhibits
13 about that that show maybe in 2007 it was still in the
14 works but it had a bed in it. And this picture which
15 is a Defendant's Exhibit which has got a date stamp of
16 May of 2018, shows the attic in pretty much the
17 condition that the police see it in when they do their
18 search warrant on February 29th of 2016. And I want
19 to just have a word about the attic because Mr.
20 Swerling asked a lot of questions about, well, this
21 attic wasn't a secret was it? You all knew about
22 this attic. This attic wasn't a secret. There's no
23 contention in this case this attic was a secret. Now
24 there is a contention in this case that there are
25 thing that happened in this attic that were secret.

1 The fact that this attic is relevant as a location of
2 the crime. So looking at this attic, here is some of
3 the State's exhibits. It started out as a storage
4 space and you would have pull down the stairs and
5 enter it through the garage. Pretty standard stuff.
6 But the defendant he renovated and he built that
7 ladder in the computer room and that exhibit right
8 there, State's Exhibit 15, is what you would see if
9 you were watching somebody climb up that ladder.
10 That's the ladder. You come up and you look this way
11 (indicating) and there's a bed. There's a coffee
12 table. There's a futon. And there's this coffee
13 table. You see the lights. That's the twinkling
14 lights overhead. I'm sure you assumed that. And he's
15 got some photographs. When the police first went up
16 you can see an entire picture that there's stuff on
17 there. It's cleared off and so now we can see the
18 pictures. You'll have this picture back there. And
19 it kind of feeds into the next slide.

20 You got victim 1 and victim 2 at Daufuskie.
21 Victim one at Gravatt. He's on the pictures
22 displayed in the room.

23 So what do we know about the defendant's
24 relationship with the C and I don't want to
25 beat a dead horse here, but they met around 2002 from

1 church and the choir. They're neighbors. There's a
2 close relationship and they're like family members and
3 Susan says, well, I thought of him kind of like the
4 same age as my brother Mike. I kind of thought of him
5 like a brother. And I felt like -- and you judge for
6 yourself, she seemed a little emotional when she said
7 that.

8 So what do we know about the defendant's
9 involvement with victim's life. You notice I'm not
10 calling it a relationship. I think we all fell into
11 that during the course of the trial and I did calling
12 it a relationship. Well let's for a minute let's talk
13 about it as an involvement in victim's life; church,
14 youth choir, youth group, sporting events, neighbor,
15 family friend, chess club. He just like completely
16 interwoven himself into the fabric of victim's life.
17 And what do we know about victim one spending type
18 with the defendant. Well, that's frequent. That's a
19 frequent, frequent occurrence. We know it's an open
20 garage door policy, right? Liked to go over there.
21 No big deal. Everybody agrees. He even spends the
22 night there more than one time. The defendant agrees
23 he spent the night there more than one time. And even
24 spent the night in the attic, which was what he told
25 you about the abuse sleeping in the attic and coming

1 downstairs.

2 So ultimately ladies and gentlemen, when we get
3 into this case, the things that you know about are the
4 things that the world can see. The things that
5 happened when everybody was watching. You have to
6 decide what was happening to Uichm one when the
7 world wasn't watching.

8 So going back to the school stuff. I don't think
9 I need to discuss it too much. But just the
10 significance things that I am going to point out
11 because I do think they're relevant for you to think
12 about later is the Daufuskie trip happened June of
13 2005 and Susan C testified that just after
14 Daufuskie her dad died. And she for that year prior
15 to her dad's death had been driving back and forth to
16 Florida. It was hard. And she was leaving her young
17 boys and she was upset and sad and what a vulnerable
18 time for this family. And the defendant comes over
19 and he gives her these worry dolls. He says put them
20 by your bedside table and give them your worries so
21 you can sleep and she thought that was such an act of
22 kindness.

23 So, they go to Daufuskie Island and remember I
24 want you to remember this because I think this is
25 important. The defendant invited them to Daufuskie.

1 They road all down there in the same minivan which
2 sounds like one of my horrible vacations from
3 childhood, five people in a minivan. And they all
4 ride down together where they will spend on this
5 island where you can't even have a car and stay two
6 days in a house. They're close at this point, right?
7 That is like family. And so there again the boys,
8 that's from State's Exhibit 11. So we get to this
9 house and it is a very beautiful house. I wish that I
10 had this house. And this house is -- got several
11 bedrooms. But remember Susan C testified that
12 they sleep downstairs. Andy tells everybody where to
13 sleep. He tells Susan and Keith you sleep downstairs.
14 I'm going to sleep upstairs in the bedroom that I'm
15 accustomed to sleeping in. Accept when we ask him on
16 the witness stand -- when I ask him he's like, well
17 I've only been there three or four times. I've only
18 been there a couple of times before we went. So which
19 is it? Did you want to sleep in the bedroom that you
20 were accustomed to or did you want to sleep on the
21 same floor with Victim 1 who is far away from his
22 parents. And he ends up sleeping on the same floor as
23 Victim 1 and Victim 2 and on June 19th of 2005 Susan C
24 finds Victim 1 in the defendant's bedroom. And again,
25 defendant says this was no big deal. He just walked

1 in the door. It was open. Susan C. says no, I
2 found Victim2 asleep in bed and I found Victim1 in Andy's
3 bed and I thought that he was just treating Andy like
4 Uncle Mike. Like that brother that she feels like
5 Andy was like, you know. And I chastised him. She
6 told the nine year old you, no, no. Does she regret
7 that? I you think you saw on the witness stand that
8 she one hundred percent does. But in that moment,
9 that's a really, really, really important moment, and
10 some times small moments are important. And that was
11 the moment that a message was sent because it wasn't
12 that Susan C. reacted and got worried. It was
13 how easy it was for her to be talked out of being
14 worried.

15 So now -- now we got this new stage in the
16 relationship and that's when you see the beginning of
17 the massages which progressed after the masturbation
18 joke. That continued to progress and go on in the
19 attic and ultimately leads to fellatio. And when you
20 think about Victim one 's testimony I want you to go
21 back and I want you to think about what he said and
22 want you to think about the specific details that he
23 could give you.

24 Now, does he know the date and time that
25 everything happened? No. Would any kid know the date

1 and time that anything happen? No. The defendant
2 doesn't even know when he started dating his wife. So
3 sometimes dates are hard to come by. But go back and
4 think about the details that he is able to give you
5 and he described those massages for you. He described
6 them. And then he describes -- he just doesn't
7 describe the masturbation, he remembers the joke. And
8 I know that Uichm one, he went on to be a
9 successful person and he is a successful person, but
10 if there was nothing important about that moment in
11 time why would he remember a joke that somebody told
12 him in the 5th grade. I can't tell you a joke with
13 the correct punch line that somebody told me
14 yesterday. The fact that he can tell you that joke
15 means that something very important happened around
16 that joke. That joke matters. It mattered to imprint
17 to his memory to be able to say it and talk about it
18 all these years later.

19 Now, Uichm one gave you other details too. He
20 says now it starts to incorporate this and he talks
21 about it happening in two different places and I think
22 that when he starts to give those details and say,
23 well, the bedroom is still a location and that at a
24 certain point this attic becomes a location and that
25 night that he remembers when he's sleeping upstairs

1 and he comes downstairs by prearrangement which
2 coincides with a sleeping arrangement. The defendant
3 doesn't mention ~~victim 2~~ being there, but it does coincide
4 with the sleeping arrangement the defendant described
5 with ~~victim 1~~ sleeping over night because the defendant
6 said, oh, I gave Susan and Keith my convertible one
7 night and ~~victim 1~~ slept over in the attic but I slept
8 downstairs. So, he's giving details not just saying
9 this thing happened to me, but talking about where he
10 was when it started. Where he was when he finished.
11 He describes the receiving fellatio for the first
12 time. And then there's something about the second
13 incident of fellatio and the details that he provides
14 about that I think is so telling and I want you to go
15 back in the jury room and I want you to think about
16 it. When he describes it he tells the story and he
17 talks about not just that this thing happened to him
18 but that he went with Andy. He went to the bedroom
19 with him. He knew that something was going to happen.
20 He's telling a detail that he was cross examined on so
21 much, in sort of like the -- the underlying kind of
22 theme under that particular line of cross examination
23 was, you went with him. You went with him. He had to
24 sit on the witness stand and admit that he told you
25 that he went willingly with his abuser. I submit to

1 you that is a compelling detail about his testimony.
2 Its compelling. Now again, on July 24th of 2009 he
3 told him to stop and I already talked about the
4 reasons why. This is happening in my parents' home.
5 I can't tell my parents. And he is getting married
6 the next day. And to come back to this relationship
7 and just -- sorry -- let me go back for one minute.

8 You saw victim one on the witness stand. You
9 saw him trying to explain what he felt and understood
10 at the time and the defense was saying, you knew it
11 was wrong. You knew it was wrong. Well, knowing
12 something and knowing it especially when you're a
13 teenager is something different. That is what his
14 mind could articulate at the time about why it was
15 wrong. And going back to this relationship with the
16 defendant again, he is interwoven into every part of
17 this life and so even after this abuse ends he
18 continues the relationship because to victim 1 at the
19 time he didn't know it was abuse. It was just part of
20 a relationship that he had. And quite honestly when
21 he's describing his reasons for ending it it almost
22 sounded like a person who is trying to move on. Victim
23 one, tells you that he's part of the family, my
24 friend and mentor. And he also tells you this was his
25 first sexual experience. That's a lot. That's a lot

1 to have to get on the witness stand and admit. So
2 yeah, Uichm One he didn't tell. He didn't tell
3 for a really long time. And it wasn't like this man
4 wasn't ingrained in his life. It is wasn't like he
5 just could cut him out and it wasn't like he
6 necessarily wanted to because he cared about him.
7 They were friends and he didn't entirely realize it
8 was wrong and yes, there was some pleasure to it, for
9 part of it while it was going on.

10 I want you to go back and I want to kind of think
11 about delay report, delayed disclosure, because you
12 heard from two different people about that. So you
13 heard from Doctor McMillan and then you heard from
14 Miss Gaye Allen Cook. Let's start with Doctor
15 McMillan's testimony. She said that delay report is
16 common. This is a phenomenon that people in this
17 field see. And she also talked to you about all
18 different kinds of factors. The factors, multiple,
19 numerous, so many, but one of those factors is the
20 relationship of the person to the child. She talked
21 about grooming and grooming is this process. It's a
22 process of preparing a child for abuse. It's a
23 process whereby you gain access. It's a process where
24 you insure secrecy. And Doctor McMillan told you, you
25 just don't groom the child often because that doesn't

1 really give you the access that you need. You groom
2 the parents. Some times you groom other institutions
3 around. And so ultimately at the end of the day when
4 the defendant is building this relationship and he is
5 finding ways to ingratiate himself into a family and
6 insert himself into every part of this child's life.
7 He is finding ways to gain access. He gains trust.

8 Now, when you heard people testify there is
9 something -- we all agree -- I think everybody that
10 testified that had knowledge of it agreed about like
11 sporting events and graduations and all of those
12 things. But here's the difference. The C told
13 you that it was the defendant that was seeking them
14 out. Give me the game schedules. I want to come.
15 Hey, I'm going to come to graduation. Seeking them
16 out. He made it seem more like, oh, no, I'm just
17 getting invited.

18 The other interesting thing everybody agrees there
19 were plays and stuff. But there was something
20 interesting that the defendant said about the plays
21 and I felt like it kind of came out of left field but
22 I want to just mention it. He said that he needed to
23 take the boys to the plays as part of their education
24 because the parents weren't going to. Think back if
25 you can remember that comment and think about the tone

1 of that comment. Because I think that from his
2 testimony -- from the defendant's testimony he wants
3 you to believe that they're seeking him out. But from
4 the C's testimony he was seeking them, a lot.
5 So, you kind of go back and you think about how it
6 was. Why it was that Victim 1 didn't tell, like he
7 delayed. Also think about how these connections that
8 he had with Victim 1 and this relationship if you call it
9 that, that he had with Victim 1 and the family, how it
10 gave him access and how it gave him secrecy. And it
11 gave him secrecy before. Gave him access before,
12 access during, secrecy during and secrecy after.
13 Mention a word about Miss Allen Cook. When she took
14 the witness stand, she said that delayed reporting was
15 both common and uncommon, and I just don't know what
16 that means exactly. And then the first thing out of
17 her mouth was that it would be atypical for a child
18 who has lots of people around them to delay reporting.
19 What is interesting about that when you think about
20 that and evaluate her testimony? Well, the defense
21 asks both Victim one / and witness one a lot of
22 questions about having lots of people around them that
23 they could tell. When Miss Gaye Allen Cook took the
24 witness stand and she was asked a general question to
25 describe delay reporting the only factor that she

1 initially mentioned was the factor that supported the
2 defense's cross examination of Victim One , and
3 witness one and she would later say that she was
4 hired to assist the defense -- and there's no shame in
5 that -- but she knew exactly what the allegations were
6 before she hit the witness stand. And instead of like
7 Doctor McMillan talking about numerous factors that
8 contribute, she made one broad statement that
9 supported the cross examination of the defense. So, I
10 mentioned delay reporting and grooming and I want you
11 to also think about witness one because you heard
12 from witness one too, and you heard about that
13 relationship that he had. The defendant had with witness
14 one 's family and how, like the C the V
15 . welcomed the defendant with open arms and they
16 allowed him into their home and they allowed their son
17 to go play at his house and be alone with him.

18 So ladies and gentlemen, this is the case that
19 comes down to credibility. The State has presented
20 witnesses for you. You heard from some defense
21 witnesses as well. And the finders of facts are going
22 to be the judges of their credibility and the judge is
23 going to give you an instruction on this and he will
24 tell you certain factors that he is going to advise
25 you about. You can consider the demeanor of the

1 witness or bias or motive to lie. I think his
2 instruction will tell you to consider any other
3 factors that you think are appropriate. I am going to
4 to ask you to also look at each witness's ability to
5 know the facts they're testifying too. I want to ask
6 you to look at whether their testimony is corroborated
7 by other testimony in the record.

8 You know, sometimes with juries I feel like it's a
9 little intimidating to hear that you're going to be
10 judging people's credibility and it's a little
11 intimidating that you are going to be making these
12 findings of fact in general. And I just want to kind
13 of point out to you that you make decisions every day
14 of your life and you judge the credibility of people
15 every day of your life. Now there's probably not
16 going to be another scenario where you're judging the
17 credibility with 12 other people and having to reach a
18 verdict, but all of those tools that you use in
19 deciding who's telling you the truth, they don't stay
20 at the door of the deliberation room. They go with
21 you. So your common sense, your experiences in life,
22 the tools that you use in your daily life to make
23 those decisions also apply in that jury room.

24 Let's talk about the witnesses that have been
25 presented. I didn't put the experts up here because

1 experts like everybody else you're going to judge
2 their credibility, but we already talked about them.
3 But these are the main substantive witnesses; witness
4 one, Susan C Keith C and victim
5 one and the defendant. And a word about the
6 defendant and his testimony. A defendant is never
7 required to testify. Never required to say a word.
8 Sit in this room completely silent and they are
9 presumed innocent and that presumption remains until
10 you go back to the jury room and you find him guilty.
11 However, when a defendant takes the witness stand you
12 get to judge their credibility just like you judge the
13 credibility of the State's witnesses. And before we
14 talk about the State's case I want you to talk to you
15 for just a minute about the defendant's case and the
16 defendant's testimony. Essentially as I've already
17 said, he doesn't contest the relationship, the
18 friendship. The fact that he would have had access.
19 He admits kids coming over. He admits to volunteer
20 work with them and spending all this time with them
21 and having this great trusting relationship with him.
22 He admits that he spent the night twice. He just says
23 that nothing, nothing ever happened. Okay. He also
24 says there was never a fight. There was never a
25 falling out. There was never a difficulty with the

1 C or with victim 1 before any of this came out.

2 Now, he says of the Daufuskie, he says that Susan

3 -- his version is much different then Susan's and victim

4 one's. It was just no big deal. No big deal.

5 Now, of witness one , he admits knowing him.

6 He admits having a friendship with him. He admits him

7 coming over and spending the night at his house. He

8 admits being a 16, 17 and 18 year old man and sleeping

9 in bed with an eight, nine and ten year old boy. He

10 admits that there was no falling out that he is aware

11 of between he and witness 1 or he and the V

12 family. No fights.

13 Now regarding being uncircumcised. Well, victim one

14 must know that because there was this one time when he

15 got into my house when I was in the shower and when I

16 came out he was in my bedroom and he might have seen

17 me. So, that's why he must know that I'm

18 uncircumcised. Does that story make any sense to you?

19 So, follow me in my brain and my brain doesn't always

20 go in a linear fashion. But go back to that Daufuskie

21 incident where the defendant describes this very

22 benign interaction with victim 1 coming into his room.

23 So, there must be a reason that he remembers that. He

24 didn't specify that Susan was upset or anything like

25 that but why else would he remember this incident

1 where -- this benign incident where comes into
2 the room. So, assume for one minute that he has seen
3 this reaction of Susan's that he doesn't understand,
4 and now victim 1 -- victim 1 is like nine or so, ten, when
5 that happens, that he supposedly comes into his room
6 and accidentally could have seen him. Now that thing
7 happens and Andy Castillo doesn't pick up the phone
8 and call his neighbor and say, oh, my gosh. I need to
9 tell you. I'm concerned. Maybe you should talk to
10 victim 1. Can you talk to victim 1 about not coming into
11 the house. I am worried that he accidentally saw me. I
12 just want to let you know. None of that. And the
13 reason that he didn't pick up the phone I submit to
14 you, and didn't reach out or view any of that stuff
15 because that incident of this supposedly accidental
16 maybe seen, never happened. So, when he has to talk
17 about how why witness one knows, well, everybody
18 knew. All my friends knew. He just must have heard
19 it from somebody. Okay.

20 So now let's move to Susan and Keith C. .
21 Their testimony predominantly corroboration of
22 timeline, corroboration of the relationship and access
23 with the defendant. They filled in dates that of
24 course a little kid is not going to remember. And we
25 have Susan with Daufuskie seeing something with that

1 door closed and coming in and seeing them in bed. I
2 will admit Susan and victim 1's recollection of what
3 happened aren't identical, but Susan is talking about
4 one piece of something that she saw. It is not
5 necessarily inconsistent and I submit to you it is not
6 inconsistent with what victim one testified to.
7 There Daufuskie corroboration there was some kind of
8 incident and victim 1 is in the bedroom with Andy with a
9 closed door.

10 You know, in the cross of Susan -- remember that
11 cross? It's sort of like why didn't you know? That
12 was the nature of the cross. Why didn't you know?
13 And I think she doesn't know why she didn't know. I
14 think she regrets that she didn't know. She didn't
15 no.

16 Now witness one Ladies and gentlemen, witness
17 one was -- he's not a charged victim in this
18 case. So you may be sitting there going, okay, why
19 are we hearing witness one ??

20 Ladies and gentlemen, witness one took this
21 witness stand and he talked to you about something
22 that happened to him from 1997 to 2000. So ending
23 about five years, give or take, before the abuse of
24 the C's started. And the reason that you heard
25 the testimony of witness one is because in this

1 case you were looking at the sexual abuse of Victim
2 one and in the case of witness one -- you were
3 seeing incredibly similar sexual abuse. It is sort of
4 -- you think you about it as the modus operandi of the
5 defendant. You see that he ingratiated himself into a
6 family. He became almost a part of the family. He
7 became a significant influence and relationship in the
8 life of a child who was like eight, nine, ten years
9 old like Victim one was. About the same age. You
10 see him bringing and allowing witness 1 to come over.
11 Spending the night. Massaging him. Starting out by
12 massaging the back, down. The only difference -- the
13 difference is witness 1 the first time is in his
14 underwear and the defendant is in his underwear. But
15 they're massaging and he is on a water bed. Waterbed
16 and waterbed. And then he flips over and there
17 initially those massages there's oops. Kind of
18 grazing. And then at some point in there progression
19 -- so in about like he says on the stand, six months
20 to a year in -- kind of similar to Victim one's
21 progression. Sort of that timeline. He has this
22 teaching moment. The defendant has a teaching moment
23 with witness 1 just like he had a teaching moment with
24 victim 1. He is going to explain to him what
25 masturbation is. Going to show him. And that's how

1 it turns. And then it becomes like that. And those
2 massages start to include that. They happen in his
3 bed. There's also masturbation in the Jacuzzi. But
4 this massaging in the bed and the Jacuzzi -- and I'll
5 just point out the showering naked. Uichim one was
6 in a Jacuzzi naked and skinny dipping that one time.
7 Like Uichim one, witness 1 is made to touch the
8 defendant and masturbated him.

9 So when you look at witness 1's testimony look at it,
10 look it from the standpoint of those similarities that
11 overlap. Remember that like Uichim 1 he stopped. He
12 stopped it now. He stopped it before it got as far as
13 Uichim one's. He didn't want to do it any more. He said
14 he always knew. How he knew it was wrong but then he
15 was able to keep going with that relationship and that
16 friendship like Uichim one. He didn't tell. He
17 didn't tell.

18 Now the defense asked about -- it came up during
19 direct about him having the DUI and going to rehab.
20 And he told you that he struggled. He struggled. The
21 defense was standing there like a transcript or
22 something asking him when he graduated high school.
23 Talking about how smart he is was just like with Uichim
24 one. And wanting it to be like how could it
25 possibly happen to you? Your smart. You graduated at

1 the top of your class. It can't, no. You didn't
2 tell. You knew it was wrong. But he told you, and he
3 talked a lot more about it on cross. He struggled.
4 He struggled. And he didn't want to tell anybody and
5 he finally told his girlfriend who then became his
6 wife just that somebody had done something to him when
7 he was a kid. And when Castillo was arrested he
8 confirmed to her that's who it was. But he didn't
9 want any part of this and he didn't come to the state.
10 His sister did. And the question about DUI and he
11 says you were facing -- this was serious. Well, that
12 DUI was dismissed as preliminary hearing by a judge
13 and *witness one* still took that witness stand and
14 shared humiliating and horrifying details from his
15 childhood. So when you are thinking about *witness one*
16 and you're judging his credibility I want you to
17 think about the things that he knows about the
18 circumcision. The defendant being uncircumcised that
19 is. Think about the things that he told you about the
20 abuse that he experienced and I want you to think
21 about -- try to figure out why on earth he would tell
22 a lie about this.

