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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Beaufort County
Honorable Alex Kinlaw, Jr., Circuit Court Judge

THE STATE, Petitioner,

v.

CHARLES DENT, Respondent.

Opinion No. 5860 (S.C. Ct. App. Filed August 18, 2021)
(S.C. Ct. App. Appellate Case No. 2018-001257)

APPENDIX
VOLUME I OF II

ALAN WILSON
Attorney General

SCOTT MATTHEWS
Assistant Attorney General
S.C. Bar No. 101464
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3727

ISAAC MCDUFFIE STONE, III
Fourteenth Circuit Solicitor's Office
Post Office Box 1880
Bluffton, South Carolina 29910
(843) 816-1707

ATTORNEYS FOR PETITIONER

E. CHARLES GROSE, JR.
Grose Law Firm
404 Main Street
Greenwood, South Carolina 29646
(864) 538-4466

ATTORNEYS FOR RESPONDENT

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions
Alex Kinlaw, Jr., Circuit Court Judge

Appellate Case No. 2018-001257

The State,..... Respondent,

v.

Charles Dent, ... Appellant.

APPENDIX VOLUME I OF II

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for Appellant Charles Dent

Alan Wilson
Attorney General

Scott Matthews
Assistant Attorney General

P.O. Box 11549
Columbia, SC 29211
(803) 734-3727

Isaac McDuffie Stone, III
Solicitor, Fourteenth Judicial Circuit

P.O. Box 1880
Bluffton, SC 29910
(843) 790-6283

Attorneys for Respondent State of South Carolina

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THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS FOR THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	
	)	
THE STATE	)	Case No: 2014-GS-07-01671 to 01674
	)	
vs.	)	**Order**
	)	
Charles Dent	)	
	)	

2018 FEB 28
JERRI A...
BEAUFORT CO...
CLERK OF...

This matter is before the Court in the motion of the defendant, Charles Dent, for an order compelling disclosure of records of the Children's Advocacy Center, Hope Haven, to include but not be limited to counseling records, court advocacy records, and consultation records. This Court will follow the procedure set forth in *State v. Blackwell*, 420 S.C. 127, 801 S.E.2d 713 (2017).

Therefore, it is ordered that Hope Haven shall send a complete copy of its records regarding J.M. to the Chambers of the Honorable Carmen T. Mullen, at 102 Ribaut Road (P.O. Drawer 1128), Beaufort, SC 29901 within ten days of being served with a copy of this order.

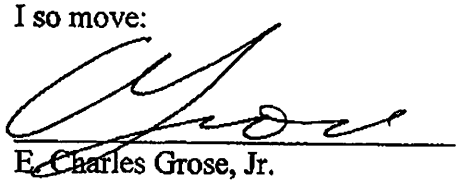
IT IS SO ORDERED.

Carmen T. Mullen
Chief Administrative Judge, Beaufort County

Feb 28th, 2018
Beaufort, South Carolina

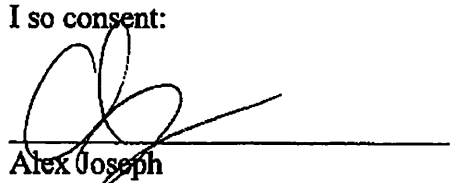
(additional signatures on next page)

I so move:



E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
Email: charles@groselawfirm.com

I so consent:



Alex Joseph
Assistant Solicitor
Fourteenth Circuit Solicitor's Office
P.O. Box 1880
Bluffton, SC 29910

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	Case No: 2014-GS-07-01671 to 01674
THE STATE	)	
vs.	)	**Order**
Charles Dent	)	

2018 MAR 19 AM 9:44
JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

This matter is before the Court on the motion of the defendant, Charles Dent, for an order compelling disclosure of additional information he contends are needed in order to prepare his defense. Specifically, he seeks disclosure of (1) mental health records of A.M. from the Coastal Empire Community Mental Health Center (CEMH), (2) medical records of J.M. at Dr. Salyer at Palmetto Pediatrics of the Low Country, and (3) the Trauma Focused Cognitive Behavioral Therapy Workbook (TFCBT) referenced in the Hope Haven records. This Court will follow the procedure set forth in *State v. Blackwell*, 420 S.C. 127, 801 S.E.2d 713 (2017).

Therefore, it is ordered that the Coastal Empire Community Mental Health Center (CEMH) shall send a complete copy of its records regarding A.M. to this Court for review.

It is further ordered that Palmetto Pediatrics of the Low Country shall send a complete copy of its records regarding J.M. to this Court for review.

It is further ordered that Hope Haven shall send a copy of the Trauma Focused Cognitive Behavioral Therapy Workbook (TFCBT) of J.M. to this Court for review.

These providers shall send ~~to~~ records to the Chambers of the Honorable Carmen T. Mullen, P.O. Drawer 1128, Beaufort, SC 29901, within ten days of being served with a copy of this order. for her in camera review to determine relevance.

IT IS SO ORDERED.

Carmen T. Mullen
Chief Administrative Judge
Fourteenth Judicial Circuit

3/13, 2018
Beaufort, South Carolina

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE FOURTEENTH JUDICIAL
COUNTY OF BEAUFORT	)	CIRCUIT
	)	
THE STATE	)	Case No. 2014-GS-07-01671 to 01674
	)	
vs.	)	
	)	**Certificate and Subpoena Pursuant to the Uniform Act to Secure Attendance of Witness**
Charles Dent	)	
	)	

2018 APR -2 AM 9:51

JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

By written order dated March 9, 2018, this court previously ordered disclosure of counseling records for [redacted] from Hope Haven. This matter is now before the Court on the motion of the defendant, Charles Dent, for an order compelling disclosure of additional information he contends are needed in order to prepare his defense. Specifically, Mr. Dent's motion pointed out:

> [T]he Hope Haven closing summary revealed that J.M.'s therapy was terminated because her mother relocated to North Carolina. The closing summary further revealed, "Client's mother has been provided with a Child Advocacy Center information which is located near client's new residence in North Carolina."

Mr. Dent's motion then requested "[t]his Court should order disclosure of the North Carolina child advocacy center records for the same reasons this Court ordered disclosure of the Hope Haven records on March 9, 2018."

The Solicitor's Office determined that the child received counseling at Cape Fear Behavioral Health, 6885 Cliffdale Rd, Fayetteville, North Carolina, which is in Cumberland County, North Carolina. This Court will follow the procedure set forth in *State v. Blackwell*, 420 S.C. 127, 801 S.E.2d 713 (2017) to review the records and determine whether the records should be disclosed.

Pursuant to S.C. Code Ann. § 19-9-10, *et. seq.*, this Court has the authority to subpoena a material witness from another state to appear at a criminal proceeding in South Carolina. This Court finds that the records custodian for Cape Fear Behavioral Health is a material witness as the child's state of mind is potentially an issue in this case. *State v. Anderson,*413 S.C. 212, 776 S.E.2d 76 (2015); *State v. Brown,* 411 S.C. 332, 768 S.E.2d 246 (Ct. App. 2015).

Therefore, it is ordered that the records custodian for Cape Fear Behavioral Health shall appear before this Court at 2:00 p.m. on Monday, March 9, 2018 with a complete copy of its records regarding [redacted] to this Court for review. The records custodian for Cape Fear Behavioral Health presence is needed only for this one day.

In the alternative, this Court will excuse the records custodian for Cape Fear Behavioral Health from appearing in Court, provided that the records custodian for Cape Fear Behavioral Health mails a complete copy of the records to the Chambers of the Honorable Carmen T. Mullen, at 102 Ribaut Road (P.O. Drawer 1128), Beaufort, SC 29901, to be received prior to April 9, 2018.

IT IS SO ORDERED.

Carmen T. Mullen
Chief Administrative Judge, Beaufort County

3/29, 2018
Beaufort, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

To Whom It May Concern:

I, Jerri Ann Roseneau, Clerk of Court for the County of Beaufort, State of South Carolina, do hereby certify that Carmen T. Mullen is the duly elected, qualified, and acting Judge of the Fourteenth Judicial Circuit for the County of Beaufort, State of South Carolina, which is a Court of record.

Witness my Hand and Seal of this Court on this 30 day of March, 2009 at Beaufort, South Carolina.

Jerri Ann Roseneau
Clerk of Court, Beaufort County
Fourteenth Judicial Circuit
State of South Carolina

(SEAL)

2010 APR -2 AM 9:51
JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

To Whom It May Concern:

I, Carmen T. Mullen, Judge of the Fourteenth Judicial in and for the County of Beaufort, State of South Carolina, do hereby certify that Jerri Ann Roseneau is the duly elected, qualified, and acting Clerk of Court for the County of Beaufort, State of South Carolina, which is a Court of record.

Witness my Hand and Seal of this Court on this 29 day of March, 2009 at Beaufort, South Carolina.

Carmen T. Mullen
Chief Administrative Judge, Beaufort County
Fourteenth Judicial Circuit

(SEAL)

2010 APR -2 AM 9:51
JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA	)	Indictment No.: 2014-GS-07-01671
vs.	)	**VERDICT FORM**
Charles Dent, Defendant.	)	

2018 MAY 24 P
JERRI ANN ROSENEAU
BEAUFORT COUNTY S.C.
CLERK OF COURT

COUNT 4

As to Indictment Number 2014-GS-07-01671, the charge of **Disseminating Obscene Material to Person 12 Years Old or Younger**, we the jury, unanimously find the Defendant, Charles Dent:

_____ Not Guilty

_✓____ Guilty

J Richards
Foreperson

5/24/18
Date

Certified - A True Copy
Jerri Ann Roseneau - Clerk of Court
Beaufort County, SC - Jennifer Petroff

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA	)	Indictment No.: 2014-GS-07-01672
vs.	)	
Charles Dent, Defendant.	)	**VERDICT FORM**

JERRI ANN ROSEMEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT
2018 MAY 24 P

COUNT 3

As to Indictment Number 2014-GS-07-01672, the charge of **Disseminating Obscene Material to Person 12 Years Old or Younger**, we the jury, unanimously find the Defendant, Charles Dent:

_____ Not Guilty

✓ Guilty

J Richardson
Foreperson

5/24/18
Date

Certified - A True Copy
Jerri Ann Roseneau - Clerk of Court
Beaufort County, SC - Jennifer Petroff

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA	)	Indictment No.: 2014-GS-07-01673
vs.	)	**VERDICT FORM**
Charles Dent, Defendant.	)	

JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT
2018 MAY 24 P

COUNT 1

As to Indictment Number 2014-GS-07-01673, the charge of **Criminal Sexual Conduct with a Minor, First Degree**, we the jury, unanimously find the Defendant, Charles Dent:

_____ Not Guilty

✓ Guilty

J Richardson
Foreperson

5/24/18
Date

Certified - A True Copy
Jerri Ann Roseneau - Clerk of Court
Beaufort County, SC - Jennifer Petroff

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA	)	Indictment No.: 2014-GS-07-01674
vs. Charles Dent, Defendant.	)	**VERDICT FORM**

2018 MAY 24 P
JERRI ANN RC
BEAUFORT COU
CLERK OF COU

COUNT 2

As to Indictment Number 2014-GS-07-01674, the charge of **Criminal Sexual Conduct with a Minor, First Degree**, we the jury, unanimously find the Defendant, Charles Dent:

✓ Not Guilty

_____ Guilty

J Richardson
Foreperson

5/24/18
Date

Certified - A True Copy
Jerri Ann Roseneau - Clerk of Court
Beaufort County, SC - Jennifer Petroff

0-15 years

STATE OF SOUTH CAROLINA)
COUNTY OF Beaufort)
STATE)
VS.)
Charles Dent)
AKA:)
Race: W Sex: M Age:)
DOB: SS#:)
Address:)
City, State, Zip:)
DL# SID#)
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014-GS-07-01671
A/W#: 2014A0710300381e
Date of Offense: April 2013 - April 2014
S.C. Code §: 16-15-355
CDR Code #: 3131

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☑ CONVICTED OF or ☐ PLEADS
TO: Disseminating obscene Material to Person 12 years old or younger
In violation of § 16-15-355 of the S.C. Code of Laws, bearing CDR Code # 3131
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☑ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Solicitor SC Bar # 10170 Defendant Attorney for Defendant SC Bar # 6.6.06 3

WHEREFORE, the Defendant is committed to the ☑ State Department of Corrections ☐ County Detention Center, for a determinate term of 15 days/months/~~years~~ or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of $ _____ ; provided that upon the service of _____ days/months/years and or payment of $ _____ ; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.
☑ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:		$
§14-1-206 (Assessments 107.5%)		$
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$ 100.-
§14-1-211 (A)(2)(DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25.-
§14-1-213 (Drug Court Surcharge)	$150	$
§50-21-114 (BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 3.75
TOTAL		$ 128.75
		$

Clerk of Court/Deputy Clerk
Court Reporter: Hollie

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____
Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐
Fine may be pd. in equal consecutive weekly/monthly pmts. of $ _____ Beginning _____
$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge
Judge Code: 2763
Sentence Date 5/24/18

0-15

STATE OF SOUTH CAROLINA)
COUNTY OF Beaufort)
STATE)
VS.)
Charles Dent)
AKA:)
Race: (1) Sex: M Age:)
DOB: SS#:)
Address:)
City, State, Zip:)
DL# * SID#)
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014 -GS- 07 - 01672
A/W#: 2014A0710300387
Date of Offense: April 2013 to April 2014
S.C. Code §: 16-15-355
CDR Code #: 3131

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was. ☒ CONVICTED OF or ☐ PLEADS
TO: Disseminating Obscene Material to Person 12 years old or Younger
In violation of § 16-15-355 of the S.C. Code of Laws, bearing CDR Code # 3131
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd))

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [signature] 101770 [signature] 66063
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☑ **State Department of Corrections** ☐ **County Detention Center,** for a determinate term of 15 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $ _____ ; provided that upon the service of _____ days/months/years and or payment of $ _____ ; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.

☑ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____
☐ Set by SCDPPPS

Recipient: _____

*Fine:		$
§14-1-206 (Assessments 107.5%)		$
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$ 100 -
§14-1-211 (A)(2)(DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
Proviso (Public Def/Probation)	$500	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25. -
§14-1-213 (Drug Court Surcharge)	$150	$
§50-21-114 (BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 375
TOTAL		$ 128.75
		$

Clerk of Court/Deputy Clerk [signature]
Court Reporter: Hollie [signature]

_____ days/hours Public Service Employment

Obtain GED ☐
Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____
Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐
Fine may be pd. in equal consecutive weekly/monthly pmts. of $ _____ Beginning _____
$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge [signature]
Judge Code: 2763
Sentence Date 5/24/18

SCCA/217 (04/2018)

25- life

STATE OF SOUTH CAROLINA
COUNTY OF Beaufort

IN THE COURT OF GENERAL SESSIONS

STATE
VS.
Charles Dent
AKA:
Race: (A) Sex: M Age:
DOB: SS#:
Address:
City, State, Zip:
DL# SID#
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2014 -GS-07 - 01673
A/W#: 2014A0710300398
Date of Offense: August 2013 - April 2014
S.C. Code §: 16-03-655(1)
CDR Code #: 0385

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Criminal sexual conduct with minor - 1st degree - victim under 11
In violation of § 16-3-655(1) of the S.C. Code of Laws, bearing CDR Code # J0385
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd))

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Solicitor SC Bar # 10110 Defendant Attorney for Defendant SC Bar # 66067

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center,** for a determinate term of 30 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $ _____ ; provided that upon the service of _____ days/months/years and or payment of $ _____ ; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.

☒ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms:
☐ Set by SCDPPPS

Recipient:

*Fine:		$
§14-1-206 (Assessments 107.5%)		$
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$ 100.-
§14-1-211 (A)(2)(DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
Proviso (Public Def/Probation)	$500	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25.-
§14-1-213 (Drug Court Surcharge)	$150	$
§50-21-114 (BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 3.75
TOTAL		$ 128.75

Clerk of Court/Deputy Clerk
Court Reporter: Hollie

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐
Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____
Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐
Fine may be pd. in equal consecutive weekly/monthly pmts. of $ _____ Beginning _____
$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees

Presiding Judge
Judge Code: 2763
Sentence Date 8/24/18

SCCA/217 (04/2018)

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA	)	Indictment No. 2014GS0701671-1674
vs.	)	**ORDER DENYING DEFENDANT'S MOTION FOR A NEW TRIAL**
CHARLES DENT, Defendant.	)	

Defense counsel filed a Motion for New Trial on June 1st, 2018. On June 4th, 2018, Defense counsel filed an additional attachment to his original Motion for a New Trial, which was Defense's Request to Charge #2. The State responded to this Motion and the additional attachment on June 4th, 2018. After reviewing Defendant's Motion for a New Trial, as well as the State's Response, the Court agreed with the reasoning presented in State's Response and found there were no valid grounds to grant Defendant's Motion. Therefore, the Defendant's Motion for a New Trial is DENIED.

Judge Alex Kinlaw, Jr.
Presiding Judge
Fourteenth Circuit

This ~~11~~ 17th day of June, 2018

2018 JUN 22 PM 12:48
JEAN ROSEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

ARREST WARRANT

2014A0710300384

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Beaufort

THE STATE 201406100297

against

Charles Dent

Address:

Phone: SSN:

Sex: M Race: W Height: 5 10 Weight: 200

DL State: AL DL #:

DOB: Agency ORI #: SC0070000

Prosecuting Agency: Beaufort County Sheriffs Office

Prosecuting Officer: C H Lavan - 5946

Offense: Sex / Criminal sexual conduct with minor, 3rd degree - Commit/Attempt Lewd act (victim under

Offense Code: 3661

Code/Ordinance Sec: 16-03-0655(C)

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Beaufort County General Sessions
PO Box 1128
102 Ribaut Road, Rm. 208
Beaufort, SC 299011128

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Beaufort)

ORIGINAL

FORM APPROVED BY S.C. ATTORNEY GENERAL AUG 21, 2003 CCCA 318

AFFIDAVIT

Case# 201406100297

Personally appeared before me the affiant C H Lavan who being duly sworn deposes and says that defendant Charles Dent did within this county and state on or about 8/ 1/2013 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Beaufort) in the following particulars:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor, 3rd degree - Commit/Attempt Lewd act (victim under 16 yrs & actor over 14 yrs)

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on multiple occasions between August 2013 and April 2014 the defendant, Charles Dent, did willfully and unlawfully commit the offense of Criminal Sexual Conduct with a Minor 3rd Degree. The victim, aged 9 disclosed during a Forensic Interview that her grandfather, Charles Dent, touched her breast, vagina, and buttocks both over and under her clothing with the intent to arouse, appeal, and gratify his lust passions or sexual desires. These incidents took place at , Bluffton, Beaufort County, South Carolina. The affiant and others are witness to prove the same.

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Beaufort)

Affiant's Address 2001 Duke St
Beaufort 29902-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 8/ 1/2013 defendant Charles Dent did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Beaufort) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor, 3rd degree - Commit/Attempt Lewd act (victim under 16 yrs & actor over 14 yrs)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 7/15/2014

(L.S.)

Signature of Issuing Judge

Douglas Lloyd Novak

Judge Code: 7265

Judge's Address Post Office Box 840
Bluffton, SC 29910-

Judge's Telephone (843)-25-5-56 x 10

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

ARREST WARRANT

2014A0710300385

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Beaufort

THE STATE against Charles Dent — 20140610000297

Address:

Phone: SSN:

Sex: M Race: W Height: 5 10 Weight: 200

DL State: AT DL #:

DOB: Agency ORI #: SC0070000

Prosecuting Agency: Beaufort County Sheriffs Office

Prosecuting Officer: C H Lavan - 5946

Offense: Sex / Criminal sexual conduct with minor, 3rd degree - Commit/Attempt Lewd act (victim under

Offense Code: 3661

Code/Ordinance Sec: 16-03-0655(C)

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Beaufort County General Sessions
PO Box 1128
102 Ribaut Road, Rm. 208
Beaufort, SC 299011128

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Beaufort)

ORIGINAL

FCCD Approved by S.C. Attorney General April 21, 2003 SCCA 513

AFFIDAVIT

Case# 201406100297

Personally appeared before me the affiant C H Lavan who being duly sworn deposes and says that defendant Charles Dent did within this county and state on or about 8/1/2013 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Beaufort) in the following particulars:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor, 3rd degree - Commit/Attempt Lewd act (victim under 16 yrs & actor over 14 yrs)

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on multiple occasions between April 2013 and August 2013 the defendant, Charles Dent, did willfully and unlawfully commit the offense of Criminal Sexual Conduct with a Minor 3rd Degree. The victim, aged 9 disclosed during a Forensic Interview that her grandfather, Charles Dent, touched her breast, vagina, and buttocks both over and under her clothing with the intent to arouse, appeal, and gratify his lust passions or sexual desires. These incidents took place at Bluffton, Beaufort County, South Carolina. The affiant and others are witness to prove the same.

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Beaufort)

Affiant's Address 2001 Duke St
Beaufort 29902-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 8/1/2013 defendant Charles Dent did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Beaufort) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor, 3rd degree - Commit/Attempt Lewd act (victim under 16 yrs & actor over 14 yrs)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 7/15/2014 (L.S.)

Signature of Issuing Judge

Douglas Lloyd Novak

Judge Code: 7265

Judge's Address Post Office Box 840
Bluffton, SC 29910-

Judge's Telephone (843)-25-5-56 x 10

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL

24

R. 18

ARREST WARRANT

2014A0710300398

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Beaufort

THE STATE 201408100297

against

Charles Dent

Address:

Phone: SSN:

Sex: M Race: W Height: 5 10 Weight: 200

DL State: AL DL #:

DOB: Agency ORI #: SC0070000

Prosecuting Agency: Beaufort County Sheriffs Office

Prosecuting Officer: C H Lavan - 5946

Offense: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

Offense Code: 0385

Code/Ordinance Sec: 16-03-0655(A)(1)

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Charles Dent on 7/11/14

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Beaufort County General Sessions
PO Box 1128
102 Ribaut Road, Rm. 208
Beaufort, SC 299011128

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

AFFIDAVIT

ORIGINAL

Form approved by S.C. Attorney General April 21, 2003 SCCA 518

STATE OF SOUTH CAROLINA
[X] County/ [ ] Municipality of
Beaufort

Personally appeared before me the affiant C H Lavan who being duly sworn deposes and says that defendant Charles Dent did within this county and state on or about 8/26/2013 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Beaufort) in the following particulars:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on multiple occasions between 8-26-13 and April 2014 the defendant, Charles Dent, did willfully and unlawfully commit the offense of Criminal Sexual Conduct with a Minor 1st Degree. The victim, (age 9) first disclosed to her mother, Lori Mayo, that her grandfather, Charles Dent, committed sexually battery against her. Dent made the victim perform oral sex on him and lick his penis with the intent to arouse, appeal, and gratify his lust passions or sexual desires. Dent also touched her breast, vagina, and buttocks both over and under her clothing with the intent to arouse, appeal, and gratify his lust passions or sexual desires. The victim later disclosed this information during a forensic interview conducted at Hope Haven. These incidents took place at Bluffton, Beaufort County, South Carolina. The affiant and others are witness to prove the same.

Signature of Affiant

STATE OF SOUTH CAROLINA
[X] County/ [ ] Municipality of
Beaufort

Affiant's Address 2001 Duke St
Beaufort 29902-

Affiant's Telephone

RECEIVED

AUG 0 , 201:

Beaufort County Sheriff's Office

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 8/26/2013 defendant Charles Dent did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Beaufort) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 7/30/2014 (L.S.)

Signature of Issuing Judge

Douglas Lloyd Novak

Judge Code: 7265

Judge's Address Post Office Box 840
Bluffton, SC 29910-

Judge's Telephone (843)-25-5-56 x 10

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

ARREST WARRANT

2014A0710300399

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Beaufort

THE STATE 201406100297

against

Charles Dent

Address:

Phone: SSN:

Sex: M Race: W Height: 5 10 Weight: 200

DL State: AL DL #:

DOB: Agency ORI #: SC0070000

Prosecuting Agency: Beaufort County Sheriffs Office

Prosecuting Officer: C H Lavan - 5946

Offense: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

Offense Code: 0385

Code/Ordinance Sec: 16-03-0655(A)(1)

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Charles Dent on 7/11/14

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Beaufort County General Sessions
PO Box 1128
102 Ribaut Road, Rm. 208
Beaufort, SC 299011128

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Beaufort)

AFFIDAVIT

ORIGINAL

Form Approved by S C Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant C H Lavan who being duly sworn deposes and says that defendant Charles Dent did within this county and state on or about 8/26/2013 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Beaufort) in the following particulars:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on multiple occasions between April 2013 and 8-25-13 the defendant, Charles Dent, did willfully and unlawfully commit the offense of Criminal Sexual Conduct with a Minor 1st Degree. The victim, (age 9) first disclosed to her mother, Lori Mayo, that her grandfather, Charles Dent, committed sexually battery against her. Dent made the victim perform oral sex on him and lick his penis with the intent to arouse, appeal, and gratify his lust passions or sexual desires. Dent also touched her breast, vagina, and buttocks both over and under her clothing with the intent to arouse, appeal, and gratify his lust passions or sexual desires. The victim later disclosed this information during a forensic interview conducted at Hope Haven. These incidents took place at Bluffton, Beaufort County, South Carolina. The affiant and others are witness to prove the same.

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Beaufort)

Affiant's Address 2001 Duke St
Beaufort 29902-

Affiant's Telephone

RECEIVED
AUG 01 2014
Beaufort County Sheriff's Office

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 8/26/2013 defendant Charles Dent did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Beaufort) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 7/30/2014

(L.S.)

Signature of Issuing Judge

Douglas Lloyd Novak

Judge Code: 7265

Judge's Address Post Office Box 840
Bluffton, SC 29910-

Judge's Telephone (843)-25-5-56 x 10

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL

Exhibit 2 26 R. 20

ARREST WARRANT

2014A0710300386

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Beaufort

2014061002977

THE STATE 201406100297

against

Charles Dent

Address:

Phone: SSN:

Sex: M Race: W Height: 5 10 Weight: 200

DL State: AL DL #:

DOB: Agency ORI #: SC0070000

Prosecuting Agency: Beaufort County Sheriffs Office

Prosecuting Officer: C H Lavan - 5946

Offense: Obscene / Disseminating obscene material to a minor 12 Y or younger

Offense Code: 3131

Code/Ordinance Sec: 16-15-0355

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Charles Dent on 9/11/14

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Beaufort County General Sessions
PO Box 1128
102 Ribaut Road, Rm. 208
Beaufort, SC 299011128

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

STATE OF SOUTH CAROLINA
[X] County/ [ ] Municipality of
Beaufort

Personally appeared before me the affiant C H Lavan who being duly sworn deposes and says that defendant Charles Dent did within this county and state on or about 8/ 1/2013 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Beaufort) in the following particulars:

DESCRIPTION OF OFFENSE: Obscene / Disseminating obscene material to a minor 12 Y or younger

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That sometime between April 2013 and August 2013 the defendant, Charles Dent, did willfully and unlawfully commit the offense of Disseminating Obscene Material to a Minor Twelve Years of Age or Younger. The victim, aged 9, disclosed during a Forensic Interview that her grandfather, Charles Dent, showed her multiple nude and obscene photographs of his own genitalia. Dent presented the obscene images to the child via a laptop computer and electronic tablet. These incidents occurred at . Bluffton, Beaufort County, South Carolina. The affiant and others are witness to prove the same.

RECEIVED

Signature of Affiant

Beaufort County Sheriff's Office

STATE OF SOUTH CAROLINA
[X] County/ [ ] Municipality of
Beaufort

Affiant's Address 2001 Duke St
Beaufort 29902-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 8/ 1/2013 defendant Charles Dent did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Beaufort) as set forth below:

DESCRIPTION OF OFFENSE: Obscene / Disseminating obscene material to a minor 12 Y or younger

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 7/15/2014 (L.S.)

Signature of Issuing Judge

Douglas Lloyd Novak

Judge Code: 7265

Judge's Address Post Office Box 840
Bluffton, SC 29910-

Judge's Telephone (843)-25-5-56 x 10

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

2014061000297

ARREST WARRANT

2014A0710300387

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Beaufort

THE STATE 201406100297

against

Charles Dent

Address:

Phone: SSN:

Sex: M Race: W Height: 5 10 Weight: 200

DL State: AL DL #:

DOB: Agency ORI #: SC0070000

Prosecuting Agency: Beaufort County Sheriffs Office

Prosecuting Officer: C H Lavan - 5946

Offense: Obscene / Disseminating obscene material to a minor 12 Y or younger

Offense Code: 3131

Code/Ordinance Sec: 16-15-0355

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Charles Dent on 9/11/14

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Beaufort County General Sessions
PO Box 1128
102 Ribaut Road, Rm. 208
Beaufort, SC 299011128

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

28

R. 22

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Beaufort)

AFFIDAVIT

ORIGINAL

Form approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant C H Lavan who being duly sworn deposes and says that defendant Charles Dent did within this county and state on or about 8/1/2013 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Beaufort) in the following particulars:

DESCRIPTION OF OFFENSE: Obscene / Disseminating obscene material to a minor 12 Y or younger

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That sometime between August 2013 and April 2014 the defendant, Charles Dent, did willfully and unlawfully commit the offense of Disseminating Obscene Material to a Minor Twelve Years of Age or Younger. The victim, aged 9, disclosed during a Forensic Interview that her grandfather, Charles Dent, presented her obscene images via a laptop computer and electronic tablet. These incidents occurred at , Bluffton, Beaufort County, South Carolina. The affiant and others are witness to prove the same.

RECEIVED
Beaufort County Sheriff's Office

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Beaufort)

Affiant's Address 2001 Duke St
Beaufort 29902-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 8/1/2013 defendant Charles Dent did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Beaufort) as set forth below:

DESCRIPTION OF OFFENSE: Obscene / Disseminating obscene material to a minor 12 Y or younger

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 7/15/2014

(L.S.)

Signature of Issuing Judge

Douglas Lloyd Novak

Judge Code: 7265

Judge's Address Post Office Box 840
Bluffton, SC 29910-

Judge's Telephone (843)-25-5-56 x 10

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

00078

ORIGINAL ORIGINAL ORIGINAL

WITNESSES

LaVan (BCSO)

ARREST WARRANT NUMBER

4 (mrl)

2017A0710300386

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 3-15-18

VERDICT

Foreperson of Petit Jury

Date: 5/24/18

INDICT

DOCKET NO. 2014GS0701671

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

March Term 2018

THE STATE

vs.

Charles Alfred Dent

Amended Indictment For

Disseminating Obscene Material to Person 12 Years Old or Younger

SC Code: 16-15-355

CDR Code: 3131

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF BEAUFORT

AMENDED
INDICTMENT
2014GS0701671

At a Court of General Sessions, convened on March 15, 2018 the Grand Jurors of Beaufort County present upon their oath:

Disseminating Obscene Material to Person 12 Years Old or Younger

That in Beaufort County, South Carolina, on or about April of 2013 through April of 2014, the Defendant, Charles Alfred Dent, did, while eighteen years of age or older at the time of the offense, knowingly disseminate to a minor twelve years of age or younger at the time of the offense material which he knew, or reasonably should have known, to be obscene within the meaning of Section 16-15-305, to wit: did show the Victim multiple photographs of his own genitalia on a digital camera, all in violation of Section 16-15-355, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor

True Bill

WITNESSES

C. LaVan, BCSO

ARREST WARRANT NUMBER

2014A0710300386

ACTION OF GRAND JURY

31

True Bill

Jennifer Smalls

Foreperson of Grand Jury

Date: OCT 30 2014

VERDICT

R.

35

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS0701671

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

Charles Dent

Indictment for

Disseminating obscene material to a minor 12 years of age or younger

SC Code: 16-15-0355
CDR Code:3131

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2014GS0701671

At a Court of General Sessions, convened on October 30, 2014, the Grand Jurors of Beaufort County present upon their oath:

Disseminating obscene material to a minor 12 years of age or younger

That in Beaufort County, South Carolina, between the dates of April and August 2013, the Defendant, Charles Dent, did show the Victim, age 9, multiple nude and obscene photographs of his own genitalia via a laptop computer and electronic tablet, while at a residence located at in Bluffton, in violation of South Carolina Code Section 16-15-0355 (2004, as amended).

True Bill

Against the peace and dignity of the State, and contrary to the statue in such case made and provided.

Solicitor

WITNESSES

LaVan (BCSO)

ARREST WARRANT NUMBER

2017A0710300387

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 3-15-18

VERDICT

Foreperson of Petit Jury

Date: 5/24/18

INDICT

DOCKET NO. 2014GS0701672

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

March Term 2018

THE STATE

vs.

