

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lancaster County

Honorable Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAVID MATTHEW CARTER,

APPELLANT

APPELLATE CASE NO 2018-001032

RECORD ON APPEAL

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State's Exhibit 1 (DVD); Court's Exhibit 1 (DVD)

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	)	COURT OF GENERAL SESSIONS
COUNTY OF LANCASTER	)	2017-GS-29-00036
	)	2017-GS-29-00037
	)	2017-GS-29-00038
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
DAVID MATTHEW CARTER,	)	
DEFENDANT.	)	
	)	

May 21, 22 & 24, 2018
Lancaster, South Carolina

B E F O R E:

THE HONORABLE STEVEN H. JOHN, JUDGE.

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

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SHIRLEY BROOM
Circuit Court Reporter

I N D E X

(PW) - Denotes Plaintiff's Witness

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All Exhibits were retained by the Clerk of Court for Lancaster County.

1 comes in either this afternoon or tomorrow morning and say
2 that they are willing to stay on the bond until the jury has
3 the case.

4 MR. STEEN: Yes, sir.

5 THE COURT: Thank you very much. See you at 2:30..

6 (A lunch recess was taken.)

7 THE COURT: I honestly don't have a -- don't really
8 care how we do the motions, in what order, but if y'all want
9 to start with the matter of testimony of the minor victim in
10 a different courtroom than the Defendant, however y'all want
11 to start.

12 MS. MCMAHON: Well, Your Honor, we cut one off the
13 list.

14 THE COURT: Okay.

15 MS. MCMAHON: Mr. Steen and I consulted with each other
16 on his request to redact some items out of the video.

17 THE COURT: All right.

18 MS. MCMAHON: And the State agrees.

19 THE COURT: All right.

20 MS. MCMAHON: So if the Court will allow, this
21 afternoon, Mr. Steen and I will sit down together and do it
22 together so that we can consent on what is removed.

23 THE COURT: Is that --

24 MR. STEEN: That's correct, Your Honor.

25 THE COURT: Very good. I, certainly, don't have a

1 problem with that. We just need to put it on the record
2 tomorrow before we get it started.

3 MS. MCMAHON: Yes.

4 THE COURT: And just have it marked by the court
5 reporter as a State's Exhibit.

6 MS. MCMAHON: Yes, Your Honor. If you would like, I
7 can include the entire version as a Court's Exhibit.

8 THE COURT: That probably would be a good idea to have
9 that for identification -- the entire one for identification
10 and the other one would, also, be the one that you would
11 actually use. So that would not be a problem.

12 MS. MCMAHON: I think the second -- I believe that just
13 leaves us -- yes, that would leave us with the CCTV motion
14 and the interview, the video interview.

15 THE COURT: All right.

16 MS. MCMAHON: In which order you prefer, I'd be happy
17 to --

18 THE COURT: Why don't we start with the CCTV motion.

19 MS. MCMAHON: Well, Your Honor, for that then, the
20 State would call Mr. Kellin, David Kellin.

21 THE COURT: Very good.

22 Just so we're clear on the record, again, we're
23 continuing the matter of 2017-GS-29-36, the State vs. David
24 Matthew Carter, 2017-GS-20-37, the State vs. David Matthew
25 Carter, and 2017-GS-29-38, the State vs. David Matthew

1 Carter, all three indictments for criminal sexual conduct
2 with a minor, all three true billed by the Lancaster County
3 Grand Jury, all of them on January 19th, 2017.

4 DAVID KELLIN,

5 after being duly sworn, testified as follows:

6 THE WITNESS: I do.

7 DIRECT EXAMINATION

8 BY MS. MCMAHON:

9 Q Mr. Kellin, would you please spell your last name for
10 the record?

11 A K-E-L-L-I-N.

12 Q And where are you currently employed?

13 A I work at PCASA, Palmetto Citizens Against Sexual
14 Assault.

15 Q And what do you do there?

16 A I'm the clinical director. I do the counseling for
17 children.

18 Q And what other services does PCASA provide?

19 A They, also, do advocacy and forensic interviewing and
20 community education.

21 Q And what's your educational background?

22 A I have a Master's Degree in social work. I have a
23 Bachelor of Science Degree in psychology and an Associate's
24 Degree in human services.

25 Q And what kind of professional licenses do you hold?

1 A I hold a license with the State of South Carolina for
2 licensed independent social worker with clinical practice.

3 Q So could you explain what a licensed independent social
4 worker is, please?

5 A When somebody comes out of college, they can get a
6 license as a licensed master social worker. After three
7 years of supervision and service, then you can apply to
8 operate independently from a supervisor. So I've been
9 licensed since 1999 as a licensed independent social worker.
10 Shortly after that, they added like classifications and mine
11 is specialized in clinical practice.

12 Q So what does your clinical practice involve?

13 A Right now, it is working with kids who are traumatized,
14 who report sexual abuse, physical abuse or emotional abuse,
15 who are having symptoms and problems related to those.

16 Q Is there a name for that particular type of counseling?

17 A It's trauma-focused cognitive behavioral therapy. It,
18 also, can be -- there's a cluster of treatments that are
19 used. One is trauma-focused cognitive behavioral therapy
20 and one is cognitive processing theory, and then there is
21 trauma-informed therapies.

22 Q And do you read any literature or go to any courses or
23 trainings?

24 A I regularly attend courses and, also, keep up with the
25 literature.

1 Q Is there any peer review in this type of --

2 A Excuse me.

3 Q Do you have any peer review done in this type of
4 situation?

5 A Yes, we regularly do peer reviews.

6 Q And how many people have you seen or have you been a
7 therapist for?

8 A I've been a therapist for more than 26 years. I've
9 seen about 4600 clients over time, mostly children.

10 Q And does the license that you hold, does that allow you
11 to diagnose people?

12 A It does.

13 Q Is it limited in the diagnosis of what you can do?

14 A There's no limitation on diagnosis. I'm not allowed to
15 prescribe medicine.

16 Q What percentage of your clients are child abuse
17 victims?

18 A Right now, with PCASA, it's almost a hundred percent.

19 Q What type of procedures do you use in your therapeutic
20 sessions?

21 A I use an interactive process. Most of my children that
22 I'm working with are underneath the age of 12, so we use a
23 chest or crafts to work at the same time we're talking. So
24 it makes it more of a comfortable environment for them to
25 talk.

1 MS. MCMAHON: Your Honor, at this time, I would offer
2 Mr. Kellin as an expert in child focused cognitive
3 behavioral therapy.

4 THE COURT: Do you wish to voir dire the witness or
5 challenge the qualifications?

6 MR. STEEN: No challenge, Your Honor, for the purposes
7 of this hearing.

8 BY MS. MCMAHON:

9 Q Mr. Kellin, since you can diagnose people -- well, let
10 me back up. Have you seen [REDACTED] T.P. as a client?

11 A Yes.

12 Q And what can you tell me about her diagnosis?

13 A Initially, we assessed her for trauma-related
14 reactions. When we gave her the UCLA PTSD RI, she scored a
15 34 on that test, which is just a point below indicative of
16 PTSD. Because of the way the test is run, there's some
17 leeway in that. I diagnosed her with PTSD for the treatment
18 that we provided.

19 Q So in your therapy sessions, does she discuss, like,
20 who she's fearful of or the cause of the PTSD?

21 A Yes.

22 Q What has she indicated -- what's her trigger?

23 A She has reacted very heavily to the mention of David
24 Carter's name, to the presence of David Carter or discussion
25 of David Carter. Anything that seems to be related and

1 connected to that, she's had reactions to those.

2 Q Well, what kind of reaction did she have?

3 A Usually, fearful. She's somewhat avoidant when the
4 issues come up. Doesn't like to talk about it. So we've
5 worked over time and those are lessened, but they're still
6 present.

7 Q This fearfulness, is it more than just nervousness?
8 How else can you describe it?

9 A She, basically, crawls into a shell is the way I look
10 at it. I've seen her hide behind her mother. I've seen her
11 avoid talking about it when there's even a court situation
12 has come up, you know, in terms of preparing for court. The
13 mention of the name, the idea of coming and testifying
14 caused her to react to that.

15 Q And how many times have you seen her as a client?

16 A I don't have an exact number. I can give you a range
17 if it's okay if I refer to my notes. I initially met with
18 her and her mother on 9/26 of 2016. And she has been seen
19 on a regular basis, most recently, on a monthly basis up
20 through -- looks like the last session we, typically, had
21 here was 8/3 of '17. So almost a year's worth of
22 counseling.

23 Q Do you have an expert opinion to a reasonable degree of
24 medical certainty whether in the courtroom if T.P.
25 testifies in the same with the Defendant, would that impede

1 her ability to fully and accurately testify in this case?

2 A I believe so.

3 Q Could you expand on that a little for us?

4 A I believe if she has to testify in the presence of
5 David Carter, I think that she will freeze and not be able
6 to be open and upfront with what she needs to say.

7 Q And would your opinion extend to [T.P.] being in the
8 courtroom without Mr. Carter present or is your opinion that
9 she needs to be in a separate courtroom?

10 A I think that as long as they are not in the same room,
11 I think that the issue of the fearfulness and about
12 testifying in front of him would be minimized. So if he's
13 in another room or she's in another room, I think that helps
14 both situations, both of those situations would be helpful
15 for that.

16 MS. MCMAHON: I have nothing further, Your Honor.

17 THE COURT: Cross-examination?

18 CROSS-EXAMINATION

19 BY MR. STEEN:

20 Q Mr. Kellin, the last time that you treated Miss [T.P.]
21 was August the 17th?

22 A For a therapy session. We've had where I've come over
23 and was supportive for her as she went through the process
24 of coming in and visiting the court and that process. We
25 have not had a sit-down therapy session since August.

1 Q How do you get over PTSD?

2 A PTSD for children, the children that I work with, tends
3 to be question based. So why did something happen? What
4 was it that happened? They get curious, but they can't
5 figure out the questions. It also works that way for
6 adults, although it's a little different for adults.

7 I was listening to the MPR getting ready and it had a
8 great little example of this. Is that the recent shooting
9 that happened down in Texas, one of the girls described that
10 she came out of the school, ran into a friend of hers that
11 was shot, she went home. She is now not able to go the
12 bathroom by herself, without mother going with her. She's
13 not able to go to some other places without somebody being
14 with her. She is terrified that somebody is going to come
15 over the wall and shoot her. To get to the point where that
16 resolves, she has to come to an understanding that the
17 environment is safe and that nobody is coming over the wall,
18 but also to identify what's going on, why did that happen.

19 And for young kids, that why did it happen is the
20 really difficult questions for them to answer. So it sticks
21 with them -- because most kids I work with are concrete in
22 an emotional state, they just see it as a danger. So
23 they're worried that somebody is going to come around the
24 corner.

25 T.P. is worried that David is going to come get her

1 and take her away. And that's that concrete reality. Now,
2 over time, that's lessened as she's seen that he hasn't come
3 around her or hasn't come near her or hasn't tried to
4 contact her. So that lessens for her -- that comes down --
5 the PTSD symptoms come down as she starts to reenter life
6 without those fears or reactions, but it all comes from that
7 thought. And we help to work with that thought so it's not
8 them trying to figure out that inappropriate thought and
9 figure it out in a better way.

10 Q Do you know if she's taking any medicines controlled?

11 A I'm not sure if she's taking any controlled medicines
12 at this point.

13 MR. STEEN: Thank you. That's it.

14 THE COURT: Any redirect?

15 MS. MCMAHON: Just briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. MCMAHON:

18 Q Mr. Kellin, what's your opinion on [T.P.] testifying in
19 front of a jury?

20 A I think [T.P.] is okay in front of a jury. I think
21 that the fear that she's expressed is to be in front of
22 David. And I think if that's not there, I think she will be
23 okay to testify wherever she's at. The idea of me maybe
24 looking at the CCTV was to be able to put a physical
25 distance between her and David Carter.

1 Q So you would be okay with her testifying as long as
2 there's a distance of any kind?

3 A Yes, of any kind.

4 Q What percentage of your clients do you recommend not be
5 in the presence of the --

6 A Very few. Most are able to be in front of the jury or
7 in front of the Defendant. I've only three or four times, I
8 think, in the course of time made the recommendation for
9 CCTV.

10 Q Okay.

11 MS. MCMAHON: Court's indulgence, Your Honor.

12 (Pause.)

13 MS. MCMAHON: Nothing further from the State, Your
14 Honor.

15 THE COURT: Regarding those questions, anything further
16 from the Defense?

17 MR. STEEN: Nothing, Your Honor.

18 THE COURT: All right, sir. You may step down, sir.

19 (Witness leaves the witness stand.)

20 THE COURT: Any further testimony from the State?

21 MS. MCMAHON: No, Your Honor.

22 THE COURT: Any testimony from the Defense?

23 MR. STEEN: None, Your Honor.

24 THE COURT: All right. Solicitor, I'll be glad to hear
25 your arguments.

1 MS. MCMAHON: Your Honor, I believe most of my
2 arguments are made in my motion; however, just for
3 clarification, we are not intending to call Summer [REDACTED],
4 so we are just dealing with [REDACTED] T.P. [REDACTED].

5 I believe that Mr. Kellin provided the Court that the
6 child has a special need -- well, not necessarily closed
7 circuit television. I think he indicated as long as they're
8 not in the same room together, they'd be okay. She will be
9 in the courtroom. And if Mr. Carter is next door in
10 Courtroom B, we can video stream in there the ability to see
11 and hear.

12 THE COURT: Can you just explain briefly how the CCTV
13 system will work if we use it here in the courtroom? Just
14 for the record so it's clear how that process will take
15 place.

16 MS. MCMAHON: Sure. You want clarification as if --

17 THE COURT: The actual process. You know, if the young
18 victim is testifying in here, how that's projected to
19 another courtroom where the Defendant is, that actual
20 process.

21 MS. MCMAHON: Sure, absolutely. And this is just --
22 you know, I've been working with the clerks the past couple
23 of weeks trying to set this up. But, basically, the cameras
24 in here all operate in each courtroom. What we can't do is
25 have video feeds going on at the same time. So we wouldn't

1 -- well, we could in theory, but the cameras here all pick
2 up sound and everything. Essentially, the other courtroom
3 next door is just a miniature version of this. It still has
4 the jury box and all that. It plays on the monitors there.

5 So there's two monitors like this in the other
6 courtroom. There's monitors on the benches. There's, you
7 know, several monitors you can link up to. And you can view
8 everything that's happening contemporaneously, the sound and
9 everything. The built-in microphones are a little harder to
10 hear than if we set up the external microphones. Like if I
11 was over there when we were doing it on video talking and
12 you were sitting in here, I would be able to hear anything
13 that you tell me over there and vice versa.

14 THE COURT: And you could, actually, what's going on in
15 this courtroom by viewing the monitor?

16 MS. MCMAHON: Yes.

17 THE COURT: And the process would be, assuming again,
18 that the minor victim is here in the courtroom, we would
19 have some member of your staff in the other courtroom where
20 the Defendant is?

21 MS. MCMAHON: Yes, Your Honor.

22 THE COURT: All right. And the process as you envision
23 it regarding the Defense, would that be the same, the
24 Defendant would be in the other courtroom with one of his
25 counsel and one counsel would be present here?

1 MS. MCMAHON: Yes, Your Honor.

2 THE COURT: Now, the communication between the two
3 courtrooms between the attorneys, as I understand it, that's
4 limited to exchanges over -- by e-mail or computer? There's
5 no actual way for, let's say, you to speak directly to the
6 other assistant solicitor that's in the other courtroom,
7 correct?

8 MS. MCMAHON: Not without the other party hearing, no.
9 I mean, we could set it up, also, where -- you know,
10 obviously, we wouldn't be able to put them on the large
11 screen or we'd have to turn them backwards, but we could,
12 also, set it up so that Mr. Carter is viewed by everybody in
13 here as well.

14 THE COURT: All right. Thank you.
15 Counsel?

16 MR. STEEN: Thank you, Your Honor. First, I would ask
17 the Court to hear the testimony and the questioning of the
18 children in this incident. Mr. Kellin testified that it was
19 nine months ago the last time he counseled with these
20 children. He changes. He said it takes time to heal. He
21 hasn't counseled them in nine months. He can't determine
22 whether she is currently diagnosed with PTSD, Your Honor.

23 I reiterate -- all the case law states that, you know,
24 we suggest the trial judge interview the child. It's clear
25 from our case law that the trial judge's firsthand

1 observations are not only required, but possibly carry great
2 weight. We would reiterate the holding in Merle that the
3 best practice in these cases is for the trial judge to
4 personally interview the child.

5 Your Honor, she is 12 years old. I went through pretty
6 much -- I've attached it and given it to the Solicitor, too
7 -- all the case law with CCTV. The ages of the witnesses
8 testifying by CCTV are three, six, five, seven, five, four
9 and seven. Miss T.P. is 12 years old and she's almost a
10 teenager. This statute is not meant to protect people of
11 her age. With the forensic interview a child is 12 years
12 old, but yet, and they say very young witness, I would
13 assume the Court means less than 12.

14 But Your Honor, for those reasons, we would ask that
15 you, actually, interview the child yourself and make the
16 determination.

17 THE COURT: First, is the minor victim in the
18 courthouse?

19 MS. MCMAHON: Yes.

20 THE COURT: Mr. Kellin?

21 MR. KELLIN: Yes, sir.

22 THE COURT: If I required you to speak to the minor
23 victim before she testified, and it might require you to
24 come back on the stand for some further questions. How long
25 do you believe you would need with the minor victim to see

1 if your current -- or the opinion you've just expressed has
2 changed in any way based upon the fact of the length of time
3 since the last time you talked to her to the time now? How
4 long do you believe --

5 MR. KELLIN: I would think no more than 30 minutes.

6 THE COURT: All right, sir.

7 I think it is beneficial to the Court and to the
8 parties that that take place and receive that information
9 from Mr. Kellin before we bring the minor victim into the
10 courtroom and the Court question her to see if Mr. Kellin's
11 opinion has changed in any fashion.

12 So what we'll do is we'll take a short break.

13 I'm not putting a time limit on your, Mr. Kellin. You
14 take the time you deem necessary. You've indicated to me it
15 will probably be about a half hour. If for some reason, you
16 get started and you think it's going to be extended much
17 longer than that, if you could just inform the State and,
18 obviously, the Defense counsel of that and we'll adjust our
19 schedule at that point in time.

20 MR. KELLIN: Absolutely.

21 THE COURT: So we'll take a short break.

22 I'm assuming there is some place, a room, that this can
23 take place?

24 MS. MCMAHON: Yes, sir. Mr. Kellin can, actually, just
25 go upstairs to the Solicitor's Office. There's a conference

1 room up there.

2 THE COURT: Is there a conference room here?

3 Is anybody in the courtroom next door?

4 THE BAILIFF: No, sir.

5 THE COURT: Perhaps, you do it in the courtroom next
6 door. Now, I want to make sure that nobody else is in there
7 at the present time.

8 So why don't you do it in the courtroom. And then with
9 that, you can maybe ask some questions concerning that,
10 also. Obviously, you know where the witness is going to be
11 and where she would be. And go over that process, too.
12 Then we'll receive your testimony after that. Just keep us
13 informed.

14 MR. KELLIN: Yes, sir.

15 THE COURT: Thank you very much.

16 We'll take a short recess to get that accomplished.

17 (Short break.)

18 THE COURT: Solicitor, are you ready to proceed?

19 MS. MCMAHON: Yes, Your Honor. Would you like to hear
20 from Mr. Kellin first or Ms. Carter?

21 THE COURT: Well, why don't we hear -- I want to hear
22 from Mr. Kellin. That's fine.

23 MS. MCMAHON: Your Honor, the State would call Mr.
24 Kellin.

25 THE COURT: Mr. Kellin, please remember that you remain

1 under oath.

2 THE WITNESS: Yes, sir.

3 DAVID KELLIN,

4 continuing to be under oath, testifies as follows:

5 FURTHER REDIRECT EXAMINATION

6 BY MS. MCMAHON:

7 Q Mr. Kellin, did you get an opportunity to talk to
8 [REDACTED] T.P. ?

9 A Yes, I did.

10 Q And what was your assessment after your conversation
11 with her?

12 A I redid the UCLA PTSD RI index that we used initially
13 to look at her PTSD symptoms. Her initial scores when she
14 first started were 34, today, they're 25. So there's still
15 presence of symptoms there. They're less than what they
16 initially were.

17 I then asked her to sit in the booth where she would
18 testify if she were testifying in the court and explained
19 who would be in the courtroom. And we used a relative
20 scale, it's a subjective scale that she reports, between
21 one, being not afraid or not anxious at all, to 10, being
22 the most anxious she's ever been.

23 When we asked about how she felt just sitting in that
24 chair, it was a zero. When we started to talk about maybe
25 talking about with other people in the room, rose to one.

1 When I asked about talking about the case, talking about
2 things that happened, it got up to about a three.

3 I then asked if David was present in the room what that
4 score would be. She said a nine. I said, If he's not in
5 the room, what score is it? Three. I said, So you could
6 talk with anybody here that's in the room about this and
7 that score would be what? She said, Three. I said, If
8 David's in the room, what's your reaction likely to be? She
9 said, I'll freeze up. I would not be able to talk. I said,
10 Even if I'm in front of you asking questions, would you be
11 able to talk? She said, No.

12 Q So let me just ask the same question I asked you
13 earlier, what is your expert opinion to a reasonable degree
14 of medical certainty of how T.P. testifying in front of
15 the Defendant would be? Would it impede her ability to
16 fully and accurately testify in court?

17 A Yes.

18 MS. MCMAHON: Nothing further, Your Honor.

19 THE COURT: Any questions from the Defense?

20 RECROSS-EXAMINATION

21 BY MR. STEEN:

22 Q So with a score of 25, does she have PTSD?

23 A She has PTSD. It would be more classically looked at
24 as either moderate or beginning of remission. But it's
25 still at that level where there are significant symptoms.

1 When I look at the scores that's rated between zero and
2 four, several of her scores are still four, which means that
3 she thinks about those things all the time.

4 So like a zero is we don't think about them at all.
5 One is we might think about them once a month. Two is we
6 may think about them once a week. Four is that we're
7 thinking about them almost all the time every moment of the
8 day. She has several scores that are still up there in the
9 four range.

10 So I believe that she still has PTSD. I would not say
11 it's in remission, but she has improved in a variety of
12 areas. Most of those are probably less avoidant-type
13 symptoms, but symptoms where there is -- I don't know how to
14 put it. Like there's a stimulation and it goes on when
15 seeing somebody. So the reactivity of seeing somebody or
16 talking about something, those are still there. But
17 avoiding talking about it has lessened.

18 Q Who scores the fours? Is this something she's filling
19 out or is it --

20 A She responded to the questions, yes.

21 Q So the score is based entirely on her?

22 A On her report, yes.

23 MR. STEEN: Nothing further.

24 THE COURT: Any redirect?

25 MS. MCMAHON: No, Your Honor.

1 THE COURT: You may step down, sir. Thank you very
2 much.

3 (Witness leaves the witness stand.)

4 THE COURT: Yes, ma'am.

5 MS. MCMAHON: Your Honor, I believe based on what Mr.
6 Kellin has recently testified to that the State's position
7 that Mr. Carter not be present in front of her during her
8 testimony satisfies the statute. Which I just want to point
9 out, it says determine if the child has a special need. It
10 doesn't define the word child. 12 is still a child. T.P.
11 just turned 12 a couple weeks ago. She would still be in
12 the courtroom sitting here. And the Defendant, based on our
13 technology we have in this courthouse, would still be able
14 to see and hear.

15 THE COURT: I would appreciate it if you would call her
16 mother to the stand, please.

17 MR. MCMASTER: Your Honor, the State calls Tiffany
18 Carter.

19 THE COURT: Please come around and be sworn, ma'am.

20 TIFFANY CARTER,

21 after being duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. MCMASTER:

24 Q Tiffany, can you state your name for the record?

25 A Tiffany Carter.

1 Q And can you tell me the relationship you have with
2 [REDACTED] T.P. ?

3 A That's my daughter.

4 Q In your opinion, what is her behavior in front of the
5 Defendant?

6 A Currently, how I feel it would be?

7 Q Yes.

8 A There's not going to be any good reaction whatsoever.

9 Q Can you elaborate on that?

10 A Honestly, I feel like if she had the opportunity to get
11 out of the proximity, she would.

12 Q What other effect would she have on testifying when it
13 comes to answering questions?

14 A She wouldn't.

15 Q Is [REDACTED] T.P. on any medication right now?

16 A She is.

17 Q Any medication that has to do with testifying or
18 anxious, anxiety?

19 A Her anxiety. She is on Vistaril. She takes it once a
20 day.

21 THE COURT: And I'm sorry, I didn't hear what that was?

22 THE WITNESS: Vistaril.

23 THE COURT: Do you have any idea how to spell that?

24 THE WITNESS: V-I-S-T-A-R-I-L.

25 THE COURT: Thank you.

1 MR. MCMASTER: Thank you.

2 THE COURT: Questions by the Defense?

3 MR. STEEN: May it please the Court, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. STEEN:

6 Q Ms. Carter, you're currently the legal guardian of Miss

7 T.P. ?

8 A Yes.

9 Q Is she in school anywhere right now?

10 A She is.

11 Q Is she doing okay in school?

12 A Sometimes. It kind of fluctuates, depending on how
13 this whole situation is going.

14 Q You mentioned she's on an anti-anxiety medicine?

15 A Yes.

16 Q Who prescribed that medicine for her?

17 A Her primary care physician.

18 Q Is it just like a general practitioner?

19 A Uh-huh, her pediatrician.

20 Q Okay. And you mentioned she would not have a good
21 reaction if she had to testify?

22 A No, she'd shut down.

23 Q She would shut down?

24 A Yeah.

25 Q Do you ever talk to her about this case?

1 A Sometimes. Not really asking her any questions, just
2 giving her the opportunity to whatever she feels like she
3 needs to talk about.

4 Q Does she ever shut down with you?

5 A Yes.

6 Q Does she ever talk to you and tell you stuff? I don't
7 need to know what she told you --

8 A Very limited. It's very -- I barely know any details
9 just coming from her.

10 MR. STEEN: Beg the Court's indulgence.

11 THE COURT: Yes, sir.

12 (Pause.)

13 MR. STEEN: No further questions, Your Honor.

14 THE COURT: Any redirect?

15 MR. MCMASTER: No, Your Honor.

16 THE COURT: You may step down. Thank you.

17 (Witness leaves the witness stand.)

18 THE COURT: In reading the case law, I do not find that
19 there is a requirement that the Court interview the minor
20 victim, but I think in this particular case, it would be a
21 good idea to do so. With that, though, obviously, we would
22 need to operate as if the Court had already made the
23 decision. Because I think that would be proper procedure
24 based on what I've already heard from her mother and the
25 person the Court recognized as an expert, Mr. Kellin,

1 regarding his treatment and opinions in this matter.

2 So how long would it take for us to accomplish having
3 the Defendant in the next courtroom and be able to see and
4 hear what's going on?

5 MS. MCMAHON: Do you want us to set up the TV in here?

6 THE COURT: I would want the minor victim to be here in
7 the courtroom testifying as if she was in front of the jury
8 and to use the procedure that the Court inquired of and
9 talked to you about, Solicitor, that whereby you or your
10 co-counsel is present and another one is in the other
11 courtroom and the Defendant and counsel of his team is in
12 the next courtroom. And we're, basically, using the same
13 procedure that you would use in the trial. How long will it
14 take us to accomplish that?

15 MS. MCMAHON: To get T.P. down here, not very long;
16 however, I do, actually, have to get the clerks of court to
17 come up here and set that up.

18 THE COURT: And that's fine. I don't have a problem
19 with that. Why don't we make those arrangements? We might
20 as well try it out now and make sure it's working before we,
21 actually, try to do in front of a jury.

22 So let's communicate -- is it the actual Clerk of Court
23 or someone from the staff?

24 MS. MCMAHON: It's the actual Clerk of Court. I
25 believe the bailiff is contacting them right now.

1 THE COURT: Very good. Well, y'all go ahead and let's
2 get that arranged.

3 Counsel, if y'all want to go into the next courtroom
4 and then we'll proceed.

5 Just let me know when you're ready, please.

6 (Short break.)

7 THE COURT: And just so that I understand, the
8 situation when we, actually, have a jury, there are
9 television monitors in the jury box? How many is it?

10 MS. MCMAHON: There's six.

11 THE COURT: Six?

12 MS. MCMAHON: They're bigger than my TV at my house.

13 THE CLERK: Seven.

14 THE COURT: Okay. Great. Good deal.

15 Let's call the minor in, please.

16 THE COURT: Does someone from the Clerk's Office want
17 to administer the oath or shall I?

18 THE CLERK: I'm so sorry.

19 THE COURT: That's all right.

20 T.P.

21 after being duly sworn, testifies as follows:

22 THE WITNESS: Yes, ma'am.

23 THE CLERK: You may be seated.

24 THE COURT: Go ahead, Solicitor.

25 DIRECT EXAMINATION

1 BY MS. MCMAHON:

2 Q What's your full name?

3 A [REDACTED] T.P. [REDACTED].

4 Q Can you speak up a little bit for me?

5 A [REDACTED] T.P. [REDACTED].

6 Q [REDACTED] T.P. [REDACTED], when's your birthday?

7 A [REDACTED], '06.

8 Q So what grade did you just turn, what year?

9 A Twelve.

10 Q What grade are you in right now?

11 A Sixth.

12 Q How many pets do you have?

13 A Four.

14 Q What are they?

15 A One cat, three bearded dragons.

16 Q What are their names?

17 A The cat's name is Muggy and the male bearded dragon's
18 name is Draco, one of the females name is Saphera and the
19 other is Groves.

20 Q What's your favorite color?

21 A Turquoise.

22 Q What school do you go to?

23 A A.J.

24 Q What grade are you in?

25 A Sixth.

1 Q So let's start over again a little bit. Who are your
2 pets?

3 A I have one cat, three bearded dragons.

4 Q And what's your favorite color?

5 A Turquoise.

6 /Q And who do you live with?

7 A Momma, Josh, Summer, Lane and Maddie.

8 Q Who's the youngest?

9 A Maddie.

10 Q Who's the oldest?

11 A Me.

12 Q You're older than your momma?

13 A No.

14 Q Who's the oldest?

15 A Momma.

16 Q What's your favorite class?

17 A Art and ELA.

18 Q What days do you have ELA?

19 A Everyday.

20 Q Do you have art everyday?

21 A No.

22 Q What's your favorite thing to do in art?

23 A Paint.

24 Q Do you like to paint anything in particular?

25 A No.

1 Q Do you like to draw?

2 A Yes.

3 Q What kind of paints do you like to use?

4 A Any paint.

5 Q Do you get messy when you paint?

6 A Sometimes.

7 Q Do you have to wash your clothes afterwards?

8 A No.

9 Q It's only on your skin?

10 A Yeah.

11 Q Where did you go to school last year?

12 A Heath Springs and Buford.

13 Q Who is your favorite teacher at Heath Springs?

14 A Ms. Hannah.

15 Q Who is your favorite teacher at Buford?

16 A Ms. Wallace.

17 Q What did you like to do in elementary school?

18 A Read and science.

19 Q Okay.

20 MS. MCMAHON: Mr. Steen is going to ask you some
21 questions, okay?

22 THE WITNESS: Okay.

23 THE COURT: Counsel?

24 CROSS-EXAMINATION

25 BY MR. STEEN:

1 Q Hey, T.P. .

2 A Hey.

3 Q You said you go to Andrew Jackson Middle School?

4 A Yes, sir.

5 Q Did you have to go another school part of this year?

6 A No -- oh, yes, yes. I had to go back to my elementary
7 school because A.J. caught on fire.

8 Q Did you like going back to your elementary school?

9 A Yes.

10 Q You did? How long were you there?

11 A Maybe about a month and a half.

12 Q About a month and a half. When you came back to middle
13 school, was it nice and clean?

14 A Yes.

15 Q You glad to be back in the middle school?

16 A Yes.

17 Q Did all your friends go with you to your elementary
18 school during the fire?

19 A No.

20 Q They separated?

21 A Yes. Only sixth grade went to Heath Springs.

22 Q Oh, okay.

23 MR. STEEN: Nothing further.

24 EXAMINATION

25 BY THE COURT:

1 Q T.P., I'm the judge in this case, okay?

2 A Okay.

3 Q And it's important that I know that you know the
4 difference between telling the truth and telling a lie,
5 okay?

6 A Okay.

7 Q So when I say telling the truth, what does that mean to
8 you?

9 A It means not exaggerating anything, not adding on any
10 extra details, just stating exactly what has happened.

11 Q Okay. And telling a lie, what is that?

12 A It's the opposite of telling the truth. You
13 exaggerate, you add in extra details. You don't tell
14 exactly what happened.

15 Q Okay. And you understand it's important that you tell
16 the truth?

17 A Yes, sir.

18 Q Now, you understand when we do this tomorrow, there's
19 going to be 12 adult men and women sitting in that box over
20 there to your left, okay?

21 A Yes, sir.

22 Q And that's the jury. And they are the ones that, at
23 the end, is going to make a decision, okay? So it's going
24 to be important that you, obviously, tell the truth, but
25 it's important that you keep your voice up and you speak

1 and, you know, listen to the questions and answer them,
2 okay?

3 A Yes, sir.

4 Q Now, I know that Mr. Kellin -- you know David Kellin,
5 right?

6 A Yes, sir.

7 Q All right. And he said he talked to you about how you
8 felt when you sat in the other courtroom, correct?

9 A Yes.

10 Q And does it feel any different to you from when you
11 were in the other courtroom or now -- and I think he was
12 using a scale of zero to 10, wasn't he?

13 A Yes.

14 Q How you felt?

15 A Yes.

16 Q So how did you feel when you were in the other
17 courtroom?

18 A By myself or --

19 Q Yeah, on that scale of zero to 10?

20 A A zero.

21 Q And how about now?

22 A I'd say about a two.

23 Q And I know it requires you to -- since those people
24 aren't sitting there, to think about those 12 people sitting
25 over there, how is that -- what does that -- how does that

1 feel to you?

2 A About the same.

3 Q Okay. All right. And you know that you're going to be
4 asked questions by the young lady that just asked you some
5 questions about what happened? You understand that?

6 A Yes, sir.

7 Q And the attorney over there is going to be asking you
8 some questions, also? You understand that?

9 A Yes, sir.

10 Q And you're telling me you're going to tell the truth,
11 correct?

12 A Yes, sir.

13 Q All right. Now, I know it may be a tough question, but
14 if David Carter were sitting at that table over there, could
15 you answer any of the questions?

16 A One or two.

17 Q Okay. And what do you think would happen after that?

18 A I'd probably freeze up and have a meltdown.

19 THE COURT: Thank you. Appreciate that.

20 Solicitor, do you wish to ask any questions?

21 MS. MCMAHON: No, Your Honor.

22 THE COURT: Defense?

23 MR. STEEN: No, Your Honor.

24 THE COURT: You can step down.

25 Thank you very much.

1 (Witness leaves the witness stand.)

2 THE COURT: All right. Any other presentation of
3 witnesses from the State?

4 MS. MCMAHON: No, Your Honor.

5 THE COURT: From the Defense?

6 MR. STEEN: No, Your Honor.

7 THE COURT: Why don't we have then -- might as well --
8 in a minute or two have Mr. Carter and his counsel and the
9 solicitor that's in the other courtroom come back and join
10 us, please.

11 Just speaking to y'all, it seemed after the witness was
12 talking a little bit, we could hear better.

13 Clerks, did y'all turn up the volume or?

14 THE CLERK: No, sir.

15 THE COURT: Is there a way to turn up the volume, if
16 necessary?

17 THE CLERK: Yes, sir.

18 THE COURT: So we may need to do that tomorrow or
19 whenever it is when she testifies. It may be necessary to
20 turn the volume up, okay?

21 THE CLERK: Okay.

22 (The attorneys and Defendant returns to courtroom.)

23 THE COURT: Solicitor, let me hear from you regarding
24 the request of the State?

25 MS. MCMAHON: Your Honor, I just reiterate my arguments

1 made earlier. I believe based on the code and -- at this
2 point, I don't believe we're asking for CCTV, we're just
3 asking for the Defendant to be removed from the line of
4 sight. And based on the testimony of Mr. Kellin and T.P.
5 herself, I believe it would be appropriate just to have the
6 Defendant -- and based on our technology that we have
7 available to allow her to testify without the Defendant
8 here.

9 THE COURT: All right. Thank you.

10 From the Defense?

11 MR. STEEN: Thank you, Your Honor. We would ask you to
12 deny the State's motion to allow Miss T.P. to testify by
13 the procedure that we've laid out here today.

14 Your Honor, no testimony said that she could not
15 testify -- no testimony was introduced here today that says
16 she would not be able to testify with Mr. Carter in the
17 room. I believe the necessity requirement requires that she
18 not be able to testify if Mr. Carter is here. She testified
19 that she would be able to testify some. Mr. Kellin
20 testified that she would only not be able to testify
21 accurately and fully.

22 For those reasons, Your Honor, we would ask that you
23 deny the State's motion.

24 THE COURT: Let me ask the question, the Solicitor that
25 was in the other courtroom, could you hear easily what was

1 going on?

2 MR. MCMASTER: Very clearly, Your Honor.

3 THE COURT: All right. Very good.

4 And you do believe you have a procedure set up whereby
5 you can communicate with your co-counsel in this matter?

6 MR. MCMASTER: We tested it out with e-mailing back and
7 forth on the computers and that seems --

8 THE COURT: It worked?

9 MR. MCMASTER: Yes, sir.

10 THE COURT: All right. Very good.

11 All right. On the Defense's side, the counsel that was
12 in the other courtroom with the Defendant, Mr. David Matthew
13 Carter, were you able to hear what was going on, sir?

14 MR. PAYNE: We were, Your Honor.

15 THE COURT: Very good. And I assume by the same type
16 of procedure, e-mail, you would be able to communicate with
17 your co-counsel in here?

18 MR. PAYNE: We haven't tested it out, but I think we
19 would be able to.

20 THE COURT: All right. Well, when we get done today,
21 why don't y'all make sure that you do that so you have the
22 ability and can do that, okay?

23 MR. PAYNE: Yes, sir.

24 THE COURT: All right. In this particular matter, the
25 Court has used as a guidance the Code Section 16-3-1550(e)

1 and two cases, State vs. Murrell at 393 S.E.2d 919, 1990
2 decision of the South Carolina Supreme Court, and State vs.
3 Bray, B-R-A-Y, found at 535 S.E.2d 636, a 2000 decision of
4 the South Carolina Supreme Court.

5 In this particular matter, I do find that the child
6 witness in this matter, [REDACTED] T.P., would be
7 traumatized by having to testify and face the Defendant in
8 this matter, David Matthew Carter. I find that not only
9 would her testimony be hindered, but based upon the
10 testimony of the expert in this matter, Mr. Kellin, from her
11 mother, Tiffany Carter, and from the minor witness herself
12 that she would, basically, freeze up and not be able to
13 answer any questions whatsoever if she had to testify, give
14 her story in front of the Defendant, David Matthew Carter.