23 Really ladies and gentlemen, the biggest thing
24 you're going to be looking at is *victim one*, isn't
25 it? That's the biggest thing and his credibility.

1 And I want you to start with the corroboration. He
2 knows the defendant is uncircumcised. He has no
3 business knowing that unless he's actually seen his
4 penis. There is the corroboration of significant
5 events; Daufuskie, the night before the wedding.
6 There is corroboration of access and opportunity that
7 victim 1 spent the night at the defendant's home. That
8 victim 1 spent the night in the defendant's home in the
9 attic by the defendant's own testimony. And the
10 ropes. Okay. Let's talk about the ropes.

11 So, on direct victim one testified that there
12 was a time when he was hogtied. Nothing sexual
13 happened. And he had a vague memory of their being an
14 incident of masturbation in the attic. He remembers a
15 rope around one of his legs and he could feel the
16 tension but he couldn't see where it was connected to.
17 Okay. So, victim one talks about these ropes and
18 talks about something this rope being connected to.
19 Something he can not see and then when the police go
20 in with a search warrant each corner of that bed has
21 hooks when they pull that mattress back. And they
22 find rope that's inside -- that's inside that coffee
23 table. So, victim one didn't know what it was tied
24 to, ladies and gentlemen. But he certainly knew facts
25 that support or he knew facts which raise a question

1 of what is this rope tied to and then they find hooks.
2 The answer.

3 So, going back to *victim one* and his demeanor.
4 You watched him testify. And you saw him speak.
5 *Victim one*: he's an engineer. He's a smart man. He
6 was a smart young man when he was a kid. And he spoke
7 to you about what happened to him and he's -- I would
8 say not just on his face the most emotional person.
9 But if you go back to his testimony and you remember
10 his testimony and you remember those times when he's
11 trying to articulate and a lot during cross
12 examination about this process and not telling and why
13 didn't he tell and trying to explain. I submit to you
14 you see the struggle. You see that demeanor of a
15 person who is effected. Just because he succeeded in
16 life, just because he found a way to not be dragged
17 down by what happened to him doesn't mean that bad
18 things didn't happen to him. And again, considering
19 his bias and motive to lie. There's no fight.
20 There's no falling out up until the parents find out
21 in 2016. They're still neighbors with the defendant.
22 Everything is still fine. They are still friendly.
23 So what on earth? Why? Why? He was a college
24 student. He's since graduated and found a job. He's
25 a civil engineer. What on either? What could be the

1 motive to come back here and to sit on that witness
2 stand and talk about this accept the fact that it's
3 true. So on cross examination you didn't tell. You
4 had lots of people you could have told. You knew it
5 you was wrong. How could you not know it was wrong?
6 And final one, you went with him. You went with him.
7 Well, Victim one told you he cared about -- he
8 liked his abuser. He had his first sexual experience.
9 He complied. He complied with his abuse. He didn't
10 know it was abuse. He complied with it. And when the
11 defense attorney asked, you didn't tell anybody about
12 Daufuskie. He's asking a 24 year-old man, but he's is
13 a 24 year-old man about what a nine year-old boy did.
14 Look at the picture of the nine year-old boy. That's
15 the boy who didn't tell. When he said that's him on
16 Daufuskie Island. That's the little boy who didn't
17 tell what happened to him. When he says you didn't
18 tell, that's the 12 year-old boy standing next to his
19 abuser at a church event. That's is who didn't tell.
20 Doing service work with his abuser. He says you knew
21 it was wrong. Well, that's defense's exhibit two.
22 It's postmarked June of 2007. Victim 1 was 11 years old.
23 This was in the middle of his abuse. Again, he like
24 his abuser. He didn't know. He didn't understand
25 that it was wrong. But this is what a 11 year-old boy

1 writes. He wasn't a 24 year-old man. He was a 11
2 year-old boy. And by the way, this is from June of
3 2007. The defendant kept this. He kept it. You knew
4 it was wrong. Didn't you. Well, this is a picture of
5 a 12 year-old victim 1 sitting at the defendant's house
6 in that attic in the site of his abuse. That's who
7 didn't tell. That's who didn't understand. The
8 person who had the 12 year-old, the 11 year-old, the
9 ten year-old, the nine year-old that had good
10 experiences with this person, not the 24 year-old man
11 that came to court. Because that man has lived, has
12 grown up and can look back and can he have those aha
13 ha moments. That wasn't friendship. That wasn't
14 anything except abuse. Coming back again,
15 lewd act. Ladies and gentlemen, you got 2196. You're
16 looking at this date range here, beginning at the end
17 of Daufuskie running through the July first of 2007
18 alleging massages. The massages with the oops. Not
19 the massages with the masturbation. Those initial
20 massages that keep going sometime until the
21 masturbation begins in the bedroom. victim one
22 told you about that.

23 2197, beginning sometime before -- beginning in
24 5th grade, slightly before the beginning of the 5th
25 grade. This regards the defendant masturbating the

1 victim in the bedroom. And this is continuing all the
2 masturbation in the bedroom from the first incident
3 until the end it happened in the bedroom are
4 encompassed by this indictment.

5 2198, July first of 2007 through July 23rd of
6 2009, massaging or masturbating *victim one* in the
7 attic. This date maybe a little bit early for when
8 the attic is ready for guests, but it encompasses the
9 timeframe. This is different from the last
10 indictment. In that the last indictment it was
11 masturbation in the bedroom. This is masturbation in
12 the attic. So remember it's going on once the attic
13 is built and he's going up in attic and that previous
14 indictment it's still happening sometimes in the
15 bedroom and he told you about that specific incident
16 where he's spending the night.

17 Now going to 2199. We're back to July first of
18 2007 through July 23rd of 2009. There's the one
19 incident *victim one* described of being made to
20 touch the defendant in the attic and that date of July
21 first 2007. Again, maybe a little early from when the
22 attic was ready for guests but it certainly
23 encompasses it and it carries it all the way forward.
24 *victim one* doesn't know when these particular
25 things happened and under the law we're not required

1 to prove the exact date and time of these things.
2 It's not an element of the offense, ladies and
3 gentlemen. We have offered evidence that shows a
4 continuous nature of this conduct during these time
5 periods.

6 Criminal sexual conduct with a minor in the 2nd
7 degree. November 8, 2006 through July 23rd of 2009.
8 Okay. Again, if masturbation starts in the 5th grade,
9 right, with the joke. Some point in the 5th grade.
10 *victim one* turns 11 ; This
11 includes from the time that he turns 11 all the way
12 until the night before the last incident. He
13 testified there was one incident where the defendant
14 performed fellatio on him in his bedroom. That is
15 what this indictment charges.

16 And finally, where we do know the exact date. We
17 do allege it in the indictment and you have that here.
18 You have July 24th of 2019 fellatio that occurred in
19 the bedroom.

20 So ladies and gentlemen, ultimately this case
21 comes down to how you're finding the credibility of
22 *victim one* And again, I ask you to think back
23 through his testimony and think back to the details
24 that he provided to you of his abuse. Think about the
25 things that he knows that he shouldn't know.

1 Uncircumcised. The rope that leads to finding the
2 hooks that he shouldn't know any information about
3 unless when he talks about being masturbated in that
4 attic and that rope being tied to his leg that one
5 time, that's the only way he knows about those ropes
6 being tied to something. You think about him. You
7 think about how his testimony is corroborated as far
8 as the acts that's in the relationship and all of
9 those things but I want you to come back to at the end
10 of the day, why would *victim one*, come into this
11 courtroom and make up stories against a man who by all
12 accounts he had a wonderful relationship with, but for
13 the fact he has grown up and looked back. He realizes
14 that his friendship was abuse and he needed to tell
15 his story.

16 I think it would be pretty difficult, you know, I
17 understand that ultimately deliberation may seem
18 difficult and it is an important process. The judge
19 is going to instruct you on reasonable doubt and tell
20 you that very few things in life can be proved beyond
21 all doubt, but it's that doubt that is reasonable.
22 When you go back in that jury room, you are -- I think
23 in the opening Mr. Swerling said reasonable doubt is
24 kind of doubt that causes a reasonable person to
25 hesitate to act. And that is one definition. It's a

1 good definition. But as you remember that definition
2 I want you to think about this thing, one thing. As
3 jurors you are required to go back into that room, sit
4 down, sit at a table, listen to each other, hear each
5 other out. That's call deliberation and deliberation
6 should not be confused with hesitation. When you go
7 back into that jury room you begin deliberating and
8 you're deciding the facts and I ask you -- or I submit
9 to you, you sit at that table and you think about all
10 of these facts and you think about all the
11 possibilities and all of the what if's and all of the
12 maybe's and all of the could be's. But it's after
13 considering all of those things you believe that the
14 defendant massaged *victim one*, beginning after
15 Daufuskie and that those massages, the ones without
16 the masturbation -- this is the early massages -- you
17 believe those massages had a sexual component and
18 sexual intent and I submit to you they did -- if you
19 believe *victim one* the massages happened. You
20 believe they were sexual. The State has met its
21 burden.

22 If you go back into that jury room and you talk
23 about it and you consider everything and if at the end
24 of that you believe that the defendant masturbated
25 *victim one* and that he did in his bedroom at his

1 home, the State has met its burden. Find him guilty.

2 If you believe that he masturbated Victim one
3 in the attic then the State has met its burden. And
4 again, if you believe that Victim one was made to
5 touch the defendant in the attic -- touch his penis
6 and massage him, I submit to you the State has met its
7 burden.

8 If you believe that the defendant used his
9 relationship and progressed his relationship and
10 progressed his abuse that he performed fellatio on
11 Victim one in his home, if you believe that, if you
12 believe the testimony of Victim one, the State has
13 met its burden. Find him guilty.

14 And if you believe, ladies and gentlemen, that the
15 defendant came into the Co home the night before
16 his wedding and invited their son -- invited Victim one
17 into a bedroom and performed fellatio on him, if you
18 believe that, the State has met its burden.

19 I submit to you, ladies and gentlemen, that the
20 State has met its burden. You heard from Victim
21 one. You heard from the corroborating witnesses.
22 You heard from the parents that corroborate the
23 timeline. You know there's access and opportunity.
24 You heard from witness one about this MO, modus
25 operandi, this method, the State has met its burden.

1 Ladies and gentleman, I ask that you return a
2 verdict of guilty.

3 THE COURT: Mr. Swerling.

4 MR. SWERLING: May it please the Court,
5 solicitors.

6 Good morning, ladies and gentlemen. There was a
7 time when I could make a closing statement without
8 notes, but as I have gotten older I can't do that any
9 more and there has been a lot of evidence in this
10 trial so I will have to refer to my notes periodically
11 so please forgive me. It's just not what I am use to.

12 Thank you for your attention during the last five
13 days. We've watched you. We have looked at you.
14 Certainly you have paid attention to the testimony and
15 the exhibits, the rulings by the court, statements
16 have been made and evidence has been presented, and we
17 thank you for that. Because that's all we can expect
18 that a jury pays attention and then applies legal
19 principals that come about in a trial. They're used
20 in every single everywhere in the country.

21 Now, we've talked at the beginning of the case
22 about the fact that you were carefully selected by the
23 judge, by the prosecution and by the defense. We are
24 satisfied that the 14 of you, or the 12 of you that
25 eventually will deliberate in the case -- because only

1 12 people can deliberate even though you sat here the
2 whole time -- we're satisfied that the 12 of you who
3 will deliberate will give us a fair and impartial
4 verdict in the case. You won't use any kind of you
5 prejudices. You won't use any bias. You won't use
6 anything from outside this courtroom. You will not
7 apply the law that you see fit, but the law that the
8 judge gives you because you're required on do that.
9 You're the judges of the facts, but no one can
10 interfere with your judgement on what the facts are.
11 But no one can interfere with the judge's instructions
12 on the law. And I know that and I'm satisfied that
13 the judge is going to instruct you on ever legal
14 principal that is to be applied in this particular
15 case. So I'm not going to go through a lot of that.
16 I'm not going to go through each indictment. I'm not
17 going to go through what criminal sexual conduct is or
18 what a lewd act is. I'm not going to go through with
19 you each of these dates and try to get you to
20 understand why we think there may be some reasonable
21 doubt as to the dates or the elements of the crime
22 because hear's the bottom line; Mr. Castillo denies
23 any kind of improper sexual conduct with either of
24 these boys. You're sitting here in judgement today on
25 victim one 's case and he absolutely denies and said

1 it from the witness stand even though the solicitor
2 told you he did not have to get up on that stand. The
3 judge would have instructed you that you have to
4 decide the case based upon what the State presents,
5 not what the defendant presents. A defendant charged
6 with a crime has never got to prove his innocence
7 because we know, and our four-father have known since
8 we created this wonderful country and this jury
9 system, that it is very difficult to go ahead and
10 prove that you didn't do something. So what we do is
11 we place the burden on the State to prove that you did
12 and they have to prove it beyond a reasonable doubt.

13 Now, we talked about that briefly and the judge
14 will give you some instructions on reasonable doubt
15 and presumption of innocence. Truly the bedrock of
16 our system of justice. There are no more two
17 important principals of law than proof beyond a
18 reasonable doubt and the presumption of innocence.
19 That presumption of innocence is so strong. The judge
20 will tell you right now, and before you enter that
21 jury room, and before the 12 of you concur that the
22 State has met its burden of proof beyond a reasonable
23 doubt you have to presume that he is innocence. Right
24 now. Even when you go in the jury room. You heard
25 the evidence but you still have to apply that

1 principal of law. And we are probably the only
2 country left in this world that still requires the
3 presumption of innocence follows someone into the jury
4 room until and unless there's proof beyond a
5 reasonable doubt.

6 The judge will tell you what reasonable doubt is.
7 You don't have to listen to me. You don't have to
8 listen to Miss Joyner because we're the not the judge
9 of the law. Now we will give you our interpretations.
10 We will give you what we are suggesting you kind of
11 consider. But the judge will tell you what the law
12 is. Bottom line. And if I misstate something, even a
13 fact, it's not intentional. It's inadvertent. We're
14 sitting there writing notes and making notes when
15 people are testifying and when I go back last night
16 and you try and go back over the notes I may mistake
17 something and if I do I apologize. I want you to know
18 that right up front. You recall what you remember.
19 What your notes may reflect. What other people have
20 heard. And you go ahead and rely on that. Not what I
21 said and not what Miss Joyner's said because we may
22 not get it right. We may not get it right. Just like
23 yesterday when I was cross examining Victim one . I
24 made a mistake. Wow. I did make a mistake because
25 what happened was apparently some papers got in the

1 wrong file and I went ahead and I asked some questions
2 on cross examination about the individual going to see
3 a counselor and that did not apply to that particular
4 person. So when I make a mistake, what do I do? I
5 stand up and I tell you I made a mistake and that
6 should not be considered by you at all. In fact we
7 entered into a stipulation this morning that you
8 should not consider it and it should be something that
9 you in any way debate. It is not going to be part of
10 this case and I have no problem with that, that you
11 are instructed to go ahead and disregard it because
12 there was a mistake made. Guess what folks, that's
13 why they have erasers on pencils because people make
14 mistakes and this may be the second mistake I've ever
15 made in 46 years but I made a mistake and I apologize.

16 We have verdicts in this country under our system
17 of justice of guilty or not guilty. And that's what
18 you are going have to decide. It is very serious
19 stuff because the ramifications are enormous for
20 everybody. Ramifications are tremendous. Very
21 serious matter. Guilty must be proven by beyond a
22 reasonable doubt. Reasonable doubt as Miss Joyner
23 reminded you what I said in the beginning of the case
24 is if you have reasonable doubt. If you hesitate to
25 act. If you are not satisfied beyond a reasonable

1 doubt of what the proof was or what the lack of proof
2 you have to resolve that in favor of a person accused
3 of a crime. That's the bottom line. You have to
4 resolve that in favor of the defendant accused of a
5 crime in any county, any state, and in this country
6 throughout this great United States.

7 We submit that there is a reasonable doubt from
8 the evidence or from the lack of evidence. What does
9 not guilty meant. Not guilty means not guilty beyond
10 a reasonable doubt. Not proven guilty beyond a
11 reasonable doubt and we submit to you that in this
12 particular case it has not been proven beyond a
13 reasonable doubt.

14 Now I am going to go through a number of facts
15 that have come out in the last couple of days of what
16 I submit to you is reasonable doubt. Reasonable doubt
17 is anything that causes you to hesitate. Anything
18 that makes you say that just doesn't sound right.
19 That's not what I would expect in a trial. That's not
20 what I would expect of a human being, the reaction
21 that I would expect. These are all issues that can be
22 reasonable doubt. Anything that you find there is a
23 reasonable doubt can be applied in this case. And
24 we'll go over some things that I submit are or create
25 a reasonable doubt and should not overcome that

1 presumption of innocence.

2 Now we also talked at the beginning of case about
3 credibility of witnesses. It's very simple. You use
4 your every day judgement, decisions you make on an
5 every day basis judging the credibility of a person.
6 And we ask you to do the same thing as you are sitting
7 in that jury box and you go into that jury room. It's
8 something we don't train jurors how to go ahead and
9 deliberate. We don't train jurors as to what they're
10 suppose to consider or not consider. That just
11 doesn't happen. We bring 12 people in from the
12 community from all walks of life. You go back there
13 and you apply your standards that you do every single
14 day. Use your good judgement and decide whether or
15 not the State has proven guilt beyond a reasonable
16 doubt. We're satisfied that you folks based upon your
17 backgrounds and experiences will be able to determine
18 what is a reasonable doubt in this case and that there
19 is plenty of reasonable doubt.

20 Now, to judge reasonable doubt you have to look at
21 the credibility of witnesses and the credibility of
22 witnesses can be judged a number of different ways.
23 Was that witness consistent every time that witness
24 told a story? Did the witness have a motive, an
25 interest, a bias or a prejudice? Was the witness's

1 testimony corroborated by the physical evidence? Is
2 that witness's testimony not only consistent with
3 every time a person told a story but is it consistent
4 with what other people say. Those are things that you
5 decide the credibility of a witness on. And folks,
6 that is totally your prerogative. Nobody can ever
7 question your discussion of what credibility is and
8 whether or not you find somebody credible. You can
9 find five people credible in a case. You can find
10 four and one not credible and any combination, three
11 and two. You don't have to accept everything that
12 you're told by every single witness, but you can pick
13 it an apart and you can judge each individual witness
14 on its own, or on her or his own, and make that
15 decision of whether or not the case has been proven
16 beyond a reasonable doubt.

17 Now, as I said I am not going to discuss the
18 actual charge because there is no reason to. Mr.
19 Castillo claims that he did not in any way abuse,
20 touch in any way or be touched in any way by these
21 children, particularly in this case *victim one*
22 because that's the charge you are facing today. Those
23 are the indictments that you will have to decide.

24 If at the conclusion you are satisfied beyond a
25 reasonable doubt, everybody can walk out here and say

1 I don't have any doubt about this case. I'm not
2 hesitant about it. All the facts have been proven.
3 All the elements have been proven beyond a reasonable
4 doubt. You have an obligation under the oath that you
5 took which is a very sacred oath. You have an
6 obligation under that oath to find a person guilty.
7 But on the other hand, if you have a reasonable doubt
8 when you go back into the jury room and come back out
9 and you say something bothers me about this case.
10 There is something that's not right about this case.
11 There's something that doesn't make sense about this
12 case. Then you're required to find a person not
13 guilty. We've been doing that for a long time.
14 Jurors all over this country and the system works. It
15 does work. And now we're going to have 12 citizens
16 from York County go ahead and make that decision in a
17 very, very serious matter. So credibility of the
18 witnesses, first you're going have to decide -- and
19 I'm going to go through some of those things with you
20 and I don't want to belabor it. I don't want to bore
21 you but there are some facts that have to come out in
22 this case that we submit to you the State has not met
23 it's burden of proof because it's very serious and Mr.
24 Castillo has a lot at stake.

25 Let's talk about first of all victim one . Victim

1 One and Andy Castillo and the families were very
2 close. They met in the church. They moved -- Andy
3 moved near them in the neighborhood. He looked at a
4 number of houses. He found a house that he can
5 afford. He just happen to know them. This is well
6 before there is any allegation of any kind of abuse
7 folks, so there wasn't a move to go ahead and continue
8 any abuse with victim one. This all predated any
9 of that. It's 2004 when he moved into the house and
10 bought that house. He was a young man just out of
11 college. Wanted to go ahead and put his money into a
12 house which is a very smart thing to do and build some
13 equity. He had that special relationship with him.
14 He had a special relationship with the boys. He
15 looked at them as younger brothers. They weren't his
16 best friends, but they certainly enjoyed being with
17 him and he enjoyed being with them. And folks, if
18 getting friendly with some kids in your neighborhood
19 is an indication that you are child abuser, God help
20 us. Because that's what the State is suggesting to
21 you. That's what they're suggesting. Just things
22 that people do on every day basis, people in the
23 neighborhood, kids and church at school, at your work.
24 Whatever it is. People you ran into at work. Don't
25 pay too much attention to those children because

1 you're going to get accused. You could be subject to
2 being accused of child molestation. What a terrible,
3 terrible thing to say that someone did. It ruins a
4 life. It destroys a life. Even if you are finally
5 acquitted and the jury finds you not guilty it follows
6 you for ever that you were even accused and you know
7 he that.