Charles Alfred Dent

Amended Indictment For

Disseminating Obscene Material to Person 12 Years Old or Younger

SC Code: 16-15-355

CDR Code: 3131

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF BEAUFORT

AMENDED
INDICTMENT
2014GS0701672

At a Court of General Sessions, convened on March 15, 2018, the Grand Jurors of Beaufort County present upon their oath:

Disseminating Obscene Material to Person 12 Years Old or Younger

That in Beaufort County, South Carolina, on or about April of 2013 through April of 2014, the Defendant, Charles Alfred Dent, did, while eighteen years of age or older at the time of the offense, knowingly disseminate to a minor twelve years of age or younger at the time of the offense material he knew, or reasonably should have known, to be obscene within the meaning of Section 16-15-305, to wit: did show the Victim pornography, all in violation of Section 16-15-355, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor

A TRUE BILL

WITNESSES

C. LaVan, BCSO

ARREST WARRANT NUMBER

2014A0710300387

ACTION OF GRAND JURY

35

True Bill

Jennifer Snider

Foreperson of Grand Jury

Date: OCT 30 2014

VERDICT

R

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS0701672

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

Charles Dent

Indictment for

Disseminating obscene material to a minor 12 years of age or younger

SC Code: 16-15-0355
CDR Code:3131

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2014GS0701672

At a Court of General Sessions, convened on October 30, 2014, the Grand Jurors of Beaufort County present upon their oath:

Disseminating obscene material to a minor 12 years of age or younger

That in Beaufort County, South Carolina, between the dates of August 2013 and April 2014, the Defendant, Charles Dent, did show the Victim, age 9, multiple nude and obscene photographs of his own genitalia via a laptop computer and electronic tablet, while at a residence located at in Bluffton, in violation of South Carolina Code Section 16-15-0355 (2004, as amended).

Against the peace and dignity of the State, and contrary to the statue in such case made and provided.

Solicitor

True Bill

WITNESSES

C. LaVan, BCSO

ARREST WARRANT NUMBER

2014A0710300398

ACTION OF GRAND JURY

37

True Bill

Jennifer Sanders

Foreperson of Grand Jury

Date: OCT 30 2014

VERDICT

J Richardson

Foreperson of Petit Jury

Date: 5/24/18

INDICT

DOCKET NO. 2014GS0701673

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

Charles Dent

Indictment for

Criminal sexual conduct with minor 1st Degree – Victim under 11 years of age

SC Code: 16-03-0655(1)
CDR Code:0385

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

_____

Defendant

I _____

Hereby appear in my own proper person and plead guilty to the within indictment or to

_____

_____

_____

Defendant

Witness:

_____

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2014GS0701673

At a Court of General Sessions, convened on October 30, 2014, the Grand Jurors of Beaufort County present upon their oath:

Criminal sexual conduct with minor 1st Degree – Victim under 11 years of age

That in Beaufort County, South Carolina, between the dates of August 2013 and April 2014, the Defendant, Charles Dent, date of birth , did commit a sexual battery upon a minor who was less than eleven years of age, to wit: fellatio on the defendant by J.M. date of birth , in violation of Section 16-3-655, Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statue in such case made and provided.

True Bill

Solicitor

WITNESSES

C. LaVan, BCSO

ARREST WARRANT NUMBER

2014A0710300399

ACTION OF GRAND JURY

39

True Bill

Jennifer Snides

Foreperson of Grand Jury

Date: OCT 30 2014

VERDICT

Foreperson of Petit Jury

Date: 5/24/18

INDICT

DOCKET NO. 2014GS0701674

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

Charles Dent

Indictment for

Criminal sexual conduct with minor 1st Degree – Victim under 11 years of age

SC Code: 16-03-0655(1)
CDR Code:0385

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2014GS0701674

At a Court of General Sessions, convened on October 30, 2014, the Grand Jurors of Beaufort County present upon their oath:

Criminal sexual conduct with minor 1st Degree – Victim under 11 years of age

That in Beaufort County, South Carolina, between the dates of April 2013 and August 2013, the Defendant, Charles Dent, date of birth , did commit a sexual battery upon a minor who was less than eleven years of age, to wit: fellatio on defendant by J.M. , date of birth , in violation of Section 16-3-655, Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statue in such case made and provided.

True Bill

Solicitor

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSION
	)	FOR THE FOURTEENTH JUDICIAL
COUNTY OF BEAUFORT	)	CIRCUIT
	)	
State of South Carolina,	)	Case No. 2014-GS-07-01671 to 01674
	)	
	)	
vs.	)	**Motion to Compel Disclosure of Records of Children's Advocacy Center**
	)	
	)	
Charles Dent	)	
	)	
	)	

Pursuant to *Roviaro v. U.S.*, 353 U.S. 53 (1957), *Brady v. Maryland*, 373 U.S. 83, (1963), *Kyles v. Whitley*, 514 U.S. 419, (1995), *Riddle v. Ozmint*, 369 S.C. 39, 631 S.E.2d 70 (2006), and Rule 5, SCRCrimP, Charles Dent, moves the Court for an order compelling disclosure of records of the Children's Advocacy Center, to include but not be limited to counseling records, court advocacy records, and consultation records.

FACTUAL AND PROCEDURAL BACKGROUND

The State charges Mr. Dent with two counts of first-degree criminal sexual conduct with a minor and two counts of disseminating obscene material to a minor under twelve years of age. Prior counsel for Mr. Dent filed Rule 5, SCRCrimP and *Motions*. In response, the State provided reports from the Hope Haven Center dated July 10 and 28, 2014 referring the child complaining witness to "TB-CBT at Hope Haven." The State produced another report dated July 24, 2014 from Dr. A. Kristen Dalton recommending the child complaining witness "and her mother would both likely benefit from TF CBT. Mother will need therapeutic help overcoming the misconception that her father, who sexually abused her, will not abuse his granddaughter."

ARGUMENT

The General Assembly established Children's Advocacy Centers to "coordinate a multi-agency response to child maltreatment and assist in the investigation and assessment of child abuse." S.C. Code Ann. § 63-11-310(A). Centers are responsible for "coordination of services for children reported to have been abused" to include "but not limited to, forensic interviews, forensic medical examinations, and case reviews by multidisciplinary teams to best determine whether maltreatment has occurred." *Id.* Centers also must provide "therapeutic counseling services, support services for the child and nonoffending family members, court advocacy, [and] consultation." *Id.*

"Children's Advocacy Centers must establish memoranda of agreement with governmental entities charged with the investigation and prosecution of child abuse." S.C. Code Ann. § 63-11-310(B). "Centers must establish written policies and procedures for standards of care including, but not limited to, the timely intervention of services between initial contact with the child and the event which led to the child's being referred to the center." *Id.* "Centers must make available these written policies and procedures to all professionals who provide services relating to the investigation, treatment, and *prosecution* of child abuse and neglect within the geographical vicinity of the center." *Id.* (emphasis added). Production of videotaped child interviews to the accused is expressly mandated by S.C. Code Ann. § 63-11-310. As seen, Children's Advocacy Centers have additional responsibilities for medical exams, therapeutic counseling, court advocacy, and consultation. Children's Advocacy Centers "must function in a manner consistent with standards of the National Children's Alliance, and all centers must strive to achieve full membership in the National Children's Alliance." S.C. Code Ann. § 63-11-

310(B)(1). National Children's Alliance Standard 1(D) requires Multi-Disciplinary Team "members participate in effective information sharing."[1]

This Court should order disclosure of the Children's Advocacy Center records for four reasons. First, the records are already part of the prosecution's materials as Children's Advocacy Centers maintain records of the services provided, which "must be released to law enforcement agencies and circuit solicitors or their agents who are . . . prosecuting known or suspected abuse or neglect of a child" or "prosecuting any crime against a child." S.C. Code Ann. § 63-11-310(B). Because Children's Advocacy Center are legislatively mandated to coordinate the Disciplinary Team approach to prosecution of child maltreatment cases and release its records to the Solicitor's Office, this Court should issue an order compelling disclosure of records of the Children's Advocacy Center.

Second, due process requires disclosure of information that "may be relevant and helpful to the accused's defense," regardless of whether it is favorable to the prosecution or defense. *Roviaro, supra. See also* Rule 5(a)(1)(C), SCRCrimP (requiring disclosure of materials "which are material to the preparation of his defense"); *Kyles* at 437 (Each "individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including" other state actors).

Third, this Court should order disclosure because the child's mental or emotional condition will be an issue at trial. In *State v. Anderson*, our Supreme Court recognized an expert witness may "testify to the behavioral characteristics of sex abuse victims." 413 S.C. 212, 218–19, 776 S.E.2d 76, 79 (2015) (citing *State v. Schumpert,* 312 S.C. 502, 435 S.E.2d 859

[1] The National Children's Alliance Standards are found at http://www.nationalchildrensalliance.org/sites/default/files/downloads/NCA-Standards-for-Accredited-Members-2017.pdf (last viewed September 24, 2017).

(1993); *State v. Weaverling,* 337 S.C. 460, 523 S.E.2d 787 (Ct.App.1999); *and State v. White,* 361 S.C. 407, 605 S.E.2d 540 (2004)). The Court then approved the procedure used in *State v. Brown,* 411 S.C. 332, 768 S.E.2d 246 (Ct. App. 2015) as the "better practice" is "not to have the individual who examined the alleged victim testify, but rather to call an independent expert. Anderson, 413 S.C. at 218-19, 776 S.E.2d at 79. In *Brown*, the State's expert testified:

> [R]esearch indicates that between seventy and eighty percent of abused children delay disclosing the abuse into adulthood. Further, she stated children delay disclosing abuse for a number of reasons, including: (1) fear of consequences to themselves, the perpetrator, or someone the child loves; (2) the child's age; (3) the child's relationship to the perpetrator; (4) a lack of vocabulary or language to describe what has happened to them; (5) threats by the perpetrator; (6) grooming by the perpetrator; and (7) the perpetrator's normalization of the abusive conduct. Galloway–Williams further explained that most disclosures happen accidentally, and children generally reveal more details over time throughout the disclosure process. When children suffer chronic abuse, she stated it is more difficult for them to sort out the timing of individual incidents and the order in which they occurred. Galloway–Williams also explained that having a close and trusting relationship with the perpetrator can have a very strong impact on whether a child feels like he or she can disclose the abuse. Finally, she testified that child abuse victims will sometimes tolerate sexual abuse to maintain a relationship, particularly if the perpetrator is someone they love and trust.

411 S.C. at 337-38, 768 S.E.2d at 249. Presentation of this type of testimony, in fact, is a longstanding statewide strategy for prosecuting child abuse cases. *See Prosecution of Child Abuse in South Carolina: A Manual for Solicitor's and Investigators,* Sixth Edition, University of South Carolina School of Law Children's Law Office, December 2012.[2] Our General Assembly expressly provides for discovery of this information under these circumstances:

> A provider shall reveal confidences when required by statutory law or by court order for good cause shown to the extent that the

[2] Found at http://childlaw.sc.edu/frmPublications/Prosecution%20Manual%202012.pdf (last viewed September 24, 2017).

> patient's care and treatment or the nature and extent of his mental illness or emotional condition are reasonably at issue in a proceeding.

S.C. Code Ann. § 19-11-95(D)(1).

Fourth, although state law generally protects the confidentiality of mental health records, S.C. Code Ann. § 44-22-100, the right to confront a witness "may supersede a witness's rights or statutory privilege." *State v. Blackwell*, 420 S.C. 127, 801 S.E.2d 713, 726 (2017). *See also* U.S. Const. Am. VI and XIV; S.C. Const. Art. I, § 14. Under *Blackwell*, this Court "should conduct a hearing with the parties" to determine whether the witness' legal representative "consents to the disclosure of the privileged records." 420 S.C. at 801 S.E.2d at 727-28. If consent is withheld, then this Court "should review the contents of the records to determine whether disclosure is necessary for the conduct of proceedings before the court and that failure to make the disclosure is contrary to public interest." *Id.* (internal quotations omitted). This Court should "assess the importance of the witness to the prosecution's case and whether the records contain exculpatory evidence, including, *but not limited to*, evidence relevant to the witness's credibility." *Id.* (emphasis supplied by court). This case cannot proceed to the jury without testimony from the child. Undersigned counsel anticipates the child's credibility will be the central issue for the jurors to determine. *See, e.g. Anderson, supra.*

CONCLUSION

This Court should issue an order compelling disclosure of records of the Children's Advocacy Center, to include but not be limited counseling records, court advocacy records, and consultation records. This Court, additionally, should order disclosure of counseling records regarding the child complaining witness' mother.

IT IS SO MOVED.

Respectfully Submitted,

By _____

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for the Defendant

February 13, 2018
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSION
	)	FOR THE FOURTEENTH JUDICIAL
COUNTY OF BEAUFORT	)	CIRCUIT
	)	
State of South Carolina,	)	Case No. 2014-GS-07-01671 to 01674
	)	
	)	
vs.	)	**Motion to Compel Disclosure of Records of Children's Advocacy Center**
	)	
	)	
Charles Dent	)	
	)	
	)	

I certify that I have served a copy of this pleading on the State of South Carolina by placing a copy in the US Mail, postage prepaid, on the date reflected below, addressed to

Alex Joseph, Esquire
Assistant Solicitor
Fourteenth Circuit Solicitor's Office
P.O. Box 1880
Bluffton, SC 29910

By _____

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

February 13, 2018
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSION
	)	FOR THE FOURTEENTH JUDICIAL
COUNTY OF BEAUFORT	)	CIRCUIT
	)	
State of South Carolina	)	Case No. 2014-GS-07-01671 to 01674
	)	
	)	
vs.	)	**Motion to Compel Disclosure of Additional**
	)	**Information Needed in Order to Prepare a**
	)	**Defense & Second Motion to Continue**
Charles Dent	)	
	)	
	)	

Pursuant to *Roviaro v. U.S.*, 353 U.S. 53 (1957), *Brady v. Maryland*, 373 U.S. 83, (1963), *Kyles v. Whitley*, 514 U.S. 419, (1995), *Riddle v. Ozmint*, 369 S.C. 39, 631 S.E.2d 70 (2006), and Rule 5, SCRCrimP, Charles Dent moves this Court for an order compelling disclosure of additional information needed in order to prepare his defense. Mr. Dent additionally moves this Court for an order continuing this case beyond the March 19, 2018 Term of General Sessions Court in order to provide him sufficient time to obtain these records, review these records, and prepare his defense. This motion is Mr. Dent's second request to continue this case. The first motion is still pending before this Court.

FACTUAL AND PROCEDURAL BACKGROUND

The State of South Carolina charges Mr. Dent with two counts of first-degree criminal sexual conduct with a minor and two counts of discriminating obscene material to a minor under the age of twelve. All four warrants allege the victim to be Mr. Dent's granddaughter, J.M., who was nine years old at the time law enforcement obtained the arrest warrants. Law enforcement served these arrest warrants on Mr. Dent on September 11, 2014.

Undersigned counsel noticed his appearance on January 10, 2018. On February 13, 2018, Mr. Dent moved this Court for an order to compel disclosure of records of the children's advocacy

center, Hope Haven. On February 28, 2018, this Court convened a hearing on Mr. Dent's motion. The same day, this Court issued an order requiring Hope Haven to release a copy of the counseling records to this Court for an *in camera* review pursuant to the procedure set forth in *State v. Blackwell*, 420 S.C. 127, 801 S.E.2d 713, 726 (2017). On March 9, 2018, this Court released the Hope Haven counseling records to counsel for the State and Mr. Dent. These records disclosed additional records that should be disclosed to Mr. Dent so that he may prepare a defense and confront the allegations against him.

First, regarding whether J.M. (the complaining child witness) has ever received counseling or mental health treatment, the Hope Haven child/adolescent assessment disclosed for the first time that Lori Mayo, who is the mother of J.M., called A.M.'s therapist. A.M. is the older brother of J.M. "Lori reported that [A.M.] attends therapy at CEMH[1] with Cheryl Keating and when [J. M.] originally disclosed, she went to Cheryl to ask for direction and Cheryl referred her to" law enforcement. The Hope Haven assessment additionally revealed, "Lori reported that [J.M.] has attended a couple of [A.M.'s] counseling sessions at CEMH."

Second, regarding whether J.M. has "ever taken medication for emotional or behavioral issues," the Hope Haven assessment revealed:

> Lori reported that Dr. Salyer at Palmetto Peds prescribed Ritalin daily for [J.M.] about a year ago for ADHD; she gives it to her M-F during the school year and about every other day depending on her behavior when [J.M.] is not in school; Lori reported that [J.M.] used to be on Adderall but was very defiant and angry on this medication causing Dr. Salyer to change the Rx. Also takes Methylin, which is a short acting type of ADHD medication.

[1] Mr. Dent is informed and believes that CEMH stands for Coastal Empire Community Mental Health Center, which is part of the South Carolina Department of Mental Health. *See* https://www.state.sc.us/dmh/coastal/locations.html (last viewed March 10, 2018).

Third, the Hope Haven progress notes and closing summary also revealed that part of J.M.'s therapy included working on a Trauma Focused Cognitive Behavioral Therapy Workbook (TFCBT). This workbook has not been provided.

Fourth, the Hope Haven closing summary revealed that J.M.'s therapy was terminated because her mother relocated to North Carolina. The closing summary further revealed, "Client's mother has been provided with a Child Advocacy Center information which is located near client's new residence in North Carolina."

Fifth, the Hope Haven assessment revealed that Lori Mayo "has been referred to Family Promise for assistance with housing."

ARGUMENT

Mr. Dent has the right to confront the State's evidence and present a defense. U.S. Const. Am. VI and XIV; S.C. Const. Art. I, § 14. A person accused of a crime has the right to inspect the State's evidence, access evidence necessary to prepare a defense, and receive exculpatory information. *Roviaro*, *Brady*, *Kyles*, *Riddle*, and Rule 5, SCRCrimP. Both the United States Constitution and the South Carolina Constitution provide for compulsory process. U.S. Const. Am. VI and XIV; S.C. Const. Art. I, § 14. *And see Holmes v. South Carolina*, 547 U.S. 319, 319 (2006) ("Whether rooted directly in the Due Process Clause of the Fourteenth Amendment or in the Compulsory Process or Confrontation Clauses of the Sixth Amendment, the Constitution guarantees criminal defendants 'a meaningful opportunity to present a complete defense.'" (quoting *Crane v. Kentucky,* 476 U.S. 683, 690 (1986)).

Additionally, J.M.'s state of mind is an issue in this case. As set forth in more detail in his motion to compel disclosure of records of the children's advocacy center, Mr. Dent has to prepare for the prosecution to present evidence of J.M.'s state of mind pursuant to the procedure set forth

in *State v. Anderson,* 413 S.C. 212, 776 S.E.2d 76 (2015) and *State v. Brown,* 411 S.C. 332, 768 S.E.2d 246 (Ct. App. 2015).

This Court should order disclosure of A.M.'s therapy records from CEMH for three reasons. First, J.M. attended some of A.M.'s counseling sessions. Second, Lori Mayo contacted A.M.'s counselor at CEMH before she contacted law enforcement regarding the allegations that Mr. Dent sexually abused J.M. Third, insight into A.M.'s mental health condition very likely will revealed information that will assist in understanding J.M.'s state of mind, as there can be a genetic component to mental illness. The Hope Haven records revealed a family history of major mental illness, including suicide by J.M.'s material grandmother and uncle.

This Court should order disclosure of J.M.'s records from Dr. Salyer because these records attribute some of J.M.'s mental health symptoms to her ADHD and reactions to medication.

This Court should order disclosure of J.M.'s Trauma Focused Cognitive Behavioral Therapy Workbook for the same reasons this Court ordered disclosure of the Hope Haven recordsn on March 9, 2018. *See* Mr. Dent's Motion to Compel Disclosure of Records of Children's Advocacy Center.

This Court should order disclosure of the North Carolina child advocacy center records for the same reasons this Court ordered disclosure of the Hope Haven records on March 9, 2018. *See* Mr. Dent's Motion to Compel Disclosure of Records of Children's Advocacy Center.

Mr. Dent plans to subpoena the records regarding Lori Mayo from Family Promise.

Finally, this Court should continue this case in order to provide sufficient time to obtain these records, review these records, and prepare his defense. Counsel for Mr. Dent acknowledges the age of this case. Since entering Mr. Dent's case, counsel has been diligent in seeking the materials necessary for Mr. Dent's defense. As set forth in Mr. Dent's first motion to continue,

the State indicated its desire to use evidence obtained from Mr. Dent's computer in Alabama, which Mr. Dent has been trying to get access to in Alabama, without success until March 2018. Mr. Dent does not seek endless delay of this case. Rather, Mr. Dent wants his day in court but he also wants sufficient time to obtain these additional materials, review the materials, and prepare his defense. Counsel for Mr. Dent, the prosecution, and this Court have worked together to expeditiously obtain the discoverable materials. Therefore, every reason exists to believe this case can be resolved by trial in the very near future.

CONCLUSION

This Court, therefore, should order disclosure of A.M.'s therapy records, J.M.'s records from Dr. Salyer, J.M.'s Trauma Focused Cognitive Behavioral Therapy Workbook, and J.M.'s records from the children's advocacy center in North Carolina.[2] Alternatively, this Court should follow the *Blackwell* procedure, review the records *in camera*, and determine whether the records should be released to counsel for the State and Mr. Dent.

This Court should allow Mr. Dent sufficient time to obtain Lori Mayo's records from Family Promise.

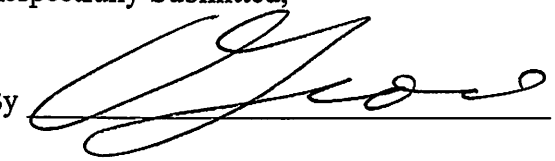
This Court, additionally, should continue this case beyond the march 19, 2018 Term of General Sessions Court in order to provide Mr. Dent with sufficient time to obtain these records, review these records, and prepare his defense.

---

[2] Pursuant to the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings, S.C. Code Ann. § 19-9-10, *et. seq.*, this Court has the authority to subpoena the treatment provider of records custodian to South Carolina to authenticate the records. Mr. Dent is willing to allow the children's advocacy center in North Carolina to send a certified copy of the records in lieu of appearing to authenticate the records. Like South Carolina, North Carolina provides for disclosure of mental health records by court order. N.C. Gen. Stat. Ann. § 122C-54.

IT IS SO MOVED.

Respectfully Submitted,

By 

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for the Defendant

March 12, 2018
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSION
	)	FOR THE FOURTEENTH JUDICIAL
COUNTY OF BEAUFORT	)	CIRCUIT
	)	
State of South Carolina,	)	Case No. 2014-GS-07-01671 to 01674
	)	
	)	
vs.	)	
	)	
	)	
Charles Dent	)	
	)	
_____	)	

I certify that I have served a copy of this pleading on the State of South Carolina by placing a copy in the US Mail, postage prepaid, on the date reflected below, addressed to

Alex Joseph, Esquire
Assistant Solicitor
Fourteenth Circuit Solicitor's Office
P.O. Box 1880
Bluffton, SC 29910

By _____

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

March 12, 2018
Greenwood, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	INDICTMENT NO: 2014GS0701671-1674
COUNTY OF BEAUFORT)	
)	
STATE OF SOUTH CAROLINA)	State's Motion to Introduce Intent
)	Evidence
vs.)	
)	
CHARLES DENT,)	
Defendant.)	
)	

2018 MAY 18 AM 11:10
JERRI ANN ROSENBAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

COMES NOW, the State of South Carolina, by the Fourteenth Circuit Solicitor and through the undersigned Assistant, hereby asks this Court to allow the evidence of a prior bad act of the Defendant, Charles Dent. More specifically, the discovery of child pornography on the Defendant's computer in Calhoun County, Alabama.

ISSUES

Whether the prior bad act committed by the Defendant, Charles Dent, is admissible as evidence of intent and lack of mistake and under the res gestae theory.

FACTS

(1) Facts of case set for trial:

The Defendant, Charles Dent, was arrested and charged with Criminal Sexual Conduct, 1st degree on September 11, 2014 stemming from sexual abuse that occurred from April of 2013 to April of 2014. The Victim, J.M. , was eight (8) and nine (9) years old at the time of the sexual abuse. The Defendant is the Victim's maternal grandfather. The Victim disclosed the abuse to her mother's boyfriend, John Camelo, and her mother, Lori Mayo. Lori Mayo then called the Beaufort County Sheriff's Office. Beaufort County Sheriff's Office arranged an interview at Hopeful Horizons.

The first forensic interview at Hopeful Horizons happened on July 10, 2014. The Victim disclosed the Defendant touched her under her clothes and over her clothes, the Defendant kissed her on the mouth, the Defendant photographed his penis and showed the pictures to the Victim, and the Defendant asked the Victim to photograph her vagina and show him the photographs, which she refused to do. The Victim also disclosed the Defendant threatened that if she told anyone, he would "kick you out of your place and you will have nowhere to live." She also told the forensic interviewer the Defendant tried to bribe her by offering to buy an American Girl Doll. The Victim disclosed the Defendant showed her videos of naked people on a computer. Finally, she disclosed the Defendant removed her shorts while she was sleeping and took photographs of her naked body. She knows this occurred because he later showed her the naked photographs.

After her forensic interview, the Victim told John Camelo her grandfather had done something else to her that she had not disclosed in her forensic interview. The Victim wrote down what the Defendant had done to her on a piece of paper. The only words John Camelo could make out were "his dick." John Camelo asked the Victim for clarification, and she said, "He made me lick his dick." John Camelo called law enforcement and told law enforcement about this additional disclosure. Investigator Cornelius LaVan with the Beaufort County Sheriff's Office arranged for Hopeful Horizons to interview the Victim a second time.

The second forensic interview at Hopeful Horizons happened on July 25, 2014. The Victim disclosed the Defendant made the Victim perform oral sex on him. She also disclosed the Defendant performed oral sex on her.

Following her forensic interviews at Hopeful Horizons, the Victim received counseling at the same facility. During her counseling sessions, the Victim disclosed the Defendant showed her pornographic videos and photographs, including photographs of body parts.

(2) **Facts of Prior Bad Act:**

On July 16, 2014, Investigator LaVan with the Beaufort County Sheriff's Office contacted Calhoun County, Alabama where the Defendant lived and told local law enforcement officials about this case. Based on the Beaufort County investigation, Calhoun County Sheriff's Office secured a search warrant for the Defendant's property. This warrant was served on August 22, 2014 and twenty-three (23) electronic devices were seized. Twelve (12) images of the Victim were found on the Defendant's camcorder and on his camera. These same images were also found on the Defendant's one hard drives, on a laptop, and on a PC. Four of these images show the Victim posing in blue jeans and t-shirt. Two of the remaining images show the Victim lying on the floor fully-clothed. In one of these images she is lying on her back with her legs pulled back near her shoulders. There is also a close-up photo of the Victim's groin area in underwear. In some of the images the Victim is bending over and the images are aimed down the Victim's shirt.

In addition to the photographs of the Victim, the hard drive, the laptop, and the PC contained pornographic images and pornographic videos of young females. The PC also contained computer programs designed to allow the user to search the internet anonymously.

Finally, on the Defendant's PC, the forensic examiner located two video files depicting the Victim and a friend dancing. In these videos the camera is focused primarily on the females below the waist. In one of the videos, the Defendant adjusts the camera and then grabs his groin area. The forensic examiner was able to recreate the Defendant's web-searches on this PC and located past searches for videos containing the words "lilnude," "tiny teen," and "13 year old friend."

ARGUMENT

(1) 401, 402, and 404 (b), SCRE

Rule 404(a) of the South Carolina Rules of Evidence (SCRE) prohibits the introduction of evidence of a person's character for proving action in conformity therewith on a particular occasion. However, under 404(b), evidence of other crimes is admissible when that evidence tends to establish (1) motive; (2) intent; (3) absence of mistake or accident; (4) a common scheme or plan embracing the commission of two or more crimes so related to each other that proof of one tends to establish the others; or (5) the identity of the person charged with the commission of the crime on trial. State v. Carter, 323 S.C. 465, 467; S.E.2d 916, 918 (S.C. App. 1996) (citing State v. Lyle, 125 S.C. 406, 416, 118 S.E. 803, 807 (1923). The record must support a logical relevance between the prior bad act and the crime for which the defendant is accused. State v. King, 334 S.C. 504, 511; S.E.2d 578, 582 (1999).

"The trial judge's decision regarding the relevancy of evidence should only be overturned for a clear abuse of discretion." State v. Lyles, 379 S.C. 328, 339, 665 S.E.2d 201, 207 (Ct. App. 2008).

Under Rules 401 and 402 of the South Carolina Rules of Evidence, all relevant evidence, which is evidence "having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence[,]" is admissible. Moreover, "[e]vidence is admissible if 'logically relevant' to establish a material fact or element of the crime; it need not be 'necessary' to the State's case in order to be admitted." State v. Sweat, 362 S.C. 117,127, 606 S.E.2d 508, 513 (Ct. App. 2004) (citing State v. Bell, 302 S.C. 18, 393 S.E.2d 364 (1990)).

Although motive is generally not an element of a crime the State must prove, the State can often use motive as circumstantial evidence to prove intent to commit the crime charged when intent is in issue. Sweat, 362 S.C. at 124, 606 S.E.2d at 512. In the case *sub judice*, the Victim disclosed in her first forensic interview that the Defendant took naked photos of her. Based on the Victim's statement, law enforcement secured a search warrant for the Defendant's home and ultimately for his electronic devices. Inappropriate and sexual-in-nature photographs of the Victim were located on the Defendant's electronic devices. In pre-trial hearings, Defense counsel has argued these photographs are not sexual, instead they depict the defendant's granddaughter—the Victim—dancing and practicing gymnastics. The Defense will argue these photos are innocent and taken out of context. The State must be allowed to rebut this claim by placing these photographs in their proper context. The photographs of the Victim located on the Defendant's devices are sexual in nature as evidenced by the fact that the same electronic devices contained hardcore child pornography depicting young girls engaged in sex acts. The presence of child pornography on these devices show the Defendant's motive and intent to take photographs of the Victim for his sexual gratification.

The State will argue the fact that the Defendant took these photographs for his sexual gratification supports the State's contention that the Defendant's other actions towards his granddaughter—the Victim—were also sexually motivated. The Victim disclosed the Defendant kissed her, groped her, and rubbed her legs. The Defense will argue the Defendant was simply being affectionate. The State will argue this was part of a campaign on the Defendant's part to groom the Victim. The Defendant's possession of child pornography and his possession of sexual images of the Victim are proof of his motive and intent to engage in criminal sexual conduct with the Victim.

(2) Res Gestae

In addition to being admissible under Rule 404(b), the evidence of child pornography found on the Defendant's electronic devices is admissible under the res gestae theory.

Evidence of a defendant's prior bad acts is properly admissible if these acts form part of the res gestae of the charged offense. Anderson v. State, 354 S.C. 431, 435, 581 S.E.2d 834, 836 (2003). The res gestae theory recognizes that evidence of other bad acts may be an integral part of a charged crime or may be necessary to aid the fact finder in understanding the context in which the crime occurred. State v. Preslar, 364 S.C. 466, 473, 613 S.E.2d 381, 385 (Ct. App. 2005). To constitute part of the res gestae of an offense, it is important the prior bad acts have a close temporal proximity to the charged crime. State v. Martucci, 380 S.C. 232, 258, 669 S.E.2d 558, 612 (Ct. App. 2008); see State v. Williams, 321 S.C. 455, 461–63, 469 S.E.2d 49, 53–54 (1996) (finding evidence of crack cocaine sale between defendant and victim several hours prior to the murder was a part of the res gestae of the crime).

In State v. Adams, our Supreme Court explained the res gestae theory:

> One of the accepted bases for the admissibility of evidence of other crimes arises when such evidence "furnishes part of the context of the crime" or is necessary to a "full presentation" of the case, or is so intimately connected with and explanatory of the crime charged against the defendant and is so much a part of the setting of the case and its "environment" that its proof is appropriate in order "to complete the story of the crime on trial by proving its immediate context or the 'res gestae' " or the "uncharged offense is 'so linked together in point of time and circumstances with the crime charged that one cannot be fully shown without proving the other . . .' [and is thus] part of the res gestae of the crime charged." And where evidence is admissible to provide this "full presentation" of the offense, "[t]here is no reason to fragmentize the event under inquiry" by suppressing parts of the "res gestae."

Adams, 322 S.C. at 122, 470 S.E.2d at 370-371 (quoting United States v. Masters, 622 F.2d 83, 86 (4th Cir. 1980) (alteration in original)).

In Adams, our Supreme Court held the defendant's use of cocaine immediately before the robbery was properly admitted as part of the res gestae of the crimes for which the defendant was tried. Id. at 121, 470 S.E.2d at 370. The court reasoned that because the "temporal proximity of the cocaine use to the robbery and murder [was] so close . . . one [could not] deny that the cocaine use was so much a part of the 'environment' of the crime [and] omitting the evidence . . . would unnecessarily fragmentize the State's case." Id. at 122, S.E.2d at 371.

More recently, in Dennis, our Court of Appeals held that a witness' testimony regarding the defendant's offer to sell a stolen gun so that he could buy crack cocaine shortly before the shooting was admissible under the res gestae theory. Dennis, 402 S.C. at 636-37. In reaching its holding, the Court of Appeals explained that "the challenged testimony 'furnishe[d] the context of the crime.'" Id.