15 I find that the procedure that is being established and
16 used in this particular matter protects the Defendant's
17 Constitutional right of confrontation of witnesses against
18 him. He will have counsel present in the courtroom, who
19 will, actually, observe the minor witness and be able to
20 examine her directly. That counsel will have a
21 communication system available to be able to communicate
22 with co-counsel and the Defendant sitting in the other
23 courtroom.

24 And Counsel, I will give you some leeway. If there's
25 some delay in communicating when you need to take -- be at

1 ease for a minute to communicate with co-counsel by e-mail
2 or however that is, certainly, the Court will accommodate
3 you in that regard so that you're able to communicate and
4 see if other questions need to be asked before the
5 cross-examination is completed. Certainly, the Court will
6 do that.

7 But based upon the expert testimony, testimony of the
8 child, testimony of the child's mother, I don't think
9 there's any question that not only is justice being served
10 as far as the facts being developed for a jury to make their
11 decision on whether the State has proved the Defendant
12 guilty beyond a reasonable doubt, we have protected the
13 Defendant's Constitutional right of confrontation in this
14 matter. I do not find that he is harmed in any way, that he
15 is prejudiced in any way and being able to fully
16 cross-examine the witness, and that the jury will have the
17 ability -- and the reason -- I want to make sure this is
18 clear.

19 The reason I want the child in the courtroom facing the
20 12 jurors is the jurors judge credibility and believability.
21 And they will have the opportunity to look at the child when
22 she testifies, to hear and make their own observations and
23 determinations, as they must, as to whether or not the
24 witness is telling the truth, knows the difference between
25 right and wrong, understands the gravity of the situation.

1 So I think it's a much better process having the child in
2 the courtroom with the jurors and the Defendant being in
3 another courtroom because it's not necessary at that point
4 in time for the jury to observe and/or judge the credibility
5 or believability of the Defendant. And he is able to
6 communicate and have full confrontation rights regarding the
7 victim.

8 So I am going to allow the procedure whereby the minor
9 testifies in the courtroom and the Defendant is in the next
10 door courtroom fully able to observe everything that is
11 going on exactly as it is happening with the ability to
12 communicate with counsel in this courtroom.

13 Anything further from the State on that?

14 MS. MCMAHON: Nothing, Your Honor.

15 THE COURT: From the Defense?

16 MR. STEEN: Nothing, Your Honor.

17 THE COURT: What other issues?

18 Anything else from the State?

19 MS. MCMAHON: Your Honor, I believe we were calling the
20 interviewer up just to lay the foundation on the video.

21 THE COURT: Okay.

22 MS. MCMAHON: Mr. Steen and I have already agreed to
23 the parts to be redacted. I didn't know if you just wanted
24 me to do that now or if you wanted to wait --

25 THE COURT: No, let's go ahead and do that. We can do

1 that.

2 MS. MCMAHON: Okay. Your Honor, the State calls Margo
3 Dixon.

4 THE COURT: Come around and be sworn.

5 MARGO DIXON,

6 after being duly sworn, testifies as follows:

7 THE WITNESS: I do.

8 THE CLERK: Be seated.

9 DIRECT EXAMINATION

10 BY MS. MCMAHON:

11 Q Ms. Dixon, where do you work?

12 A Palmetto Citizens Against Sexual Assault Children's
13 Advocacy Center here in Lancaster.

14 Q And did you have a chance to interview the victim in
15 this case?

16 A I did.

17 Q Do you recall when you interviewed her?

18 A September the 26th, 2016.

19 Q And was that interview videotaped?

20 A It was.

21 Q And how do you store those videotapes at PCASA?

22 A The duplicates are made off of a main drive that we
23 pull the actual video off of.

24 Q So the video that's recorded is recorded to a server?

25 A Yes.

1 Q Is that server secured in any way?

2 A It is. Behind a locked door.

3 Q And when you need to give out videos, what do you do?

4 A It's pulled from the server and downloaded to the
5 actual DVD.

6 Q I'm going to show you a CD --

7 (Court's Exhibit No. 1 was marked for identification
8 only.)

9 BY MS. MCMAHON:

10 Q I'm going to show what's right now premarked as Court's
11 Exhibit No. 1. Could you identify that for me?

12 A This is the DVD that was burned from the main server,
13 [REDACTED] T.P. 's name on it and the date of the interview.

14 Q And who burned it onto that DVD?

15 A Ann Tindale burned it onto the DVD.

16 Q Okay. Was that at your direction?

17 A Yes.

18 Q And what's the process of burning it on a DVD?

19 A Once it's requested, Ann Tindale, who's our followup
20 service coordinator, pulls it down off of the main server
21 when I'm not present and gives it to the person requesting
22 it.

23 Q Do you keep these videos in the normal course of
24 business at PCASA?

25 A We do, on the main server.

1 Q And for how long do you retain these videos?

2 A Until forever.

3 Q Like how many years of videos do you think you guys
4 have?

5 A We have over 10 years worth of videos.

6 Q Is that when you started videotaping?

7 A Yes.

8 Q And were you present during the entire interview with
9 Miss T.P. ?

10 A I was.

11 MS. MCMAHON: Court's indulgence, Your Honor.

12 (Pause.)

13 MS. MCMAHON: Nothing further, Your Honor.

14 THE COURT: Cross-examination?

15 MR. STEEN: Nothing further, Your Honor.

16 EXAMINATION

17 BY THE COURT:

18 Q Ms. Dixon?

19 A Yes, Your Honor.

20 Q What's been marked as Court's Exhibit No. 1, that DVD,
21 have you -- you said you were present at the original
22 interview, correct?

23 A I was.

24 Q Have you looked at the DVD to make sure it is a true
25 and accurate copy of what occurred when you were present at

1 the original interview?

2 A Yes, sir. That's done before we release the actual
3 DVD.

4 Q And so you've done that and that is a true and accurate
5 copy of what took place?

6 A It is.

7 Q It hasn't been changed or altered or modified in any
8 way?

9 A No, sir.

10 THE COURT: Very good.

11 Anything from the State on those questions?

12 MS. MCMAHON: None, Your Honor.

13 THE COURT: From the Defense?

14 MR. STEEN: Nothing, Your Honor.

15 THE COURT: You may step down.

16 THE WITNESS: Thank you, Your Honor.

17 (The witness leaves the witness stand.)

18 THE COURT: Further testimony from the State?

19 MS. MCMAHON: None, Your Honor.

20 THE COURT: From the Defense?

21 MR. STEEN: None, Your Honor.

22 THE COURT: Arguments?

23 MS. MCMAHON: Your Honor, I'm, obviously, using Ms.

24 Dixon, who is a forensic interviewer, just to lay the

25 groundwork in order to have the video published to the jury,

1 forensic interviewer, which is not what Mr. Kellin is. He
2 is the counselor. He is her therapist. As noted in his
3 dialogue earlier, he is licensed to diagnose. That is the
4 limited issue that we will be calling him for.

5 THE COURT: So as I understand it, the testimony -- and
6 tell me if it's going to be more than this -- would be
7 limited to the fact of who he is, what he does, that this
8 minor was, basically, a patient or a person that he saw, and
9 based upon his experience and training and his communicating
10 with the minor victim that he diagnosed her with PTSD?

11 MS. MCMAHON: Yes, Your Honor, that's correct.

12 MR. STEEN: Your Honor, he testified that he diagnosed
13 her with PTSD based on criteria that she self input, where
14 she put 4's as scores. That's the score that led her to
15 being diagnosed. It is her testimony that he is giving
16 credibility to by diagnosing her with PTSD.

17 THE COURT: What's the cite of the Anderson case?

18 MS. MCMAHON: Your Honor, I handed you a copy of that
19 one.

20 THE COURT: Okay. There we go. You certainly did.

21 (Pause.)

22 THE COURT: Why don't you call Mr. Kellin to the stand
23 and let's hear exactly the questions and answers.

24 MS. MCMAHON: Certainly, Your Honor.

25 DAVID KELLIN,

1 after being duly sworn, testified as follows:

2 THE WITNESS: I do.

3 THE CLERK: You may be seated.

4 THE COURT: Go ahead, Solicitor.

5 DIRECT EXAMINATION

6 BY MS. MCMAHON:

7 Q Mr. Kellin, earlier you testified you were qualified as
8 an expert in trauma-focused cognitive behavioral therapy.

9 As part of that, are you licensed to diagnose?

10 A Yes.

11 Q And have you seen [REDACTED] T.P. ?

12 A I have.

13 Q And since when have you seen her?

14 A Since 2016.

15 Q And have you diagnosed her with any type of condition?

16 A I diagnosed her with Post-Traumatic Stress Disorder.

17 Q And what are the criteria to diagnose someone with
18 Post-Traumatic Stress Disorder?

19 A There are three main sections. There are a variety of
20 symptoms that one can have, but three main categories. That
21 of reexperiencing, and that's where somebody reexperiences
22 their trauma or reexperiences something that was traumatic
23 in their life. Avoidance, that's when they don't want to
24 think about it, don't want to talk about it, don't want to
25 relate to the event. And then arousal, which is a

1 psychological condition where somebody -- fight or flight
2 kicks in in relation to triggers or in relation to thoughts
3 or memories relating to the actual event.

4 Q What's the process that you undergo to diagnose
5 somebody with this condition?

6 A We use several different pieces together. One, UCLA
7 PTSD RI is a reaction index that's self-administered. It is
8 delegated. It's been taught as part of TFCDT for use to
9 begin initial symptom identification. Then we look at how
10 this had impacted the functioning. You can't make a
11 diagnosis just on one symptom.

12 The corollary here is if you went in and had your blood
13 sugar drawn at the doctor and your blood sugar was high.
14 That doesn't necessarily mean you have diabetes. The doctor
15 would look at other aspects, other pieces to make sure that
16 that fit into a constellation of other symptoms.

17 When I looked at T.P.'s PTSD scores of PTSD RI
18 scores, I looked at those in combination of how she was
19 doing in school, how she was doing at home, how she did
20 interaction personally.

21 When I readministered over next door, we used the same
22 index that she self-reported on, but then it's also
23 evaluating like we did on the stand, the reactions that she
24 has. So it's asking questions, it's monitoring how she does
25 in a variety of things, talking with mother to see how she's

1 doing at home. It isn't just one score that makes a
2 diagnosis. It is like an indicator that gets you in that
3 direction, but it's not the sole factor.

4 So just because there was a score of 34 and 25 does not
5 necessarily define no more than a blood sugar of 180 versus
6 120 defines if you have diabetes or not. That's an
7 interpretative process by your doctor.

8 Q So your sole basis for this diagnosis doesn't just come
9 from her self-reporting numbers to you?

10 A That's correct.

11 Q It's a multitude of other things?

12 A Right.

13 Q And after you evaluated all those multitude of other
14 things and the numbers that she gives you, what was your
15 diagnosis?

16 A PTSD.

17 MS. MCMAHON: Nothing further, Your Honor.

18 THE COURT: Cross-examination.

19 MR. STEEN: May it please the Court, Your Honor?

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. STEEN:

23 Q Good afternoon, Mr. Kellin. How are you?

24 A Good afternoon.

25 Q Now, you mentioned that you're licensed to diagnose,

1 but you're not licensed to prescribe medicine?

2 A That's correct. I'm not a physician.

3 Q So if you diagnose someone with PTSD and they try to
4 get some medicines to control the PTSD, would a doctor use
5 your diagnosis to prescribe medicine?

6 A They would work in consultation. They would probably
7 request my records and then the doctor and I would work
8 collaboratively related to that diagnosis.

9 Q Let's talk a little bit about Miss T.P. You said
10 that the -- when was the last time you saw her as a
11 patient/therapist?

12 A What I have in my records is last year in August.

13 Q And how many times had you seen her before that?

14 A I saw her probably about once a month for most of the
15 year, but it was several months where it was once weekly.

16 Q The UCLA PTSD test, is that a widely accepted --

17 A It is widely accepted.

18 Q Is that used by most --

19 A It's used by most therapists who are doing TFCDT to
20 help establish the diagnosis of PTSD. It's used as a
21 self-report because there are some questions that when you
22 ask them allows that person to relate more specifically
23 their concerns. But it was developed as part of the initial
24 development of trauma-focused cognitive behavioral therapy
25 by the University of California in Los Angeles. And that's

1 the one that is used by Project Best throughout the State of
2 South Carolina and is taught as part of the training that we
3 use, those or something similar to it, as an initial
4 screening tool.

5 Q And you've administered that test on Miss T.P. twice,
6 correct?

7 A Twice, yes.

8 Q The first time -- what is the range of the scores for
9 the test?

10 A It depends on which questions are in there. The
11 initial questions, the first 20 or so are yes or no. The
12 remaining questions are zero to four rating. So it looks
13 within the last month. So a question like this: How many
14 times might you have been in court in the last month? Zero,
15 you haven't been in court at all. One, you've been in court
16 one time in the last month. Three, you've been in court
17 every week for the last month. Four, you've been in court
18 everyday for the last month. That's the rating scale they
19 use for symptoms.

20 Q And to qualify for a diagnosis of PTSD, according to
21 the test, what would one have to get a score of?

22 A You'd have to have a score of 35, in combination with
23 assessment and other factors. It's like a blood sugar test.
24 It gives you a reading, but then you have to compare it to
25 other things.

- 1 Q And do the yes/no questions count for that score of 35?
- 2 A No.
- 3 Q Or is it just the zero to four?
- 4 A Just the zero to four.
- 5 Q And approximately how many zero to four questions are
- 6 there?
- 7 A There are 21 questions, if I recall.
- 8 Q So a max score would be, forgive my math, about 80 --
- 9 A About 80.
- 10 Q 84, somewhere in there?
- 11 A Somewhere in there.
- 12 Q A minimum score would be zero?
- 13 A Yeah.
- 14 Q Miss. T.P.'s first test, it was a 34, correct?
- 15 A Thirty-four.
- 16 Q Now, that means that, according to the test, she did
- 17 not qualify for PTSD, just based on the numbers?
- 18 A According to the test, she was one point below with a
- 19 34. It does indicate the criteria was met on two
- 20 conditions, one on reexperiencing and then one on arousal.
- 21 It did not meet the criteria on avoidance. Therefore,
- 22 according to that test, it gives a partial approval of PTSD
- 23 just with that test alone, not counting the other pieces of
- 24 her life that go along with that.
- 25 Q And I may have missed, how does it qualify for one type

1 of PTSD, but not another?

2 A It's within a group of symptoms that make up PTSD.

3 Arousal is one symptom packaged within PTSD, avoidance is
4 another.

5 Q So is there a set of questions that deal particularly
6 with arousal on that test?

7 A Yes.

8 Q And she tested high enough on that one --

9 A To meet criteria.

10 Q Okay.

11 A As well as reexperiencing.

12 Q But overall, she fell short?

13 A Overall, she fell one short, which made it a partial
14 diagnosis based on that screening test. Now, there's some
15 variability with that, just like with anything.

16 Q You mentioned the variability is how she's doing in
17 school and how she's doing at home?

18 A It's an overall look at how she's functioning.

19 Q Okay.

20 A For somebody to have a diagnosis, they have to have an
21 impairment in functioning as well. So you might have PTSD,
22 but if it's not interrupting your functioning, then it
23 wouldn't necessarily become a treatment diagnosis.

24 Q All right. Let's talk about how she was doing in
25 school. What did you do to figure out how she was doing in

1 school.

2 A Well, when we did the initial assessment with her
3 mother and her, we asked questions about school, about home,
4 about how she follows rules, any problems they might have.
5 Basically, the similar type of questions one might get in a
6 diagnostic assessment through DSS.

7 Q Did you receive any school records as part of her
8 treatment?

9 A I did not pull any school records, no.

10 Q So, basically, the total assessment is based on this
11 test that she fell short on as well as you talking with her
12 and her mother about what she says --

13 A And observations of her in environment, you know,
14 within the counseling environment and interactions with
15 people.

16 Q And how would you describe her interactions?

17 A Initially, she was very closed. She was not really
18 open to talking about anything. She did well within the
19 interview, but when she came in to start to counsel, that
20 was a different environment, so it took some time to build a
21 rapport with her there.

22 Q So based on your personal interactions -- I guess, for
23 lack of a better term, it would be a gut feeling that this
24 child qualifies as being diagnosed with PTSD?

25 A It's an educated process of evaluation, yes.

1 MR. STEEN: Beg the Court's indulgence.

2 THE COURT: Yes, sir.

3 (Pause.)

4 MR. STEEN: I don't have any further questions, Your
5 Honor.

6 THE COURT: Further questions?

7 MS. MCMAHON: No, Your Honor.

8 THE COURT: I'm sure it will come up in some fashion,
9 or may come up in some fashion the prior times that you saw
10 the minor victim and that you saw the minor victim today. I
11 do not want the State or the Defense to inquire how that
12 occurred, that is at the Court direction. Because I do not
13 want any inference to the jury of any Court in format on
14 what you are testifying to. So I don't expect you to say
15 that nor do I expect the State or the Defense to inquire as
16 to why that took place.

17 As I understand it, Solicitor, there's not going to be
18 any questions about that, in any shape, manner or form
19 they're going to be talking about the witness' credibility,
20 believability, as in this other case, compelling statements.
21 Nothing of that nature is going to be part of your
22 questioning, correct?

23 MS. MCMAHON: Absolutely not, Your Honor.

24 THE COURT: Basically, establish the background of the
25 witness to establish whether or not the Court can qualify

1 him as an expert in a particular field and, basically, saw
2 her as a patient and based upon his work gave her this
3 diagnosis, correct?

4 MS. MCMAHON: That is correct, Your Honor.

5 THE COURT: All right. That's a requirement on the
6 State. And, obviously, if you see any objections and you
7 think there are matters to which you need to object to,
8 Counsel, I would expect you to raise them. Because I'm
9 going to allow -- based on what I've heard so far, I'm going
10 to allow that testimony. But it's clearly on the fact that
11 in no way are we trying to bolster or support the testimony
12 of the minor victim in any way. And if you see what you
13 perceive to be any violation of that, then I'll be glad to
14 hear from you, or any other objections that you have.

15 Obviously, you need to be careful about what questions
16 you ask in that regard so as not to open a door that the
17 State could use.

18 Okay. With that, sir, you can step down. I appreciate
19 it very much.

20 (The witness leaves the witness stand.)

21 THE COURT: Anything else, Solicitor?

22 MS. MCMAHON: I don't believe so, Your Honor, not from
23 the State.

24 THE COURT: From the Defense?

25 MR. STEEN: Nothing further, Your Honor.

1 Ask the jury to come back in.

2 (The jury enters the courtroom.)

3 THE COURT: All right. Mr. Birdsall, you are the
4 Foreperson for this particular jury; is that correct, sir?

5 THE FOREPERSON: Yes, Your Honor.

6 THE COURT: And you understand you'll always occupy
7 that seat when you come back from the jury room.

8 And then, Ms. Jenkins, obviously, remember that you'll
9 occupy that seat.

10 The rest of you just kind of fill in wherever it is
11 that you come in.

12 All the right. The very first thing that's going to
13 happen in this trial is you are going to be sworn in as
14 jurors. So if you would all stand at this time.

15 Madam Clerk.

16 (The jury was sworn.)

17 THE CLERK: Thank you. You may be seated.

18 THE COURT: All right, ladies and gentlemen, having
19 been sworn as jurors in this case, I know you're sitting
20 there wondering exactly what am I going to be doing in this
21 particular case. In essence, you're going to be the judges
22 of the facts of this particular case. I will not indicate
23 to you in any fashion what I think the credibility or
24 believability of the witnesses is or the facts of this case.
25 That's not going to be my job. It's going to be your job

1 and your responsibility. I have other duties and I'll
2 explain those to you in just a little bit. But it's going
3 to be your job to listen to the facts and evidence presented
4 in this case. Part of that is going to be judging the
5 credibility and believability of the witnesses that come
6 before you and testify.

7 Now, in doing that, you're thinking how do I judge
8 somebody's credibility and believability? You do it every
9 single day of your life. When somebody is telling you
10 something, you are automatically judging in your own mind
11 whether or not you believe that person by using your good
12 common sense, your good judgment that you use in conducting
13 your own affairs. That's what we're going to be asking you
14 here today. Use your good common sense. Listen to the
15 facts and evidence in this case. Judge the credibility and
16 believability.

17 Now, when you come to that point, the indictments. I
18 read those to you. I remind you again, those are merely the
19 documents that bring a matter to court. They're the charges
20 the State brought or levied against the Defendant, to which
21 he pled not guilty. When he did that, that immediately put
22 the burden of proof on the State of South Carolina to prove
23 the Defendant guilty of the crimes charged beyond a
24 reasonable doubt. That's the State's burden.

25 The Defendant has no burden. The Defendant has nothing

1 to show to you. I tell juries all the time, defendants need
2 not even show up for trial because they don't have a thing
3 to prove to you. They don't have a thing to show to you.
4 They don't have a thing to tell you. It's the State's job
5 solely and completely to prove the Defendant guilty based on
6 the evidence they present, prove that Defendant guilty
7 beyond a reasonable doubt of the crimes charged if they can.

8 And that's going to be your job. You're going to
9 listen to all the facts and evidence. And at the end,
10 you're going to decide did the State prove the Defendant
11 guilty of the crimes charged beyond a reasonable doubt.

12 During the course of the trial, that presumption of
13 innocence that I told you the Defendant -- he pled not
14 guilty. That means he's presumed innocent of the crimes
15 with which he's charged. That presumption of the innocence,
16 and I'll remind you about this at the end, doesn't end. It
17 never ends unless and until you believe from the evidence
18 that's been presented to you that the State has proven the
19 Defendant guilty beyond a reasonable doubt.

20 How the trial will proceed: After these brief
21 statements to you, we'll have the opening statements of the
22 Counsel. And they'll introduce the matter to you. After
23 that, we'll have the actual evidence, persons coming before
24 you testifying under oath and maybe the presentation of some
25 other kind of documentary or other kind of evidence that

1 might be produced in this particular matter.

2 After that, when all the evidence is in, we'll have the
3 closing arguments of the attorneys, their arguments, their
4 position on the evidence that's been received. After that,
5 I will give you the law that you will apply to the facts and
6 evidence you have heard in this particular matter. Then I
7 will submit the case to you for your deliberations and
8 unanimous decision in this particular matter.

9 Very briefly about the opening statements and closing
10 arguments by counsel. Obviously, they're first, by way of
11 introduction and then by way of summary, but they're not
12 evidence. The evidence is what comes in the middle. That's
13 what you're basing your decision on. Opening statement and
14 closing arguments, not facts in evidence, can't base your
15 decision on that. That's their position, what they're
16 wanting you to look at or what they want you to surmise
17 based upon what has happened in this particular matter.

18 During the course of the trial, there may be certain
19 matters raised to the Court, motions, objections. If I rule
20 on those in your presence and I don't send you back to the
21 jury room to more fully discuss it with counsel, please,
22 remember, one of my duties, covering the conduct of the
23 trial. There might be an objection to some particular --
24 somebody saying something. And whatever I rule on that,
25 please, remember all I'm doing is deciding it's something

1 that you can or cannot hear. I'm not giving it any
2 credibility or believability, not weighing it, getting in on
3 that. That's your job, your responsibility. What you think
4 about those facts in evidence, that's completely and totally
5 up to you. I'm, basically, being a gatekeeper. Does it
6 come in or not? After that, it's up to you to decide what
7 you do with it.

8 We understand -- all participants in this matter
9 understand we have given to you an awesome duty and
10 responsibility. I know that you will truly and faithfully
11 carry out those duties. You will listen attentively to the
12 facts and evidence present and when called upon at the end,
13 you will arrive at a unanimous verdict based upon the
14 matters presented.

15 With that, Solicitor.

16 OPENING STATEMENT BY MS. MCMAHON

17 MS. MCMAHON: If it please the Court?

18 THE COURT: Yes, please.

19 MS. MCMAHON: Years ago when I was trying my first
20 case, I asked a former coworker what the best way was to do
21 an opening statement. And his response was to treat it like
22 the movie theatre, where I just need to give you a basic
23 idea of what's going on without giving up all the good
24 parts. So that's what I'm going to try to do.

25 This case is about the Defendant's stepchild. We've

1 all sort of heard the phrase the red-headed stepchild. The
2 red-headed stepchild in this family's name is [REDACTED] T.P. .
3 She just turned 12. She is the red-headed stepchild. And
4 that man sitting behind me, David Carter, he treated his
5 stepchild so differently for years that -- he molested her
6 since she was five. And that's why he's here today because
7 he's on trial for criminal sexual conduct with a minor.

8 Criminal sexual conduct is what we call rape in South
9 Carolina. So Mr. Carter raped his red-headed stepchild.

10 MR. STEEN: Objection.

11 THE COURT: Let's stick with the legal definition of
12 criminal sexual conduct with a minor.

13 MS. MCMAHON: [REDACTED] T.P. lived with her sisters, her
14 brother, her mom, who she thought was her father, turned out
15 to be her stepfather. She kept a secret from everyone. She
16 kept a secret from everybody in her family because David
17 Carter was forcing her to do things to him that she did not
18 want to do. In three different homes they lived in, this
19 occurred in until one day, she couldn't take it anymore and
20 she told her mom about it.

21 The Judge has already told you about the burden of
22 proof on the State's side, beyond a reasonable doubt. It's
23 a very high burden that we have to meet and I submit to you
24 today that we will meet it. We will meet beyond a
25 reasonable doubt.

1 And at the end of the trial, as the Judge noted, he's
2 going to charge you on the law. It's your job to take those
3 facts and apply them to the law. And when you do this, I
4 submit you'll return the only verdict that this case
5 supports, which is guilty.

6 THE COURT: From the Defense?

7 OPENING STATEMENT BY MR. STEEN

8 MR. STEEN: May it please the Court?

9 THE COURT: Yes, sir.

10 MR. STEEN: Madam Solicitor.

11 Good morning. My name is Brandon Steen. Myself, along
12 with my co-counsel, Mr. Ryan Payne, are here today to defend
13 Mr. David Matthew Carter. We are here to help him fight the
14 false allegations that the State is going to try to prove
15 here this week. I'll say it now and I'll say it again,
16 David is not guilty of these charges.

17 The State is going to present to you evidence to try to
18 prove these allegations. You will hear from David. He will
19 testify. He has nothing to hide here today. It will be up
20 to you to decide whether the State has met their high
21 burden. Your verdict must be unanimous. Each and every one
22 of you must believe beyond a reasonable doubt that my client
23 committed these false allegations. You have the duty here
24 today to make sure an innocent man does not get wrongly
25 convicted. Thank you.

1 THE COURT: Solicitor, your first witness, please,
2 ma'am.

3 MS. MCMAHON: Your Honor, the State calls David Kellin.

4 THE COURT: Could you call him in, please, sir?

5 (Witness enters the courtroom.)

6 THE COURT: All right, sir, come all the way around
7 right over here, please, sir.

8 DAVID KELLIN,

9 after being duly sworn, testified as follows:

10 THE WITNESS: I do.

11 THE CLERK: You may be seated.

12 DIRECT EXAMINATION

13 BY MS. MCMAHON:

14 Q Mr. Kellin, would you spell your last name for the
15 record, please?

16 A K-E-L-L-I-N.

17 Q Mr. Kellin, where do you work?

18 A Palmetto Citizens Against Sexual Assault.

19 Q And how long have you worked there?

20 A About four years now.

21 Q What services does PCASA provide?

22 A It provides counseling, forensic interviewing, victim's
23 advocacy, community education related to sexual assault.

24 Q What is your educational background?

25 A I have a Master's Degree in social work from the

1 University of South Carolina. I have a Bachelor of Science
2 Degree in psychology and Associate's Degree in human
3 services.

4 Q And what kind of professional licenses do you hold?

5 A I have a license independent social worker license from
6 the State of South Carolina. I got that in 1999.

7 Q And what kind of articles have you written or have you
8 done any classes or anything like that?

9 A I've done some classes. I've not done any articles
10 related specifically to child abuse.

11 Q And at PCASA, are you considered a therapist or a
12 counselor?

13 A I'm the clinical director, but I am the primary
14 therapist for the children.

15 Q What kind of therapy do you do?

16 A Cognitive behavioral therapy, specifically,
17 trauma-focused cognitive behavioral therapy, but I do use
18 other models.

19 Q And how long have you been doing that?

20 A About 10 years. I've been doing work with the CACs,
21 Project Best training for trauma-focused cognitive
22 behavioral therapy about five years.

23 Q Could you explain to the jury what a CAC is?

24 A Child advocacy center was set up as a child-friendly
25 place for children to come to be interviewed and to receive

1 counseling related to abuse allegations. It started at
2 Huntsville, Alabama. They -- there was one child that came
3 through that had about 15 forensic interviews and the
4 community recognized that was probably more damaging for the
5 child.

6 MR. PAYNE: Objection, Your Honor.

7 THE COURT: Let's just stick with this particular
8 situation.

9 MS. MCMAHON: Yes, sir.

10 BY MS. MCMAHON:

11 Q How many clients do you see a year?

12 A A year? I don't have a specific number. At the CAC, I
13 see about 30 on average of my case load. It comes out to
14 about 150 over the course of a year.

15 Q And have you seen [REDACTED] T.P. as a therapist?

16 A I have.

17 Q And does your license allow you to diagnose?

18 A It does.

19 Q And have you been able to diagnose [REDACTED] T.P. ?

20 A I have.

21 Q And what would be your diagnosis of [REDACTED] T.P. ?

22 A Post-Traumatic Stress Disorder.

23 Q And what are some of the indicators of Post-Traumatic
24 Stress Disorder?

25 A There are three main clusters of symptoms,

1 reexperiencing, avoidance and arousal. Those tend to relate
2 to a particular group of symptoms, such as not wanting to
3 talk about things that remind us of something that happened
4 or inability to appropriately have emotions related to
5 events. Fight or flight symptoms, rapid heartbeat,
6 butterflies in the stomach, those typical fight or flight
7 responses.

8 Q And has she exhibited any or all of those?

9 A She's had a range of those, yes.

10 MS. MCMAHON: Nothing further, Your Honor.

11 THE COURT: Cross-examination?

12 CROSS-EXAMINATION

13 BY MR. PAYNE:

14 Q Good morning, Mr. Kellin.

15 A Good morning.

16 Q All right. You mentioned that you work at PCASA,
17 correct?

18 A Yes.

19 Q Do you have any other jobs? Are you in private
20 practice?

21 A I have a private practice in Kershaw, South Carolina.

22 Q And you mentioned that in this particular case, you had
23 a diagnosis of PTSD?

24 A I made a diagnosis for [REDACTED] T.P. of PTSD, yes.

25 Q And you mentioned that you used a variety of factors

1 concerning whether or not --

2 A You use --

3 Q And I really just want to know about one particular
4 factor.

5 A Okay.

6 Q Which is the UCLA PTSD test.

7 A Okay.

8 Q Did you administer that test to her?

9 A Yes.

10 Q And what is the score on that test for someone to
11 qualify -- just based on that test, what would someone have
12 to score to qualify?

13 A When we originally were trained with that instrument,
14 the cutoff score was 35.

15 Q All right. That's really all I need to know.

16 THE COURT: And I appreciate that. He's giving you an
17 answer. Please let him continue to answer and then you may
18 ask another question. Thank you, sir.

19 You may finish your answer.

20 THE WITNESS: Cutoff score is 35. That was the
21 training model that we used, still a standard that I use.
22 The scoring software still scores related to that cutoff
23 score, although somebody may still have a score less that
24 would still qualify for PTSD.

25 BY MR. PAYNE:

1 Q And what was [REDACTED] T.P. 's score?

2 A Thirty-four.

3 MR. PAYNE: Beg the Court's indulgence.

4 THE COURT: Yes, sir.

5 (Pause.)

6 MR. PAYNE: I don't have any further questions, Your
7 Honor.

8 THE COURT: Any redirect?

9 MS. MCMAHON: No, Your Honor.

10 THE COURT: All right, sir, you may step down.

11 (Witness leaves the witness stand.)

12 MS. MCMAHON: Your Honor, any objection to Mr. Kellin
13 being excused?

14 THE COURT: Any objection to that?

15 MR. PAYNE: No objection, Your Honor.

16 THE COURT: Sir, you're released from your subpoena.
17 You may stay or go as you so choose at this time.

18 All right, Solicitor, your next witness, please?

19 MS. MCMAHON: Your Honor, may we approach?

20 THE COURT: Certainly.

21 (Bench conference.)

22 THE COURT: All right, ladies and gentlemen, the next
23 witness, there will be some use of video. I think the court
24 officials, clerk's office needs a little bit of time to make
25 sure that's completely organized. Rather than y'all sitting

1 around waiting for that, if you'd just go to your jury room
2 for just a few minutes. We'll get that set up and call you
3 right back out. Thank you very much.

4 (The jury leaves the courtroom.)

5 THE COURT: All right. Counsel, if y'all want to get
6 that organized. Obviously, let's test it out just a little
7 bit and make sure everybody can see her and in the next
8 courtroom.

9 Thank you very much. Just let me know when you're
10 ready.

11 (Short break.)

12 (WHEREUPON, Court's Exhibit No. 3 was marked for
13 identification only.)

14 THE COURT: Counsel, the jury sent a note requesting
15 the ability to take notes during testimony.

16 So what is the State's position about that at this
17 point in time?

18 MS. MCMAHON: Your Honor, I'll leave that to the
19 Judge's discretion.

20 MR. STEEN: I agree, Your Honor.

21 THE COURT: Another note.

22 Please ask both attorneys to speak louder.

23 So just kind of make sure you're positioned behind a
24 microphone, if you don't mind, okay? And if you don't stay
25 at your respective desk at some point in time, move the

1 microphone or move yourself to where the microphone is. I
2 don't know if they're moveable or not. But, please, do so.

3 Going back to the notes, starting today, the State's
4 best estimation about when you think we'll finish? Take
5 through Wednesday, go into Thursday?

6 MS. MCMAHON: I don't think we'll go into Thursday at
7 all. Hopefully, today, if not, early tomorrow morning.

8 THE COURT: The same?

9 MR. STEEN: Yes, Your Honor.

10 THE COURT: I'm just going to tell them we've already
11 started and it's not an extraordinarily long trial and we'll
12 follow the standard practice of not taking notes.

13 (WHEREUPON, Court's Exhibit No. 4 was marked for
14 identification only.)

15 THE COURT: Mr. Steen, you wanted to renew an
16 objection; is that correct?

17 MR. STEEN: Yes, Your Honor.

18 THE COURT: All right.

19 MR. STEEN: I object to Miss T.P. being able to
20 testify outside the presence of the Defendant. It violates
21 his Constitutional and statutory right to confront the
22 witnesses against him face to face. I renew it based on the
23 previous reasons from yesterday, Your Honor.

24 THE COURT: I'm going to reaffirm the Court's ruling
25 that I made yesterday based upon those grounds as stated in

1 the record. As I stated yesterday, I'm reaffirming all
2 that, but I'm just reemphasizing the fact based upon what
3 you've said.

4 I do believe that we are protecting the Defendant's
5 confrontational rights in this particular matter. He has
6 the ability to view all of proceedings exactly as they are
7 happening at the same time. He has the ability to
8 communicate with counsel sitting right next to him. That
9 counsel has the ability to communicate with you.

10 I do believe we are also protecting his confrontational
11 rights and the job of the jury to judge credibility in
12 having the witness be in front of the jury rather than the
13 other way around, having the witness in another courtroom
14 and the Defendant in this courtroom. I believe that it's
15 important that the jury have the chance to observe the
16 witnesses as they are actually testifying so that they can
17 not only hear, but see in their presence. I understand they
18 could view it over television, but live in front of you, I
19 think is a much better situation for the jury to be able --
20 for them to do their job in a proceeding that I think,
21 without question, protects the Defendant's confrontational
22 rights in this matter.

23 I'll reaffirm the Court's ruling as specifically stated
24 yesterday at that time.

25 MR. STEEN: One more thing, Your Honor.

1 THE COURT: Yes, sir.

2 MR. STEEN: We would ask for just the testimony of Miss
3 T.P. that Ms. Tiffany Carter step out of the
4 courtroom for this testimony. The State said yesterday they
5 intended to have Mr. David Kellin here during her testimony
6 as support. So we would ask that just for the purposes of
7 Miss T.P.'s testimony since Ms. Carter will be testifying.

8 THE COURT: Is there a problem with that, Solicitor?

9 MS. MCMAHON: Your Honor, I think under the Victim's
10 Rights Act, the mother is allowed to be present during her
11 child's testimony.

12 THE COURT: All right. Hold on a second.

13 The victim's rights statute, do either of you have that
14 statute number right off the top of your head?

15 MS. MCMAHON: Your Honor, I know it's also part of the
16 Constitution, Article 1, Section 24, but I'm looking at
17 16-3-1505 is where it starts in the statute.

18 THE COURT: So 16, I'm sorry, 3, what was that?

19 MS. MCMAHON: 1505 in sequence.

20 (Pause.)

21 THE COURT: All right. In this particular matter,
22 since the minor child will have Mr. Kellin present and the
23 fact that the victim's mother is going to testify in this
24 particular case -- if she wasn't going to testify, it would
25 be a different matter, but since she's going to be

1 testifying in this case, I will grant the Defense's request
2 that she be excused during the minor child's testimony.

3 Again, she was in the courtroom and as an exception to
4 the Court's sequestration order to be in the place of or
5 substitute for the minor victim. So here, we have the minor
6 victim in the courtroom and Mr. Kellin, as the State has
7 requested, to be a support person. So I am going to grant
8 the Defense's request.

9 So is the State ready?

10 MS. MCMAHON: Yes, sir.

11 THE COURT: Ask the jury to come in, please.

12 (The jury enters the courtroom.)

13 (State's Exhibit Nos. 1 and 2 were marked for
14 identification only.)

15 THE COURT: All right. Ladies and gentlemen, the next
16 witness in this matter is going to be a minor. So I've
17 already told you one of your jobs and duties and
18 responsibilities is to judge the credibility and
19 believability of any witness that comes before you and
20 testifies in this case. Obviously, that carries forward
21 with a child.

22 But in addition, you can, also, consider the age of the
23 child, the child's ability to observe and remember facts,
24 the child's ability to understand and answer questions
25 because it might be that some children may not fully

1 understand a court proceeding or what is happening. It is
2 for you to decide whether the child understands the
3 seriousness of appearing as a witness in a criminal trial,
4 whether the child understood the questions, whether the
5 child had a good memory, whether the child understands the
6 difference between lying and telling the truth.

7 So it's going to be up to you to decide, obviously,
8 whether the child understood the questions asked and
9 answered the questions truthfully and judging the witness'
10 credibility and believability just as you would with any
11 other witness.

12 You may proceed, Solicitor.

13 MS. MCMAHON: Yes, Your Honor. The State calls T.P.

14
15 (Witness enters the courtroom.)