8 So he made a special relationship with the family.
9 They were good friends. They lived a couple doors
10 down from each other. Not only was he friends with
11 the children, but he was friends with the parents and
12 there's no doubt about that. Everybody agrees to that
13 they were very friendly. They would be over each
14 other's house from time to time. There was an open
15 door policy in Mr. Castillo's house. That the kids
16 could come when they wanted to if the garage door was
17 up. They could go over there and watch TV. They
18 could play games. They could do with computers as Mr.
19 Castillo is a computer literate individual unlike me.
20 I can't even run this Powerpoint that they were doing.
21 It's well beyond my generation. But they had a reason
22 to want to go over there because it was an enjoyable
23 place to go and they found Andy Castillo to be an
24 enjoyable person to be with and so did the parents.
25 That's what is amazing in this case. That's what you

1 got to go ahead and accept. The parents, there was no
2 antennae up. There was no red flags because nothing
3 ever happened and the parents had no problem with
4 those children going over to Andy Castillo's house.

5 Now, you folks are parents. Every parent knows
6 when there is something going or senses when there is
7 something wrong, but not in this case. There was
8 none. And we heard a lot of things that are 20 years
9 in retrospect but let's talk about what happened
10 during that period of time. They went to church
11 together. They all came up in that church together,
12 the Episcopal church. Again, they obviously enjoyed
13 being with other. They went places together. Games
14 together, TV, Chess, the choir, youth groups. It
15 seemed like everything went around, functioned around
16 the church which is wonderful. It's a great place to
17 be and have those activities and functions to be
18 connected to the church and they all were. They all
19 were, the C and the Castillo's. The parents
20 were never concerned. And you heard that yesterday.
21 We thought there was a little bit of a problem way
22 back when we went back to Daufuskie. That's nonsense.
23 Ladies and gentlemen, 2005, when they went to
24 Daufuskie and there was some concern about what had
25 happened in that bedroom they would have never allowed

1 victim one to go see Andy Castillo again. No parent would.
2 Nobody. So they didn't have any suspicions. They
3 didn't have any red flags. There was nothing for them
4 to be concerned about. And the thing about Daufuskie,
5 the State wants to make a big deal about the fact the
6 fact that Mr. Castillo invited them down to Daufuskie.
7 Well, he can invite me to that place. It's beautiful.
8 And they were friends of his and he took them down to
9 his aunt's place that he had been to several times.
10 And he had a bedroom that he normally slept in. Wow.
11 The State wants to make a big deal about that, that he
12 had his own bedroom that he was accustomed to. And
13 parents slept downstairs and the boys slept upstairs
14 in a bedroom as well. Andy Castillo did not go into
15 victim one's room that night. Victim one went into his room the
16 next morning. Andy Castillo was not looking to go
17 ahead and groom somebody. Go ahead and accost them
18 and abuse them. He came into his room. Remember how
19 that happened. And I don't recall but your notes will
20 reflect it -- I don't recall that when Miss C
21 walked in the room that they were under the covers.
22 But you reflect what's in your notes, not what I say.
23 Because like I said I am jotting things down as we go
24 along. Now, if they had been under the covers, if
25 there was some suspicion that something happened, you

1 know real well that Miss C would have said
2 something. Not to her son that was inappropriate, but
3 to him or if you are not going to say something you
4 don't let them see each other. Isn't that the normal
5 thing that you would expect. If you suspected
6 something that was inappropriate you don't let them
7 see each other. That would have been the logical
8 thing to do. The other thing is that victim 1 said that
9 he was -- I think he was nine year-olds in 2005. Well
10 folks, do you believe that he did not know it was
11 wrong to let someone grab his penis, or perform oral
12 sex on him or get someone to do something to them.
13 Folks, every parent I submit to you one thing they
14 tell their children don't let anybody touch you
15 inappropriately. That's what they tell you in school
16 in the human health courses. That's what they tell
17 you in church. No matter where you are kids are made
18 aware of the fact that it's inappropriate to be
19 touched or let somebody touch you or for you to touch
20 them. So, is it believable that victim one did not
21 know it was wrong? That's why I asked him on cross
22 examination, you mean you didn't know it was wrong is
23 because it doesn't make sense. And because it doesn't
24 make sense that's reasonable doubt. Things that don't
25 make sense create reasonable doubt.

1 Now they went back to York, to Rock Hill and life
2 went on. Apparently Daufuskie was never mentioned
3 again because nothing happen there. Now, did he seen
4 his penis? Well Susan C didn't see it and who
5 knows when he may have seen his penis. It could have
6 happened in an inadvertent way just like the mistake I
7 made yesterday. You come out of a shower. You're
8 changing. You're putting on a bathing suit. You're
9 taking off a bathing suit. Whatever it may be. That
10 is just no evidence that he intentionally showed his
11 penis to that child.

12 Now, going back to when they` came to Rock Hill,
13 it's a totally open relationship. Nobody was running
14 around in secret in this case. Nobody was saying come
15 on over to my house. Not letting anybody know. He
16 was making and extending invitations to the children,
17 to the parents. Let the kids come over when they want
18 to. The garage door is up they can come in. It is
19 totally open. If you are child abuser, if you are a
20 pedophile, that is not the way you act. You go ahead
21 and tell the parents let your children come over any
22 time they want to, and we'll come over to your house
23 and maybe have dinner together, maybe a barbecue,
24 maybe we'll go out, maybe we go on a trip together to
25 Daufuskie. That's not what a pedophile does I suggest

1 to you. You try and hide things. It's all in secret.
2 Pedophiles act in secret. It was no secret here Andy
3 let those kids come to his house and it was open
4 visitation policy and they could come whenever they
5 want to and they can do whatever they wanted to in the
6 house and it was all available to them.

7 They went to church together. In church we
8 understand there was a choir. Andy worked on the
9 choir, was a director or assistant director and the
10 boys went ahead and became members of the choir. A
11 good thing in this day and age and even back then 20
12 years ago. They all participated in the youth groups.
13 They participated in schools and chess club. They
14 invited Andy to come in and teach kids in the public
15 school about chess. There was -- the boys progressed
16 through the church different positions and so did Andy
17 Castillo. And they did it together. There whole life
18 in those years, those formative years not only for the
19 boys, but for Andy was spent in the church.

20 Now you heard a lot about and we'll come back to
21 it in a little bit about the missions and the ski
22 trips and retreats and things like that.

23 Miss Joyner makes a big deal about the fact what I
24 created about delayed disclosure. It was -- let's
25 see, 2009. So he reported in 2016 and we don't know

1 what the circumstances was surrounding his report, but
2 it was -- let's see, seven years. Seven years later.
3 And Gaye Allen Cook told you that it is atypical for
4 somebody to wait that long if there is people they can
5 trust that they can go to. They can reveal it to. As
6 far as we know the C were a very strong family
7 unit. Mom and dad and the boys were very close which
8 makes it all the more likely that you would report it
9 to your parent. You're going to church. There are
10 priests. There are directors, youth directors. There
11 are other people, friends of yours. There are
12 teachers. There are nurses. There are guidance
13 counselors. These young men or this boy was not
14 isolated from anybody. He had lots of people in his
15 life that he could trust to go ahead and make that
16 revelation to. And that's what Gaye Allen Cook was
17 saying. It is atypical when people have lots of
18 people around them that they can go and report
19 something to even if they were too embarrassed to
20 report it to the parents. There is all kinds of
21 people they could report it to like I said, a teacher,
22 guidance counselor, a nurse. But waited seven years
23 from 2009 to 2016 to go ahead and make a disclosure.

24 Now folks, I think it was Doctor McMillan -- I
25 think that is her name -- she obviously is someone who

1 teaches this. She instructs other people on it. She
2 has written a book or whatever. She does some
3 studies. Well, she's been qualified one time as a
4 witness in a case. Once. She testified to that the
5 other day. My qualifications, I have been declared an
6 expert in the court one time. Now, compare that to
7 Gaye Allen Cook, who has been doing it 19 years. She
8 been qualified by a judge as an expert in a case in
9 criminal court 175 times. She's been qualified as an
10 expert in civil court in this area 75 times. And
11 she's been qualified in family court where there are a
12 lot of these kinds of cases that come up, 350 times.

13 Now, that's an expert. That's somebody who knows
14 what she's talking about. So you got well over 500
15 times that a judge has certified her as an expert in a
16 case and judge certified her as an expert without
17 objection from the State. So, you put that in on
18 notes and you put it when you go back and discuss and
19 you decide who's telling the most believable part of
20 whether or not delay disclosure was reasonable enough,
21 and also grooming. Grooming is something that Gaye
22 Allen Cook talked about and Doctor McMillan talked
23 about. Grooming is people who are grooming a child,
24 target a child they believe is not going to go ahead
25 and report it. Someone who is isolated. Someone they

1 groom -- they groom somebody who they don't think is
2 ever going to go ahead and tell anybody they are being
3 abused. Well, these kids as I said, had a very close
4 knit family. Had a lot of activities in the church
5 and at the school. So they were not typical targets
6 of someone who is going to try and abuse them
7 according what Gaye Allen Cook said because they had a
8 lot of people around them. They would be the type of
9 people that a pedophile or someone who is going to
10 abuse a child would stay a way from because the
11 chances of disclosure would be too great.

12 Now, we don't -- Miss Joyner went through this and
13 she went through it the other day, but the dates are
14 not in question about how old they were at certain
15 stages. What grades they were in. When the marriage
16 took place. When he moved in over there. When they
17 moved in over there. Those are not in dispute. Now
18 unfortunately, he may have been wrong about when he
19 met his wife or when he got engaged, but that is not
20 enough to convict him and Ms. Joyner made a big deal
21 about that Andy couldn't remember when he met his
22 wife. Folks that's nonsense.

23 Reasonable doubt. According to the State and Victim
24 one started shortly after the trip to Daufuskie in
25 2015 and lasted until July 24th, 2009. That's four

1 years. Four years. And in that four years ~~Victim one~~
2 testified he was abused five times. Now does that
3 make sense to you. That someone who is abusing the
4 child over a four-year period would abuse the child
5 five times. That doesn't make a whole lot of sense I
6 submit to you that someone who's a pedophile and
7 someone who has got a mark and someone who has got a
8 target and they're getting successfully abusing that
9 child in a five-year period -- a four-year period, I'm
10 sorry -- is going to abuse the child five times.
11 Folks, that is reasonable doubt. I submit to you that
12 is reasonable doubt.

13 The solicitor -- I guess I felt like I was in
14 trial there for a while the. The defense did this and
15 the lawyer did this. Folks, cross examination is the
16 essential part of the criminal trial process. The
17 reason is, that's a search for the truth and that's
18 why cross examination is allowed. It's been
19 recognized and proved and adopted by every single
20 court that's ever decided at. Cross examination is a
21 allowed to test bias, interest and prejudice and
22 credibility. And credibility. But Miss Joyner made
23 it sound like I was going after these children,
24 particularly ~~Victim 1~~ by asking him detailed questions
25 about what happened. That's my job. I'm an advocate.

1 I act honorably, ethically and I never would do
2 anything other than that. But that's my job. I'm
3 suppose to represent an individual and I'm suppose to
4 do it zealously and with the confines of ethics and
5 professionalism. So when I go ahead and ask cross
6 examination questions there's a reason for it. It's
7 designed to bring out the truth and to explore what a
8 person's testimony is. But the other thing is, she
9 said I kept making points about the fact that he kept
10 going back. Now folks, you think about this in your
11 own life. In your every day experiences if something
12 is unpleasant to you, if something is wrong, if you
13 know it's wrong, if you're being abused, my whole
14 purpose in asking these questions is; is it reasonable
15 that you would keep putting yourself in that position?
16 And I submit to you the answer is no. You don't have
17 to go over there if it's unpleasant and you know it's
18 wrong and someone is abusing. You don't have to go.
19 And I think that most people would say I would expect
20 that of my child not to go if something was happening
21 because no one was forcing the child to go. That was
22 the purpose of asking the child did you continue to go
23 back because nothing was forcing that child to go over
24 there. And if he was being abused then it doesn't
25 make sense that he would continue to go. All he has

1 to do -- he doesn't have to tell his parents. Doesn't
2 have to tell his teacher. Doesn't have to tell
3 anybody. Just don't go. That's all it takes.

4 Now, we talked about the attic. Wow, that attic.
5 That's sinister. He built an attic. He built a man
6 cave his bedroom or above the computer room. And we
7 know from the pictures in there that they had the
8 chess club meeting there. He stayed up there
9 periodically it was a room -- like he said today they
10 call it a man cave. Back 20 years ago they didn't
11 call it a man cave. But it was private room for
12 himself where he could go up there and listen to
13 music. There was nothing sinister about it.
14 Everybody knew he built the attic. Everybody saw the
15 attic. It's not a secret. It was totally in the
16 open.

17 Reasonable doubt. They want to make it sinister.
18 They want to make it like it's something you should
19 consider in this case. Totally open. Transparent.
20 That's what this was all about. Pictures on the
21 table, oh my goodness. Get rid of your pictures folks
22 because if you have some pictures of young folks in
23 your photo albums or on your table; memorabilia,
24 things that you enjoy looking back over, relationships
25 you've had, well, you better get rid of them because

1 somebody is going to accuse you of having some
2 interest in one of the children that may be in one of
3 those pictures. I may go home and throw out all my
4 photograph albums. That's what the State is
5 suggesting here because he had a picture of Andrew or
6 he had a picture of victim one or victim two that
7 is something sinister in the case.

8 The ropes. He did not have to get on the stand
9 and admit something embarrassing to you but he did.
10 And I guess he could have come up with some other
11 story if he was trying to hide what happened and what
12 the story of those ropes were. He and his wife had
13 talked about doing some sexual things to increase
14 excitement, enhance the excitement. That's why the
15 ropes were up there for, but they never used them.
16 Never used them. Now, if he was trying to hide that
17 don't you think he could have come up with a better
18 story about why the ropes were up there and why the
19 bed may have had an eye-hook on it. I submit that he
20 could have. But the State wants that to be the main
21 focus of this case or one the main focuses of this
22 case.

23 His wife moved in 2000 -- somewhere between 2007
24 and 2009. So there's an added person that's in that
25 house when victim 1 suggest that he is being abused and

1 molested. There's no way, ladies and gentlemen, that
2 Andy's wife would have allowed something like that to
3 happen. There's no indication in this case, that at
4 any time after Kathryn moved in that she was alarmed,
5 she was concerned or C. was concerned. As a
6 matter of fact, they went ahead and continued this
7 relationship together. And she joined in the
8 relationship and they periodically did stuff together.
9 They came over to each others house periodically. It
10 wasn't a regular thing. As Kathryn and Andy started
11 having children, well, you have to have less contact
12 because you have other obligations to go to. Other
13 things you have become interested in. His three
14 children were born over a several year period in that
15 house. But the boys kept coming. There is he no
16 indication that they stopped. There is no indication
17 in this case that even after Uchmi says he stopped, it
18 was all stopped that they stopped their relationship
19 with the Castillo. None.

20 Now something I would like to bring out to you that
21 I find -- I submit to you -- sorry, I'm getting dry.
22 Something I would like to submit to you and Miss
23 Joyner wants you to look at both cases; the C
24 case and the V case. Some sort of common
25 pattern. Well, according to Vickman he never

1 got undressed. Never naked during any of these
2 periods of abuse. He was touched through his clothes,
3 top of his clothes or whatever it may be. And there
4 was oral sex twice. Twice. Look at witness one,
5 The State says they're very similar. Because there
6 was a massage. Not similar at all. According to Mr.
7 witness one, witness one, he was over there 15 to 20
8 times and every time he was over there he had to sleep
9 with Mr. Castillo and he had to be naked. That
10 doesn't apply to the C case. Where's the
11 connection? In addition to that, victim one
12 testified there was oral sex twice. Guess what, witness
13 one said there was no oral sex. Two strong
14 issues and no similarity between the two. None. Two
15 stories widely diverted. So where is this pattern?
16 Where is there common scheme? None. Because remember
17 witness one was first. Those are supposedly the first
18 acts and in those he was naked 15 to 20 times sleeping
19 in the bed. Never had oral sex, but then five years
20 later the victims -- well, victim 1, is never naked and
21 there is oral sex. You consider that as reasonable
22 doubt. That's what we are talking about.

23 On July 24th Andy stayed at the C residence
24 and he stayed in the guest room or victim two's room or
25 whatever room it was. The State would have you

1 believe that 10 or 15 feet from the parent's bedroom
2 that Victim 1 walked in because there was a prearranged
3 meeting and had oral sex by Mr. Castillo. Make sense
4 to you? Does it make sense that you would take a
5 chance if you were going to do that and you're within
6 10 to 15 feet from the parent's bedroom and the
7 parents according to them had already walked in on you
8 one time that they wouldn't walk in on you again. It
9 doesn't make sense. You know what else doesn't make
10 sense about that act? According to Victim 1 he walked in
11 and Andy -- he asked Andy how can I make masturbation
12 feel better. Well, according to Victim 1 he already had
13 oral sex with Andy before. So what's that all about?

14 Ladies and gentlemen, that's just kind of thing
15 that's just created to make the story better. Why
16 would ask that how can I make masturbation better when
17 he has already known about how to make masturbation
18 better. And by the way I don't enjoy talking about
19 these things because they are all very personal and I
20 apologize, but it's what the case is about.

21 After July of 2009, they all went to the wedding.
22 They all went to the dad's funeral when his dad died.
23 He went to graduation. Oh, my goodness don't go
24 graduation folks because somebody is going to say
25 something is wrong. Why wouldn't he go to the

1 graduation? His wife is a teacher there. Kids that
2 he came up with, that were at his house all the time
3 and he was at their house and they did activities
4 together. They went to shows together. They went to
5 Charlotte together. All kinds of things. Why
6 wouldn't you go to the graduation and what was so
7 sinister about him being at the graduation. It's
8 little things like that that they pick out and they
9 want you to consider it something evil. Red flags.
10 There were no red flags. They never thought twice
11 about the fact that he came to graduation and he sat
12 down with them because it was all very reasonable that
13 he would be there.

14 After July of 2009 they stayed active in the
15 church. Andy became the acting youth director. He
16 had hundreds of children available to him. People
17 that he supervised going all different kinds of
18 places. Hundreds of them. He worked at York Place
19 where there were also many, many, child who had been
20 abused. He went on these trips with them. They had
21 no problem with it because they knew they didn't have
22 any you suspicion.

23 MS. JOYNER: Your Honor, I object to what other
24 people knew being said to the jury.

25 THE COURT: All right, contain your arguments to

1 the facts in the case please.

2 MR. SWERLING: So the bottom line is that they
3 continued their relationship through the church and
4 through other activities.

5 Now, let's talk about the church for a minute even
6 after this is passed 2009. Ever couple -- twice a
7 year there were mission trips to Camp Gravatt down
8 near Aiken. They all went together. Who drove? Andy
9 drove. This is well after supposedly the abuse.
10 There was design group meetings down in Clinton. Who
11 drove? Andy drove. Drove the kids there and he drove
12 them back. Was there some concern there at all, no.
13 And the boys went with him. This is after Victim 1 was
14 supposedly abused. They went to these trips down
15 there. They went on ski trips. They went on other
16 kind of trips with the youth group. They stayed in
17 the youth groups at the church. Andy was directly
18 involved with the youth groups in the choir. They
19 continued to go. They even asked him to participate
20 in the chess club at the school.

21 I ask you to consider this when you are talking
22 about reasonable doubt. Victim 1 felt like he was
23 abused. He was molested. He turns 15 and he's going
24 to be confirmed in the church. Who does he ask to be
25 his sponsor? To help teach him the confirmation

1 classes. To stand up there with him during the
2 confirmation. The person that abused him. Does that
3 make sense? Does that appeal to your common sense
4 that that is the person that he would go to be his
5 sponsor for confirmation? I suggest to you not. I
6 suggest to you that is reasonable doubt. You would
7 think that someone who has been abused would have
8 difficult in life. Have some problems in school.
9 Maybe not be as social as other people are. Maybe not
10 do as well in school as other people do because they
11 have this thing that they carry on their back.

12 *Victim 1* graduated at the top of his class. Out of
13 400 students I don't remember if it was number three
14 or number four. Academically superior. Went on to
15 school at Clemson. There was no hindrance to his
16 development in school, in high school or his academic
17 development. Several years later he comes forward for
18 whatever reason that I can't answer.

19 *Witness one* again, this was earlier in time.
20 According to him he knew it was wrong. And he went
21 over to the Castillo residence 15 to 20 times and
22 every time he went over there he was made to sleep
23 with Andy naked. Folks, Mr. Castillo's parents were
24 there most of the time I would submit or all the time.
25 It doesn't make sense that they were not. But his

1 mother and father were there ten feet from the bedroom
2 that Andy slept in. There was one bed in the room and
3 if you are going to have a sleep over where are you
4 going to sleep if not in your bed. When Andy says
5 yes, he slept in the bed. He didn't deny that, but he
6 told you we never slept naked. There was never any
7 improper touching. And I submit to you what proves
8 that or corroborates that is his parents were ten feet
9 from him. You don't think his parents would have
10 looked in on him from time to time. Well,
11 conveniently *victim* said -- I mean, *witness one*
12 said, well, the door was locked. He always locked the
13 door. If your son and your daughter goes into a room,
14 their bedroom, and lock it you're going to want it
15 open. You're going to go ahead and say that's okay.
16 You can lock the door especially if there's someone
17 else there. Reasonable doubt. The families were very
18 close because the relationship between Andy and Cat.
19 They dated from time to time. It was on and off. But
20 guess what, the family became a very close unit. Andy
21 looked at Mrs. V as his mom. He had her name
22 as mom two in his phone. They looked at him as a son.
23 They went places together. They were always together.
24 He never -- Andy even after he went to college would
25 stop by there on the weekend and see them because they

1 were friends. And witross 1 was another individual who
2 he found some comfort in being around. Some person
3 who he enjoyed being around and witross 1 enjoyed being
4 around him. A younger brother that he didn't have.
5 He's a sole sibling in the family. Sole child. They
6 continued that relationship long afterwards. Long
7 afterwards the dates that are in question. A totally
8 open relationship. Witross one would extend an invitation
9 for Andy to come over to the house. The parents never
10 worried about that because there were no indications.
11 There were no red flags. Nothing seem improper. And
12 he would go over there and Andy admitted on the
13 witness stand, yes, he slept in that bed because that
14 was the only bed in the room. But he didn't sleep
15 naked. I didn't touch him. He didn't touch me. Be
16 careful, don't let anybody sleep in your bed. He was
17 like a brother and he was not grooming him for
18 anything. Because he always was not the type of
19 person that a person would go after and groom. He had
20 family. A strong family unit. He had friends. He
21 had plenty of people he could disclose to at the
22 church or the school. That's not the kind of person
23 that an individual who is a sex abuser would go after.