In this case, Defendant's possession of child pornography is admissible under the res gestae theory. Since disclosing, the Victim has consistently said the Defendant showed her pornographic images and videos and attempted to and successfully did take naked photos of her. The videos and photographs of the Victim located on the Defendant's computer were found intermixed with the child pornography in the Defendant's possession. It is not enough for the jury to know the Defendant is accused of molesting his granddaughter and taking inappropriate photographs of her. The jury must be allowed to see these photographs in the context in which the Defendant viewed them. Failure to do so would deprive the State the opportunity to fully present the facts and circumstances of the case.

A. **Rule 403, SCRE**

Notably, "[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading

the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." Rule 403, SCRE. However, "[u]nfair prejudice does not mean the damage to a defendant's case that results from the legitimate probative force of the evidence; rather it refers to evidence which tends to suggest decision on an improper basis." State v. Gilchrist, 329 S.C. 621, 630, 496 S.E.2d 424, 429 (Ct. App. 1988). Moreover, "'[a]ll evidence is meant to be prejudicial; it is only unfair prejudice which must be [scrutinized under Rule 403].'" State v. Dennis, 402 S.C. 627 Ct. App. 2013).

Although the evidence of the Defendant's possession of child pornography is prejudicial, it not unfairly prejudicial. See Dennis, 402 S.C. at 641 (holding that the evidence of the defendant's attempt to sell a stolen gun in order to buy crack shortly before the shooting was admissible and not unfairly prejudicial).

Accordingly, admitting evidence of the Defendant's prior bad act does not violate Rule 403, SCRE.

Therefore, the State, through the undersigned Assistant Solicitor, respectfully requests this Court allow testimony regarding Defendant's possession of child pornography.

Respectfully submitted,

Alex Joseph
Assistant Solicitor
Fourteenth Judicial Circuit

May 17, 2018

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSION
	)	FOR THE FOURTEENTH JUDICIAL
COUNTY OF BEAUFORT	)	CIRCUIT
	)	
State of South Carolina,	)	Case No. 2014-GS-07-01671 to 01674
	)	
	)	
vs.	)	**Mr. Dent's Pretrial Brief**
	)	
	)	
Charles Dent	)	
	)	
	)	

Charles Dent submits the following pre-trial brief:

I. State's Pre-Trial Motions.

A. Children's Advocacy Center Interview.

On May 18, 2018, the State moved to introduce out of court statements of a child under seventeen years of age pursuant to S.C. Code §17-23-175. These interviews were conducted by Shaw Chin Capps on July 10, 2014 and July 25, 2014. As a threshold matter, the child complaining witness is no longer under twelve years of age, so the statute excludes the statements. If this Court disagrees this this conclusion, then S.C. Code §17-23-175 requires the trial judge make certain findings of fact after reviewing the videotape.

If this Court allows the State to present the videotaped interviews, this Court should follow the procedure approved by our Supreme Court in *State v. Anderson*, 413 S.C. 212, 219, 776 S.E.2d 76, 79 (2015) and *State v. Brown,* 411 S.C. 332, 768 S.E.2d 246 (Ct.App.2015). Ms. Capps should not be qualified as an expert witness in forensic interviewing and her testimony should be restricted to "testifying to facts." *Anderson,* 413 S.C. at 219, 776 S.E.2d at 79 (citing *State v. Douglas,* 380 S.C. 499, 671 S.E.2d 606 (2009) and *State v. Kromah,* 401 S.C. 340, 7fn. 5, 37 S.E.2d 490, fn. 5 (2013)).

In fact, "[t]he title of 'forensic interviewer' is a misnomer," *Kromah* at fn. 4, and the State should not be allowed to refer to the interviewer as "forensic interviewers" or Ms. Capps as a "forensic interviewer."

If the State calls witness to testify about the general characteristics of children suffering from child abuse, then this Court should convene a hearing outside the presence of the jurors to determine the witness's qualifications. *Anderson*, 413 S.C. at 218, 776 S.E.2d at 79 ("The trial judge's refusal to determine Smith's qualification as a "child abuse assessment" expert was patent error."). *See also Watson v. Ford Motor Company*, 389 S.C. 434, 699 S.E.2d 169 (2010) (summarizing three-part procedure for qualifying expert witnesses) and *State v. Chavis*, 412 S.C. 101, 771 S.E.2d 336 (2015) (state failed to show individual reliability of witness sufficient to allow her to testify as child abuse assessment expert).

Finally, this Court should ensure that none of these witnesses provide any testimony that improperly bolsters the credibility of the complaing witness or vouches for her credibility. *Anderson, Kromah,* and *Chavis, supra. See also State v. Jennings,* 394 S.C. 473, 716 S.E.2d 91 (2011) and *State v. McKerley,* 397 S.C. 461, 725 S.E.2d 139 (Ct. App. 2012).

B. Motion to Exclude Mr. Dent's Statement.

On May 18, 2018, the State moved to prevent defense counsel from admitting Mr. Dent's statements at trial. At this time, counsel does not intend to introduce Mr. Dent's statements. Depending on the prosecution's presentation at trial, this position might change. *See, e.g.* Rule 801(d)(1)(B) and *State v. Blurton*, 342 S.C. 500, 512, 537 S.E.2d 291, 298 (Ct. App. 2000) ("The prosecutor accused Blurton of a recent fabrication, an accusation which could not have been seriously made if the trial court had properly admitted the taped telephone

conversations between Blurton and Mayfield.") *reversed on other grounds by State v. Blurton,* 352 S.C. 203, 573 S.E.2d 802 (2002).

The State additionally moved to prevent counsel from "eliciting testimony from witnesses that [Mr. Dent] made statements to law enforcement." Even in *State v. Terry*, 339 S.C. 352, 529 S.E.2d 274 (2000)—the case cited by the prosecution to prevent this questioning—the jurors were aware the accused made a statement and cooperated with law enforcement. This testimony is not inherently inadmissible.

If Mr. Dent's law statements to law enforcement at admitted, certain parts should be excluded. For instance, the jurors should not hear the discussion about Mr. Dent taking a polygraph without being told that Mr. Dent passed a polygraph. A copy of the polygraph report is attached.

C. Motion for Hearing to Admit Character Evidence.

On May 18, 2018, the State moved to admit "other bad act" evidence pursuant to Rule 404(b), SCRE. Under our State's procedures, this Court must convene a hearing to determine whether the evidence is admissible. "Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent." Rule 404(b), SCRE. *See also State v. Lyle*, 125 S.C. 406, 118 S.E. 803 (1923). The State has the burden of establishing one of these exceptions. "To be admissible, other crimes that are not the subject of conviction must be proved by clear and convincing evidence." *State v. Wilson*, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001).

If the Court determines the evidence to be admissible as an exception to Rule 404(b), then "it must be excluded if its probative value is substantially outweighed by the danger of unfair

prejudice to the defendant. The determination of the prejudicial effect of prior bad act evidence must be based on the entire record and the result will generally turn on the facts of each case." *State v. Brooks*, 341 S.C. 57, 62, 533 S.E.2d 325, 328 (2000). *See also* Rule 403, SCRE. The concern is preventing jurors from convicting an accused based other bad acts rather than based on proof beyond a reasonable doubt of the elements of the crime charged in the indictment. *See Old Chief*, 519 U.S. at 181 ("Although ... 'propensity evidence' is relevant, the risk that a jury will convict for crimes other than those charged—or that, uncertain of guilt, it will convict anyway because a bad person deserves punishment—creates a prejudicial effect that outweighs ordinary relevance.").

An *in camera* hearing is necessary to determine both the applicability of one of these exceptions to this rule and, if necessary to weigh the prejudicial effect and the probative value. *E.g. State v. Wallace*, 384 S.C. 428, 431-432, 683 S.E.2d 275, 277 (2009) ("[A]fter an in camera hearing, the trial judge allowed Sister to testify that she was also sexually abused by respondent."); *State v. Clasby*, 385 S.C. 148, 152, 682 S.E.2d 892, 894 (2009) ("[T]he trial judge conducted an *in camera* hearing regarding the alleged prior bad act evidence.").

1. Alabama Charges.

Specifically, the prosecution seeks to admit evidence Mr. Dent possessed child pornography in Alabama. Charges related to these allegations are pending in Alabama, and Mr. Dent is presumed innocent. Evidence of these charges are inadmissible in this trial pursuant to *State v. Nelson*, 331 S.C. 1, 501 S.E.2d 716 (1998) (holding children's toys, videos, and photographs depicting young girls, and other evidence seized from defendant's bedroom was excludable as character evidence showing propensity to be a pedophile). *And see State v. Kenny*, 57 S.E. 859, 861-62 (S.C. 1907) ("Logically, the commission of an independent offense is not

proof, in itself, of the commission of another crime. . . . Without [an] obvious connection it is not only unjust to the prisoner to compel him to acquit himself of two offenses instead of one, but it is detrimental to justice to burden a trial with multiplied issues that tend to confuse and mislead the jury.").

Additionally, if this Court considers admitting this evidence, it should conduct a hearing to determine the admissibility of the evidence as outlined above. In addition to the ordinary Rule 404(b) and 403 considerations, this Court should consider whether the evidence was obtained in compliance with S.C. Code Ann. § 16-15-435(A) and the due process implications of admitting this type of evidence. *See Old Chief, supra; Michelson v. U.S.*, 335 U.S. 469, 475-76 (1948) ("The inquiry is not rejected because character is irrelevant; on the contrary, it is said to weigh too much with the jury and to so overpersuade them as to prejudge one with a bad general record and deny him a fair opportunity to defend against a particular charge."); *State v. Cox*, 781 N.W.2d 757, 768 (Iowa 2010) ("[T]he Iowa Constitution prohibits admission of prior bad acts evidence based solely on general propensity."); and *State v. Ellison*, 239 S.W.3d 603, 607-08 (Mo. 2007) ("the Missouri constitution prohibits the admission of previous criminal acts as evidence of a defendant's propensity" and invalidated a state statute admitting this type of evidence in child sexual abuse cases).

2. Allegations by Lori Michelle Mayo.

When Lori Mayo alleged to law enforcement that Mr. Dent sexually assaulted J.M., Ms. Mayo also claimed Mr. Dent had assaulted her as a child. These allegations did not result in any a criminal charge, let alone a criminal conviction. The State's motion does not address these allegations, but Mr. Dent will address it out of an abundance of caution.

The evidence is not admissible under a traditional interpretation of Rule 404(b). As our Supreme Court has held:

> In a criminal case, the State cannot attack the character of the defendant unless the defendant first places his character in issue. In a similar vein, evidence of other crimes or bad acts is generally inadmissible to prove the crime charged unless the evidence tends to establish (1) motive, (2) intent, (3) absence of mistake or accident, (4) a common scheme or plan, or (5) identity. *Both rules are grounded on the policy that character evidence is not admissible for purposes of proving that the accused possesses a criminal character or has a propensity to commit the crime with which he is charged.*

State v. Nelson, 331 S.C. 1, 6, 501 S.E.2d 716, 718-19 (1998) (internal quotations and citations omitted) (emphasis added). Traditionally, admissibility under *Lyle* and Rule 404(b) is ***not*** determined by similarity. Regarding the admissibility of prior crimes, our Supreme Court warned in *Lyle*:

> True, such evidence strongly tends to induce the jury to believe that, merely because the defendant was guilty of the former crimes, he was also guilty of the latter; but that is the precise inference the general rule was wisely designed to exclude.

Lyle, 125 S.C. at 420, 118 S.E. at 808. "The substance of these common law rules has now been codified in" Rule 404, SCRE. *Nelson*, 331 S.C. at 6, (fn. 7), 501 S.E.2d at 718-19, (fn. 7).

Under the traditional interpretation of the rule, "[i]f the court does not clearly perceive the connection between the extraneous transactions and the crime charged, that is, its logical relevance, the accused should be given the benefit of the doubt, and the evidence rejected." *State v. Brooks*, 341 S.C. 57, 61, 533 S.E.2d 325, 327-28 (2000). *See also State v. Fletcher*, 379 S.C. 17, 25 (fn. 3), 664 S.E.2d 480, 484 (fn. 3) (2008) ("Prior acts must be so intimately connected to the crimes charged that their introduction is appropriate to complete the story of the crime charged."); *State v. Pagan*, 369 S.C. 201, 211, 631 S.E.2d 262, 267 (2006) ("To be admissible, the bad act must logically relate to the crime with which the defendant has been charged."); *State v. Timmions*, 327 S.C. 48, 52, 488 S.E.2d 323, 325 (1997) ("A common scheme or plan concerns

more than the commission of two similar crimes; some connection between the crimes is necessary."); *State v. Parker*, 315 S.C. 230, 234, 433 S.E.2d 831, 833 (1993) ("noting that "a general similiarity . . . [is] insufficient to support the common scheme or plan exception."); *State v. Johnson*, 293 S.C. 321, 234, 360 S.E.2d 317, 319 (1987) (Evidence of other crimes is never admissible unless necessary to establish a material fact or element of the crime charged."); *State v. Stokes*, 279 S.C. 191, 193, 304 S.E.2d 814, 815 (1983) ("The 'common scheme or plan' exception requires more than a mere commission of two similar crimes by the same person. There must be some connection between the crimes. If there is any doubt as to the connection between the acts, the evidence should not be admitted.").

Mr. Dent anticipates the State might rely on *Wallace, supra.*[1] In *Wallace*, by focusing on similarity, our Supreme Court departed from the traditional interpretation of Rule 404(b).[2] In Argument II(B), *infra*, Mr. Defendant will explain why the continued validity of *Wallace* is in question. However, even under *Wallace*, prior bad act evidence is not automatically admissible. *E.g. State v. Fonseca*, 393 S.C. 229, 229, 711 S.E.2d 906, 906 (2011) ("The Court of Appeals properly held that the circuit court erred in permitting the State to introduce evidence of the 2001 incident, and properly summarily disposed of the State's additional sustaining ground."). *Wallace* requires "the trial court should consider the following factors when determining whether there is

[1] The defendant in *Wallace* did not challenge the admission of the prior bad act evidence as a violation of due process.

[2] At least one state court has returned to the traditional application of Rule 404(b) in sexual abuse cases. *Lannan v. State*, 600 N.E.2d 1334, 1339 (Ind. 1992) ("We hasten to add that abandoning the depraved sexual instinct exception does not mean evidence of prior sexual misconduct will never be admitted in sex crimes prosecutions. It means only that such evidence will no longer be admitted to show action in conformity with a particular character trait. It will continue to be admitted, however, for other purposes such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake.").

a close degree of similarity between the bad act and the crime charged: (1) the age of the victims when the abuse occurred; (2) the relationship between the victims and the perpetrator; (3) the location where the abuse occurred; (4) the use of coercion or threats; and (5) the manner of the occurrence, for example, the type of sexual battery." *Wallace*, 384 S.C. at 433-34, 683 S.E.2d at 278. Applying these factors, the prosecution cannot meet its burden of proof.

The retirements of Chief Justice Jean Toal, Justice E.C. Burnett, and Justice John H. Waller, creates questions about the continued validity of *Wallace*. In *State v. Venancio Diaz Perez,* Appellate Case Number 2015-001576, our Supreme Court granted Mr. Perez's motion to argue against precedent and convened oral arguments on November 30, 2016, during which Mr. Perez asked the Court to overrule *Wallace*. The decision in *Perez* is still pending. As discussed below, the current Court appears to have enough votes to overrule *Wallace.* Chief Justice Costa Pleicones, who was a member of the Court hearing *Perez*, dissented from the Supreme Court's decision in *Wallace*, saying he would have affirmed the Court of Appeals' opinion, which was written by now Justice Kaye Hearn. In his dissent in *Wallace*, then Justice Pleicones noted our Supreme Court's "cases holding that evidence of other acts of sexual misconduct is admissible in a trial for criminal sexual conduct with a minor as a 'common scheme or plan' under Rule 404(b), SCRE, have, in effect, created an exception to the rule's exclusion of propensity evidence." *Wallace*, 384 S.C. at 435-36, 683 S.E.2d at 279. *See also State v. Hubner*, 384 S.C. 436, 437, 683 S.E.2d 279, 280 (2009) (Pleicones J. dissenting) ("For the reasons given in my dissent in *State v. Wallace* . . . I respectfully dissent."). During the *Perez* oral argument, both Chief Justice Pleicones and Justice Hearn indicated they might adhere to their prior opinions in *Wallace.* Based on his detailed rior opinion rejecting propensity evidence, Justice John Kittredge likely will vote to overrule *Wallace.* *See State v. Tuffour*, 364 S.C. 497, 504, 613 S.E.2d 814, 818 (Ct. App. 2005) ("The appellate

courts of this state have unwaveringly adhered to the rule of exclusion of prior bad act evidence to show criminal propensity or that the defendant is a bad person unworthy of the presumption of innocence.") *vacated by State v. Tuffour*, 371 S.C. 511, 641 S.E.2d 24 (2007) ("Tuffour pled guilty to a lesser-included offense and was sentenced to time served under the same indictment which was the subject of Tuffour's 2002 conviction and this appeal.").

II. Mr. Dent's Motion to Quash Indictment Numbers 2014-GS-07-01671 and 01672.

The State charges Mr. Dent with two counts of violating S.C. Code § 16-15-355, which provides:

> An individual eighteen years of age or older who knowingly disseminates to a minor twelve years of age or younger material which he knows or reasonably should know to be obscene within the meaning of Section 16-15-305 is guilty of a felony and, upon conviction, must be imprisoned for not more than fifteen years.

An "arrest warrant for a violation of Sections 16-15-305 . . . may be issued only upon request of a circuit solicitor." S.C. Code Ann. § 16-15-435(A). The State did not follow this procedure, as law enforcement—not the Solicitor—sought the arrest warrants.[3] This Court, accordingly, should quash the indictments.

In the alternative, this Court should convene, pre-trial, "an adversarial hearing for the purpose of obtaining a judicial determination, based on a preponderance of the evidence, of the obscenity issue." S.C. Code Ann. § 16-15-435(B).

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[3] Arrest warrant numbers 2014-A07-103-00386, 387, obtained on August 15, 2014, by Investigator C.H. Lavan.

III. Other Potential Issues.

A. Use of the Term "Victim."

The prosecution should not be allowed to refer to the complaining child witness as a "victim." Whether the accuser is a victim of child sexual abuse is a matter for the jurors to determine.

B. Testimony of Nurse Practitioner.

If the State presents testimony from the nurse practitioner who performed the medical exam in this case, then the Court should place appropriate limits on her testimony.

First, "[t]he perpetrator's identity would rarely, if ever, be a factor upon which the doctor relied in diagnosing or treating the victim. A doctor's testimony as to history should include only those facts related to him by the victim upon which he relied in reaching his medical conclusions. The doctor's testimony should never be used as a tool to prove facts properly proved by other witnesses." *State v. Brown*, 286 S.C. 445, 334 S.E.2d 816 (1985).

Second, not every aspect of the alleged assault is admissible. *See, e.g., State v. Burroughs*, 328 S.C. 489, 492 S.E.2d 408 (Ct. App. 1997) (a statement that the victim had been raped or that the assailant had hurt the victim in a particular area would be pertinent to the diagnosis and treatment of the victim. In this case, however, the fact that Burroughs asked if he could have a hug before he assaulted the victim in no way can be viewed as "reasonably pertinent" to the victim's diagnosis or treatment).

Third, this witness should not be allowed to testify that the complaining witness is a victim of child sexual assault or otherwise offer and opinion based the child's statements. *See Mangal v. State*, 415 S.C. 310, 781 S.E.2d 732 (2015) (trial counsel's failure to object to pediatrician's bolstering the child's testimony constituted prejudicial ineffective assistance of counsel). Our

Supreme Court heard oral arguments on December 14, 2016 and reversed the Court of Appeals on issue preservation grounds. *Mangal v. State*, No. 2016-000610, 2017 WL 3045812 (S.C. July 19, 2017). Our Supreme Court, however, did not criticize the Court of Appeal's analysis, which is consistent with *Anderson, Kromah, Chavis, Jennings,* and numerous other cases.

C. Order and Content of Closing Arguments.

Mr. Dent anticipates introducing evidence. Our Supreme Court recently observed, "Currently, there is no rule governing the content and order of closing arguments in criminal cases in which a defendant introduces evidence, except for the 'constitutional rule' that a defendant's right to due process cannot be violated at any stage of a trial." *State v. Beaty*, No. 2015-000718, 2018 WL 1938544, at *10 (S.C. Apr. 25, 2018). The Court revealed to the bench and bar that it has "no effective way to ascertain the prevailing practices of current and past trial judges" regarding the order and content of closing argument when an accused presents evidence. *Id.* at *7. The Court "conclude[d] that absent a published court rule or a defined common law rule, individual trial judges have developed their own practices governing closing argument in cases in which a defendant introduces evidence." *Id.* Although recognizing this uncertainty "is an untenable approach to such an important phase of a criminal trial," the Court concluded it does not have "the power to adopt new rules of procedure for future trials." *Id.* Instead, "trial judges must, on a case-by-case basis, ensure that a defendant's due process rights are not violated during the closing argument stage." *Id.* at 9. The Court observed:

> Absent authority to formally adopt procedural rules, our authority—and the authority of the trial court—is but to address due process considerations as they arise. In cases in which a defendant introduces evidence, trial judges clearly have the authority to require the State to open in full on the facts and the law and have the authority to restrict the State's reply argument to matters raised by the defense in closing.

Id. at 10. On April 26, 2018—the day after our Supreme Court decided *Beaty*—South Carolina Court Administration issued a memorandum to Circuit Court and Summary Court Judges, a copy of which is attached, emphasizing the trial judge's "authority to require the State to open in full on the facts and the law and to restrict the State's reply argument to matters raised by the defense in closing.

Mr. Dent's position is simple. Due Process requires an accused to have a full and fair opportunity to respond to the prosecution's best argument, meaning the State must open in full on the facts and the law and restrict its reply argument to matters raised by the defense in closing. Mr. Dent, therefore, respectfully requests this Court follow the procedure endorsed by our Supreme Court in *Beaty* and Court Administration in its memorandum to trial judges.

D. Charge on the Law.

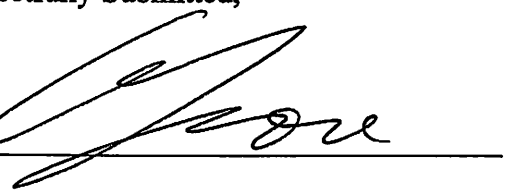
Mr. Dent will submit his proposed request to charge at the appropriate point of the trial; however, the Court should be mindful of two issues.

First, our Supreme Court recently reaffirmed its instruction for "trial judges to omit any language, whether in remarks to the jury or in an instruction, which might have the effect of lessening the State's burden of proof in a criminal case. Such language includes, but is not limited to, any language suggesting to the jury that its task is to 'search for the truth' or to find 'true facts,' or that the jury should render a 'just verdict.'" *Beaty, supra,* at *10. Because this admonition addresses burden shifting statements, prosecutors should avoid similar, objectionable arguments.

Second, instructing S.C. Ann. § 16-3-657—stating the testimony of a complaining witness in a criminal sexual conduct case does not require corroboration—"is confusing and violative of the constitutional provision prohibiting courts from commenting to the jury on the facts of a case."

State v. Stukes, 416 S.C. 493, 499, 787 S.E.2d 480, 483 (2016) (citing S.C. Const. art. V, § 21 ("Judges shall not charge juries in respect to matters of fact, but shall declare the law.")).

Respectfully Submitted,

By 

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
Email: charles@groselawfirm.com

Attorney for Charles Dent

May 21, 2018.

INVESTIGATIVE ASSOCIATES OF CHARLESTON
1006 SCOTTLAND DRIVE
MT. PLEASANT, SC 29464

COPY

February 20, 2015

POLYGRAPH EXAMINATION

SUBJECT: Charles Alford DENT
EXAMIER:. B. Frank BLOOMINGBURG
ATTORNEY: Timothy7 C. KULP

Synopsis
1. Subject, suspected of CSC with a Minor and Dissemination of Obscene Material, denied culpability and requested a polygraph examination. In the opinion of the Examiner, Subject DID NOT ATTEMPT DECEPTION in his responses to relevant issue questions.

DETAILS OF THE POLYGRAPH EXAMINATION
2. Details provided that Subject allegedly had his Grand Daughter, J.M. [redacted] perform oral sex on him and showing her pornographic material to which he denied. Accordingly, the following relevant issue questions, with Subject's responses thereto, were utilized during the examination:
(A) Did J.M. [redacted] give you oral sex?.....NO.
(B) Did you show J.M. [redacted] pornographic material?.....NO.
In the opinion of the Examiner, Subject DID NOT ATTEMPT DECEPTION in his responses to the above relevant issue questions. Thomas C. Wallace, a Certified Examiner, was present during the examination and concurred with the polygraph examination results.

NOTIFIATION OF POLYGRAPH EXAMINATION RESULTS
3. Subject and Attorney have been apprised of the polygraph examination results.

B. Frank Bloomingburg

South Carolina Court Administration

South Carolina Supreme Court

Columbia, South Carolina

TONNYA K. KOHN
INTERIM DIRECTOR

1220 SENATE STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA
29201
TELEPHONE: (803) 734-1800
FAX: (803) 734-0269
E-MAIL: tkohn@sccourts.org

MEMORANDUM

TO: Circuit Court Judges & Summary Court Judges

FROM: Susan Widener, Staff Attorney

RE: State v. Michael Beatty

DATE: April 26, 2018

On April 25, 2018, the South Carolina Supreme Court issued a decision in the case of State v. Beatty following the grant of rehearing following its decision in State v. Beatty, Op. No. 27693 (S.C. Sup. Ct. filed Dec. 29. 2016) (Shearouse 2017 Adv. Sh. No. 1 at 13), and reargument. The Court addressed two issues, one concerning certain language used in preliminary remarks to the jury and the second the order of closing arguments in a criminal case.

In addressing the first issue, the Court held:

We instruct trial judges to omit any language, whether in remarks to the jury or in an instruction, which might have the effect of lessening the State's burden of proof in a criminal case. Such language includes, but is not limited to, any language suggesting to the jury that its task is to "search for the truth" or to find "true facts," or that the jury should render a "just verdict."

On the second question, after reviewing the history of closing argument jurisprudence, the Court stated:

Our current closing argument rules consist of the following patchwork: Pursuant to the common law rule pronounced in *Brisbane*[1] and as clarified in *Garlington*, in cases in which no defendant introduces evidence, the defendant(s) have the right to open and close, but may waive the right to both or may waive opening and present full argument after the State's closing argument. Pursuant to the common law rule set forth in *Huckie*, if two or more defendants are jointly tried, if any one

[1] Full citations to the cases cited in this paragraph are: *State v. Brisbane*, 2 S.C. L. (2 Bay) 451 (1802); *State v. Garlington*, 90 S.C. 138, 72 S.E. 564 (1911); *State v. Huckie*, 22 S.C. 298 (1885); and *State v. Gellis*, 158 S.C. 471, 155 S.E 849 (1930).

defendant introduces evidence, the State has the final closing argument. Pursuant to the common law rule as clarified in *Gellis*, in cases in which a defendant introduces evidence of any kind, even through a prosecution witness, the State has the final closing argument. However, in cases in which the State is entitled to the reply argument, there is no common law or codified rule as to whether the State must open in full on the law, or the facts, or both, or neither, and there is no rule governing the content of the State's reply argument.

....

Currently, there is no rule governing the content and order of closing arguments in criminal cases in which a defendant introduces evidence, except for the "constitutional rule" that a defendant's right to due process cannot be violated at any stage of a trial. Consequently, trial judges must, on a case-by-case basis, ensure that a defendant's due process rights are not violated during the closing argument stage. Absent authority to formally adopt procedural rules, our authority—and the authority of the trial court—is but to address due process considerations as they arise. In cases in which a defendant introduces evidence, trial judges clearly have the authority to require the State to open in full on the facts and the law and have the authority to restrict the State's reply argument to matters raised by the defense in closing. This authority remains in keeping with the trial judge's authority to ensure that a defendant's due process rights are not violated during a criminal trial. We remain mindful of the need for clearly articulated rules governing the content and order of closing arguments in cases in which a defendant introduces evidence. The uncertainty resulting from the absence of such rules is unfortunate. We hope the day will soon come when such rules are firmly in place.

The case may be read in full at:
http://www.sccourts.org/opinions/HTMLFiles/SC/27795.pdf

PLEASE BE AWARE THAT IN THE ABSENCE OF A COURT ORDER TO THE CONTRARY, DECISIONS OF THE COURT ARE NOT FINAL UNTIL THE TIME FOR REHEARING HAS EXPIRED, OR UNTIL THE PETITION FOR REHEARING IS ACTED UPON, WHICHEVER OCCURS LATER.

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSION
	)	FOR THE FOURTEENTH JUDICIAL
COUNTY OF BEAUFORT	)	CIRCUIT
	)	
State of South Carolina,	)	Case No. 2014-GS-07-01671 to 01674
	)	
	)	
vs.	)	**Motion for a New Trial**
	)	
	)	
Charles Dent	)	
	)	
	)	

Pursuant to Rule 29 of the South Carolina Rules of Criminal Procedure, Charles Dent moves this Court for an order granting him a new trial. This motion is based on the following grounds.

1) Prior to the call of the case, Mr. Dent moved this Court for an order quashing Indictment Numbers 2014-GS-07-01671 and 01672, charging Mr. Dent with two counts of violating S.C. Code § 16-15-355, which provides:

> An individual eighteen years of age or older who knowingly disseminates to a minor twelve years of age or younger material which he knows or reasonably should know to be obscene within the meaning of Section 16-15-305 is guilty of a felony and, upon conviction, must be imprisoned for not more than fifteen years.

An "arrest warrant for a violation of Sections 16-15-305 . . . may be issued only upon request of a circuit solicitor." S.C. Code Ann. § 16-15-435(A). The State did not follow this procedure, as law enforcement—not the Solicitor—sought the arrest warrants. Arrest warrant numbers 2014-A07-103-00386, 387, obtained on August 15, 2014, by Investigator C.H. Lavan of the Beaufort County Sheriff's Office. This Court denied that motion and allowed the trial to proceed. This Court, accordingly, should grant Mr. Dent a new trial and enter and order quashing these indictments.

2) At the close of the State's case and again at the close of all evidence, Mr. Dent moved for a directed verdict on Indictment Numbers 2014-GS-07-01671 and 01672 because the State failed to comply S.C. Code §§ 16-15-355 and 16-15-305, requiring the Solicitor to apply for arrest warrants for these charges. This Court denied that motion and allowed the trial to proceed. This Court, accordingly, should grant Mr. Dent a new trial and enter and order quashing these indictments.

3) On May 18, 2018, the State moved to admit "other bad act" evidence pursuant to Rule 404(b), SCRE, which included allegations that child pornography was found on Mr. Dent's computers in Alabama. The State also sought to introduce photographs of the complaining witness, J.M., that are not illegal that were found during a search of Mr. Dent's computers and other electronic devices, including two cameras. Mr. Dent responded to this motion in his pre-trial brief. Throughout the trial, this Court convened hearings on the State's motion. When the State presented witnesses from Alabama, it became apparent the State would not present the witness that examined the electronic devices. Additionally, the State did not have a complete chain of custody from the time the electronic devices where collected by law enforcement until the examination was performed. This Court suppressed the Alabama evidence because Mr. Dent was not afforded his Sixth Amendment right to confront the witnesses against him. Notwithstanding this ruling, the State, over objection, presented evidence resulting from the search of these computers and electronic devices, which resulted in the following errors:

a) The State recalled J.M. and introduced several photographs of her that purportedly were found on the search of Mr. Dent's computer and electronic devices. J.M. stated that two of these photographs were taken be someone other than Mr. Dent. These

images should have been excluded for the reasons listed below, and this Court should order a new trial.

1) J.M. stated she "believed" the other photographs were taken be Mr. Dent. Regarding the photograph J.M. was most certain was taken by Mr. Dent, J.M.'s certainty was "6" on a scale of 1 to 10. The State, accordingly, did not establish the photographs by Mr. Dent, meaning the images were not relevant, Rules 401 and 402, SCRE or, in the alternative, the prejudicial effect of admitting the photographs substantially outweighed any probative value, Rule 403, SCRE.

2) Three of the photographs portrayed J.M. in a favorable manner and should have been excluded pursuant to *State v. Langley*, 334 S.C. 643, 515 S.E.2d 98 (1999).

3) Mr. Dent was denied his Sixth Amendment right to confront and cross-examine the person who examined the devices and collected these images. *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2009). See also S.C. Const. Art. I, § 14.

4) The State failed to establish the chain of custody of the images.

5) The State failed to establish the authenticity of the images, as no information before the Court established that the photographs had not been altered when they were deleted from the devices. Rule 901, SCRE.