16 T.P.

17 after being duly sworn, testified as follows:

18 THE WITNESS: Yes, ma'am, I do.

19 THE CLERK: You may be seated.

20 THE COURT: Go ahead.

21 DIRECT EXAMINATION

22 BY MS. MCMAHON:

23 Q T.P., what's your full name?

24 A T.P.

25 Q And how old are you?

1 A Twelve.

2 Q When's your birthday?

3 A [REDACTED].

4 Q So you just turned 12?

5 A Yes.

6 Q Now, you who do you live with?

7 A Momma, Josh, Maddie, Lane, Summer.

8 Q Who's Maddie, Lane and Summer?

9 A They're my siblings.

10 Q Okay. Do you remember where you lived when you were
11 five?

12 A Yes.

13 Q Where was that?

14 A [REDACTED] in Heath Springs.

15 Q And how old were you when you moved in that house, do
16 you remember?

17 A Eight or nine.

18 Q Where did you move after that?

19 A We were renting a house from David's boss.

20 Q Was it on Caskey Street?

21 A No, ma'am. It was in Buford.

22 Q And then where did you live after that?

23 A We lived on [REDACTED].

24 Q Okay. And who is David Carter?

25 A He is my stepdad.

1 Q Did you always know that he was your stepfather?

2 A No.

3 Q When did you learn that he was your stepfather?

4 A In first grade.

5 Q Where did you go to school in fourth grade?

6 A Buford.

7 Q Do you remember -- so did you learn about anything
8 while you were at Buford?

9 A Yes.

10 Q What did you learn about there?

11 A We had a guidance class and one day she read a book,
12 the teacher. It was called Not In Room 204. And it was
13 talking about how the girl in the book was being sexually
14 abused by her father as well as I was.

15 Q Sexually abused is a big word, did you learn that in
16 guidance class?

17 A Yes, ma'am.

18 Q Did the book help teach you that word?

19 A Yes, ma'am.

20 Q So after you read the book, did you tell your mom?

21 A A few months afterwards, yes, ma'am.

22 Q Why did you wait a few months?

23 A Because I was scared to tell her.

24 Q So when you were five and you were living on Caskey
25 Street, did David Carter do anything to you?

1 A Yes, ma'am.

2 Q Can you tell the Court what he did to you?

3 A He sexually abused me.

4 Q Do you know the body parts between a man and a woman?

5 A Yes, ma'am.

6 Q So what is this?

7 A Your head.

8 Q What do you call the front body part of a girl?

9 A Lucy.

10 Q What do you call the front body part of a boy?

11 A The weenie.

12 Q What did you call the back body part?

13 A Butt.

14 Q Did he put any of those body parts in you?

15 A Yes.

16 Q What did he put in you?

17 A His weenie.

18 Q Where did he put it?

19 A In my Lucy and in my butt.

20 Q And how many times did he do that while you were at the
21 first house?

22 A A lot. It was so many times, I can't remember.

23 Q And when he was doing that, where in the house were
24 you?

25 A In his bedroom and the living room.

1 Q If you were in his bedroom, where was everybody else?

2 A In their bedroom.

3 Q Was the door locked in the bedroom you were in?

4 A Yes, ma'am.

5 Q And how long were you in that bedroom?

6 A Fifteen, 20 minutes.

7 Q Was there ever anybody else in that bedroom?

8 A No, ma'am.

9 Q Where was your mom?

10 A She was at the store.

11 Q Was she always at the store when this happened?

12 A No.

13 Q Where else was she?

14 A We only did it in the living room once and that was
15 when she was taking a really long shower because she had
16 gotten aggravated that day.

17 Q Okay. But that was the only time that was in the
18 bedroom?

19 A Yes, ma'am.

20 Q When you were in the living room, where were your
21 brothers and sister?

22 A Well, that was in the living room.

23 Q Okay. But all the other times at that house, the
24 Caskey house, that was in the bedroom?

25 A Yes, ma'am.

1 Q Did he ever make you do anything to him? Were there
2 other body parts that you had to use?

3 A Yes, ma'am.

4 Q What body parts are those?

5 A My mouth and my hands.

6 Q And what did he make you do with those?

7 A With my mouth, he would make me -- he would make me
8 suck it. And then with my hand, he would make --

9 Q Did he make you rub his weenie with your hand?

10 A Yes, ma'am.

11 Q Did anything come out of his weenie?

12 A Yes, ma'am.

13 Q What came out of his weenie?

14 A White stuff.

15 Q Did he ever use anything else on you?

16 A Yes, ma'am.

17 Q What was it?

18 A It was a gel.

19 Q What did the gel do?

20 A It just burned.

21 Q Where did the gel come from?

22 A He had it in his top drawer. It was -- one bottle was
23 blue and one bottle was pink and it was put together with a
24 black metal band.

25 Q Okay. So in the second house you lived in, what did he

1 do to you there?

2 A Same thing.

3 Q Did he use the gel there, too?

4 A No, ma'am.

5 Q How many times did he do it there?

6 A Only a few times because we weren't there but a year.

7 Q Were there any other places in that house you did
8 things?

9 A One day when we were moving out.

10 Q What happened then?

11 A He had went in the bedroom, my bedroom. We went back
12 to get a few boxes and load them up because momma was
13 waiting at the other house to unpack them. And he did it in
14 my old bedroom.

15 Q Was it on your mattress?

16 A Yes, ma'am.

17 Q Who else was there at the house then?

18 A Nobody else.

19 Q Was it just you two at the house?

20 A Yes, ma'am.

21 Q And then the third house you lived in, what was that
22 address?

23 A [REDACTED]

24 Q And what happened there?

25 A Same thing.

1 Q Did he always put his weenie in your butt?

2 A He would put it in all.

3 Q In both places?

4 A Yes, ma'am.

5 Q Was he on top of you when he was doing this?

6 A Yes, ma'am.

7 Q Were you ever on top of him?

8 A Yes, ma'am.

9 Q Does David have any tattoos?

10 A Yes, ma'am.

11 Q I'm going to show you something. The court reporter,
12 this lady right here, she put a sticker on it for me. So
13 that's State's No. 2. Do you recognize this?

14 A Yes, ma'am.

15 Q Can you tell me what that is?

16 A That's his tattoo that is on his thigh right beside his
17 weenie.

18 Q Who drew that?

19 A Me.

20 Q Did you draw both of them?

21 A Yes, ma'am.

22 Q So what does one side show?

23 A With his pants on.

24 Q And what does the other side show?

25 A With his pants off.

1 Q Did you sign that piece of paper?

2 A No, ma'am.

3 Q Is your name on it?

4 A No, ma'am.

5 Q Your name's not on that piece of paper?

\6 A Yes, it is, actually.

7 Q Did you write that?

8 A Yes, ma'am.

9 MS. MCMAHON: Your Honor, at this time, I would move to
10 enter that as State's Exhibit No. 2.

11 THE COURT: Any objection?

12 MR. STEEN: No objection, Your Honor.

13 THE COURT: State's 2 is in evidence without objection.

14 (WHEREUPON, State's Exhibit No. 2 was admitted into
15 evidence.)

16 MS. MCMAHON: Your Honor, may I publish it to the jury?

17 THE COURT: Yes, ma'am.

18 BY MS. MCMAHON:

19 Q What kind of tattoo was that that you saw on his leg?

20 A It was a smiley skull and it had momma's name, her
21 first name on top and last name on the bottom.

22 Q Could you see the whole thing if he had his shorts on?

23 A No, ma'am.

24 Q Could you see the whole thing if he just had his
25 underwear on?

1 A No, ma'am.

2 Q So when did you see it?

3 A Whenever he took his pants off.

4 Q Would he take your clothes off?

5 A My pants and underwear.

6 Q Would he make you take them off or would he take them
7 off?

8 A I would take them off. He would make me.

9 Q Did he ever tell you not to tell anybody?

10 A Yes, ma'am.

11 Q What did he say to you about that?

12 A He always made me promise and if I didn't, he would
13 threaten to whip me.

14 Q How many times did he threaten you?

15 A Almost every time.

16 Q Let's go back to your guidance class. Do you remember
17 your guidance teacher's name?

18 A Yes, ma'am.

19 Q What was it?

20 A Ms. Budd.

21 Q And did she give you that book to read or did she read
22 it to the class?

23 A She read it to the class.

24 MS. MCMAHON: Court's indulgence, Your Honor.

25 (Pause.)

1 MS. MCMAHON: Nothing further, Your Honor.

2 THE COURT: All right. Cross-examination?

3 CROSS-EXAMINATION

4 BY MR. STEEN:

5 Q Hey, T.P.

6 A Hey.

7 Q You called David Carter your stepdad?

8 A Yes, sir.

9 Q How did you refer to him in person growing up?

10 A My dad.

11 Q At what point did you start referring to him as your
12 stepdad?

13 A I didn't call him my stepdad, I always called him
14 daddy, but he was my stepdad.

15 Q And you stated that you learned about the word sexually
16 abused while you were in fourth grade?

17 A Yes, sir.

18 Q Do you remember talking about this at the very
19 beginning, back in 2016?

20 A The forensic interview?

21 Q Yes.

22 A Yes, sir.

23 Q During that interview, you stated that you learned
24 about it in fifth grade, do you recall that?

25 A No.

1 Q Still with that same interview, do you remember
2 discussing the tattoo?

3 A No, sir.

4 Q Do you have any reason to be mad at your stepdad?

5 A Yes.

6 Q The reason we're here today?

7 A Yes.

8 Q Besides this, do you have any reason to be mad?

9 A No, sir.

10 MR. STEEN: Court's indulgence, Your Honor.

11 THE COURT: Yes, sir. Not a problem.

12 (Pause.)

13 BY MR. STEEN:

14 Q Do you remember if David, or your stepdad, has any
15 other tattoos?

16 A Yes, sir.

17 Q Where?

18 A He has lots, actually. He has some on his arm and I
19 believe he has one or two on his leg.

20 Q Do you recall any other visible marks on your stepdad
21 besides the tattoos?

22 A Yes, sir. His belly, he had to have surgery on it, so
23 he doesn't have a belly button.

24 Q Do you recall what color his hair is in that part of
25 his body?

1 A Not really. It was a brownish-reddish-blackish color.
2 It was in that area.

3 Q With regards to you moving, why were the mattresses --
4 do you know why -- the mattress hadn't been moved yet?

5 A We weren't going to move the mattresses because our new
6 house already had mattresses in them.

7 Q Do you recall which vehicle you and David took to that
8 house?

9 A No, sir.

10 MR. STEEN: No further questions, Your Honor.

11 THE COURT: Any redirect?

12 MS. MCMAHON: Yes, sir, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. MCMAHON:

15 Q T.P., when did you learn he was your stepfather?

16 A In first grade whenever momma told me.

17 Q Did you call him stepfather then?

18 A No, ma'am.

19 Q Why not?

20 A Because -- I don't know. Because I still referred to
21 him as my dad because my previous dad still -- he did drugs.

22 Q And how old were you when you told your mom what
23 happened?

24 A Ten.

25 Q And when he was doing all these things to you, how did

1 that make you feel?

2 A It made me mad, upset. It made me feel -- he made me
3 feel like it was my fault that he was doing all this to me.

4 Q Did he tell you it was your fault?

5 A No.

6 Q Did he say anything to you at all while it was going
7 on?

8 A Yes.

9 Q What did he say?

10 A He -- I would always tell him to stop. He would never
11 stop. He would always say, Almost done.

12 Q Every single time?

13 A Every time I told him to stop.

14 Q Okay. And besides the hair that was in his weenie
15 area, was there anything else about his weenie?

16 A No.

17 Q You don't remember anything?

18 A No.

19 Q And when would he finally stop?

20 A Whenever the white stuff came out.

21 MS. MCMAHON: Nothing further, Your Honor.

22 THE COURT: Anything on those questions?

23 MR. STEEN: Nothing further, Your Honor.

24 THE COURT: You may step down.

25 Y'all come up here and let me talk to you one second.

1 (Bench conference.)

2 THE COURT: All right, ladies and gentlemen, I need you
3 to go to the jury room for just a few minutes. Thank you.

4 (The jury leaves the courtroom.)

5 THE COURT: All right. Y'all go ahead and get
6 reorganized so the Defendant can come back into the
7 courtroom.

8 (Short break.)

9 THE COURT: Are you ready?

10 MS. MCMAHON: Yes, sir. Also, before the jury comes
11 in, Mr. Steen and I did meet about the video. And this is
12 the video that we've agreed to with the redaction out of it.

13 THE COURT: Is that correct?

14 MR. STEEN: Yes, Your Honor.

15 THE COURT: You want to have it marked?

16 MS. MCMAHON: I've already marked it, Your Honor.

17 THE COURT: What is it?

18 MS. MCMAHON: This is the forensic interview.

19 THE COURT: What is the number?

20 MS. MCMAHON: It's State's Exhibit No. 1.

21 THE COURT: Very good. Thank you.

22 So you'll just proceed and move to admit it, then I'll
23 hear from the defense. Very good.

24 Are you ready for the jury to come back in?

25 MS. MCMAHON: Yes, Your Honor.

1 When I request to publish it, it will take a minute
2 just for this computer.

3 THE COURT: We don't have to send them back out again
4 for that, do we?

5 MS. MCMAHON: No, no, no. It just takes a little time
6 to warm up.

7 THE COURT: That's fine.

8 You want to see if they're ready to come back in?

9 THE BAILIFF: I think some of them are in the restroom.

10 THE COURT: Well, then, whenever they are ready.

11 (The jury enters the courtroom.)

12 THE COURT: All right, Mr. Foreman, you had previously
13 asked about taking notes. This is not going to be a very
14 long trial. And unless the trial is going to be some
15 length, the standard practice in South Carolina is not to
16 have the jury take notes. We want you to be paying
17 attention to each and every question that is asked. There's
18 a tendency that we've noticed in the past when people are
19 taking notes, they have their head down and are
20 concentrating on the note that they're taking and they're
21 not listening to the very next question and answer because
22 the proceedings don't stop while you're taking notes. And
23 it could very well be that that next question and answer is
24 much more important than the note the person is taking. So
25 since it's not going to be of any extraordinary length, we

1 will have you not take notes and rely on your memory,
2 collective memory.

3 THE FOREPERSON: Thank you, Your Honor.

4 THE COURT: You may proceed, Solicitor.

5 MS. MCMAHON: Yes, sir, Your Honor. At this time, the
6 State calls Margo Dixon.

7 THE COURT: Please come around to be sworn, ma'am.

8 MARGO DIXON,

9 after being duly sworn, testified as follows:

10 THE WITNESS: I do.

11 THE CLERK: You may be seated.

12 DIRECT EXAMINATION

13 BY MS. MCMAHON:

14 Q Ms. Dixon, where do you work?

15 A With Palmetto Citizens Against Sexual Assault
16 Children's Advocacy Center located here in Lancaster, South
17 Carolina.

18 Q And did you interview [REDACTED] T.P. ?

19 A I did.

20 Q Do you remember what date it was you interviewed her?

21 A September the 26th, 2016.

22 Q Are these interviews recorded?

23 A They are.

24 Q Were you present for that interview?

25 A I was.

1 Q And when they're recorded, where are they stored?

2 A On a main server.

3 Q And if somebody request a copy of that, how does that
4 occur?

5 A We pull a copy of the interview down from the main
6 server where we, in turn, retrieve it and then give it to
7 the person requesting it.

8 Q And what type of media, if a person request it, do you
9 put it on?

10 A We put it on a DVD.

11 Q And do you keep these videos in the normal course of
12 business?

13 A We do.

14 Q And I'm going to show you what's marked as State's
15 Exhibit No. 1. Can you identify this for me?

16 A This is a copy of [REDACTED] T.P. 's interview that was
17 conducted on September the 26th, 2016.

18 Q Is that a true and accurate representation of that
19 video as it is burned onto that DVD?

20 A It is.

21 Q Thank you.

22 MS. MCMAHON: Your Honor, at this time, I would ask to
23 publish this to the jury.

24 THE COURT: Any objection?

25 MR. STEEN: No objection.

1 THE COURT: If it's entered into evidence, you may
2 publish it.

3 MS. MCMAHON: Your Honor, I would like to move it into
4 evidence if I have not.

5 THE COURT: Is there --

6 MR. STEEN: No objection.

7 THE COURT: Very good, sir.

8 It's in evidence without objection and you may publish
9 it.

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

12 (State's Exhibit No. 1 was played for the jury in open
13 court.)

14 BY MS. MCMAHON:

15 Q Ms. Dixon, during that video, you used some pieces of
16 paper. What are those?

17 A It's the anatomy. It's the body parts of a boy and a
18 girl for her to educate me on what she identifies as her
19 body parts.

20 Q So when you're showing her those pieces of paper, what
21 are you doing in the video?

22 A I'm writing down what she calls those body parts so
23 that I know what to refer to when she's talking about any
24 kind of incident that may have taken place when she's
25 talking to me.

1 Q And how big are those pieces of paper?

2 A An average size sheet of paper, eight by eleven. It's
3 just folded in half.

4 Q What's on either side?

5 A The front part of it is the picture -- when we're
6 talking about the girl body, it's just a picture of a female
7 without any clothes on. And the back part is the back of
8 the body. She's a young white female, so it's a little
9 white female girl that she can identify with.

10 Q So for the male, it's the same?

11 A Same thing. It's just a male.

12 Q Okay.

13 MS. MCMAHON: Court's indulgence, Your Honor.

14 (Pause.)

15 MS. MCMAHON: Nothing further from this witness.

16 THE COURT: All right. Cross-examination?

17 MR. STEEN: No questions, Your Honor.

18 THE COURT: All right. You may step down.

19 THE WITNESS: Thank you, Your Honor.

20 (The witness leaves the witness stand.)

21 THE COURT: Can y'all come up here and talk to me just
22 a second, please?

23 (Bench conference.)

24 THE COURT: All right, Solicitor, your next witness,
25 ma'am.

1 MS. MCMAHON: Your Honor, we're going to call Amanda
2 Budd.

3 (Witness enters the courtroom.)

4 THE COURT: Please come all the way around here,
5 please, ma'am.

6 AMANDA BUDD,

7 after being duly sworn, testified as follows:

8 THE WITNESS: I do.

9 THE CLERK: You may be seated.

10 THE COURT: Get yourself situated, then state your name
11 and spell your last name.

12 THE WITNESS: Okay. Amanda Budd, B-U-D-D.

13 THE COURT: Go ahead, Solicitor.

14 DIRECT EXAMINATION

15 BY MR. MCMASTER:

16 Q Ms. Budd, do you go by Amanda or Mandy?

17 A My license is Amanda. I go by Mandy, but my full name
18 is Amanda.

19 Q Okay. Can you tell me where you work?

20 A Buford Elementary School.

21 Q And how long have you worked there?

22 A This is ending my fourth year there.

23 Q Can you tell me a little bit about what you do there?

24 A I'm the school counselor there. And so, we do three
25 main things at our school, along with extra things that the

1 principal may ask of us. But we do classroom guidance with
2 whole classrooms once every week. We do small group as
3 needed based on referrals from the teachers. And we do
4 individual counseling with students based on referrals from
5 parents, teachers, or administration.

6 Q And what grades is this counseling given to?

7 A 4K all the way to fifth.

8 Q Okay. And you said small groups, what kind of
9 counseling is that?

10 A It just depends on what's needed at the time. It may
11 be loss and grieve, friendship groups, things like that.

12 Q Are you familiar with Erin's Law?

13 A Yes.

14 Q Can you tell the Court a little bit about that?

15 A In the 2015-16 school year, we had a training at the
16 Lancaster County School District saying that we would have
17 to teach Erin's Law to all students, K through 12th grade,
18 and they provided us with a list of books that were approved
19 by our district. And kind of planned together within the
20 elementary schools what books we would use to teach Erin's
21 Law and we had to give it before the end of that school
22 year. I believe it's in most states in the United States
23 now that Erin's Law is required.

24 Q And the training started when?

25 A In the spring of that school year, so right -- it would

1 have been after Christmas break.

2 Q So the training started after Christmas break?

3 A Uh-huh.

4 Q When was the first time that Erin's Law presentations
5 were given?

6 A I have a list of dates that I gave it every single
7 school year that I wrote out. So the first time that we
8 gave it at Buford Elementary was the weeks of March 21st
9 through April 8th, but there was spring break in there, too.
10 Over those three weeks, it was two weeks it was given.

11 Q So it was given one week and then there was spring
12 break and --

13 A And then the following week, yes.

14 Q Okay. Can you tell me a little bit how the
15 presentation goes?

16 A I have a copy of the lesson plan. I don't know if you
17 need that.

18 Q If you can just kind of run through it.

19 A Yeah. Well, with the grade level in fourth grade and
20 fifth grade, the one that I was told -- talked about that I
21 needed because that's the one in question, I believe. We
22 read the book Not In Room 204. And it's just pretty much
23 about a student voicing up to the teacher about an issue
24 that she's having. And we talk about good touch and bad
25 touch throughout the book and what they can do to speak up

1 and talk to somebody if they have any concerns.

2 Q So do you go to the classrooms to give this
3 presentation?

4 A No, we have our own classroom at this time. My first
5 year there, we went to classrooms, but when I first did this
6 lesson, we had our own classroom. So they come to us.

7 Q And how is the room arranged?

8 A There's like different groups of desks. But when I
9 give the lesson, this particular group sits on the carpet
10 and then I will sit in the chair and read to them.

11 Q And apart from reading the book, what other kinds of
12 lessons do you do? Do you kind of introduce a subject?

13 A Right. I mean, we give all types of lessons, a lot of
14 different character word lessons. This is just one that's
15 required by state. A lot of them, we plan within the school
16 of what's needed, like listening skills for younger kids,
17 things like that. Is that what you're asking?

18 Q Well, do you use any terms when you're giving the
19 presentation?

20 A This particular lesson?

21 Q Right.

22 A It just depends on how the lesson is going and the age
23 group. With younger students, I mean we don't really bring
24 up any terms because they don't understand at that young
25 age.

1 MR. MCMASTER: Beg the Court's indulgence, Your Honor.

2 (Pause.)

3 BY MR. MCMASTER:

4 Q Ms. Budd, do you remember [REDACTED] T.P. ?

5 A Yes, sir.

6 Q Do you remember giving her the presentation?

7 A From our records, she was not absent that day, so she
8 would have been in the lesson.

9 Q And if you can recall you were giving that lesson, do
10 you remember if there were any terms you may have used?

11 A I don't remember anybody speaking up that day per my
12 notes that I've taken from that year.

13 Q But as far as you, kind of, explaining to the children
14 what the book is about, do you remember giving any other
15 explanations?

16 A At one point, I -- they can speak up. It was so long
17 ago, I don't remember what was said in that lesson. I can
18 just state, you know, what has been told. But like I said,
19 that was so long ago, I don't know what was stated in that
20 lesson.

21 Q So the book Not In Room 204?

22 A Uh-huh.

23 (WHEREUPON, State's Exhibit No. 3 was marked for
24 identification.)

25 BY MR. MCMASTER:

1 Q Is this the book?

2 A Yeah.

3 MR. MCMASTER: Your Honor, State's Exhibit --

4 BY MR. MCMASTER:

5 Q You have the book?

6 A Yeah, I brought it with me.

7 THE COURT: Let her take a look at that one and use it.

8 BY MR. MCMASTER:

9 Q Is that the same book you read to [REDACTED] T.P. ?

10 A Yes, sir.

11 MR. MCMASTER: Your Honor, the State would move to have
12 the book read into the record.

13 THE COURT: You want the book introduced into evidence?

14 MR. MCMASTER: We would move to have Ms. Budd read it

15 --

16 THE COURT: I appreciate it. Do you want to move it
17 into evidence?

18 MR. MCMASTER: Yes, sir.

19 THE COURT: Objection to it being moved into evidence?

20 MR. STEEN: Objection, Your Honor. First of all, I
21 have not read this book.

22 THE COURT: And so --

23 MR. STEEN: And --

24 THE COURT: Hold on a second.

25 Y'all come over here and talk to me.

1 (Bench conference.)

2 THE COURT: Having not been disclosed to the Defense
3 prior to this moment, it will not be allowed into evidence.
4 Thank you.

5 BY MR. MCMASTER:

6 Q Ms. Rudd, after giving presentations, do you see
7 children reacting in any way?

8 A Yes, we do have more reports after these lessons,
9 normally, that we have to report to law enforcement because
10 that's our first procedure now.

11 Q And how does that go?

12 A We report to ISO officer --

13 MR. STEEN: Objection, Your Honor.

14 THE COURT: Sustained.

15 MR. MCMASTER: No further questions.

16 THE COURT: Cross-examination?

17 CROSS-EXAMINATION

18 BY MR. STEEN:

19 Q Ms. Budd, what you have testified here today was to
20 what occurred in Miss [REDACTED] T.P. 's fourth grade year?

21 A Yes, sir. She was not at our school during this lesson
22 in fifth grade.

23 Q What school was she at?

24 A Per our records, she transferred to Heath Springs
25 Elementary School.

1 Q And per your records, when did she transfer schools?

2 A September 28th of 2016.

3 MR. STEEN: Thank you. That's all.

4 THE COURT: Any redirect?

5 MR. MCMASTER: Yes, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. MCMASTER:

8 Q So Ms. Budd, according to your records, [REDACTED] T.P. was at
9 Buford in fourth grade?

10 A Yes, she came in January, in the middle of fourth
11 grade, January the 5th.

12 Q 2000 and?

13 A Sixteen.

14 Q And you gave a presentation to the fourth grade class
15 in the spring of 2016?

16 A Yes.

17 Q And was that the book?

18 A Yes.

19 MR. MCMASTER: No further questions.

20 THE COURT: Anything on those questions?

21 MR. STEEN: No, Your Honor.

22 THE COURT: Ma'am, you may step down. Thank you very
23 much.

24 MS. MCMAHON: Your Honor, may this witness be excused?

25 THE COURT: Any objection?

1 MR. STEEN: No objection.

2 THE COURT: Ma'am, you are released from your subpoena.
3 You may go back to your regular duties.

4 THE WITNESS: Thank you.

5 (Witness leaves the witness stand.)

6 THE COURT: Yes, ma'am.

7 Next witness.

8 MS. MCMAHON: Yes, Your Honor, the State calls John
9 Hicks.

10 THE COURT: Please come around and be sworn.

11 JOHN HICKS,

12 after being duly sworn, testified as follows:

13 THE WITNESS: Yes, ma'am.

14 THE CLERK: You may be seated.

15 DIRECT EXAMINATION

16 BY MR. MCMAHON:

17 Q Mr. Hicks, where are you currently employed?

18 A I'm currently working with the Lancaster County
19 Sheriff's Office as an investigator.

20 Q You're an investigator?

21 A Yes, ma'am.

22 Q How long have you been employed there?

23 A Five years.

24 Q Where did you work prior to that?

25 A I worked 15 years in Colorado and 10 years with York

1 County.

2 Q And what types of cases do you investigate?

3 A I currently investigate juvenile victim crimes
4 involving sex and drugs and other types.

5 Q How long have you been investigating those types of
6 cases?

7 A Three years.

8 Q And about what number -- let me back up. How many
9 cases of that nature have you investigated in the past three
10 years?

11 A About 750.

12 Q Did you investigate this case?

13 A Yes, ma'am.

14 Q Did you get a report on this case back in September of
15 2016?

16 A Yes, ma'am.

17 Q Who was the victim in that report?

18 A Miss [REDACTED] T.P.

19 Q And where did the incidents take place in that report?

20 A We learned that the first address is [REDACTED],
21 Heath Springs, Lancaster County, [REDACTED],
22 Lancaster County --

23 MR. STEEN: Objection, Your Honor, lack of foundation.
24 He said we learned.

25 THE COURT: Just from the prior testimony as to

1 incidents dates, based upon the prior testimony as to
2 incident dates, I'm going to allow him to proceed.

3 THE WITNESS: And the third location was [REDACTED]

4 [REDACTED], Lancaster County, South Carolina.

5 BY MS. MCMAHON:

6 Q Were all those locations located here in Lancaster
7 County?

8 A Yes, ma'am.

9 MS. MCMAHON: Court's indulgence, Your Honor.

10 (Pause.)

11 MS. MCMAHON: Nothing further, Your Honor.

12 THE COURT: Cross-examination?

13 CROSS-EXAMINATION

14 BY MR. PAYNE:

15 Q Good afternoon, Mr. Hicks. How are you today?

16 A I'm doing great.

17 Q All right. You mentioned that you previously worked in
18 Colorado, was that your first stint in law enforcement?

19 A Yes, sir.

20 Q What kind of crimes did you investigate in Colorado?

21 A I was on the homicide team for about seven years.

22 Q Did you do any other kind of crimes in the other eight
23 years?

24 A White collar crimes, complex crimes.

25 Q Did you do like computer crimes?

1 A Yes.

2 Q What were the years that you were out in Colorado?

3 A I started March 1 of 1985 through June 2000.

4 Q Then you came to York, right?

5 A Yes.

6 Q What did you do in York?

7 A First year, patrol, four years in accreditation, first
8 accreditation for York County, and then I was a patrol
9 sergeant for the last five years over in Clover.

10 Q Did you do any special types of crimes while you were
11 in Rock Hill?

12 A No, sir.

13 Q Just general?

14 A Yes.

15 Q So what were the years you were in Rock Hill?

16 A From December of 2002 till March of 2013.

17 Q And then you came to Lancaster right after that?

18 A Yes.

19 Q And you mentioned that you've been doing, for lack of a
20 better term, these types of juvenile sex and drug cases for
21 the last three years?

22 A Yes, sir.

23 Q Do you have any kind of Bachelor's Degree?

24 A I do. I have a Bachelor's Degree in computer
25 information systems. I have an Associate's in criminal

1 justice and an Associate's in human resources and another
2 Associate's in emergency management.

3 Q Okay. And you do -- as part of your job now, do you do
4 any kind of additional training?

5 A I do. I get training regularly through the state.

6 Q Is it just general law enforcement training or is it
7 specifically to the types of cases that you do?

8 A It's involving sex crimes with juveniles.

9 Q All right. Let's talk about this particular case. You
10 weren't -- were you the responding officer, the officer that
11 took the initial report?

12 A No, sir.

13 Q Were you the initial detective assigned to the case?

14 A Yes.

15 Q How much of a gap was in there in between the original
16 report being filed and when you took over the case, how many
17 days?

18 A I think about two. We took the report on September
19 24th --

20 Q But you didn't take the report, though?

21 A No. And we conducted a forensics interview on
22 September the 26th?

23 Q And at that point, was there any involvement from DSS
24 in this case?

25 A Yes.

1 Q They were involved prior to you taking over the case?

2 A They're always notified immediately.

3 Q And do you know who the DSS agent assigned to this case
4 was?

5 A I believe it was Jacqueline Hicks.

6 Q Okay. In your investigation of the case, did you ever
7 personally interview [REDACTED] T.P. ?

8 A I was present at PCASA.

9 Q Did you ever personally talk to her?

10 A No, I don't do that.

11 Q Did you ever personally interview Tiffany Carter?

12 A Yes, I have talked to her.

13 Q In your preparing of this case, did you ever obtain a
14 search warrant on anything as far as my client's house? Did
15 you ever obtain a search warrant for it?

16 A I don't believe so.

17 Q Did you ever obtain a search warrant for any of his
18 vehicles?

19 A No.

20 Q Did you ever obtain search warrants for any of his
21 previous houses that he had lived at?

22 A No.

23 Q Did you ever attempt to get a search warrant to collect
24 DNA evidence in this case?

25 A I tried.

1 Q Did you get a search warrant to collect DNA evidence at
2 a house?

3 A No.

4 Q Did you ever get a search warrant to obtain pictures of
5 my client's body?

6 A I did.

7 Q When did you get that search warrant?

8 A Recently.

9 Q How recent?

10 A This year.

11 Q This year?

12 A Yes.

13 Q Is it fair to say in March?

14 A Yes.

15 Q And this case -- you originally got this case in
16 September of 2016?

17 A That's correct.

18 Q But you waited two years to get the search warrant?

19 A That's correct.

20 MR. PAYNE: Beg the Court's indulgence.

21 (Pause.)

22 BY MR. PAYNE:

23 Q A few more questions, Investigator Hicks. You
24 mentioned that you tried to obtain a search warrant to get
25 DNA --

1 A No. I considered it, but I did not, actually, write a
2 search warrant.

3 Q Why would you decide not -- what made you not want to
4 get DNA evidence in this case?

5 A Not on the houses or the cars or --

6 Q Just any, because you said you considered --

7 A Well, relevance. They didn't live in those homes any
8 longer. And for us to get a probable cause search warrant,
9 we have to have something to tie into the house recently,
10 not six months ago, not three months ago.

11 Q What about the houses -- what about the vehicles in the
12 case?

13 A The vehicle had already been -- the vehicle that I'm
14 aware of had already been repossessed and moved to a car
15 lot, as I heard.

16 Q Okay. But it was at a car lot?

17 A I heard it was.

18 Q Did you ever go to that car lot to look for the
19 vehicle?

20 A I did not.

21 Q If you would have searched the vehicle's VIN number,
22 would it show up at that car lot?

23 A Possibly.

24 Q As stated before, you initially got the case September
25 the 26th. When did you, actually -- when did you, actually,

1 decide to seek an arrest warrant in this case?

2 A About a week later, on October 3rd.

3 Q What changed within that week that made you decide to
4 get the warrant?

5 A I have a lot of cases and it is one of many cases I
6 work. And it worked out that, it was relatively quick,
7 between September 26th and October 3rd I was able to get the
8 warrant.

9 Q Okay.

10 MR. PAYNE: Beg the Court's indulgence.

11 THE COURT: Yes, sir.

12 (Pause.)

13 BY MR. PAYNE:

14 Q Investigator Hicks, you mentioned you didn't get the
15 warrant because these were older addresses that my client
16 had lived in?

17 A Correct.

18 Q Didn't one of the allegation involve the house that he
19 was currently living in?

20 A I think they were in the process of moving out. There
21 was a family problem. I don't know who was living there at
22 the time. I do know that the wife, Ms. Tiffany, and the
23 children had left. He was supposed to be there, but he
24 wasn't. I don't know who was living there.

25 Q But that's where one of the allegations --

1 A Yes.

2 Q -- of sexual assault took place?

3 A Yes.

4 Q And did you ever go to that house to see if there was
5 anyone living there?

6 A No.

7 Q Did you ever search -- if they were renting the house,
8 did you search to see who owned the house?

9 A No.

10 Q And whether or not you could get their consent?

11 A No. There's a matter of relevance. There's a short
12 amount of time where evidence might be found. I can't have
13 a week in between. I can't have a month in between. I have
14 to have probable cause that shows there might be something
15 there relevant at this moment.

16 Q So you learned of these allegations September 24th?

17 A Right.

18 Q They were still in the process of moving out of that
19 house or the house may have possibly been vacant, correct?

20 A Right.

21 Q So why was there no relevance?

22 A Well, the actual last possible event was two or three
23 weeks prior based on statements that I received. So it
24 could have been a month or more, actually.

25 Q Was there anyone else that you were aware of living in

1 the house with them?

2 A No, I knew they were moving out. I don't know that
3 anybody was living in the house.

4 Q Okay.

5 MR. PAYNE: No further questions, Your Honor.

6 THE COURT: Any redirect?

7 MS. MCMAHON: Just briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. MCMAHON:

10 Q You said for the past three years you've been
11 investigating juvenile sex crimes; is that correct?

12 A That's correct.

13 Q How many numbers of cases was that again?

14 A About 750.

15 Q And in the 750 cases that you've investigated, how many
16 of them have DNA involved in it?

17 A Very few.

18 Q And if DSS isn't already notified about the
19 allegations, are you required to notify DSS?

20 A Yes, I am.

21 Q And in this situation, had DSS already been notified?

22 A I believe so.

23 Q But it was by somebody prior to your involvement?

24 A That's correct.

25 Q And does the responding officer to report a location

1 always the one that investigates it?

2 A. No.

3 Q How does that process work within the sheriff's
4 department?

5 A They take the initial report. Patrolmen usually take
6 the initial report. Sometimes, they call us to come out on
7 the scene, which is a real good advantage, but not on this
8 one.

9 Q So you got involved how long after the initial report
10 was taken?

11 A I usually get the report within a day or two based on
12 the computer. And as soon as I get it, I review it and I
13 determine what actions I need to take.

14 Q And what did you determine the action was you needed to
15 take in this case?

16 A Relatively quickly, we knew we needed to have a
17 forensics interview with T.P.

18 Q And when DSS gets involved, do you have any involvement
19 with DSS?

20 A I do work with them closely.

21 Q Do you try to influence their decisions?

22 A I try to inform them on whatever information we have so
23 they can make good decisions as well.

24 Q But, ultimately, the decision is left to DSS?

25 A Yes.

1 Q And the allegations were mainly in several houses; is
2 that correct?

3 A That's correct.

4 Q The two houses that were further back in time, do you
5 know if people were living in them?

6 A I don't.

7 Q At the time that you got the report, did you know if
8 people were living in them?

9 A I don't.

10 MS. MCMAHON: No further questions.

11 THE COURT: Anything on those questions?

12 MR. PAYNE: Just very briefly, Your Honor.

13 RECROSS-EXAMINATION

14 BY MR. PAYNE:

15 Q Detective Hicks, you mentioned that when you get a
16 report, you don't know if someone is living in the house; is
17 that correct?

18 A No, we didn't say that.

19 Q I'm sorry, I missed the last question. If you get a
20 report, is it automatically clear who's living in the house?

21 A It usually is.

22 Q You mentioned that DSS, typically, gets involved and
23 you work with them closely?

24 A I work with them, yes.

25 Q Who is the DSS agent that was assigned to this

1 particular case?

2 A I believe it was Jacqueline Hicks.

3 Q Are you, in any way, related to her?

4 A She's my daughter.

5 MR. PAYNE: No further questions, Your Honor.

6 THE COURT: You may step down. Thank you very much.

7 (Witness leaves the witness stand.)

8 THE COURT: All right, ladies and gentlemen, we're
9 going to break for lunch at this point in time. I'm going
10 to ask that you be back in your jury room by 1:45, be back
11 in your jury room at 1:45. We'll resume the trial at that
12 time.

13 Remember what I told you yesterday, you're not
14 investigators, researchers, you can't look up anything, do
15 anything on your own. You can't talk to anybody about this
16 case. After it's over with, whatever you want to do, talk
17 about it or not. But until you reach a unanimous decision,
18 you may not talk about it with anyone else. And I would ask
19 that you not start any deliberations, discussions about the
20 case until you hear all of the evidence in this case, until
21 you've heard it all. At that point in time, you'll have all
22 the time you deem necessary to talk about and discuss this
23 case. So just wait until that time.