24 Delayed disclosure. Eighteen years. Eighteen
25 years. During that 18 year-period there were all

1 kinds of people he could have disclosed to and you
2 heard what Gaye Allen Cook said. That is atypical
3 because you have people to disclose to you don't delay
4 disclosure and you certainly don't delay disclosure
5 that long. He didn't even come forward. He was asked
6 after Mr. Castillo was arrested, did Andy ever do
7 anything to you improper? What was the answer? Which
8 the State can't get around. He didn't do anything to
9 me. Nothing. And for two years that was his
10 position. I don't want to talk to the police. I
11 don't need to talk to the police. My family, I told
12 them that I didn't do anything. That's what you have
13 to consider as reasonable doubt. He held that even
14 two years after he was arrested -- and by the way
15 ladies and gentlemen, he said I never knew anything
16 about the case. I didn't know anything what the
17 allegations were with Mr. Castillo and the C
18 boy. Nonsense. Nonsense. He knew what it was. His
19 sister knew what it was. It was in the paper. It was
20 on TV. It was no secret what he was charged with. He
21 said I didn't know anything about it. Reasonable
22 doubt. When people don't tell the full truth it's
23 reasonable doubt.

24 So the abuse lasted until the year 2000 in 6th
25 grade. He did not come forward until he is charged

1 with DUI third. Now the solicitor kind of I guess
2 made fun of me because I brought up the fact that it
3 was DUI third. That's not reason I brought the fact
4 that it was a DUI third and shortly after that there
5 was a disclosure. The reason I brought it up was
6 given a choice by his parents either you go get some
7 help for your alcoholism or you go to jail. That was
8 the line of demarkation right there that the parents
9 had said. And by the way, his parents I'm sure told
10 him that you don't let people touch you because he
11 said he knew it was wrong yet he went back and forth
12 back to that house and I will talk about that briefly.

13 His first disclosure to the police. Well, he
14 testified that Andy made him -- made me masturbate
15 him. Folks, when he eventually went to the police in
16 2018, two years after the C boy did. He didn't
17 tell the police that. There's nothing in his
18 statement. I brought it out on cross examination.
19 Again, that is the purpose of cross examination. He
20 didn't tell the police that Andy made him masturbate
21 him. But yet he told you that. That is total
22 inconsistency and that's reasonable doubt. Fifteen to
23 20 times at his house. Now, that's a little bit more
24 than five times. This is a young man who is a little
25 bit older. He knows it's wrong but yet he goes back

1 there 15 to 20 times to sleep in the same condition in
2 the same bed naked and he's getting according to him
3 massages and there's grabbing on penises and things of
4 that nature.

5 Now, the solicitor made a big deal about the fact
6 that I cross examined about that. Well, why wouldn't
7 I? If you go back and you know it's wrong and you
8 continue to go back 15 or 20 times something is wrong
9 and what could be wrong is that you're not telling the
10 truth. That nothing was going on or you wouldn't go
11 back. As you mature all have you to do is say is no.
12 I am not going over there. I don't want to be with
13 him. You don't have to tell anybody. But yet he
14 continued to go back knowing that according to him he
15 was going have to sleep in the bed naked and there was
16 going to be sexual abuse. Fifteen to 20 times right
17 across the hall from Andy's parents. Folks, you would
18 expect a lawyer to bring that out. Absolutely
19 nothing wrong with that.

20 He had a normal development too. Happy kid. Good
21 in high school. Academically superior. Graduated
22 again at the top of his class. Apparently no problem
23 with what he said was being done to him because he's
24 another one that graduated number three or four in the
25 class. He went to Andy and Kathryn's wedding along

1 with his parents after all this is over with. They go
2 to the wedding. Everybody signs the thing that is
3 outside of the reception, the picture, and they all
4 said good luck or whatever it is. He said he never
5 went to the wedding. Well, his signature is right
6 there. It's in that picture. You can take a look at
7 it. He was there. Why would he deny that he was
8 there? Graduation. He sent the guy who is abusing
9 him an invitation to his graduation. Not a chance.
10 Not a chance. And he put on the envelope, he said
11 "bro", which is exactly what Mr. Castillo said they
12 called each other. Brothers. After all this is over
13 and Andy is at the University of South Carolina he
14 goes and visits the man for a weekend that he said
15 abused him. It doesn't make sense. No sense at all
16 folks. That's reasonable doubt. He saw the defendant
17 on weekends when he came back to Rock Hill. He took
18 his friends to Daufuskie Island to the home or the
19 aunt's home of the individual who abused him. He put
20 them right in the same location. The same house where
21 his abuser was. It make no sense. Reasonable doubt.

22 He wants to have a birthday party, a 16th
23 birthday party. Who does he ask can I have a birthday
24 party at your house? The man who abused him. And he
25 brings his friends over there and puts them right in

1 the middle of that of a guy who abused him. It
2 doesn't make sense. Reasonable doubt.

3 Well, not only his 16th birthday but 17th birthday
4 too. Can I have a party at your house with my
5 friends? Sure. And they go over. There's some
6 pictures in evidence showing you they were there for
7 his 16th and 17th birthday. They were still
8 maintained a very close relationship and he brought
9 his friends to the house of his abuser. Well,
10 unfortunately ~~witness 1~~ got into some alcohol and he got
11 in to drugs, ecstasy. There was -- I don't remember
12 what some of the other drugs were but they were named.
13 They were clicked off. It got to the point where he
14 had to go Owl's Nest and get treated and get dried
15 out. And then, and only then does he make a
16 disclosure. Is he looking for an excuse? Something
17 he needs to explain to his parents why this is all
18 happening because I'm sure his parents weren't
19 thrilled with the fact that he had to go to a rehab
20 place for drugs and alcohol abuse. And he said they
21 never discussed details. He never discussed the
22 details with anybody until he told his sister after he
23 told her no. Two years later he revealed it to what
24 he said to the police and I have just brought out to
25 you some inconsistencies in that remark. And you know

1 what's amazing to me. He had numerous meetings
2 scheduled with the solicitor, Miss Joyner.. This guy
3 was so hurt, such a problem, such an issue for him
4 that he didn't show up for the meetings with the
5 solicitor. Reasonable doubt.

6 They did a search at the house in 2016. Remember
7 what the detective said. We were looking for child
8 pornography because people who are pedophiles and
9 abuse children normally have child pornography. They
10 took Ipads, phones, computers, smart -- whatever it
11 was. Have you heard about one picture of pornography,
12 child pornography, no. He doesn't fit the profile
13 that the police themselves created by issuing the
14 search warrant looking for the child pornography. And
15 you know what else you don't have in this case, any
16 bodily fluid. Any blood. Even touching that like I
17 just did right now leaves DNA imprints. DNA does not
18 disappear. It's not subject to time. When they went
19 there in 2016 did you hear anything about DNA match to
20 anybody? No. Did you see a picture? No.

21 Now, there's Andy. He has got all the pressure of
22 the world on him right now. His wife is in the second
23 row in the black shirt. Blouse. His momma is right
24 there sitting on the end. He grew up in the church
25 and I'm not going to repeat it but you heard all about

1 the fact that he grew up in the church. He has no
2 siblings. He himself was a great student. He was
3 also technologically savvy, which I wish I can be. He
4 went to computer camp. He went to USC on a
5 scholarship. He went into the program there accepted
6 into the USC Honor's Program. I didn't get accepted
7 into any honor's program I can tell you that. He
8 worked summers and then later on at York Place working
9 with abused kids. That's where he met his wife at the
10 York Center, York place. He made an attempt at
11 adopting someone because he wanted to have a
12 relationship with a young boy. Particularly someone
13 from that institution. And he went through all the
14 adoption proceedings and the reason he didn't get it
15 is because someone else was further in line to go
16 ahead and get the adoption.

17 Folks, I guess he is a hoarder of things. He
18 keeps cards. He keeps pictures. He said he had
19 thousands of them. The State wants you to think that
20 because he kept a postcard that he got from Victim 1 that
21 there is something suspicious about that or he has
22 pictures on his table. You know what, that's
23 nonsense. Because if that's true I guess like I said
24 we got to get rid of everything that we have. He got
25 engaged. He bought a house. He's had three children.

1 When he got out of Carolina he worked for York County
2 and Administration Office for three years in the
3 computer tech division. And in 2006 he started
4 working at Sturgis and he's still working there today.
5 Let's see, 13 years in the same job and same place and
6 he's still working. They didn't let him go. He is
7 still there.

8 Now, the solicitor asked, well why? Well, if I
9 had the answer to those questions I wouldn't be
10 practicing law any more. Because people don't tell
11 the truth. We know that. That's why we have
12 courtrooms. That's why we have juries to go ahead and
13 sort that out. That's why they swear on the Bible.
14 Because hopefully they are going to tell the truth.
15 Hopefully there is no bias, interest or prejudice.

16 But you know what, in every courtroom, in every
17 trial throughout the country someone is not telling
18 the truth. And I would venture to say that most
19 lawyers can't come up with a reason why someone is not
20 telling the truth. And I don't purport to do that.
21 But the solicitor asked a question why? The answer is
22 I don't know. I have no idea what makes people say
23 something that's not true. But I do know this. It's
24 not the first time. People do it all the time. Every
25 day in every court somebody is not telling the truth

1 because you can't have two sides to a story and both
2 people telling the truth. You know, it reminds me,
3 use to be a student of history. I don't get to read
4 much anymore. But some of you may remember from
5 school the Salem witch trial and 27 people were tried
6 in Salem as being witches. The whole community came
7 out and they testified that they were witches. That
8 they performed witchcraft. Well, guess what, 12 of
9 them were executed based upon that kind of testimony.
10 Do we believe in witches, no. But that's 12 people
11 that can never be brought back and there's a reason
12 why all those people who testified did but no one
13 knows why. And no one can give an answer to that,
14 until it was discovered that they were not telling the
15 truth. But it's too late for the 12 that had been
16 executed.

17 I'm a lawyer. I'm an advocate. I love doing what
18 I do. Today this case will leave me. I will move
19 with my life and with other cases. The solicitor will
20 too. Judge will too. You will too. And when you go
21 forth from here I hope that everyone of you can look
22 back a few years from now and say we did justice. And
23 I submit to you justice in this case would be a guilty
24 -- a not guilty verdict. Not proven guilty beyond a
25 reasonable doubt.

1 Courtrooms in the United States it's not a game or
2 a contest. It's not a situation where one side has to
3 win and one side has to lose. Of course if justice is
4 done, if your verdict speaks the truth and it's not
5 guilty or not proven guilty beyond a reasonable doubt
6 then that would be justice. And in that situation we
7 all win because the system keeps going on and it's
8 functioning properly.

9 Thank you, very much.

10 THE COURT: Miss Joyner.

11 MS. JOYNER: Thank you, Your Honor.

12 THE COURT: Everybody all right?

13 MS. JOYNER: I should take about three minutes,
14 Your Honor.

15 THE COURT: I think this will be short. Okay.

16 MS. JOYNER: And just to briefly address you on a
17 few points that Mr. Swerling made. He's says if being
18 friendly with kids in your neighborhood makes you an
19 abuser God help us. If having pictures of other
20 people's kids in their homes makes you a child abuser
21 then God help us. When we put in the pictures that
22 the police recovered from the search warrant you see
23 within those pictures two pictures of ~~victim~~ and ~~victim~~
24 ~~two~~ -- and I will try to find them for you now.
25 That were added -- they were taken in 2005. One of

1 them was taken in 2005 and you know based on some
2 pictures from the defense they were added years later.
3 Sometime after October of 2007. Specifically added.
4 Specifically added during a time period when the State
5 says that victim one was being sexually abused.
6 Another one of those pictures was of witness one
7 That picture was taken in either 2005 or 2006. Those
8 are the pictures that the defense put in that of that
9 attic of 2007. Those pictures of witness one
10 isn't their. He took a picture of somebody, of witness
11 one who says that he was being abused by the
12 defendant in the past and he puts him in this table.
13 witness one is a significant person to the
14 defendant. So he takes a picture that was taken in
15 2005 or 2006 and some time after October 30th of 2007
16 puts it on display. We're not saying don't have
17 pictures of kids. We're saying consider why those
18 pictures are important. They show that the defendant
19 valued those pictures, valued those kids enough to put
20 them in a table. And one of them he added to a table
21 during a period when the child says he was being
22 sexually abused.

23 Mr. Swerling said that it's reasonable doubt that
24 it does not make sense that victim one was abused
25 five times in four years. That was not the testimony,

1 victim one testified that he was masturbated --
2 massaged and masturbated five to six times. That
3 massaging began after Daufuskie and then you have a
4 whole school year before masturbation begins, the five
5 to six times he is massaged and masturbated and two
6 more times he experiences fellatio. He didn't say he
7 was abused five times in four years. He said
8 masturbated five to six times, fellatio two times.
9 Massaging before all that he doesn't know.

10 Witness one didn't say he didn't know anything
11 about the case. Witness one said he knew about
12 the arrest. He just didn't know the specific. That's
13 what he testified to and I just wanted to correct
14 that. He also testified contrary -- go back to your
15 notes, but I would just point out to the Court that I
16 believe that witness one did testify that he told
17 the police about masturbation and massages. He also
18 testified that he told his wife in 2008 that he was
19 sexual abused by an unspecified person. In 2016 when
20 the defendant was arrested he told her who it was. So
21 it's not the case as far as evidence shows or
22 testimony that was presented that he tells for the
23 first time to his sister. He told. He just hadn't
24 told his family; his mom, his sister, his brother --
25 not brother, his mom, sister, father and law

1 enforcement.

2 The defense says no DNA. The police go in they're
3 looking for child porn and if there's no child porn he
4 can't be guilty. Well, go back to the testimony of
5 Detective Thomas. He went also in to get photographs
6 of the attic. They wanted to corroborate that this
7 attic location exists and Detective Thomas testified
8 -- or formerly Detective Thomas -- about some of the
9 things he was looking for he mentioned ropes. Why did
10 he mention ropes? Because he interviewed victim
11 one and what did he find, rope and hooks. Hooks.
12 That the defendant says, admits, well, they were for a
13 sexual purpose. It was just for a sexual purpose with
14 a different person.

15 And just to go back to the experts, ladies and
16 gentleman, you heard their testimony. I will just
17 point out to you, again, that Miss Cook her testimony
18 that something being atypical regarding disclosure.
19 She did eventually have to equivocate. Eventually
20 she had to say that there's lots of different schools
21 of thought and there are many factors that go in to
22 delayed disclosure. The first one she wanted to get
23 out there was the one that supported the defense's
24 cross examination.

25 Nothing further, Your Honor.

1 THE COURT: All right, ladies and gentlemen. We
2 will take a short break at this time. Just go to your
3 jury room, relax, after which I will give you my
4 instructions on the law and the case will be turned
5 over to you for deliberation.

6 We'll just take a break right now. Don't discuss
7 the case among yourselves while you are in the jury
8 room.

9 (WHEREUPON, the jurors leave the courtroom.)

10 THE COURT: We will reconvene in ten minutes.

11 (WHEREUPON, there court was in recess.)

12 THE COURT: State ready for the jury?

13 MS. JOYNER: State is ready.

14 THE COURT: Defense?

15 MR SWERLING: Yes, Your Honor.

16 THE COURT: Bring the jury.

17 (WHEREUPON, the jury enters the courtroom.)

18 THE COURT: All right, ladies and gentleman of the
19 jury, you have now heard all of the testimony in this
20 case. You have heard the arguments of counsel, both
21 the State and for the defendant, and you will take
22 with you to the jury room all the evidence in this
23 case that's been introduced.

24 It now becomes my responsibility to explain the law
25 to you as it applies to this case. I remind you again

1 that during this trial you and I have certain duties
2 to perform. As the trial judge, it's my
3 responsibility to preside over the trial of the case.
4 I also have the duty to rule on the admissibility of
5 the evidence offered during the course of the trial.
6 You are only to consider the competent evidence before
7 you. If there was any testimony ordered stricken,
8 which I think there was one instance of that, you must
9 disregard that testimony. You are to consider only
10 the testimony which has been presented from this
11 witness stand and any exhibits which have been made a
12 part of the record in this case, and any stipulations
13 of counsel. As you recall there were I believe two of
14 those.

15 I have the additional duty to charge you the law
16 applicable to this case. As the presiding judge, I am
17 the sole judge of the law of this case, and it is your
18 duty as jurors to accept and apply the law as I now
19 state it to you. If you already have any idea as to
20 what the law is or what the law ought to be and it
21 does not agree with what I now tell you what the law
22 is, you must abandon that idea because you are sworn
23 to accept the law and apply the law exactly as I state
24 it to you.

25 In every case tried in this Court before a jury,

1 the jury becomes the sole and exclusive judge of the
2 facts in the case. A trial judge cannot intimate,
3 state, comment on, or make any statement to a trial
4 jury about the facts in the case. Since you, the
5 jury, are the soul judge of the facts in this case.
6 You are not to infer from what I have said during the
7 progress of this trial in ruling upon the
8 admissibility of evidence, or otherwise, or anything
9 that I say now during the course of this instruction
10 to you, that I have any opinion about the facts in
11 this case. The law does not allow me to have an
12 opinion about the facts in this case. This is a
13 matter solely for you, the jury, to determine. As
14 jurors, it is your duty to determine the effect,
15 value, weight, and truth of the evidence presented
16 during the trial.

17 Now the indictments, as you certainly know, charge
18 the defendant with two counts of criminal sexual
19 conduct with a minor in the second degree and four
20 counts of lewd act upon a child. I remind you again,
21 the fact that the defendant was arrested, charged and
22 indicted in this case is not evidence in this case and
23 can not be considered by you as evidence in this case,
24 nor does it create any presumption or inference of
25 guilt. These documents are simply the formal written

1 instruments which contain the charges made against the
2 defendant. They are the formal documents by which the
3 case is brought into court.

4 Each indictment charges a separate and distinct
5 offense. You must decide each indictment separately
6 on the evidence and the law applicable to it
7 uninfluenced by your decision as to any other
8 indictment. The defendant may be convicted or
9 acquitted on any or all of the offenses charged. You
10 will be asked to write a separated verdict of guilty
11 or not guilty on each indictment.

12 Now, as you know, the defendant has plead guilty
13 to these indictments and that plea puts the burden on
14 the State to prove the defendant guilty. A person
15 charged with committing a criminal offense in South
16 Carolina is never required to prove his or heard
17 innocence.

18 I charge you that this is an important rule of law
19 that the defendant in a criminal trial no matter what
20 the seriousness of the charges may be, will always be
21 presumed to be innocent of the crimes for which the
22 indictment was issued unless guilt has been proven by
23 evidence satisfying you of that guilt beyond a
24 reasonable doubt. This presumption of innocence does
25 not end when you begin your deliberations, but it

1 accompanies the defendant throughout the trial until
2 you reach a verdict of guilt based on evidence
3 satisfying you of that guilt beyond a reasonable
4 doubt.

5 In other words, the presumption of innocence is
6 like a robe of righteousness placed about the
7 shoulders of the defendant which remains with the
8 defendant until it has been stripped from the
9 defendant by evidence satisfying you of the
10 defendant's guilt beyond a reasonable doubt.

11 The presumption of innocence, again, is not a mere
12 legal theory. It's not a legal phrase. It is a
13 substantial right to which every defendant is entitled
14 unless you, the jury, are satisfied from the evidence
15 of the defendant's guilt beyond a reasonable doubt.

16 But what is a reasonable doubt in the law? A
17 reasonable doubt is the kind of doubt that would cause
18 a reasonable person to hesitate to act. Let me repeat
19 that. A reasonable doubt is the kind of doubt that
20 would cause a reasonable person to hesitate to do
21 something.

22 The State has the burden of proving the defendant
23 guilty beyond a reasonable doubt. Some of you may
24 have served as jurors in civil cases, where you were
25 told that it's only necessary to prove that a fact is

1 more likely true than not true, such as by the greater
2 weight or the preponderance of the evidence. But in
3 criminal cases the State's proof must be more powerful
4 than that. It must be beyond a reasonable doubt.

5 Proof beyond a reasonable doubt is proof that
6 leaves you firmly convinced of the defendant's guilt.
7 Now, there are very few things in this world we know
8 with absolutely certainly, and in criminal cases, the
9 law does not require proof that overcomes every
10 possible doubt. If, based on your consideration of
11 the evidence, you are firmly convinced that the
12 defendant is guilty of the crime charged, you must find
13 the defendant guilty. If on the other hand, you think
14 that the defendant is not guilty, you must give the
15 defendant the benefit of the doubt and find him not
16 guilty.

17 Now, there are two types of evidence which are
18 generally presented during a trial; direct evidence
19 and circumstantial evidence. Direct evidence directly
20 proves the existence of some fact and does not require
21 deduction. Circumstantial evidence on the other hand
22 is proof of a series or change of facts and
23 circumstances indicating the existence of some fact.
24 The crimes may be proven by circumstantial evidence or
25 direct evidence. The law make no distinction between

1 the weight or value to be given to either direct or
2 circumstantial evidence, however, to the extent the
3 State relies on circumstantial evidence, all of the
4 circumstances must be consistent with each other, and
5 when taken together, point conclusively to the guilt
6 of the accused beyond a reasonable doubt. If these
7 circumstances merely portray the defendant's behavior
8 as suspicious, the proof has failed.