6) The State failed to comply S.C. Code §§ 16-15-355 and 16-15-305, requiring the Solicitor to apply for search warrants for these charges.

b) The State questioned Mr. Dent about whether he owed a computer and whether he had child pornography on computer. In accordance with the discussions during

the hearing to determine the admissibility of these questions, Mr. Dent moved for a mistrial based on the State introducing improper character evidence, citing Rules 404(b) and 403, SCRE. *See also* Mr. Dent's Pre-Trial Brief, Section I(C). This Court denied that motion. This Court should order a new trial.

4) The State indicted Mr. Dent alleging first degree criminal sexual conduct with a minor "between the dates of August 2013 and April 2014" by committing a "sexual battery" on J.M. "to wit: fellatio on the defendant by J.M. Over objection the prosecution argued other sexual batteries, including but not limited to cunnilingus and digital penetration. Also over objection, this Court instructed the jurors, "'Sexual battery' means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes." S.C. Code Ann. § 16-3-651(h). Allowing the jurors to consider these other sexual batteries allowed the jurors to convict based on proof that varied from the elements contained in the indictment, which is due process violation. *See, e.g., Bailey v. State*, 392 S.C. 422, 709 S.E.2d 671 (2011). This Court should order a new trial. The trial judge's instruction additionally undermined the credibility of Mr. Dent's counsel who relied on the language in the inidctment in his opening statement and closing argument. *See, e.g. State v. Jones*, 343 S.C. 562, 578, 541 S.E.2d 813, 821 (2001) ("The effect of the judge's after the fact decision to excise the hesitate to act language from his charge was to diminish appellant's attorney's credibility in the eyes of the jury.").

5) Mr. Dent requested this Court instruct circumstantial evidence as set forth in *State v. Logan*, 405 S.C. 83, 99, 747 S.E.2d 444, 452 (2013), which provides:

> There are two types of evidence which are generally presented during a trial—direct evidence and circumstantial evidence. Direct evidence directly proves the existence of a fact and does not require deduction. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact.
>
> Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence, however, to the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other, and when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely portray the defendant's behavior as suspicious, the proof has failed.
>
> The State has the burden of proving the defendant guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence, or some combination of the two.

See Mr. Dent's Request to Charge No. 2, a copy of which is attached. This instruction is mandatory when requested. In this case, the State relied on a combination of direct and circumstantial evidence. Mr. Dent was prejudiced because the omitted language would have instructed the jurors that the state's proof must point conclusively to the guilt of the accused and mere suspicion is not enough. This Court should grant a new trial.

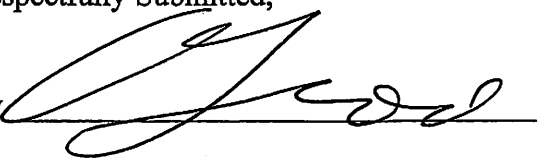
6) The cumulative error doctrine, which "provides relief to a party when a combination of errors that are insignificant by themselves have the effect of preventing a party from receiving a fair trial." *State v. Johnson*, 334 S.C. 78, 93, 512 S.E.2d 795, 803 (1999). *And see State v. Blurton*, 342 S.C. 500, 512, 537 S.E.2d 291, 297 (Ct. App. 2000), *reversed on other grounds by State v. Blurton,* 352 S.C. 203, 573 S.E.2d 802 (2002) (cumulative error of solicitor's improper argument and improperly excluded evidence warranted reversal). This Court should grant a new trial based on the cumulative error.

7) Finally, this Court should grant a new trial because the state failed to present any direct evidence or substantial circumstantial evidence based upon which reasonable jurors could find Mr. Dent guilty beyond a reasonable doubt.

This Court, therefore, should grant Mr. Dent a new trail.

IT IS SO MOVED.

Respectfully Submitted,

By 

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for the Defendant

June 1, 2018
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSION
	)	FOR THE FOURTEENTH JUDICIAL
COUNTY OF BEAUFORT	)	CIRCUIT
	)	
State of South Carolina,	)	Case No. 2014-GS-07-01671 to 01674
	)	
	)	
vs.	)	
	)	
	)	
Charles Dent	)	
	)	
_____	)	

I certify that I have served a copy of this pleading on the State of South Carolina by placing a copy in the US Mail, postage prepaid, on the date reflected below, addressed to

Alex Joseph, Esquire
Assistant Solicitor
Fourteenth Circuit Solicitor's Office
P.O. Box 1880
Bluffton, SC 29910

By _____

E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

June 1, 2018
Greenwood, South Carolina

The Grose Law Firm, LLC

404 Main Street, Greenwood, South Carolina 29646

E. Charles Grose, Jr.
Phone: 864-538-4466 Fax: 864-538-4405
E-mail: charles@groselawfirm.com
Web: GroseLawFirm.com

June 4, 2018

The Honorable Jerri Ann Roseneau
Clerk of Court, Beaufort County
PO Box 1128
Beaufort, SC 29901-1128

Re: *State of South Carolina v. Charles Dent*
Case Numbers 2014-GS-07-01671 to 01674

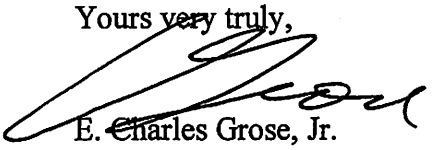
Dear Ms. Roseneau:

Enclosed for filing please find a copy of Mr. Dent's Request to Charge Number 2 that was inadvertently left off as an attachment to the New Trial Motion.

Thank you for your attention to this matter. Please let me know if you have any questions or require additional information.

With kindest regards, I am

Yours very truly,



E. Charles Grose, Jr.

cc: The Honorable Alex Kinlaw, Jr.
Mr. Charles Dent
Alexandra M. Joseph, Esquire

Mr. Dent's Request to Charge No. 2

Circumstantial Evidence

"There are two types of evidence which are generally presented during a trial—direct evidence and circumstantial evidence. Direct evidence directly proves the existence of a fact and does not require deduction. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact."

"Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence, however, to the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other, and when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely portray the defendant's behavior as suspicious, the proof has failed."

"The State has the burden of proving the defendant guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence, or some combination of the two."

State v. Logan, 405 S.C. 83, 99, 747 S.E.2d 444, 452 (2013) ("trial courts should provide the [above quoted] language as a circumstantial evidence charge, in addition to a proper reasonable doubt instruction, when so requested by a defendant").

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA	)	Indictment No. 2014GS0701671-1674
vs.	)	**STATE'S RESPONSE TO DEFENSE'S MOTION FOR A NEW TRIAL**
CHARLES DENT, Defendant.	)	

COMES NOW Assistant Solicitor Alex Joseph in response to the Defendant's Motion for a New Trial in the above-captioned case. In response to the Defendant's Motion, the State submits the following to the Court.

PROCEDURAL BACKGROUND

On August 22, 2014, the Defendant was arrested at his home in Calhoun County, Alabama and charged with two counts of Criminal Sexual Conduct with a Minor, First Degree and two counts of Disseminating Obscene Materials to Minor Twelve Years of Age or Younger. On October 30, 2014, the State indicted the Defendant for two count of Criminal Sexual Conduct with a Minor, First Degree and for two counts of Disseminating Obscene Materials to Minor Twelve Years of Age or Younger. The State subsequently amended the Disseminating Obscene Materials to Minor Twelve Years of Age or Younger indictments on March 15, 2018.

This matter was tried before a judge and jury between May 21, 2018 and May 24, 2018. The jury returned a verdict of guilty on one of the Criminal Sexual Conduct with a Minor, First Degree charges and a verdict of guilty on both of the Disseminating Obscene Materials charges. The Court sentenced the Defendant to thirty years of imprisonment for the Criminal Sexual Conduct with a Minor, First Degree charge. The Court sentenced the Defendant to serve fifteen years concurrent with his other sentence for the Disseminating Obscene Materials charges.

LAW AND ANALYSIS

Defense Counsel presents several alleged grounds in support of his Motion for New Trial. The State will address these grounds in the order presented in Defense Counsel's Motion.

1) The State argued in a pre-trial hearing, and the Court agreed, that S.C. Code Section 16-15-435 uses language that is voluntary. Specifically, the statute says as arrest warrant "*may* be issued only upon request of a circuit solicitor" (emphasis added). Thus, it is not required that a solicitor's office request the warrant in these types of cases.

   In addition, S.C. Code Section 16-15-435 lists the specific statutes it applies to and it does not mention the statute the Defendant was charged under—S.C. Code Section 16-15-355. S.C. Code Section 16-15-435 does cite S.C. Code Section 16-15-305, which is a definition section. However, the State argues all statutes that rely on this definition section are not covered by 16-15-435 because S.C. Code Section 16-15-435 specifically lists S.C. Code Section 16-15-315, which cites definition section 16-15-305. Thus, it is not enough that a definition section cited by S.C. Code Section 16-15-355 is cited by S.C. Code Section 16-15-435. If the lawmakers responsible for writing S.C. Code Section 16-15-435 wanted this section to cover S.C. Code Section 16-15-355, they would have explicitly listed it in S.C. Code Section 16-15-435 as was done with S.C. Code Section 16-15-315.

2) The Court properly denied Defense Counsel's request for a directed verdict based on the reasoning above.

3) The State properly admitted photographs of the Victim Jaelynn Mayo at trial. Jaelynn Mayo was able to lay the proper foundation for these photographs since she was the

subject matter of these photographs. Rule 901(a), SCRE. Furthermore, she testified the Defendant may have taken some of these photographs. Whether or not the jury believed the Defendant took these photographs is an issue of weight, not admissibility. Rule 401, SCRE. Thus the Court did not abuse its discretion by admitting these photographs.

In State v. Langley, 334 S.C. 643, 515 S.E.2d 98 (1999), the Court held the photograph of the Victim admitted in trial had no evidentiary value. Unlike in Langley, the photographs of the Victim that were admitted in this case had evidentiary value and were thus relevant.

First, these photographs showed the location where the sexual abuse and grooming took place. Investigator LaVan testified at trial that he did not take any crime scene photos. The State therefore entered three photographs that depicted the crime scene: one of the victim standing in the living room of the house where the abuse occurred, one of the Victim on the Defendant's bed in the house where the abuse occurred, and one of the Victim in the kitchen with the Defendant. In particular, the Victim mentioned some of the abuse occurring in the kitchen while she was cooking with the Defendant, and thus, the picture of the Victim and Defendant alone together in the kitchen is particularly relevant.

These photographs also served to show the Victim at the age she was when the abuse occurred. In addition, the photograph of the Victim on the Defendant's bed illustrated that the Defendant had his own private room in the house where the abuse took place. The State argued at trial that the Defendant purposefully ensured he would have his own private space in the Victim's home in order to sexually abuse her. Finally, the

photograph of the Victim and the Defendant in the kitchen illustrates that the Victim and Defendant had contact during the period when the abuse was taking place.

Defense Counsel also alleges the Defendant's Sixth Amendment rights to confrontation were violated when these photographs were admitted. The Court ruled the State was barred from admitting evidence that any images of child pornography or sexual images of the Victim were found on the Defendant's computer. After this ruling, the State did not seek to introduce evidence of where the sexual images of the Victim originated. Instead, the Victim testified the Defendant may have taken those photographs. Defense counsel was free to question the Victim about her level of certainty associated with that claim. In fact, Defense counsel did question the Victim on the stand about her certainty related to whether or not the Defendant took those photographs of her. Therein, the Defendant's right to confrontation under the Sixth Amendment was not violated. The Victim was the one making the claim that the Defendant took those sexual-in-nature photographs of her, and Defense counsel was able to question her about her statements. The defense was able to cross examine this witness and thus the confrontation clause was not violated. Also, the Victim's belief that the Defendant took those sexual-in-nature photographs of her goes to weight not admissibility. Rule 401, SCRE. Thus the Court did not abuse its discretion by admitting those photographs of the Victim.

The State did not need to establish chain of custody of the images because the State was not seeking to introduce the origins of these images.

The Victim was the subject matter of these images and was therefore capable of authenticating these images. Defense counsel is overstating the requirements of Rule

901, SCRE. The Rule states, "[t]he requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." Rule 901(a), SCRE. Furthermore,"[t]estimony that a matter is what it is claimed to be" is an acceptable method of authentication. Rule 901(b), SCRE.

The State replies on its earlier argument regarding S.C. Code Section 16-15-435. Under Rule 404(b), SCRE, it was proper for the Court to allow the State to ask the Defendant if there was any child pornography on his computer. The State asked this one question and did not seek to enter extrinsic evidence that the Defendant did in fact have child pornography on his electronic devices. The Defendant opened himself up to this question on cross-examination when he chose to take the stand and testify.

4) The jury only found the Defendant guilty of one count of Criminal Sexual Conduct with a Minor, First Degree charge. From the beginning of the trial, Defense Counsel argued the Victim disclosed the Defendant forced her to perform fellatio in only one of the houses where the abuse occurred. By only finding the Defendant guilty on one of the two Criminal Sexual Conduct with a Minor, First Degree charges, it is clear the jury agreed with Defense counsel's argument that the Defendant was not guilty of one of the counts of Criminal Sexual Conduct he was facing because he did not force the Victim to perform fellatio in the second house. While the Victim said the fellatio only occurred in one house, she consistently said the Defendant sexually abused her in other ways in both houses. Thus, if the jury had considered other sex acts when convicting the Defendant, the jury would have convicted him of both Criminal Sexual

Conduct with a Minor, First Degree charges instead of just convicting him of one of those charges.

In addition, the Court did not commit an error by reading the full definition of sexual battery to the jury since this is the definition reference in S.C. Code Section 16-15-355, the statute the Defendant was charged under. Indictments are notice documents. State v. Means, 367 S.C. 374, 626 S.E.2d 348, 2006 S.C. LEXIS 29 (S.C. 2006). The Defendant was charged with violating S.C. Code Section 16-15-355, which entails committing a sexual battery on a minor under eleven. It was thus proper for the judge to read the full definition of "sexual battery."

Defense counsel was able to argue that the State was required to prove fellatio; and, in fact, Defense counsel did argue the State was required to prove fellatio during their closing. Furthermore, the indictments in this case were sent back to the jury and the word "fellatio" was in these indictments. Finally, as argued above, clearly Defense counsel effectively persuaded the jury that the State had only proved fellatio occurred in one of the houses as the jury found the Defendant not guilty of the other count of Criminal Sexual Conduct with a Minor, First Degree—which was a charge that stemmed from sexual batteries alleged to have occurred in the other house.

5) The Judge did not err when he properly instructed the jury on circumstantial evidence. Defense counsel submitted this charge to the Court, and the State did not object to this charge.

6) There is no combination of errors in this case, and thus the Court should not grant a new trial.

7) The State did present enough direct and circumstantial evidence upon which a reasonable jury could find the Defendant guilty beyond a reasonable doubt.

CONCLUSION

Thus, this Court should deny the Defense Motion for a New Trial.

RESPECTFULLY SUBMITTED BY:



Alex Joseph
Assistant Solicitor
Fourteenth Judicial Circuit

State of South Carolina	)	Court of General Sessions
	)	14th Judicial Circuit
County of Beaufort	)	Case No. 2014-GS-07-1671
	)	
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Charles Dent,	)	
	)	
Defendant.	)	
	)	

February 28, 2018
Beaufort, South Carolina

B E F O R E:

The Honorable Carmen Mullen, Judge

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

Alexandra Joseph, Esquire
Attorney for the Plaintiff

Charles Grose, Jr., Esquire
Attorney for the Defendant

Krystal J. Smith
Circuit Court Reporter

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NO.	DESCRIPTION	ID.	EV.
	(No Exhibits Presented)		

COURT REPORTER LEGEND

dashes	--	intentional or purposeful interruption or change in thought
ellipses	. . .	trailing off
[ph]		phonetically written
[sic]		written as said

FEBRUARY 28, 2018

(WHEREUPON, the proceedings began at 1:21 p.m. The defendant was not present.)

MS. JOSEPH: Good afternoon, Judge Mullen. This is a defense motion, but this is basically a motion by consent. I just want to style the case.

This is the State versus Charles Dent. It's Indictment Numbers 2014-GS-07-1671 through 1674. Those are -- he's charged with two counts of criminal sexual conduct with a minor in the first degree and then two counts of disseminating obscene materials to a child 12 years or younger.

And briefly, Your Honor, again, this is defense's motion, but the State and defense are in agreement that there are counseling records in this case. The victim, J.M. [ph], who was nine at the time, saw Hope Haven counselors -- it was at Hope Haven -- for nine sessions. She saw two different counselors.

I learned that information by calling over and just asking sort of a little bit. I didn't want to know what was in the records, but just a little bit about them. Hope Haven has those records for us. They have them in hand. Once I deliver the order, they will give them to us and I will give them to Your Honor. We both agree that they need to be reviewed in camera.

THE COURT: Uh-huh.

MS. JOSEPH: The purpose of this motion is to give Your Honor a window in what is or is not relevant in this case. And because I believe that defense and I are so in agreement about what the facts of this case are and sort of what would or would not be relevant, I'm going to turn the floor over to him and, obviously, if I have any additions, I'll let you know.

THE COURT: Okay.

MS. JOSEPH: Thank you, Your Honor.

THE COURT: Thank you.

MR. GROSE: Well, in the motion that I filed, which we emailed today, was a motion I filed that led to the agreement that the record should be reviewed and, of course, the last of the four points in there with regards to the records has to do with the procedure from the Blackwell case that our Supreme Court laid out last summer. And so, obviously, if there's issues with regards to credibility in those records, that would be, you know, a Sixth Amendment issue.

THE COURT: Uh-huh.

MR. GROSE: I also -- kind of working backwards, the third point is I don't know what they're going to present at trial and, you know, trials often unfold differently than you think that they would, but the procedure that our Supreme Court adopted and approved of in Anderson following the Court

of Appeals case in Brown, you know, allows the State to call experts to testify about the general characteristics of a child who has been a victim of abuse, in this case sexual abuse, and that puts the child's state of mind into evidence and, of course, there's a long list of cases that do that.

And so if there's, you know, any possibility that the child's state of mind is going to be in evidence, then I think that it's incumbent on me to ask to be able to see these records so that I can review them and prepare to confront that evidence, whether it's through the child or through a counselor or through some other method at trial.

I also believe more generally given the nature of these cases, you know, due process, you know, requires, you know, that these are things that I think are necessary for preparing a defense. So if there's anything with regards to credibility, coaching, we may be alleging particular motive for abrogating the allegations at trial if that's something that, you know, they're aware of from the investigation in the case.

THE COURT: It was --

MR. GROSE: Once --

THE COURT: I'm sorry. Go ahead.

MR. GROSE: And just broadly anything that does -- you know, deals with, you know, state of mind. And without seeing them, that's all I can really --

THE COURT: Okay.

MR. GROSE: -- say. I do think -- and I think the Blackwell procedure is a good procedure, although it puts more work on Your Honor to -- to sort through all of this.

I do think in this particular setting when we have a child advocacy center that's statutorily created and mandated to carry out certain functions, I think the statute requires that they share this with the Solicitor's Office for purposes of investigating the case. I know that's not what ordinarily happens. I know that, but the way I read the statute, they're required to provide it.

And so I think we're -- you know, I'm not saying they're not mental health records, but I think we're talking about a particular subset of mental health records that has some different statutory considerations because there's also -- I mean part of this counseling from cases I've handled in the past is to help prepare for trial. It's not just ordinary counseling and so some of that could be, you know, fodder for cross-examination, just depending upon what's in the records.

I think we're also in agreement that if the records -- if you choose not to release the records or not to release part of the records that they probably need to be sealed and put in the file for either appellate review or in the event that something we don't foresee changes in trial.

THE COURT: Okay.

MR. GROSE: And the trial judge would have to revisit it -- might have to revisit it. I'm not saying that would happen, but we just -- we just both realize that as things develop that could be a possibility.

MS. JOSEPH: Yes, Your Honor. That's what Judge Goldsmith did in my Justin Adams case, and that case is up for appeal and those records are -- those records being kept out is, in fact, an issue on appeal. So we feel like the correct procedure was, in fact, to seal those records and keep them with the record in that case.

MR. GROSE: So --

THE COURT: Okay. Anything else specifically that you want me directly to be looking for? Is there -- I just saw something about the -- the child's mother and about there was maybe some potential abuse of her in the past or something.

MR. GROSE: What the basic facts of the case are -- I forget how old she was. Was she nine?

MS. JOSEPH: She's nine.

MR. GROSE: When she made the allegations. So the nine-year-old child makes allegations that her grandfather has sexually abused her. The grandfather was renting -- over time, it was two different residences, but renting residences in the Bluffton area that this child lived in, along with her brother that was two years older than her and her mother. The mother is the biological daughter of my client.

And so there is some information in the file that she alleged sexual abuse against her father, my client, when they were living -- while she was growing up and they were living in Jacksonville, Florida. My understanding is, is that there was never any charges and that that was essentially an unfounded situation.

There was a dispute that arose with regards to the payment of the bills and the rent for the residence that they were living in at the time, the second one of the two that they were living at the time when these allegations were made. And without going into details, I think we would probably have different interpretations of what all of that means at trial, but there could be something in these records that are relevant to that as far as, you know, motive to fabricate the allegations.

THE COURT: Let me ask you -- these counseling sessions -- are the parents there or is the mother there as well or not?

MS. JOSEPH: I think that -- it is my understanding that Hope Haven's policy is to ask the child whether they want the mom there, just like in a forensic medical. In this case, I believe the mother was not present for the nine sessions. She may have been present for the initial one.

THE COURT: Okay.

MR. GROSE: And with that being said, I think my

experience is, is that it happens different ways at different times I mean and I'm not familiar with Hope Haven, but I have been given records in other cases in the past where, you know, the parent was present, not necessarily for the entire session, but for part of the session.

And also, I've been given records where there was notice about the communications that the parent was having with the counselor outside of the sessions and in that case was basically feeding information to the counselor and the counselor was getting the child to confirm it rather than it coming from the child --

THE COURT: Okay.

MR. GROSE: -- to the counselor. At least that was our interpretation.

So that's what I say. There's no telling what's going to be in those records from our perspective, and you are in a difficult position because you don't really know what the defense is going to be, you know.

THE COURT: Right.

MR. GROSE: I also, you know, have no problem with, you know, a protective order that these can only be used for the purposes of this case.

THE COURT: Okay.

MR. GROSE: I think that's standard, and I think it's also a good idea when we're dealing with these types of

records.

THE COURT: Okay. And you have them; is that correct?

MS. JOSEPH: They're at Hope Haven. I will get them to you by the end of the week, Your Honor.

THE COURT: Okay. Okay. All right. Is this case up for trial? Or am I running on a deadline? It's what I need to know.

MS. JOSEPH: It's actually number one on the docket. So yes.

THE COURT: For which --

MR. GROSE: March 19th.

THE COURT: March 19th. Okay.

MS. JOSEPH: But it was only nine sessions. So I've been told that the records are not voluminous. So --

THE COURT: Okay.

MS. JOSEPH: And, Your Honor, while we do have you, we could put one other matter about this case on the record.

THE COURT: Yes.

MS. JOSEPH: So the defendant -- during her Hope Haven interview, J.M. , the victim in this case, stated that the defendant took images of her and that he hid the card that these images were on, the phone card or -- I'm sorry -- the memory card in his property in Alabama.

Because of that allegation, his property in Alabama was searched. They searched all his electronics. They found

child pornography on his computer. They never found the memory card. So the memory card that was part of her allegation never recovered.

And they found 151 images of possible child erotica and 60 images of possible child pornography and, in those images, 12 depict the subject's granddaughter bent over while facing the camera. Or -- and I'm getting -- what I'm reading you is from the Alabama incident report that I provided defense. And several of the images appear to be aimed down the female's shirt.

And then eight images are of the subject's granddaughter, which is J.M. , the victim in this case, posing in blue jeans and a t-shirt, and her legs are spread. And then in some of the images, her legs are pulled back down by her shoulders. And there are some images of -- but you don't see the face in them, but they believe it's from the same series of just her groin area, but she's clothed.

So that leaves us, Your Honor, with approximately 20 images that have potential to be J.M. . Now, their forensics say that it is the granddaughter. I mean they went into the computer and searched it because of our investigation. There's a possibility that some of the naked images or some of the remaining photos are also J.M. . So what Alabama is doing for us -- Alabama has their own case against him for child pornography. It is, unfortunately,

still pending because their child sex prosecutor just became a judge; so all of her caseload was shifted.

They are pulling all of the images for us and relooking at them and if the images are clothed, which they believe all the J.M. images are clothed, they can send us all those images just if we write them a letter on our letterhead.

THE COURT: Okay.

MS. JOSEPH: If they are naked, then they are going to need a court order.

THE COURT: Okay.

MS. JOSEPH: So I may be coming back to you requesting a court order.

I wanted to -- obviously, we're cutting it close the State is aware, but Mr. Grose is aware that these images exist, and these have always been -- this is important. They've always been part of the allegations from the beginning.

THE COURT: Okay.

MS. JOSEPH: That, you know, she says in her Hope Haven interview that he took these photos of her.

So I just wanted the State -- I'm sorry. I wanted the Court to be aware of the potential for new discovery this close in the game, the fact that I may have to request an order from you, and I just wanted defense on the record just sort of to be aware of what we knew as far as what these

images concerned.

MR. GROSE: And, of course, we haven't seen the images, and Mr. Dent has a lawyer in Alabama that's representing him on those charges. And I have been in communication with that lawyer since this issue came up as far as the solicitor here getting those records. The lawyer in Alabama as of last Friday had not seen those images either to be able to confirm any of -- any of the evidence, despite the fact that he had actually -- had been making requests to be able to do that over a period of time.

You know, when I -- when I read the report -- and again, I'm interpreting the report, you know, not familiar with the agent who wrote the report or anything like that. I understand the descriptions that they're making of the pictures, but it does appear that they're all clothed, and I don't know that, you know, they're necessarily, you know, a big smoking gun that matches up with what was said in the -- the interview. They may be.

THE COURT: Okay.

MR. GROSE: Until we look at it, I don't know. And I can see if these pictures come in and they're very damaging to our defense, then we're going to have to make some tough decisions that Mr. Dent wasn't planning on having to make.

However, if they come in and there's something that the State wants to use, we will probably need to have somebody

look at the computer to see if there are other images on there that would be something that we would want to put in, you know, in order to put these pictures into context.

I have no doubt that there's going to be pictures of J.M. on the computer because my understanding is that Mr. Dent was the grandfather. He took a lot of pictures. The question is, is what are they going to show and what other pictures might be on there because the way I read this report, they just identified pictures of interest. They haven't necessarily identified every photograph that's on the computer.

And I understand the computer can be brought here, but that may be something that requires an order. I don't know. So --

THE COURT: And so is Mr. Dent out on bond or where is Mr. Dent?

MR. GROSE: He is out on bond.

THE COURT: Okay.

MR. GROSE: He is -- he lives in Alabama.

THE COURT: Okay.

MR. GROSE: Where these -- that is the same residence where this evidence was found. He is on electronic monitoring. I think Tim Kulp used to represent him, and then they hired me around the beginning of the year.

I think you have handled some bond issues --

THE COURT: Okay.

MR. GROSE: -- in the past. And I met with him. He was in Greenwood last week. We have to notify his GPS service when he kind of travels. I told him I thought this was going to be relatively short today and I didn't see the point in making a trip from Alabama just for us to tell you --

THE COURT: And that's fine.

MR. GROSE: -- what to look for in the records.

THE COURT: Okay.

MR. GROSE: And to have a status conference.

THE COURT: Okay.

MR. GROSE: So --

MS. JOSEPH: Last thing.

THE COURT: Yes.

MS. JOSEPH: The -- there are four indictments in this case.

THE COURT: Uh-huh.

MS. JOSEPH: The dates in the indictments are based on the warrants. The person that indicted the case -- it was not me -- confused April and August in two of the indictments. It should always be August to April.

THE COURT: Okay.

MS. JOSEPH: So we will be amending those indictments to switch so that it's always August to April, if that makes sense.

THE COURT: Yes.

MS. JOSEPH: So two of the indictments are August to April and then two are April to August. We're going to switch those back just so the defense attorney is on notice, although time is not an element of this offense.

THE COURT: Okay.

MS. JOSEPH: I believe that concludes all the State's business.

MR. GROSE: I think that concludes everything, although I've got to say I do have some concerns about getting all this done by March 19th. I don't know. And that's one of the reasons that, at least from my perspective, I wanted to have a status conference --

THE COURT: Okay.

MR. GROSE: -- about this.

MS. JOSEPH: I mean truthfully, Your Honor, if there are naked photos of J.M. , this is going to be delayed. I understand that. If it is 20 clothed images of her, I believe that we can go forward with defense arguing that the images mean something else versus what we think it means.

I will say that it turns out Alabama has the number one forensic center in the country. It's like the FBI center. So the people analyzing this are from the FBI and, you know, if defense counsel needs to see every single non-pornographic image on that computer, I'm sure that we can make it happen.

So I mean for whatever reason, it's -- their case is an older case as well. They've been very incentivized by our case getting moving. So I assume that they will be moving forward with their case very soon as well.

THE COURT: Okay. All right. Well, just let me know if there's anything further you need from me, including any orders.

And for both of you, as March 19th gets closer and as you get information, if you are thinking, Mr. Grose, you're going to need a continuance or if the State thinks they're going to need a continuance or you jointly both say we need more time, please just let my office know as quickly as possible so we can make sure that the rest of the roster is prepared, if that's all right with you.

We've been trying very hard to kind of -- and I hate to say nail down, but really work our roster hard in General Sessions court these days to make sure their cases are really going to go forward and not just throwing a bunch of stuff on there because we don't want lawyers, you know, preparing for cases that are not going to go forward.

So the sooner the better, and obviously the sooner it's more likely I will continue it, although it's criminal court. So --

MS. JOSEPH: And, Your Honor, we always like to put these things on the record. The offer of 25 years, which is

the minimum for CSC with a minor, first degree, but we would run that concurrently with Alabama, which evidently is something that the prosecutor I'm working with in Alabama has done before and so, you know, he's looking at 20 years there and 25 years here.

THE COURT: Okay.

MS. JOSEPH: So just so the -- I know that Mr. Grose understands what the extended offer is, but just so he's firmly aware on the record.

THE COURT: Okay.

MS. JOSEPH: Thank you, Your Honor, very much. Thank you for squeezing us in.

THE COURT: Absolutely. And just -- you're going to send those to my office. Will you also do -- will you email? When someone drops them physically off, will you also email Crystal, my law clerk, and just say they were physically dropped at your office? I just want to make sure they don't get lost.

MS. JOSEPH: I completely agree with that.

THE COURT: And --

MS. JOSEPH: And I will be the one dropping them off; so I will do that.

THE COURT: Perfect. Okay. Thank you.

MR. GROSE: Thank you, Judge.

MS. JOSEPH: Thank you, Your Honor.

THE COURT: Thank you, y'all. I appreciate it.

(WHEREUPON, the proceedings ended at 1:41 p.m.)

--- END REQUESTED TRANSCRIPT ---

State of South Carolina)

) Certificate

County of Florence)

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 20, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of General Sessions for Beaufort County, South Carolina, on the 28th day of February, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Krystal J. Smith

Court Reporter

Florence, South Carolina

August 20, 2018

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KRYSTAL J. SMITH, COURT REPORTER
12TH CIRCUIT AT LARGE
P.O. BOX 13563
FLORENCE SC 29504

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT	)	2014-GS-07-01671
	)	2014-GS-07-01672
	)	2014-GS-07-01673
	)	2014-GS-07-01674
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
CHARLES DENT,	)	**VOLUME I**
DEFENDANT.	)	
	)	

May 21 and 22, 2018
Beaufort, South Carolina

B E F O R E:

THE HONORABLE ALEX KINLAW, JR., JUDGE; and a jury.

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

ALEXANDRA M. JOSEPH, ESQ.
S. REBEKAH LUTTRELL, ESQ.
Assistant Solicitors

E. CHARLES GROSE, JR., ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness
(DW) - Denotes Defense Witness
(IC) - Denotes In Camera

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

PROCEEDINGS

THE COURT: This is in the interest of the State of South Carolina v. Charles Dent, D-E-N-T.

Mr. Grose, I think we've got two motions to quash on indictments 2014-GS-07-1671 and 1672. I'll be glad to hear from you.

PRE-TRIAL MOTIONS

MR. GROSE: Well, and just -- yes, sir. The indictments allege a violation of 16-15-355 with regard to obscenity, which falls under the meaning of 16-15-305.

And so, obviously, Subsection 305 is incorporated into 355. And under Section 16-15-335, the only party that's allowed to seek arrest warrants or search warrants for violation of those sections is the solicitor's office.

The arrest warrants that I've been given were obtained by the sheriff's department. And so the State has failed to comply with the correct procedures. And, therefore, the -- those indictments should be quashed.

THE COURT: All right. Ms. Joseph.

MS. JOSEPH: Thank you, Your Honor.

I have a three-tier argument.

THE COURT: Yes, ma'am.

MS. JOSEPH: As stated earlier in your chambers, first, the State feels that this motion is not in Defense's best interest. If they are successful in this

motion to quash, the State will simply reindict and move forward and have another bite at the apple.