24 With that, I'll see you back at 1:45. Thank you very
25 much.

1 THE FOREPERSON: Thank you, sir.

2 THE COURT: Solicitor, your next witness, please.

3 MR. MCMASTER: Your Honor, the State calls Stephanie
4 Schaller.

5 THE COURT: Step all the way around, please, ma'am, and
6 meet the clerk's representative right up here.

7 STEPHANIE SCHALLER,

8 after being duly sworn, testified as follows:

9 THE WITNESS: I do.

10 THE CLERK: You may be seated.

11 THE COURT: Spell your name for the court reporter,
12 please, ma'am.

13 THE WITNESS: Stephanie, S-T-E-P-H-A-N-I-E, Schaller,
14 S-C-H-A-L-L-E-R.

15 THE COURT: Go ahead, sir.

16 DIRECT EXAMINATION

17 BY MR. MCMASTER:

18 Q Ms. Schaller, can you state your occupation?

19 A Yes, I am a pediatric nurse practitioner.

20 Q And where do you practice?

21 A I work at the Metropolitan Children's Advocacy Center.

22 Q How long have you been there?

23 A I was employed September 2015, so two and a half years.

24 Q And can you briefly describe the subject matter of your
25 practice?

1 A So I am assistant faculty at USC School of Medicine in
2 the division of child abuse, so I evaluate -- do medical
3 evaluations on children where there is an allegation of
4 abuse or neglect.

5 Q So child abuse, is that a specialty in the field?

6 A It is a specialty, yes.

7 Q What kind of academic degrees have you obtained?

8 A So I got my Bachelor's of Nursing in 1998 from USC and
9 then my Master's in Nursing in 2006, also, from the
10 University of South Carolina.

11 Q Are there specialty degrees or specialty training?

12 A So I sat for the pediatric board, which is the ANCC
13 Pediatric Board, so I'm Board certified as a pediatric nurse
14 practitioner. But as far as child abuse, I'm also
15 considered a South Carolina Child Advocacy Medical Response
16 System medical provider. And so that is a state recognized
17 system where you have to qualify to evaluate children for
18 child abuse and neglect in this state. And I am qualified
19 as one of those people.

20 Q So are you Board certified as a specialist?

21 A I'm Board certified as a pediatric nurse practitioner.
22 There is not a Board certification for child abuse unless
23 you are a physician.

24 Q Can you tell me the duties and functions of
25 pediatric --

1 A My duties and functions as evaluating children with
2 child abuse and neglect, I sit on a pediatric sexual assault
3 nurse exam review, so twice a month, I go and look at acute
4 cases of pediatric sexual assault and look over their
5 pictures, make sure that things are documented well.

6 I, also, see patients and do medical evaluations at the
7 Metropolitan CAC and, also, at the Family Services Center.
8 I'm, also, on call for the Palmetto Health Children's
9 Hospital for any time there's a child who comes in and
10 there's an allegation of abuse or neglect.

11 I, also, teach. I teach the residents. I teach the
12 medical, like third-year and fourth-year medical students.
13 That's, also, one of my job description.

14 Q And when and where do you do that?

15 A The teaching, so I have to -- in order to stay SCCAMRS
16 qualified, I have to give two different teachings and they
17 have to be to like law enforcement and DSS. I do those
18 twice a year, usually, at the Juvenile Justice System. And
19 then I, also, teach at Palmetto Health Richland Children's
20 Hospital. I've given talks to social workers, nurse
21 practitioners, other nurses, other staff at the hospital.

22 Q And have you ever given testimony as an expert witness
23 in the field of child abuse before?

24 A I have, yes.

25 Q And when and where was that?

1 A Newberry County in 2017.

2 Q And are you available for consulting to other parties,
3 agencies, lawyers for other cases?

4 A I consult all the time with other multi-disciplinary
5 team members, such as law enforcement, solicitors, DSS
6 workers, anyone who we have a case that there's questions
7 about explaining the medical exam. But I've never been
8 asked from a defense to give a consultation, but I would be
9 more than happy to do that.

10 MR. MCMASTER: Your Honor, at this time, I move to
11 qualify Ms. Schaller in the field of pediatric child abuse.

12 THE COURT: All right. Do you wish to voir the witness
13 or challenge her qualifications?

14 MR. STEEN: Yes, Your Honor.

15 THE COURT: Very good.

16 VOIR DIRE

17 BY MR. STEEN:

18 Q Ms. Schaller, did you testify that to -- what did you
19 say with regards to having a speciality in child abuse. Did
20 you say that you had to be a pediatrician?

21 A No. So I have qualifications through South Carolina
22 Advocacy Medical Response System and that is pediatricians
23 and nurse practitioners qualify.

24 As far as taking a special Board to make me qualified,
25 that is through -- it's like if you were going to be a

1 pediatric orthopedic surgeon, there's -- now physicians can
2 sit on a board and be Board certified child abuse
3 pediatricians. And I am not one of those.

4 Q How many times have you been qualified to testify as an
5 expert?

6 A One time in 2017 in Newberry County.

7 MR. STEEN: No further questions, Your Honor.

8 THE COURT: Very good. Do you wish to present
9 arguments to the Court?

10 MR. STEEN: Yes, Your Honor.

11 THE COURT: Mr. Foreman, ladies and gentlemen of the
12 jury, if you would go to your jury room, please. Thank you.

13 (The jury leaves the courtroom.)

14 THE COURT: Yes, sir.

15 MR. STEEN: Yes, Your Honor. To be qualified as an
16 expert in child abuse pediatrics, you have to be a
17 pediatrician.

18 THE WITNESS: That's not true.

19 MR. STEEN: That's not true?

20 THE COURT: And I'm sorry, are you making an argument
21 to me or are you still questioning --

22 THE WITNESS: I'm so sorry.

23 MR. STEEN: I'm sorry. I was making an argument, Your
24 Honor.

25 THE COURT: Okay. You were sort of looking at the

1 witness, so, I mean, I as confused.

2 MR. STEEN: Yes, sir. I'm so sorry.

3 THE COURT: Very good. Go ahead.

4 BY MR. STEEN:

5 Q So you're not a pediatrician, correct?

6 A No, I'm a pediatric nurse practitioner and I work in a
7 child abuse clinic and I evaluate children for child abuse
8 and neglect. That's all I do five days a week. I have
9 currently evaluated over 900 children for child abuse and
10 neglect.

11 Q And the one other time you were qualified as an expert,
12 you were the treating physician?

13 A I was. I was the treating physician -- I was the
14 treating medical provider.

15 Q And you were qualified in the field of child abuse
16 pediatrics?

17 A Correct.

18 Q For the State?

19 A For the county.

20 Q I'm sorry, this was a DSS proceeding?

21 A Yes. It was Family Court, yes.

22 Q Do you have any publications?

23 A I do not.

24 MR. STEEN: Your Honor, we would challenge on that Ms.
25 Schaller has only testified once in a DSS proceeding where

1 she, was the treating physician -- or treating nurse
2 practitioner. Based on that and the fact that she has not
3 published on this area, we would ask the Court to exclude
4 her from being an expert witness. I understand that she is,
5 also, a fact witness in this case, but for her to testify as
6 an expert, we would ask her to not be qualified.

7 THE COURT: Before I ask for your response, Solicitor,
8 if you would tell me the purpose of the witness. Why are
9 you calling this particular witness?

10 MR. MCMASTER: There was a medical exam that Ms.
11 Schaller, actually, conducted, so she's not only a fact
12 witness, but she's, also, an expert in the field of nurse
13 practitioners in pediatrics with child abuse. We intend to
14 question Ms. Schaller's expertise in the field of child
15 abuse with respect to the medical exam.

16 THE COURT: Okay. So first, you're going to question
17 her as to the results of a medical exam she gave to the
18 minor victim, correct?

19 MR. MCMASTER: Yes, sir.

20 THE COURT: Then you're going to ask her questions
21 about that?

22 MR. MCMASTER: Correct.

23 THE COURT: As to what the exam revealed or didn't
24 reveal?

25 MR. MCMASTER: Yes, sir.

1 THE COURT: And that seems to be in her field of
2 practice as a nurse practitioner working in the field of
3 child abuse. As to her working with this particular child,
4 I'm uncertain as to why the request is for an expert in the
5 field of pediatric child abuse. What is it that you're
6 trying -- you know, at this point in time -- you may or may
7 not want to explore all this with the Defense, but at this
8 point in time, what is it that you're trying to get from
9 this witness that you would not be able to ask her as the
10 treating medical provider for this particular minor?

11 MR. MCMASTER: The results from the medical exam that
12 she conducted compared with the statistics of other --

13 THE COURT: Well, I mean, even if she's not qualified
14 as an expert, you can ask her in her field of practice,
15 based upon her experience in the field and the number of
16 cases that she has worked on, are the results abnormal? Are
17 the results surprising in any way based upon the work that
18 she, actually, did? It doesn't call for a qualification in
19 the field of pediatric child abuse.

20 I'm not going to qualify her as an expert in the field
21 of pediatric child abuse. I haven't heard anything about
22 the studies, national publications, what she has done
23 regarding a study of this particular field. But again, I
24 haven't heard from you anything that would require such
25 classification. It seems to me what you're asking, she is

1 more than well qualified as a pediatric nurse practitioner,
2 experienced in that field, experienced in dealing with
3 children that have suffered child abuse based upon her own
4 practice and the results of this and what the results were
5 and if they were surprising or unsurprising or, you know,
6 whatever that came from.

7 So I'm not going -- from what you're telling me, I
8 don't understand the necessity for the requirement to be an
9 expert matter. If you're asking her to be qualified as an
10 expert in the field of pediatric nurse practitioner working
11 in the field of child abuse, based upon what she has
12 answered as far as questions to you and to Defense counsel,
13 then I don't see a problem with that. But there seems to
14 be, to me, a distinction with her qualifications and those
15 that would be brought forth by a medical doctor being Board
16 certified in the area.

17 MR. MCMASTER: We agree, Your Honor. We can move
18 forward with Ms. Schaller as a --

19 Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 (Pause.)

22 MR. MCMASTER: As stated earlier, we would agree that
23 we would move forward with Ms. Schaller as a nurse
24 practitioner with expertise in the field of pediatric child
25 abuse.

1 THE COURT: Do you wish to challenge regarding a
2 request that she be certified as an expert in the field of
3 pediatric nurse practitioner working in the field of child
4 abuse?

5 MR. STEEN: I will challenge that, Your Honor, because
6 I'm not --

7 THE COURT: I'm sorry, tell me why.

8 MR. STEEN: Yes, sir, I'm trying to think.

9 What exactly is the expert going to be in again?

10 MR. MCMASTER: She would be a pediatric nurse
11 practitioner in the field of child abuse. She conducted the
12 medical exam.

13 MR. STEEN: Yes, Your Honor.

14 THE COURT: All right. So I'm going to qualify her to
15 be an expert based upon her credentials, training, work in
16 the field as a pediatric nurse practitioner working in the
17 field of child abuse. So I will qualify her in that regard.

18 Now, obviously, even though I'm doing that, it still
19 leaves open to you, regarding the Defense, to examine the
20 parameters of that, what she may be Board certified in, what
21 she may not be Board certified in. So as far as your
22 cross-examination, that doesn't limit you -- what I'm trying
23 to tell you is it doesn't limit you in your
24 cross-examination in that regard.

25 MR. STEEN: Yes, sir.

1 THE COURT: Ask the jury to come back in.

2 (The jury enters the courtroom.)

3 THE COURT: Based upon what has been presented to the
4 Court, I am going to qualify the witness in the field of
5 pediatric nurse practitioner practicing in the field of
6 child abuse.

7 You may proceed, Solicitor.

8 MR. MCMASTER: Thank you, Your Honor.

9 CONTINUED DIRECT EXAMINATION

10 BY MR. MCMASTER:

11 Q Ms. Schaller, do you know [REDACTED] T.P. ?

12 A I do.

13 Q And how do you know her?

14 A She was a patient of mine that came into the Family
15 Services Center to be evaluated in October 2016.

16 Q And where was that?

17 A The Family Services Center is located inside of
18 Palmetto Health Children's Hospital.

19 Q And could you repeat that date?

20 A I believe it was October 19th, 2016.

21 Q And why was she coming to you?

22 A Law enforcement, at the time, said that there was an
23 allegation of possible sexual abuse that they wanted to be
24 evaluated.

25 Q And in the normal procedure, how do you take these

1 patients in?

2 A Normally, children get referred to us through either
3 DSS or law enforcement. And they'll send in their incident
4 report or their referral about why they want them to be
5 evaluated. And then they're scheduled and we see them.

6 Q And when you see them, tell us a little bit about what
7 you do.

8 A Are you asking -- could you clarify? The medical --
9 actual -- the exam?

10 Q The exam.

11 A The child, at first, gets seen by a child life
12 specialist to kind of get them to be acclimated to the room
13 and the exam. Then I come in with the child life specialist
14 and a nurse. And the child gets a head-to-toe medical exam.
15 I look at all of their skin. I do look at the external
16 genitalia. Also, take photographs of a female genitalia, if
17 needed. And then, also, listen to their heart, lungs.
18 Pretty much, like a pediatrician's exam for the genitalia
19 part. I'm, also, looking at skin very carefully.

20 Q Now, do you look inside of the patient?

21 A I look inside their mouth.

22 Q How about their genitalia?

23 A We do not use like a -- we do not look at the inside.
24 We just look on the outside.

25 Q Do you take any pictures?

1 A I do, yes.

2 Q But it's just of the exterior?

3 A Correct.

4 Q Do you check the patient for anything else?

5 A Depending on the allegation and the disclosure of the
6 patient, I also check for sexually transmitted diseases, if
7 warranted. I'm, also, just kind of checking over the
8 overall health of the individual, both emotionally and
9 medically.

10 Q Now, with T.P., did you test for any DNA?

11 A No, I'm not an acute nurse examiner.

12 Q And what's that mean?

13 A So when children have been -- there's an allegation of
14 sexual assault and it's been within 24 to 72 hours, then
15 they will see an acute nurse examiner, usually, at the
16 hospital. And that is the time when you collect DNA as well
17 as any other -- their clothing for DNA and things like that.
18 She was not in that 72-hour window when I saw her.

19 Q Did you see anything abnormal on T.P.?

20 A Her exam was normal.

21 Q Can you explain the makeup of the female genitalia in
22 terms of elasticity?

23 A So when people talk about female genitalia, one of the
24 things is there's a -- the hymen. It's, also, what people
25 talk about when you talk about virginity.

1 So the hymen is, actually, a membrane that goes around
2 an opening. A lot of people think it's like over a drum, a
3 membrane that goes all the way over it. It's, actually, not
4 like that. It's, actually, kind of like your shirt. So,
5 you have a hole your head through and then the collar is
6 really the hymen. So it's like a doughnut shape, so it goes
7 around an opening.

8 And therefore, when there is -- if there is
9 penetration, it's not like a traumatic bursting or some
10 people talk about popping or something like that. That does
11 not happen because there's not skin that goes all the way
12 over it like a lot of people think.

13 But that membrane that goes around is mucus membrane.
14 It's like the membranes in your cheek in your mouth, so it
15 heals very quickly. "If you were to get an ulcer or kind of
16 bite down on your cheek, within, you know, two days, that's
17 gone and you don't have any scar tissue in your mouth. Even
18 if someone were to take out your wisdom teeth, you don't
19 necessarily have scar tissue and that's a pretty big
20 operation. And that's the same with genitalia. It's quick
21 healing and it, also, doesn't leave scar tissue.

22 Q So it heals quickly. Is there any way to test for
23 virginity?

24 A No, there isn't any way to test -- for example, there
25 was research where they took 38 children who were

1 adolescents 12 to 17 who were pregnant.. So they're pregnant
2 adolescents between 12 and 17 and they had medical exams to
3 their genitalia at about one to three months from the time
4 of injury or alleged abuse and they're genitalia looked
5 normal.

6 MR. MCMASTER: Beg the Court's indulgence.

7 THE COURT: Yes, sir.

8 BY MR. MCMASTER:

9 Q Ms. Schaller, in your examination of [REDACTED] T.P., was it
10 normal for her medical exam to turn out normal?

11 A I expected a normal exam.

12 MR. MCMASTER: No further questions, Your Honor.

13 THE COURT: Cross-examination?

14 CROSS-EXAMINATION

15 BY MR. STEEN:

16 Q Ms. Schaller, when would the exam not be normal?

17 A An exam would not be normal if there were signs of
18 injury, laceration. It would not be a normal exam if the
19 child tested positive for a sexually transmitted disease.
20 It would not be normal if she was pregnant.

21 Q And Miss [REDACTED] T.P. did not test positive for being
22 pregnant, correct?

23 A Correct. She was 10 years old.

24 Q And she did not test positive for gonorrhea, correct?

25 A Right.

1 Q She did not test positive for chlamydia?

2 A Right.

3 Q And what did you say was the healing time?

4 A It really depends on the type of injury, if there is
5 any injury. Most of the time, there is not, but if there is
6 an injury, it depends on the type of injury you were asking
7 about.

8 MR. STEEN: Court's indulgence.

9 THE COURT: Yes, sir.

10 (Pause.)

11 MR. STEEN: No further questions.

12 THE COURT: Redirect?

13 MR. MCMASTER: Yes, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. MCMASTER:

16 Q What percentage of your patients have yielded an
17 abnormal exam?

18 A Eight to 10 percent.

19 Q So in most of these cases, why isn't there an injury?

20 A The reason is because when they see me, it's normally
21 been longer than 10 days since the time of the alleged
22 incident. It's, also, because of the mucosa of the
23 anogenital area is elastic. It's quick healing and it
24 doesn't leave any scar tissue normally.

25 MR. MCMASTER: No further questions, Your Honor.

1 THE COURT: Anything on those questions?

2 RE CROSS-EXAMINATION

3 BY MR. STEEN:

4 Q And this applies to the butt, also?

5 A Yes. Even more so to the anus area because that area
6 normally does open to a larger circumference to allow for
7 fecal matter or bowel movements to come out.

8 MR. STEEN: Thank you.

9 THE COURT: Anything else, Solicitor?

10 MR. MCMASTER: No, Your Honor.

11 THE COURT: You may step down, ma'am.

12 Do you wish the witness to be excused?

13 MR. MCMASTER: Yes, Your Honor.

14 THE COURT: Any objection?

15 MR. STEEN: No, Your Honor.

16 THE COURT: All right, ma'am, you're released from
17 subpoena. You may go back to your regular activities.
18 Thank you.

19 (The witness leaves the witness stand.)

20 THE COURT: Next witness, Solicitor.

21 MR. MCMASTER: Your Honor, the State calls Tiffany
22 Carter.

23 TIFFANY CARTER,

24 after being duly sworn, testified as follows:

25 THE WITNESS: I swear.

1 THE CLERK: You may be seated.

2 DIRECT EXAMINATION

3 BY MR. MCMASTER:

4 Q Tiffany, can you state your name for the record?

5 A Tiffany Carter.

6 Q Can you tell me where you work?

7 A I work at Tender Hearts Academy. It's a daycare. I
8 take care of 12 two-year-olds.

9 Q Do you have a title there?

10 A Teacher/caregiver.

11 Q And how often do you work there?

12 A Five days a week.

13 Q And what's the age group?

14 A Two -- well, they're between 16 months and a month
15 before they turn three.

16 Q Do you have any children yourself?

17 A I have four.

18 Q Can you tell us their names?

19 A Madison [REDACTED], Lane [REDACTED], Summer [REDACTED] and [REDACTED] T.P.
20 [REDACTED].

21 Q So that's from youngest to oldest?

22 A Yes.

23 Q And can you tell me [REDACTED] T.P.'s date of birth?

24 A [REDACTED]/06.

25 Q Tiffany, do you know the Defendant?

1 A Yes.

2 Q Is he a father of any of your children?

3 A My youngest three, Summer, Lane and Madison.

4 Q So that would make him [REDACTED] T.P. 's stepfather?

5 A Yes.

6 Q I want to direct your attention to September 24th,
7 2016. Do you remember that day?

8 A Yes.

9 Q And can you tell me where you were?

10 A I was at home with the four kids, with my four kids.

11 Q And where was that?

12 A Pageland Highway.

13 Q In Lancaster?

14 A Yes.

15 Q And what were you doing?

16 A I was cooking the kids some food for breakfast.

17 Q And you said the four kids were there?

18 A Uh-huh.

19 Q And where was the Defendant?

20 A He was gone working on a Trail Blazer that he was,
21 supposedly, supposed to be buying for me. That was -- he
22 was gone. He left at like 8:00 o'clock that morning.

23 Q And did you call the police that day?

24 A Yes, I did.

25 Q Now, without telling us what anybody said, what made

1 you call the police?

2 A I had a conversation with my daughter, [REDACTED] T.P.,
3 that made --

4 Q Where was that?

5 A It was -- we were in the kitchen.

6 Q Was she in the kitchen before that?

7 A No. She was in the tub.

8 Q So when did you see [REDACTED] T.P. ?

9 A When she come into the kitchen.

10 Q And what did she look like?

11 A She was still wet. She had just got out of the
12 bathtub. She was still wrapped in her towel. She was
13 visibly upset. She was shaking. She was crying her eyes
14 out. She was a disaster.

15 Q And what did you do next?

16 A I had a conversation with her that made me feel like I
17 needed to immediately call the police.

18 Q Okay.

19 MR. STEEN: Objection.

20 THE COURT: I'm going to allow that particular
21 question.

22 BY MR. MCMASTER:

23 Q And after you called the police, what did you do?

24 A We left the home. I packed up what I could fit into --
25 we had the big lawn trash bags. I packed up what I could

1 fit into one of those. I put it in the trunk of my sister's
2 car and we left.

3 Q And where did y'all go?

4 A To my sister's house.

5 Q How much did you pack up?

6 A Basically, it was just enough clothes to get the kids
7 through enough -- you know, just a few days.

8 Q And after your sister's house, where did y'all go?

9 A To Piedmont Medical Center. I was instructed by DSS to
10 have her taken to Piedmont Medical Center in Rock Hill.

11 Q Did she have an exam?

12 A They just looked her over, did a physical exam and
13 spoke with her.

14 Q Now, when you returned back to that house -- did you
15 ever return back to that house?

16 A It was either the next day or two days later, I had a
17 police escort to go get some more things. David Carter was
18 not there, but we went in -- me and my sister went in and
19 same thing, grabbed just the essentials for what the kids
20 needed. And that's whenever I noticed --

21 Q Describe the house.

22 A It was a mess. Overall, there wasn't much difference
23 throughout the entire house except for [REDACTED] T.P. 's bedroom.

24 Q And what was different about [REDACTED] T.P. 's bedroom?

25 A Her bed was pulled away from the wall completely. She

1 had a queen-size bed. It was pulled almost into the center
2 of the bedroom. Her dresser drawers were pulled out. She
3 had boxes and bags. She's a pack rat. She has stuff packed
4 everywhere. All of that was pulled out. Her closet was
5 completely disheveled. I mean, everything was a mess.
6 Everything was pulled out, not anything like how it was when
7 we left.

8 Q And how did it look compared to the other rooms of the
9 house?

10 A Everything else looked not much more -- I mean, not
11 much worse than how it was when we left.

12 Q Now, that was the house on which road?

13 A Pageland Highway.

14 Q Do you remember how long y'all live there?

15 A From January of 2016 until the day I left, September
16 24th.

17 Q And can you remind the jury where you lived before
18 that?

19 A We lived on Duckwood Road and Caskey Street in Heath
20 Springs.

21 Q Now, before this incident, had you noticed a change in
22 T.P.'s behavior?

23 A She had started to become more withdrawn, didn't
24 interact with her brother and sisters as much anymore. She
25 stayed in her room the majority of the time. She loves

1 school. She started talking about how she didn't like
2 school. She wasn't really sleeping well. She'd wake up in
3 the morning and she'd have dark circles around her eyes.

4 Q So those were some physical differences you noticed,
5 too?

6 A Yes, sir.

7 Q Any other physical differences?

8 A She had started to physically develop in the manner of
9 puberty.

10 Q Was she acting differently around y'all as well,
11 friends and family?

12 A It was just kind of hit or miss. Some days, she was
13 okay, acting like her old self. Then some days, she was
14 snappy at everybody, refused to play with her brother and
15 sisters. She started talking back. And at that time, I
16 just kind of assumed it was hormones from her starting
17 puberty.

18 Q Did you ever think to get her checked out by a
19 counselor or therapist?

20 A I had taken her to the doctor once or twice for her
21 headaches. Headaches run on my mom's side of the family.
22 Hers had started getting to the point where it was affecting
23 her daily functioning whenever she would have one. It was,
24 basically, a full blow migraine.

25 I took her to the doctor and they would say that it was

1 stress, even though I told them there was a family history.
2 At first, they told me to change her diet, no caffeine, no
3 cheese, cut out dairy. And then they said it could possibly
4 be stress, suggested I take her to a therapist. I was on
5 board, but David Carter refused, said that he thought they
6 were put her on medication.

7 MR. STEEN: Objection.

8 THE COURT: Sustained.

9 BY MR. MCMASTER:

10 Q So was T.P. acting differently than any other of your
11 children?

12 A Um --

13 Q Were any of the other children acting in similar ways?

14 A No.

15 Q When did this start getting better, her behavior?

16 A When did it start getting better?

17 Q When did you notice a change in her for the better, a
18 change in her behavior?

19 A A few months after we left the house.

20 Q Now, your marriage with the Defendant, how long has
21 that been?

22 A Up until the day I left, we had been married nine and a
23 half years.

24 Q And when did y'all start dating?

25 A In April of 2007.

1 Q 2007?

2 A Uh-huh. We got married October 19th, 2007.

3 Q And how long had you known the Defendant?

4 A We started going to school together when we were in
5 fifth grade and we knew each other in middle school and high
6 school.

7 Q Now, as husband and wife, what was the extent of your
8 sexual relations?

9 A What do you mean?

10 Q Did y'all have sex regularly?

11 A It was kind of back and forth.

12 Q Do you think that's normal for a marriage?

13 A Yes.

14 Q Did it ever change over time?

15 A Towards the end, yes.

16 Q Now, are you familiar with the Defendant's body?

17 A Yes.

18 Q Do you know if he has any markings on him?

19 A He has tattoos.

20 Q Are you familiar with those tattoos?

21 A Uh-huh.

22 MR. MCMASTER: Beg the Court's indulgence.

23 (Pause.)

24 MR. MCMASTER: Judge, I'd like to premark these.

25 THE COURT: Go ahead.

1 (WHEREUPON, State's Exhibit Nos. 4, 5, 6 were marked
2 for identification only.)

3 BY MR. MCMASTER:

4 Q Tiffany, I just handed you three pictures. Can you
5 tell me what those are pictures of?

6 A Those are pictures of David's body and a few of his
7 tattoos.

8 Q Have you seen those tattoos before?

9 A Yes.

10 Q How?

11 A Whenever he's been naked around me.

12 Q Is that a true and accurate representation of David's
13 tattoos?

14 A Yes.

15 MR. MCMASTER: Your Honor, at this time, I would move
16 to put State's Exhibits --

17 THE COURT: Is that Nos. 4, 5 and 6?

18 MR. MCMASTER: Yes, sir. Into evidence and publish to
19 the jury.

20 THE COURT: Those are the exhibits you were looking at,
21 looking at the stickers, ma'am?

22 THE WITNESS: Yes.

23 THE COURT: Any objection?

24 MR. STEEN: No, Your Honor.

25 THE COURT: State's Exhibit Nos. 4, 5 and 6 are in

1 evidence without objection.

2 (WHEREUPON, State's Exhibit Nos. 4, 5 and 6 were
3 admitted into evidence.)

4 MR. MCMASTER: Your Honor, I was going to pass them to
5 the jury.

6 THE COURT: You may publish them.

7 BY MR. MCMASTER:

8 Q Tiffany, as parents, did you and the Defendant ever
9 teach your children about sex?

10 A No.

11 Q Did y'all ever talk about sex around them?

12 A Not outright, no.

13 Q What do you mean not outright?

14 A We would kind of just -- like code words or innuendos,
15 not outright.

16 Q And did you use some of those very often?

17 A Yes.

18 Q And what was that word?

19 A Medicine.

20 Q And can you explain how that came about?

21 A It started -- he started it. He would say that he was
22 going to give me medicine. And that was like his way of
23 suggesting sexual interaction.

24 Q And was that a way to keep the children from knowing
25 what you were talking about?

1 A Yes.

2 MR. MCMASTER: Beg the Court's indulgence.

3 (Pause.)

4 BY MR. MCMASTER:

5 Q And Tiffany, earlier, you said you lived at Duckwood --
6 on Duckwood Road?

7 A Yes.

8 Q Do you remember the dates?

9 A I believe it was October of 2015 until January 2016,
10 and that's when we moved into Pageland Highway.

11 Q Okay. And before Duckwood Road, you lived on Caskey
12 Street in Heath Springs?

13 A Yes.

14 Q Do you remember the dates of that?

15 A Yes, we signed on our house the end of April 2011, and
16 we lived there until October 2015.

17 Q And you said you're familiar with the Defendant's body?

18 A Yes.

19 Q Besides tattoos, did he have any other kind of marks or
20 scars?

21 A He has a scar across his stomach where he had umbilical
22 hernia surgery.

23 MR. MCMASTER: No further questions, Your Honor.

24 THE COURT: Cross-examination.

25 MR. STEEN: Thank you, Judge.

CROSS-EXAMINATION

BY MR. STEEN:

Q You stated that he had a scar on his stomach?

A Yes.

Q And what's that from?

A Umbilical hernia surgery.

Q And when was that surgery?

A I believe it was in 2015. We still lived on Caskey Street.

Q Do you remember how long Mr. Carter was out of work for that surgery?

A I do not. Maybe a month.

Q Tiffany, when's the last time that you had employment before your current job?

A I think it had been two years.

Q And where was that?

A Tender Hearts Academy.

Q Prior to Tender Hearts Academy?

A I have been at Tender Hearts Academy for five years on and off. I quit from there twice. I started there in 2013 after Madison was born. She was like four months old.

Q And before that?

A I worked at -- I don't remember.

Q But you would agree that you were a homemaker, first and foremost?

1 A On and off, yes.

2 Q During what periods would you classify yourself a
3 homemaker?

4 A After I had Lane in 2011 until Madison was four months
5 old in 2013. I worked there a year and a half, I believe.
6 And then I stopped working there. And then I started back
7 again in 2016 after I left the home.

8 Q What about David, did he work while y'all were married?

9 A Not reliably.

10 Q But did he work?

11 A Yes.

12 Q Can you tell me, was he working on December 24th, 2016?

13 Not on that specific date --

14 A You mean September 24th?

15 Q -- was he currently employed at that time?

16 A On September 24th?

17 Q Yes, of '16?

18 A Not to my knowledge. His last job was at Heritage. He
19 drove a dump truck. He quit because he said he couldn't get
20 along with his boss.

21 Q You stated that y'all have a normal sex life, that's
22 how you would classify it?

23 A I suppose so.

24 Q And y'all usually had code words instead of openly
25 discussing sex?

1 A That's right.

2 Q Have you ever acted vulgar around your children in a
3 sexual manner?

4 A I'm not sure.

5 Q Have you ever danced provocatively around your children
6 in a sexual manner?

7 A Twice.

8 Q Are you aware of a journal that T.P. --

9 A I am.

10 Q Tell me about this journal.

11 A Since T.P. had started developing physically -- she
12 does not do well with blood, so I thought it was necessary
13 to educate her on the basics of puberty so when she did get
14 to that point where she started having her menstrual cycle,
15 she would not panic, especially if she was at school.

16 Q And when did this journal/education begin?

17 A 2016.

18 Q When in 2016?

19 A I don't remember the exact dates. We were living on
20 Pageland Highway whenever we started it. That was right
21 after I started noticing the changes in her attitude and her
22 physical development.

23 Q And this journal, y'all would communicate back and
24 forth?

25 A Right.

1 Q Is that correct?

2 A Yes.

3 Q She would write a question in it and give it to you and
4 you would answer it and give it back to her?

5 A Yes.

6 Q To try to, I guess, take away some of the awkwardness
7 of stuff like that?

8 A Right.

9 Q Do you currently have this journal?

10 A No, I do not. David Carter turned it into DSS when all
11 of this started.

12 Q Are you aware of a tattoo located on Mr. Carter's
13 thigh?

14 A Yes.

15 Q You are?

16 A Yes.

17 Q Do you have the pictures still in front of you?

18 A No, I do not. He passed them over there.

19 MR. STEEN: Your Honor, may I?

20 THE COURT: Yes, sir.

21 THE WITNESS: It's not necessarily on his thigh. It's
22 on his lower abdomen.

23 BY MR. STEEN:

24 Q Is it in these pictures?

25 A Yes.

1 Q Will you point it out for me, Ms. Carter?

2 A It's this one. It's also in that picture.

3 THE COURT: All right. You need to say the numbers.

4 MR. STEEN: I apologize.

5 THE WITNESS: It's in 4 and 5.

6 BY MR. STEEN:

7 Q Will you please point directly to it for me?

8 A No. 5 (indicating).

9 Q Will you point to where the jury can see where you're
10 pointing at?

11 A This tattoo right here (indicating).

12 Q So referring to your name tattoo?

13 A Right.

14 Q So not in the vicinity of the thigh?

15 A No, it's not there on the thighs. It's right there on
16 his lower abdomen.

17 Q Thank you. When you went back to the Pageland Highway
18 home to get your belongings, did you take any pictures or
19 anything of the house that day?

20 A You mean when I had the police escort and I noticed
21 T.P. 's room?

22 Q Yes.

23 A Yes, I did. I took two pictures of her bedroom.

24 Q Did any law enforcement go in there with you?

25 A The officer that went out with me did. I had him come

1 back in and look at the bedroom. But I do not know what his
2 name was.

3 MR. STEEN: No further questions.

4 THE COURT: Redirect?

5 MR. MCMASTER: Briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. MCMASTER:

8 Q Tiffany, you said for a while, you were a housewife?

9 A Yes.

10 Q What all does that entail?

11 A I got up in the morning, fixed the kids' breakfast.
12 Everything they needed during the day, I mean, everything it
13 takes to be a momma to take care of the kids from the time I
14 got up till the time I went to bed and in the middle of the
15 night, I mean.

16 Q So was it full time?

17 A Yes.

18 Q Did you have time to do anything else?

19 A No.

20 Q Would you have had time to do anything else?

21 A No.

22 Q Those two times that you said you were dancing
23 provocatively, why were you doing that?

24 A Because David Carter had asked me to send him a video
25 of me dancing.

1 Q And did you do it?

2 A Yes.

3 Q And were y'all married at the time?

4 A Yes, we were.

5 Q The journal that you had with [REDACTED] T.P., who else would
6 read it?

7 A No one.

8 Q So it was just between y'all two?

9 A That's right.

10 MR. MCMASTER: No further questions, Judge.

11 THE COURT: Anything on those questions?

12 MR. STEEN: No further questions, Your Honor.

13 THE COURT: You may step down.

14 (The witness leaves the witness stand.)

15 THE COURT: Who's your next witness, Solicitor?

16 MS. MCMAHON: Your Honor, the State calls Allison
17 Foster.

18 ALLISON FOSTER,

19 after being duly sworn, testified as follows:

20 THE WITNESS: I do.

21 THE CLERK: You may be seated.

22 DIRECT EXAMINATION

23 BY MS. MCMAHON:

24 Q Ms. Foster, where are you currently employed?

25 A I have two positions. So one position, I work for the

1 South Carolina Department of Mental Health, where I am --
2 I'm out of breath, excuse me, chief psychologist for the
3 Metropolitan Children's Advocacy Center in Columbia. And
4 I've worked there for 23 years now. Then I have a private
5 practice as a forensic psychologist and I conduct
6 court-ordered, like, custody evaluations, parenting
7 evaluations. I review cases and consult with attorneys in
8 Family Court and criminal matters.

9 Q And what's your educational background?

10 A So starting with college, I went to Emory University in
11 Atlanta, graduated with a degree in psychology in 1988. And
12 then I worked for a year at a residential treatment facility
13 for adolescents. And then I entered the University of South
14 Carolina in Columbia, the Ph.D program in clinical
15 psychology and graduated with a Ph.D in clinical psychology
16 in the spring of 1996.

17 Q And do you hold any licenses or anything like that?

18 A Yes. So, since 1997, I've held a license as a licensed
19 clinical psychologist in the State of South Carolina.

20 Q And about how many clients or patients have you seen?

21 A So, as a forensic interviewer, over 2,000 children and
22 adolescents. For treatment, probably several hundred. And
23 then for other court-ordered evaluations, I would say
24 several hundred more.

25 Q How many times have you testified in court?

1 A Hundreds. So probably for criminal court across
2 general sessions in South Carolina, court's marshall for the
3 Army, the Navy, the Air Force, other jurisdictions outside
4 of South Carolina, I would say maybe 150 to 200 times. And
5 then Family Court would be probably double that number.

6 Q Have you written any articles, done any trainings or
7 taught anything?

8 A So I do a lot of training. I'm a senior faculty for a
9 five-day training course called Child First where we teach
10 law enforcement officials, child protective service workers,
11 forensic interviewers and medical providers in child abuse,
12 just information about child abuse dynamics, children's
13 development language, forensic interview protocols and other
14 related matters. So I've done that for about 18 years now
15 three to four times a year. And then, of course, I do
16 seminars and different things at national child abuse
17 conferences or regional child abuse conferences.

18 And I guess the other thing I would mention, I'm an
19 assistant -- it's called a DMA assistant professor with the
20 medical school, so that's the University of South Carolina
21 School of Medicine, Department of Neuropsychiatry and
22 Behavioral Science.

23 And then you asked about publications, I published a
24 book chapter in 2016 on evaluation of mental illness and
25 parents and custody evaluations.

1 Q What is your main focus in your practice?

2 A Child abuse evaluations.

3 Q Do you deal with child abuse dynamics at all or delayed
4 disclosure?

5 A Certainly, yes.

6 Q Do you have any knowledge or training of child abuse
7 accommodation syndrome?

8 A Yes.

9 Q What's your training and experience in that?

10 A It goes all the way back to the mid-1990s when I first
11 became affiliated with our children's advocacy center. And
12 throughout my professional career, I've continued to obtain
13 continuing education in child sexual abuse dynamics, child
14 development, the issues around delayed disclosure and
15 responses to child maltreatment and how those responses can
16 affect outcomes for children.

17 So as a psychologist, we have to get continuing
18 education every year. And then, of course, I'm a trainer as
19 well, so I keep up with the literature.

20 Q Just out of curiosity, how many hours of continuing
21 education do you have to have a year?

22 A Twenty-four.

23 Q So do you know anything about this case you're here for
24 today?

25 A No.

1 Q Have you discussed this case with anybody?

2 A No.

3 Q When you were sitting out back with Ms. Schaller, did
4 you discuss this case at all?

5 A No.

6 Q Have you interviewed the victim in this case?

7 A I have not.

8 Q Have you counseled the victim in this case?

9 A No.

10 Q Do you even know the victim's name?

11 A I do not.

12 Q Have you evaluated this case in any way, shape or form?

13 A No.

14 Q And when you were talking earlier about child abuse
15 dynamics and delayed disclosure, is there a scientific
16 method that you can apply to that?