9 The State has the burden of proving the defendant
10 guilty beyond a reasonable doubt. This burden rests
11 with the State regardless of whether the State relies
12 on direct evidence, circumstances evidence, or some
13 combination of the two.

14 Now necessarily, necessarily, you must determine
15 the credibility of the witnesses who testified in this
16 case. Credibility simply means believability. It
17 becomes your duty as jurors on to analyze and evaluate
18 the evidence and determine which evidence convinces of
19 its truth.

20 In determining the believability of witnesses who
21 testified in this case, you may believe one witness
22 over several witnesses or several witnesses over one
23 witness. You may believe a part of the testimony of a
24 witness and reject the remaining part of the testimony
25 of that same witness. You may believe the testimony

1 of a witness in its entirety or reject the testimony
2 of a witness in its entirety. You may consider
3 whether any witness has exhibited to you any interest,
4 bias, prejudice, or other motive in this case. You
5 may also consider the appearance and the manner of the
6 witness while on the witness stand.

7 Now ordinarily, the rules of evidence do not
8 permit witnesses to offer opinions, or conclusions.
9 But an exception to this rule exists for witnesses we
10 call "expert witnesses." A witness who, by education
11 and experience, has become an expert in some art,
12 science, profession, or calling may state an opinion
13 as to relevance and material matter, in which the
14 witness claims to be an expert, and may also state the
15 reasons for that opinion.

16 You should consider any expert opinion received in
17 evidence in this case and, like any other evidence,
18 give it the weight you think it deserves. If you
19 decide that the opinion of an expert witness is not
20 based on sufficient education or experience, or if you
21 conclude that the reasons given in support of the
22 opinion are not sound, or the opinions are outweighed
23 by other evidence, you may disregard those opinions
24 entirely.

25 In other words an expert witnesses testimony is to

1 be given no greater weight than that of other
2 witnesses simply because the witness is an expert.
3 Further, you are not even required to accept a
4 expert's opinion, even though it was not contradicted.

5 Now ladies and gentlemen, in order to establish
6 criminal liability, criminal intent is required. For
7 example, the mental state required to be proven by the
8 State for a particular crime might be some purpose, or
9 intent, or knowledge, or recklessness or criminal
10 negligence. Criminal intent must be proven by the
11 State beyond a reasonable doubt. Criminal intent is
12 always a matter that must be determined by the jury
13 from the circumstances surrounding the situation.
14 There is no way to prove intent to a mathematical
15 certainty. There is no way medical science can
16 dissect a person's brain and determine what the person
17 has in mind, so the law says criminal
18 intent may be inferred from the circumstances shown to
19 have existed at the time and place of the events.
20 This is how you make a determination of whether or not
21 the element requiring intent was present. It is not
22 necessary to establish intent by direct and positive
23 evidence, but intent may be established by inference
24 in the same way as any other fact by taking into
25 consideration the acts of the parties and all the

1 facts and circumstances of the case.

2 In other words, criminal intent is a mental state,
3 a conscious wrongdoing. It's up to you to determine
4 what the defendant intended to do based on the
5 circumstances shown to have existed at the time and
6 place of the events that were stated in the
7 indictments.

8 Now, as to the specific charges, the defendant is
9 charged with two counts of 2nd degree criminal sexual
10 conduct with a minor. The State must prove beyond a
11 reasonable doubt that the defendant engaged in a
12 sexual battery with the victim.

13 A sexual battery is sexual intercourse,
14 cunnilingus, fellatio, anal intercourse, or any
15 intrusion, however slight, of any part of a person's
16 body or of any object into the genital or anal
17 openings of another person's body, except, when the
18 intrusion is accomplished for medically recognized
19 treatment or diagnostic purposes. The State must then
20 prove beyond a reasonable doubt the defendant (sic)
21 was at least 11 years old but not more than 14 years
22 old at the time of the sexual battery.

23 Consent, willingness, indifference or ignorance on
24 the part of the minor, if any, as to what was taking
25 place, does not in any way effect the charge of

1 criminal sexual conduct with a minor because an
2 unmarried person under the age of 14 years can not
3 legally concept to any form of sexual battery.

4 Next, the defendant is charged with four counts of
5 lewd act on a minor. A minor is a person under the
6 age of 18.

7 The State must prove beyond a reasonable doubt
8 that the defendant was over the age of 14. Next, the
9 State must proof that the defendant willfully and
10 lewdly committed or attempted a lewd or lascivious act
11 on, or with the body or on its parts of, a child under
12 the age of 16 years, with the intent to arouse, appeal
13 to, or gratify the lust, passions, or sexual desires
14 of the defendant or of the child.

15 Willfully means voluntarily and intentionally with
16 the specific intent to do something the law forbids.

17 Lewd means obscene, lustful, indecent, or
18 lecherous. And lascivious means tending to incite
19 lust, lewd, indecent, obscene, or tending to deprave
20 the morals in respect to sexual relations.

21 Now, ladies and gentlemen, I am going to send with
22 you to the jury room the actual in indictments in this
23 case because of the complexity of the number, the
24 dates and times and places of the alleged criminal
25 acts. I think it would be helpful to you to have the

1 individual Indictments because you're going to be
2 asked to render a verdict as to each indictment.

3 Your verdict must represent the considered
4 judgement of each juror. In order to return a
5 verdict, in other words, it's necessary that each
6 juror agree. Your verdict must be unanimous. It's
7 your duty as jurors to consult with one another and to
8 deliberate with a view to reaching an agreement, if
9 you can do so without violence to your individual
10 judgements. Each of you must decide the case for
11 himself or herself, but do so only after impartial
12 consideration of the evidence in the case with your
13 fellow jurors. In the course of your deliberations,
14 do not hesitate to re-examine your own views and
15 change your opinion if convinced it is erroneous, but
16 do not surrender your honest conviction as to the
17 weight or effect of the evidence, solely because of
18 the opinion of your fellow jurors, or for the mere
19 purpose of returning a verdict.

20 Remember at all times, you are not partisans
21 favoring one party over the other. You are judges,
22 judges of the facts.

23 Now, ladies and gentlemen, we have provided you
24 with notepads and paper and I noticed quite a few of
25 you have been taking notes throughout the trial. I

1 want to emphasis again, that your notes are for your
2 personal recollection. They're not to be used to try
3 to convince another juror that you wrote something
4 down that they didn't or they wrote it down
5 incorrectly and you did. In other words, they are
6 solely for your use. You can refer to them throughout
7 the course of your deliberations, but again, they're
8 not to be used for anything other than your own
9 purposes.

10 All right, ladies and gentlemen, I'm going to ask
11 you to go to the jury room right now and retire to the
12 jury room. Do not begin your deliberations. Oh, one
13 other thing. Mr. Foreman, I prepared a verdict form
14 and it simply goes through each of the indictments and
15 asks you to find not guilty or guilty. When you have
16 completed the form please sign your name, and date.
17 Today is the 22nd. Date the verdict form. And when
18 you knock on the door we will receive your verdict.
19 But again, do not begin your deliberations until all
20 the evidence is brought to you, the verdict form has
21 been brought to you, at which time can you begin your
22 deliberations. All right. You may now you retire to
23 the jury room please. Please hold the two alternates
24 in the hallway.

25 (WHEREUPON, the jurors leave the courtroom.)

1 THE COURT: Any objection or exceptions to the
2 charge from the State?

3 MS. JOYNER: Well, Your Honor, Mr. Swerling and I
4 think both noted that when Your Honor was reading the
5 presumption of innocence you said the defendant has
6 plead guilty on these charges.

7 THE COURT: Did I.

8 MS. JOYNER: Yes, sir.

9 MR SWERLING: Yes.

10 THE COURT: I will correct it.

11 MS. JOYNER: But other than that nothing.

12 MR SWERLING: That's all Your Honor.

13 THE COURT: Okay. Well, you made a big deal about
14 making a mistake.

15 MR SWERLING: You will never let me forget it.

16 THE COURT: All right. Bring the jury back.

17 (WHEREUPON, the jury enters the courtroom.)

18 THE COURT: All right. Ladies and gentlemen,
19 thank you for returning. Counsel advised me that I
20 made a mistake. As we have heard about that before
21 today.

22 On the presumption of innocence, the defendant has
23 plead not guilty to these indictments. They tell me I
24 said that he plead guilty to these indictments and
25 that is incorrect. The defendant has plead not guilty

1 to these indictments and that plea puts the burden on
2 the State to prove the defendant guilty. I needed to
3 make that correction in your minds and on the record.
4 So, now please return to the jury room.

5 (WHEREUPON, the jurors leave the courtroom.)

6 THE COURT: Anything further?

7 MS. JOYNER: No, Your Honor.

8 MR. SWERLING: No, Your Honor.

9 THE COURT: All right. Please check the evidence.

10 While you are doing that, is there any objection
11 to releasing the alternates at this time?

12 MR. SWERLING: No.

13 MS. JOYNER: No, sir, Your Honor

14 THE COURT: Send the exhibits back and then bring
15 the alternates.

16 (WHEREUPON, jury deliberation begins at two
17 o'clock and the alternates enter the jury room.)

18 THE COURT: Numbers 64 and 76. I guess you can
19 tell people now, that you have been known all week as
20 64 and Miss 76. Obviously you were chosen as
21 alternates on this jury. Let me just say that
22 alternates -- we need alternates a lot. Very
23 frequently I should say. And you would be surprised
24 how many cars break down, children get sick, children
25 can't go to school, grandmother's get sick. I use to

1 accuse some of the lawyers in Columbia of providing a
2 grandmother for rent. That would always be a good
3 excuse as to why we could not go forward for one
4 reason or another. But we do honestly frequently need
5 alternates. It's not unusual at all, especially in a
6 case that is going to last a week to have jurors have
7 something come up. So what I am trying to say to you,
8 is that your service was very important in this case.
9 Had we needed you you were there. You paid attention.
10 You took notes and I appreciate that. Now, I'm going
11 to release you at this time. I guess the check is the
12 mail. You're welcome to stay. We never know how long
13 it's going to be for a jury to you deliberate, but you
14 are free to go. If do you stay and anybody wants to
15 talk to you you're certainly free to talk to them but
16 you don't have to talk to anybody, and if anybody
17 starts to harass you I'm here and if I find out about
18 it I'll put them in the that in */HAOS could you.
19 Seriously trying to intimidate even before or after
20 trial is a no, no. So I want you to know that. But
21 if you do choose to leave I hope you have a pleasant
22 weekend, a pleasant Thanksgiving. We thank you for
23 your service, and as I told you earlier, you have now
24 an exemption for the next two years from jury service
25 if you wish to exercise that exemption. But if you're

1 called again I would hope that this experience would
2 maybe make you think that maybe it would be a good
3 idea to go back and maybe sit on a full jury if your
4 name is called. But that's of course up to you. I
5 hope you found this week somewhat educational and that
6 some of the rumors about things that go on in the
7 courtroom are not true. It's a very formal process
8 and we all work hard to make it a good process and to
9 preserve the jury system in this country. So you were
10 part of that this week. I want to thank you very
11 much. You are now dismissed. You can give your pads
12 to the bailiffs. Your notes will be destroyed.
13 Nobody is going to read them.

14 Anything further?

15 MS. JOYNER: Not from the State.

16 THE COURT: Stand at ease until we hear from the
17 jury.

18 (WHEREUPON, the court was in recess.)

19 THE COURT: All right, counsel, the jury indicates
20 they have reached a verdict. Ready to proceed with
21 the verdict?

22 (WHEREUPON, the time was 3:13 pm.)

23 MS. JOYNER: The State is ready.

24 THE COURT: Defense ready?

25 MR. SWERLING: Yes, Your Honor.

1 THE COURT: Bring the jury. I caution the
2 audience regardless of the verdict I don't expect any
3 emotional outbursts of any kind. If so they will be
4 dealt with by the Court. This is still a courtroom.

5 (WHEREUPON, the jury enters the courtroom.)

6 THE COURT: Mr. Foreman, has the jury reached a
7 verdict?

8 THE FOREPERSON: We have, Your Honor.

9 THE COURT: Will you it to the bailiff please.
10 Madam clerk, will you publish the verdict please.

11 THE CLERK: State of South Carolina versus Julio
12 Andres Castillo, on 2016-GS-46-2193, criminal sexual
13 conduct with a minor, 2nd degree, we the jury
14 unanimously find the defendant guilty. Criminal
15 sexual conduct under 2016-GS-46-2195, criminal sexual
16 conduct with a minor, 2nd degree, we the jury
17 unanimously find the defendant guilty. 2016-46-2196,
18 lewd act upon a child, guilty. 2016-GS-46-2197, lewd
19 act upon a child, guilty. 2016-GS-46-2198, lewd act
20 upon a child, guilty. 2016-GS-46-2199 lewd act upon a
21 child, guilty.

22 If this be your verdict please say so by raising
23 your right hand. Let the record reflect all jurors
24 affirm this verdict.

25 THE COURT: The record so reflect. Anyone desire

1 to poll the jury?

2 MS. JOYNER: Not from the State, Your Honor.

3 MR. SWERLING: Yes, Your Honor.

4 THE COURT: Poll the jury madam clerk.

5 THE CLERK: If you will please stand and be seated
6 after I call your call number.

7 Number 73, is this your verdict?

8 JUROR: Yes.

9 THE COURT: Is it still your verdict?

10 JUROR: Yes.

11 THE CLERK: You may be seated. One hundred, is
12 this your verdict?

13 JUROR: Yes.

14 THE CLERK: Is it still your verdict?

15 JUROR: Yes.

16 THE CLERK: Number 57, is this your verdict?

17 JUROR: Yes.

18 THE CLERK: Is it still your verdict?

19 JUROR: Yes.

20 THE CLERK: You may be seated. Number 189, is
21 this your verdict?

22 JUROR: Yes.

23 THE CLERK: Is it still your verdict?

24 JUROR: Yes.

25 THE CLERK: You may be seated. Number 38, is this

1 your verdict?

2 JUROR: Yes.

3 THE CLERK: Is it still your verdict?

4 JUROR: Yes.

5 THE CLERK: You may be seated. Number 237, is
6 this your verdict?

7 JUROR: Yes.

8 THE CLERK: Is it still your verdict?

9 JUROR: Yes.

10 THE COURT: You may be seated. Number 48, is this
11 your verdict?

12 JUROR: Yes, ma'am.

13 THE CLERK: Is it still your verdict?

14 JUROR: Yes, ma'am.

15 THE CLERK: Thank you, you may be seated. 191, is
16 this your verdict?

17 JUROR: Yes.

18 THE CLERK: Is it still your verdict?

19 JUROR: Yes.

20 THE CLERK: You may be seated. 32, is this your
21 verdict?

22 JUROR: Yes.

23 THE CLERK: Is it still your verdict?

24 JUROR: Yes.

25 THE CLERK: You may be seated. 141, is this your

1 verdict?

2 THE JUROR: Yes.

3 THE CLERK: Is it still your verdict.

4 THE JUROR: Yes.

5 THE CLERK: You may be seated. 92, is this your
6 verdict?

7 JUROR: Yes.

8 THE CLERK: Is it still your verdict?

9 JUROR: Yes.

10 THE CLERK: You may be seated. 151, is this your
11 verdict?

12 JUROR: Yes.

13 THE CLERK: Is it still your verdict?

14 THE JUROR: Yes.

15 THE CLERK: You may be seated.

16 THE COURT: Is that is madam clerk?

17 THE CLERK: Yes.

18 THE COURT: The jury has been polled. All right,
19 ladies and gentlemen. Now, the remaining portion of
20 this trial will consist of the sentencing of the
21 defendant. Unfortunately we don't have the luxury of
22 waiting and sentencing at later dates, which some
23 times you see on television. But because of the size
24 of our dockets we have to keep things moving and
25 sentencing proceeding will take place in a few

1 minutes. That proceeding may take another 15 minutes
2 or 20 minutes. But before we do that I am going to
3 take a break and let the paper work be filed out.

4 Now, if you wish you to stay for that you're
5 certainly welcome to do so. I am going to dismiss you
6 now and you can leave if you wish to do or you can
7 stay. The bailiffs will bring you back into the jury
8 room. We'll take about a ten-minute break, so we can
9 do the paper work. But as I say you're welcome to
10 stay. If you choose to leave I do want to take this
11 opportunity to thank you for your services this week.
12 You have been very attentive. It's been a long week,
13 a long five days, but you've been attentive the entire
14 week. I've a noticed how diligent you've been. These
15 decisions are not easy in our community, but they have
16 to be made and they have to be made by a jury such as
17 yourselves. So, you have completed your service for
18 this week. You have you done an admirable job as
19 jurors as we all expected you would. So, I am going
20 to excuse you and dismiss you now if you wish to
21 leave. We're going to take about a ten-minute break
22 and after that the sentencing procedure will take
23 place. As I said you're welcome to stay. You're also
24 welcome to leave. All right, you are now excused.
25 Thank you very much for your service.

1 I want the foreperson to sign the indictments.

2 Any motions from the State?

3 MS. JOYNER: Not from the State, Your Honor.

4 THE COURT: From the defense?

5 MR. SWERLING: Yes, Your Honor. We ask the Court
6 to grant a motion for a new trial. Set aside the
7 verdict on all, the two directed verdict motions we
8 made as well as any motions that were decided against
9 us and any motions or rulings that were against us we
10 incorporate them herein the argument.

11 The only thing I would like to say, Your Honor,
12 this trial lasted five days and I think the jury gave
13 short rift to the evidence in the case. I just don't
14 see how they could have gone through all those
15 indictments and the evidence in this case in what
16 appears to be about an hour. So for those reasons I
17 ask the Court to consider a motion for a new trial.

18 THE COURT: All right. I have the jury out at
19 about two o'clock. So, all right. Well, I think the
20 evidence supported the verdict. I think the jury was
21 within their constitutional duty to do as they did. I
22 don't -- I have ruled on these motions in this trial
23 and I feel that my rulings are still valid and for the
24 same reasons I respectfully decline your motion for a
25 new trial.

1 I think that the fact that the jury was out a
2 little over an hour I don't think is that significant.
3 It does indicate that they spent time, in my opinion,
4 going through the motions. They rendered a verdict on
5 each indictment rather. They rendered a verdict on
6 each indictment. And I don't think that over an hour,
7 hour and 20 minutes was -- it may have been a quick
8 decision but it certainly wasn't sufficiently quick or
9 short in terms of duration of the time that they
10 spent. I would have thought more about it if they had
11 come back in a much quicker fashion than they did. So
12 I respectfully deny your motion.

13 All right, stand at east for about tens minutes.

14 MR. SWERLING: Judge, can I add to that also --
15 and I'm not arguing, but any adverse rulings against
16 us we also incorporate those.

17 THE COURT: Respectfully denied.

18 MR. SWERLING: Yes, sir.

19 (WHEREUPON, there was a short recess._.

20 THE COURT: Bring your client Mr. Swerling.

21 MS. JOYNER: May it please the Court, Your Honor.

22 THE COURT: Yes, ma'am.

23 MS. JOYNER: Your Honor, I just wanted to advise
24 the Court in terms of credit for time served the
25 defendant was arrested on February 29th of 2016. He

1 was released on March 14th of 2016 equaling to 50 days
2 of actual pretrial incarceration. He was placed on
3 bond. He was placed on GPS subject to house arrest.
4 He was allowed to leave the home to go to work,
5 doctor's appointment and eventually the bond was
6 modified to allow him to do activities that were
7 necessary to assist his wife and he has been on
8 electronic monitoring since his release on March 14th
9 of 2016.

10 The victims in this case, the C family, did
11 not wish to speak. Both the V and the C
12 families asked for me to express their gratitude to
13 you and to the Court for this work.

14 Regarding the State's position on sentencing, I
15 would only say that Your Honor has heard all of the
16 facts. You have seen the impact these crimes have had
17 on the victims in this case and we would respectfully
18 ask the Court to impose a substantial prison sentence
19 that reflects the magnitude of these crimes.

20 THE COURT: All right.

21 THE COURT: Thank you. Mr. Swerling.

22 MR. SWERLING: Judge, of course you heard my
23 client testify and you heard a lot of details about
24 his background. He's 38 years of age. He graduated
25 from Carolina. He was in the honors program there.

1 He graduated in computer science. He worked as soon
2 as he got out for York County, the administrative
3 division. In 2006 he went to work for Sturgis company
4 which as of today he was still employed with them.
5 His boss kept him on all throughout this three-year
6 period.

7 Judge, he participated -- obviously you heard
8 about his activities in the church and York Place and
9 various other groups and organizations. During the
10 church years that he was in the Episcopal church and
11 he was a ample -- great volunteer, not ample. That's
12 a bad word. He was a great volunteer for them.
13 Anything we could find out about it he did an
14 exemplary job with the youth group. He participated
15 in all these missions and ski trips and he design
16 meetings down in Clinton.

17 So judge, it's a difficult case. He has a wife
18 and he has three children. And he's had one child
19 since he was charged in these events.

20 Judge, in addition to that, as Miss Joyner pointed
21 out he has been on house arrest for almost three
22 years. And even though there were some modifications
23 to the bond allowing him to go to work and also to
24 assist his wife whenever she needed it, basically it's
25 been house arrest. I would ask the Court under the

1 statute to give him due consideration for that. Three
2 years is a long time to be on house arrest.

3 I want to know if anybody in the family wants to
4 come and say anything. This is his wife Kathryn, and
5 his mom, Mrs. Castillo. Do you want to come up? Do
6 you want to say anything?