However, more importantly, my second point is under Statute 16-15-435(a), it says a search warrant or arrest warrant for violation of Section 16-15-305, 16-15-315, 16-15-325 may be issued upon request of the circuit solicitor. And then it goes on to say, Following seizure of alleged obscene property pursuant to a warrant requested by a solicitor and issued by a neutral detached magistrate based on supporting affidavits. Any interested party may request the Court have appropriate jurisdiction, must promptly conduct an adversarial hearing for the purpose of obtaining judicial determination based on the preponderance of the evidence of the obscenity issue.

Your Honor, this is the statute we believe that Mr. Grose is bringing his motion. This statute does not apply to 16-15-355, which is the statute that the warrant is filed under. Therefore, it does not apply.

Finally, if Your Honor were to find that regardless of the statutes listed this statute does somehow fall under it, the language is very clear. It says, May be issued, not shall. Therefore, it would be a recommendation only.

Therefore, Your Honor, we believe that the proper protocol was followed in this case and these indictments

should not be quashed.

THE COURT: All right. Your response.

MR. GROSE: Well, first of all, when I hear a Solicitor say they're looking out for my client or my own best interest, I get a little suspicious.

Second of all, Section 16-15-355 incorporates by reference 16-15-305. And, in fact, they include those sections in their indictment. So based on their indictments, they are alleging a violation of 16-15-305.

The obscenity area of the law, as the Court is well aware, has been subject to its own unique set of interpretations by the United States Supreme Court. And as far as community standards, which are required, some of that Supreme Court decision making is, clearly, contemplated by the statute.

And this statute, we believe, is, clearly, intended to provide specific procedures in order to protect people who might be accused of violations. And since it's a penal statute in nature, it has to be construed against the State and in a light most favorable to the accused.

And so I think what "may" means is -- is that if the Solicitor is presented with information that could lead that office to seeking arrest warrants or search warrants that they have prosecutor discretion. I don't think it means that law enforcement can circumvent the solicitor's

office.

THE COURT: All right. Anything else?

MS. JOSEPH: Nothing else from the State, Your Honor.

THE COURT: All right. And I've read this particular statute. And in the reading --

And I would respectfully disagree with you, Mr. Grose.

My interpretation of the statute stating the case that an arrest warrant for violation of Section 16-15-305 may be issued only upon the request of a circuit solicitor. I, certainly, would agree with Counsel, Ms. Joseph, that my interpretation of the statute is the operative word is "may." And the way I interpret that language is "may" is not required that it be issued by the circuit solicitor, but it could be issued by law enforcement.

So my interpretation of that language is, certainly, different from your interpretation. So -- and I'll be glad to hear from you before I rule on that.

MR. GROSE: Well, my question is how do you interpret the word "only"? Because that seems to suggest that only the Solicitor can do it.

THE COURT: Do you want to respond to that before I rule on it?

MS. JOSEPH: Well, first, Your Honor, the State does

rest on its first argument, which is that this statute does not even apply to the statute. That wasn't the basis for our indictment.

Second of all, may only -- I think you were correct to focus on the word "may." In addition, warrants were gotten in this case for the dissemination. It is frequent that the law enforcement officers act in response to a request or at the orders of the solicitor's office and, frequently, we work together.

So, in this case, the warrants were gotten. So I think that his idea that warrants need to be gotten is maybe valid. But that step was not skipped in this case. This was not a direct indictment.

And so whether it's law enforcement or the Solicitor getting the warrants, I don't think it, actually, matters. I think what's important is that warrants for obscene materials are, in fact, gotten prior to arrest, which was the protocol followed in this case.

MR. GROSE: Then I don't -- then if she's correct, then I don't understand why that section is even in the code. Because it is, certainly -- you know, the legislature was aware of other procedures for getting arrest warrants. And they chose to say that these types of arrest warrants can only be gotten by the Solicitor.

THE COURT: Well, I understand what you're saying,

Mr. Grose. But based upon what I've observed in the statute, my interpretation of the statute, I'm going to respectfully deny -- deny both of your motions to quash.

MR. GROSE: Thank you, Your Honor.

THE COURT: All right.

MS. JOSEPH: Thank you, Your Honor.

So the State going forward is going to plead [phonetic] out all four indictments.

THE COURT: Yes.

MR. GROSE: And, actually, pursuant to Langford, I would move that the Court call the case, and not the Solicitor.

THE COURT: Do you have any issue with that?

MS. JOSEPH: Actually, no, Your Honor. You're much older than me and have a much more deeper voice. So I think it will sound more authoritative coming from you.

THE COURT: All right. Anything further before we bring in the panel?

MS. JOSEPH: Nothing from the State, Your Honor.

THE COURT: From the Defense? Anything?

MR. GROSE: No, sir.

(Pause.)

THE COURT: Mr. Grose, I think in chambers, you indicated there were a couple of questions you thought I may not ask.

MR. GROSE: I don't know that I said that. I think every question on here has been asked by a judge in one of my cases at one time or another.

THE COURT: But you've got something you want to tell me you think I may not -- may not be included in what I've got?

MR. GROSE: Oh, no. Some of this may be included in what you have. I don't know what you have, so.

THE COURT: All right.

MS. JOSEPH: Your Honor, #18 is a duplicate. So I think we can just cross that one off. Because he asks it on the preceding page on #5.

THE COURT: Which page are you on now?

MS. JOSEPH: So on Page 3.

MR. GROSE: And she's right. I apologize for that.

MS. JOSEPH: Question #5 and question #18 on the preceding page are duplicates. So one of those can go. There's a lot of questions. So I'm happy to strike through one.

And then, Your Honor, if I may.

THE COURT: Hold on one second.

MS. JOSEPH: That's okay.

(Pause.)

THE COURT: Let me see what you've got. What are you reading from?

MS. JOSEPH: So I'm reading from the thing that has his witness list first, and then the next page is the beginning of his voir dire. And the State has an extra copy if you need one.

THE COURT: No. I've got it. Repeat what you just said a minute ago.

MS. JOSEPH: Question #5 and #18 are duplicates.

THE COURT: All right.

MS. JOSEPH: So I just went ahead and crossed off one of those, at least.

THE COURT: All right.

MS. JOSEPH: And then, Your Honor, if I may, I was going to go through and circle the ones for you that the State doesn't necessarily have a problem with. I may disagree with how it's phrased, but I think this is a version of a question that you already ask.

THE COURT: All right.

MS. JOSEPH: So question #1 is just, Have you heard about this in the press? I think that's a completely fair question.

Question #2 is, honestly, just a restatement of question #1. Once again, the State feels like that's a completely fair question.

MR. GROSE: Well, #1, also, includes whether or not they've heard people talking about it outside of the

press. I don't think it all just is limited to news coverage.

MS. JOSEPH: That's fine. The State is fine with him asking --

THE COURT: So you want #1 completely as it's written?

MS. JOSEPH: Not completely as is written, Your Honor. I think there's just a much shorter way to say that. I think question #1 and #2 -- and I assume, Your Honor, that you ask a version already of #1 and #2.

THE COURT: Right.

MS. JOSEPH: Question #3, I think is Mr. Dent's attempt to sort of ask just because -- I'm sorry, Mr. Grose, just because Mr. Dent is here, do you think he's guilty? Right? You know, the idea of just because he's sitting in this courtroom of law, just because he's been accused -- and judges traditionally ask that, a version of that question.

THE COURT: So you have no problems with #2. And a lot of these questions are incorporated in what I'm going to ask --

MS. JOSEPH: I have actually -- I have no problem with question #2. I have no problem with question #3.

Skipping ahead to question #7.

THE COURT: All right.

MS. JOSEPH: I've heard a version of that before and I'm fine with that. This isn't my favorite version of that, but I think that that's a fair question.

THE COURT: And I think I've got a question similar to that.

MS. JOSEPH: Perfect.

Question #9 and #10 and -- #9 and #10, and there may be one later down the road. I think that those questions are always asked.

THE COURT: I've got those, too.

MS. JOSEPH: Perfect.

Question #11 and question #7 seem very similar to me. I guess it's about family members versus personal experience.

THE COURT: And I think the question I've got will cover that.

MS. JOSEPH: Perfect.

And I'm fine with question #12, a hundred percent fine with it.

THE COURT: All right.

MS. JOSEPH: Question #22, I think could potentially be covered by question #10 and #11. But, once again, the State has no -- I have no objection to question #22.

MR. GROSE: Well, and the Court should know that there's, at least, one current employee of Hopeful

Horizons that's in the jury panel that probably will need to be struck for cause. Because they've listed, at least, three witnesses from that organization. And there is another juror in the panel who has volunteered there before and has, also, been a rape victim. So you're probably going to want to disqualify her for cause, too.

MS. JOSEPH: I think we'll cross that road when we cross it.

THE COURT: We'll deal with it --

MS. JOSEPH: Question #27, I've never heard that asked. Sorry. I said that I was just going to talk about questions I was okay with.

THE COURT: I don't have that question. I've never heard that question asked.

MS. JOSEPH: I'm not okay with that question. Duffie's my boss.

THE COURT: Yeah. Who's Duffie Stone?

MS. JOSEPH: That's my boss. He signs my checks. His name is, actually, I-E. He'd be upset if I didn't point that out. And then P.J. Tanner is our sheriff.

MR. GROSE: And this is a sheriff's department case. I can tell you, I've had judges ask that question. And they ask it routinely.

THE COURT: Well, I can just tell you this judge is not going to ask that question.

MR. GROSE: Well, if you'll just note our request.

THE COURT: I'll note it.

MS. JOSEPH: So those are the questions that right off the bat, the State is either vehemently against or vehemently for. So I guess we should start back at the beginning.

MR. GROSE: I only heard one objection in all of that.

MS. JOSEPH: The rest just have to be discussed.

So question #4, I'm sure Your Honor has a version of that.

THE COURT: Right.

MS. JOSEPH: I just think that question #5 is a dumb question. But I don't know a nicer way to say that.

MR. GROSE: Well, they've gone from trying to protect me to calling me dumb, Judge. But I think that if some people are accused of a crime and somebody automatically believes them guilty that they have a bias and they can't serve in the case. And I think that that is exactly what we're here to determine in jury qualification.

MS. JOSEPH: So maybe given the nature of the allegations, can you not be impartial? Because some people do have huge problems with CSC cases.

MR. GROSE: Well, what we have to try to do, Judge, is not only find what people know is their bias, but,

also, is their implicit bias. Because, you know, some people can say that, you know -- can have firm beliefs that somebody accused of something like this is guilty, and, at the same time, believe that they can be fair.

Because, you know, as we kind of point out in the preamble, you know, people aren't always aware of what those biases, actually, are. So we have to kind of, you know, drill down to determine what some of that is.

MS. JOSEPH: Your Honor, I'm not objecting to the question. I leave it in your hands. I just think it's sort of a vague, problematic question.

THE COURT: I was just thinking about #5, if there was some way we could ask that question and sort of rephrase it.

MS. JOSEPH: I'm confused because I think what the question is trying to ask is, like, do you think the witnesses, after hearing the allegations, got so angry that they stopped looking for the -- it's not really asking about the jurors; right?

THE COURT: Well, it says there are some crimes that make people so angry. When you say people --

MR. GROSE: When it says would you agree with that, I'm intending for this to apply to the jury.

THE COURT: The only problem I have with that is that could pertain to a witness -- a witness who's testifying,

that they may think that witness is so angry that they're just biassed towards the Defendant.

MR. GROSE: Well --

THE COURT: I mean, I know that's not what you're intending. But I'm just trying --

MR. GROSE: And there's no magic formula to this. If I don't give you a list of questions to ask and you don't ask them, I can have a problem appealing that issue later on, you know.

There's multiple questions in here that have to do -- you know, there are some people out there, you know, that believe if somebody is accused of a certain crime that they ought to be executed, castrated, taken out and beaten. I mean, just read the comments to a lot of news articles online today.

And if there's a juror out there that thinks that because somebody is accused of a serious crime they're automatically guilty, they don't -- maybe they would be better on a civil jury. And we're, certainly, dealing with, you know, a subject matter that, you know, strikes a lot of emotions in people. And we have to make certain that people don't -- jurors don't decide cases like this on their emotions.

THE COURT: Let me make sure I understand, Ms. Joseph, and, Mr. Grose.

The -- the questions that the State has no problems with -- and I'm going to go back over what we talked about -- is question #2, #3, #12, and #22, and #50.

MR. GROSE: That they have no problem with? I've only really heard two outright objections. One was to #27, and then to --

THE COURT: #5.

MR. GROSE: -- #5.

THE COURT: Is that right?

MS. JOSEPH: Well --

MR. GROSE: I mean, I'm not -- by asking these questions, I'm not trying to say exactly how to word it, Your Honor.

MS. JOSEPH: He's correct --

MR. GROSE: I just want to make sure that all this subject matter gets covered in some way or another.

MS. JOSEPH: So #1 through #4, Your Honor, the State feels they're perfectly fair questions. I don't necessarily agree with how they're asked. I think they could be condensed, but they're fair material.

Question #5, what if Your Honor asked, does anyone have such strong feelings about the crime of criminal sexual conduct -- or however you want to say that -- that they feel they cannot serve on this jury, they cannot be impartial, or they will be biassed?

MR. GROSE: I'm fine with that.

MS. JOSEPH: And then, Your Honor, the State -- I'm sorry.

THE COURT: Hold on.

Does anyone have such strong feelings about criminal sexual conduct that they could not be fair, and feel they would be biassed?

MS. JOSEPH: Right.

THE COURT: So I'm prepared to read all of the questions on here with the exception of #27.

MS. JOSEPH: No, Your Honor --

THE COURT: #27 and --

MS. JOSEPH: Then we're going to object to #6 as well.

THE COURT: #6?

MS. JOSEPH: Yeah.

THE COURT: Oh, yeah. I'm not going to do that.

MS. JOSEPH: And then --

MR. GROSE: Well, why not? Because --

THE COURT: Let me hear you on that.

MR. GROSE: -- again, I've had judges ask this question. And if -- if -- if a juror is going to be swayed by that and not look at, you know, the testimony objectively, then, you know, we have a bias and, perhaps, that particular person shouldn't serve.

THE COURT: What do you say about that?

MS. JOSEPH: Well, first, Your Honor, it's important to note that the victim, while she was nine at the time of the allegations, is now 13. So we're not dealing with an overly emotional child. I don't expect any tears. This case is several years old.

Secondly, Your Honor, I think that this question unduly burdens the State. Because it's, basically, putting the jury on notice, the witnesses should cry. And so if they don't cry, they somehow have failed to conform to what you, Your Honor, have said they should do.

And, finally, Your Honor, I understand Mr. Dent -- or Mr. Grose's point that this is his one and only chance to ferret out bias. But these are human witnesses. This is not a play. They're going to act in a variety of ways. And we just can't sort of say what human emotion from the jury is going --

THE COURT: Well, you know, in terms of credibility of testimony -- and I'm going to go a step further and talk about credibility of emotions. And, you know, I think it should be within the purview of the jury to determine in their own mind whether that cry is -- you know, sometimes there are cries that are cries, and sometimes there are cries that are not cries.

MS. JOSEPH: Absolutely, Your Honor.

THE COURT: And I just think that that's something the jury should make a determination on in their own mind. Is that a sincere cry, or is that a cry because we're here, or is that a cry of pain? I just think that that's something they need to determine, not for me to give them any instructions on how they need to perceive a tear. I mean --

MR. GROSE: Well, at the same time, you're probably going to instruct the jurors that they're not supposed to decide the case on sympathy.

THE COURT: Oh, yes. That's a standard instruction.

MR. GROSE: Well, and this is a question that's trying to determine whether or not they have -- if they're wired or have, you know, preconceived emotions to determine something based on sympathy.

THE COURT: Let me ask you this, Mr. Grose. If I interpret what you're talking about in the manner that you're asking me, then the jury could interpret a lot of things. If a particular witness testified with their head in their lap, what are they to perceive from that? But if a witness testified without making eye contact, how are they to perceive that?

So I just think you get too far out there when you start doing stuff like that. So I'm not inclined -- and I wanted to give you an opportunity to respond. But, to be

quite frank, I'm not inclined to do that. I'm going to do the standard instruction about putting aside emotion, and sympathy, and all that. I'll do that. But I'm not inclined to ask this particular voir dire in that manner. I'm not inclined to do that.

MR. GROSE: Well --

THE COURT: And your objection is noted.

MR. GROSE: Thank you.

THE COURT: Your objection is noted.

MS. JOSEPH: And then, Your Honor, for question #8, the State would just say that's just not relevant in this case. And I know that Mr. Grose is going to say it is relevant. But that's the State's belief.

THE COURT: Respond to that, Mr. Grose.

MR. GROSE: You know -- and, again, I've had judges ask this question before. You know, this -- they're alleging, you know, a crime that occurred, you know, in a private home.

And if somebody comes to jury service and they're afraid, you know, to go home at night or they're afraid of something about their neighborhood, then they have a bias that's, you know, I think relevant for us to know about. Because they may not be the right juror for this type of case.

THE COURT: It's difficult for me, Mr. Grose, to

connect the dots on that, though. I don't see how that's connected, how that's relevant to the set of facts in this case.

MR. GROSE: I think that any time that you have a crime that's alleged in a home, if somebody is afraid to be in a place that they spend a lot of time that that is information that, you know, may make them have a bias that disqualifies them in a particular case, or, at least, ought to be information that we know about to exercise preemptory strikes, depending on what the answer to that question is.

THE COURT: What's your response, Counsel?

MS. JOSEPH: I just don't think it's relevant to this case, Your Honor.

THE COURT: I'm not going to ask that question.

And your objection is noted, Mr. Grose.

MS. JOSEPH: Your Honor, respectfully, I believe question #13 is now effectively covered by question #5, the way we've rewritten question #5.

MR. GROSE: If you ask the question like we talked about earlier, that probably is covered, Your Honor.

THE COURT: All right.

MS. JOSEPH: Your Honor, the State believes that question #14 just casts too wide a net. I, for example, volunteer at the Boys and Girls Club. I mean, everyone

volunteers with children. Children are great.

MR. GROSE: I wouldn't seat Ms. Joseph on this jury. Again, I've had people [sic] ask this question before and, you know, it is, I think, exactly relevant to this type of case.

MS. JOSEPH: There's no allegation that she was involved in Girl Scouts, that she was a member of a youth group. She was not preyed upon at a youth group. I mean, basically, he just wants -- I, also, think it gives jurors too much of an out. Oh, I volunteer with my daughter's Girl Scout troop, so, therefore, I get to get off. I mean, I don't know.

MR. GROSE: I think that if there's, you know, jurors that work with -- volunteer with children and with groups, some of which, like the Boy Scouts have, you know, particular policies about sexual harassment, sexual assault, I think that's something we're entitled to know about. And, again, I've had judges ask that in cases like this before.

THE COURT: I'll go ahead -- I'll ask that question.

MS. JOSEPH: Okay. And then for question #15, Your Honor, the State feels that that is covered extensively through jury -- question #15 is on the very end of Page 3.

THE COURT: Yes.

MS. JOSEPH: That it extensively covered with your jury instructions and does not need to be asked.

MR. GROSE: Questions #15, #16, and #17 all kind of get at, you know, how people view, you know, testimony by children. And to suggest that those aren't relevant to this type of case when I know that there's an instruction in the Judge's charge book with regards to how you have to be critical, and how you view the testimony of the children. If somebody can't do that, then they're likely not able to, you know, follow your instructions, you know, later on.

THE COURT: Do you want to respond to that, Ms. Joseph?

MS. JOSEPH: I just think that credibility is the task of a jury. They're instructed on credibility. And, therefore, it's -- this question presumes that jurors can't do what you, in fact, tell them to do.

In this whole jury process, we're assuming that jurors can judge credibility, they can listen to jury instructions. So this one is sort of like saying, like, are you, actually, going to ignore the Judge's instructions and love kids? And I think that's a little bit ridiculous.

MR. GROSE: Your Honor, I think that the -- the whole purpose, you know, of voir dire -- voir dire is rooted --

THE COURT: Look at #15 and #17. Because they look like #15 and #17 are traveling down the same street.

MS. JOSEPH: Right. I prefer question #16. If you want to keep one of the questions in, the State would ask that #16 is a better-worded question.

THE COURT: Go down to #17. So I think if you get rid of #15 -- #16, what do you think about #17?

MS. JOSEPH: Then get rid of #17. Because I think #17 -- I think #17 is too on the nose. And it's, basically, a Judge telling any potential juror, as well as Mr. Grose's -- you know, children make up stories of sexual abuse. It's too fact specific of a question.

#16, I feel like gets to their biases, which is the point of voir dire, without being too fact specific.

THE COURT: Yes, sir.

MR. GROSE: You know, I think #15 and #17 are, you know, two sides of the same coin, trying to find out if, you know, some -- I mean, people have preconceived notions about whether children are capable of telling lies or not telling a lie.

And, as I was getting ready to say a minute ago, the whole concept of voir dire is rooted in the Sixth Amendment of trying to find a fair and impartial jury. And I think, as recognized by the United States Supreme Court in some of those cases that we cited in the preamble

to this, that courts have to be careful to determine what the biases are of jurors. That sometimes jurors don't know what those biases are. It's that whole concept of bias or blind spots that we all have.

And, yes, there are some jurors in certain cases not capable of following the Court's instructions to decide a case fairly and impartially.

THE COURT: I understand that. But, Counsel, when I look at question #16, the way I read question #16, it incorporates everything that's being sought in #15 and #17. I think it covers both, in my opinion.

MR. GROSE: If you're going to ask one question that encompasses everything, I'm happy with that. I really am.

THE COURT: I'm talking about #16. And I'm talking about deleting #15 and #17.

MS. JOSEPH: Yes, Your Honor. I think just #16.

THE COURT: I think #16 incorporates what you're trying to obtain in #15 and #17.

MR. GROSE: And, again, if you -- the way you, ultimately, ask a question, if it incorporates all that, I'm going to be happy, I promise you.

THE COURT: I'm going to ask it just like you've got it on the paper. So I'm going to not do question #15. I'm going to delete question #17, and I'll ask #16.

MS. JOSEPH: Yes, Your Honor.

THE COURT: Anything else?

MS. JOSEPH: So, again, #18 is a duplicate. So we just crossed that out.

THE COURT: Crossed that one out.

MS. JOSEPH: And then question #19, I think is encompassed in question #5 as rewritten. And so the State would ask that that not be read.

THE COURT: Do you agree with that, Mr. Grose?

MR. GROSE: I do, yes.

THE COURT: Okay.

MS. JOSEPH: The State has no problem with question #20.

THE COURT: All right.

MS. JOSEPH: The State has no objection to question #21. However, DSS was not involved in this case. DSS is only called in the State of South Carolina if the offender lives inside the home. The offender did not live inside this home.

MR. GROSE: Does Your Honor know anything about DSS cases?

MS. JOSEPH: That's right. You were a Family Court judge for a thousand years. I apologize.

MR. GROSE: Again, if somebody has worked for DSS, they might have a bias. There is one lady who we know from earlier today is retired from DSS, you know. There

may be some others, you know. Again, I assume if they work for DSS, they believe in the mission. And I might not want those people to be jurors in this particular case. I might want them in another case.

THE COURT: Well, Counsel, I'm going to ask that question.

MS. JOSEPH: Question #23, I'm -- I have no objection to that question. I think it's getting a little --

THE COURT: And you, also, don't have any objection to #22?

MS. JOSEPH: No objection to #22, Your Honor. I do think that #22 can probably be rolled in with some of the other questions about advocacy groups. But no objection.

THE COURT: Okay.

MS. JOSEPH: Question #23, I have no specific objection to it. I just think it's getting a little bit specific, especially because we know what these people do. We know whether or not they give money to Hope Haven. I'm just saying, at some point, we sort of are really digging deep.

For question --

THE COURT: #23, you're okay with that? Do you want to respond to that?

MR. GROSE: I think she said she's okay with it.

MS. JOSEPH: I'm fine with it.

THE COURT: You're fine with it. Okay.

MS. JOSEPH: For #24, it's just feels very -- again, like a wide net involving a child, maybe involving sex abuse since that's what we're here for, just to narrow it. However, if Your Honor wants to leave it asking about a child, the State is fine with that.

THE COURT: Any -- as it is, I'll read it.

MS. JOSEPH: Okay. And then #25, this question has been asked, in the State's opinion. It's been asked. They've been asked are they in law enforcement. Is anyone close to them in law enforcement.

THE COURT: That's part of -- I've got it.

MR. GROSE: Well, but I do think we -- whether we ask it this way or not, you know, there's two jurors -- potential jurors who have husbands that work for the Beaufort County Sheriff's Office. And we need to --

THE COURT: We'll just cross that bridge when we get to it.

MR. GROSE: Right.

But we need to inquire of them whether or not that's going to make a difference.

THE COURT: Oh, yeah.

MR. GROSE: So that would be my concern about -- you know, I think she was suggesting that Judge Goldsmith asked this question this morning, and he may have asked it

that exact way -- and I have my notes from this morning. But I didn't get to ask Judge Goldsmith to follow-up with the jurors who have family members who work for the sheriff's department when this is a sheriff's department case.

MS. JOSEPH: No objection to question #26.

THE COURT: Okay.

MS. JOSEPH: We had previously crossed off question #27.

THE COURT: Correct.

MS. JOSEPH: Question #28, we are fine with -- there's no objection to #28A. There's no objection to B, except a lot of news organizations are now officially or unofficially crime watch pages, you know. I follow the Island Packet, which is our local newspaper. And that might as well be a mugshot daily at this point, even though I like it because I like the news.

We would ask that C be stricken for the same reason that #27 was stricken. Namely, you know, the current system that we have in South Carolina is that solicitors are public officials and have people vote for them. And that means that people like these pages, same with our sheriff's office.

THE COURT: That's the same thing as contributing. So we'll strike it.

Any objection to that?

MR. GROSE: Well, I do. I mean, I think knowing who contributes to Solicitor Stone and Sheriff Tanner is crucial information to know.

THE COURT: And I won't ask that, but I'll note your objection.

MR. GROSE: Okay.

MS. JOSEPH: I -- I don't like #29. I'm struggling to form my objection. I guess I just don't think it matters.

THE COURT: If I ask #29, every single person on that panel is going to stand up.

MS. JOSEPH: I sometimes don't tell people what I do.

THE COURT: They don't like lawyers, Mr. Grose. You know that.

MR. GROSE: Well, I've had judges ask this question and nobody stand up. So I -- you know, again, I think if there's somebody who has a bias --

THE COURT: Because they know the Judge is a lawyer, too. They're not going to stand up.

MR. GROSE: Well, if they have a bias about lawyers -- we've got one lawyer out here. I'll bet he's the only one that stands up.

MS. JOSEPH: I will say this, Your Honor.

THE COURT: Yes, ma'am.

MS. JOSEPH: If they don't like lawyers, Mr. Grose is very lucky because there's lawyers on this side and on that side. So I think we're sort of an even lawyerly --

THE COURT: It might be a nice [inaudible], Mr. Grose.

MR. GROSE: It's information, Judge. Like I say, it's -- I've had other judges ask it, and it can be useful.

MS. JOSEPH: I would object, Your Honor.

THE COURT: I'm not going to ask that, but I'll note it for the record.

MS. JOSEPH: Thank you, Your Honor.

THE COURT: Anything else on the voir dire?

I think we've covered it.

MS. JOSEPH: Yes, Your Honor.

THE COURT: Okay.

THE CLERK: Are you ready?

THE COURT: I'm ready.

THE BAILIFF: All jurors are present.

THE COURT: Everybody's here?

THE BAILIFF: Yes, sir.

THE CLERK: What's the strikes? What are the strikes?

Counselor, strikes?

MS. JOSEPH: Five.

THE CLERK: Five and five?

THE COURT: And two alternates?

MR. GROSE: I heard somebody say five and five.

THE CLERK: Is that correct?

MR. GROSE: No. It's 10 -- we get 10.

MS. JOSEPH: Yeah, five and 10.

THE CLERK: Oh, I'm sorry.

THE COURT: Five and 10.

Two alternates or one?

MR. GROSE: Whatever you feel comfortable with.

MS. JOSEPH: One is enough, Your Honor. But can we sort of see where we are towards the end?

THE COURT: All right.

(WHEREUPON, the jury panel entered courtroom.)

THE COURT: Good morning, ladies and gentlemen.

THE CLERK: Afternoon.

THE COURT: I mean good afternoon. I'm sorry. I'm from Greenville, so we do the reverse.

All right. My name is Judge Kinlaw. And I'm from the Thirteenth Judicial Circuit. And I'll be presiding over this matter this week.

And the first case -- the first case we have is the State of South Carolina v. Charles Dent.

And, Madam Solicitor, we have four indictments; is that correct?

MS. JOSEPH: Yes, Your Honor. That's correct.

THE COURT: All right. Do you want to go ahead and announce them for me.

MS. JOSEPH: Your Honor, I believe there was a motion that you were going to announce them.

THE COURT: Oh, that's right. That's right. There was a motion that I granted. I'm sorry.

We've got four -- four indictments in the interest of the State of South Carolina v. Charles Dent. I have the four indictments in front of me.

And indictment 2014-GS-07-01671 is an indictment charging -- the Grand Jury of Beaufort County charges Charles Dent with disseminating obscene material to a minor 12 years of age. That in Beaufort County between the dates of April and August 2013, the Defendant, Charles Dent, did show the victim, age nine, multiple nude and obscene photographs of his own genitalia via a laptop computer, electronic tablet while at the residence located at in Bluffton in violation of South Carolina Code Section 16-15-0355.

The second indictment involving this same Defendant, Mr. Charles Dent, is indictment 2014-GS-70-01672 [sic]. In that indictment, the -- Mr. Dent is charged with disseminating obscene material to a minor 12 years of age or younger. That in Beaufort County, South Carolina,

between the dates of August 2013 and April of 2014, the Defendant, Charles Dent, did show the victim, age nine, multiple nude and obscene photographs of his own genitalia via -- via a laptop computer and electronic tablet while at the residence located at in Bluffton in violation of South Carolina Code Section 16-15-0355.

In indictment 2014-GS-07-01673 involving this same Defendant, Charles Dent, it states that Mr. Dent is charged with criminal sexual conduct with a minor first degree. The victim being under the age of 11 years. The indictment states that in Beaufort County, South Carolina, between the dates of August 2013 and April 2014, the Defendant, Charles Dent, date of birth , did commit a sexual battery upon a minor who was less than 11 years of age, to wit, fellatio on the Defendant by J.M. , date of birth , in violation of Code Section 16-3-655 of our South Carolina Code of Laws.

And, lastly, indictment 2014-GS-07-01674 charges this same Defendant, Mr. Charles Dent, with criminal sexual conduct with a minor in the first degree. The victim under 11 years of age. The indictment states that in Beaufort County, South Carolina, between the dates of April 2013 and August 2013, the Defendant, Charles Dent, whose date of birth is , did commit a sexual battery upon a minor who was less than 11 years of

age, to wit, fellatio on the Defendant by J.M. , date of birth , in violation of Code Section 16-3-655 of our South Carolina Code of Laws.

All right. Good afternoon, ladies and gentlemen of the panel.

We're going to select a jury in the case of the State v. Charles Dent as to all these indictments.

But before we get started, I want to, first of all, let you know that the mere fact that a Defendant in a criminal case has been charged and indicted is not evidence of anything. It doesn't even create a suspicion of guilt whatsoever.

The Defendant in a criminal case is always presumed innocent. And that presumption of innocence cannot be removed unless and until all 12 members of the jury find the State has proven their case and every element of that crime beyond a reasonable doubt.

Mr. Charles Dent does not have any burden of proof. The burden of proof is entirely upon the State to prove guilt beyond a reasonable doubt. And he doesn't have to offer any kind of evidence or explanation whatsoever.

Now, these indictments that I read, as I indicated, is no evidence of guilt. And I've read each indictment to you. The first thing that I want to do and the next thing I want to do is make sure that we can have a jury that can

be fair and impartial in this case.

And to that end, I would ask the lawyers in this case, first of all, to introduce themselves and any persons situated at their table.

I'll start with Madam Solicitor.

MS. JOSEPH: Thank you, Your Honor.

My name is Alex Joseph. And I'm an assistant solicitor with the Fourteenth Judicial Circuit, including Beaufort County.

And this is --

MS. LUTTRELL: Rebecca Luttrell, also, an assistant solicitor with the Beaufort County District -- or solicitor's office.

MR. CORNELIUS LAVAN: Good afternoon.

I'm Investigator Cornelius LaVan. I work for the Beaufort County Sheriff's Office.

MS. JOSEPH: Thank you.

THE COURT: All right.

MR. GROSE: Do you want us to introduce ourself --

THE COURT: Yes, Mr. Grose. Go ahead.

MR. GROSE: All right. My name is Charles Grose. And I'm a lawyer. And I defend people throughout South Carolina.

This is Charles Dent, who is my client and who has pled not guilty to the charges that have been read to you.