17 A Say again.

18 Q Like, for just child abuse in general, is there a
19 scientific method at all that can be applied to that?

20 A I would say yes and no. So we have peer reviewed
21 research that has studied -- I mean, across studies, you're
22 talking about thousands of cases across 30 plus years that
23 have been analyzed to assist us in understanding behavioral
24 dynamics responses, behavioral correlates to trauma, to
25 child abuse experiences. There's a whole body of knowledge

1 on memory and suggestibility and linguistics.

2 So there's a wide array of what I would say are
3 psychological principles that are researched and then
4 applied to the field. But it's not a quantitative process.
5 It's not like a formula where you can put a numerical
6 property to things and add it up and get a number or
7 something like that.

8 MS. MCMAHON: Your Honor, at this time, the State would
9 ask to qualify Ms. Foster as a blind expert in the field of
10 child abuse dynamics and delayed disclosure pursuant to
11 State v. Brown.

12 THE COURT: Do you wish to voir dire the witness or
13 challenge her qualifications?

14 MR. STEEN: No, Your Honor.

15 THE COURT: All right. So I'm going to qualify her in
16 the field of child abuse dynamics, delayed reporting and
17 responses to treatment.

18 You may proceed.

19 BY MS. MCMAHON:

20 Q And I'm sorry, Ms. Foster, do you have a Ph.D?

21 A Yes.

22 Q So you're a doctor?

23 A I'm Dr. Foster, yes.

24 Q My apologies. Dr. Foster, what is child abuse
25 accommodation syndrome?

1 A Child abuse accommodation syndrome, or, typically, it's
2 called child sexual abuse accommodation syndrome, is a set
3 of five behavioral components that are evident in not every
4 case, but as a pattern of common behavioral characteristics
5 in cases involving what, in our field, we call chronic child
6 maltreatment. Usually, child abuse where the offender is an
7 adult, family member, like a parent or a stepparent. And so
8 it has five features, if you want me to break that down.

9 Q Sure. Would you break that down for us?

10 A Sure. Secrecy, as sort of a fundamental aspect of the
11 relationship dynamics between the offender and the victim.
12 Moves into the concept of helplessness. So what is it that
13 causes a child to feel helpless, to act in a way, like, to
14 fight or to flee or to cry out. So once that secrecy stage
15 has been set and a pattern of behavior has occurred and a
16 child has sensed that they are helpless to navigate out of
17 it, they're into that behavioral component of helplessness.
18 That's the second piece.

19 The third piece is what we call entrapment or
20 accommodation. And that, essentially, has to do with the
21 fact that you still have to get on with the business of
22 life. So you may not be able to -- a child could perceive
23 or a domestic violence victim could perceive, I mean,
24 there's many things that one can perceive that they're
25 trapped in, but they still have to get up and go to school,

1 go to church, make friends, do their homework, their chores,
2 et cetera. So there can be a long period of what's called
3 entrapment and accommodation.

4 Then the fourth stage that may emerge is what we call
5 the delayed disclosure phase.

6 Q Could you get a little bit into the delayed disclosure
7 for us?

8 A Yes. The delayed disclosure, like it sounds, means
9 that there is finally a report, a revealing of what's
10 happening by the child. And the idea is that it's coming at
11 a belated time. So it's not immediately after the first
12 event, but rather, that a number of things happened, there's
13 been maybe a space of time and then the child has finally
14 decided that there's somebody that they can tell. And then
15 they test the waters, which in our field, we recognize that
16 disclosure happens as a process. So it's unlikely -- after
17 a long period of secrecy and helplessness and accommodation,
18 it is unlikely that everything comes out at once, but rather
19 that they begin to disclose.

20 Q And in your field, do you find that delayed disclosure
21 is common or uncommon?

22 A It is common. It's the most typical pattern.

23 Q And you might have already addressed this, and I
24 apologize, what kind of behaviors do they exhibit -- do
25 children of child abuse exhibit?

1 A Sure. You mean like during the accommodation phase --

2 Q Yes.

3 A -- like, when it's still suppressed? So studies have
4 looked at -- you know, going back and looking at what are
5 behavioral symptoms that may have been there during the
6 accommodation phase, but nobody understood what they were
7 attached to. And it can run the gamut from what we call
8 externalizing behavior problems, that can be acting out,
9 that can even include some sexual acting out, just
10 difficulty controlling emotional outbursts, feeling
11 irritated, frustrated, that kind of thing, aggressive.

12 The flip side is what we call internalizing symptoms,
13 anxiety, depression, feeling isolated, feeling lesser than
14 or different from others.

15 So there's a gamut. So often people looking back will
16 say, oh, now, I understand something that I didn't
17 understand before I knew.

18 Q Could children exhibit both internal and external?

19 A Oh, yes, definitely.

20 Q And is there any research or anything that supports the
21 concept of delayed disclosure?

22 A Yes.

23 Q What is that?

24 A Well, quite a bit. There's a study that's often cited,
25 Stephen Seese [ph], Kumala London and other authors, Maggie

1 Braet [ph]. They did what's called a meta analysis where
2 they looked at about 30 years of research looking at the
3 components of child sexual abuse accommodation. And one of
4 their most robust findings was that the majority of
5 confirmed cases included a significant delay prior to
6 disclosure. So it supported the idea of accommodation and
7 delayed disclosure as a typical pattern.

8 Q What is interfamilial abuse?

9 A Interfamilial abuse means abuse within the family.

10 Q And how common is that?

11 A It's the most common.

12 Q And how do children typically handle interfamilial
13 abuse?

14 A With accommodation, with -- there are a lot of motives
15 that children have to suppress detection of the problem. So
16 in other words, to the extent that a child understands that
17 what is happening is wrong or what is happening might land
18 them in trouble or what is happening might land the offender
19 in trouble. They recognize that there could be negative
20 consequences to the detection.

21 So they are motivated to suppress detection, to kind of
22 go along with the secret keeping often. They worry about
23 things like the effect on their unsuspecting other parent.
24 They worry about effects on siblings. They worry about
25 breaking up the family. They may worry about going to

1 foster care themselves.

2 Q And you said the interfamilial abuse is fairly common.
3 Is the person -- the abuser, are they typically an authority
4 figure or somebody they trust or what are they?

5 A Yes. And I failed to mention, that's a whole other
6 part of the complex for interfamilial abuse is that most
7 often, it's somebody with authority. It's also somebody
8 who's loved. It's somebody for whom the child feels
9 accommodation usually. Like all of us are wired to towards
10 our parents is to feel love, loyalty, some dependence and,
11 frankly, a little bit of fear, also, because that's the
12 authority figure who tells us whether what we're doing is
13 right or wrong.

14 Q And is there such a thing as partial disclosure?

15 A Yes.

16 Q What is that?

17 A So as I commented earlier, after a period of
18 suppressing information, feeling helpless to get out of it,
19 a child may move into disclosure. But partial disclosure
20 speaks to the fact that we do -- typically, it's not going
21 to all come out in one package. They may test the waters.
22 They may tell a little bit to somebody and sort of see what
23 the response is. And depending on what that response is,
24 they may come out with more or they may, in fact, recant.

25 Q Why may a parent not pick up partial disclosure?

1 A Pick up on?

2 Q Why may a parent not end up picking up on partial
3 disclosure?

4 A Because children sometimes may feel that they're saying
5 more than they are, that's one part. Like, for example,
6 it's typical for me to hear about children who report that
7 they told a parent, but, really, if you ask the parent, the
8 parent says well, he said so and so was messing with them,
9 but there was sort of room for misinterpretation between
10 what the child felt he or she was saying and what the parent
11 was wanting to hear or hearing. So sometimes it's
12 miscommunication. The child thinks they're being clear, the
13 parent is not hearing it.

14 Beyond that, it can be what we would call cognitive
15 dissonance in psychology, which is what you're telling me
16 can't be true. And that's -- that's a bit different
17 response, but that's really kind of a sense of denial and
18 shock that can sort of interfere with the parent's ability
19 to hear something negative about somebody they love or
20 trust.

21 Q In your experience, is there cognitive dissonance with
22 the parents once they've been disclosed to?

23 A Oh, yeah. Yes, of course. I'm taking the assumption
24 that it's an offender who's a family member, somebody who's
25 a trusted part of the family and the community, clearly, you

1 don't expect that person to betray the station and abuse the
2 child. So it upsets the nonoffending caregiver's whole
3 sense of who that person might be. And that's very
4 difficult.

5 Q Is the way a child expresses themselves in speech
6 different as they age?

7 A Yes.

8 Q Could you explain that a little bit?

9 A Sure. Younger child, the less vocabulary they have and
10 the less they can understand about a lot of things,
11 including sexuality because they shouldn't be thinking about
12 those things or have any knowledge of it. So they have
13 limited language. They're concrete. They're literal.
14 There's lot of stuff they don't really understand what makes
15 it bad or wrong or what's going on even.

16 And then as children get older, all of those things are
17 evolving. So children's language skills improve. They get
18 more and more of a new understanding of relationships and
19 who's responsible for what, what's really happening. So
20 their moral development changes, their language changes, the
21 depth of their understanding changes. And all of those
22 things affect what they say and how they say it.

23 Q Does a victim of abuse have issues with, for lack of a
24 better term, I guess, interpersonal space with people later
25 on?

1 A Sometimes, yes. That's kind of a common feature that
2 therapists have to work with with children who have
3 experienced violations of boundaries. They don't really
4 know. Because if they've experienced violations of
5 boundaries, they may not know what are socially appropriate
6 boundaries and what are not.

7 Q So they may or may not know what is socially acceptable
8 behavior after all these things have occurred to them?

9 A Right. That's what we call traumatic sexualization,
10 but it's the learning of -- frankly, it's the learning of
11 inappropriate boundaries. It's the learning of
12 inappropriate sexual relationship. In other words, wrong
13 age, wrong relationship, wrong power dynamics. But then how
14 are they to know what would be correct?

15 Q Is that something you work on them with to try to
16 correct that?

17 A Yes, in treatment, yes.

18 Q Typically, how -- does that treatment vary based on the
19 individual or is there sort of a timeline for that?

20 A Well, it will vary based on the individual, age of the
21 child. It might include psychoeducation, just kind of
22 helping them learn, maybe doing experiential things to
23 practice boundary, awareness and even role playing of
24 appropriate ways to manage boundary violations and
25 assertiveness and the like.

1 As therapy has moved forward in time and we have more,
2 what we call, manualized treatments that help therapists
3 with stages to therapy and different activities that they
4 can do with children, depending on their ages.

5 Q Are children of all ages affected by this boundary
6 issue?

7 A Yes.

8 Q Are even adults affected by this?

9 A By boundary?

10 Q Yeah, like adult victims of abuse, do they have
11 boundary issues as well?

12 A Yes. That's a common -- I can't say that all victims
13 are any one way, okay. There's lots of variability, but in
14 terms of looking at common themes that have to do with
15 interpersonal violence and violations of interpersonal
16 boundaries, that's a common feature.

17 MS. MCMAHON: Court's indulgence, Your Honor.

18 THE COURT: Yes, ma'am.

19 (Pause.)

20 MS. MCMAHON: Nothing further, Your Honor.

21 THE COURT: Cross-examination?

22 MR. STEEN: No questions, Your Honor.

23 THE COURT: All right. Very good.

24 Do you wish the witness to be excused?

25 MS. MCMAHON: Yes, Your Honor.

1 back in. Solicitor, you can tell me that the State rests.
2 At that point, I'll just inquire of the Defense if there's a
3 matter of law before the Court and you'll tell me yes and
4 I'll just explain the situation to the jury. I'll excuse
5 them until tomorrow and then we can go forward with the
6 Jackson V. Denno hearing.

7 Ask the jury to come back in, please.

8 (The jury enters the courtroom.)

9 THE COURT: All right, Solicitor, further witnesses on
10 behalf of the State?

11 MS. MCMAHON: None, Your Honor. At this point, the
12 State rests.

13 THE COURT: With the State resting, are there matters
14 of law the Defense would have at this time?

15 MR. STEEN: Yes, Your Honor.

16 THE COURT: All right. Very good.

17 All right, Mr. Foreman, ladies and gentlemen, at this
18 stage of the proceedings in every criminal case that is
19 tried, when the State ends it's initial presentation of
20 evidence, there are matters of law that I have to discuss
21 with the attorneys and motions I have to hear at that point
22 in time. That will take a little bit of time. Also, I
23 agreed to accommodate some out-of-county lawyers and
24 witnesses in another matter. I'm going to do that this
25 afternoon.

1 If you cannot abide by these orders, you can leave the
2 courtroom now before the jury comes in. If anyone wishes to
3 leave, please, do so, otherwise, you are bound by the
4 Court's order.

5 Thank you very much.

6 Bring the jury in.

7 (The jury enters the courtroom.)

8 THE COURT: Mr. Foreman, has the jury reached a
9 unanimous verdict in these three matters?

10 THE FOREPERSON: We have, Your Honor.

11 THE COURT: Could you have the verdict forms to the
12 Clerk, please, sir?

13 You may publish the verdicts.

14 VERDICT

15 THE CLERK: Thank you, Your Honor.

16 Case 2017-GS-29-36, the State of South Carolina, County
17 of Lancaster vs. David Matthew Carter, on the charge of
18 criminal sexual conduct with a minor in the first degree
19 between the dates of May 1st, 2011, and October 31, 2015, at
20 [REDACTED], Heath Springs, South Carolina, we, the
21 jury, by unanimous consent find the Defendant guilty.
22 Signed Thomas Birdsall, dated May 24th, 2018.

23 State of South Carolina, County of Lancaster vs. David
24 Matthew Carter, 2017-GS-29-37, on the charge of criminal
25 sexual conduct with a minor in the first degree between the

1 dates of October 31st, 2015, and January 31, 2016, at [REDACTED]
2 [REDACTED], Lancaster, South Carolina, we, the jury, by
3 unanimous consent find the Defendant guilty. Signed
4 Foreperson Thomas Birdsall, dated May 24th, 2018.

5 State of South Carolina, County of Lancaster vs. David
6 Matthew Carter, 2017-GS-29-38, on the charge of criminal
7 sexual conduct with a minor in the first degree between the
8 dates of January 1st, 2016, and September 30th, 2016, at
9 [REDACTED], Lancaster, South Carolina, we, the
10 jury, by unanimous consent find the Defendant guilty.
11 Signed Foreperson Thomas Birdsall, dated May 24th, 2018.

12 Ladies and gentlemen of the jury, if this be your
13 verdict, so say you all by the raising of your right hands.

14 Let the record reflect all jurors raised their right
15 hands.

16 THE COURT: Thank you, sir.

17 The jury having affirmed their verdict by the raising
18 of their hand, does the State wish the jury polled?

19 MS. MCMAHON: No, Your Honor.

20 THE COURT: Does the Defense wish the jury polled?

21 MR. STEEN: Yes, Your Honor.

22 THE COURT: Mr. Clerk, if you will poll the jury by
23 calling of their juror number, please.

24 THE CLERK: Juror No. 18, is this your verdict and is
25 this still your verdict?

1 Further motions from the Defense?

2 MR. STEEN: No further motions, Judge.

3 THE COURT: Is the State ready to proceed to
4 sentencing?

5 MS. MCMAHON: Yes, Your Honor.

6 THE COURT: Defense?

7 MR. STEEN: Yes, Your Honor.

8 THE COURT: Very good.

9 Solicitor, be glad to hear from you, ma'am.

10 MS. MCMAHON: Yes, Your Honor. You've heard the facts
11 of the case. You sat through the whole trial. You
12 understand the issues that were going on and what Miss
13 T.P. testified to and what she said she was a victim of.

14 I'm not sure who exactly wants to speak to you, if you
15 could just give me one -- Court's indulgence on that.

16 THE COURT: Yes, ma'am.

17 (Pause.)

18 MS. MCMAHON: Your Honor, Mr. Kellin would like to
19 speak on behalf of Miss T.P. as her counselor.

20 THE COURT: Very good.

21 Again, state your name for the record, sir. Be glad to
22 hear from you.

23 MR. KELLIN: My name is David Kellin. I'm speaking on
24 behalf of T.P. as her counselor. I've been
25 thinking about what I would normally say in a situation like

1 this. And I normally come in and talk about how the child
2 has to go through life with all sorts of stuff because of
3 what happened. But I thought this morning it was better to
4 talk about what I heard.

5 There was a lot of things that were said about him
6 being a dad. And when I thought about that this morning, I
7 thought about what does a dad do. A dad helps a child
8 become everything they can be. So I'm sitting here thinking
9 about what is it that dads do for kids. And I've heard him
10 say he did everything he needed to do as a dad. But where
11 was the love for [T.P.]? Where was the care of [T.P.]?
12 Where was he when she was in school getting awards and doing
13 those things to help encourage and build her up? The image
14 and the reaction that he gave as a father was not what I
15 would expect of a father because what she ends up growing up
16 with is believing that she is just parts to him. That she
17 is just an object that he can use. That's not what fathers
18 do to help their little girls. He didn't function as a
19 father. He didn't function as anything that would help her
20 to understand what a man is, for something she would look
21 for when she moved on in life.

22 And that's an impact that carries on with her, that
23 carries on with how she sees men. Does she go forward now
24 thinking that men just want her for her body? And I'm
25 grateful knowing that she's not thinking that now. We've

1 been able to help her with that. And thinking about what
2 [REDACTED] T.P. has told me and how she thinks about this whole
3 situation. And think back to time after time after time
4 that she doesn't want anything ever to do with him again.
5 She wants him out of her life forever.

6 Now, however long that sentence needs to be for that
7 happen, that's what she, I think, would ask of you. What I
8 will say is not only out of her life, but I am asking you to
9 not let him consider himself a daddy to this child. He is
10 not her father. He is not her dad and never will be and
11 should never have any contact with her or any kids again.
12 That's just what I -- working with [REDACTED] T.P., that message has
13 come over and over and over again from her. She wants
14 nothing to do with him. He is no longer anything to her.
15 Thank you.

16 THE COURT: Thank you, sir.

17 Anything further from the State?

18 MS. MCMAHON: Your Honor, Ms. Tiffany would like to
19 speak to you.

20 THE COURT: Yes, ma'am. State your full name for the
21 record. Be glad to hear from you.

22 TIFFANY PARKER: My name is Tiffany Parker. The
23 Defendant was supposed to be someone that would help me
24 protect my children, not just [REDACTED] T.P., but the other three,
25 also. He stole [REDACTED] T.P.'s innocence. He's been there since

1 she was 11 months old.

2 The earliest that she can remember is about five years
3 old. We don't know if it started before that, that's just
4 the earliest that she can remember. She looked up to him.
5 He was supposed to, like I said, the one that was supposed
6 to protect her. Her biological father has never been there.

7 Not only does this affect T.P., he took not only the
8 person who T.P. was supposed to be able to depend on, but
9 the other children, too. They don't even refer to him as
10 their dad anymore. This has destroyed them. Summer is
11 terrified of him because now she knows what he is capable of
12 doing to her sister. What else is he capable of doing to
13 them? She is torn. I mean, a part of her still loves him,
14 but she is so angry at him because he hurt her sister.

15 Part of the reason that T.P. had the courage to
16 testify against him is because she wants to protect not only
17 her brother and sisters, but any other children that he may
18 be able to have contact with.

19 THE COURT: Thank you, ma'am. I appreciate it. Thank
20 you.

21 Anything else?

22 MS. MCMAHON: Your Honor, we would just ask the Court
23 to fashion a sentence that is appropriate in this situation
24 given the severity of what happened and understanding that
25 based on Mr. Kellin's -- what he just said earlier, that

1 this is something she's going to have to live with, also,
2 the rest of her life. And while she can live with it now
3 doesn't mean that later on down the line she won't have a
4 problem with it.

5 THE COURT: Thank you, ma'am.

6 For the Defense?

7 MR. STEEN: Yes, Your Honor. We would ask this Court
8 for the minimum sentence. We understand that's the best we
9 can ask for here today, Your Honor.

10 There is just certain information that I would like
11 this Court to have concerning this case that this attorney
12 did not bring out during trial. And one day I hope to
13 answer for that during a PCR hearing. Maybe I should have
14 tried more to get this information in front of this Court.
15 Your Honor, my client did pass a polygraph in York County.

16 The questions asked: Have you had sex with [REDACTED] T.P.
17 [REDACTED] ?

18 No. No deception indicated.

19 Have you had sex with [REDACTED] T.P. inside of a truck?

20 No. No deception indicated.

21 This case was staffed by -- including the
22 investigators' file from this county and York County by the
23 York County Solicitor's Office. That solicitor wrote a
24 three-page-long e-mail and sent it to the Lancaster
25 Solicitor's Office detailing every single problem with this

1 case. Outside just the polygraph, the inconsistencies and
2 the statements, the problem -- the characteristics of my
3 client not having the characteristics of a pedophile or
4 opportunist. They declined to prosecute based on all this,
5 based on all the deception. They believe the child had been
6 coached. And like I say, one day, Your Honor, I hope to
7 answer for this why I did not put this information up there
8 in the PCR hearing for that jury to hear that.

9 Your Honor, my client is innocent of these charges.
10 You've heard him testify. I don't know if there's anything
11 else I can tell you about his personal life that this Court
12 does not already know. No record, 33 years old, college
13 degree, did some time in the National Guard.

14 Your Honor, it just bothers me that this solicitor's
15 office knew all the information from York and told me they
16 didn't care. They weren't concerned about what their
17 opinion was or about this polygraph when we tried to talk
18 about this case over the last couple of years as we tried
19 not to get to this point.

20 Your Honor, for those reasons, we would ask you to go
21 with the minimum. I do know that Ms. Amanda Self, who you
22 heard from earlier on the stand would like to say a few
23 words if that's okay.

24 THE COURT: Stand up, ma'am. Say your name for the
25 record, then I'll be glad to hear from you.

1 AMANDA SELF: Amanda Self.

2 THE COURT: Yes, ma'am.

3 AMANDA SELF: My question is, just like Brandon said,
4 he passed the polygraph. When they done a forensic
5 interview on the little girl, they wrote down that she was
6 27.7 pounds. I have that paper in my vehicle right now.
7 They found no indication of penetration in the girl because
8 they did not look inside of her to find that. You know, too
9 much information, he is not a small man. He would rip a
10 little girl that is 27 pounds from front to back, I don't
11 care how you look at it.

12 And for her to say that he's a bad man. All her
13 prosecution said or wanted to fuss about is how terrible of
14 a husband he was. They even caught multiple people in lies
15 yesterday and the day before. So how can you pass a
16 polygraph in one county and even that, that officer says,
17 the investigator, Mr. Reed, he even said that he did not
18 press charges because he found nothing.

19 He went above and beyond his job and done an
20 investigation. He got DNA from the truck. He went to
21 witnesses. He went to houses. He talked to everybody that
22 he could talk to about this and he found no reason to charge
23 him. He dropped charges on him, that's why you didn't hear
24 anything about a heroin incident except a couple times
25 mentioned.

1 So tell me how it can get dropped, the same evidence
2 that one county has, but when Lancaster comes to it, they
3 don't care, they don't want to see anything from York County
4 and they want to do their own thing? You don't know this,
5 but four or five of her solicitors have done quit because
6 they did not want to take this to trial.

7 THE COURT: Thank you, ma'am.

8 Anything else from the Defense?

9 MR. STEEN: One more speaker, Your Honor.

10 THE COURT: Yes, ma'am, state your name for the record,
11 please.

12 THERESA MILLER: Theresa Carter Miller.

13 THE COURT: Yes, ma'am.

14 THERESA MILLER: I am his aunt. I have been to their
15 house several times for parties and dinners when they lived
16 on Caskey Lane. And every time I was there, I've always
17 said what an awesome dad he was because he was the one that
18 put time in with these kids. He's the one that did stuff.
19 I've been to their house before when it was up to him to get
20 off from work and to cook a meal for these kids so they got
21 fed at night. And I just -- I'm quite upset. I always said
22 what an awesome dad he was, that I just wish other men could
23 be like him and step up and take care of these kids. That's
24 just all I have to say.

25 THE COURT: Thank you, ma'am.

1 MR. NEWMAN: Your Honor.

2 THE COURT: I don't want to hear a response.

3 Anything else?

4 MR. STEEN: In conclusion, Your Honor, my client would
5 like to address the Court.

6 THE COURT: Yes, sir.

7 THE DEFENDANT: Yes, Your Honor, I would just ask that
8 you take into the fact that I'm claiming my innocence during
9 all this. I understand these proceedings were pretty hard
10 on everybody from every standpoint it could have been. As a
11 father, it's hard for me to call my child a liar and to
12 accept the fact that she's lying on me. And it's hard for
13 me to know that my wife, she's still my wife, sat up there
14 and proclaimed that I was such a terrible man, but for 10
15 years, we always made it through. So there must have been
16 something good inside of me. I just ask for your mercy as
17 much as I can, Your Honor. I just want to thank everybody
18 for their time and for efforts put into this case. I
19 appreciate it.

20 THE COURT: Thank you, sir.

21 I think I need to rest the issue of the polygraph. Mr.
22 Steen, you understand that there has never been an occasion
23 in the State of South Carolina or in any courtroom in the
24 United States of America that has accepted polygraph results
25 as being scientifically reliable. The evidence is to the

1 contrary. That it is an unreliable and not trustworthy test
2 to determine whether or not someone is telling the truth.
3 And that why it has never been accepted in any courtroom in
4 these United States. And, certainly, not in any courtroom
5 in the State of South Carolina. I'm giving that no
6 consideration whatsoever because I find the underlying
7 science to be unreliable. There is no validity to it,
8 despite whatever use law enforcement may have or use it.

9 While I did not allow the State to respond, it is the
10 independent responsibility of every solicitor under the oath
11 of office that they take to do the job they believe to
12 protect the Constitution of this state and the rights of all
13 parties. A decision in another case does not mean that
14 either one of them are violating their oath. Unless you
15 have evidence that the solicitor's office in this county and
16 circuit has violated their oath as they took to assume their
17 office, I will not consider that in any shape, manner or
18 form.

19 Do you have any such evidence?

20 MR. STEEN: No, sir, I do not make that claim.

21 THE COURT: Thank you.

22 Mr. Carter, please stand.

23 (Defendant stands.)

24 SENTENCE OF THE COURT

25 THE COURT: 2017-GS-29-36, the State of South Carolina,

1 County of Lancaster vs. David Matthew Carter regarding
2 criminal sexual conduct with a minor first degree. The
3 potential sentence in this matter is a minimum of 25 years
4 up to life in prison without the possibility of parole. The
5 sentence of this Court is the Defendant is committed to the
6 State Department of Corrections for a determinant term of 40
7 years.

8 2017-GS-29-37, the sentence is the same to run
9 concurrent.

10 2017-GS-29-38, the sentence is the same to run
11 concurrent.

12 The Defendant is given credit for any time he has
13 served.

14 These proceedings are now ended. Thank you very much.

15 (END OF PROCEEDINGS)
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State of South Carolina	)	Court of General Sessions
	)	Sixth Judicial Circuit
County of Lancaster	)	Case No. 2017-GS-29-36
	)	Case No. 2017-GS-29-37
	)	Case No. 2017-GS-29-38
	)	
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	(Day 3 of 4)
David Matthew Carter,	)	
	)	
Defendant.	)	
	)	

May 23, 2018
Lancaster, South Carolina

B E F O R E:

The Honorable Steven H. John, Judge; and a jury

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

Ashley McMahan, Esquire
Henry McMaster Jr., Esquire
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T. Brandon Steen, Esquire
Ryan Payne, Esquire
Attorneys for the Defendant

Krystal J. Smith
Circuit Court Reporter

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
D-1	Photograph		19
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COURT REPORTER LEGEND

dashes -- intentional or purposeful interruption
or change in thought

ellipses trailing off

[ph] phonetically written

[sic] written as said

LINDA CARTER - DIRECT BY MR. PAYNE

1 the witness entered the courtroom, after which the
2 proceedings resumed as follows.)

3 THE COURT: All right, ma'am. If you'd come all the way
4 around and meet the clerk's representative right up here at
5 the corner, please, ma'am.

6 THE CLERK: Put your left hand on the Bible and raise
7 your right, please. Do you swear to tell the truth, the
8 whole truth, and nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: You may be seated.

11 LINDA CARTER, being first duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. PAYNE:

15 Q: Good morning, Ms. Carter.

16 A: Good morning.

17 Q: Will you please state your full name for the record?

18 A: Linda Low Carter.

19 Q: And where do you live at?

20 A: [REDACTED], Kershaw, South Carolina.

21 Q: And what do you do for living?

22 A: I'm a manager at Gus' Family Pizza Restaurant.

23 Q: Okay. How are you related to Mr. David Carter?

24 A: He's my stepson for the past 13 years.

25 Q: Okay. Have you been around his family in the last five

LINDA CARTER - DIRECT BY MR. PAYNE

1 to six years?

2 A: Yes.

3 Q: Okay. Tell me a little bit about your interactions with

4 Mr. Carter and his family?

5 A: It's always been joyful.

6 Q: Okay.

7 A: The kids have always been so happy, playing, typical

8 kids running around playing all the time.

9 Q: And was -- you were his stepmother when he and Tiffany

10 Carter got married; correct?

11 A: Correct.

12 Q: At that point, they had already had [REDACTED] T.P. Did they

13 have any other kids?

14 A: No, sir. Well, yes.

15 Q: Oh, later on they had more?

16 A: Yes.

17 Q: And how many grandchildren do you have as a result of

18 Tiffany and David's marriage?

19 A: Five.

20 Q: Okay. And do you treat them all like they're your --

21 your own -- your grandkids?

22 A: I do.

23 Q: Okay. Even though one is technically your step-

24 grandchild?

25 A: Exactly.

LINDA CARTER - DIRECT BY MR. PAYNE

1 Q: Did you ever take any kind of pictures of the family?

2 A: I have.

3 Q: Okay.

4 MR. STEEN: Your Honor, I'd like to mark these as
5 Defense Exhibit 1, 2, and 3.

6 (WHEREUPON, there was a pause in the proceedings as the
7 photographs were so marked, after which the proceedings
8 resumed as follows.)

9 MR. PAYNE: All right.

10 BY MR. PAYNE:

11 Q: Ms. Carter, I'm going to hand you this picture first.

12 A: Okay.

13 Q: Does that picture look familiar to you?

14 A: It does.

15 Q: Did you take that picture?

16 A: I did.

17 Q: Okay. Do you remember when you took that picture?

18 A: It was approximately 2011.

19 Q: Okay. Can you describe for the Court -- for the jury
20 who is in that picture?

21 A: It's a picture of David and T.P. sitting on my
22 recliner.

23 Q: Okay?

24 A: In my living room.

25 A: So this would've been around 2011 you think?

LINDA CARTER - DIRECT BY MR. PAYNE

- 1 A: Correct.
- 2 Q: Were you with them that entire day --
- 3 A: Uh-huh.
- 4 Q: -- when they were at your house?
- 5 A: Yes, sir.
- 6 Q: Did you notice anything out of the ordinary when you
- 7 took that picture?
- 8 A: No, sir.
- 9 Q: Was T.P. happy in that picture?
- 10 A: Yes, sir.
- 11 Q: Okay. Do you remember what y'all were doing that day?
- 12 A: We were having a dinner.
- 13 Q: Okay.
- 14 A: I'm not -- don't recall the -- you know, what kind, but
- 15 we were having dinner.
- 16 Q: So they stayed at your house?
- 17 A: Exactly.
- 18 Q: All right. I'm going to hand you a second picture.
- 19 THE COURT: Before you do that, counsel, so the record
- 20 is clear, what exhibit she is looking at.
- 21 MR. PAYNE: Oh.
- 22 BY MR. PAYNE:
- 23 Q: That's Defense Exhibit 1; correct? Or 3; correct?
- 24 A: 3.
- 25 Q: Okay. I'm going to hand you Defense Exhibit 1 at this

LINDA CARTER - DIRECT BY MR. PAYNE

1 time. Does that picture look familiar to you?

2 A: Yes, sir.

3 Q: Do you remember taking that picture?

4 A: I did.

5 Q: Okay. Do you remember when you took that picture?

6 A: This one was taken approximately 2014 at my daughter's

7 house, Christmastime.

8 Q: Okay. And who all is in that picture?

9 A: It's a picture of Matt -- of David, Tiffany, Candace,

10 T.P., Lane, Mattie, and Summer.

11 Q: Okay. And --

12 A: Everybody is smiling --

13 Q: In that --

14 A: -- and happy.

15 Q: -- picture everyone is smiling?

16 A: Yes.

17 Q: Okay. I'm going to hand you what is marked as Defense

18 Exhibit 2. Does that picture look familiar to you?

19 A: Yes, sir.

20 Q: Did you take that picture?

21 A: I did.

22 Q: Do you remember when you took that picture?

23 A: This one was taken in 2015 at Christmas.

24 Q: Okay. And what's in that picture?

25 A: David, Tiffany, three of their children, the other three

LINDA CARTER - DIRECT BY MR. PAYNE

1 grandchildren, and my daughter, my son-in-law, and myself.

2 Q: Okay.

3 MR. PAYNE: Your Honor, at this time, I'd like to move
4 those three exhibits, Defense Exhibit 1, 2, and 3, into
5 evidence.

6 THE COURT: Any objection from the State?

7 MS. MCMAHAN: Yes, Your Honor. My objection is based on
8 relevance and that they're just too far remote in time, I
9 guess.

10 THE COURT: all right. I'm going to allow Defendant's
11 1, 2, and 3 in evidence over the objection of the State. You
12 may proceed.

13 (WHEREUPON, Defendant's Exhibits Number 1, 2, and 3,
14 photographs, were admitted into evidence.)

15 MR. PAYNE: Thank you, Your Honor.

16 THE COURT: You may publish, if you choose to do so.

17 MR. PAYNE: Thank you, Your Honor.

18 BY MR. PAYNE:

19 Q: So, Ms. Carter, it's fair to say you've had a
20 grandmother-type relationship with all of David's kids for
21 the last ten -- eleven years?

22 A: Yes, sir.

23 Q: And you were around them during the time these
24 allegations took place?

25 A: Yes, sir.

LINDA CARTER - DIRECT BY MR. PAYNE

1 Q: At any point when they were at your house, did you ever
2 notice T.P. being reserved?

3 A: No, sir.

4 Q: Did you ever notice her to have a tendency not to want
5 to talk about anything?

6 A: No, sir.

7 Q: Did you ever notice her not being a happy, normal kid?

8 A: No, sir.

9 MR. PAYNE: I beg the Court's indulgence one moment,
10 Your Honor.

11 THE COURT: Yes, sir.

12 MR. PAYNE: Ms. Carter, I have no further questions for
13 you. Please answer any questions the solicitor has.

14 THE COURT: All right. Cross-examination.

15 CROSS-EXAMINATION

16 BY MS. MCMAHAN:

17 Q: Ms. Carter, you've been Mr. Carter's grandmother for how
18 long?

19 A: I'm his stepmother for the past 13 years.

20 Q: Do you consider yourself a grandmother to Mr. Carter?

21 A: To his children, yes.

22 Q: But not to him?

23 A: I'm not his grandmother.

24 Q: You don't even consider yourself in a step-grandmother
25 capacity?

LINDA CARTER - CROSS BY MS. MCMAHAN

- 1 A: I mean I'm his stepmother.
- 2 Q: Okay. So do you consider yourself a mother to --
- 3 A: I do.
- 4 Q: -- Mr. Carter?
- 5 A: I do.
- 6 Q: Do you love him?
- 7 A: I do.
- 8 Q: Do you want to see harm come to him?
- 9 A: Nobody wants to see harm come to their children.
- 10 Q: And earlier, you testified that you have five
- 11 grandchildren. Are they Candace, T.P., Summer, Mattie,
- 12 Lane?
- 13 A: That's his, yes.
- 14 Q: Don't you have two other ones by him?
- 15 A: Yes, I do.
- 16 Q: So you didn't remember the other two that you have? So
- 17 you actually have seven grandchildren?
- 18 A: Seven children.
- 19 Q: But you only discussed and acknowledged five today?
- 20 A: Well --
- 21 Q: Is that correct?
- 22 A: By Tiffany and him, that was the question. That's why I
- 23 answered that way.
- 24 Q: Is Candace Tiffany's daughter?
- 25 A: No, she's not.

LINDA CARTER - CROSS BY MS. MCMAHAN

1 Q: Okay.

2 MS. MCMAHAN: Thank you, ma'am. Nothing further, Your
3 Honor.

4 THE COURT: Any redirect?

5 MR. PAYNE: No further questions, Your Honor.

6 THE COURT: All right. Ma'am, you may step down. Thank
7 you.

8 THE COURT: Your next witness?

9 MR. STEEN: Your Honor, the State calls Jackie Hicks. I
10 mean the defense calls Jackie Hicks. I apologize.

11 THE COURT: All right. Please, sir, if you'd call
12 Jackie Hicks, please, sir.

13 MR. STEEN: Yes.

14 MS. MCMAHAN: Your Honor, she's not been sequestered
15 this entire time.

16 THE COURT: Oh, I'm sorry.

17 MS. MCMAHAN: She's been sitting here.

18 THE COURT: Oh, she's in the courtroom. All right.

19 Well, come along. Come right up, up here next to the clerk's
20 representative, please, ma'am.

21 THE CLERK: Put your left hand on the Bible and raise
22 your right. Do you swear to tell the truth, the whole truth,
23 and nothing but the truth, so help you God?

24 THE WITNESS: Yes.

25 THE CLERK: You may be seated.

JACKIE HICKS - DIRECT BY MR. STEEN

1 JACKIE HICKS, being first duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. STEEN:

5 Q. Ms. Hicks, please state your -- state your name for the
6 record?

7 A: Jacqueline Hicks.

8 Q: And what is your current occupation?

9 A: I'm an investigator with Lancaster County DSS.

10 Q: And did Mr. Carter ever give you a copy of a journal or
11 diary between [REDACTED] T.P. and Tiffany Carter?

12 A: I saw the journal between Tiffany and [REDACTED] T.P. but I did
13 not have a copy.

14 MR. STEEN: No further -- well, no further questions.
15 Please answer any questions Ms. McMahan has.

16 CROSS-EXAMINATION

17 BY MS. MCMAHAN:

18 Q: Are you a criminal investigator?

19 A: No.

20 MS. MCMAHAN: Nothing further, Your Honor.

21 THE COURT: Any redirect?

22 MR. STEEN: No redirect, Your Honor. Thank you.

23 THE COURT: You may step down, ma'am.

24 Your next witness, please.

25 MR. PAYNE: The defense calls Angel Beckham, Your Honor,

ANGEL BECKHAM - DIRECT BY MR. PAYNE

1 and she has been sequestered.

2 THE COURT: Okay. Angel Beckham.

3 (WHEREUPON, there was a pause in the proceedings until
4 the witness entered the courtroom, after which the
5 proceedings resumed as follows.)