7 THE COURT: Just have them stand here. They can
8 come up. Okay.

9 MR. SWERLING: This is Kathryn.

10 MS. CASTILLO: Kathryn Castillo. Thank you for
11 taking on the case. I thank the jurors. I know it
12 has been hard, but he has been on house arrest for
13 three years. He's not done anything improper. He's
14 my husband. He has three kids and I trust him with my
15 life and my kids' lives. I have no reason to doubt
16 him whatsoever. I know the jury found in one way and
17 I thank them for their support because it must have
18 been hard, but my six year-old and my three year-old
19 and one year-old that there father and I would like
20 for you to take that into consideration please and I'm
21 sorry for being emotional but --

22 THE COURT: I understand ma'am.

23 MS. CASTILLO: When we dropped him off this
24 morning I don't think he thought about the last time
25 he's going to kiss them goodbye. If you just

1 please take --

2 THE COURT: Well, it won't be the last time. It
3 won't be the last time.

4 MS. CASTILLO: I would like you to please take
5 into consideration so he can be there for me and for
6 them I would appreciate it.

7 MS. CODY: I'm Barbara Cody, Kathryn's mom, Andy's
8 mother-in-law. I have known Andy and loved Andy for
9 the last ten years. Andy is part of our family. We
10 have a very, very close knit family and he has been
11 part of it. I am very involved with helping them with
12 the kids, picking them up from school, taking care of
13 them. That's why I haven't been here this week. I
14 had the kids and if you could see little K squeal
15 when his daddy walks in the room and yells daddy,
16 daddy. Those kids need their father so badly. Please
17 be gentle with Andy. We adore him and I just find it
18 so hard to believe that any of this has gone. But we
19 trust him with everything. I adore Andy and we want
20 him back as part as our family.

21 THE COURT: Thank you, very much, ma'am.

22 MR. SWERLING: This is the mom.

23 MRS. SARA CASTILLO: Good afternoon, Your Honor.
24 I am Sara Castillo, Andy's mom and Andy is my only
25 child and my husband died in 2013. I've been ill and

1 not going to get better. I had breast cancer and my
2 other physical difficulties really limit me. And its
3 just -- I remember all the times that these people
4 were talking about and I never saw anything untoward
5 and I was a teacher for many, many years, and so I'm
6 use to being on the alert for things that are not
7 right and I never saw it and neither did his daddy.
8 His daddy was a college professor. So, I just want
9 people to see this young man for what he really is.
10 He's a professional. He has been very responsible in
11 all his actions. And then almost four years ago
12 Kathryn comes to my door, whiter than white, telling
13 me that Andy has been carted off in chains and I'm
14 just amazed. I'm astounded and I think there needs to
15 be a little more thought about all of this because
16 this young man is not the young man that people talked
17 about. And I know, I mean I know I'm his mother but I
18 was also a teacher and I know what to look for. What
19 to think about and I just -- I beg your mercy. I
20 don't know how many more years I have to live. I'm
21 75, which is not terribly, terribly old but because of
22 my health problems I don't know how much time I have
23 left and I don't know. I'm heart broken. I remember
24 those little C. boys. I remember little witness
25 one and I'm just astounded that they bring these

1 accusations against him and then I'm astounded that a
2 jury would in a little more than an hour find him
3 guilty on all charges.

4 THE COURT: I understand ma'am.

5 MR. SWERLING: Do you want to say something?

6 THE DEFENDANT: Your Honor, there are no words.
7 Please have mercy. Let me get to my family. They
8 mean everything to me.

9 THE COURT: Well, I understand that.

10 THE DEFENDANT: Thank you. You gave me the best
11 years of my life.

12 THE COURT: Well, in considering this matter I
13 have to consider your position and the position of the
14 victims in this case. This is a difficult case. A,
15 because it happened long ago and I have to believe
16 that the jury at least as far as I'm concerned, the
17 jury found you guilty and therefore you are guilty of
18 the charges. You realize, of course, your lawyer I'm
19 sure has told you are facing 100 years in jail.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: A life time or more. I don't think
22 based on your behavior and passed three years that you
23 deserve anything like that. And I have to look at the
24 fact that some of these crimes are considered
25 non-violent crimes. Some are considered violent

1 crimes. Which those definitions are meaningful when
2 it comes to imposing a sentence. But if I look at
3 this case, having listened to for a week, I believe it
4 is just inexcusable that you used the position of
5 trust to take advantage of these young men. There's
6 no finding of guilty as to the third child, the
7 younger C child. But there are indictments --
8 there were indictments that would support a conviction
9 on that as well. It is difficult to know what to do.

10 I respect the fact that you started a family and
11 that family is shaken and potentially torn apart by
12 this whole case, but the law requires me to do my
13 responsibility and my duty which I will do at this
14 time.

15 Solicitor, what's the State's position on the
16 child abuse registry?

17 MS. JOYNER: I do believe it qualifies under the
18 statute for child abuse registry. We don't have the
19 specific statute but it's a touch that involves sexual
20 contact.

21 I could look that up, Your Honor.

22 THE COURT: Well, its --

23 MS. JOYNER: Although, Your Honor, actually I
24 think --

25 THE COURT: The citation is 17-25-135 if it is

1 mandatory or if its optional. I know that he will be
2 required to be on the sex offender registry which is
3 different from the central registry of child abuse and
4 neglect. I think it's discretionary. But I'm not
5 certain.

6 MR. SWERLING: Your Honor, can we take a brief
7 look at that.

8 THE COURT: Yes.

9 MS. JOYNER: I do believe it is mandatory.

10 MR. SWERLING: Central registry.

11 MS. JOYNER: Central registry. I believe it is
12 mandatory. I don't see any language making it
13 discretionary.

14 THE COURT: Do you agree with that?

15 MR SWERLING: Judge, I just haven't had a chance
16 to look at it. Right now my mind is a cloud. I can't
17 read it on the computer.

18
19 THE COURT: Does it say "shall" counsel?

20 MS. JOYNER: The Court shall order, yes, sir.

21 MR. SWERLING: Yes, sir.

22 THE COURT: Mandatory?

23 MS. JOYNER: Yes, sir.

24 MR. SWERLING: Yes.

25 THE COURT: All right, Mr. Castillo. On all

1 charges the sentence of the Court is you be committed
2 to the State Department of Corrections for a period of
3 12 years. All sentences to run concurrent. Given 50
4 days credit for time served prior to trial and your
5 name will be placed on the sex offender registry and
6 the central registry of child abuse and neglect.

7 Good luck to you.

8 MR. SWERLING: Could you give him credit for the
9 time he has been on house arrest?

10 THE COURT: No.

11 MS. JOYNER: Thank you, Your Honor.

12 THE COURT: This court is adjourned.

13 (END OF TRANSCRIPT)

14
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21 CERTIFICATION

22 I, the undersigned Aileen Butler, Official Court Reporter
23 for the 16TH Judicial Circuit of the State of South Carolina, do
24 hereby certify that the foregoing is a true, accurate, and
25 complete transcript of record of all the proceedings in the

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captioned case, in the Circuit Court for York County, South Carolina, on the 18th through the 22nd day of November, 2019.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

March 30, 2020

Aileen Butler
S/ Aileen Butler

COUNTY OF YORK

STATE VS.

JULIO ANDRES CASTILLO

AKA: Julio A Castillo

Race: White Sex: M Age: 38

DOB: SS#: _____

Address: _____

City, State, Zip: _____

DL# _____ SID# _____

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADED

TO: Criminal Sexual Conduct With A Minor, Second Degree (NMT 20 years)

In violation of § 16-03-0655(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0396

INDICTMENT/CASE#: 2016GS4602193

A/W: 2016A4620300506

Date of Offense: 06/20/2005

S.C. Code §: 16-03-0655(B)(1)

CDR Code #: 0396

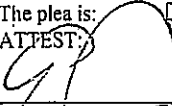
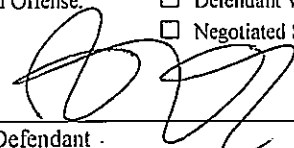
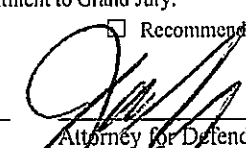
SENTENCE SHEET

2019 DEC -2 AM 11:31

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, _____ (def.'s initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:  69419 Erin M. Joyner, Assistant Solicitor SC Bar # _____ Defendant  Attorney for Defendant  5457 SC Bar # _____

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 12 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 30 DAYS
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment
Total: \$ _____ plus 20% fee: \$ _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ _____ Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

Proviso (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 125.00

Clerk of Court/Deputy Clerk: DAVID HAMILTON Presiding Judge: 

Court Reporter: Alison Betty Judge Code: 2126 Cooper

DOCKET NO. 2016-GS46-02193

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JULY 21, TERM 2016

THE STATE

VS.

JULIO ANDRES CASTILLO

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT WITH A
MINOR, SECOND DEGREE

SC Code: § 16-03-0655(B)(1)
CDR Code: 0396

WITNESSES

RHPD

Witnessing Officer: *Tripp*

ARREST WARRANT NUMBER

2016A4620300506

ACTION OF GRAND JURY
TRUE BILL

Carol K. B. Bost
Foreperson of Grand Jury

Date:

VERDICT

Guilty

Tripp 11-22-19

Foreperson of Petit Jury
Date:

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA

COUNTY OF YORK

CERTIFIED TRUE COPY INDICTMENT

2016 DEC 2 AM 11:31

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC


At a Court of General Sessions convened on July 21, 2016, the Grand Jurors of

York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Julio Andres Castillo, did on or about July 24, 2009, in York County, South Carolina, commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree by engaging in a sexual battery with a minor, *victim one* (D.O.B. [redacted] 1995) who is fourteen (14) years of age or less but who is at least eleven (11) years of age; to wit: fellatio. All in violation of 16-03-0655(B)(1), *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ERIN M. JOYNER
ASSISTANT SOLICITOR

COUNTY OF YORK

STATE VS.

JULIO ANDRES CASTILLO

AKA: Julio A Castillo

Race: White Sex: M Age: 38

DOB: SS#:

Address:

City, State, Zip:

DL# SID#

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Criminal Sexual Conduct With A Minor, Second Degree (NMT 20 years)

In violation of § 16-03-0655(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0396

INDICTMENT/CASE#: 2016GS4602195

A/W: 2016GS4602195

Date of Offense: 06/20/2005

S.C. Code §: 16-03-0655(B)(1)

CDR Code #: 0396

IDENTIFIED TRUE COPY

SENTENCE SHEET 2016 DEC -2 AM 11:31

DAVID HAMILTON CLERK OF COURT YORK COUNTY, SC

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Erin M. Joyner, Assistant Solicitor SC Bar # 69419 Defendant Attorney for Defendant SC Bar # 5457

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 12 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment
Total: \$ _____ plus 20% fee: \$ _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ \$ _____ Substance Abuse Counseling
§14-1-206 (Assessments 107.5%) \$ _____ Random Drug/Alcohol Testing
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100 Fine may be pd. in equal consecutive weekly/monthly
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ pmts. of \$ _____ Beginning _____
§56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ Paid to Public Defender Fund
§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____ Other: _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 125

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: DAVID HAMILTON
Court Reporter: Aileen Butler

Presiding Judge: G. Cooper
Judge Code: 2126 Cooper
Sentence Date: 11/22/19

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

DOCKET NO. 2016-GS46-0219S

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JULY 21, TERM 2016

THE STATE

VS.

JULIO ANDRES CASTILLO

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

SC Code: § 16-03-0655(B)(1)
CDR Code: 0396

WITNESSES

RHPD

Witnessing Officer: *Tripp*

ARREST WARRANT NUMBER

Direct Indictment

ACTION OF GRAND JURY
TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: *7/21/16*

VERDICT

Guilty

[Signature] *11-22-19*
Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA
COUNTY OF YORK

CERTIFIED TRUE COPY
INDICTMENT
2019 DEC -2 AM 11:31

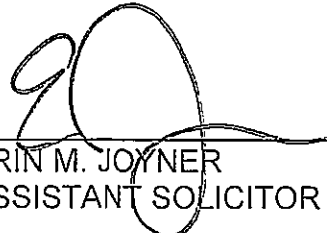
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY

At a Court of General Sessions, convened on July 21, 2016, the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Julio Andres Castillo, did on or about November 8, 2006, through July 23, 2009, in York County, South Carolina, commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree by engaging in a sexual battery with a minor, *victim one* (D.O.B. : , 1995) who is fourteen (14) years of age or less but who is at least eleven (11) years of age; to wit: fellatio in the Defendant's bedroom at 2083 Egret Court. All in violation of 16-03-0655(B)(1), *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ERIN M. JOYNER
ASSISTANT SOLICITOR

COUNTY OF YORK
STATE VS.

JULIO ANDRES CASTILLO

AKA: Julio A Castillo
Race: White Sex: M Age: 38
DOB: SS#: ;
Address:
City, State, Zip: ;
DL# SID#

INDICTMENT/CASE#: 2016GS4602196
A/W: 2016GS4602196
Date of Offense: 06/20/2005
S.C. Code §: 16-15-0140
CDR Code #: 2468

CERTIFIED TRUE COPY
2019 DEC -2 AM 11:31
SENTENCE SHEET
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Lewd Act Upon A Child ()

CONVICTED OF or

PLEADS

In violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
Erin M. Joyner, Assistant Solicitor 69419 SC Bar # Defendant Attorney for Defendant 5457 SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 12 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment
Total: \$ _____ plus 20% fee: \$ _____ Obtain GED
Payment Terms: _____

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____

Recipient: _____ Substance Abuse Counseling

*Fine: _____ \$ _____ Random Drug/Alcohol Testing

§14-1-206 (Assessments 107.5%) \$ _____ Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100 pmts. of \$ _____ Beginning _____

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ \$ _____ Paid to Public Defender Fund

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

Proviso (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 125

Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/Deputy Clerk: DAVID HAMILTON

Court Reporter: Alan Butler

Presiding Judge: [Signature]

Judge Code: 2126 Conpen

Sentence Date: 11/22/19

DOCKET NO. 2016-GS46-02190

After being fully advised as to my legal rights, I hereby waive presentation to the Grand Jury.

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

JULY 21, TERM 2016

I hereby appear in my own proper person and plead guilty to the within indictment or to

THE STATE

VS.

JULIO ANDRES CASTILLO

Defendant

Witness:

INDICTMENT FOR

LEWD ACT UPON A CHILD

SC Code: § 16-15-0140
CDR Code: 2468

C.C.C. PLS. AND G.S.

WITNESSES

RHPD

Witnessing Officer: *Tripp*

ARREST WARRANT NUMBER

Direct Indictment

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

Date:

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury

Date:

11-22-19

STATE OF SOUTH CAROLINA
COUNTY OF YORK

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INDICTMENT

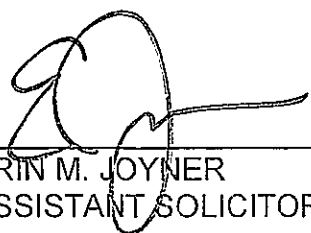
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

At a Court of General Sessions, convened on July 21, 2016, the Grand Jurors of York County present upon their oath:

LEWD ACT UPON A CHILD

The defendant, Julio Andres Castillo, who is over fourteen (14) years old, did on or about June 20, 2005, through July 1, 2007, in York County, South Carolina, commit the crime of Lewd Act Upon A Child by wilfully and lewdly committing or attempting to commit a lewd or lascivious act upon or with the body, or its parts, of the minor victim, Victim one (D.O.B. , 1995), who is under sixteen (16) years of age, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the actor or the child; to wit: the Defendant massaged the Victim's body while in the Defendant's bedroom at . All in violation of 16-15-140, *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ERIN M. JOYNER
ASSISTANT SOLICITOR

COUNTY OF YORK
STATE VS.

JULIO ANDRES CASTILLO

AKA: Julio A Castillo
Race: White Sex: M Age: 38
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____
DL# _____ SID# _____

INDICTMENT/CASE#: 2016GS4602197
A/W: 2016GS4602197
Date of Offense: 06/20/2005
S.C. Code §: 16-15-0140
CDR Code #: 2468

CERTIFIED TRUE COPY
2019 DEC -2 AM 11:31
SENTENCE SHEET
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Lewd Act Upon A Child ()

CONVICTED OF or

PLEADED

In violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS \$17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
[Signature] 69419 Defendant [Signature] 5457
Eric M. Joyner, Assistant Solicitor SC Bar # _____ Attorney for Defendant SC Bar # _____

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 12 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ \$ _____
Substance Abuse Counseling
§14-1-206 (Assessments 107.5%) \$ _____ Random Drug/Alcohol Testing
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100 Fine may be pd. in equal consecutive weekly/monthly
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ prmts. of \$ _____ Beginning _____
§56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ Paid to Public Defender Fund
§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____ Other: _____
§14-1-212 (Law Enforce. Funding) \$25 \$ 25

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ _____
TOTAL \$ 125

Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/Deputy Clerk: DAVID HAMILTON
Court Reporter: [Signature]
Presiding Judge: [Signature]
Judge Code: 212. Cooper
Sentence Date: 11/22/19

DOCKET NO. 2016-GS46-0297

After being fully advised as to my legal rights, I hereby waive presentation to the Grand Jury.

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

JULY 21, TERM 2016

I hereby appear in my own proper person and plead guilty to the within indictment or to

WITNESSES

RHPD

Witnessing Officer: *Tripp*

ARREST WARRANT NUMBER

Direct Indictment

ACTION OF GRAND JURY

TRUE BILL

A. [Signature]
Foreperson of Grand Jury
Date: *7/21/16*

VERDICT

Guilty
[Signature]
Foreperson of Petit Jury
Date: *11-22-19*

THE STATE

VS.

JULIO ANDRES CASTILLO

Defendant

Witness:

INDICTMENT FOR

LEWD ACT UPON A CHILD

SC Code: § 16-15-0140
CDR Code: 2468

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

CERTIFIED TRUE COPY
2019 DEC 2 AM 11:31
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

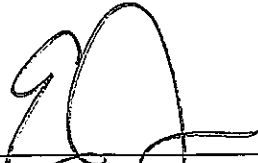
INDICTMENT

At a Court of General Sessions, convened on July 21, 2016, the Grand Jurors of York County present upon their oath:

LEWD ACT UPON A CHILD

The defendant, Julio Andres Castillo, who is over fourteen (14) years old, did on or about August 1, 2006, through July 23, 2009, in York County, South Carolina, commit the crime of Lewd Act Upon A Child by wilfully and lewdly committing or attempting to commit a lewd or lascivious act upon or with the body, or its parts, of the minor victim, *Victim one* (D.O.B. , 1995), who is under sixteen (16) years of age, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the actor or the child; to wit: the Defendant masturbated the Victim while in the Defendant's bedroom at . All in violation of 16-15-140, *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ERIN M. JOYNER
ASSISTANT SOLICITOR

COUNTY OF YORK

STATE VS.

JULIO ANDRES CASTILLO

AKA: Julio A Castillo
Race: White Sex: M Age: 38
DOB: SS#
Address:
City, State, Zip:
DL# SID#

INDICTMENT/CASE#: 2016GS4602198
A/W: 2016GS4602198
Date of Offense: 06/20/2005
S.C. Code #: 16-15-0140
CDR Code #: 2468

CERTIFIED TRUE COPY
2016 DEC -2 AM 11:31

SENTENCE SHEET

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Lewd Act Upon A Child ()

CONVICTED OF or

PLEADS

In violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS
Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, (def.'s initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Erin M. Joyner, Assistant Solicitor SC Bar # 69419 Defendant Attorney for Defendant SC Bar # 5457

WHEREFORE, the Defendant is committed to State Department of Corrections County Detention Center,
for a determinate term of 12 days/months/years of under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$ days/hours Public Service Employment
Payment Terms: Obtain GED

Set by SCDPPPS Attend Voc. Rehab. Or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ Beginning
\$ Paid to Public Defender Fund
Other:

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211 (A)(1)(Conv. Surcharge) \$100, §14-1-211 (A)(2)(DUI Surcharge) \$100, §56-5-2995 (DUI Assessment) \$12, §56-1-286 (DUI Breath Test) \$25, Proviso (Public Def/Probation) \$500, §14-1-212 (Law Enforce. Funding) \$25, §14-1-213 (Drug Court Surcharge) \$150, §50-21-114 (BUI Breath Test Fee) \$50, §56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$, TOTAL \$125.

Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/Deputy Clerk: DAVID HAMILTON
Court Reporter: Wilson Butts

Presiding Judge: Judge Code: Sentence Date: 1/22/19

DOCKET NO. 2016-GS46- 02198

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

WITNESSES

RHPD

Witnessing Officer: *Tripp*

The State of South Carolina

County of York

Defendant

ARREST WARRANT NUMBER

Direct Indictment

COURT OF GENERAL SESSIONS

JULY 21, TERM 2016

I hereby appear in my own proper person and plead guilty to the within indictment or to

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

Date:

VS.

JULIO ANDRES CASTILLO

Defendant

Witness:

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury

Date:

INDICTMENT FOR

LEWD ACT UPON A CHILD

SC Code: § 16-15-0140
CDR Code: 2468

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA CERTIFIED TRUE BILL INDICTMENT
COUNTY OF YORK

2019 DEC -2 AM 11:31

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

At a Court of General Sessions, convened on July 21, 2016, the Grand Jurors of York County present upon their oath:

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Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ERIN M. JOYNER
ASSISTANT SOLICITOR

COUNTY OF YORK
STATE VS.

JULIO ANDRES CASTILLO

AKA: Julio A Castillo
Race: White Sex: M Age: 38
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____
DL# _____ SID# _____

INDICTMENT/CASE#: 2016GS4602199
A/W: 2016GS4602199
Date of Offense: 06/20/2005
S.C. Code §: 16-15-0140
CDR Code #: 2468

CERTIFIED TRUE COPY
2016 DEC -2 AM 11:30
SENTENCE SHEET

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Lewd Act Upon A Child ()

CONVICTED OF or PLEADED

In violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: _____ 69419
Erin M. Joyner, Assistant Solicitor SC Bar # Defendant

Attorney for Defendant SC Bar # 5457

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 12 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
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SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED

Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund

Recipient: _____
*Fine: _____ \$ _____
\$14-1-206 (Assessments 107.5%) \$ _____
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\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
3% to County (if paid in installments) \$ \$ _____
TOTAL \$ 125

Other: _____

Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/Deputy Clerk: DAVID HAMILTON
Court Reporter: Adrian Bullock

Presiding Judge: _____
Judge Code: 2136 Codes
Sentence Date: 11/18/19

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

DOCKET NO. 2016-GS46-02199

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JULY 21, TERM 2016

THE STATE

VS.