Thank you.

THE COURT: All right. Thank you, Madam Solicitor.

And, also, thank you, Mr. Grose.

All right. Let's go into jury qualification. And if I ask you a question and if the question pertains to you, please, stand.

JURY QUALIFICATION

THE COURT: Is anyone by blood or marriage in any way related to either one of the Solicitors or Mr. Grose? If so, please, stand.

(WHEREUPON, there was no response.)

THE COURT: What was the investigator's name, Madam Solicitor?

MS. JOSEPH: Cornelius LaVan.

THE COURT: All right. Is anyone related to Mr. LaVan? Please stand.

(WHEREUPON, there was no response.)

THE COURT: Does anyone have any personnel, or social, or business relationship with any of these attorneys or investigator's? If so, please, stand.

(WHEREUPON, there was no response.)

THE COURT: Does anyone know anything about this case, other than what you've heard from me this afternoon? If so, please, stand.

(WHEREUPON, there was no response.)

into the motion part of it?

And I don't really have a preference as to how you move forward. How do you want to move forward in terms of --

PRE-TRIAL MOTIONS

MS. JOSEPH: Your Honor, it would be the State's extreme preference to start with the longest motion, which is the motion in regards to the forensic interview.

THE COURT: Okay.

MR. GROSE: And, Judge, I don't have a problem with that. I mean, they're not my motions. I would note that, you know, there's some potential overlap. Because some of their motions about the Lyle evidence that they want to introduce, also, relates to what was, you know, talked about during the forensic interview.

THE COURT: All right.

MR. GROSE: So I guess what I'm saying is that while you hear those, you should have an eye towards, you know, both of those motions.

THE COURT: All right. Do you have your lady here?

MS. JOSEPH: We do. We have Shauw Chin Capps. And, Your Honor, it's a little bit of a dry run for the technical aspect of the trial. So if you'll just give us just a little bit of a dry run.

THE COURT: Okay.

MS. JOSEPH: Your Honor, you have a copy of my motion, I believe.

THE COURT: I do.

MS. JOSEPH: Do you want a copy of the statutes?

THE COURT: 17-23-175, is that the one you're talking about?

MS. JOSEPH: Yes, Your Honor.

THE COURT: I'm familiar with it. But give me a copy, if you have a copy.

MS. JOSEPH: I do, Your Honor.

One second.

(Pause.)

MS. JOSEPH: And, Your Honor, I'm handing you a copy of that section. And I'm, also, handing Mr. Grose a copy of that section as well.

MR. GROSE: I don't need it.

MS. JOSEPH: He does not need it. Okay.

And then, Your Honor, it's the State's contention to make Shauw Chin Capps's CV a part of the record as a case -- as a Court's Exhibit.

Would Your Honor like a copy of her CV to follow along, too, while she testifies?

THE COURT: You can.

Mr. Grose, do you have a copy of that already?

MR. GROSE: I do. She e-mailed me a copy.

MS. JOSEPH: And Your Honor, at this time, the State would call Shauw Chin Capps.

THE CLERK: Place your left hand on the Bible and raise your right hand.

WHEREUPON,

SHAUW CHIN CAPPS,

after first having been duly sworn, testified as follows:

THE CLERK: Could you, please, state your name for the record?

THE WITNESS: Shauw Chin Capps.

THE CLERK: And spell your last name, please.

THE WITNESS: C-A-P-P-S.

THE COURT: Have a seat right up here. She's going to put that microphone in close proximity to you. And, if you would, just speak loud enough so Madam Court Reporter can hear you.

THE WITNESS: Yes, sir.

DIRECT EXAMINATION

BY MS. JOSEPH:

Q Shauw Chin, where do you work?

A I work for Hopeful Horizons, formerly Hope Haven of the Lowcountry.

Q And can you briefly describe what Hopeful Horizons is?

A Yes. Hopeful Horizons is the children advocacy,

domestic violence, and rape crisis center serving the Fourteenth Judicial Circuit in South Carolina.

Q And how long have you worked there?

A I have worked there since 2003.

Q And what is your current position?

A I'm currently the chief executive officer of the organization.

Q And in that role, do you currently interview children?

A In that role, I currently do not interview children.

Q Okay. So what was your role back when you used to interview children?

A Right. So from 2003 until 2016, I was the executive director of Hope Haven of the Lowcountry. And I -- as the executive director, I would occasionally fill in for any kind of direct -- victims services that needed to be -- to be performed. So all those years, I have conducted forensic interviews until recently.

Q Okay. And when you say "forensic interviews," what type of cases are those?

A Child abuse cases.

Q And I know this is never a fair question, but how many of -- how many of those types of interviews have you conducted?

A I would say approximately over 150, total.

Q We're here today because of a woman -- or a girl named J.M. . As part of your testimony here today, I asked you to review J.M. 's file. What days or day did you interview J.M. ?

A There were two dates that I interviewed her. The first date was July 10th, 2014. And the second date is -- I'm looking at my records here -- July 25th, 2014.

Q Okay. And is it common to do two interviews?

A It's not. It's not usually common, but, also, not uncommon, again, depending on each case. If there is reason to do a second interview, law enforcement would request a second interview.

Q And how old was J.M. when she was interviewed?

A She was nine years old when she was interviewed.

Q And did she make a disclosure to you?

A Yes.

Q And where physically was she when she made this disclosure?

A She made the disclosure at the office at Hope Haven of the Lowcountry, which is at our Charles Street location, 1212 Charles Street.

Q And the disclosure involved an act. Where did she say that the act occurred?

A There were multiple -- there were more than one location.

Q Okay. And then approximately when did the act occur?
A She -- again, it's -- it's over a period of time. But she identified the events occurring after her eight-year-old -- eighth birthday.
MS. JOSEPH: Okay. Your Honor, may I approach the witness?
THE COURT: Yes, ma'am.
MS. JOSEPH: First, I'm showing Defense a Hope Haven interview. And this is the July 10th one. And it's been initialled.
BY MS. JOSEPH:
Q Shauw Chin, I'm handing you a disk. Do you recognize this disk?
A Yes, ma'am.
Q And how do you recognize it?
A I've watched it.
Q Right. So as part of your testimony today, I asked you to review it?
A Yes.
Q And you did review it?
A Yes.
Q Was it materially altered in any way?
A No.
Q Was it a true and accurate depiction of the interview you conducted on July 10th of 2014?

A Yes.
Q And as part of your reviewing of it, I asked you to initial it; is that correct?
A That's correct.
Q And do you see your initials on that disk?
A I do.
MS. JOSEPH: Your Honor, at this time, the State would move to enter this disk, which is from the July 10th interview, into evidence as a Court's Exhibit.
THE COURT: All right. Any objection, Mr. Grose?
MR. GROSE: Not for purposes of this hearing.
THE COURT: All right. Without objection for purposes of this hearing.
(WHEREUPON, Court's Exhibit No. 1 was marked for identification and admitted into evidence.)
BY MS. JOSEPH:
Q And then, I'm handing you a second disk -- I'm sorry. This is the second disk. And, again, I asked you to review this disk as part of your testimony here today. And you did review it?
A I did.
Q And was it a true and accurate depiction of the interview that you conducted?
A Yes.
Q And had it been materially altered in any way?

A No.
Q And as part of my asking you to review it, I asked you to initial it; is that correct?
A That's correct.
Q And you did, in fact, initial it?
A I did.
Q And do you see your initials on the tape?
A Yes.
MS. JOSEPH: Your Honor, at this time, we move to -- we move the July 25th interview -- July 25th, 2014, interview into evidence as case -- as Court's Exhibit No. 2.
THE COURT: Without objection for purposes of this hearing?
MR. GROSE: Yes, sir, for purposes of this hearing.
THE COURT: Thank you, sir.
(WHEREUPON, Court's Exhibit No. 2 was marked for identification and admitted into evidence.)
MS. JOSEPH: And, Your Honor, we're going to play those for you now. If I didn't say that out loud, I definitely thought it.
THE COURT: Okay.
(WHEREUPON, Court's Exhibit No. 1 was played in open court.)
MS. JOSEPH: Your Honor, I'm going to try to move it

forward while she's just sitting there.

THE COURT: Okay.

MS. JOSEPH: Your Honor, the second disk is significantly shorter. I'm going to show Defense Shauw Chin's resume, which I've shown them previously.

And, Your Honor, may I approach the witness?

THE COURT: Yes.

BY MS. JOSEPH:

Q Shauw Chin, I'm showing you your resumé. And you sent me that resumé at my request, and you prepared that resumé. And has that resumé, the document that I handed you, been materially altered, other than it does now have a three-hole punch in it?

A No.

Q And that's an accurate depiction of your resumé, it hasn't been altered in any way? I haven't changed it at all?

A No.

MS. JOSEPH: Your Honor, at this time, I would move to admit the witness's resumé as Court's Exhibit No. 3.

(WHEREUPON, Court's Exhibit No. 3 was marked for identification and admitted into evidence.)

MS. JOSEPH: And, Your Honor, there is a second video in this case. It's approximately half as long. I've never made this request before. I handle these cases a

lot, but -- and I understand the Defense is likely to object.

But is there any way that Your Honor feels like you don't need to watch it having watched the first interview, and having had a chance to hear from the examiner? And these were made very close in time with one another and are very similar interviews.

THE COURT: Well, let me tell you this, I understand that. But I don't anticipate staying here until 7:00 or 8:00. I have no intentions of doing that. Let me tell you the reason why, because I've been on the road since about 5:00 or 6:00 the morning.

So if the next video is half as long as that one, we're going to be well into 8:00. And then we've got some other motions.

MS. JOSEPH: Yes.

THE COURT: Counsel, we're going to take about a five-minute break. And we'll go as far as I think I can go this evening. And then we'll stop and do whatever. And I'm going to try to accommodate you as much as I can with Ms. Trask back here.

MS. JOSEPH: Yes, Your Honor.

THE COURT: Let's take a five-minute break.

(WHEREUPON, a break was taken.)

THE COURT: Let's start the next video.

MS. JOSEPH: We don't have Shauw Chin Capps in the courtroom. Do you -- we don't need her, technically. Do you mind if we start the video?

THE COURT: Okay. Is there going to be a pause in this where she takes a break?

MS. JOSEPH: I don't think so.

THE COURT: Because if there is, you can fast-forward through that.

MS. JOSEPH: Thank you, Your Honor.

(WHEREUPON, Court's Exhibit No. 2 was played in open court.)

THE COURT: Could we pause the video for just a second?

And I'm assuming that you're trying to qualify her as an expert in forensics?

MS. JOSEPH: No, Your Honor. We are not seeking to qualify her as an expert. She's, basically, a records custodian in this case.

So at trial, I'm, actually, going to ask even less questions about her expertise. I'm not going to mention her CV in trial. Under the statute, all I need to prove is that she has some training in interviewing children.

She's not depending too much on leading questions, that there's internal coherence, things that you can get just from watching the video.

THE COURT: So you're designating her as a record keeper, as opposed to seeking her to be an expert witness?

MS. JOSEPH: That's correct, Your Honor.

THE COURT: So that way, you'd be out of the realm of those two cases, Anderson and Brown; right?

MS. JOSEPH: Right, Your Honor. So she will not be commenting about the believability of the witness or the fact that her methods are designed to elicit believable statements, or truthful statements from children, or anything like children are more truthful than adults. Nothing like that.

THE COURT: All right. In light of that statement you made, Mr. Grose, you -- I mean, obviously, you're going to probably assert -- well, it's in your motion, you assumed that they were going to qualify her as an expert.

MR. GROSE: Not --

THE COURT: In light of what she said, you won't stipulate to that? I'm just asking.

MR. GROSE: Well, my concern is, you know, unless they're going to call J.M. tomorrow to lay the foundation to try to get the stuff in from Alabama, their motion relies heavily on the two interviews.

And you'll recall that at the beginning of all this, I talked about the stuff that they were going to show in these videos is, also, relevant to that motion.

And so in light of that motion to bring in the Alabama charge, I think you need to watch all this information.

THE COURT: Okay.

MR. GROSE: Because that's what they rely on, in part.

THE COURT: So you're saying they're intertwined?

MR. GROSE: Yes, sir. I think these motions are intertwined.

Now, as far as the Anderson Brown procedure is concerned --

THE COURT: Right.

MR. GROSE: -- I do have -- with regard to the first interview, there was some stuff at the very end of it where the interviewer applauds J.M. for telling the truth. I think that should probably be excluded from -- I think we should agree on a point to cut the tape off. Because I think --

THE COURT: Are you calling that a leading question?

MR. GROSE: No. I don't call that a leading question. I call it improper vouching and bolstering in the Kromah, Anderson line of cases when the interviewer praises the child for telling the truth. And that's just a very short period at the end. And I think we can just stop the tape when it gets to that point.

MS. JOSEPH: Yes, Your Honor. The State is fine stopping the tape when Shauw Chin, the interviewer, exits for the very first time. That's completely fine. We will do that.

THE COURT: All right. I understand that.

And I think that -- you were citing that -- and I think the case you cited was the Jennings case. Is that what you were talking --

MR. GROSE: Jennings, Kromah, Anderson.

Now, I have to think about that last part. Because I think that there might be some things after she comes back in the second -- into the room the second time that the jurors need to hear.

THE COURT: All right. Well, let me go ahead and let you continue the --

Go ahead.

MS. JOSEPH: Really briefly, Your Honor. Just because I'm, obviously, trying to speed this up a little bit. The Defense seems to think that we need to lay the foundation to get into the bad acts --

THE COURT: Right.

MS. JOSEPH: -- in Alabama.

THE COURT: Right.

MS. JOSEPH: That is not the State's contention. That is not the law.

J.M. does briefly reference Alabama in these tapes; right?

But that is not why the State is arguing that we should be allowed to get into the Alabama materials. And you, Your Honor, were provided our very brief motion on this. And it doesn't talk about what J.M. -- it doesn't rely on what the victim in this case talks about.

THE COURT: Well, the first interview, the only thing he said was that -- or she said that he lived in Alabama.

MS. JOSEPH: Exactly.

THE COURT: I didn't hear any other reference to Alabama.

MS. JOSEPH: Exactly. So the reason that the State feels that we should be allowed to get into the Alabama materials are because as part of Investigator LaVan's investigation, he reached out to Alabama. There was a search warrant served. They got the materials. And they found images of J.M. that were sexual in nature. And then they found child pornography.

And the State argues that we should be able to get into those bad acts, the possession of child pornography in Alabama. Because it puts the photos of J.M. in their proper context.

So they're going to argue these are innocent photos, she's a little girl that loved to dance, she's a little

girl that loved gymnastics. And the State says, no, no, his intention was sexual because he possessed child porn.

THE COURT: And I don't have a problem with that. And I understand that.

I guess my question is, Mr. Grose, I don't have a problem listening to the second video. I just -- I'm just trying to understand your argument that I need to watch the second video to get some basis for your motion on the prior act. And that's where I'm -- have a problem with, particularly, when Counsel indicates she's not going to qualify this young lady as a forensic expert.

So it takes her out of the realm of both Brown and Anderson.

MR. GROSE: Well, that part is complying with --

THE COURT: Right.

MR. GROSE: -- the -- Brown and Anderson.

But I disagree with the contention that they don't have to lay some sort of foundation to make these charges from Alabama relevant to this case. I mean, that's something we disagree on. And I thought that we were going to argue that tomorrow.

THE COURT: Well, we can. We can. I was just -- the only reason that I even interrupted was once I understood Counsel's position regarding qualifying this witness not as a forensic expert, but as a custodian, somebody that --

you know, a custodian of records, then I thought we could move this along.

But if me listening to the second -- or looking at the second video is going to have something to do with your motion that you're going -- that I'm going to hear tomorrow, let's go ahead and play it.

MS. JOSEPH: But, Your Honor, the State -- he is saying that the State needs to lay this foundation. And the State is saying that foundation is nowhere to be found on this interview. So it doesn't serve a purpose. He may tomorrow say the State has failed to lay this foundation. But the State doesn't feel it needs to lay this foundation. So there is nothing in this interview --

MR. GROSE: If they are stipulating that there's nothing in this interview that has anything to do with the existence of any of the evidence that they found in Alabama, then we can probably move on from that point.

THE COURT: Haven't you seen these videos?

MR. GROSE: I've seen it.

THE COURT: Well, you know what's in it.

MR. GROSE: But I need you to know what's in it before you rule on the admissibility of the Lyle evidence. That's the big motion. I mean, this is all -- I mean, this is important. Don't get me wrong. This is important.

But what you heard in this video, the first one that we watched, does not constitute enough evidence for them to bring in all of the stuff they want to bring in from Alabama. And if they're stipulating that this 30 minutes of this video is not going to have any bearing -- or establish any relevance to the Alabama stuff, that's fine. We can move on.

I mean, I -- I think they have to show some connection to this case to get that child porn in Alabama in. And they haven't done it. And they're not going to be able to do it, in my opinion. And their inability to do it, I think, has to do with these two videos.

THE COURT: All right. I don't want to go back and forth. So if Counsel is adamant that the second video is going to be a tie in as to his motion --

MR. GROSE: Well, if they stipulate that there's nothing in the second video that lays the foundation for the --

MS. JOSEPH: What I'm frustrated about is right now, we're arguing about legal fictions. At the end of the day, I know what's in this interview. He knows what's in this interview.

Your Honor, this is a motion about whether or not these interviews get in under the statute.

MR. GROSE: Well --

MS. JOSEPH: And he's made it about Alabama. So, for me, what's frustrating is that tomorrow, if he says to me, you haven't laid the proper foundation, I can find the exact clip that Your Honor needs to see.

THE COURT: I guess I'm relying on the two of you. And both of you have seen the video. And all I'm saying is if the second video -- there's no nexus between that interview and anything in Alabama, you know that.

MR. GROSE: But I need -- but I need, you know -- I mean, you still have to make certain statutory findings as far as the --

THE COURT: I thought the only thing that I was trying -- required to do was see if the factors are present under the 17- --

MS. JOSEPH: Exactly.

THE COURT: -- 23-175.

MR. GROSE: I don't know how you do that without looking at the video.

THE COURT: Okay. I'll look at it.

Play it.

MR. GROSE: But as far as --

THE COURT: Play it.

(WHEREUPON, Court's Exhibit No. 2 continued to be played in open court.)

MS. JOSEPH: Your Honor, that concludes the video.

And I understand and will follow through with Defense's request that we -- we're going to moot it is how it's going to work. We're just going to moot this, actually, where she applauds telling the truth.

THE COURT: That was on the first video; right?

MS. JOSEPH: It was on the first video. I think it's right before, actually, Shauw Chin Capps steps out.

Is that correct?

MR. GROSE: Well, it's near the end. I can get with you after we get done and show you where I'm talking about.

THE COURT: All right.

MS. JOSEPH: So, respectfully, Your Honor, under the statute, we would ask that this be admitted. And I would just like to briefly look at Defense's motion. He says that -- if you look at his motion, on Page 1, he says that the child complaining witness no longer under 12 years of age -- the statute --

MR. GROSE: That's an error. I withdraw that.

MS. JOSEPH: That's just a miss -- that's just not true. And I personally don't file things that are not true. So I'll briefly state that.

THE COURT: All right.

MS. JOSEPH: Does Defense have any objection to this video coming in?

MR. GROSE: I do.

THE COURT: All right. State your objection.

MR. GROSE: It -- it's -- I'm not going to say that everything was leading, but it's not devoid of leading questions. And there, certainly, was a lot of repeating. And, at times, there was some suggestions as to what J.M. should say in response to something. There was, also, numerous times where she said things like, My mom told me to say something. I can't remember something.

And you have to look at the total circumstances surrounding the videos and determine whether or not it's -- there's guarantees of trustworthiness. And then just the sheer fact that the two videos contradict each other. I mean, they're alleging in the CSC indictments that Mr. Dent made J.M. perform oral sex on him. And she flat out denies that in the fist video.

Now, I know they're going to come in and try to explain that. And -- and if you let the videos in, then maybe that becomes relevant. But we're now dealing with a child who is 13 or 14 years old. And she should be able to come into the courtroom and tell the story, and let the jurors decide whether or not she's telling the truth or not. That would be our position.

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

MS. JOSEPH: Your Honor, the State agrees with

Defense that Your Honor must view the videos in their entirety. We think there's internal cohesiveness within the statements, that the majority of the questions are not leading questions. That Shauw Chin does have the requisite experience asking children questions and conducting forensic interviews.

And then all of Mr. Grose's other points about -- I don't view them as conflicting statements. I view them as a continuation. But his points about that -- his points about my mom said, which I don't hear that. I hear her saying -- she, certainly, mentions her mom quite a few times. I think all of that goes to weight, not admissibility. And the jury will watch the tapes. They can assess if they find the tapes truthful.

But I think as far as the statute is concerned, it's more than met the burden played out in that statute.

THE COURT: Anything in reply before I rule on that?

MR. GROSE: Well, I just disagree as far as -- for example, there's one point --

THE COURT: Are you finished with this witness?

MS. JOSEPH: Yes. We are done with Shauw Chin.

THE COURT: She can step down?

MS. JOSEPH: Yes.

THE COURT: I'm sorry. You can step down, ma'am. I've got you over there.

MS. JOSEPH: Is she, actually, like, formally excused? She can leave?

MR. GROSE: I don't have any questions for her today.

THE COURT: Thank you, ma'am.

You can step down.

MS. JOSEPH: Thank you.

I appreciate it.

THE COURT: Enjoy the rest of your evening.

All right. Anything in reply, Mr. Grose?

MR. GROSE: Yes. For example, when they're talking about the number of pictures that he took and showed -- allegedly showed her of his penis, which they've never recovered any pictures of his penis. They get to a point where they say, Can you tell me what the camera looked like?

She says, My mom wants me to tell you this. And then she goes into talking about how it was something that was -- that was being hidden.

And there's, at least, one other -- when they're talking, Is there anything else you remember of what he did that you have not told me?

I have told my mom a lot of things. I just have to remember.

So there's -- there's evidence in there that, you know, some of what she's saying is coming from her mom, as

to questioning conducted during the investigative interview by a trained and experienced interviewer.

I, also, find the statements observed were on film and recorded both in an audio and visual manner. I find that it is anticipated that the victim will testify at the proceedings and be subject to cross-examination on the elements in making -- and making of the statement.

I further find that all the circumstances surrounding the making of the statement provide the particularized guarantees as set forth in the statute, and the degree of trustworthiness that's, also, required in the statute. And in making that finding, I, specifically, note and find that the statement was not elicited by leading questions.

And Counsel's objection regarding that, certainly, is noted for the record.

I, also, find, as I indicated earlier, that the interviewer was trained extensively in conducting investigation -- in conducting investigative interviews with children. And the statement was detailed. And it was filmed in a non-evasive and non-threatening manner.

I, therefore, find that all of the elements of Section 17-23-175 have been met, and that the statement is admissible pursuant to the statute.

Anything further?

MS. JOSEPH: Nothing further from the State, Your

Honor.

THE COURT: And, certainly, your objections are noted for the record, Mr. Grose.

Now, what do we have next?

MS. JOSEPH: Very briefly. We're going to attempt to qualify Ms. Trask as an expert witness.

THE COURT: All right. Come on up, Ms. Trask.

I'm going to swear you in. Ma'am, put your left hand on the Bible and raise your right.

WHEREUPON,

TESSA TRASK,

after first having been duly sworn, testified as follows:

THE COURT: All right. Come around and have a seat in the witness box.

Your witness, Counsel.

MS. JOSEPH: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. JOSEPH:

Q Ms. Trask, where do you currently work?

A I work at Hopeful Horizons.

Q And how long have you worked there?

A I've worked at Hopeful Horizons for just over two years.

Q And tell us a little bit about your educational background.

A Sure. I received my Masters Degree in Psychology from the Citadel Graduate College. I graduated in 2015 in December.

Q And what was your undergraduate degree in?

A I had a Bachelor's Degree in Political Science with a minor in International Studies.

Q And then tell us about your professional qualifications.

A Yes. So I am working towards my licensure. My license will be as a licensed professional counselor. I, also, received my certification as a forensic interviewer in July of 2017.

Q When you say that you're working towards your professional counselor license, how many hours are required to obtain that certification?

A 2,000 clinical hours, and 150 supervision hours.

Q How many supervision hours have you completed?

A I have completed 147.5 supervision hours.

Q So you're very close?

A Yes.

Q In your role at Hope Haven, do you conduct forensic interviews?

A I do.

Q And do you serve as a counselor?

A I do.

Q Have you been qualified as an expert before?
A I have.
Q And were you, actually, qualified in this courtroom?
A I was.
Q And do you remember the judge that qualified you?
A I do not.
Q But it was, like, last month?
A Yes.
Q And when you were qualified as an expert, you were qualified as an expert in behavioral characteristics of child victims of sexual abuse?
A Yes.
Q And just to be clear, you have not reviewed any case materials related to this case?
A No.
Q You don't even -- you know no facts about the case?
A No.
Q Okay. However, you did sit in and watch the forensic interviews in this case?
A Right. Besides just this afternoon.
Q And that was your first introduction to the facts of this case?
A Yes, ma'am.
MS. JOSEPH: Your Honor, at this time, the State moves to enter Ms. Tessa Trask as an expert in behavioral

characteristics of child victims of sexual abuse.

THE COURT: All right. Mr. Grose, do you want to question the witness?

MR. GROSE: Thank you, Your Honor.

VOIR DIRE EXAMINATION

BY MR. GROSE:

Q Is it my understanding that you don't have any license at this point?

A I have a provisional license as a licensed professional counselor intern.

Q I'm sorry. Say that again.

A I have a provisional license as a licensed professional counselor intern.

Q Okay. So you're not yet a licensed professional counselor?

A No, not until August.

Q Okay. And what has to happen between now and August for that to happen?

A I'll have to complete 2.5 additional supervision hours, and then complete the remainor of my 2,000 clinical hours.

Q And how many of those hours are left?

A It would be hard to say at this point.

Q Why is it hard to say?

A I think I get about 20 clinical hours per week. And

I fleshed it out that with working full-time that that will be completed by August. But I don't know exactly how many clinical hours I have at this time.

Q So you can't tell us that today?

A No.

Q Now, you said you had been qualified -- or certified, rather, as a forensic interviewer?

A Yes, sir.

Q Okay. And is that the course that's offered by the children's law office at the University of South Carolina?

A Yes, sir.

Q Okay. And they're offering you as an expert in the behavioral characteristics of child victims of sexual abuse?

A Yes, sir.

Q All right. What -- what makes you an expert in that field? What qualifies you as an expert in that field?

A I would say that my training and my clinical experience would make me an expert in that field.

Q And when we're talking about your training, are we talking about the forensic interviewing training?

A I'm referring to my training in general, all of my training, in addition -- including my forensic training.

Q Okay. Well, I mean, what is that?

A Sure.

MS. JOSEPH: Your Honor, objection, at this point. That's been asked and answered.

THE COURT: Sustained.

MR. GROSE: Under the Chavis case -- I mean, they're trying to qualify her as an expert under Chavis. And I think I'm entitled to ask, specifically, what qualifies her to be an expert. And I don't think just my general training is sufficient to satisfy the voir dire.

THE COURT: Mr. Grose, I respectfully appreciate your position, but I've already sustained the objection. And I suggest that you move on.

MR. GROSE: Okay.

BY MR. GROSE:

Q What is the difference between being a forensic interviewer and an expert in behavioral characteristics of child victims of sexual abuse?

A So being a forensic interviewer, that's a specific job duty that I perform at Hopeful Horizons. Being an expert is speaking to the breadth of my experience and my knowledge in the field.

Q Okay. And you said you'd been qualified in court. Is that just one time?

A Yes, sir.

Q Okay. And I don't want to go into the entire substance of your testimony, but what opinions are you

planning on offering these jurors?
A I'm planning to answer the questions asked.
Q Okay. Are you planning on offering any opinions with regards to the credibility of J.M. ?
A That's not my job.
Q Okay. Now, you testified earlier that you've not reviewed any of the materials in this case. Is there any Chinese walls at Hopeful Horizons that are in place to keep that from happening?
A Can you please define "Chinese walls"?
Q Well, do y'all keep files?
A We do.
Q Do y'all keep copies of the videos?
A Of course.
Q Do you have access to the files and the videos on J.M. ?
A I could.
Q Okay. And Shauw Chin Capps is your supervisor?
A She is the CEO of my agency.
Q Okay. So maybe further up in the chain?
A Yes, sir.
Q But she's above you?
A Yes.
Q Have you and her discussed this case in any manner?
A No, sir.

Q And have you reviewed any incident reports?
A No.
Q But you did review -- you did watch both of the interviews today?
A I did.
Q Okay. And have you had any discussion with the Prosecutor about whether to tailor your testimony to what you observed in the interviews?
A No.

MR. GROSE: I beg the Court's indulgence.

THE COURT: Yes, sir.

(Pause.)

MR. GROSE: I do think under the case law, Your Honor, that the Court not only has to review her qualifications -- first, you have to make a determination that expert testimony is necessary. You have to review her qualifications. And you do have to review, at least, to some extent the substance of the testimony to determine that it's reliable. That's the Watson v. Ford Motor Company case. And it's, also, the Chavis case.

They've not proffered her testimony. And her response to me was as if she's going to answer the questions asked. And I'm not clairvoyant. So I think they need to proffer, at least, a summary of her testimony.

THE COURT: Respond to that. I don't know if we're going to do that tonight.

MS. JOSEPH: I think that very briefly, Your Honor, the State is prepared and Ms. Trask is prepared to very briefly, literally, go over the bullet points, if you will, of her testimony.

CONTINUED DIRECT EXAMINATION

BY MS. JOSEPH:

Q So briefly, Ms. Trask, will you be testifying that sex abuse can present as trauma?

A Yes.

Q Will you be defining trauma on the stand?

A Yes, ma'am.

Q Will you be discussing how ADHD and trauma can have similar presentations?

A Yes, ma'am.

Q Will you be discussing and defining the disclosure process in a sexual abuse case?

A Yes.

Q Will you be discussing coaching, lying, and confusion in a sexual assault case?

A Yes.

Q Will you be defining grooming?

A Yes.

Q And, finally, will you be defining risk factors of

sexual abuse?

A Yes.

Q And to clarify, you will not be testifying to the credibility of the victim in this case?

A No, I will not.

MS. JOSEPH: And, Your Honor, I was remiss. I do have two cases on point. I will be honest with Your Honor, there are case summaries at the beginning of these. These cases are incredibly on point, and the case summaries really do a good job. So I'm handing a copy of Barrett and Brown to Defense. And then I'm handing a copy of both of these cases to Your Honor.

And briefly, Your Honor.

THE COURT: Yes.

MS. JOSEPH: These cases just say, one, that, yes, she's a forensic interviewer. But she's allowed to testify outside of being a forensic interviewer.

And, two, even if she had been the forensic interviewer in this case, there, actually, is a precedence saying that the forensic interviewer can testify about things as long as it's not credibility of the witness.

THE COURT: Mr. Grose.

MR. GROSE: And just in response to that, Brown is the case that our Supreme Court has -- has said is part of the procedure. The Barrett case, if I recall correctly,

was a case that was tried prior to the Brown decision.

And, specifically, what they found is that there was -- there was no particular harm in the way it was done in that case. But our Supreme Court has still said that the better practice is what's done in Brown.

My concerns are that some of what they have in the bullet points, particularly about trauma and ADHD, that is something that's particularly tailored towards J.M. in this case, based on what we know about her records. And I don't know -- I didn't write down all of what she said. But the string of things that went with coaching, and lying, and stuff like that, I'd have to hear more about that.

But that -- that sounds like a -- a veiled way of saying this child was not coached, which would be -- get us in trouble with, you know, Kromah, and Anderson, and that line of cases.

THE COURT: All right. Yes, ma'am.

MS. JOSEPH: So I'm hearing a lot from the Defense like this could get me in trouble, or this could go off the line. But what I'm not hearing is what she is being put forward as an expert and what she is alleged to be testifying about tomorrow are off base.

So it seems like Defense agrees that what she's being qualified to testify to and what she will be testifying to

tomorrow are one in the same. And, therefore, she should be qualified, which is why we are here right now.

MR. GROSE: No. I don't agree with that. My -- I still don't know the substance of her testimony. I don't know what she's going to say about coaching, and lying, and that sort of thing. That could -- depending upon what she says, I think that's very likely going to cause a mistrial.

THE COURT: Well, you can object at the appropriate time. But I don't think that -- I mean, Counsel gave you the bullet points of what she was going to testify to. You want the nuts and bolts. I can't give you the nuts and bolts tonight.

MR. GROSE: I want you to review the nuts and bolts as you're required to do under Watson vs. Ford Motor Company and Chavis as the gatekeeping function. That's what I'm asking for.

MS. JOSEPH: She has, also, testified numerous times that she recognizes her role is not to talk about the credibility of the child.

THE COURT: And I think that was the question -- that was -- as a matter of fact, Counsel, that was one of the first questions you asked her. And she responded. And I remember that she said, That is not my role.