6 THE COURT: All right. Ma'am, come all the way around,
7 come right up here to where the clerk's representative is,
8 please, right up here.

9 THE CLERK: Put your left hand on the Bible and raise
10 your right, please. Do you swear to tell the truth, the
11 whole truth, and nothing but the truth, so help you God?

12 THE WITNESS: I do.

13 THE CLERK: You may be seated.

14 ANGEL BECKHAM, being first duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. PAYNE.

18 Q: Good morning, Ms. Beckham.

19 A: Good morning.

20 Q: Will you please state your name for the record?

21 A: Angel Scott Beckham.

22 Q: Where do you live at?

23 A: At -- in Heath Springs.

24 Q: Okay. And what you do for a living?

25 A: I am the sales service manager at Palmetto Gasket and

ANGEL BECKHAM - DIRECT BY MR. PAYNE

1 Brads in Kershaw.

2 Q: Okay. Do you know Mr. David Carter?

3 A: I do.

4 Q: How do you -- how do you know him?

5 A: He's my stepbrother.

6 Q: Stepbrother?

7 A: Yes, sir.

8 Q: Okay. Have you had an opportunity to be around his

9 children in the last five to six years?

10 A: Yes.

11 Q: Okay. Do you know all of his children?

12 A: Yes, sir. Well, I'm sorry. Not -- not all of them, but

13 the ones he has with Ms. Carter, I do.

14 Q: Okay. Do you have -- you mentioned he's your

15 stepbrother?

16 A: Yes.

17 Q: Do you have an aunt/niece/nephew relationship with his

18 children with Tiffany?

19 A: I do.

20 Q: Do you consider all of his children with Tiffany,

21 including the one that is not his, to be your --

22 A: I do.

23 Q: Your niece?

24 A: I do.

25 Q: When you were around -- have you been around the family

ANGEL BECKHAM - DIRECT BY MR. PAYNE

1 on a consistent basis for the last five years?

2 A: Yes.

3 Q: When you were around them, did you ever notice any of
4 the children acting out of the ordinary?

5 A: They didn't act any different than they ever have.

6 Q: Did you ever notice Ms. Palmer display any
7 characteristics of being shy or timid?

8 A: No. She absolutely loved my husband. She spent more
9 time with my husband and my oldest brother too, and she just
10 absolutely loved him.

11 Q: Okay. Did you ever notice her acting strange towards
12 David in any of their interactions?

13 A: No.

14 Q: Did you ever notice anything at all in the time that
15 you've known Ms. Palmer and your stepbrother? Have you
16 noticed anything at all in their interactions that would give
17 you cause for concern?

18 A: No, sir.

19 MR. PAYNE: I beg the Court's indulgence one moment.

20 I don't have any further questions. Please answer any
21 questions the solicitor has.

22 THE COURT: Cross-examination.

23 CROSS-EXAMINATION

24 BY MS. MCMAHAN:

25 Q: How long has Mr. Carter been your stepbrother?

ANGEL BECKHAM - CROSS BY MS. MCMAHAN

1 A: Since November of 2005.

2 Q: Did you guys live together?

3 A: No.

4 Q: So you lived in separate houses?

5 A: Yes. We were grown by the time our parents got married.

6 Q: Okay. What's the age difference between you two?

7 A: One year.

8 Q: Okay.

9 A: Almost to the day.

10 Q: Do you love him like a brother?

11 A: I do.

12 Q: Do you want to see him come to harm?

13 A: No, I do not.

14 Q: Were you -- you never lived with him; so you've never
15 lived in the houses that they've lived in before?

16 A: No. He stayed with my husband and I briefly once he was
17 released here recently. He stayed with us briefly until he
18 got his own place. He stayed in the house.

19 Q: That was this year or in the past year?

20 A: It was last year and the first part of this year.

21 Q: But prior to 2016, you guys never lived together?

22 A: No, we did not.

23 Q: Okay.

24 MS. MCMAHAN: Nothing further.

25 THE COURT: Any redirect?

1 MR. PAYNE: No redirect, Your Honor.

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

3 THE WITNESS: Thank you.

4 MR. STEEN: Um --

5 THE COURT: Is there a matter we need to take up --

6 MR. STEEN: Yes, Your Honor.

7 THE COURT: -- outside of the jury's presence? All
8 right.

9 Mr. Foreman and ladies and gentlemen of the jury,
10 there's a matter I need to take up outside of your presence.
11 Please go to the jury room.

12 (WHEREUPON, the jury exited the courtroom at 9:59 a.m.)

13 THE COURT: All right. So the next witness would be
14 Det. Reed; is that correct?

15 MR. STEEN: Yes, Your Honor.

16 THE COURT: All right. Now, just so that I understand
17 the situation, Mr. Reed, in his official capacity, had asked
18 the defendant to come in and be interviewed at some point in
19 time?

20 MR. STEEN: Yes, Your Honor.

21 THE COURT: Okay. And obviously, we're here, but I mean
22 did he go through the process of advising him of his
23 constitutional rights? Was he under arrest at that point in
24 time for anything?

25 MR. STEEN: Yes, Your Honor. He was currently

1 incarcerated here in Lancaster for the charges we're here for
2 this week.

3 THE COURT: Okay.

4 MR. STEEN: Then he was taken to York.

5 THE COURT: Okay. And so was it on some other matter
6 that Det. Reed was looking at?

7 MR. STEEN: I believe Ms. Palmer disclosed allegations
8 that were in York County, the Carowinds area. Again, I do
9 not intend to ask him directly about the allegations, but
10 that's how the case was sent to him. He contacted Lancaster,
11 got their case file, did his investigation. Basically, Your
12 Honor, I was going to ask him did he talk to the same
13 witnesses and did stuff Lancaster did not do.

14 THE COURT: Okay. All right. All right. So do you
15 have a copy of the CD of the interview?

16 MS. MCMAHAN: Yes, Your Honor. I have one.

17 THE COURT: Okay. All right. So why don't -- is Det.
18 Reed back there?

19 THE WITNESS: Right here.

20 THE COURT: All right, sir. Come forward and -- Madam
21 Clerk?

22 THE CLERK: Yes, sir.

23 THE COURT: Come up here and place Det. Reed under oath.

24 THE CLERK: Yes, sir.

25 Put your left hand on the Bible and raise your right,

DET. JONATHAN REED - DIRECT BY THE COURT

1 please. Do you swear to tell the truth, the whole truth, and
2 nothing but the truth, so help you God?

3 THE WITNESS: I do.

4 THE CLERK: You may be seated.

5 DET. JONATHAN REED, being first
6 duly sworn, testified as follows:

7 DIRECT BY THE COURT

8 THE COURT: If you would, state your position, sir, and
9 occupation?

10 THE WITNESS: I'm a detective with the York County
11 Sheriff's Office.

12 THE COURT: And your full name is?

13 THE WITNESS: Jonathan Henry Reed.

14 THE COURT: All right. We'll have questions by counsel
15 in just a minute, but I just want to -- the interview that
16 you did with Mr. Carter -- that was in your official
17 capacity; correct?

18 THE WITNESS: Yes, sir.

19 THE COURT: And where did that -- where did that take
20 place?

21 THE WITNESS: That was at the Lancaster County Detention
22 Center.

23 THE COURT: All right, sir. And at that point in time,
24 did you inform him that the interview was going to be
25 recorded?

DET. JONATHAN REED - DIRECT BY THE COURT

1 THE WITNESS: No, sir.

2 THE COURT: Okay. How -- did you know it was going to
3 be recorded?

4 THE WITNESS: Yes, sir.

5 THE COURT: Okay. Did you place him under oath at that
6 point in time or did you advise him of his constitutional
7 rights or what did you do?

8 THE WITNESS: We have a Miranda form and a waiver of
9 rights form that we had him fill out. We went through -- it
10 starts with the Miranda rights, which he signs understanding
11 that he understands his rights, and then underneath that
12 there is a waiver of rights in which he agrees to talk to us
13 without an attorney being present.

14 THE COURT: Okay. How were you aware that the interview
15 was going to be recorded?

16 THE WITNESS: I brought a recorder to it.

17 THE COURT: Oh, okay. So -- and so it was there on the
18 table in front of Mr. Carter?

19 THE WITNESS: Yes and no. It was in a -- kept in an
20 envelope.

21 THE COURT: Okay.

22 THE WITNESS: So he would not be aware that it was --

23 THE COURT: Okay.

24 THE WITNESS: -- being recorded.

25 THE COURT: So he did not know?

DET. JONATHAN REED - DIRECT BY THE COURT

1 THE WITNESS: No, sir.

2 THE COURT: All right. All right. So the -- the
3 recording of the interview that has the part about the
4 Miranda warnings and advising of those rights -- does that
5 take place at the beginning of the interview?

6 THE WITNESS: Yes, sir.

7 THE COURT: All right. At any point in time during the
8 interview, did Mr. Carter indicate to you that he wanted to
9 stop? That he wanted to have counsel present? That he had
10 questions? Exhibited any kind of behavior to you that could
11 in any way be interpreted as wanting the interview to stop?

12 THE WITNESS: Yes, sir.

13 THE COURT: Okay. And what happened at that point in
14 time?

15 THE WITNESS: I asked him -- he specifically said that
16 he -- he wanted an attorney when he was directly accused of
17 committing an offense we were investigating.

18 THE COURT: Okay.

19 THE WITNESS: Then he said that he wanted an attorney.
20 I asked him if he was certain about that. He indicated that
21 he was willing to continue speaking. We had him go through
22 another form stating that he did not want an attorney at that
23 time.

24 THE COURT: Okay. All right. Thank you.

25 All right. Mr. Steen, what's your position about the --

DET. JONATHAN REED - DIRECT BY THE COURT

1 based upon that, the recording and the use of that recording
2 in these proceedings.

3 MR. STEEN: I have no objection under Miranda or Jackson
4 v. Denno, Your Honor, to the constitutional issues to the
5 statement.

6 THE COURT: Okay. All right. If you don't have any
7 issue about him -- it being recorded without -- without his
8 consent or not -- you don't have any issue about that?

9 MR. STEEN: I'm sorry, Your Honor. That was the first
10 time I realized it was recorded without his knowledge.

11 THE COURT: Do you want to talk to your client about
12 that?

13 MR. STEEN: Yes, Your Honor.

14 THE COURT: All right. Go ahead.

15 MR. STEEN: Thank you, Judge.

16 (WHEREUPON, there was a pause in the proceedings for
17 counsel and defendant to confer, after which the
18 proceedings resumed as follows.)

19 MR. STEEN: Your Honor, after consultation with my
20 client, he states he has no issues. He thought he was being
21 recorded; so he doesn't have an issue with that aspect, Your
22 Honor.

23 THE COURT: Very good. All right.

24 So, Solicitor, can you have that marked by the court
25 reporter?

DET. JONATHAN REED - DIRECT BY THE COURT

1 MS. MCMAHAN: Certainly.

2 THE COURT: And let's play at least the first part.

3 MS. MCMAHAN: Let me fire up the old electronic wagon
4 here.

5 (WHEREUPON, the CD containing the statement was marked
6 as Court's Exhibit Number 8.)

7 (WHEREUPON, Court's Exhibit Number 8 was played in open
8 court. Not transcribed herein.)

9 THE COURT: Stop it for just one second.

10 (WHEREUPON, the recording stopped playing.)

11 THE COURT: Detective, have you listened to this
12 recording?

13 THE WITNESS: Yes, sir, I have.

14 THE COURT: Okay. Does the quality get better?

15 MS. MCMAHAN: It gets a little bit better later. I can
16 try to fast-forward a little bit if you'd like.

17 THE COURT: Well, at this point in time, you know, we
18 have nothing. So unless it gets better, there isn't anything
19 you can play.

20 (WHEREUPON, Court's Exhibit Number 8 resumed playing.)

21 THE COURT: Stop it for a second, please, ma'am. Let me
22 ask you a question, Solicitor.

23 If you found it necessary or wanted to use this
24 recording, would it come as a result of cross-examination
25 questions you would ask the defendant, Carter, after he

DET. JONATHAN REED - DIRECT BY THE COURT

1 testified?

2 MS. MCMAHAN: Yes, Your Honor.

3 THE COURT: So it would only be at some point in time if
4 he had denied making such a statement?

5 MS. MCMAHAN: Yes, Your Honor.

6 THE COURT: All right. Do you think at that point in
7 time you'd be able to find that particular question and
8 answer in this recording?

9 MS. MCMAHAN: I'll be honest. It would be very
10 difficult.

11 THE COURT: I'm sorry?

12 MS. MCMAHAN: It would be very difficult on the fly to
13 do that, yes.

14 THE COURT: All right. And the fact of the matter is
15 you don't know whether or not the part you might ask him,
16 depending on what it is, is a part that could be understood
17 or not.

18 MS. MCMAHAN: That's correct.

19 THE COURT: Based on the quality.

20 MS. MCMAHAN: I will say the quality is a lot different
21 when you're listening to it on individual speakers versus the
22 room, but yes, I would agree with that.

23 THE COURT: All right. Very good. Where is it that you
24 said there was a second time that the issue of him agreeing
25 to speak to you came up. When was that?

DET. JONATHAN REED - DIRECT BY THE COURT

1 THE WITNESS: Later in the interview, but, Your Honor, I
2 don't remember exactly when it was. But he was directly
3 accused by my partner. Detective Moatz [ph] was with me and
4 had more directly accused him of actually committing the act
5 that we were investigating and at that point --

6 THE COURT: Was that at Carowinds?

7 THE WITNESS: Yes, sir.

8 THE COURT: Okay. All right. And that's when he
9 stopped and said he wanted counsel?

10 THE WITNESS: Yes, sir.

11 THE COURT: And that's when you re-interviewed him about
12 his constitutional -- readvised him of his constitutional
13 rights?

14 THE WITNESS: Yes, sir.

15 THE COURT: Did you have a separate written form at that
16 point in time?

17 THE WITNESS: Yes, sir.

18 THE COURT: All right.

19 Would that be part of anything that you would be
20 intending to ask him about, Solicitor?

21 MS. MCMAHAN: Do you mean the question about wanting an
22 attorney and all that?

23 THE COURT: No, ma'am. About an offense happening in
24 Carowinds --

25 MS. MCMAHAN: No, I have no intentions --

1 THE COURT: -- for which he is not being prosecuted
2 here?

3 MS. MCMAHAN: I have no intentions of going into any
4 prior bad acts or anything.

5 THE COURT: All right.. All right. Thank you.

6 Mr. Steen, does your client in any way challenge the
7 fact of -- you know, regarding a Jackson v. Denno that as far
8 as -- obviously, he was in custody at that point in time.
9 There's no question that Miranda rights had to be given.
10 There's no question about it.

11 The question is that does he challenge that he did not
12 understand his rights? That they weren't given to him? That
13 he wasn't talking freely to the detectives at that point in
14 time?

15 MR. STEEN: No, Your Honor.

16 THE COURT: And he doesn't challenge that in any way?

17 MR. STEEN: He does not challenge, Your Honor.

18 THE COURT: All right. So he basically agrees that --
19 or does agree that he was given his Miranda warnings. He
20 understood them. He freely gave them up. He was voluntarily
21 talking to the detectives or officers at that point in time;
22 is that correct?

23 MR. STEEN: Yes, Your Honor.

24 THE COURT: All right. Very good.

25 As far as that's concerned, I do find that the defendant

1 was advised of his constitutional rights. He was freely and
2 voluntarily talking to the detectives at that point in time.

3 Whether or not this recording can be used will be more a
4 matter of quality, whether you can understand, whether you
5 can hear, whether it has a viable purpose at that point in
6 time as far as any questions.

7 So I'm going to reserve that. I may not allow it based
8 upon the quality at that point in time. All right?

9 So with that, ask the jury to come back in, please.

10 If you want to step down again? Because they'll have to
11 recall you. Okay? Thank you, sir.

12 THE CLERK: Your Honor, do you want me to --

13 THE COURT: You'll have to re-swear him.

14 THE CLERK: Okay. Yes, sir.

15 THE BAILIFF: The jury is coming in.

16 (WHEREUPON, the jury entered the courtroom at 10:20
17 a.m.)

18 THE COURT: All right. Your next witness, please.

19 MR. STEEN: Your Honor, the defense calls Det. Jonathan
20 Reed.

21 THE COURT: All right, sir. Please come around to be
22 sworn.

23 THE CLERK: Put your left hand on the Bible and raise
24 your right, please. Do you swear to tell the truth, the
25 whole truth, and nothing but the truth, so help you God?

DET. JONATHAN REED - DIRECT BY MR. STEEN

1 THE WITNESS: I do.

2 THE CLERK: You may be seated.

3 DET. JONATHAN REED, being first
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. STEEN:

7 Q: Det. Reed, please state your name for the record?

8 A: Jonathan Henry Reed.

9 Q: And what is your occupation?

10 A: I'm a detective with the York County Sheriff's Office.

11 Q: And what types of crimes do you investigate at York
12 County Sheriff's Office?

13 A: I'm assigned to the sex crimes unit.

14 Q: And how many sex crime cases have you investigated?

15 A: I don't have an exact number for you.

16 Q: And how long have you been with the York County
17 Sheriff's Office?

18 A: Eleven years.

19 Q: And how did you come to be involved in the investigation
20 of Mr. Carter?

21 A: We had an incident report that was filed regarding a
22 sexual assault that was alleged to have occurred in the
23 Carowinds parking lot, and I was assigned the case.

24 Q: Did you receive the Lancaster County Sheriff's Office
25 file prior to your investigation?

DET. JONATHAN REED - DIRECT BY MR. STEEN

- 1 A: I received it during my investigation.
- 2 Q: And during your investigation, did you interview Tiffany
3 Carter?
- 4 A: I did.
- 5 Q: During your investigation, did you interview David
6 Matthew Carter?
- 7 A: I did.
- 8 Q: And were you present during the interview of [REDACTED] T.P.
9 [REDACTED]?
- 10 A: Yes.
- 11 Q: Did you search any vehicles during the course of your
12 investigation?
- 13 A: Yes, sir.
- 14 Q: Where was that -- what vehicle was that?
- 15 A: It was a pickup truck that belonged to Mr. Carter and
16 had been repo'd by -- I believe it was Cauthen. I don't
17 remember the name, but it was Motor Works that was -- it was
18 the lienholder.
- 19 Q: And you searched the vehicle at Cauthen Motors?
- 20 A: I brought a -- our DNA lab technical lead, Christy
21 Kissle [ph] to the vehicle and assisted her with searching
22 the vehicle.
- 23 Q: Was any DNA found?
- 24 A: No, sir.
- 25 Q: Did you speak with [REDACTED] T.P.'s guidance counselor at

DET. JONATHAN REED - DIRECT BY MR. STEEN

1 Beaufort Elementary?

2 A: I believe I spoke with the assistant principal, Ms.
3 Plyler, I believe. I should have that information in my
4 file.

5 MR. STEEN: Your Honor, may we approach one moment?

6 THE COURT: Certainly.

7 (WHEREUPON, a bench conference was held in the presence
8 of the jury but out of the hearing of the jury off the
9 record, after which the proceedings resumed as follows.)

10 THE COURT: You may continue, sir.

11 BY MR. STEEN:

12 Q: And based on your investigation of David Matthew Carter,
13 did you arrest him for any charges?

14 A: No, sir.

15 MR. STEEN: Thank you, Detective. Please answer any
16 questions Ms. McMahan may have for you.

17 THE COURT: Cross-examination.

18 MS. MCMAHAN: The State has no questions for this
19 witness, Your Honor.

20 THE COURT: All right, sir. You may step down.

21 Do you wish the witness to be excused, Mr. Steen?

22 MR. STEEN: Yes, Your Honor.

23 THE COURT: All right, sir. You're released from your
24 subpoena. Go back to your regular duties.

25 THE WITNESS: Thank you, Your Honor.

1 THE COURT: Thank you, sir.

2 All right. Is it -- do you have one more or multiple
3 witnesses left?

4 MR. STEEN: One more witness, Your Honor.

5 THE COURT: All right.

6 Ladies and gentlemen, I didn't give them a break when
7 y'all were out, and the next witness might take a little bit
8 of time. So just for the convenience of the parties, we're
9 going to take a very short break for five minutes and come
10 back in and hear the last witness.

11 All right. Thank you very much.

12 Everyone else please remain seated while the jury
13 retires, please.

14 (WHEREUPON, the jury exited the courtroom at 10:26 a.m.)

15 THE COURT: All right. We'll take a short break. Five
16 minutes. Thank you very much.

17 MR. STEEN: Thank you, Judge.

18 (WHEREUPON, there was a break in the proceedings from
19 10:27 a.m. until 10:34 a.m., after which the proceedings
20 resumed as follows.)

21 THE COURT: All right. Is the State ready for the jury
22 to come back in?

23 MS. MCMAHAN: Yes, Your Honor.

24 THE COURT: Defense?

25 MR. STEEN: Yes, Your Honor.

DAVID MATTHEW CARTER - DIRECT BY MR. PAYNE

1 THE COURT: All right. Ask the jury to come in, please.

2 THE BAILIFF: The jury is coming in.

3 (WHEREUPON, the jury entered the courtroom at 10:35

4 a.m.)

5 THE COURT: All right. Your next witness, please, sir.

6 MR. PAYNE: Thank you, Your Honor. The defense calls

7 David Matthew Carter.

8 THE COURT: All right. Please come around to be sworn,

9 sir.

10 THE CLERK: You can put your left hand on the Bible and

11 raise your right, please. Do you swear to tell the truth,

12 the whole truth, and nothing but the truth, so help you God?

13 THE WITNESS: Yes, ma'am.

14 THE CLERK: You may be seated.

15 DAVID MATTHEW CARTER, being

16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. PAYNE:

19 Q: Mr. Carter, please state your name for the record?

20 A: David Matthew Carter.

21 Q: How old are you?

22 A: Thirty-three.

23 Q: Where were you born at?

24 A: Lancaster, South Carolina.

25 Q: Have you lived in Lancaster County your whole life?

DAVID MATTHEW CARTER - DIRECT BY MR. PAYNE

- 1 A: Yes, sir.
- 2 Q: Do you have anybody in the courtroom today that's here
3 on your behalf supporting you?
- 4 A: Yes. I've got -- I've got my grandma, my girlfriend,
5 and my aunt.
- 6 Q: And what are their names?
- 7 A: Margie Carter, Teresa Carter, and Amanda Self.
- 8 Q: Okay. Where did you go to high school at?
- 9 A: Andrew Jackson.
- 10 Q: What year did you graduate?
- 11 A: 2004.
- 12 Q: Okay. What did you do after you went to Andrew Jackson?
- 13 A: I went into the military.
- 14 Q: Okay. What branch of the military were you in?
- 15 A: Army.
- 16 Q: All right. What did you do in the Army?
- 17 A: I went 44 Bravo, welding engineering.
- 18 Q: All right. Why did you get into that particular field?
- 19 A: Because my daddy was a welder and it's -- excuse me.
20 I'm sorry. It's just something I wanted to be when I grew up
21 was a welder.
- 22 Q: All right. And you -- what year did you -- did you
23 leave the military?
- 24 A: Shortly after 2006 -- '07.
- 25 Q: All right.

DAVID MATTHEW CARTER - DIRECT BY MR. PAYNE

- 1 A: Right in there.
- 2 Q: And at that time, were you dating or married to Tiffany
- 3 Carter?
- 4 A: I was dating her.
- 5 Q: Did y'all have any children together at that time?
- 6 A: No. We had -- I just -- **T.P.** just became my
- 7 stepdaughter really at that time. That was more or less the
- 8 only child that I had any connection with.
- 9 Q: All right. Was she -- was Tiffany pregnant at that
- 10 time?
- 11 A: She had just gotten pregnant with Summer shortly after.
- 12 Q: All right. Did that have any influence on your decision
- 13 to leave the military?
- 14 A: Yes, it did.
- 15 Q: Okay. What did you do after you got done with your
- 16 military service?
- 17 A: I pursued just a job in welding. I just tried to be a
- 18 family man.
- 19 Q: Okay. Did you get a degree in welding?
- 20 A: Yes. They took my credits for my AIT and my basic and
- 21 turned it into a certified document or associates basically
- 22 for welding engineering.
- 23 Q: And where did you get that cert -- that --
- 24 A: York Tech gave it to me.
- 25 Q: York Tech? What -- do you remember what year that was?

DAVID MATTHEW CARTER - DIRECT BY MR. PAYNE

1 A: It was shortly after all that went down.

2 Q: Okay. Right after you left the military?

3 A: Yeah.

4 Q: Okay. So from 2010 to 2016, did you have a job? I
5 know, you know, people change jobs a lot, but did you -- were
6 you employed for most of that five-year period?

7 A: Yes, sir.

8 Q: Were you the primary provider for the house?

9 A: I was the breadwinner for the house.

10 Q: All right. What year did you officially marry Tiffany?

11 A: We got married in 2007, I want to say.

12 Q: All right. And how many kids do you have together with
13 her?

14 A: I've got three biological and one stepdaughter.

15 Q: Okay. What are the names of all your kids -- all four
16 of them?

17 A: T.P. [REDACTED], Madison [REDACTED], Lane -- [REDACTED] Lane
18 [REDACTED], and -- I'm sorry. It's T.P., Madison, David, and
19 Summer.

20 Q: All right. And even though you have one stepchild, you
21 still -- did you treat all of them like they were all your
22 own children?

23 MS. MCMAHAN: Objection, Your Honor. Leading.

24 THE COURT: I'm going to allow that particular question.
25 Go ahead.

DAVID MATTHEW CARTER - DIRECT BY MR. PAYNE

1 BY MR. PAYNE:

2 Q: Did you treat your children equal?

3 A: I did not treat any of my kids any different. I never
4 saw [REDACTED] T.P. as a stepchild. She was always my child. When I
5 introduced her, it wasn't my stepchild, it was my child. I
6 mean I did everything for her as I would have done if she had
7 my blood pumping through her veins.

8 Q: All right. Did you buy clothing and food for her? For
9 [REDACTED] T.P.?

10 A: Yes, sir, I did.

11 Q: Did you buy for your other three?

12 A: Yes, sir.

13 Q: Okay. Where -- where were the addresses that -- that
14 you lived at during your marriage to Tiffany?

15 A: Oh, good night. We lived in Rock Hill on Leslie
16 Highway. We lived right behind the hospital. I forgot the
17 name of the road, but we lived right there. Then we moved to
18 Cane Mill Apartments, and then we bought our first house on
19 Caskey in Heath Springs, and then we lived on Duckwood in
20 Taxi Hall and then Pageland, [REDACTED] Highway.

21 Q: Okay. And the house in Heath Springs you actually
22 purchased or did you rent it?

23 A: We -- I purchased it. My grandmother gave us a large
24 chunk of money to put down on it so we could start a
25 foundation for our family.

DAVID MATTHEW CARTER - DIRECT BY MR. PAYNE

1 Q: Okay.

2 MR. PAYNE: I beg the Court's indulgence one moment,
3 Your Honor.

4 THE COURT: Yes, sir.

5 BY MR. PAYNE:

6 Q: All right. Mr. Carter, let's talk about your marriage
7 specifically. You got married in '07; correct?

8 A: Right around that time.

9 Q: When did things start going bad in your marriage?

10 A: I would say right after our first daughter, Summer. My
11 wife was diagnosed with depression, and we got where we
12 didn't want to talk or see each other and I kind of met
13 somebody else through a mutual friend and had an affair on my
14 wife and decided to leave her.

15 And we kind of fixed things over. I wanted to fix my
16 family. Me and her both did, and we got back together and
17 just things wasn't never the same. I don't think she could
18 really get over what I'd done.

19 And then I'd say two years after that, I had another
20 affair on her because things just wasn't perfect in my house.
21 A lot of arguing. I'm not the type that likes to argue. I
22 avoid confrontation. So I would, like, leave the house and
23 never was at home. I always found something to do. I'm kind
24 of selfish in that way. I mean it was hunting, fishing.
25 Whatever it was, I was always gone.

DAVID MATTHEW CARTER - DIRECT BY MR. PAYNE

1 And then I would say about 2013, it really got bad. We
2 were losing our house. I was spending money faster than we
3 could make it. I was, you know, still supporting them. We
4 still had food on the table. You know, bills were getting
5 paid, maybe not full, but they were getting paid.

6 And then my wife decided to leave me again due to the
7 fact that I was always gone, this time always working. I was
8 never at home. So I switched up and told her, you know, I'll
9 do better. I promised that I just wanted to be with my
10 family. I want my kids.

11 And then we worked that out after -- it sounds like a
12 country song. She ran over my dog and busted a few things in
13 the house, and we kind of worked it out. And then we were
14 going to give it one more go, and she had really got
15 depressed by this time and went to mental health and I went
16 with her on a few of her psychological evaluations with her
17 therapist, and her therapist diagnosed her with bipolar
18 depression, borderline schizophrenia, and put her on a
19 cocktail of medicines.

20 And it just caused our relationship to get real worse
21 because everything was so sporadic in our relationship. It
22 got to the point where we really wasn't even interested in
23 each other and by this time we're up to about 2014.

24 My wife said what would it take to make our marriage
25 work, and I said I'm not real sure and then she offered to do

DAVID MATTHEW CARTER - DIRECT BY MR. PAYNE

1 a threesome and I said -- I agreed to it at first and we
2 joined a bunch of online websites for couples that's into
3 swinging. And I started looking and I found two girls that I
4 was interested in and I had another affair is what you would
5 basically call it. And when I got home, it just didn't feel
6 right. I just knew I couldn't do the threesome.

7 So I told my wife. I was like, I can't. I can't do it,
8 and she's like, why, and I lied to her and I just said, you
9 know, I just can't do it because it just didn't feel right
10 anymore. I just knew it wasn't right.

11 And I knew I didn't want to be with her at that time too
12 and I spent a ton of time away from home and I was working at
13 Morgan Corp. an average of 60 to 70 hours a week down at Hell
14 Gold Mine. And I formed a connection with one of the girls
15 that I had slept with during the threesome and they wound up
16 both got pregnant, and it got back to my wife and she hit the
17 roof.

18 When she hit the roof, I mean she hit the roof. We got
19 back to the house because her brother-in-law had called her,
20 and this is a month prior to all the allegations being filed.
21 She -- we got back to the house. Her brother had called her
22 going down the road and she's hysterical, and we get to the
23 house and she's fussing. I had Candace. We had all our
24 kids. I sent them into the back bedroom and I told her we
25 need to go outside. This don't need to be discussed in front

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1 of them. But she's out rate [sic] and she had every right to
2 be, but she was out rate [sic]. She was, like, where's the
3 baseball bat?

4 MS. MCMAHAN: Objection, Your Honor. Hearsay.

5 THE COURT: I'm going to allow it. You may proceed.

6 BY MR. PAYNE:

7 A: She went inside and she said where's the baseball bat,
8 and I said I don't know where it's at. And she knew my prize
9 possession was the newest truck I had just got. It was a
10 Dodge Ram that was extremely nice.

11 And she went in the house and couldn't find the baseball
12 bat. So she grabbed a knife, which she proceeded to the
13 truck and I said you're going to have to stab me before you
14 carve my truck up. And she said I'll do it, and I got out of
15 her way. She carved "cheater" in big letters on the side of
16 the truck, and I called the cops immediately because there's
17 -- I just can't -- I wasn't going to put my hands on no women
18 or nothing like that.

19 So I had to do something to make her stop. I just
20 didn't want her tearing up nothing else because it was all we
21 had. It was the only vehicle we had at that time; so I did
22 not want her to tear it up.

23 So the cops get out there and tell us that, you know, we
24 really need to work it out. There's nothing that I could do
25 about her carving the truck up with a knife. You know, told

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1 her that, you know, we both need to work it out or we need to
2 leave.

3 MS. MCMAHAN: Objection, Your Honor. Again, this is
4 hearsay.

5 THE COURT: That is hearsay.

6 THE WITNESS: Well, it's actually in the police report.

7 MR. PAYNE: You can't -- yeah.

8 THE WITNESS: Sorry. Okay. Well --

9 THE COURT: Why don't you listen to your attorney ask
10 the questions? Okay?

11 THE WITNESS: Okay.

12 BY MR. PAYNE:

13 Q: So around the time you all have a fight and the police
14 come, you decide -- did y'all decide to try to work it out?

15 A: She left, and I talked to a lawyer, Philip Wright, and
16 told her I was coming to get my kids because they were not
17 going to live in a two-bedroom house with nine people and my
18 kids have to sleep on the floor. So I told her I'm going to
19 get my biological kids because she threw up that I couldn't
20 get [T.P.] and I said you're right, I can't get [T.P.], but I
21 can get my biological kids.

22 Q: And when you say get your kids, you mean --

23 A: Take them home --

24 Q: Take them --

25 A: -- to a safe environment where they each have their own

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1 room and it's a suitable environment and then --

2 Q: And what's the timing?

3 A: This is, like, three days after the incident because she
4 didn't leave that night. She stayed the whole weekend and
5 waited until I went to work that Monday and, while I was at
6 work, she packed up everything, guns, money, bows, whatever
7 she could grab, and she left.

8 Q: And what month and year was this?

9 A: 2016, the end of August is when it happened. She came
10 back right at the beginning of September. She said she
11 wanted to work things out and that she was willing to forgive
12 me, and we were going to try to move forward and be a family
13 and just be open and honest. And she told me is there
14 anything that you need to tell me and I told her everything,
15 you know, I'd basically done. And --

16 Q: Just to clarify, you told her about all your affairs
17 that you had had?

18 A: Yeah. Just the affairs. Just the affairs that I'd had
19 because that's the only bad thing I'd done, and she knows
20 that. I mean I worked, came home, and hunted.

21 Q: All right. Let's talk more about the allegations
22 themselves. So she came back home around three weeks before
23 the allegations were made against you?

24 A: Yes.

25 MS. MCMAHAN: Objection, Your Honor. Leading.

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1 THE WITNESS: She came home --

2 THE COURT: I appreciate that. I'm going to allow it
3 under these circumstances. You may proceed.

4 MR. PAYNE: Thank you, Your Honor.

5 BY MR. PAYNE:

6 Q: So she came back home roughly three weeks before the
7 allegations?

8 A: She came home about three weeks before the allegations,
9 almost a perfect month.

10 Q: Okay. And during those three weeks, did you notice any
11 different behavior in any of the children?

12 A: I noticed that my -- I wouldn't say a different
13 behavior. I noticed that my kids knew about the affairs
14 because Tiffany had admitted to me that she had told the kids
15 that I had an affair on her and I cheated. So I had a big
16 shoe to fill now because I was having to face my kids knowing
17 that I had messed up. And she had told me that she had told
18 T.P. too, and that's the reason T.P., you know, was upset
19 with me.

20 Q: All right. Let's talk about after the allegations came
21 out. Did they -- y'all were living together around the time
22 they came out; correct?

23 A: We were living together all the way up to the day. I --
24 I still remember it like it was yesterday because I worked on
25 the Trailblazer that Friday and Saturday. I was putting a

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1 transmission in it so we'd have two vehicles, and Tiffany was
2 dead set on me, you know, making sure we had two vehicles.

3 And I had got a little suspicious of her because she was
4 on the phone, and I had a hunch that she was just about to
5 move back out because things still wasn't quite sitting good
6 at the house. I mean she was having to swallow a lot and she
7 was making me keep texting one of the women that I got
8 pregnant in the affair, and I didn't want to text her because
9 it was just making things worse because she was sending some
10 pretty provocative stuff towards me.

11 Q: All right. So when the allegations come out, did you
12 come back home after that?

13 A: I came home because I had a voicemail, but where I was
14 working on the Tahoe or Trailblazer up under a tin roof, it
15 was static-y and I got bits and pieces of it. And all I
16 heard was Lancaster County; so I rushed home. I didn't see
17 my kids nor my wife.

18 So I started blowing the phone up because I knew she'd
19 done done this again. She'd done left me and I knew where
20 she was at. She was at her sister's house. So I went over
21 there and, when I got over there, I called the cops
22 immediately and I was still on the phone with them and a cop
23 pulls up and the cop told me that --

24 MS. MCMAHAN: Objection, Your Honor.

25 THE COURT: Don't say what he told you.

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1 MR. PAYNE: You can't say what he said.

2 THE COURT: Just what happened.

3 BY MR. PAYNE:

4 A: I was informed of my charges and I was, like, that's
5 crazy. There's no way. Something is not right. And --

6 Q: And this was -- do you remember the day?

7 A: That was that Saturday it was alleged. It was 9/24.

8 Q: Okay. After that, you -- you were free to leave though;
9 right?

10 A: I was free to leave.

11 Q: Okay.

12 A: But I mean I panicked and I mean that Monday morning I
13 went -- voluntarily, I went to the police department and I
14 wanted to know what was going on.

15 Q: And let's talk about -- in the meantime, did you find a
16 journal at your house?

17 A: Yes. I found a journal. The journal had some
18 disturbing stuff in it that I didn't know about because, you
19 know, it was between a mother and a daughter. And I took
20 that journal with me that Monday morning to talk to the cops,
21 and they told me to hang on --

22 MS. MCMAHAN: Objection, Your Honor.

23 MR. PAYNE: You can't go into --

24 THE COURT: All right.

25 THE WITNESS: Okay.

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1 THE COURT: Well, you can say what you did as a result
2 of talking to them. You just can't say what they told you,
3 but you can say what you did --

4 THE WITNESS: Okay.

5 THE COURT: -- as a result of talking to them.

6 THE WITNESS: Yes, sir.

7 BY MR. PAYNE:

8 A: As a result, I went up there and I showed them. They
9 kind of looked at it, and I was -- I was directed to go
10 towards the DSS office to talk to Ms. Jacqueline Hicks, who
11 was over my case.

12 I proceeded to do that. I sat down. I showed her. I
13 remember like this was yesterday. She told me -- she said
14 you keep the copy, I'm going to make a copy, and she scanned
15 it into her system with me standing right there.

16 Q: And go back a little bit though. Can you describe what
17 you saw in the journal?

18 A: In the journal, it talked about -- it was tampons versus
19 pads. It was a conversation between Tiffany and [REDACTED] T.P. And
20 it basically went into, you know, the menstrual cycle and
21 then [REDACTED] T.P.'s question was where do babies come from, and
22 Tiffany said the liquid from a man mixes with the egg of a
23 woman to make a baby and she says, okay, I already knew that.

24 Q: And were there -- were there any diagrams drawn?

25 A: There was diagrams. [REDACTED] T.P. had actually drew a picture

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1 of a penis and --

2 MS. MCMAHAN: Objection, Your Honor. That's speculation
3 as to what was drawn.

4 THE WITNESS: It's actually --

5 THE COURT: Sir --

6 THE WITNESS: I'm sorry.

7 THE COURT: Just testify as to what you saw in the
8 journal. Okay?

9 BY MR. PAYNE:

10 A: There was a picture inside the journal of a penis, and I
11 brought that up to Ms. Hicks' attention and she said she
12 would ask Ms. Palmer.