JULIO ANDRES CASTILLO

INDICTMENT FOR

LEWD ACT UPON A CHILD

SC Code: § 16-15-0140
CDR Code: 2468

WITNESSES

RHPD

Witnessing Officer: *Tripp*

ARREST WARRANT NUMBER

Direct Indictment

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

Date:

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury

Date:

11-22-19

STATE OF SOUTH CAROLINA
COUNTY OF YORK

RECEIVED TRUE COPY
2019 DEC -2 AM 11:31
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC


INDICTMENT

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LEWD ACT UPON A CHILD

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Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ERIN M. JOYNER
ASSISTANT SOLICITOR

NEW

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF GENERAL SESSIONS
SIXTEENTH JUDICIAL CIRCUIT

2016GS4602193
2016GS4602194
2016GS4602195
2016GS4602196
2016GS4602197
2016GS4602198
2016GS4602199
2016GS4602200

State of South Carolina,

Memorandum in Support of Joinder of All
Listed Charges

vs.

Julio Andres Castillo,

Defendant.

The State of South Carolina, through Assistant Solicitor Erin Joyner, offers this memorandum in support of the joinder of all charges regarding the Victim one with charges regarding victim two.

Procedural History

On January 8, 2016, victim two filed a report with the Rock Hill Police Department reporting that he had been sexually assaulted by the Defendant as a child. The Defendant was a long-time family friend of the C family, victim 2 and his brother victim one's youth choir director for a number of years beginning in 2002, and next-door neighbor since 2004.

The case was assigned to Det. Ryan Thomas, who interviewed victim two, his brother victim one, who also disclosed sexual abuse, and their parents, Keith and Susan C. Police executed a search warrant at the Defendant's home and photographed the attic area, which was described as a location of sexual abuse.

The Defendant was arrested on February 29, 2016, on warrants 2016A4620300469, 2016A4620300506, 2016A4620300508, and 2016A4620300509, which alleged the sexual abuse victim 1 and victim two from 2005 through 2009. Ultimately, the following indictments were true-billed by York County Grand Jury:

Indictment Number	Charge	Date Range	Victim
2016-GS-46-2195	Criminal Sexual Conduct with a Minor, Second Degree	11/8/06 - 7/23/09	<u>victim one</u>

2016-GS-46-2193	Criminal Sexual Conduct with a Minor, Second Degree	7/24/09	Victim one
2016-GS-46-2196	Lewd Act	6/20/05 - 7/1/07	Victim one
2016-GS-46-2197	Lewd Act	8/1/06 - 7/23/09	Victim one
2016-GS-46-2198	Lewd Act	7/1/07 - 7/23/09	Victim one
2016-GS-46-2199	Lewd Act	7/1/07 - 7/23/09	Victim one
2016-GS-46-2200	Lewd Act	6/20/05 - 7/11/08	Victim two
2016-GS-46-2194	Criminal Sexual Conduct with a Minor, First Degree	6/20/05 - 7/11/08	Victim two

Victim one

Victim one was eight years old when the Defendant became his next-door neighbor. Prior to that time, Victim 1 and his family met the Defendant at Church, where Victim one and his brother, Victim 2, participated in the youth choir. The Defendant assisted with youth choir. The Defendant became friends with Victim 1's parents and became like a part of the family.

When Victim 1 was eight years old, the Defendant invited the Victim one family to stay on Daufuskie Island at his aunt's home. The trip took place between June 17 and June 19, 2005. On this trip, the Defendant exposed himself to

After returning home from Daufuskie Island, the Defendant began giving Victim 1 massages. Massages mostly involved Defendant sitting on Victim 1's leg as he massaged, with Victim 1 lying on his stomach. The massages consisted of back rubbing and the rubbing of feet and legs. Defendant would sit beside him to massage his legs. Victim 1 would be flipped over, at which point his penis would be touched. Initially, the touching of the penis seemed inadvertent. Victim 1 recalls massaging the Defendant one time. These massages occurred in the Defendant's home in his bedroom on his waterbed.

In the fifth grade, Victim 1 asked the Defendant about a joke that he did not understand. The joke was about masturbation. The Defendant explained the joke to Victim 1 and then masturbated Victim 1. This occurred in the Defendant's bedroom on his waterbed. After that, there were several other similar incidents that occurred in the Defendant's bedroom on the waterbed, to include one incident which occurred after the Defendant converted part of the attic into a living space. Victim 1 and his brother, Victim 2 were spending the night in the converted attic. Victim 1, by pre-arrangement, came downstairs to the Defendant's bedroom after Victim 2 fell asleep and was masturbated by the Defendant.

Victim 2

Following the attic conversion, the Defendant also massaged Victim 1 and masturbated Victim 1 in the attic and made Victim 1 touch his penis in the attic. Victim 1 only

recalls the latter occurring one time, with Victim 1 briefly masturbating the Defendant but not to ejaculation. This occurred during an instance where the Defendant had been masturbating Victim one.

The abuse progressed from massages to masturbation to fellatio. There were two instances of Defendant performing fellatio on Victim one. One occurred in the Defendant's home in his bedroom. The other incident occurred the night before the Defendant's wedding in the C's guest bedroom on July 24, 2009. The Defendant was an overnight guest of the C's at that time. That night, Victim 1 stopped the Defendant and told him that the abuse needed to end.

Victim one and Victim 2 were frequently at the Defendant's home together during the period of time when the abuse was occurring. There were also incidents where Victim 1 or Victim 2 would be alone at the house with the Defendant. With the exception of the July 24, 2009 incident, all incidents of sexual abuse occurred at the Defendant's home when Victim 1 was an invited guest in the home. Victim 1 and Victim 2 spent the night at the Defendant's house several times and incidents of abuse occurred then. Victim 1 recalls Victim 2 being present when some of the sexual abuse incidents occurred but does not remember witnessing Victim 2 being abused.

Victim two

Victim 2 was no younger than eight years old when he was sexually abused by the Defendant. Victim 2 like his brother Victim one knew the Defendant as a close family friend, youth choir director, and neighbor. Leading up to the beginning of the abuse, the Defendant had taken an active role in the C family

Victim 2 was massaged by the Defendant in the Defendant's home in the attic approximately four times, approximately two of which involved clearly-deliberate fondling of his penis. Victim 2 would be dressed, but Defendant would reach up or under his clothes. Victim 2 described these as strange massages all over, which would start like a regular massage around the shoulder and back, but would also involve arms and legs. Victim 2 would flip from his stomach to his back. The Defendant would move up the legs and act as though he had accidentally touched Victim 2's penis. The Defendant would be positioned next to

There were also two incidents involving fellatio, one giving and one receiving that occurred on the same night in the attic. This was during a sleep over in the attic and Victim one was there. Victim 2 recalls that this sleep-over occurred after three had spent a significant portion of the day together. Victim 2 recalls that Victim one was sexually abused that night as well.

All incidents of sexual abuse occurred at the Defendant's home in the attic when Victim 2 was an invited guest in the home. Victim 1 and Victim 2 were frequently at the Defendant's home together during the period of time when the abuse was occurring. There were also incidents where Victim 1 or Victim 2 would be alone at the house with the Defendant.

Following the abuse, the Defendant continued to have a friendly relationship with the C family. Victim 2 ultimately disclosed the sexual abuse in December 2015 and subsequently filed

a police report in January 2016. Victim 1 did not disclose the sexual abuse until Victim 2 came forward.

Indictments

The factual allegations underlying the indictments involving Victim 1 are as follows:

Indictment 2016-GS-46-02197 Lewd Act Upon a Child (August 1, 2006, through July 23, 2009): masturbation of Victim 1 in the Defendant's bedroom on more than one occasion, beginning in the Fifth Grade and including one incident in the Defendant's bedroom after the attic was converted

Indictment 2016-GS-46-02196 Lewd Act Upon a Child (June 20, 2005 through July 1, 2007): massaging Victim one in the Defendant's bedroom

Indictment 2016-GS-46-02198 Lewd Act Upon a Child (July 1, 2007 through July 23, 2009): massaging and touching Victim 1 and/or masturbating him in the converted attic, the beginning date meant to coincide with the conversion of the attic

Indictment 2016-GS-46-02199 Lewd Act Upon a Child (July 1, 2007 through July 23, 2009): Victim 1 touching Defendant's penis in the attic, the beginning date meant to coincide with the conversion of the attic

Indictment 2016-GS-46-02195 Criminal Sexual Conduct with a Minor in the Second Degree (November 8, 2006- July 23, 2009): performing fellatio on Victim 1 in Defendant's bedroom

Indictment 2016-GS-46-02193 Criminal Sexual Conduct with a Minor in the Second Degree (July 24, 2009): performing fellatio on Victim 1 in the Defendant's Home

The factual allegations underlying the indictments involving Victim 2 are as follows:

Indictment 2016-GS-46-0194 Criminal Sexual Conduct with a Minor, First Degree (June 20, 2005 through July 11, 2008): fellatio in the Defendant's home

Indictment 2016-GS-46-02200 Lewd Act Upon a Child (June 20, 2005 through July 11, 2008): massaging Victim 2 to include touching his penis in the Defendant's home

Law on Joinder

Charges may be tried together where they (1) arise out of a single chain of circumstances, (2) are proved by the same evidence, (3) are of the same general nature, and (4) no real right of the defendant has been prejudiced. State v. Beekman, 415 S.C. 632, 785 S.E.2d 202 (S.C. 2016). A motion for severance is addressed to the trial court and should not be disturbed unless an abuse of discretion is shown. Id.

In order to satisfy the first prong, the charges need not arise out of a single isolated incident. Id. Joinder is appropriate where the crimes involved connected transactions closely related in kind place and character. Id. Courts will consider the location of the abuse, the time frame of the abuse, and the relationship of the Defendant to the victims. See Beekman, supra (upholding the joinder of charges involving the sexual abuse of a brother and sister by their stepfather); State v. McGaha, 404 S.C. 289, 744 S.E.2d 602 (S.C. Ct. App. 2013).¹

In order to satisfy the second prong, the evidence need not be identical. Id.; State v. McGaha, 404 S.C. 289, 744 S.E.2d 602 (S.C. Ct. App. 2013).

As to the third prong, the appellate courts have held that Criminal Sexual Conduct with a Minor and Lewd Act upon a Child are of the same general nature. See State v. McGaha, 404 S.C. 289, 744 S.E.2d 602 (S.C. Ct. App. 2013); State v. Grace, 350 S.C. 19, 564 S.E.2d 331 (S.C. Ct. App. 2002).

In evaluating the fourth prong, courts have analyzed whether evidence of one or more charges would be admissible in a trial involving only the other charge. State v. McGaha, 404 S.C. 289, 744 S.E.2d 602 (S.C. Ct. App. 2013). Where evidence of crimes as to one victim would be admissible in the trial of the crimes as to the other victim, as is the case of Rule 404(b) common scheme or plan evidence, the Defendant is not prejudiced by the joinder of the cases. Id. The Rule 404(b), common scheme or plan, analysis in the joinder context, requires the State to establish a logical connection between the crimes by showing a close degree of similarity. Id. Factors the court should consider include: (1) the age of the victims when the abuse occurred; (2) the relationship between the victims and the perpetrator; (3) the location where the abuse occurred; (4) the use of coercion or threats; and (5) the manner of the occurrence, for example, the type of sexual battery. The court may also consider other factors. Id.; State v. Wallace, 384 S.C. 428 at 434-444, 683 S.E.2d 275 (S.C. 2009).

Argument in Support of Joinder

It is the State's position that the charges as to Victim ~~one~~ and Victim ~~two~~ are appropriately joined.

¹ Likewise, in State v. Jones, 325 S.C. 310, 315-316, 479 S.E.2d 517 (S.C. Ct. App. 1996), the South Carolina Court of Appeals, upheld the joinder of charges involving two different victims:

Appellants' argument that consolidation was improper in this case because the allegations concerned two different victims {"pageset": "Sb:"} and required different proof is clearly without merit. Contrary to Appellants' assertions, the offenses charged were of the same general nature involving allegations of a pattern of sexual abuse involving the two minor victims. Evidence was presented at trial that both victims had been taken to the same location and were present in the same motel room on an occasion of abuse. Further, there has been no showing of prejudice resulting from the trial judge's decision. Accordingly, we hold there was no error in the judge's consolidation of the indictments.

(Internal Citation Omitted).

As to the first prong, the crimes involve connected transactions closely related in kind, place, and character. Like the Beekman and McGaha cases, the victims are siblings and the molestation occurred at the same place (with the exception of the conduct alleged in Indictment 2016-GS-46-02193), over the same period of time, the victims had the same relationship to the Defendant, and the Defendant gained access to the victims in the same way. Further, like State v. Jones, 325 S.C. 310, 315-316, 479 S.E.2d 517 (S.C. Ct. App. 1996), there will be testimony from Victim two that he and Victim 1 were together during some sexual abuse and from Victim One that he remembers Victim 2 being present when he was sexually abused.

As to the second prong, a substantial portion of the testimony the State would present at trial to prove the crimes against one victim would be presented to prove the crimes against the other to include the parents' lengthy testimony² and law enforcement testimony regarding the investigation and execution of a search warrant at the Defendant's home State v. McGaha, 404 S.C. 289, 297, 744 S.E.2d 602 (S.C. Ct. App. 2013), ("Thus, a substantial portion of the testimony the State presented at trial to prove the crimes against one child was the same evidence it would have used to prove the crimes against the other. Even though some of the evidence related to only one child, we find the evidence described above supports the trial court's determination that the separate charges would be proven by the same evidence.")

As to the third prong, the appellate courts have held that Criminal Sexual Conduct with a Minor and Lewd Act upon a Child, which are the pending charges, are of the same general nature. See State v. McGaha, 404 S.C. 289, 744 S.E.2d 602 (S.C. Ct. App. 2013); State v. Grace, 350 S.C. 19, 564 S.E.2d 331 (S.C. Ct. App. 2002).

As to the fourth prong, it is the State's position that the evidence of crimes as to Victim one would be admissible in the trial of the crimes as to Victim 2 and the evidence of the crimes as to Victim 2 would be admissible in the trial of the crimes as to Victim 1. It is the State's position that the admissibility is based upon Rule 404(b), common scheme or plan. As to the first Wallace factor, age at the time of abuse, Victim one is approximately one and a half years older than Victim 2 and they were one school grade apart. They were abused during the same time period, making them approximately the same age when the abuse occurred.³ As to the second Wallace factor, Victim 1's and Victim 2 had the same relationship to the Defendant. The Defendant was a family friend, neighbor, and their Youth Choir Director. The Defendant frequently attending their sporting events, their chess club events, and took them on special outings. As to the third Wallace factor, most of the abuse occurred in the Defendant's home. As to the fifth Wallace factor, both Victim 1 and Victim 2 experienced massages, which involved the touching of the penis, and oral sex.

² The parents' testimony is necessary to demonstrate the evolving relationship with the Defendant from church acquaintance to family friend to neighbor and to explain how the Defendant gained access to both Victim 1 and Victim 2. The parents' testimony would be necessary to help establish dates of events relied upon by the State in establishing the time line of abuse.

³ See State v. McGaha, 404 S.C. at 300 ("In addition, the children are approximately a year apart in age, and because they were abused in the same time frame, they were roughly the same age when the abuse occurred."). State v. Hallman, 298 S.C. 172, 379 S.E.2d 115 (S.C. 1989) (Victim testified that she was 7 to 9 years old at the time of the abuse; testimony by three former foster children about abuse admitted under common scheme or plan where those former foster children were ages six to twelve, seven to thirteen, and seven at the time of the abuse); State v. Adams, 332 S.C. 139, 504 S.E.2d 124 (S.C. Ct. App. 1998) (testimony of victim that abuse began when she was 10 years old; sister's testimony regarding her abuse, which began at nine years of age properly admitted)

Additionally, both Victim one and two recall the Defendant using ropes to demonstrate on each boy how to hog tie. Victim one recalls that some of his sexual abuse involved being tied up.

Additionally, as to the crimes involving Victim one the presentation of the case would involve reference to Victim 2' initial report to the law enforcement, which lead to Victim one coming forward and making his own disclosure.

Further, there will be testimony that Victim one recalls Victim 2 being present during some of his abuse, although he does not remember witnessing Defendant sexually abusing Victim 2 and testimony that Victim 2 recalls Victim one being present during sexual abuse and Victim one being sexual abused as well.

For the foregoing reasons, the State respectfully requests that all captioned cases be joined.

RESPECTFULLY SUBMITTED,

Erin Joyner, Assistant Solicitor

York, South Carolina
_____, 2019

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF GENERAL SESSIONS
SIXTEENTH JUDICIAL CIRCUIT

State of South Carolina,

vs.

Julio Andres Castillo,

Defendant.

2016GS4602193
2016GS4602195
2016GS4602196
2016GS4602197
2016GS4602198
2016GS4602199
2016GS4602194
2016GS4602200
2018GS467693
2018GS461694
2018GS461695

Memorandum in Support of Rule 404(b)
Evidence

The State of South Carolina, through Assistant Solicitor Erin Joyner, offers this memorandum in support of the introduction of evidence regarding *witness one*'s abuse under Rule 404(b), common scheme or plan, in the trial of criminal charges involving the sexual abuse of *victim one* and *victim two*, and the introduction of evidence regarding the sexual abuse of *victim one* and *victim two*'s testimony under Rule 404(b), common scheme or plan, in the trial of criminal charges involving the sexual abuse of *witness one*.

STATEMENT OF FACTS: *victim one*

victim one was eight years old when the Defendant became his next-door neighbor. Prior to that time, *victim 1* and his family met the Defendant at Church, where *victim one* and his brother, *victim 2*, participated in the youth choir. The Defendant assisted with youth choir. The Defendant became friends with *victim one's* parents and became like a part of the family.

When *victim one* was eight years old, the Defendant invited the C family to stay on Daufuskie Island at his aunt's home. The trip took place between June 17 and June 19, 2005. On this trip, the Defendant exposed himself to *victim one*.

After returning home from Daufuskie Island, the Defendant began giving *victim one* massages. Massages mostly involved Defendant sitting on *victim one's* leg as he massaged, with *victim one* lying on his stomach. The massages consisted of back rubbing and the rubbing of feet and legs. Defendant would sit beside him to massage his legs. *victim one* would be flipped over, at which point his penis would be touched. Initially, the touching of the penis seemed

inadvertent. Victim one recalls massaging the Defendant one time. These massages occurred in the Defendant's home in his bedroom on his waterbed.

In the fifth grade, Victim one asked the Defendant about a joke that he did not understand. The joke was about masturbation. The Defendant explained the joke to Victim one and then masturbated Victim one. This occurred in the Defendant's bedroom on his waterbed. After that, there were several other similar incidents that occurred in the Defendant's bedroom on his waterbed, to include one incident which occurred after the Defendant converted part of the attic into a living space. Victim one and Victim 2 were spending the night in the converted attic. Victim one, by pre-arrangement, came downstairs to the Defendant's bedroom after Victim 2 fell asleep and was masturbated by the Defendant.

Following the attic conversion, the Defendant also massaged Victim one and masturbated Victim one in the attic and made Victim one touch his penis in the attic. Victim one only recalls the latter occurring one time, with Victim one briefly masturbating the Defendant but not to ejaculation. This occurred during an instance where the Defendant had been masturbating Victim one.

The abuse progressed from massages to masturbation to fellatio. There were two instances of Defendant performing fellatio on Victim one. One occurred in the Defendant's home in his bedroom. The other incident occurred the night before the Defendant's wedding in the C's guest bedroom on July 24, 2009. The Defendant was an overnight guest of the C at that time. That night, Victim one stopped the Defendant and told him that the abuse needed to end.

Victim one and Victim 2 were frequently at the Defendant's home together during the period of time when the abuse was occurring. There were also incidents where Victim one or Victim 2 would be alone at the house with the Defendant. With the exception of the July 24, 2009 incident, all incidents of sexual abuse occurred at the Defendant's home when Victim one was an invited guest in the home. Victim one and Victim 2 spent the night at the Defendant's house several times and incidents of abuse occurred then. Victim one recalls Victim 2 being present when some of the sexual abuse incidents occurred but does not remember witnessing Victim 2 being abused.

Victim one recalls an incident in which he and Victim 2 were with the Defendant at the Defendant's mother's home. Victim one recalls being in the hot tub naked with the Defendant while Victim 2 was in the pool.

Following the abuse, the Defendant continued to have a friendly relationship with the C family. Victim one did not disclose the sexual abuse until after his younger brother Victim 2 came forward.

STATEMENT OF FACTS: Victim two

Victim two was no younger than eight years old when the Defendant began sexually abusing him. Victim 2 like his brother Victim one knew the Defendant as a close family

friend, youth choir director, and neighbor. Leading up to the beginning of the abuse, the Defendant had taken an active role in the C family.

Victim 2 was massaged by the Defendant in the Defendant's home in the attic approximately four times, approximately two of which involved fondling of his penis. Victim 2 would be dressed, but Defendant would reach up or under his clothes. Victim 2 described these as strange massages all over, which would start like a regular massage around the shoulder and back, but would also involve arms and legs. Victim 2 would flip from his stomach to his back. The Defendant would move up the legs and act as though he had accidentally touched Victim 2 penis. The Defendant would be positioned next to victim two.

There were also two incidents involving fellatio, one giving and one receiving that occurred on the same night in the attic. This was during a sleep over in the attic and Victim one was there. Victim 2 recalls that this sleep-over occurred after the three had spent a significant portion of the day together. Victim 2 recalls that Victim one was sexually abused that night as well.

All incidents of sexual abuse occurred at the Defendant's home when Victim 2 was an invited guest in the home. Victim 1 and Victim 2 were frequently at the Defendant's home together during the period of time when the abuse was occurring. There were also incidents where Victim 1 or Victim 2 would be alone at the house with the Defendant.