MR. GROSE: But they're telling me and you that

they're going to ask questions about coaching. I'm -- I'm just asking to do what the case law says and find out whether or not, you know --

THE COURT: Well, I would assume, Counsel, if that question was asked -- and I don't know if they'll ask it or not. But if they ask it, based on what this witness has said, she's probably going to respond that that's not her role.

MR. GROSE: Well, I don't understand why that's one of the bullet points then.

MS. JOSEPH: Your Honor, respectfully, the State will stipulate that we cannot ask this witness about coaching, lying, anything in that realm, as long as Defense agrees that he will not ask this witness about coaching or lying in a sexual abuse context.

THE COURT: Can we agree on that, Mr. Grose?

MR. GROSE: I think we can, yes.

THE COURT: So we've got an agreement tonight?

MS. JOSEPH: That's phenomenal. What a place to end.

THE COURT: Can we agree on that?

MR. GROSE: Yes. We can agree on that.

THE COURT: All right. Anything else?

MS. JOSEPH: Nothing from the State, Your Honor.

THE COURT: All right. I'm going to -- based on what I've heard --

I'll tell you what I'm going to do, Mr. Grose. We're going to convene at 9:30 in the morning. And I'm going to take these two cases with me. And I'm going to give it -- I'm going to read both of them. And I'm going to review it all thoroughly. And in the morning, I'll make a ruling as to what I decide to do. Fair enough.

MR. GROSE: Fair enough.

THE COURT: All right. Ma'am --

But I don't think there's any need for this witness to come back until she's ready to testify.

MS. JOSEPH: So she's excused until 1:00 tomorrow.

THE COURT: 1:00 tomorrow.

Now, before we close down shop --

You can -- you're excused, ma'am. Have a good evening.

THE WITNESS: You, too.

Thank you.

THE COURT: Do I need to read into the record the amended indictment, or is that still going to be an issue?

MS. JOSEPH: That's a Defense record, you know. The State doesn't like -- or Defense doesn't like when I sort of say what I think would be good or bad for the client. I personally think it would be ringing the bell twice if we were to draw extra attention to it. I think the jury is so confused when you're reading indictments that

they're not sort of listening.

THE COURT: I kind of --

MR. GROSE: I'd like to read the indictment. I still haven't -- she sent them to me, but I haven't read them.

THE COURT: You're going to read them tonight?

MR. GROSE: Yes, sir.

THE COURT: All right. You read the indictments tonight and I'll read this.

MR. GROSE: Fair enough.

THE COURT: Fair enough.

Okay. We're going to start very promptly at 9:30.

All of the jury is coming in at 11:00, as best I can tell. Maybe one person --

THE BAILIFF: One of them. And we'll send him back to get him some coffee or something, Judge. He only left three digits on the -- four on the end of his -- and we even tried calling one -- you know, that number and then adding 1, then adding 2, adding 3, and still could not get him, so.

THE COURT: All right. Y'all have a good evening.

(WHEREUPON, the proceedings were concluded at approximately 7:33 p.m., to be reconvened on Tuesday, May 22, 2018.)

TUESDAY, MAY 22, 2018

THE COURT: Good morning. Let's go on the record again in the State v. Charles Dent.

When we left off yesterday evening, I deferred until this morning in ruling on the qualification of the State's expert -- potential expert --

MS. JOSEPH: Yes, Your Honor.

THE COURT: -- Ms. Trask. And I read some material, including the -- a couple of cases. And I have concluded that I will deem her to be a forensic -- qualifying her as a --

MS. JOSEPH: We're qualifying her, Your Honor, as a behavioral characteristics of child abuse -- child victims of sexual abuse expert. So she's going to be testifying about behavioral characteristics.

THE COURT: All right. That's what I thought, and that's what I wrote down.

And I understand your exception to that, Mr. Grose.

But I'll deem her to be qualified in that area. And that would be my ruling in that regard.

Now, there was, also, a housekeeping matter regarding the -- in reading of the amended indictments. Has that been -- I think you were going to think about that overnight and let me know whether or not I needed to address that.

MR. GROSE: Yes, sir. I, certainly, don't think it needs to be addressed in the sense that we need to tell the jury that the indictments were read incorrectly, or do anything to cause attention to it today.

However, it does dovetail into a larger concern that I have, which is at some point during the trial, I think -- and it will probably be when you instruct the jurors, they need to be told exactly that the allegations are in the indictments, and probably have the indictments -- the correct versions in the jury room.

I know we don't always do that any more. But, you know, they need to know exactly what it is that they're being asked to decide. Because I think that, you know, we're getting ready to get into the 404(b) issue. But --

MS. JOSEPH: I have no objection to the indictments going back. Normally, I object to that because indictments are merely notice documents. But in this case, I'm the one that drafted them. I'm fine with them going back.

MR. GROSE: Well, they're not just merely notice documents. They --

MS. JOSEPH: He just -- we agree.

MR. GROSE: Well, I'd like to be able to finish my concern. My concern is that the Court make certain the jurors know what they need to decide.

THE COURT: All right. Thank you, sir.

And I think since the State has agreed that the indictments will go back -- and, certainly, at the end of the case and charge, I'll be very specific about reading the appropriate language. And then I will allow the indictments to go back for them to review. And that's -- I think that should be curative. I think it should be.

MR. GROSE: Right. I think so.

Also, as a matter of housekeeping --

THE COURT: Yes.

MR. GROSE: -- I, yesterday, overlooked filing my voir dire and my pre-trial brief. I know the State and Your Honor have a copy of it. I'd just like to have those marked as Court's Exhibits so that they are in the record.

THE COURT: And that was the document that contained not only just the pre-trial brief, but had the voir dire attached to it?

MR. GROSE: Well, there was two documents. One was -- well, the front page is the witness list with the voir dire attached to it. And the second one is the pre-trial brief.

THE COURT: Any objection to that?

MS. JOSEPH: No objection, Your Honor.

THE COURT: Do You want to mark it as a Defendant's Exhibit?

MR. GROSE: Whatever everybody -- it doesn't matter to me, Defense, or Court's, or whatever.

THE COURT: All right. A Court's Exhibit. And I think it will be Court's Exhibit Nos. 4 and 5.

MR. GROSE: Thank you, Your Honor.

(WHEREUPON, Court's Exhibit Nos. 4 and 5 were marked for identification and admitted into evidence.)

THE COURT: All right. And I believe the two video recordings were previously marked as State's Exhibits yesterday?

MS. JOSEPH: Yes, Your Honor.

THE COURT: Or last night.

MS. JOSEPH: Yes, Your Honor. In addition, Ms. Shauw Chin Capps's CV was marked.

THE COURT: It was, also, marked?

MS. JOSEPH: Yes, Your Honor.

THE COURT: All right. We've got, my understanding, a couple of motions this morning. And it doesn't matter to me which order you proceed in. I'll just leave it up to you as to how you want to proceed.

Which one do you want to do first?

PRE-TRIAL MOTIONS

MS. JOSEPH: Well, Your Honor, if we turn to Mr. Grose's pre-trial brief, so we have already addressed his first motion, which is the children's advocacy center

interview. That's addressed.

THE COURT: Right.

MS. JOSEPH: So then his second motion is the motion to exclude Mr. Dent's statement.

MR. GROSE: Actually, these are the State's motions, not my motions.

MS. JOSEPH: They are, Your Honor. I'm sorry. I was just going in his order.

So this is the State's motion to exclude the Defendant's statement.

THE COURT: All right.

MS. JOSEPH: Your Honor, prior to trial, I gave you -- filed a copy of my motion and gave you a copy of the Gary Terry case.

THE COURT: Yes.

MS. JOSEPH: Your Honor, very simply, the Defendant can't -- and I think that Mr. Grose and I are going to agree a lot in this motion. The Defendant cannot use his silence, which is, obviously, his right, as both a sword and a shield in this case.

Specifically, if he chooses not to testify -- and I want to be very, very, very clear. Because Defense -- I've done this motion a lot. And Defense spends 40 minutes telling me, well, my defendant is going to testify. And I agree, if his guy gets on the stand, rip

up my motion. It doesn't matter anymore. If his client does not testify, it's the State's contention, if you look at the rules of evidence, plus the Gary Terry case, we cannot mention, neither side, that he gave a statement to police and he cooperated with law enforcement.

Because if he wants to get into the fact that he cooperated with law enforcement, then he needs to get on the stand, which means that our investigator is not going to mention -- well, actually, just to be clear, Investigator LaVan is not the one that did the investigation.

Sorry for my dramatic hand gestures.

It's going to be Investigator Joey Stone, who is not going to get into the fact that he interviewed the Defendant. And the truth is that the Defendant gave a lengthy statement. He was Mirandized.

We feel like under Jackson v. Denno, that statement could come in. But we're in no way seeking to get any contents of that statement in, nor the simple fact that he gave the statement and cooperated. Because we feel if he wants to get into that, he needs to take the stand.

Thank you, Your Honor.

THE COURT: Mr. Grose, your position?

And I think you noted in your --

MR. GROSE: I do. My concern is -- is that they not

make improper use of the exclusion of the evidence. Based on what she said, it sounds like that's not going to be a concern. If it is, I'll object.

THE COURT: All right. And I think you addressed that in your brief as well.

MS. JOSEPH: Yes.

THE COURT: All right. Next, what have we got?

MS. JOSEPH: So next -- and, again, I'm going in Mr. Grose's order. But, also, it's --

THE COURT: It's the State's motion, yes.

MS. JOSEPH: Yes.

Thank you.

It's a 404(b) motion, Your Honor. Again, prior to trial, I gave you the State's motion to admit prior bad acts, specifically -- and I apologize for the brief recitation of facts.

But as part of this investigation, as you, Your Honor, have heard in the first forensic interview of J.M. , she states the Defendant took sort of gross photos of me and he took gross photos of himself. And he showed me porn. And he hid this camera card on my -- on his property in Alabama.

And based on the totality of her statement, Investigator LaVan reached out to Calhoun County, Alabama. And it's the State's intention -- and, now, as I'm talking

about the facts of the case, I'm going to tell you how the State is going to enter this evidence.

It's the State's contention to put a Calhoun County deputy on the stand, the person that was contacted by Investigator LaVan. And he will say, yes, I was contacted by Beaufort County. Yes, I got a search warrant. We searched the premises. We seized a number of electronic devices that were in plain view.

Several days later, we then secured an additional search warrant for the contents of the electronic devices. And then we turned over the electronic devices to our forensic computer task force.

My next witness will be a man from the computer task force who looks through computers all day long. That's his job. And I simply -- and I want to be very clear about what I want to get into. I want him to testify that, yes, just as J.M. said in her interview, what she called nasty photos, but sort of -- they're borderline sexual.

And I have those photos here if Your Honor wants to look at them. She's not naked. I would just describe them as sexualized photos of J.M. were found on his computer. They were, also, found on his camcorder, his camera. They were found on several of his electronic devices. And then those same devices contained a large

amount of child pornography.

And we think it's simply that sentence, that his devices contained child pornography. We're not seeking to admit the child pornography. We're not seeking to get into a great amount of the details about the child pornography.

Because we think the jury has the right to know the context for these photos, specifically, because we had a motion prior to trial in which Mr. Grose made it clear that one of the Defense's arguments is going to be J.M. is a little girl. She's a normal nine-year-old girl. She likes to dance. She likes gymnastics. These photos are innocent and you sickos are making them weird.

And we want to be able to show their proper context. And we want to show the Defendant's intent behind the photos. Namely, to take sexualized photos of his daughter -- or granddaughter and, basically, pursue her in a sexual manner.

So under 404(b), we are allowed to enter intent evidence. And that's what we're seeking to do here. And, again, it is very limited in scope, Your Honor.

THE COURT: Mr. Grose.

MR. GROSE: First of all, Your Honor, I never called them sicko.

MS. JOSEPH: That was my language. I apologize, Your

Honor.

MR. GROSE: Language is, obviously, important.

And at the time that we -- we had the hearing that she's talking about, all I had was a report from Alabama regarding the photographs of Mr. Dent's granddaughter, and the other things that were in the report. I had not seen the photographs. She had not seen the photographs at that time.

Part of the motion -- this was in front of Judge Mullen. I mean, part of -- well, we were there to talk about a lot of things that day. It was a status conference. But part of it was the scheduling to be able to -- well, they were getting the photographs, but, also, for us to have somebody examine -- or to view them, some of the devices in Alabama.

So for her to say that we made it clear in a hearing what a particular defense might be is a little bit out of context. So I wanted Your Honor to know that.

Second of all, the -- going to the merits of it, Mr. Dent has been charged with possession of child pornography in Alabama. And he has a lawyer in Alabama. And those charges, like the South Carolina charges, have been pending for, you know, a very long time.

Mr. Dent is, you know, presumed innocent of those charges. And that's important. Because in my memorandum,

we talk about the procedures for how the Court determines whether or not to admit Lyle evidence. And it's not a matter of a prosecutor saying what I think, you know, the testimony is going to be. They have to lay a foundation through witnesses for you to determine by a clear and convincing standard whether or not that evidence is admissible or not.

Connected with that, as Your Honor knows, because we both have been doing this work for a long time, there's Lyle cases all over the board out there. And I can't think of, you know, one area in our law in South Carolina where there's cases going in multiple directions. And there's really some inconsistent policies out there, inconsistent decisions out there.

And I think that pendulum is swinging more towards a more neutral approach to it. Because as our Supreme Court has pointed out, we've gotten to where we have a criminal sexual conduct with a minor specific interpretation of Rule 404(b) that is sometimes different than the usual interpretation of 404(b) and all the other cases.

And, in fact, our Supreme Court recently said in the Beaty case that they're not allowed to make rules like that. And they have a case that's been pending after oral arguments for a couple of years called Perez where they may be overruling some of the -- the Lyle precedent in the

CSC cases.

But, regardless, under any interpretation of it, the State has to establish some sort of connection to the evidence in the case here. And that's why I thought it was important for you to hear those forensic interviews, those child advocacy center interviews yesterday is because if you look at what, you know, was, actually, said, the -- one was pictures of Mr. Dent's private parts or his penis. And, at one point, she said that he took a lot of pictures of his private parts, 10 of them.

And in their examination of all of these devices, they have not found any pictures of Mr. Dent's penis or private parts. So that's one thing that she said.

The other thing she said is that he showed me videos of people, naked people, but I turned away. But she said that those were adults that did not have their clothes on, that it was one video. He showed me the same video four times, four different scenes from it. And the child pornography, certainly, is not the videos of adults.

And so then she did testify about him either trying -- asking her to take pictures of herself or in another place, she talked about him taking pictures of her. Some of these photographs that they have, I assume they're going to try to say that those are those pictures. But, again, it's of her, it's not of other people.

So, in our opinion, they've not established the connection to the child pornography that they need to establish in order to make that admissible in this case, not on the record that's before you right now.

And I cited the Nelson case, which was the Columbia area. I believe it was Lexington County that -- it's still good law and is probably one of the closest cases on point to something like this. That in order to -- in order for things like this, photographs, to be admissible, if it's just propensity evidence, then it's not admissible. You haven't established the connection to the case.

The other problem here is you've got to -- there's multiple steps to the analysis. I mean, I think they have to make a showing. It's almost sort of the relevant showing on why one of these exceptions to 404(b) apply. We don't think that they have done that.

Secondly, as Your Honor is aware, you have to apply the 403 analysis to Lyle evidence to determine whether the danger of unfair prejudice substantially outweighs any probative value.

And the concern there, also, dovetails into a due process concern, which is the concern that Mr. Dent could be convicted by a jury based on evidence that's presented that doesn't have anything to do with the proof of the

elements of the crime, which is why, looping back, I made the comments I made about the indictments this morning.

I mean, none of this evidence is related to what she said in that interview. And none of this evidence -- none of the pornographic photos are related to anything that she said in the interviews that you watched yesterday evening. So we don't think that those are admissible.

Also, there's the additional consideration. And this applies particularly to the photographs that do involve Mr. Dent's granddaughter. And it gets back to the same statute that we cited in our motion to quash the indictment that required the investigator to get -- and I realize you ruled against me on that. And I'm not rearguing that motion.

THE COURT: Yes, sir.

MR. GROSE: But that same statute, also, requires the solicitor's office to apply for search warrants for the material that's the subject matter of the dissemination allegations.

And I realize you interpreted that statute differently than I did. And my point in bringing that up again now is if my interpretation turns out to be correct, then that, also, means that searching for this in Alabama -- because it was not -- it was initiated by an investigator in South Carolina and not by the solicitor's

office in South Carolina. All the materials that law enforcement relied on in Alabama were South Carolina materials that were given to them by the sheriff's department.

And so, you know, it's -- our position is that that statute is intended to give Mr. Dent additional protections. And it's something that has to be strictly construed.

So that's our position.

THE COURT: All right. I'll hear something in reply. And then I've got some questions.

Anything in reply?

MS. JOSEPH: Just very briefly, Your Honor.

THE COURT: Yes.

MS. JOSEPH: It's the State's contention the Defense is -- he was talking about the steps you have to go through in deciding this. And it's the State's contention that he's putting a step in there that is not required by the law.

So we agree that this is purely in the Court's discretion, that, you know, you should weigh prejudice versus probative, all of that is true that he said. And that you should look at why the State is entering this evidence. The State says it's for intent.

But he wants you to believe, Your Honor, that there

has to be a connection between our allegations, the evidence that we're putting forward, and the Alabama case. And that's not true. And if the Defense can offer a case that uses the word connection, or a link, or anything like that, we'd be eager to hear it.

Now, I will say State v. King, which is 334 S.C. 504, which I quote at the very last sentence of the argument section of my brief, it says, The record must support a logical relevance between the prior bad act and the crime for which the Defendant is accused. So I agree if Mr. Dent had robbed a McDonald's in 1994, it wouldn't be relevant.

But the State has created a common sense link. I understand that the facts don't link together. And they're not required to. What's required is that the State offer a reason why that they're trying to get into that evidence. And, again, if you skip down to my motion, A Judge is allowed to admit evidence that the existence of which makes the evidence -- I'm sorry, makes it more likely to be true. I'm now quoting the wrong section of my own brief.

But, in this case, J.M. says these photos were taken for a sexual purpose. This is -- the taking of the photographs was part of what was happening. And we have those photographs. We intend to show those photographs to

the jury. And we want to show the Defendant's intent behind taking those photos. And we can't reach inside his brain and do that. And, therefore, we want to show that he was in possession of child pornography in Alabama. And again -- I'm sorry. And they're on the same devices accordingly.

And just reading -- heading off some of the questions I anticipate being asked -- I might be guessing wrong, I've done that before -- are witnesses. So the mother of the victim is able to identify the photos of her daughter that are semi-sexual in nature, and say that they're of her daughter at approximately the same time the abuse occurred, ages eight and nine, and that they happened in their home in Beaufort County. And they only lived in Beaufort County for a very brief period of time when the abuse occurred. So she'll put them in the proper time period for the abuse.

And then, again, our computer expert is able to say that these sexual photos of the granddaughter were found on the same devices as the child pornography. And that is the sum total of what we're trying to get in.

I just want to be very clear. There's not any more information of the allegation charges -- Alabama charges that we're trying to get in.

THE COURT: All right.

MR. GROSE: And just to respond to that. The Wallace case, which is cited in my brief in connection with a different part of this, does talk about showing the required connection for admissibility. Wallace is probably the crown jewel of the prosecution of Wallace cases -- or Lyle cases in the criminal sexual conduct area. And it's the one that might be overruled. But even one of their favorite cases has the language about connection in it.

So I don't think that we're putting in that step. But if you look at the logical relevance that they're arguing, they've not -- they've not established that, Your Honor. And there's not -- there's not anything that they've established that takes it out of the Nelson case. So I'll leave it at that.

But you did say you might have some questions.

THE COURT: Yes. And probably some questions and some discussion that needs some feedback from the two of you.

I think Mr. Grose was talking about the Lyle case. And, of course, the Lyle case has been around for a long period of time. And that case has been argued in a lot of different contexts.

Here, we have a Defendant who has charges pending in Alabama that have not yet been adjudicated. The State is

arguing, I'm assuming, scheme, pattern, identity, that that is a common scheme or plan.

MS. JOSEPH: No, intent, Your Honor, and lack of mistake.

THE COURT: Intent and lack of mistake. That's primarily what you're arguing?

MS. JOSEPH: Yes, Your Honor.

And just to be clear, under the Wallace case was a scheme -- the State was arguing scheme. And there, there had to be a connection between the --

THE COURT: Let me ask, while you're standing, to look at that case in Mr. Grose's brief, the Old Chief case. Have you read that case where it talks about propensity evidence?

And let me just -- and I'm going to cite it right out of his brief. And I read the case. It says that -- and you know what propensity evidence is. Propensity evidence is the risk that a jury will convict for crimes other than those charged, or that uncertain of guilt will convict anyway because a bad person deserves punishment.

You've got that whole 403 argument. And then there's some argument -- you know, Counsel can make an argument that 403 trumps 404. But there, you've got the Old Chief case out there.

So how -- give me your position. How would you

reconcile your argument with the language in Old Chief?

MS. JOSEPH: Very simply, Your Honor. First, it's very important to note that all evidence that I seek to admit at trial is prejudicial. That's the nature of evidence in a criminal trial.

So, I mean, I understand the balancing test that must be done. But, fundamentally, I'm seeking to enter prejudicial evidence. That is the nature of evidence in a criminal trial.

Second of all, I think that the fear that the jury will convict on another crime is a real fear. And I think that can be handled with a jury instruction.

Importantly, the State has already offered and is very aware of this concern. And the State has, therefore, already offered that we're not going to get into the quantity or type of child porn that he possessed. It is merely one sentence. That on the same devices where these sexualized photos of his granddaughter were found, there, also, was child porn.

And we are simply seeking to enter this not for propensity, Your Honor, but for intent. Namely, that he -- because when we show these photos -- and maybe it's important for Your Honor to see those photos -- they are borderline. They are the type of photos that maybe it's a granddaughter practicing gymnastics, maybe it is a

granddaughter who's being sexually groomed. And grooming is a big part of our trial.

And we want to show the Defendant's intent in taking those photos. And we cannot reach inside of his mind. We cannot make him testify. And the State is not required to prove motive. But motive is an important pillar in this case of proving sexual abuse.

In fact, it's my contention that the old CSC third statute used to require that we prove the Defendant was of a depraved mind when he was making advances against children. Mentor is not a requirement here. But it's important that we put these photos in the proper context.

And the jury -- and, also, everything the Defense is saying -- they're saying that -- or anything the Defense wants to say about this, about how the Alabama case hasn't been proved in court, they can say. So they can say these weren't his images, other people had access to his computer. These devices were, in fact, old. I mean, they can argue those things. And then we can argue that --

THE COURT: But you would agree that -- when I looked at the interview, you would agree with Mr. Grose that the images were of nude adults? You would agree with that?

MS. JOSEPH: Well, actually, no, Your Honor.

THE COURT: You don't agree with it?

MS. JOSEPH: I think to a child anything looks like

an adult. You know what I mean?

So I don't necessarily know what images she was looking at. And I don't think that -- and all the videos that were found on the laptop were teens. So there was no -- there was breastfeeding moms found on it. But other than that, all the videos of sexual acts were teens.

But, again, we don't seek to get into that. What I see in the video is her consistently talking about photography and images as part of the grooming process. They were very intermixed in this case.

She's consistently talking about -- she talks about how she falls asleep and she wakes up to him pulling down her shorts to take photos of her vagina. She talks about how she's wearing really short shorts in one photograph. I mean, we have a photograph of her wearing really short shorts.

THE COURT: In the devices that were found in Alabama?

MS. JOSEPH: Yes.

THE COURT: How many videos -- I mean photos of that --

MS. JOSEPH: It's just 12.

THE COURT: 12?

MS. JOSEPH: Yeah.

THE COURT: The photos of the adults were just random

people?

MS. LUTTRELL: Your Honor, if I may.

There weren't any pornographic images of adults that were listed in the report. This was one image found on his phone. When he was at the police station, he gave his phone to be searched. And there was one image of an adult vagina found on his phone. But on the computer and the report that we have --

THE COURT: It was an adult what?

MS. LUTTRELL: An adult vagina.

THE COURT: On his phone?

MS. LUTTRELL: On his phone, his cell phone that he personally had with him when he went to do an interview. And he gave them that. That was not part of the search warrant that they obtained for his home and for the electronics at his home.

On those electronics at his house, the laptop and the desktop computer, those images were child erotica, child pornography. And then there was videos of child pornography involving mostly teenagers, as well as several images of breastfeeding moms, mothers. And then these images of the granddaughter were on there as well.

THE COURT: Among the 12?

MS. LUTTRELL: The 12 images of his granddaughter were on the same devices as all the pornography, on both

the laptop and the desktop computer.

MS. JOSEPH: So on multiple devices that contained child porn, the same 12 images of his granddaughter were found. So he had, clearly, taken the images and moved them to different devices.

THE COURT: But the images of the granddaughter were all images which she was dressed? She had clothes on?

MS. JOSEPH: Yes.

So five of the images are down her shirt seemingly without her notice -- like she doesn't realize it's down her shirt. Like, she's posing the way a cute little girl would pose. And then the angle is down her shirt.

So they're not necessarily nude. But her -- and she's so young that it doesn't -- they don't look like breasts, but her -- they're suggestive.

Thank you.

And, Your Honor, we have --

THE COURT: Let me ask you a question. Let me ask you a question.

MS. JOSEPH: Yes.

THE COURT: Last night, I read this case. I looked it up. There's two cases. State v. Gillian, and that's found at 373 S.C. 601. And there's a Court of Appeals case -- 2008 Court of Appeals case, State v. Marvucci, M-A-R-V-U-C-C-I. And that's found at 380 S.C. 232.

And when I read that case, the language in that case, after I read the Gillian case said -- you're trying to show intent, and I understand that. But that case says that even if -- and I wrote it down -- even if the prior bad act evidence is clear and convincing -- and let's say you're talking about intent, the jury listens to you -- and let's attach to -- to clear and convincing the whole intent argument.

And that case, in my mind, says that even if the prior bad act evidence is clear and convincing and falls within the exception, it must be excluded if its probative value is substantially outweighed by the danger of unfair prejudice to the Defendant. And that's what I'm grappling with right now. I'm grappling with that. And, I'm, also grappling with the argument in the Old Chief case.

Because, you know, here -- you know, there's a balancing act there, you know. And you've got to be -- and that's a difficult scale for the Court to do when you're trying to balance prejudicial versus probative. Is prejudicial going to be way up here?

I understand the State presents prejudicial. I understand that. But I think -- I read the -- there was a case that I think Justice Pleicones -- I mean, he had the dissenting opinion in the case. And I don't remember the exact case it was. And there was a whole argument about

that balance. And that's the -- and --

MS. JOSEPH: Your Honor --

THE COURT: -- the danger is, will the jury listen to that and nothing else?

MS. JOSEPH: Your Honor, this is a rare -- I try a lot of these cases. And this is a rare criminal sexual contact -- conduct. Obviously, I don't try enough of them. It's a rare case where a little girl said this happened to me and there's some evidence. And that evidence is the sexualized photos of her.

The State intends to use those sexualized photos -- to show the jury those sexualized photos of her. The Defense is allowed and should be allowed to say those photos are perfectly innocent.

I think I understand what you're grappling with. And my response --

THE COURT: Same devices both places?

MS. JOSEPH: Same devices both places, yes, Your Honor.

THE COURT: Same -- were they in the same folder in the same location in the devices? In the same location?

I guess I'm trying to get similarities here.

MS. JOSEPH: Right.

THE COURT: The old intent argument you made --

MS. JOSEPH: Let me double-check that because I don't

want to say the wrong thing on the record, Your Honor. This will help, which is that she says he's taken photos of her with a camera; right?

THE COURT: Right.

MS. JOSEPH: The photos of her that are sexualized are found on a camera. And then they are, also, found on the Defendant's laptop and on his computer. And it's the laptop and computer that contain child porn.

So he, clearly -- and, also, we have a witness that's going to testify that she's eight or nine in these photos. So he took these recent photos, these photos that are taken during the period of abuse, and he moves them from his camcorder and from his camera onto two devices that contain child pornography.

So not only are they found on the devices --

THE COURT: Go ahead. I'm listening.

MS. JOSEPH: But he's, clearly, moving them.

(Pause.)

THE COURT: Let me ask you this. Have you had the opportunity to look at --

MS. JOSEPH: Yes. And looking at State v. Gillian, Your Honor, in that case, which is a murder case, the burglaries that they wanted to present that would be other crimes weren't presented in the context of the murder charge. And I'm quoting that directly. However, one of

the accepted basis for admissibility of evidence of a crime derived from such evidence furnishes part of the context of the crime.

And it's very narrow why the State wants to get this in. I mean, if you think of our trial, we're going to put --

THE COURT: I don't mean to interrupt you. Let me ask you this while it's fresh on my mind.

MS. JOSEPH: You're the Judge. You can interrupt.

THE COURT: Fresh on my mind. And I'm going to ask this. And I hope I'm asking it the right way. Okay. You've got a computer and you've got folders.

MS. JOSEPH: Yes.

THE COURT: Okay. My question is, was there a separate folder for the pornographic stuff, and was there another folder that had images of the granddaughter? Because you've got to be in the same folder --

MS. JOSEPH: No, I agree, Your Honor.

THE COURT: -- for you to go down the street of intent.

MS. JOSEPH: I agree, Your Honor. I think that that -- that answer is not in our forensic expert's report.

THE COURT: Because, you know, I don't want to know what you think. Because he could have a folder --

MS. JOSEPH: Right.

THE COURT: -- where -- you know, where he has a family album, or he's just got an album that has pictures of his grandchildren. Then he could have a folder that has pornographic stuff.

And then my question is, on his camera -- you know, the same kind of questions. So that's what you're going to have to show.

MS. JOSEPH: I think that's fair, Your Honor. And so I think at this step, because we can't easily get that answer for you, we are going to have to proffer our forensic expert's testimony. So he'll be here tomorrow.

And I think then we've narrowed the question for this hearing, which is if they're intermixed. And what I'm hearing from you -- and I, obviously, don't want to misquote a Judge, especially --

THE COURT: You're hearing that.

MS. JOSEPH: -- if they're intermixed, then we can go down the road of intent. And if they're not intermixed, then we probably can't.

THE COURT: Excellent analogy.

MS. JOSEPH: So we'd love to proffer the expert's testimony. He'll be here at 8:30 tomorrow. We don't have to start at 8:30, but he'll be here at 8:30. And we can put him on the stand.

THE COURT: Let's do a proffer on that, and give Mr. Grose the opportunity to cross-examine. And then I'll hold off ruling on that issue until after the proffer.

MS. JOSEPH: I think that's more than fair, Your Honor.

THE COURT: I think that's just too important of an issue for us just to glaze over. I think that's critical.

MS. JOSEPH: I think that's completely fair, Your Honor.

THE COURT: I want to be fair to both sides. So I think that's the proper thing to do.

MS. JOSEPH: I think that's fair.

So turning now, once again, to Mr. Grose's motion, which I'm just using for as a blueprint for no apparent reason. We've addressed the --

MR. GROSE: If -- before -- before we move from the Alabama stuff. We did make the same argument. We did as far as the statutory law regarding the indictment with -- regarding applying for the search warrant in Alabama.

And I think we -- I don't think Your Honor has ruled on that part of it yet. And I -- and that could be dispositive on admitting the other evidence on the computers in Alabama.

So I -- whether it's now or later, I just wanted to make sure that that doesn't get lost in the shuffle.

THE COURT: All right. Just remind me that I need to do that.

MR. GROSE: Yes, Your Honor.

THE COURT: Are we going to be able to proffer that first thing in the morning?

MS. JOSEPH: Yes, Your Honor.

THE COURT: All right. What else have we got next?

MS. JOSEPH: Turning to Page 5 of Mr. Grose's motion, there's allegations that Lori Mayo, that's the mother of the victim, has made. She says that she was, also, molested by the Defendant at approximately the same age as the victim in this case.

The State recognizes that we cannot get into that unless the door were to be opened in some way. So if Defense asks Lori, you know, and you lied about this when you were nine, too. Obviously, the door would be opened at that point.

So we recognize about the door being opened. We have no intention of getting into that.

THE COURT: Do you agree with that analogy, Mr. Grose?

MR. GROSE: I do, Your Honor.

THE COURT: All right.

MS. JOSEPH: We've handled Page 9, which was the motion to quash.

So we are, actually -- so on Page 10, we are not going to have a nurse practitioner testify. So we can cross that off.

THE COURT: Cross it out.

MS. JOSEPH: And then using the term "victim," as you note, Your Honor, that's a very short section of Mr. Grose's brief. And I used to do a motion on this as well. Again, I do a lot of these types of cases.

There is no binding law in South Carolina on this. Some jurisdictions think that it's burden shifting to use the word "victim." Some jurisdictions say that it's not burden shifting.

I think a great compromise -- a compromise I do in all of my cases is the State promises to not use the word "victim" as a bat to bash the jury's head over. We understand this is a court of law. It is not a play.