13 Q: Okay.

14 MS. MCMAHAN: Objection, Your Honor. Again, she's --
15 he's testifying to hearsay.

16 THE COURT: Please don't say what somebody else said.
17 You can testify about what you did or you said or what you
18 did as a result of talking to people, but not what they said.
19 Okay?

20 THE WITNESS: Yes, sir.

21 BY MR. PAYNE:

22 Q: Let's talk -- so you did turn over the diary to DSS,
23 specifically to the DSS agent in charge, Jacqueline Hicks?

24 A: Yes.

25 MS. MCMAHAN: Objection, that's leading.

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1 THE COURT: I'm going to allow it. You may proceed.

2 MR. PAYNE: Thank you, Your Honor.

3 BY MR. PAYNE:

4 Q: All right. Let's talk about your -- your body features.

5 You -- did you have any kind of surgeries during your
6 marriage with Tiffany?

7 A: Yes. I had to have six surgeries on my umbilical cord
8 hernia.

9 Q: And was the -- the surgeries -- do you remember what
10 time -- like, what years they took place?

11 A: It was -- we still lived on Caskey Street; so about a
12 year and a half before 2016. So right around 2015.

13 Q: And were you able to move around at full speed after the
14 surgeries?

15 A: No, I wasn't. The doctor -- he wanted to keep me out
16 about a month on my first surgery. And then I had an
17 allergic reaction to the mesh; so they had to go in and I
18 kept getting severe infections in it. So they cut out a
19 softball size of my muscle tissue out of my stomach, and that
20 shut me down for almost two months because I had to learn to
21 reuse everything.

22 Q: And as a result of that surgery, do you have any scars?

23 A: I have a huge scar that goes from across my bellybutton.

24 Q: All right. Let's talk about your tattoos. Do you have
25 any tattoos?

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1 A: Yes, I do.

2 Q: Do you have any tattoos on your arms?

3 A: Yes, I do.

4 Q: What kind of tattoos do you have on your arms?

5 A: I've just got odds and ends. I've got mostly my kids'

6 names. I've got some flames, some deer tracks, just some

7 stuff from when I was younger.

8 Q: All right. And do you have a tattoo on your abdomen

9 area?

10 A: Yes, I do.

11 Q: What is that tattoo of?

12 A: It's of Jack the Ripper off of *Nightmare Before*

13 *Christmas*. It was Tiffany's favorite character. So, like,

14 when I was in AIT, I decided to get it for her to show her

15 how much I loved her. I got her name and Jack the Ripper in

16 her favorite colors, pink and green.

17 Q: Do you have any tattoos on your thigh?

18 A: I have absolutely no tattoos on my thighs.

19 Q: Have you ever had a tattoo on your thigh?

20 A: No, I haven't.

21 Q: Is the tattoo that's on your abdomen -- is it visible?

22 If you were to go to the beach and not have a shirt on, would

23 it be visible?

24 A: Yes, it would.

25 MR. PAYNE: I beg the Court's indulgence one moment.

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1 BY MR. PAYNE:

2 Q: All right, Mr. Carter, just a few more questions. Okay?

3 And for these questions, just yes or no.

4 Did you ever have any sexual contact with [REDACTED] T.P.

5 [REDACTED]'s mouth at the house on Caskey Street?

6 A: No, I didn't.

7 Q: Did you ever have any sexual contact with [REDACTED] T.P.

8 [REDACTED]'s vaginal area at the house at Caskey Street?

9 A: No, I didn't.

10 Q: Did you ever have any sexual contact with [REDACTED] T.P.

11 [REDACTED]'s anus at the house at Caskey Street?

12 A: No, I didn't.

13 Q: Did you ever have any sexual contact with [REDACTED] T.P.

14 [REDACTED]'s mouth at the house on Duckwood Avenue?

15 A: No, I didn't.

16 Q: Did you ever have any sexual contact with [REDACTED] T.P.

17 [REDACTED]'s vaginal area in the house on Duckwood?

18 A: No, I didn't.

19 Q: Did you ever have any sexual contact with [REDACTED] T.P.

20 [REDACTED]'s anus at the house on Duckwood?

21 A: No, I didn't.

22 Q: Did you ever have any sexual contact with [REDACTED] T.P.

23 [REDACTED]'s mouth at the house on Pageland Highway?

24 A: No, I didn't.

25 Q: Did you ever have any sexual contact with [REDACTED] T.P.

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1 [REDACTED]'s vaginal area at the house on Pageland Highway?

2 A: No, I didn't.

3 Q: Did you ever have any sexual contact with [REDACTED] T.P. [REDACTED]

4 [REDACTED]'s anus in the house on Pageland Highway?

5 A: No, I didn't.

6 MR. PAYNE: No further questions, Your Honor. Please
7 answer any questions the solicitor has.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MS. MCMAHAN:

11 Q: Mr. Carter, please name all of your children.

12 A: [REDACTED] T.P. [REDACTED], Summer [REDACTED], [REDACTED] Lane
13 [REDACTED], and Madison [REDACTED].

14 Q: You're missing a few there. Name all of your children.

15 A: Candace [REDACTED].

16 Q: Who else?

17 A: Brooklyn and Avery.

18 Q: So how many children do you have total?

19 A: I have seven children total.

20 Q: How many are biological?

21 A: Six.

22 Q: Name their mothers, please?

23 A: Page Hinson, Amanda Self, Kimberly Gardner, Tiffany.

24 Q: Who is Candace's mom?

25 A: Kimberly Smith.

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

- 1 Q: Is Candace the oldest child?
- 2 A: Yes, she is.
- 3 Q: Who is the mom of Brooklyn?
- 4 A: Amanda Self.
- 5 Q: And who is the mom of the child in Tennessee?
- 6 A: That would be Page Hinson.
- 7 Q: How old are those two children?
- 8 A: They are exactly a little over a year old. Their
- 9 birthdays are [REDACTED] the [REDACTED] and [REDACTED] the [REDACTED].
- 10 Q: So when you were naming all of your children, did you
- 11 just forget them?
- 12 A: No, ma'am. It's kind of hard to forget them when I got
- 13 their names on me.
- 14 Q: Were you still married to Tiffany at the time that the
- 15 last two were born?
- 16 A: Excuse me? Repeat the question, please.
- 17 Q: Were you still married to Tiffany at the time the last
- 18 two were born?
- 19 A: Yes, I was.
- 20 Q: When did Tiffany find out about it? When did you tell
- 21 her?
- 22 A: I did not tell Tiffany about the two children. Her
- 23 brother-in-law told her about the two children.
- 24 Q: So you just lied to her about them? You acted as if
- 25 they didn't exist?

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

- 1 A: Oh, no, ma'am. She knew.
- 2 Q: But not from you?
- 3 A: Yes, ma'am. I admitted to it when she came back.
- 4 Q: After her brother-in-law told her?
- 5 A: Yes.
- 6 Q: But not when you told her?
- 7 A: I mean I told her when she found out after her brother-
- 8 in-law told her.
- 9 Q: Uh-huh. So you really had no intention of actually
- 10 telling her about these two other children that you were
- 11 having, did you?
- 12 A: Yes, ma'am, I did.
- 13 Q: Let's talk about your military history. Were you in --
- 14 where were you stationed?
- 15 A: I was stationed in Fort Aberdeen, Maryland, Fort
- 16 Jackson.
- 17 Q: Were you in the reserves?
- 18 A: Yes, ma'am.
- 19 Q: Were you in the National Guard?
- 20 A: Yes, ma'am.
- 21 Q: So you were in all of that?
- 22 A: No. It's the Army National Guard.
- 23 Q: Which is not the Reserves? So you were in the National
- 24 Guard?
- 25 A: Yes, ma'am.

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

1 Q: And why were you discharged from the National Guard?

2 A: It was an uncharacterized discharge.

3 Q: Did you like going to drill?

4 A: I liked it, but I couldn't go because I didn't have a
5 license and, at that time, Tiffany was threatening to leave
6 me because it was just putting too much stress on her. So me
7 and her went in front of a master sergeant and he asked us
8 what we wanted to do, and we both agreed that a discharge
9 would be in our best interest to save our marriage.

10 Q: So you had issues going to drill then. Let's talk about
11 your work history here. You said so when you got out of the
12 military, actually the National Guard, you pursued a job in
13 welding. So what was your first job then?

14 A: I want to say when I first got out -- we're going to go
15 -- there's been so many. I was a jack of all, but the first
16 job when I got out -- I want to say I went back to sprinkler
17 work [ph].

18 Q: Do you remember working at Thomas and Betz?

19 A: Yes, I do.

20 Q: How many months did you work there?

21 A: A total of about six months total.

22 Q: Do you remember working at Sportsman?

23 A: Yes, ma'am.

24 Q: How long did you work there?

25 A: About maybe close to a year.

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

- 1 Q: Do you remember working at BiLo?
- 2 A: Yes, ma'am.
- 3 Q: How many months did you work there?
- 4 A: Off and on, two years.
- 5 A: Do you remember going back to Thomas and Betz?
- 6 A: Yes, I do.
- 7 Q: How long did you work there?
- 8 A: About a year.
- 9 Q: Do you remember going to Davis Neon?
- 10 A: Yes, ma'am.
- 11 Q: How long did you work there?
- 12 A: About six months.
- 13 Q: Do you remember working for TMC Transport?
- 14 A: Yes, ma'am.
- 15 Q: How long did you work there?
- 16 A: A year until I decided -- me and my wife decided that an
- 17 over-the-road truck driver just wasn't going to work for our
- 18 family.
- 19 Q: So then you went to US Express? Do you remember working
- 20 there?
- 21 A: Yes, I do.
- 22 Q: How long did you work there?
- 23 A: About four months to find me a local job.
- 24 Q: And then you worked at CM Tucker for a couple months?
- 25 How many months did you work there?

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

1 A: About four months.

2 Q: And then you worked at BHI Construction; is that
3 correct?

4 A: Yes.

5 Q: Do you remember working there for about six months?

6 A: No, ma'am. I worked for my brother-in-law off and on
7 for maybe eight years.

8 Q: But not in a straight line; right?

9 A: No, ma'am.

10 Q: So that you went to Risen Trucking after leaving BHI
11 Construction, and you worked there for how long?

12 A: I've been with Tony welding, truck driving on and off,
13 for about two years.

14 Q: Do you remember the two years you worked at SCDC? I
15 mean the two months?

16 A: Where?

17 Q: It looks like you worked for -- excuse me. LCI. Do you
18 remember the two months you worked there?

19 A: Yes, ma'am. And the reason I had to quit there was my
20 umbilical surgery.

21 Q: Besides your umbilical surgery, you always seem to have
22 a reason to be working at places for just a few months or
23 just up to a year. Why is that?

24 A: Because I suffer from ADHD.

25 Q: So you have a mental health condition?

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

- 1 A: I have ADHD.
- 2 Q: Do you get treated for that?
- 3 A: I did way back in the day, and I decided not to take
- 4 more medication.
- 5 Q: What's way back in the day?
- 6 A: We're talking high school.
- 7 Q: But do you still take medication for it?
- 8 A: No, ma'am.
- 9 Q: You haven't taken medication in the past year for that?
- 10 A: No. I've taken it for -- the only medication I've been
- 11 on is I have severe anxiety.
- 12 Q: When was last time you took that?
- 13 A: It's been over a year. No, let's go back. My last dose
- 14 of medicine for anxiety was November the 3rd.
- 15 Q: So you had taken some? What was --
- 16 A: At 9:45.
- 17 Q: What was the mental health medication you said that you
- 18 were given back in high school?
- 19 A: Adderall.
- 20 Q: And then when did you stop taking that?
- 21 A: My senior year.
- 22 Q: And how old were you when you got married to T.P. -- I
- 23 mean to Tiffany?
- 24 A: I was 21.
- 25 Q: Okay. So you had stopped taking Adderall for a couple

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

1 years at that point?

2 A: Yes, ma'am.

3 Q: How long have you been taking anxiety medicine?

4 A: On and off for about five or six years.

5 Q: Okay. So when a doctor says, hey, I think your child
6 should go see a therapist and you wouldn't allow it, why is
7 that?

8 A: Because I see -- the therapist part I have no problem
9 with. It's the problem of putting the kid on a drug just
10 because they don't want to sit down all the time or the fact
11 that a kid is not paying attention closely to detail as they
12 should. I just believe America has become a pill popper for
13 laziness or everything.

14 Q: But you never took her to the therapist; right?

15 A: We've never had the option to take her to a therapist.
16 It's always been to a doctor. Her teacher sat down with us
17 and told us that we needed to take her to a doctor, not a
18 therapist.

19 Q: And when you took her to the doctor, did the doctor not
20 suggest she needs to go to a therapist?

21 A: Never.

22 Q: So that never happened?

23 A: I have never seen it. I wasn't there on that
24 conversation.

25 Q: And you said you have an issue with kids taking

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

1 medication and stuff?

2 A: Yes.

3 Q: But it was okay for you as a child to take mental health
4 medication to help you, but not your child?

5 A: I didn't have the option at that time. If I had the
6 option, then I probably wouldn't have took the medication
7 because I didn't want to walk around like a zombie all the
8 time.

9 Q: Well, you stopped taking it. You could have stopped
10 taking it when you were in high school; right?

11 A: No.

12 Q: Someone was forcing those pills on you?

13 A: I still lived up under the same roof.

14 Q: Someone was forcing those pills down your throat?

15 A: Not technically forcing, but I was always asked did you
16 take your medicine.

17 Q: Uh-huh. And you've never lied about anything; so you
18 wouldn't lie about that, would you?

19 MR. PAYNE: Objection, Your Honor. She's badgering the
20 witness.

21 THE COURT: Sustained.

22 MS. MCMAHAN: So at some --

23 THE COURT: Solicitor, don't --

24 MS. MCMAHAN: Yes, Your Honor.

25 THE COURT: -- make comments and testify. Thank you.

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

1 BY MR. MCMAHAN:

2 Q: So you indicated that you were the breadwinner of your
3 family; right?

4 A: Yes, ma'am.

5 Q: But since 2006, you have had 16 different jobs?

6 A: Yes, ma'am.

7 Q: In 12 years? That's more than one job a year?

8 A: If you look at though my family never went without food.
9 Never went without a roof. Never went without anything. We
10 had a vehicle to drive, food, and we always had money.

11 Tiffany didn't work but maybe three jobs our whole marriage.

12 Q: Tiffany stayed home with the children, didn't she?

13 A: Yes, she did.

14 Q: And she didn't have a vehicle to drive when she needed
15 to, did she?

16 A: I bought her two vehicles. The last vehicle I bought
17 her was a van from our best friend, Alex Steele, and she took
18 that and traded it in on another vehicle that had more
19 problems than the first one, and I just didn't buy her
20 another one.

21 Q: As punishment?

22 A: Oh, no, ma'am.

23 Q: So you just didn't buy her another one? So you left her
24 at home with four children without a way to get around?

25 A: Oh, she had a way to go around. We had somebody living

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

1 with us at all times.

2 Q: Who else was living with you?

3 A: We had my cousin that lived with us, Dixie Horton. We
4 had numerous babysitters. I mean there was always somebody
5 there.

6 Q: So if Tiffany needed to go somewhere, she was at the
7 mercy of either you or other people that were living in the
8 house?

9 A: No. My grandmother has bought her vehicles. You asked
10 did I buy her any. No. My grandmother has bought her
11 numerous of vehicles.

12 Q: So then you admitted you had at least -- you've had at
13 least four affairs?

14 A: Yes, ma'am.

15 Q: So the first affair you said, you know, Tiffany was
16 having depression after having a child. Was your sex life on
17 the rocks at that point?

18 A: We didn't even sleep in the same room.

19 Q: So is that why you sought out the affair?

20 A: No. I sought it out because we just were two separate
21 people.

22 Q: Who was that affair with?

23 A: It was with Heather Clark.

24 Q: Did you have any children with her?

25 A: No, I don't.

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

- 1 Q: So you weren't sleeping in the same bed; so you weren't
2 having sex, were you?
- 3 A: I didn't say that.
- 4 Q: How many times did you have sex with Heather Clark?
- 5 A: I couldn't count that.
- 6 Q: Did you ever tell Tiffany about that?
- 7 A: Yes, ma'am. I sure did.
- 8 Q: And then you said you started up the second affair when
9 you guys got back -- when you and Tiffany got back together
10 because she just wasn't the same. Who was that affair with?
- 11 A: That affair -- I can't recall the girl's name because it
12 was just a fling by fling.
- 13 Q: So you basically had a one night stand with someone?
14 You can't remember their name?
- 15 A: Yes, ma'am.
- 16 Q: While you were still married?
- 17 A: Yes, ma'am.
- 18 Q: And you said you were just sort of leaving her at the
19 house and doing some leisurely stuff, like hunting and
20 fishing and stuff; is that correct?
- 21 A: Yes, ma'am. I was always gone. That was probably one
22 of her biggest arguments was I was never at home.
- 23 Q: So it was okay for you to go out and have some fun and
24 relax and do some things, but you just left all your kids
25 with your wife for her to take care of them?

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

1 A: I was being selfish, ma'am.

2 Q: Well, you continued to be selfish, didn't you? You had
3 two more affairs?

4 A: The last two affairs were, you know, in the direct
5 effect of this threesome that she wanted. She actively gave
6 me permission to seek out and look. I actually gave DSS
7 copies of this threesome to show them the text messages, the
8 vulgar stuff that she was wanting to do at that time.

9 Q: So prior --

10 A: And I showed Det. Hicks the same exact.

11 Q: Let's back up to affair number two. So in affair number
12 two, you said Tiffany was depressed. She, you know, was
13 being diagnosed with some mental health conditions. Again,
14 it's okay for Tiffany to go get some mental health help, but
15 not your child; is that correct?

16 A: I actually do not remember her saying that she needed to
17 go get mental health.

18 Q: Well, you said you diagnosed Tiffany with all these
19 things; so Tiffany didn't get mental health for that?

20 A: Oh, she did.

21 Q: Okay.

22 A: She went and got it.

23 Q: So you've had an affair twice. You've told Tiffany that
24 you've had these affairs. You're MIA around the house
25 because you would rather fish than take care of your family.

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

1 So wouldn't you be depressed if your significant other had
2 cheated on you and was treating you that way?

3 MR. PAYNE: Objection, Your Honor. That's badgering.

4 THE COURT: I'm going to allow the question, but let's
5 be careful how we're asking, please. Continue on.

6 BY MS. MCMAHAN:

7 A: I provided the money for the family. Tiffany was more
8 the homemaker, take care of everything. My job was to make
9 sure we had a roof, food, bills were paid.

10 Q: Do you think that's the only way you take care of a
11 family?

12 A: No, ma'am, it's not.

13 Q: So earlier you also stated an issue about your truck.
14 What -- tell me about this truck again. What was it?

15 A: What truck are we talking about?

16 Q: The one that you said you loved. What kind of truck was
17 that?

18 A: It was a Dodge Ram.

19 Q: And what was your exact words in describing it?

20 A: It was my baby.

21 Q: Was it your prize possession? Do you remember saying
22 that?

23 A: Yes, ma'am.

24 Q: Why was it your prize possession?

25 A: Because it was jacked up on 35s and for once it could

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

1 fit the whole family inside. It fit six people.

2 Q: It was your baby? How long did you have it for?

3 A: Four months.

4 Q: So for four months you had your baby, your prize

5 possession. Why did you not have that anymore?

6 A: Because I -- when me and Tiffany split up and the

7 affairs had started, she had left me and when I would go to

8 work at Hell Goldmine Morgan, it became an issue with

9 everybody knowing about my affairs now, and I was kind of

10 embarrassed to drive my truck around now with the word

11 "cheater" from door to door spray-painted with a different

12 color. And you can still see the word "cheater" and my kids

13 asked me, daddy, why is "cheater" on the side of your truck.

14 Q: How much --

15 A: And I had to say -- so it wasn't my baby anymore. I

16 didn't want the truck.

17 Q: Well, once you were scoring, you didn't want the truck,

18 but how much did you pay per month for that truck?

19 A: I roughly had two grand in the whole thing by the end.

20 Q: Were you making monthly payments on it?

21 A: It was supposed to be monthly payments.

22 Q: What were -- what was the monthly payment?

23 A: Right at a hundred.

24 Q: Okay. So your prize possession, your truck -- what kind

25 of truck was it again? I'm sorry. You didn't tell me. What

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

1 was the --

2 A: It was a Dodge.

3 Q: Dodge what?

4 A: Ram.

5 Q: So you had a Dodge Ram. What year?

6 A: 2000.

7 Q: Prize possession. What year did you get it?

8 A: 2001.

9 Q: So you had a one-year-old truck, prize possession,
10 gleaming. That is your baby, but yet your children are not
11 your prize possession and your babies?

12 A: Oh, they got everything they wanted. Our house was full
13 of everything. They had TVs, Nintendo DS's. I mean my kids
14 had everything they wanted. Bicycles. You name it, my kids
15 had it.

16 Q: But you didn't refer to them as your prize possession
17 just now, did you?

18 A: That truck was my prize possession. My kids are my
19 heart. There's a difference. You have to draw a line.

20 Q: So then later on, you're testifying about how Tiffany is
21 sort of like acting, you know, upset and she's getting mad at
22 you and all this stuff. I mean you created the situation,
23 did you not?

24 A: Which situation?

25 Q: The situation with your home life?

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

- 1 A: No. That was 50-50.
- 2 Q: You had one affair right after your third child was
3 born. You had a second affair. When was the fourth child
4 born? Before or after the second affair?
- 5 A: It would've been after.
- 6 Q: So -- but you had a child in between. So you've had two
7 children, an affair, then you have another affair. Then you
8 have two more affairs with the three-way that you were
9 talking about earlier and you're telling me -- you're telling
10 the Court today that Tiffany was acting crazy, but yet you
11 created the situation with all your affairs, did you not?
- 12 A: I ask you this. If I committed all those affairs that I
13 just admitted committing and she come back each time and she
14 wanted to work it out too, I mean I would call that 50-50
15 because she had the chance to nip this in the bud just as
16 quick as I did.
- 17 Q: You left her at home with four children. You ran off
18 with four women. You had a prize truck. She had no way to
19 get around. You left, went off gallivanting in the woods and
20 had a great time and you left her there. You created the
21 problems, did you not?
- 22 A: No, ma'am.
- 23 Q: Okay. So earlier you also talked about a diary that you
24 said contained some disturbing material?
- 25 A: Yes, ma'am.

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

1 Q: Do you believe that talking about women's reproductive
2 systems is disturbing?

3 A: At 10 years old, I would believe that.

4 Q: Are you a 10-year-old girl?

5 A: No, I'm not.

6 Q: Do you know what 10-year-old girls experience?

7 A: That's the reason I said I believe.

8 Q: Do you think talking about tampons and pads is
9 disturbing?

10 A: To me, yes, ma'am.

11 Q: So you think talking about reproductive systems is
12 disturbing?

13 A: No, ma'am.

14 Q: So if your children have questions about tampons and
15 pads because -- that's disturbing?

16 A: Well, see, she didn't have the question. Tiffany
17 brought it up to her. So that was what was so disturbing.

18 Q: Well, you don't know who wrote what in that article, do
19 you?

20 A: Yes, I do, because the handwriting is different and they
21 -- DSS actually had them look at it to authenticate it.

22 Q: But still, just basic general health about women is
23 disturbing?

24 A: No, ma'am.

25 Q: Oh, you said that. So when you -- so you said you were

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

1 shut down for two months not -- because you had a surgery,
2 but you had several other months in-between all these where
3 you weren't working. What were you doing in those months
4 that you had off?

5 A: Oh, it was six surgeries back to back. I had one
6 surgery per month for six months.

7 Q: Where did the -- when did the first surgery happen?

8 A: I couldn't give you the exact date, ma'am.

9 Q: I mean was it ten years ago? Was it just before --

10 A: No, ma'am. We're talking no more -- it was -- I'd say
11 2015 is when they started.

12 Q: Okay. Well, I just read off your work history since
13 2006 and there are multiple times where you have months that
14 don't match up where you were off four months, three months,
15 whatever. What were you doing in those months that you
16 weren't working?

17 A: Ma'am, if you will take that job history that you have
18 and you confirm the handwriting analysis, Tiffany wrote that
19 because I really -- I wasn't really sure of the job dates,
20 but we needed that job history for a resume. So Tiffany
21 wrote that down for me. That's her handwriting, not mine.

22 Q: Whose resume was it for?

23 A: It was for my resume.

24 Q: Okay. Thank you.

25 So ultimately, the children were told about the last two

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

- 1 women that you slept with with the three-way; right?
- 2 A: Yes, ma'am.
- 3 Q: I mean at some point were you going to tell them that
- 4 they were going to have a brother or sister?
- 5 A: Yes, ma'am.
- 6 Q: When? After the child was born?
- 7 A: At the appropriate time.
- 8 Q: Did you feel like you were a father to these children?
- 9 A: I was a father to them.
- 10 Q: Did you do their laundry?
- 11 A: I've done it before. Yes, ma'am.
- 12 Q: Did you change their clothes for them?
- 13 A: I've done it before. Yes, ma'am.
- 14 Q: Did you make their food for them?
- 15 A: I've done it before. Yes, ma'am.
- 16 Q: Did you take them fishing?
- 17 A: Yes, ma'am.
- 18 Q: Did you take them hunting?
- 19 A: Yes, ma'am.
- 20 Q: Were you -- you were alone with them sometimes; right?
- 21 A: All my children. Yes, ma'am.
- 22 Q: So you've been alone with all your children?
- 23 A: As a group, yes, ma'am.
- 24 Q: Never individually as a father? You've never sat alone
- 25 with any of them?

DAVID MATTHEW CARTER - CROSS BY MS. MCMAHAN

1 A: Basically, we go as a group.

2 Q: Always?

3 A: To my recollection, yes, ma'am.

4 Q: Okay. And earlier, you also said you had a tattoo of
5 all your kids' names. Is that true?

6 A: I've got almost all my kids' names on me. I said
7 almost.

8 Q: Which ones are you missing?

9 A: I'm missing my last two and Madison. I've got Lane's.

10 Q: So at the time these photos were taken of you, you did
11 not have all your children's names on you, did you?

12 A: Those photos there, no, ma'am. All my children's names
13 aren't on there.

14 Q: Uh-huh. And also, you have some -- a tattoo on your arm
15 that you failed to disclose. What's that?

16 A: Of -- I mean I have multiple tattoos. Could you be more
17 specific, please?

18 Q: You have some tattoos on your arms of two devil women,
19 don't you?

20 A: No, ma'am. One's an angel and one's a devil.

21 Q: Well, they're two women, aren't they?

22 A: I would assume so, ma'am.

23 Q: You wouldn't want to get two angel and devil men on you,
24 would you?

25 MR. PAYNE: Objection, Your Honor. Relevance.

1 THE COURT: All right. I fail to see the relevance of
2 that question. So I'm--

3 MS. MCMAHAN: Court's indulgence --

4 THE COURT: -- going to sustain the objection.

5 MR. PAYNE: Thank you, Judge.

6 MS. MCMAHAN: Court's indulgence, Your Honor?

7 THE COURT: Yes, ma'am.

8 MS. MCMAHAN: Nothing further from the State, Your
9 Honor.

10 THE COURT: Redirect?

11 MR. PAYNE: Your Honor, we have no redirect.

12 THE COURT: All right. Sir, you may step down. Thank
13 you very much.

14 Further witnesses on behalf of the defense?

15 MR. STEEN: The defense -- the defense rests, Your
16 Honor.

17 THE COURT: Very good. Reply witnesses?

18 MS. MCMAHAN: Your Honor, may I have just a moment to
19 confer?

20 THE COURT: Yes, ma'am.

21 (WHEREUPON, there was a pause in the proceedings, after
22 which the proceedings resumed as follows.)

23 MS. MCMAHAN: Yes, Your Honor. We have one reply
24 witness.

25 THE COURT: All right. Call your witness.

TIFFANY CARTER - DIRECT BY MS. MCMAHAN

1 MS. MCMAHAN: Your Honor, we'd call Tiffany Carter.

2 THE COURT: Please come around to be sworn.

3 THE CLERK: Put your left hand on the Bible and raise
4 your right, please. Do you swear to tell the truth, the
5 whole truth, and nothing but the truth, so help you God?

6 THE WITNESS: I do.

7 THE CLERK: You may be seated.

8 THE COURT: You may proceed, ma'am.

9 TIFFANY CARTER, being first
10 duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. MCMAHAN:

13 Q: Tiffany, were you ever concerned about [REDACTED] T.P. 's mental
14 health?

15 A: Yes.

16 Q: For a short period of time or a long period of time?

17 A: Whenever I took her to the doctor and the doctor
18 suggested therapy, I would have preferred to have taken her,
19 but I did not because --

20 Q: Did you and Mr. Carter agree to take her to therapy?

21 A: No.

22 Q: Okay. And let's talk -- the multiple affairs within
23 your marriage -- did you know about the first one?

24 A: Not at first.

25 Q: How long was it until you found out about that one?

TIFFANY CARTER - DIRECT BY MS. MCMAHAN

- 1 A: A couple months.
- 2 Q: And then were you guys still living together while all
3 this was going on?
- 4 A: Yes. We lived in Rock Hill at the time with my mom.
- 5 Q: Okay. And then the time the second one went on -- what
6 -- when was that?
- 7 A: That was in Heath Springs. I was -- David had -- I
8 believe that was -- he had lost one of his jobs. I'm not
9 real sure which one.
- 10 Q: Uh-huh.
- 11 A: That was the first time that I had started at Tenacarse
12 [ph] Academy. He did not want to stay at home with the kids.
13 He would text or call me at work and try to find out when I
14 was getting off of work so he could go do whatever. So I had
15 to hire a paid babysitter and that is the one that he had the
16 affair with.
- 17 Q: So he had an affair with your babysitter?
- 18 A: Yes.
- 19 Q: So during your -- your marriage, how many vehicles did
20 you have personally?
- 21 A: I had a Chevy Cavalier that his grandma had bought for
22 me. At that time, me and my children that we had was T.P.
23 and Summer. I had not long after that gotten pregnant with
24 Lane. So we both decided to get a bigger vehicle because the
25 Cavalier was only a two-door. It would've been difficult to

TIFFANY CARTER - DIRECT BY MS. MCMAHAN

1 struggle with getting an infant car seat through the seat. I
2 mean you had to lift the front seat up.

3 So we both decided to get another vehicle, and a friend
4 of his had a Dodge Caravan and that's the one that we got.
5 We had it for a while and there were problems. It was the
6 middle of the summertime and the heat wouldn't cut off. The
7 -- there was only one window that would roll down.
8 Transmission issues.

9 And David refused to have it fixed or try to repair
10 anything on the vehicle; so I traded it in. I was working at
11 that time still. We traded it in or I decided to trade it in
12 because he just refused -- you know, refused to fix it, and
13 he wouldn't go with me; so I made the best decision that I
14 could.

15 I don't know much about vehicles. That vehicle ended up
16 having issues also that he refused to help me fix. I didn't
17 have the money to pay somebody to fix it because I was the
18 only one working at the time. I ended up not being able to
19 make payments on it; so I had to choose to either fix it or
20 have it repossessed because I mean I either had to pay to fix
21 it or pay the payments. If I paid the payments, then I had a
22 vehicle that I couldn't even drive --

23 Q: Was --

24 A: -- at all.

25 Q: So after that, did you have a car for a while?

TIFFANY CARTER - DIRECT BY MS. MCMAHAN

1 A: No. David bought his dad's Ford Ranger. It did not
2 have enough seats for everybody in it.

3 Q: So the entire family couldn't have even fit in it?

4 A: No. He ended up taking a title loan out on it just so
5 he could get a set of tires. He did not pay the payments and
6 he knew that it would be up for repossession. So he would
7 park it in the backyard and use a cable lock that he used for
8 deer stands and would lock it to our back porch so they could
9 not repossess it.

10 Q: So during all this time, how long would you say that you
11 were without a vehicle that you had access to?

12 A: From the time that that last van that I had bought was
13 reprocessed until I left and my grandfather -- when I left, I
14 had about nothing except for what I could fit into trash
15 bags.

16 Q: When you left the first time or the second time?

17 A: When all of this come out on September 24th. I did not
18 have a vehicle until October 2016 when my grandfather bought
19 me a vehicle so I could get a job so I could take care of my
20 kids.

21 Q: So --

22 A: So that would have been from 2015 until the -- October
23 2016 I did not have a vehicle.

24 Q: So the defendant testified that you left once before
25 earlier in August of 2016; is that correct?

TIFFANY CARTER - DIRECT BY MS. MCMAHAN

- 1 A: Yes, I did.
- 2 Q: And you guys got back together?
- 3 A: I was gone for two days. He was constantly calling me.
- 4 He convinced me. There was a lot of manipulation in our
- 5 marriage. He would try to blame everything on me. The
- 6 affairs were always my fault. He had me convinced that since
- 7 I could not financially provide for the children, he would be
- 8 able to take them from me. My kids are my life. They were
- 9 not going anywhere that I would not be; so I went back for
- 10 that reason alone.
- 11 Q: Okay. I'm going to show you these three defense
- 12 exhibits. Were you present for those?
- 13 A: Yes.
- 14 Q: What -- I mean you guys were married for almost ten
- 15 years; correct?
- 16 A: Right.
- 17 Q: This was just three pictures out of almost 316,000 days.
- 18 Tell me about what's going on in these pictures?
- 19 A: This one would have been -- I believe this was either
- 20 Christmas or a Thanksgiving dinner at his stepmom's house.
- 21 Q: What's the number on the back of that?
- 22 A: 3.
- 23 Q: Okay. Were you having a happy marriage then?
- 24 A: It's hard to compare.
- 25 Q: Okay. What about these other two?

TIFFANY CARTER - DIRECT BY MS. MCMAHAN

1 A: This one, which is Number 2, was taken -- I believe this
2 is when his stepmom and dad had moved to Vincent Lane. I'm
3 judging just by the color on the porch rail right there. I'm
4 not sure what the occasion. I think this was Mother's Day,
5 but I can't remember for sure. At that time, we were not
6 having a good marriage, no.

7 Q: Did you confide in his mom or stepmother or any members
8 of his family about issues that you were having with yours?

9 A: That was our marriage. Any problems was ours.

10 Q: So -- so the step-grandmother -- you never told her that
11 you guys were having problems that day?

12 A: You mean the stepmother?

13 A: Yeah. Stepmother. I'm sorry.

14 A: No.

15 Q: And then the other pictures were sort of the same
16 situation?

17 A: Yes. This one was at Angel Beckham's house. This would
18 have been Christmas and, no, we were not happy at that time,
19 and that is Number 1.

20 Q: Did you tell Angel about that?

21 A: No.

22 Q: Okay. And the threesome he keeps alluding to -- was
23 that something that you -- how did that come about?

24 A: He had originally mentioned that. Like I said, there
25 was a lot of manipulation, a lot of gas lighting. He would

TIFFANY CARTER - DIRECT BY MS. MCMAHAN

1 bring up the situation or just anything in general that would
2 be what he desired to happen, whether it be sexual acts or
3 just anything in general. And then once he would convince me
4 that that was what we needed to do in reference to the
5 threesome, I became on board, but it was -- it was not
6 something that I'm comfortable with.

7 Q: So let's back up then. The defendant also said he was
8 disturbed by the diary where you were talking to T.P.?

9 A: Right.

10 Q: You talked about it earlier. What was the purpose of
11 the diary?

12 A: To educate her on puberty and her menstrual cycle.

13 Q: And so what were the nature of the questions in there?

14 A: Prior to the journal, she had asked me, you know,
15 general questions about pads. I mean obviously she knows
16 that I use tampons because they were in the bathroom. So she
17 began questions -- asking questions about why did I need
18 tampons. So that's when I suggested that we use a journal
19 because with the other three kids, I had no privacy. They
20 were always wherever I was. They needed this. They needed
21 that. Mama, mama, mama. So we did a journal so it would
22 just be between me and her.

23 Q: Okay. And so, you know, obviously, you're a female?

24 A: Right.

25 Q: You were answering questions about what women have to do

TIFFANY CARTER - DIRECT BY MS. MCMAHAN

1 for their reproductive systems?

2 A: Right.

3 Q: Okay.

4 MS. MCMAHAN: Court's indulgence, Your Honor.

5 BY MS. MCMAHAN:

6 Q: So in the details in the journal that you guys were
7 talking about when you were answering the questions, did you
8 ever go into details about, like, how children are created?

9 A: She had asked me how do you become pregnant. My answer
10 was that the male sperm mates with the female egg, and the
11 chemical reaction -- I mean that was the only way I could
12 think of. I didn't know what other -- any other technical
13 term. I just told her that the chemical reaction would
14 create a baby.

15 Q: Was this in all words?

16 A: Ma'am?

17 Q: Were you writing all this in words?

18 A: Yes.

19 Q: Okay. And that was it? That's all you did?

20 A: Right. I believe that was actually the last thing in
21 the journal.

22 Q: Okay.

23 MS. MCMAHAN: Court's indulgence, Your Honor. Nothing
24 further, Your Honor.

25 THE COURT: Cross-examination?

TIFFANY CARTER - CROSS BY MR. STEEN

CROSS-EXAMINATION

1
2 BY MR. STEEN:

3 Q: Ms. Carter, you just testified that David was the one
4 that proposed the -- a threesome?

5 A: Yes, sir.

6 Q: Do you remember giving an 11-page written statement?

7 A: I do.

8 Q: And this is your written statement?

9 A: Yes, sir.

10 Q: Do you remember writing in this statement the anxiety
11 medicine I was on made me hypersexual. I started trying to
12 get David to have a threesome with me and another girl that
13 we agreed on. He was on board at first and then he said no.
14 He would get upset if it -- if I brought it up because it
15 bothered him to think about him to be with another woman. Is
16 that what you wrote in this statement?

17 A: That is.

18 Q: And it's also your testimony that David was the
19 breadwinner at your home?

20 A: Part of the time. Well, I would say probably about 85
21 percent of the time when he was working, and he said that we
22 -- he provided food for the home. I consider he worked at
23 the gold mine. We received food stamps. So there was always
24 food in the home. He did not provide the food. The income
25 did not equal enough for him to even provide the food.

TIFFANY CARTER - CROSS BY MR. STEEN

1 Q: But you took his threat that he would take the kids away
2 because he could provide for them seriously?

3 A: Financially, at that time whenever I did leave, I did
4 not work because I did not have a vehicle. I was stuck at
5 home.

6 Q: And you just testified that you would never let your
7 kids get taken away from you; correct?

8 A: Right. Those are my kids. That's my job. I'm their
9 mom.

10 Q: No one's going to take your kids away; correct?

11 A: That's correct.

12 MR. STEEN: No further questions.

13 THE COURT: Redirect?

14 MS. MCMAHAN: No, Your Honor.

15 THE COURT: You may step down, ma'am.

16 Further reply testimony?

17 MS. MCMAHAN: None, Your Honor.

18 THE COURT: All right. I assume there are matters of
19 law for the Court at this point in time that we need to take
20 up?