Following the abuse, the Defendant continued to have a friendly relationship with the C family. Victim 2 first disclosed his sexual abuse to a mental health professional at the end of 2015. He filed a report with law enforcement in January 2016.

STATEMENT OF FACTS: Witness one

Witness one first met the Defendant when the Defendant began dating Witness 1's sister, Kat at the beginning of the 1997-1998 school year. Witness 1 was eight years old and in the third grade. The Defendant came frequently to the V home, forming a close relationship with Witness one's parents, which continued after the Defendant and Kat ended their romance. Even while the Defendant and Kat were dating, it was not uncommon for the Defendant to come to the V home when Kat was not present.

Between the ages of eight to eleven years of age, Witness 1 was sexually abused by the Defendant. This abuse occurred at the Defendant's home. The sexual abuse occurred when Witness 1 slept over at the Defendant's home.

The abuse began as massaging and progressed to masturbation. Initially, the massages involved touching of the crotch area that seemed inadvertent. As the massages progressed, the Defendant would kneel beside Witness 1 and have Witness 1 hold his erect penis while he massaged him. The Defendant would then have them switch positions.

Approximately one year into the abuse, it progressed to masturbation. The first incident of masturbation occurred in the Jacuzzi tub in the Defendant's parents' bathroom. It began with the Defendant explaining to Witness 1 what masturbation was by attempting to masturbate Witness one

Masturbation of the Defendant by witness 1 occurred on more than one occasion in the Jacuzzi tub and also occurred in the Defendant's bed during massages. Masturbation to Defendant ejaculating occurred only in the Jacuzzi. Incidents in the Jacuzzi only occurred if the Defendant's parents were not home.

Defendant and witness 1 would also shower together at the Defendant's home when his parents were home. This would occur in the guest bathroom. There was no touching during showering.

The abuse ceased around the beginning of the sixth grade when witness 1 refused to participate in the abuse. After that the Defendant continued to have a friendly relationship with the V. family and with witness one.

In 2008, witness 1 disclosed to his now-wife that he had been sexually abused by an unspecified family friend as a child. In 2016, when the Defendant was arrested for charges involving victim one and victim two, he admitted to his wife that the Defendant was his abuser. In 2017, he admitted to other family members that he had been sexually abused by the Defendant. In the fall of 2018, he spoke with law enforcement regarding his abuse.

STATEMENT OF LAW

In determining the admissibility of bad act evidence, the trial judge must first determine whether the proffered evidence is relevant under Rule 401, SCRE. If the trial judge finds that the evidence is relevant, the judge must then determine whether the bad act evidence falls within an exception of Rule 404(b). If the Defendant has not been convicted of the other crime, evidence of the other bad act must be clear and convincing. Even if the prior bad act evidence is proven by clear and convincing evidence, it must be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. State v. Clasby, 385 S.C. 148, 154-156, 682 S.E.2d 892 (S.C. 2009).

In determining the admissibility of other bad acts as evidence of common scheme or plan under Rule 404(b), the Court should analyze the similarities and dissimilarities between the charged crime and other bad act to determine whether there is a close degree of similarity. When the similarities outweigh the dissimilarities, the bad act evidence is admissible. Factors the court should consider include: (1) the age of the victims when the abuse occurred; (2) the relationship between the victims and the perpetrator; (3) the location where the abuse occurred; (4) the use of coercion or threats; and (5) the manner of the occurrence, for example, the type of sexual battery. The court should also consider other relevant factors. State v. Wallace, 384 S.C. 428, 434-444, 683 S.E.2d 275 (S.C. 2009).

A close degree of similarity establishes the required connection between the two acts and no further connection must be shown. Id.

In making the similarity determination, focus should be upon whether each particular proffer of bad act evidence is sufficiently similar to the crimes charged, not whether multiple proffers are sufficiently similar to each other. State v. Scott, 405 S.C. 489, 505-506, 748 S.E.2d 236 (S.C. 2013).

The question whether the probative value of this evidence outweighs its prejudicial effect hinges on the degree of similarity between the prior acts and the offense charged. State v. Hallman, 293 S.C. 172, 379 S.E.2d 115 (S.C. 1989). The Court should also consider temporal remoteness and other factors. See State v. Scott, 405 S.C. 489, 505-506, 748 S.E.2d 236 (S.C. 2013) (upholding the admission of two 404(b) witnesses who testified about bad acts occurring twenty years before the charged crimes).

STATE'S POSITION AS TO VICTIM ONE AND WITNESS ONE

It is the State's position that evidence of witness one's sexual abuse is admissible under Rule 404(b), common scheme or plan, in the trial of criminal charges involving the sexual abuse of victim one, and that evidence of victim one's sexual abuse is admissible under Rule 404(b) common scheme or plan, in the trial of criminal charges involving the sexual abuse of witness one.

It is the State's position that the similarities in the acts committed against victim one and witness one outweigh the dissimilarities and, as such, the bad act evidence offered by one witness would be admissible in the criminal trial concerning the other.

As to the first Wallace factor, age at the time of abuse, victim one and witness one were approximately the same age at the time the abuse began. Victim one was nine years old when the Defendant exposed himself at Daufuskie Island. After Daufuskie Island, the Defendant began giving victim one massages. Witness 1 was eight years old when his sexual abuse began.

As to the second Wallace factor, the relationship between the victims and the perpetrator, victim one and witness one had a similar relationship with the Defendant. In both instances, the Defendant met each boy through an older family member and cultivated a relationship with the parents and sibling. He ingratiated himself into each boy's family and invited the boy to his home, where he then sexually abused each boy. See State v. Scott, 405 S.C. 489, 501-502, 748 S.E.2d 236 (S.C. 2013) (noting that although April, the 404(b) witness was not blood-related to the Defendant as the four victims were, this was not dispositive as her relationship to the Defendant's live-in girl-friend afforded the Defendant an opportunity to abuse her under nearly identical circumstances as the victims).

As to the third Wallace factor, the location of abuse, the location in both cases is the Defendant's home, except for the July 24, 2009, incident involving victim one. In witness 1's case, the abuse occurred in the Defendant's parent's home, where the Defendant was residing. In victim 1's case, the abuse occurred in the Defendant's home, located at Egret Court.

It is important to note that with both victim one and witness one, the Defendant frequently interacted with each boy in the boy's home and drove each boy to different activities and events, which provided access and opportunity to abuse the boys in other locations. Yet, the abuse, except as noted above, was confined to the Defendant's residence.

As to the fourth Wallace factor, the presence of coercion or threats, neither Victim one nor Witness one was threatened to engage in activity or to not tell. In both cases, the Defendant used his friendship with each to coerce and manipulate them into sexual activity.

As to the fifth Wallace factor, the manner of occurrence, the evidence shows the same progression from full body massaging to masturbation, with the progression occurring in a similar time frame. Witness 1's sexual abuse progressed to masturbation after approximately one year. Victim 1's sexual abuse progressed to masturbation sometime in the fifth grade, which began one year and two months after the Daufuskie trip.

In both cases, the initial massages involved the grazing or seemingly inadvertent touching of each boys' penis.

Although Witness 1 was massaged wearing underwear or naked while Victim one was clothed, the massages in both cases involved skin to skin contact, as Victim 1 was massaged underneath his clothing. Additionally, the massages in both cases involved Defendant positioned beside the boy for part of the massage.

In each case, the Defendant masturbated the boy for the first time as part of explaining masturbation to him. In Witness 1's case, masturbation occurred in the Jacuzzi tub at the Defendant's parents' home and began with the Defendant explaining to Witness 1 what masturbation was. In Victim 1's case, Victim 1 asked the Defendant about the meaning of a joke he heard at school about masturbation, which progressed to the Defendant masturbating him as explanation.

The State submits that an additional relevant factor for the court's consideration is the apparent reason that the abuse ended and the continuation of the relationship after the abuse. In Witness one's case, the sexual abuse ceased around the beginning of the Sixth Grade when he refused to participate. In Victim 1's case, the abuse ended the night before the Defendant's wedding when Victim 1 told the Defendant that it needed to end. This occurred the summer before Victim 1 began the eighth grade. In both cases, the Defendant remained on friendly terms with each boy after the abuse, still taking him on outings and spending time with each at his home. The Defendant also remained friendly with the families, maintaining his position of being part of the family.

It is the State's position that, to the extent that Victim one abuse progressed further than Witness one's the case law allows for redaction of dissimilar particulars to avoid unfair prejudice to the Defendant. See State v. Wallace, 384 S.C. at 435 ("pageset": "S67") We note that the trial court redacted only the last step in a progressive course of abuse. Sister's abuse began with touching of the breasts, digital penetration and oral sex, and then progressed to the point of intercourse. The fact that Victim's abuse was interrupted before it could culminate in intercourse does not diminish the similarity between the progression the abuse took in each case. Moreover, the trial court may properly redact dissimilar particulars of sexual conduct to avoid unfair prejudice to the defendant".)

STATE'S POSITION AS TO VICTIM TWO AND WITNESS ONE

It is the State's position that witness one's sexual abuse is admissible under Rule 404(b), common scheme or plan, in the trial of criminal charges involving the sexual abuse of Victim two, and that the sexual abuse of Victim two is admissible under Rule 404(b) common scheme or plan, in the trial of criminal charges involving the sexual abuse of witness one.

It is the State's position that the similarities in the acts committed against Victim two and witness one outweigh the dissimilarities and as such the bad act evidence offered by one witness would be admissible in the criminal trial concerning the other.

As to the first Wallace factor, age at the time of abuse, Victim two and witness one were approximately the same age at the time the abuse began. Victim two's sexual abuse began when he was approximately eight years old. Witness one was also eight years old when his sexual abuse began.

As to the second Wallace factor, the relationship between the victims and the perpetrator, Victim two and witness one had a similar relationship with the Defendant. In both instances, the Defendant met the boy through an older family member and cultivated a relationship with the parents and the boy's sibling. He ingratiated himself into the boy's family and invited the boy to his home. See State v. Scott, 405 S.C. 489, 501-502, 748 S.E.2d 236 (S.C. 2013)

As to the third Wallace factor, the location of the abuse in each case was the Defendant's home. This is true despite the fact that the Defendant spent time with each boy in the boy's home and despite the fact that the Defendant would take the boys to different events, providing ample opportunity for abuse to occur in other locations.

In witness one's case, the abuse occurred in the Defendant's parent's home, where the Defendant was residing. In Victim two's case, the abuse occurred in the Defendant's home, located at Egret Court.

As to the fifth Wallace factor, the sexual abuse involved full body massages, which included the touching of the penis.

It is the State's position that, to the extent that witness one and Victim two abuse was dissimilar, the case law allows for redaction of dissimilar particulars to avoid unfair prejudice to the Defendant. See State v. Wallace, 384 S.C. 428 at 434-444, 683 S.E.2d 275 (S.C. 2009).

For the foregoing reasons, the State respectfully submits that evidence regarding witness one's abuse should be admissible under Rule 404(b), common scheme or plan, in the trial of criminal charges involving the sexual abuse of Victim one, and Victim two, and the introduction of evidence regarding the sexual abuse of Victim one and Victim two should be admissible under Rule 404(b), common scheme or plan, in the trial of criminal charges involving the sexual abuse of Victim two.

RESPECTFULLY SUBMITTED,

Erin Joyner, Assistant Solicitor

York, South Carolina
_____, 2019

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)
State of South Carolina,)
vs.)
Julio Andres Castillo,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
SIXTEENTH JUDICIAL CIRCUIT

Memorandum to Limit
Rule 404(b) Evidence

Warrant Nos. 2016G4602193 thru
2016G4602200

The State has offered a memorandum in support of the introductions of evidence regarding witness one's alleged abuse under Rule 404(b), common scheme or plan, in the trial of the criminal charges involving the alleged sexual abuse of Victim one and Victim two, and the introduction of evidence regarding the alleged sexual abuse of Victim one and Victim two's testimony under Rule 404(b), common scheme or plan, in the trial of criminal charges involving the alleged sexual abuse of witness one.

As far as the State seeks to include bad act evidence regarding Victim 2 and Victim one at the trial for the criminal charges involving witness one, the Defense objects to this motion as premature.

In regards to the inclusion of prior bad act evidence regarding witness 1 at the trial for the criminal charges regarding Victim 1 and/or Victim two, the evidence should be inadmissible as it is not relevant, not part of a common scheme or plan, more prejudicial than probative, and confusing to the jury.

Witness one's Allegations

Witness one's allegations consist of their own unique facts, making them completely

separate and not relevant. There is no legitimate argument that demonstrates that the witness 1 allegations are necessary to make any of the victims allegations more or less probable. The State's desire to admit testimony regarding the allegations of sexual assault of a different victim is an attempt by the State to admit the prior bad act evidence in a way that is forbidden by SCRE 403, SCRE 404(b) and *State v. Lyle*, 125 S.C. 406, 118 S.E. 803 (1923). Simply based on the definition of "relevant evidence", the prior allegations should be excluded by this Court.

Admitting testimony related to the witness 1 allegations would not only be more prejudicial than probative, but would likely lead to confusing the jury. If this Court does determine that the evidence is relevant, then the Court should rule that it is inadmissible based on *Lyle* and fails the balancing test set forth under SCRE 403.

a. The Rule from *Lyle* and 404(b)

In 1923, the South Carolina Supreme Court stated "the familiar and salutary general rule, universally recognized and firmly established in all English-speaking countries, that evidence of other distinct crimes committed by the accused may not be adduced merely to raise an inference or to corroborate the prosecution's theory of the defendant's guilt of the particular crime charged." *State v. Lyle*, 125 S.C. 406, 118 S.E. 803, 807. "Under our system of justice, a conviction must be based upon evidence of the offense for which the accused is on trial rather than prior criminal or immoral acts." *State v. Gore*, 283 S.C. 118, 322 S.E.2d 12, 13 (1984). Evidence of other crimes is not admissible to prove the character of a person to show that he acted in conformity therewith. *State v. Bailey*, 275 S.C. 444, 272 S.E.2d 439, 440 (1980)(citing *State v. Lyle*).

Its effect is to predispose the mind of the juror to believe the prisoner is guilty, and thus effectively to strip him of the presumption of innocence." *State v. Lyle*, 118 S.E. at 807. "It

compels the defendant to meet charges of which the indictment gives him no information, confuses him in his defense, raises a variety of issues, and thus diverts the attention of the jury from the one immediately before it." *Id.* "[T]he general rule should be strictly enforced in all cases where applicable because of the prejudicial effect and injustice of such evidence, and should not be departed from except under conditions which clearly justify departure." *State v. Sharpe*, 239 S.C. 258, 122 S.E.2d 622, 630 (1961).

Exceptions to the rule were recognized in *Lyle*, and later included into SCRE 4B4(b). Evidence of other crimes or bad acts is competent to prove the specific crime charged in five situations, one of which is to show a common scheme or plan embracing the commission of two or more crimes so related to each other that proof of one tends to establish the others. *Id.*, at 806.

Evidence which falls into an exception is not automatically admissible. The following inquiries must first be made:

1. Can the government establish the prior by act by clear and convincing evidence?
2. If yes, what is the connection between the crime charged and the prior bad act sought to be introduced?
 - a. In essence, how is the prior bad act relevant to prove a material fact or element of the crime charged?
 - b. The connection between the prior bad act and the present crime must also be close, not just a general similarity.
3. If yes, is the probative values of the evidence substantially outweighed by the danger of unfair prejudice?
4. If yes, does the evidence sought to be introduced fit as an exception?

I. There is no connection between the crime charged and the prior bad act

The prior bad acts are alleged sexual abuse to include touching and masturbation with a different child, witness one, who is unrelated to either of the victims. The prior bad acts

are not relevant to prove any material fact or elements of the crimes charged. The prosecution is seeking to introduce the evidence solely to show criminal propensity.

Additionally, other than the Defendant being accused in both cases, there is no connection between the bad acts and the charged crimes. Even if the Court were to find that there was a connection between the bad acts and the charged crimes, the prior allegations are still inadmissible as they do not satisfy any exception to SCRE 404(b) and *Lyle*.

To qualify for admissibility under SCRE 404(b), the State must prove the bad act falls into one of five categories; Absence of Mistake or Accident, Motive, Intent, Common Scheme or Plan, or Identity. In the case at bar, the State is claiming that the prior bad acts fall into the category of Common Scheme or Plan.

This exception require more than mere commission of two similar crimes by the same individual. *State v. Stokes*, 279 S.C. 191 (1983). There must be some **connection** between the crimes. It requires a **close** relationship between the crimes. *State v. Moultrie*, 316 S.C. 547, 544 (Ct. App. 1994)(emphasis added).

Under this exception, in cases involving sexual abuse of children, the Court has determined that the standard for child sex cases is different than any other criminal cases. In *State v. Wallace*, the Court held that "...a trial court must analyze the similarities and dissimilarities between the crime charged and the bad act evidence to determine whether there is a close degree of similarity; when the similarities outweigh the dissimilarities, the bad act evidence is admissible..." Factors the court should consider include the age of the victims when the abuse occurred, the relationship between the victims and the perpetrator, the location where the abuse occurred, the use of coercion or threats, the manner of the occurrence - the type of sexual battery, and any other relevant factors. 384 S.C. 428 at 434-444 (2009).

The bar for admissibility under *Lyle* is not lowered solely because a sex crime is involved. *State v. Tutton*, 354 S.C. 319, 328 (2003). "The suggestion that common scheme or plan evidence will generally be admitted in cases involving continuous misconduct is misleading. The evidence must also be logically relevant to the crime being tried." *Id.* at 329.

Applying the *Wallace* factors to the case at bar, the defendant submits that the dissimilarities outweigh the similarities, and the evidence should not be admitted.

As to the age, the victims were relatively the same age.

As to the relationship with the defendant, witness one was more like a brother to the defendant. There is evidence that the two became "blood brothers" and witness 1 called defendant "Bro". The age difference between witness 1 and the defendant was approximately 8 years. The relationship with the victim boys was drastically different. Defendant was fourteen and sixteen years older than victim 1 and victim 2, respectively. Defendant was out of college, owned his own house, and supported himself. Although Defendant considered the victim boys family, it was not the same brotherly relationship he had with victims.

Additionally, Defendant's relationship with the families of the alleged victims was different. Defendant was like a son to the V. They threw him birthday parties and included them in their family celebrations. The C looked at Defendant as more of an equal in that they trusted their children in his care and let their sons spend copious amounts of time with the Defendant alone.

As to the third factor, the State claims that the alleged abuse happened in the same place - Defendant's home. There were actually two different residences in which Defendant resided, one of which was Defendant's parents home. Victim 1 also claims some of the abuse happened in the C household and in Dafuskie Island.

As to the presence of coercion or threats, ^{Victim 2} claims that he was threatened and felt unsafe. Neither ^{Victim 1} nor ^{Witness 1} have any claims of threats. Additionally, ^{Witness 1} claims that he continued his relationship with Defendant in order to get gifts from him such as a rebuilt computer and a sound system for his car.

As to the fifth factor, the manner or type of abuse, there are also dissimilarities. ^{Witness One} does not allege any fellatio occurred. ^{Victim 1} alleges Defendant performed fellatio on him, and ^{Victim 2} alleges he was forced to give and receive fellatio. Additionally, the ^{Victim} boys allegations include the use of ropes and being hog tied during the alleged abuse. ^{Witness One} makes no claims of this type.

The Defendant would object to any "redaction" of dissimilar particulars in the allegations in order to avoid unfair prejudice. It is the Defendant's position that redacting testimony to be more similar to the charged crimes would in fact cause greater prejudice to the Defendant in that the alleged prior bad acts would be seem more consistent and therefore more likely to have occurred.

II. SCRE 403 Analysis

If the Court finds that the evidence the State seeks to present satisfies SCRE 404(b), it should still be excluded pursuant to SCRE 403 because the prejudice of the admission is outweighed by any probative value it may have.

Although relevant, SCRE 403 prohibits admission of evidence if its probative value is substantially outweighed by the danger of unfair prejudice or confusion of the issues.

The prejudicial effect of admitting evidence of the prior bad acts alleged by ^{Witness One} is disproportionate to its probative value. Admitting evidence of the prior acts would only inflame the emotions of the jury and prejudice the Defendant in the eyes of the jury. Further,

evidence of an additional victim and his allegations would only confuse the issues. Defendant is not on trial for the acts alleged by witness 1, but by allowing him to testify under SCRE 404(b) as to the prior bad acts of the Defendant, the Court is theoretically putting Defendant on trial for those allegations. The jury will not be able to separate in their minds the difference between the alleged crimes committed upon ^{victim2} ^{victim1}, and witness 1 and may convict Defendant on the charged crimes based upon the testimony of witness 1 even though Defendant is not on trial for the crimes alleged by witness one.

CONCLUSION

In conclusion, the evidence sought to be introduced by the State regarding prior bad acts alleged by witness one is not relevant to prove a material fact or element of the crimes charged. Further, under *Lyle*, the State seeks to introduce the evidence as part of a common scheme or plan. To introduce evidence under the common scheme or plan exception in child sex abuse cases, the Court held that a five factor analysis be used to determine the similarity between the prior bad act and the charged crimes. The Defendant submits that the prior bad acts and the charged crimes are too dissimilar and that the evidence should not be admitted. Further, even if the Court finds that similarities do exist, the evidence should be excluded based on SCRE 403 as the prejudice to the Defendant outweighs and probative value and the testimony of an alleged third victim would be very confusing to the jury.

Therefore, Defendant requests that all testimony of prior bad acts be inadmissible under *Lyle*, SCRE 404(b), and SCRE 403.

Respectfully Submitted,

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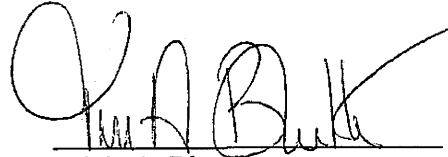
CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

RECEIVED

Mar 25 2021

SC Court of Appeals



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