21 MR. STEEN: Yes, Your Honor. Yes, I have a matter of
22 law.

23 THE COURT: All right. Very good.

24 MR. STEEN: I apologize.

25 THE COURT: Thank you.

1 they believe the evidence has shown to you during the course
2 of the trial and, of course, what they'll be asking you to do
3 as a result of your unanimous verdict in this matter. You
4 remember, of course, that you are the judges of the facts in
5 this case.

6 Solicitor?

7 MR. MCMASTER: Thank you, Your Honor. May it please the
8 Court.

9 CLOSING ARGUMENT ON BEHALF OF THE STATE

10 MR. MCMASTER: This is a case about a young girl who was
11 sexually assaulted for over five years, who briefly felt
12 freedom when she moved away from her stepdad for two days,
13 who then moved back in with her stepdad and she felt that
14 freedom slowly slipping away; so she spoke out.

15 The defendant is charged with three counts of criminal
16 sexual conduct with a minor in the first degree. The judge
17 will instruct you fully, but Section 16-3-655 says a person
18 is guilty of criminal sexual conduct with a minor in the
19 first degree if the actor engages in sexual battery with a
20 victim who was less than 11 years of age.

21 You might be wondering what a battery is. That's just
22 unlawful touching. You might be wondering what sexual
23 battery is. That includes any penetration, however slight,
24 of the genitals or the anus. This also includes fellatio,
25 which is oral sex of the penis, and cunnilingus, which is

1 oral sex of the vagina.

2 So when the defendant put his penis in [T.P.]'s Lucy, as
3 she called it, and [T.P.]'s butt, and when he forced [T.P.]
4 to put his penis in her mouth and swallow the white stuff, as
5 she called it, that's sexual battery.

6 Ladies and gentlemen, you've heard all the testimony.
7 You've seen all the evidence. You saw -- you watched the
8 video of [T.P.] talking to Margaret, saying the defendant
9 made her do things to him until the white stuff came out.
10 [T.P.] and Margo were alone in that room, and you heard
11 [T.P.] testify in this courtroom to the same details. She
12 was alone right up there answering questions, questions from
13 the State and the defense.

14 [T.P.] gave details about sex that a 10-year-old
15 wouldn't know, details that a 10-year-old shouldn't know.
16 [T.P.] wouldn't know about white stuff or about swallowing
17 it. She didn't learn those details in school.

18 Ms. Budd testified that her presentation was on
19 reporting sexual abuse, not sex education, and the
20 presentation she said was age-appropriate. But what [T.P.]
21 did learn from Ms. Budd in fourth grade was not to be afraid
22 to speak out.

23 Now, unfortunately, [T.P.] learned these details by
24 experiencing them at the hands of someone who should protect
25 her from that harm, from the defendant, whom she called

1 Daddy.

2 You heard expert testimony that after 72 hours, it's
3 normal for a child's genitals to be normal after such
4 penetration. Ms. Schaller explained how a hymen is like an
5 elastic donut ring that heals like a sore found in your
6 mouth. You also heard expert testimony from Dr. Foster about
7 delayed disclosure, that it's very common for child abuse
8 victims to delay disclosing sexual abuse from family members
9 and authoritative figures in the home.

10 The defense showed you three pictures taken around the
11 holidays, a time when family gets together. Those pictures
12 came from the defendant's stepmom, who has been the
13 defendant's stepmom for over ten years. Three pictures in
14 ten years.

15 The defense wants you to think [T.P.] acts normally
16 around David's family members, including grown men, but
17 [T.P.] never testified that she's afraid of grown men. She
18 testified that she's afraid to be around the defendant alone.
19 And the only reason she has to fear the defendant when they
20 were alone was when he made her do all those things that she
21 told him about -- that she told us about here in this
22 courtroom.

23 Now, you might be wondering wouldn't it be easier for
24 Tiffany to divorce the defendant on the basis of adultery and
25 get alimony and child support for the kids, but [T.P.] is the

1 child who spoke out and Tiffany knows she cannot get child
2 support for [REDACTED T.P.], only the other three kids.

3 But this isn't -- this really isn't about divorce. This
4 isn't about Tiffany getting back at the defendant for
5 cheating on him -- for cheating on her four times, to get
6 back at the defendant for having two children with two other
7 women during their marriage, because Tiffany would not get
8 alimony or child support if the defendant is in prison.

9 This case is about [REDACTED T.P.]. This case is about justice.
10 This is about a man who repeatedly over a period of five
11 years at three different residences sexually assaulted
12 [REDACTED T.P.]. This is about a man who broke [REDACTED T.P.]'s trust and
13 took her innocence and all because he had access to her as a
14 stepdad. He played the role as her father figure and he
15 could tell her what to do or she'd get in trouble. A man who
16 is guilty and who now finally must be brought to justice and
17 convicted of these crimes against [REDACTED T.P.].

18 Thank you.

19 THE COURT: For the defense?

20 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

21 MR. STEEN: Thank you all for being here with us this
22 week.

23 The State is right. [REDACTED T.P.] does have knowledge no 10-
24 year-old should have, but the testimony presented here this
25 week has been that Tiffany gave her this knowledge. Tiffany

1 and [T.P.] had a diary, which no one can seem to find now,
2 where they talked about diagrams and chemical reactions from
3 pregnancy and other things because, as [T.P.] -- as Tiffany
4 said, her daughter was going through puberty and she was
5 trying to educate her on sex.

6 This is the same person who sat on that stand and lied
7 and said it was David who wanted to have a threesome when she
8 wrote a statement to the opposite that she provided to law
9 enforcement. She stated she tried to get David to have a
10 threesome, but he did not want to because it bothered him for
11 -- for him to think about another woman.

12 Now, let's talk about the investigation in this case.

13 Det. John Hicks testified. He never went to any
14 incident location. He never went to Pageland Highway. He
15 never went to Caskey Street. He never went to Duckwood. The
16 lead investigator on a CSC with a minor first-degree case
17 never went to the incident locations.

18 He never got any search warrants, not for any of the
19 houses, not for the vehicles. He didn't even bother trying
20 to find the vehicle where an offense allegedly took place.

21 He never personally interviewed [T.P.]. He did do one
22 thing. Well, after he couldn't even bother calling Beaufort
23 Elementary School to verify that [T.P.] had Erin's Law
24 training, but he did testify he did do one thing. He tried
25 to get a search warrant for DNA, but no, when asked to

1 clarify, he testified that he just decided not to get DNA.

2 The Sheriff's Office did so little investigation on this
3 -- in this case, the State only asked him three questions.
4 The State only asked their lead investigator three questions
5 in this trial.

6 So as the defense, we put up Det. Jonathan Reed from the
7 York County Sheriff's Office. He interviewed the same
8 witnesses that John Hicks did, but he also did more. He
9 completed the investigation.

10 He talked to Tiffany Carter. He talked to David Carter.
11 He watched the interview of T.P. . He called
12 Beaufort Elementary School to try to verify T.P.'s training
13 on Erin's Law. He went to the trouble. He found the truck
14 at Cauthen's Motor, went there and looked at it, found no
15 DNA.

16 He did everything he could because that's his job. He
17 is investigating a very serious crime; so that's how he did
18 it. After all that, he did not press charges in his
19 jurisdiction.

20 You know, I thought maybe since Det. Hicks didn't
21 testify to much of the investigation, if I put Det. Reed up
22 there, I mean the State could, you know, get some evidence
23 through him in their case, but no, they asked no questions.
24 I gave them someone who actually did investigate, and they
25 decided they'd rather just not know the information.

1 Next, we have, I guess, the physical evidence in this
2 case.

3 Nurse Schaller testified that she performed an exam on
4 Ms. Palmer. It was normal. Normal means no STDs, no outside
5 injury, but they don't look for penetration; so there was
6 never a test to determine if there was penetration, but there
7 was no STDs, no pregnancy, no outside injury. As Nurse
8 Schaller testified, most exams are normal. That's why
9 they're normal.

10 That provides no evidence whatsoever in this case, even
11 though the State tries to muddy the waters to say this is
12 evidence. No, there's no evidence. The exam was normal,
13 just like it would be for anyone.

14 Let's talk about this tattoo that's been all discussed
15 this week. **T.P.** testified that she could not see the
16 bottom half of the tattoo if David is in his underwear. The
17 State's own evidence proves that wrong. You can see the
18 tattoo in his underwear. They testified going to the beach.
19 They've lived together. You're going to be able to see a
20 tattoo at this part of someone's body without being accused
21 of criminal sexual conduct.

22 When Ms. Carter originally gave her statement, she
23 testified that there was a tattoo and that it had Tiffany's
24 name above it. She actually made no mention whatsoever of
25 the last name Carter. It wasn't until she drew this at some

1 point later after some time that she said that the Carter
2 name was on there.

3 We've heard testimony about the thigh tattoo. There is
4 no thigh tattoo. She said there was. There is not. Tiffany
5 tried to testify that there was, but no, there is no thigh
6 tattoo, which now takes us into [REDACTED] T.P.'s testimony.

7 If you paid attention to her interview, she never once
8 forms a complete sentence of the allegations. It's -- she
9 says a word, but Lucy. Then the interviewer asked her where
10 did that -- you know, what touched that part? The interview
11 is in evidence. Listen to it. It's always a one-word answer
12 or a yes/no to a follow-up question provided by Ms. Margo
13 Dixon at that time.

14 To show that, her generalized lack of any details, here
15 are some of her responses in this interview.

16 How old were you the very first time? Do you remember?

17 No.

18 The first time he sexually abused you, had your younger
19 sister been born yet?

20 I don't remember.

21 How do you know it was in your Lucy?

22 Because I don't know. I just know it was in it.

23 Where was your mom?

24 I don't know.

25 Where would your mom be if it was in your room?

1 I don't remember.

2 Explain to me how much you know about what happened?

3 I don't know.

4 And it happened there? Do you remember a time it
5 happened there?

6 No, not really, but I do know it happened.

7 How would you get it in your Lucy?

8 I don't remember.

9 Can you describe this area to me? Can you tell me what
10 it looks like?

11 No.

12 Is there anything down in this area?

13 I don't know.

14 What color is his hair?

15 I don't know.

16 Is there any reason you don't know what color his hair
17 is?

18 I just don't know.

19 She testified to no details whatsoever, but that there
20 is a Lucy, a butt involved, and that's -- and white stuff.
21 Never any allegations of what actually happened.

22 And let's talk about the first time, the first time he
23 did it. Can you tell me about the first time he'd done it?

24 He told me it was medicine.

25 Do you remember what grade you were in the first time he

1 told you it was medicine?

2 First or second.

3 Follow-up question: Do you remember which grade you
4 were in the first time he did it?

5 No.

6 It was the first or second grade the first time he did
7 it?

8 Yes.

9 Explain to me what you know about what happened?

10 I don't know.

11 The test -- the interview is misleading. When the
12 interviewer asked her the first time, it was medicine.

13 Oh, the first time it was medicine in first or second
14 grade?

15 Yes.

16 So what grade were you in the first time?

17 I don't know.

18 There's no consistency whatsoever in her interview.

19 Even Ms. Dixon questioned her terminology. She was taken off
20 guard by her term sexually abused. She said the word
21 sexually abused is strong to me. Where did you learn that
22 particular word? Because it's not normal for a person of her
23 age to testify to that.

24 The State's own witness testified that the person or
25 younger child uses less vocabulary and uses more literal

1 terminology. Saying she was sexually abused is the opposite
2 of literal terminology.

3 Then we go to why would [REDACTED] T.P. do this. Her mom. She
4 testified right here today. Not long before these
5 allegations were made, within the month, she knew David
6 Carter was the breadwinner. She was a homemaker and that she
7 could lose her kids to David Carter. She testified right
8 there and said no one's going to take her kids away.

9 Three weeks later, my client is in jail for criminal
10 sexual conduct with a minor. Allegations span back to 2011.
11 My client worked. You heard him. He had a lot of jobs. Ms.
12 Carter did not work. Homemaker.

13 So we have five years of sexual abuse where one parent
14 is home all the time, one parent is not home all the time,
15 and yet there's no knowledge, anything pointing out anyone
16 for all these years until one day when Tiffany is ready to
17 end this marriage finally. She stated before this
18 allegation, she wanted the marriage ended. She wanted to
19 keep her kids. She knows without something like this there's
20 a good chance Mr. Carter would have got custody of the kids.

21 So in conclusion, I submit to you that -- that my client
22 took the stand. He answered every single question put to
23 him. The State had full authority to ask him whatever they
24 wanted without objection, unless objected to. They did not
25 ask him one question concerning these allegations.

1 To me, it seemed like the State conducted his testimony
2 as a divorce hearing. In his -- Mr. Solicitor stated in his
3 closing that it appeared as a divorce hearing, and you're
4 right. That's what it did. They didn't ask any questions.
5 They had the defendant on the stand and could ask him
6 anything they want under oath and they don't even bother
7 asking about the charges.

8 So, ladies and gentlemen of the jury, I submit to you
9 that my client is innocent of these charges. As I stated to
10 you at the beginning of this trial, there's no physical
11 evidence. The only evidence in this case is the testimony of
12 the victim, whose statement is full of inconsistencies, lacks
13 any detail whatsoever, uses five or six choice words
14 throughout the entire interview. Again, listen. See if
15 y'all can find a complete statement where she says David
16 Carter did this to me.

17 No -- no physical evidence. No reliable testimony from
18 the victim. The victim's own mom testified that she wants to
19 make sure that no one takes her kids away, like David Carter
20 was threatening to do.

21 For those reasons, Your Honor -- I mean for those
22 reasons, please, I ask you to please find my client not
23 guilty, not because the State hasn't proved their case,
24 because he is innocent of these charges. Thank you.

25 THE COURT: Final reply from the State?

1 MR. MCMASTER: Yes, Your Honor. Just briefly.

2 REPLY CLOSING ON BEHALF OF THE STATE

3 MR. MCMASTER: You just heard from defense counsel, Mr.
4 Steen, who said that we're trying to muddy the waters, but if
5 anybody's trying to muddy the waters, it's the defense.

6 [REDACTED] T.P. was 10 years old when she was being interviewed
7 and when she was giving her answers to those tough questions
8 for anybody to -- to -- to give. Those are details that a
9 child shouldn't know.

10 And this talk about the threesome -- ultimately, that's
11 just a red herring. Does it really matter whose idea it was?

12 [REDACTED] T.P. -- Tiffany was trying to keep her family together.
13 She had kids. She was doing whatever it took to keep it
14 together.

15 Mr. Steen mentioned the -- Det. Reed's investigation,
16 but you heard from Ms. Budd on the stand and what she's
17 required to give under Erin's Law. So I would just ask you
18 what can a search warrant tell you that the victim herself
19 can't?

20 Thank you.

21 CHARGE ON THE LAW

22 THE COURT: All right. Ladies and gentlemen, it's now
23 my duty and responsibility to give you the law that you will
24 apply to the facts and evidence you've heard in this case.

25 I told you at the very beginning one of your jobs and

1 duties and responsibilities was to judge the credibility,
2 that is the believability of the witnesses that came before
3 you and testified under oath.

4 Now, in doing this, you can believe one witness against
5 several, several against one. You can believe a portion of
6 what a witness says and disregard the remaining portion of
7 it. If you've got a good and sound reason for doing so, you
8 can disregard in its entirety the testimony of a particular
9 witness.

10 You look at whether or not the witness exhibited to you
11 any kind of interest, motive, bias, prejudice they might have
12 in giving you the testimony that they gave you from the
13 witness stand. Obviously, you consider the opportunity for
14 knowledge.

15 You can consider the demeanor of the witness, if you
16 choose to do so. How did they appear when they were
17 responding to the questions in this matter?

18 Your objective is to listen to the facts and evidence in
19 this case and to decide whether or not the State has proven
20 to you the guilt of the defendant, the accused, beyond a
21 reasonable doubt of the three crimes for which he is charged.
22 You don't have any friends to reward, you don't have any
23 enemies to punish, and your verdict can't be the result of
24 any kind of passion, prejudice, or sympathy. It's an
25 examination of the facts and evidence in looking to see did

1 the State prove the defendant guilty beyond a reasonable
2 doubt.

3 Two types of evidence presented in this case, presented
4 in virtually every single case that's a trial: direct and
5 circumstantial evidence.

6 Direct evidence. That's the testimony of a person who
7 claims to have actual knowledge of a fact, what they saw,
8 what they heard, what took place in their presence.

9 Circumstantial evidence. That's a chain of facts
10 indicating the existence of a fact.

11 The law doesn't make any distinction between the two or
12 a greater degree of certainty of one over the other is not
13 required, but to the extent that the State of South Carolina
14 relies on any circumstantial evidence, all the circumstances
15 must be consistent with each other and when taken together
16 point conclusively to the guilt of the accused beyond a
17 reasonable doubt. If the circumstances merely portray the
18 defendant's behavior as suspicious, the proof has failed.

19 The State has the burden of proving the defendant guilty
20 beyond a reasonable doubt. That burden rests on the State of
21 South Carolina, regardless of whether it's direct evidence or
22 circumstantial evidence or some combination of the two.

23 After weighing all the evidence, if you are not
24 convinced of the guilt of the defendant beyond a reasonable
25 doubt, you must find the defendant not guilty.

1 I told you this when the minor testified, the testimony
2 of children. You have the job, obviously, of determining
3 credibility and believability of all witnesses. When it
4 comes to a minor, you may consider not only -- generally, use
5 your good common sense in judging credibility and
6 believability, but you may also consider the age of the
7 child, the child's ability to observe and remember, the
8 child's ability to understand and answer questions.

9 It's up to you to decide whether the child understood
10 the seriousness of appearing as a witness in a criminal
11 trial, whether the child understood the questions, had a good
12 memory, understands the difference between lying and telling
13 the truth, and it's up to you to decide whether the child
14 understood the questions asked and answered the questions
15 truthfully.

16 The defendant has been indicted by the State for three
17 separate charges. I'm going to talk about your decision-
18 making regarding three separate charges in a minute, but to
19 the indictment, the charges against the defendant, the
20 defendant pled not guilty. That immediately put the burden
21 of proof on the State of South Carolina to prove the
22 defendant guilty beyond a reasonable doubt. It's called the
23 presumption of innocence.

24 A person who is accused of committing a crime is never
25 required to prove themselves innocent. They're not required

1 to prove anything to you. The burden is on the State, always
2 on the State. The State must prove the defendant guilty
3 beyond a reasonable doubt. I told you at the very beginning
4 the defendant is not -- does not need to show up for trial
5 because they don't have anything to prove to you.

- 6 The example we always use is the presumption of
7 innocence is likened to a robe of righteousness. It's placed
8 on the shoulders of the defendant and it stays on the
9 shoulders of the defendant unless and -- unless and until,
10 from the facts presented to you, you believe the State has
11 proven the defendant guilty beyond a reasonable doubt.

12 This presumption of innocence isn't some legal theory.
13 It is not some legal phrase. It's a substantial right to
14 which every defendant -- to which every American is entitled.

15 So what's reasonable doubt? The kind of doubt that
16 would cause an ordinary reasonable person to hesitate to act.
17 Proof beyond a reasonable doubt leaves you firmly convinced
18 of the defendant's guilt.

19 Now, there are very few things we can know with absolute
20 certainty. The law doesn't require the State of South
21 Carolina to give you that kind of proof, but what is required
22 is that based upon your consideration of the evidence, the
23 facts presented to you, you are firmly convinced the
24 defendant is guilty of the crime charged, you must find the
25 defendant guilty. On the other hand, based upon the facts

1 and evidence presented to you, you are not firmly convinced
2 of the defendant's guilt beyond a reasonable doubt, you must
3 give the defendant the benefit of the doubt and find him not
4 guilty.

5 The defendant has been charged with three separate {
6 crimes. They are the same crime, but he has been charged
7 with the same crime three times. You are going to have to
8 make a decision on each and every one of them. Your decision
9 does not have to be the same based upon your view of the
10 facts and evidence, but what is required is the State has to
11 prove to you beyond a reasonable doubt that the defendant
12 engaged in a sexual battery with the victim.

13 A sexual battery. That's intercourse, cunnilingus,
14 fellatio, anal intercourse, any intrusion, however slight, of
15 any part of a person's body or object into the genital or
16 anal openings of another -- another person's body.

17 The State has to prove to you also beyond a reasonable
18 doubt that the victim was less than 11 years of age at the
19 time of the sexual battery. Consent, willingness,
20 indifference, ignorance on the place of the minor, if any, as
21 to what was taking place does not affect the charge of
22 criminal sexual conduct with a minor in the first degree
23 because a minor of that age cannot legally consent.

24 Now, I have had drafted for you three verdict forms
25 because, again, there's three charges, three decisions, three

1 crimes the defendant is charged with.

2 The first one. On the charge of criminal sexual conduct
3 with a minor in the first degree between the dates of May 1,
4 2011, and October 31, 2015, at [REDACTED] -- [REDACTED],
5 Heath Springs, South Carolina, we, the jury, by unanimous
6 consent, find the defendant -- there's two choices, and I
7 placed one before the other. Don't assign anything to that.
8 Two choices, not guilty or guilty.

9 Once you've decided that, on to the second charge,
10 criminal sexual conduct with a minor in the first degree. To
11 the charge of criminal sexual conduct with a minor in the
12 first degree between the dates of October 31, 2015, and
13 January 31, 2016, at [REDACTED], Lancaster, South
14 Carolina, we, the jury, by unanimous consent, find the
15 defendant -- two choices, not guilty or guilty.

16 When you've reached a verdict on that one, criminal
17 sexual conduct with a minor in the first degree. On the
18 charge of criminal sexual conduct with a minor in the first
19 degree between the dates of January 1, 2016, and September
20 30th, 2016, at [REDACTED], Lancaster, South
21 Carolina, we, the jury, by unanimous consent, find the
22 defendant -- two choices, not guilty or guilty.

23 After you've done that, you knock on the door and let
24 the bailiff know a unanimous verdict has been arrived at on
25 these three charges.

1 Now, I have said unanimous I don't know how many times,
2 but it means exactly what you think it means. It means
3 twelve/zero. Not eleven to one, ten to two, any combination
4 thereof. Whatever the verdict is, it must be the unanimous
5 verdict of each and every member of the jury.

6 Mr. Foreman, you check the appropriate block, you sign
7 your name. You're indicating to the Court that each and
8 every member of the jury agrees that's their verdict. So if
9 called upon by the clerk's representative after the verdict
10 is read by the clerk's representative to raise your right
11 hand to affirm that is your verdict, each and every member of
12 the jury can do that.

13 What I'm going to ask that you do, Mr. Foreman, is take
14 your jury to the jury room.

15 Madam Alternate, if you'll stay with us, please.

16 Take the remaining members of the jury to the jury room.
17 Do not -- do not begin your deliberations until the bailiff
18 hands to you the verdict forms and the exhibits. At that
19 point in time, you may begin your deliberations.

20 Mr. Foreman, please take the jury to the jury room.

21 (WHEREUPON; the jury exited the courtroom at 2:11 p.m.)

22 THE COURT: At this time, is there any objection from
23 the State to excuse the alternate?

24 MS. MCMAHAN: No objection, Your Honor.

25 THE COURT: From the defense?

1 MR. STEEN: No objection, Your Honor.

2 THE COURT: All right, ma'am. Your job was to step in
3 the shoes. You saw that happen earlier in the case and, by
4 the luck of the draw, you remained the alternate. I'll tell
5 you, as you saw, it happens quite a bit, but it didn't happen
6 twice.

7 So they are ready, willing, and able to go forward with
8 their duties and responsibilities. I'm able to release you
9 from your obligations to be a juror this particular week.
10 You've participated with us. I'm going to excuse you from
11 the balance of the week. You earned an exemption from coming
12 back to Circuit Court jury duty now for three years. If they
13 call you for Circuit Court jury duty, you tell your fine
14 clerk of court I've already served and you'll get that
15 exemption for three years. All right?

16 THE ALTERNATE JUROR: Okay.

17 THE COURT: Thank you, ma'am.

18 THE ALTERNATE JUROR: Thank you..

19 (WHEREUPON, the alternate juror was released and exited
20 the courtroom at 2:12 p.m.)

21 THE COURT: Exceptions, deletions, additions to the
22 charge from the State?

23 MS. MCMAHAN: None, Your Honor.

24 THE COURT: From the defense?

25 MS. STEEN: None, Your Honor.

1 THE COURT: All right. I want you all to come up to the
2 court reporter and make sure we've got all the proper
3 exhibits going in to the jury.

4 Ms. Collins, Mr. McMaster, Mr. Steen, and Mr. Payne, I
5 want to thank all of you for doing a good job for your
6 respective parties and clients in this particular matter.
7 You did everything the Court expected you to do to represent
8 the interest of the State and the defense, and I commend all
9 of you for doing that. Thank you very much.

10 MR. STEEN: Thank you, Your Honor.

11 THE COURT: Just make sure we've got all the exhibits
12 and then give it to the bailiff.

13 Madam Court Reporter, here is the verdict form.

14 Everyone else remain seated until we take a break,
15 please.

16 (WHEREUPON, there was a pause in the proceedings to
17 check the exhibits, after which the proceedings resumed
18 as follows.)

19 THE COURT: All right. Those are all the exhibits then
20 and the verdict form?

21 MS. MCMAHAN: Yes, Your Honor.

22 THE COURT: All right. Mr. Bailiff, give those to the
23 jury and tell them to begin their deliberations. With that,
24 we'll be at ease until the jury needs us. Thank you very
25 much.

1 MR. STEEN: Thank you, Your Honor.

2 (WHEREUPON, jury deliberations began at 2:14 p.m.)

3 (WHEREUPON, there was a break in the proceedings
4 beginning at 2:14 p.m.)

5 (WHEREUPON, during that break, two notes were received
6 from the jury and marked as Court's Exhibit Number 9 and
7 Court's Exhibit Number 10.)

8 (WHEREUPON, the proceedings resumed at 5:01 p.m. as
9 follows.)

10 THE COURT: All right. Counsel, it's my intention at
11 this time to send the jury home for the evening and have them
12 come back to deliberate and resume tomorrow morning at -- at
13 9:30.

14 Is there any objection to that from the State?

15 MS. MCMAHAN: None, Your Honor.

16 THE COURT: From the defense?

17 MR. STEEN: None, Your Honor.

18 THE COURT: All right. Very good.

19 Ask the jury to come in, please.

20 THE BAILIFF: The jury is coming in.

21 (WHEREUPON, the jury entered the courtroom at 5:02 p.m.)

22 THE COURT: All right. Mr. Foreman and ladies and
23 gentlemen of the jury, what I'm going to do is send you home
24 for the evening, and we'll resume tomorrow morning at 9:30.

25 Now, please remember again what I've been telling you

1 the whole time. Don't talk about the case. Don't allow
2 anybody to talk to you about it.

3 If for some reason you happen to run into a fellow juror
4 this evening somewhere, just happen to see them, acknowledge
5 each other, but that's it. You obviously can't communicate.

6 Tomorrow morning, Mr. Foreman, when all of the jurors
7 are present and you're ready, you start your deliberations.
8 I understand the Clerk's Office will have something for y'all
9 in the -- in the morning, but please don't talk about the
10 case until every member of the jury is present. At that
11 point in time, you can resume your deliberations.

12 So with that, you're -- yes, sir?

13 THE FOREMAN: So, Judge, we'll go directly to the jury
14 room?

15 THE COURT: Yes. They'll have you come back --

16 THE FOREMAN: Before reporting in here?

17 THE COURT: Yes, sir. They'll -- you'll just go
18 directly to the jury room and resume your deliberations when
19 everybody is here. As I've indicated, the clerk will have
20 some kind of breakfast -- breakfast items for you. All
21 right?

22 THE FOREMAN: Thank you, Judge.

23 THE COURT: So I'll see y'all tomorrow morning or
24 whenever. Whenever you need us, but tomorrow morning at
25 9:30. All right? Thank you very much.

THE STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

THE STATE)

v.)

DAVID MATTHEW CARTER,)

DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS
FOR THE SIXTH JUDICIAL CIRCUIT

**MOTION FOR HEARING DE NOVO ON
STATE'S MOTION FOR CHILD TO
TESTIFY VIA CCTV**

2017-GS-29-35

2017-GS-29-36

2017-GS-29-38

CLERK OF COURT
LANCASTER, SC

2018 MAY 22 AM 9:07

FILED
OFFICE OF CLERK
OF COURT

To: Ashley McMahan, Attorney for the State
From: Brandon Steen, Attorney for Mr. Carter

I. APRIL 19, 2018 HEARING

On April 19, 2018, the State moved for child victim [REDACTED] T.P. (Age 12) and child witness (Age 9) to testify by CCTV under S.C. Code Ann. §16-3-1550(3) (1976), and a hearing was held. Judge Gibbons considered the testimony of expert witness, David Kellin, and the children's mother. Judge Gibbons made the following findings:

- (1) In consideration of this testimony, this Court finds that the emotional distress suffered by both the child victim and the child witness is more than mere nervousness or excitement or some reluctance to testify. It would be traumatic.
- (2) This court further finds as to both children that the children testifying in the same room as the defendant would impede the children's ability to fully and accurately testify in this case.
- (3) Judge Gibbons defers to the trial judge to conduct an in camera interview of the children to see and hear testimony if s/he so wishes as the gate keeper of the trial.

II. BASIS FOR HEARING DE NOVO

- A. Judge Gibbons did not make the necessary findings to allow each particular child to testify.**

Judge Gibbons did not make a finding that the each particular child was a “very young witness” under the statute. Judge Gibbons did not make a finding that the use of an alternate procedure is necessary to prevent a [each] particular child from the trauma of testifying in the defendant’s presence. *State v. Lewis*, 324 S.C. 539, 478 S.E.2d 861 (1996). Judge Gibbons did not make a finding that the use of the one-way CCTV is necessary to protect the welfare of the particular child witness who seeks to testify. *Maryland v. Craig*, 497 U.S. 836 (1990).

- B. Trial judge must make own findings as to the credibility of testifying witnesses and make an independent assessment of the facts.¹**

- C. Trial judge should consider the testimony of each particular child prior to allowing each particular child to testify by CCTV.**

“In the future we suggest the trial judge personally interview the child in addition to receiving expert testimony.” *State v. Murrell*, 302 S.C. 77, 393 S.E.2d 919 (1990). “Although the oldest child denied fear, the trial judge had the benefit of observing both children and their demeanor.” *State v. Lopez*, 306 S.C. 362, 412 S.E.2d 390 (1991). “It is clear from our case law that a trial judge’s first-hand observations, or otherwise, are not only required when possible, but carry great weight in the evidentiary sufficiency question.” *State v. Lewis*, 324 S.C. 539, 478 S.E.2d 861 (1996). “We reiterate our holding in *Murrell* that the better practice in these cases, when possible, is for the trial judge to

¹ While we defer to the PCR court’s credibility findings as to witnesses who testified before the PCR court, we do not defer to the PCR court’s credibility findings as to witnesses who did not testify before the PCR court. *Thompson v. State*, Op. No. 27785 (S.C. Sup. Ct. filed March 21, 2018).

personally interview the child witness prior to determining whether use of CCTV is necessary." *State v. Bray*, 342 S.C. 23, 535 S.E.2d 636 (2000).

D. Trial Judge must ensure Prongs Two and Three of the Murrell procedure are adequate.

Court should place the child in as close to a courtroom setting as possible. Defendant should be able to see and hear the child, should have counsel present both in the courtroom and with him, and communication should be available between counsel and appellant.

III. DEFENDANT'S REQUEST OF THIS COURT

Defendant objects to allowing child victim and child witness to testify

1. Defendant requests this Court to interview child victim and child witness prior to determining whether the use of CCTV is necessary.
2. Defendant requests this Court to rehear testimony of expert witness David Kellin and make its own findings regarding Mr. Kellin's testimony.
3. Defendant requests this Court to make its own independent findings that the child victim and child witness should not be allowed to testify by CCTV.

[CERTIFICATE OF SERVICE AND SIGNATURE ON FOLLOWING PAGE]

Ages of the testifying very young child in notable court cases.

	Age at Trial
State v. Cooper, 291 S.C. 351, 353 S.E.2d 451 (1987) (February 16, 1987)	3
Maryland v. Craig, 497 U.S. 836 (1990) (June 27, 1990)	6
State v. Murrell, 393 S.C. 77, 393, S.E.2d 919 (1990) (July 2, 1990)	5
State v. Lopez, 306 S.C. 362, 412 S.E.2d 390 (1991) (December 9, 1991)	7 & 5
In re Cisco K., 332 S.C. 649, 506 S.E.2d 536 (Ct. App. 1998) (October 12,	4
State v. Bray, 342 S.C. 23, 535 S.E.2d 636 (2000) (July 31, 2000)	7

Established Courtroom Procedures Pursuant to Notable Case Law

State v. Cooper, 291 S.C. 351, 353 S.E.2d 451 (1987) (February 16, 1987)	Present during the taping session were the trial judge, court reporter, solicitor, defense counsel, victim and her mother. Defendant viewed the proceedings from a nearby room live over a CCTV monitor
State v. Murrell, 393 S.C. 77, 393, S.E.2d 919 (1990) (July 2, 1990)	Defendant placed in an adjacent room to Courtroom during testimony
State v. Lopez, 306 S.C. 362, 412 S.E.2d 390 (1991) (December 9, 1991)	Defendant placed out of the line of sight of child
State v. Lewis, 324 S.C. 539, 478 S.E.2d 861 (Ct. App. 1996) (October 29, 1996)	Child witness, the judge, the court reporter, solicitor, defense attorney, investigating officer, victim's advocate and a SLED agent were seated in Grand Jury room. Jury and Defendant viewed testimony by monitor

CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2018 the Defendant's MOTION FOR HEARING DE NOVO ON STATE'S MOTION FOR CHILD TO TESTIFY VIA CCTV in the above referenced matter was hand delivered to the following:

Ashley McMahan
Sixth Circuit Solicitor
104 North Main Street
Lancaster, SC 29720

May 21, 2018

Respectfully Submitted,



Brandon Steen
Attorney for Mr. Carter
Sixth Circuit Public Defender's Office

FILED
OFFICE OF CLERK
OF COURT
2018 MAY 22 AM 9:16
CLERK OF COURT
LANCASTER, SC

WITNESSES

J. Hicks - LCSO #16-49755

J. Hicks

ARREST WARRANT NUMBER/DOA

2016A2910101669 (DOA-10-4-16)

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

Date: JAN 19 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-29- 36

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

JANUARY TERM 2017

THE STATE

vs.

David Matthew Carter

Indictment for

**Criminal Sexual Conduct with a Minor
First Degree**

SC Code: § 16-3-655(A) (1), (C) (1)

CDR Code: 0385

Class: Felony Exempt

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

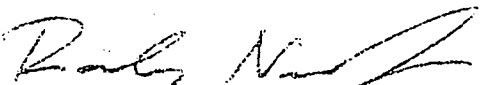
INDICTMENT

At a Court of General Sessions, convened on January 19, 2017, the Grand Jurors of Lancaster County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE

That David Matthew Carter (DOB: [REDACTED]-1984) did in Lancaster County, South Carolina, on or about or between the dates of May 1, 2011 through October 31, 2015, engage in sexual battery with [REDACTED] T.P. [REDACTED] (DOB: [REDACTED]-2006), a minor less than 11 years of age and said incident(s) occurred at [REDACTED], Heath Springs, S. C., in violation of Section 16-3-655(A)(1), (C)(1) of the Code of Laws of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Randy E. Newman, Jr., SOLICITOR

WITNESSES

J. Hicks - LCSO #16-49755

ARREST WARRANT NUMBER/DOA

2016A2910101670 (DOA-10-4-16)

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

Date: JAN 19 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-29-37

The State of South Carolina
County of Lancaster

COURT OF GENERAL SESSIONS

JANUARY TERM 2017

THE STATE
vs.
David Matthew Carter

Indictment for
**Criminal Sexual Conduct with a Minor
First Degree**

SC Code: § 16-3-655(A) (1), (C) (1)

CDR Code: 0385

Class: Felony Exempt

2017-01-19 10:00 AM
 2017-01-19 10:00 AM
 2017-01-19 10:00 AM

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

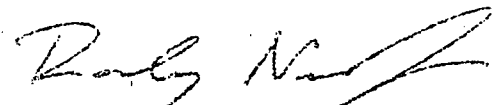
INDICTMENT

At a Court of General Sessions, convened on January 19, 2017, the Grand Jurors of Lancaster County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE

That David Matthew Carter (DOB: [REDACTED]-1984) did in Lancaster County, South Carolina, on or about or between the dates of October 1, 2015 and January 31, 2016, engage in sexual battery with [REDACTED] T.P. [REDACTED] (DOB: [REDACTED]-2006), a minor less than 11 years of age. Said incident(s) did occur at [REDACTED], Lancaster, SC, in violation of Section 16-3-655(A)(1), (C)(1) of the Code of Laws of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Randy E. Newman, Jr., SOLICITOR

WITNESSES

J. Hicks - LCSO #16-49755

J. Hicks

ARREST WARRANT NUMBER/DOA

2016A2910101681 (DOA-10-4-16)

ACTION OF GRAND JURY

TRUE BILL

[Signature]

Foreperson of Grand Jury
Date: JAN 19 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017-GS-29-38

The State of South Carolina
County of Lancaster

COURT OF GENERAL SESSIONS

JANUARY TERM 2017

THE STATE
vs.

David Matthew Carter

Indictment for
Criminal Sexual Conduct with a Minor
First Degree

SC Code: § 16-3-655(A) (1), (C) (1)
CDR Code: 0385
Class: Felony Exempt

SC JUDICIAL BRANCH
JAN 19 2017
80-111-1101-13

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

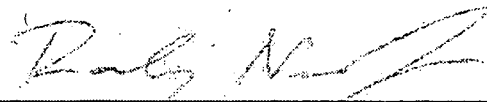
INDICTMENT

At a Court of General Sessions, convened on January 19, 2017, the Grand Jurors of Lancaster County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR FIRST DEGREE

That David Matthew Carter (DOB: [REDACTED]-1984) did in Lancaster County, South Carolina, on or about or between the dates of January 1, 2016 and September 30, 2016, engage in sexual battery with [REDACTED] T.P. [REDACTED] (DOB: [REDACTED]-2006), a minor less than 11 years of age. Said incident(s) occurred at [REDACTED] Lancaster, S. C., in violation of Section 16-3-655(A)(1), (C)(1) of the Code of Laws of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Randy E. Newman, Jr., SOLICITOR

RECEIVED
JUN 04 2018
APPELLATE DEFENSE

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

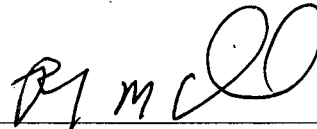
This 20th day of September, 2019.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED
SEP 20 2019
SC Court of Appeals



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 20th day of September, 2019.