Witnesses may occasionally use the word "victim." I, myself, may use the word "victim" once or twice in a closing argument. But we will do our best to stay away from the word "victim." And as long -- and if it becomes a problem, Mr. Grose is free to object.

But we will do our best to restrict our use of that word. And I think that's a fair compromise.

THE COURT: What do you say, Mr. Grose?

MR. GROSE: I accept that.

THE COURT: All right.

MS. JOSEPH: So on Page 11, Mr. Grose wants the State to open in full and then just rebut in the closing, presuming that they present evidence. And the State's fine with that.

THE COURT: All right.

MS. JOSEPH: I will tell Your Honor a very brief story. I used to be a prosecutor in Georgia. And in Georgia, the State always closes. And in my very first trial, I was very adamant that I got to close last, even though I didn't. And I like -- it was just very embarrassing. The Judge was like waving me on. And I was like, no, Your Honor. I assure you, I get to go last.

Okay. And then, finally, Page 12, I assume that we'll have a charging conference.

THE COURT: Yes.

MS. JOSEPH: So --

MR. GROSE: And part of that, Your Honor, goes to the opening comments on the law. I assume that the Supreme Court has removed that from the book. We pointed it out to them that it was in the book and, suddenly, the book disappeared from the online -- on the judicial website. I assume that that correction has been made. But I --

THE COURT: It's been talked about.

MR. GROSE: I just am trying to be cautious.

THE COURT: Yes, sir.

MR. GROSE: The other thing that I have -- and I think that it was in there somewhere with regard to the child advocacy interview. Yes, on Page 2. And I know we all kind of slip up some, but our Supreme Court has said that the term forensic interview is really a misnomer and it can be misleading.

And so in the same vein as the victim, I don't want there to be, you know, any implication that it's more scientific than it has been considered to be by our Supreme Court.

THE COURT: What do you think they should call her? What do you want the State to call this person? What would you be happy with?

MR. GROSE: The interviewer from Hope Haven or Hopeful Horizons, whichever name they want to use.

MS. JOSEPH: That's fine. I mean, Shauw Chin is, literally, the CEO of that center. So, I mean, I wasn't planning on calling her an interviewer anyway.

THE COURT: Okay.

MR. GROSE: And I realize that like victim, that's a term that can creep in. And if it does, I don't want to necessarily call attention to it, unless it becomes a problem. But I just wanted to try to have that framework.

MS. JOSEPH: I think that's completely fair, Your

Honor.

And, also, just as a matter of housekeeping, attached to Mr. Grose's motion is a one-page copy of a polygraph examination. I just wanted to make the Court aware of that. Obviously, the mention of a polygraph is not really allowed in criminal court.

And it's the State's position that this was put in here just to flag it in front of the Judge and show, look, Mr. Dent passed a polygraph and gee whiz. But I just wanted to make sure Mr. Grose was aware that that's not admissible.

MR. GROSE: Well, actually, there is no per se rule on that in South Carolina. That's the Council case. However, I'm not intending to introduce it in front of the jury.

But I do -- it is included for two reasons. One reason is what's stated in the motion, that if we were to get into a scenario where Mr. Dent's recorded statement from Alabama comes in, they do talk to him about a polygraph. So we would have to determine whether or not that comes in. And if it comes in, they should be allowed to know he took and passed one.

The second thing is, I do think, you know, one of those questions in the polygraph is something that Your Honor can consider in determining whether or not the clear

and convincing standard has been met with regards to the Lyle evidence. Because, I mean, he said in that -- passed a polygraph that he did not show J.M. pornography. And, in this context, I think Your Honor can consider that.

THE COURT: All right. Anything else, Counsel? Anything else --

MS. JOSEPH: Nothing from the State.

THE COURT: -- of a preliminary nature before we get started?

MS. JOSEPH: No.

THE COURT: Mr. Grose?

MR. GROSE: No, Your Honor.

MS. JOSEPH: Oh, I apologize.

THE COURT: Yes.

MS. JOSEPH: We have re-watched the end of the forensic -- or the end of the interview --

THE COURT: And you mooted certain things?

MS. JOSEPH: I can't find where she claps and says, Thank you for telling the truth. And we're not calling those witnesses until 1:00.

So maybe after lunch, if Mr. Grose can help us track down that time stamp. I will say that Hope Haven interviews are a little bit hard to time stamp.

But thank you.

THE COURT: All right. Anything further for me to decide?

It looks like the jury is going to be back at 11:00; right?

THE BAILIFF: Yes, sir, Judge.

THE COURT: So we've got about -- almost timed it just right. We've got about a 30-minute window between now and the time the jury comes.

So let's stand down for about 30 minutes.

(WHEREUPON, a break was taken.)

(WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 were marked for identification only.)

THE COURT: Ms. Joseph.

MS. JOSEPH: Your Honor, for scheduling, it's the State's contention to call four witnesses. And then we think that would probably be a good time to stop for lunch, because our next witness are the videos. And those are quite long.

THE COURT: You -- since you're throwing that out, how many witnesses do you -- it's kind of hard now to anticipate?

MS. JOSEPH: No, no. I think it's seven.

THE COURT: Seven total?

MS. JOSEPH: Seven to nine, yes, Your Honor.

THE COURT: What about you -- you're not sure right now, Mr. Grose?

MR. GROSE: I'm not sure, but it could be several. But they'll probably -- I anticipate I'd probably need a half day, if that helps.

THE COURT: All right.

MS. JOSEPH: And, Your Honor, it's our intention to get through all of the non-Alabama witnesses today. And then tomorrow morning, we'll start off with our Alabama proffering on the record.

THE COURT: All right.

MS. JOSEPH: And then we may or may not go forward with the Alabama witnesses. And then, obviously, he would have his witnesses.

So worse case scenario, Your Honor, we'll be done at the end of the day Wednesday. But, best case scenario, we'd be done -- if just the State puts up a case, then we'll be done by lunchtime tomorrow, Your Honor.

THE COURT: So you anticipate the entire case wrapping up by the end of Wednesday?

MS. JOSEPH: Yes, Your Honor.

MR. GROSE: Depending on how we go tomorrow. I don't know how much time that leaves for argument, and charge, and deliberations.

MS. JOSEPH: That would be fair.

THE COURT: Okay. Y'all understand --

MS. JOSEPH: No weekends.

THE COURT: Let's go off the record, Madam Court Reporter.

(Pause.)

THE COURT: Is everybody here?

THE BAILIFF: No, sir. We're missing two.

MS. JOSEPH: Your Honor, we haven't talked about the rule of sequestration.

THE COURT: Okay.

MS. JOSEPH: We've told all our witnesses, don't talk about the case. The victim's mom has requested to sit in during the trial. And we feel under the Victim's Rights Act that she's allowed to.

MR. GROSE: I'm not requesting that the victims -- or that the witnesses be sequestered.

MS. JOSEPH: That's fine.

MR. GROSE: So I don't think that's an issue.

THE COURT: Okay.

MS. JOSEPH: So for a matter of record, we have -- as you've noted, the entire time, our investigator has been sitting at the table with us.

THE COURT: Yes.

MS. JOSEPH: And it doesn't sound like Mr. Grose has a problem with that.

THE COURT: Okay.

(Pause.)

THE BAILIFF: We've got 12 jurors, Judge.

THE COURT: All right. Are you ready?

MS. JOSEPH: Yes, Your Honor.

THE COURT: Okay. Bring them in.

MR. GROSE: Just since bringing in the jury and swearing them is the next thing to do, I just want to make that subject to our motion to quash the two indictments for disseminating the obscene materials. If I don't raise that again, I might waive it.

THE COURT: All right. So noted.

THE BAILIFF: Are you ready?

THE COURT: Yes. Bring the jury in.

(WHEREUPON, the jury came into open court at approximately 11:09 a.m.)

INTRODUCTORY REMARKS

THE COURT: All right. Good morning, ladies and gentlemen of the jury.

I apologize. I know yesterday, we indicated that we were going to start about 9:30, but we had some legal matters I had to address before that. And I hope all of you got a call not to show up at 9:30, and show up around 11:00. So I appreciate you doing that.

I've got a few preliminary remarks before we swear

you in and, certainly, I want to just read those to you.

I want to thank you for the service on -- this week. I know that when a lot of you received that summons in the mail about serving on the jury, you probably moaned and groaned, but I'm happy that you decided to serve. And we really appreciate your service.

And I know that you're here, in part, because you understand, respect, and recognize that the right to a jury trial is a fundamental right in this country that everyone is entitled to. And that one of our founders, John Adams, believed so strongly that not only is it in the Constitution, but it's in our Bill of Rights. And it's mentioned three times, as a matter of fact, in the Bill of Rights, the right to a jury trial.

The founders, including John Adams, as I said previously, had strong feelings about the way the English had deprived the colonies of the right to a jury trial. And, in fact, John Adams said that the right to vote and the right to a jury trial were the heart of our democracy.

So you're making it possible for these parties, for Mr. Dent, this week that he has his right to a jury trial. And we really appreciate you making that possible.

Now, you probably know you got the summons in the mail because you're either registered to vote, or you have a driver's license, or you have an identification card

from the highway department.

You might be curious as to why you were selected for this case. And the reason is because both sides in this case believe that you can be fair and impartial with the questions that I asked earlier. And that you can decide this case without any kind of bias, or prejudice, or any preconceived notion.

You've met the lawyers. I introduced them to you earlier. I'm Judge Kinlaw. I am from the Thirteenth Judicial Circuit. That encompasses Greenville and Pickens County. And I will be spending some time with you this week in Beaufort County.

There are other people in the courtroom who are essential to make this progress work. This young lady immediately in front of me is the court reporter. And she will be taking down everything that's being said, not only by me, but any witnesses, lawyers. And that's a very critical job. So she has a very difficult job this week.

Next to her is the young lady from the clerk's office. And she will be here all this week as well.

And you've met the fine bailiffs that have been helping you out. And they will continue to help you out and accommodate you with any needs that you may have. So feel free to ask them if you have any questions about anything.

Now, I'm going to ask the clerk now to swear you in.

THE CLERK: Okay. If you would raise your right hand for me.

THE COURT: Would you stand for me?

(WHEREUPON, the jury was sworn at approximately 11:19 a.m.)

THE CLERK: Thank you.

THE COURT: Now, a few other things I'm going to say to you before we begin.

Any time we have a trial in circuit court, there are two judges. There's the judge of the law, which is me, which is the role I fulfill. And then there's the judge of the facts, which is your role.

Let me tell you a little bit about my job as the judge of the law, because it's much easier than yours. The first thing I do, as the judge of the law, is I rule on the admissibility of evidence. I know very little about this case. And that's just the way our system was designed. I know no more about the case than you currently do.

But I anticipate that we'll have witnesses who will come in, be sworn, and tell you and me about the case. So I want you to listen very attentively to the witnesses that take the witness box. I will from time to time instruct the witness to speak up, because it's very

important that that juror on the second row at the end, the last juror, makes sure he hears. And if you have any difficulty hearing a potential witness, please, ma'am, and, please, sir, let me know so I can address that.

It may be that a party objects to something the witness is going to say or an exhibit that comes into court. And if there's an objection made to evidence, one of my jobs, as the judge of the law, is to rule on whether it's admissible evidence. That's my job.

So, usually, I can do that right on the spot and rule on whether the objection is sustained or overruled, in which I will do. If it's sustained, it simply means that the evidence is not proper in this particular case under the law. If I overrule the objection, that means the evidence is proper and is something that you can consider.

The second job that I have as the judge of the law is that I will tell you what the law is that applies to the facts of this case. And I'll do that at the end of the trial after you've heard all the evidence, and all the arguments from both sides, from both of the lawyers.

Now, your job is to be the judge of the facts. As I said, when it comes to what the facts are, I'm not going to comment on the facts or indicate in any way what I think your verdict should be, or what the facts are in this case. That is your job. That is not my job. Under

our Constitution and system of justice, the jury and the jury alone, you alone, determine the facts that are in the trial.

So, please, don't interpret anything I do as any suggestion as to what I think the facts are. Because I'm not allowed to comment on the facts in the case. Because I have -- I don't have an opinion that I could share with you under the law. You, as the judge of the facts, must determine what the facts are in this matter.

And part of the reason we need a jury is because there's some dispute about what those facts are. That's why we're here. Because there's a dispute on both sides as to what the facts are.

So how do you decide what the facts are? You do that by weighing and evaluating the evidence you're going to hear during the course of this trial.

Evidence consists of two sources. The first is the sworn witnesses' testimony, and the second is by way of exhibits. You have two sources of evidence, sworn witnesses testimony and evidence presented to you by way of exhibits. Pay particular attention to both of those.

An exhibit is simply a physical, tangible object. It might be a map. It might be a photograph, or something of that nature. But you'll know it's an exhibit and, therefore, evidence you can use to determine the facts

because it will be back in the jury room.

In other words, anything that's presented as an exhibit, you will have the opportunity during your deliberations to review that exhibit as often as you would like to. And it will have a sticker on it. And you will hear during the course of the trial that it's either going to be labeled Exhibit No. 1, 2, 3 and you'll hear that, or it will be a State's Exhibit or Defense Exhibit. And that way, you'll know it's an exhibit when you get it back in your jury room.

So as you go through the trial, remember, those are the only two things you can use to determine what the facts are, sworn witness testimony and exhibits, unless I instruct you otherwise.

Now, as the judge of the facts, you will have to, by necessity, determine the credibility of all of the evidence. So that means for every witness who steps into the witness box and every exhibit that is admitted into evidence, you will have to gauge the level of believability. That's within your purview, within your job as the judge of the facts. That's what you'll have to do.

Now, you can do that in the case of a witness who testifies by using certain guidelines that you may or may not find useful. You may consider the witness -- whether

the witness had the opportunity to observe the things they're here to tell you about. You, also, may consider whether the witness has some interest in the outcome of the case. You can consider that. And you can, also, consider whether there's any bias or prejudice toward someone or some issue in the case.

You, also, may consider how the witnesses testimony stacks up to the other evidence in the case. You may consider the demeanor of the witness who testifies. But you, certainly, may use whatever you use in your day-to-day life, which is important, your day-to-day life to determine when someone is believable. That's within your purview.

You can then use your common sense. And we've all got common sense. You can use your common sense because it did not suddenly evaporate when you walked into the courthouse. When you walked in that door, your common sense was with you, just like your purse or anything else that you have in your possession.

So, now, some evidence can be used for limited purposes. But I'll tell you more about that later. But simply because something comes into evidence for one purpose doesn't mean that you can use it for other purposes. So bear that in mind as well. Let me read that again. Simply because something comes into evidence for

one purpose doesn't mean you can use it for another purpose. So bear that in mind.

Remember, too, that this is an important trial for both sides. It's important to the Defendant and it's important to the State. So keep that in mind as well.

And let me tell you how important your job is as the judge of the facts. You may see from time to time, or read in the paper, or see it on the news where a case is reversed on appeal. And we all know that happens from time to time.

But when that happens, that means the Judge made a mistake about the law. That's me, the Judge. Almost invariably, when a case is reversed, it means the Judge made some mistake of law. If I make a mistake, I can easily be corrected on appeal. But if you, the jury, make a mistake about what the facts are, it can almost never be corrected. So bear that in mind. And I know you'll do your job conscientiously.

And I know it's hard to sit there for long periods of time and listen to testimony and other aspects of the case. I understand that. But you've got to be attentive to everything that's presented. And, sometimes, you know, when we sit for long periods of time, we let our minds wander and we start thinking about what we're going to do next week or what we did last week. Please, ma'am, and,

please, sir, do not do that. Both sides deserve you being attentive through the entire thing. I think that's what we're asking you to do.

We'll take breaks, frequent breaks. And, hopefully, we'll keep everyone fresh. We've got these fine bailiffs. If you need any breaks that I don't schedule, all you've got to do is let them know, and they'll let me know. And then we'll accommodate you accordingly.

Now, this is a criminal case. As I told you earlier, there are certain principles that are fundamental in a criminal trial that you need to know about. The first is that the mere fact that, in this instance, Mr. Dent was indicted isn't evidence of anything. And I said that earlier, too.

These indictments are not witnesses. They are not exhibits. The indictment is simply the formal way the case begins. These are the tickets, so to speak, that allows the State to come in here in this courtroom and present a case against a citizen which let's a citizen know what he's charged with. Anyone charged with a crime under our system of justice is presumed innocent of that crime.

In addition to that, in this instance, the Defendant doesn't have to prove he's innocent or prove he is not guilty. Instead, the burden is solely on the shoulders of

the State to do that.

And part of your job, in addition to being the judge of the facts, is to determine whether the State has met its burden of proof. That's your job. And that burden of proof is beyond a reasonable doubt.

The only way the Defendant can be convicted is if that presumption of innocence is removed by you, the jury. That's within your purview. And you, the jury, unanimously find that the State has proven each and every element of the crime beyond a reasonable doubt.

You will have to separately weigh the evidence as to -- and in this instance, there is more than one charge. You'll have to separately weigh the evidence as to each charge. That will be your charge to do that as well.

Some of you -- let me ask, how many of you have served on a criminal case before as a juror?

(WHEREUPON, three jurors raised their hand.)

THE COURT: Well, some of you may know, also, from your own experience, if you have been a juror in a criminal case, a little bit more about the structure of a criminal trial. But let me just refresh your memory in order to further tell you about the surroundings.

In just a moment, you're going to hear the opening statements from the Prosecution. The Prosecution has two attorneys that are seated at counsel table. And I've

introduced you already to them. And, of course, the -- after the Prosecution presents what they define as a roadmap of what they're trying to prove, then the Defense will have an opportunity to give an opening statement as well.

And after you hear the opening statements, we'll get into the evidence portion of the case where the State will present their witnesses and evidence to establish their burden of proof that they have. And then you will hear from the Defense, if they choose to go forward.

After you've heard all the evidence, the Defense will have the opportunity, but, again, not the obligation, to present any evidence they wish to that -- so the State may then confront it. Then after you've heard all the evidence, we will have closing arguments of the attorneys in which they will tell you what are their respective positions in the case. And then I'll give you instructions on the law at that particular time.

Now, until you reach that point, ladies and gentlemen of the jury -- this is important -- when you are collectively deliberating as a jury, do not talk about this case to anyone. You cannot talk about the case until you get to that stage. You can't even talk about the case amongst each other until you get to that stage. And that's critical. I say that and I underline it because

that's very, very important. Both sides expect you to do that. We spent a good bit of time yesterday trying to pick a jury that would be open minded and fair. And we want to keep it that way.

Now, it would be easy for me to stop right there and say, just don't talk about the case or discuss it with anyone. But let me tell you why it's important. You may hear this morning or this afternoon from a witness that testifies. And you can't go out and talk about that.

So these cases are often like jigsaw puzzles. And you, certainly, wouldn't start working on a puzzle if you don't have all the pieces of the puzzle. And that's how you need to treat this case.

So, ladies and gentlemen, the lawyers in the case, I've met them, again, in Beaufort. I have nothing but respect for these lawyers who are going to appear before you. And you and I are not advocates in the case. That's what they do. We don't have an interest in the outcome of the case. And your job is simply this, to be fair and impartial and determine the facts fairly and impartially, and determine if the State has met its burden of proof.

All right. Is the State ready to proceed?

MS. LUTTRELL: Yes, Your Honor.

THE COURT: Yes, ma'am.

OPENING STATEMENTS

MS. LUTTRELL: May it please the Court.

Counsel.

Members of the jury, good morning. If you remember from jury selection, my name is Rebecca Luttrell. And, along with my Co-Counsel, Alex Joseph, we represent the State of South Carolina in this case.

The Defendant, Charles Dent, is charged with two counts of criminal sexual conduct with a minor in the first degree, and two counts of disseminating obscene material to a minor under 12 years of age.

Back in June of 2014, just about four years ago, J.M. , the Defendant's granddaughter, disclosed that he had been sexually abusing her for about a year, from the time that she was eight through her ninth birthday.

Now, you will hear from several witnesses today on the witness stand, including J.M. . She is now 13 years old. And she is going to testify today, along with her mother, Lori Mayo, and a man named John Camelo.

John Camelo was Lori's boyfriend at the time that J.M. made this disclosure about sexual abuse. John Camelo was, actually, the first person that J.M. told about the sexual abuse.

That summer of 2014, John and Lori started dating.

He met Lori and her two children, J.M. and A.M., at the pool where they lived. He was a pool monitor and security guard. He formed a relationship with Lori. He got to know the children.

And he is going to tell you today that in the beginning of that relationship, he started noticing some red flags from J.M.'s behavior. Based on his own personal experience and knowledge of child sexual --

MR. GROSE: Objection. Improper bolstering. Move to strike.

THE COURT: Overruled.

MS. LUTTRELL: Based on his own personal knowledge of child sexual abuse, he noticed that J.M.'s behavior was outside the realm of a typical nine-year-old girl. He is going to tell you today about some of that behavior, about her being over friendly with him, wanting to sit on his lap, kiss him on the cheek, constantly wanting to touch him, someone she had known for about a month or two.

And about a couple of months into the relationship, J.M. came to him and she told him what her grandfather had been doing to her for the past year. She told him that her grandfather had been sexually abusing her and making her feel uncomfortable for the past year. John immediately went and told Lori, J.M.'s mom. And Lori immediately went and told law enforcement.

Now, you will hear from J.M. today. Like I said, she's 13 years old. It's been about four years since this happened. Her memory today might not be what we all want it to be. She was eight and nine when this abuse occurred. But she will testify today. And you will, also, hear and see what J.M. looked like and what she said back when she was nine years old.

You're going to see two videos in this case that were recorded in July of 2014, after she made these disclosures about sexual abuse. These videos were recorded at Hopeful Horizons, which was formerly known as Hope Haven. And in those videos, she tells the counselor and interviewer what had been happening to her for the past year.

In those interviews, you will hear that she told John Camelo, someone she had only known for a month or two, because he made her feel safe. And she thought he could protect her, because he previously worked as a private investigator. So, to her, this was a law enforcement figure that she could go to and tell in a safe environment what had been happening to her. And she thought that he would help her. During those forensic interviews, she tells the counselor about the things her grandfather had been doing to her the past year.

And the evidence will show that this case is about something we call grooming. Grooming is when a sexual

predator tries to build trust and get close to a child and their parents so that they can get access to that child.

You will hear from an expert today, Tessa Trask. She is an expert in characteristics and behaviors of child sexual abuse victims. And she will talk to you about the grooming process and what that involves. She's going to tell you that it starts by building that trust. Sometimes, you see that with the abuser providing gifts to the child, giving money, making that child feel very -- very adored with objects.

The second step is normalizing sexual behavior with the child. Some of the examples would be touching in an escalating pattern. Some of those things would be showing them pictures of other naked people, pornography. And some of that would, also, be taking photos of the actual child victim and making them feel like this is normal behavior. You will see that grooming process in the evidence in this case.

You'll hear in the forensic -- or in the interviews that J.M. conducted with the counselor at Hopeful Horizons that the Defendant, initially, would give her lots of gifts. He would give her more gifts than he gave to A.M., her brother, or to Lori, her mom. He spoiled her. He bought her things. He gave her pretty jewelry. He gave her expensive gift cards. He was constantly

trying to buy her things. You will, also, see the escalation in his touching, normalizing the sexual behavior.

The first incident that J.M. talks about is being home with her grandfather and he was touching her on her chest area, rubbing her legs, making her feel a little uncomfortable, but just touching her on her body. And as it progressed -- and throughout the interview, you'll hear that, eventually, it became more than that.

He started taking photos of her. He took naked photos of her. He started touching her underneath her clothes. And, eventually, it escalated to the point where he forced her to give oral sex to him on numerous occasions.

Now, the State has the burden of proof in this case. We have to prove this case to you beyond a reasonable doubt. The Defendant does not have to prove anything. And he does not have to put up any witnesses in this case.

But what the Defense attorney may argue is that this case is about money and threats. And, to be totally honest, he's not wrong. Money and threats do play a big part in this case.

You will hear evidence from Lori. She'll testify today that the Defendant worked his way into their lives. And she became somewhat financially dependent on him.

You'll hear from Lori that the reason they moved to this area, to Bluffton, South Carolina, is because the Defendant suggested they move here. He told her that he would help pay for their house. He would help pay their rent. He would pay their cable bill. He even paid for a cell phone bill for her and the kids to use. And this escalated over time as well.

He, initially, started out just helping pay rent, and then started paying more and more of the bills. And, at one point, he even offered to pay for a new car for Lori. And while he was paying for all of these things and making them financially dependent on him, he was coming to visit for a week at a time once a month, every two months, and committing the sexual abuse on J.M. .

And while he was committing the sexual abuse, he told J.M. , if you tell anyone, I will stop paying the bills. If you tell your mom, you guys will not have a place to live. And so J.M. didn't tell anyone. She kept it a secret because she didn't want to be the reason that her family didn't have a place to live. And she was scared.

But we're not here today because Lori was mad her dad stopped paying the bills. Because that, actually, is exactly what happened when J.M. decided to come forward and tell John. That's exactly what happened when John told Lori, and Lori reported this to law enforcement.

They were evicted from their townhome and had to move to a motel.

Lori didn't report this to law enforcement to get back at her dad. It was, actually, very -- it was a terrible financial decision for her to do that. But she reported this because it was in her daughter's best interest and because she believed her daughter.

And, at the end of the trial and after listening to all of the evidence in this case, you will believe her, too.

Thank you.

THE COURT: Mr. Grose.

MR. GROSE: May it please the Court.

THE COURT: Yes, sir.

MR. GROSE: Good morning, ladies and gentlemen.

I introduced myself to you yesterday. My name is Charles Grose. And it's my pleasure to represent Charles Dent in this courtroom here this week.

As Judge Kinlaw told you, the jury trial right is an important part of our democracy. It is so important that it was mentioned multiple times in the Constitution. And part of that right is the presumption of innocence, that every person who's accused of committing a crime, whether it's by the State of South Carolina, by a citizen, by a family member, whoever that accuser is, when that case

comes to court, everybody is presumed innocent. And in criminal cases, we have the highest level, the highest demands as far as what the burden of proof is placed on the State in order to prove their case.

Some of you, I think, might have said you had sat on juries before. If it was a jury in a civil case, you probably heard about the preponderance of the evidence, who ran a red light. Somebody was -- more likely than not had the right of way and the other person was at fault. The burden of proof in a criminal case is so much higher than that. It's the highest that we have.

The State in their opening talked about a series of facts that they think they're going to try to prove. What I think is important is to know exactly what's in the indictments, what's in the charging documents that the State has to come in here and prove to you beyond a reasonable doubt.

There's two indictments for criminal sexual conduct with a minor in the first degree. And there's two indictments for disseminating obscene material to a person under 12.

The criminal sexual conduct indictments are divided by time, more or less, from when they lived in one apartment and moved into another apartment. So what the State is saying that they're going to prove is that

Mr. Dent, Charles Dent, made J.M. perform oral sex on her [sic] on more than one occasion and in those two different locations.

With regards to the dissemination charges, one is that the State has said that they're going to prove beyond a reasonable doubt that Charles took multiple pictures of his penis and showed them to J.M. . You're not going to see any pictures of Charles Dent's penis. None of that evidence was ever found. They're, also, alleging that he showed J.M. pornography.

Now, as far as what we believe that you need to look for in this case is you need to look for evidence of a motive to make false allegations. The Prosecutor has already eluded to it in their opening statement. And this is one point that we have a vastly different view of the facts, and the evidence, and what the testimony is going to be.

Charles is the mother of -- I mean, the father of Lori. Lori is the mother of J.M. . Lori was living in Jacksonville, Florida. J.M. was living there. And after Charles' ex-wife and Lori's mother passed away and after another family member passed away, the suggestion was made that Lori move J.M. and her brother, A.M. , to South Carolina.

One of the reasons that South Carolina was picked is

because Charles' brother has -- at the time owned, you know, property in Hilton Head. And Lori wanted to stay on the coast.

When Lori moved to South Carolina, the arrangement was that Charles was going to pay the rent, and pay some of the other bills, and do that for the first year. Lori was supposed to get a job and become -- move to a point where she could take on gradually the bills and be on her own financial footing. That did not happen.

There were arguments about money long before any of these allegations ever came up. One of the significant things that happened was when John Camelo entered the picture.

They've already told you that John Camelo was only in the picture for a very short period of time, that Lori met him at the pool. John was somebody who lifeguard or did work to maintain the pool. And in this very short period of time, Lori moved John Camelo into the apartment that Charles was still paying for.

You're, also, going to hear that in this very short period of time, John Camelo had taken on such -- I don't know if important is the right word, or central is the right word, or role in this family's life where even though he is not the biological father of A.M. and J.M. that they were addressing -- they, the children, J.M.

and her brother, A.M. , were addressing John Camelo as dad. That's a little odd. You're going to hear that. I'm -- I suspect you're going to hear it in the testimony today.

But the Solicitor, also, talked about some videotapes that they're going to show of some interviews that were done in July of 2014. You're going to hear J.M. refer to John Camelo as "my dad." He's not. And as they've already acknowledged, he was only in their life for that very short period of time.

Charles, as you might imagine, had issues with Lori moving a boyfriend into the house where he was still paying the rent for. Charles continued to pay the rent through the end of the lease. And then they moved out. And they had to live in a hotel for a while. And you'll hear that the relationship didn't last that much longer. And Lori, eventually, moved the children to North Carolina.

So while they're going to present one view of the facts, there is definitely another side of the story to that. And so it's going to be important to pay attention to the timeline, how events unfold, and what people's different accounts of the events are.

Now, let's talk about for a second the allegations. We wouldn't be here, we wouldn't have gotten this far if allegations hadn't been made. And I don't know what

J.M. is going to come in and say here today. They've suggested to you that her memory might not be very good anymore. I don't know. But she's going to come in here and she's going to make some type of allegations. And when you watch these two videotapes, you're going to hear her make allegations.

But what I think you, also, need to pay attention to is you need to be critical in how you view these tapes. And when I say "critical," I mean put them through scrutiny like you would put things through scrutiny in your ordinary daily affairs if you're being presented with something that you have to make an important decision about.

Because you're going to hear that there was opportunities -- that there was discussions about J.M. had talked with John Camelo and her mother about the interview in advance. If you listen closely in the interview, you're going to hear a couple of places where J.M. says, my mom told me to tell you something.

You're, also, going to hear some times in the interviews where J.M. says she can't remember, that she's trying to remember something, you know. This was fresh in her mind at the time. It gets back to that sequence of events. It was fresh in time -- in her mind at that time. And she was trying to remember. You're

going to have to ask the question, is she trying to remember because her mother said to say something and she was trying to remember what it was?

Now, I told you a minute ago that the two indictments for first degree criminal sexual conduct allege that Charles Dent had J.M. perform oral sex on her [sic] multiple times, and in two different locations is what they say they're going to prove.

In that first interview -- and, again, this is fresh on her mind. This is a nine-year-old child. This is not a two- or a three-year-old. This is a nine-year-old child is asked in that interview whether or not anyone had ever made her touch their body parts. And she says, No.

The Judge says -- has told you about credibility this morning and how you judge that. One of the ways that we judge things is through inconsistent statements.

Now, they're going to call an expert. And they're going to try to say that that doesn't matter. But you need to decide whether or not it does, in fact, matter in a case like this that unfolded the way this one unfolded.

Now, the first interview videotape that you saw [sic] was on July 10th of 2014. The second one was two weeks later -- actually, 15 days later, July 25th of 2014. This is where she comes back and says, Oh, I forgot to tell you some things. Remember, she was trying to remember what

her mom wanted her to tell in the first interview. And you're going to hear that there was conversations going on between that first interview and second interview involving John Camelo and involving Lori Mayo.

Also, you're going to hear that there was another situation that was going on at about the same time. And you're going to have to judge whether that situation played a role in J.M. 's decision to come forward and say more things happened to her.

So motive, the timeline, how everything unfolded. And was there opportunities to prepare J.M. for what she was supposed to say in these interviews to carry out that motive?

The State has the burden of proving this case beyond a reasonable doubt. Now, they're arguing -- or suggesting this morning that some of this might not be rational by Lori Mayo to put J.M. up to say that, that it was somehow contrary to her best interest and the children's best interest.

I imagine that when she testifies today that there's going to be some conversations about what was going on in her life and some of the decision making process. We're not saying this was a rational decision on her part. In fact, it was an irrational decision on her part.

But she set in motion a chain of events. And once

you set into motion a chain of events and you get a child to say something and repeat it, and repeat it, and repeat it, it's hard to stop that train once the momentum gets going.

That's why we have the right to a jury trial in our country. That's why we went through what was a time consuming and probably an exhausting process yesterday to pick a jury, pick 12 jurors, two alternates, and people that everybody agrees can be fair to judge this case.

And at the end of this case, you're going to conclude -- or we're confident that you're going to conclude that the State has failed to meet their burden of proof. And we're going to ask you to find Charles Dent not guilty of these charges.

THE COURT: All right. Thank you, Mr. Grose.

Can I see the lawyers just for a second? Sidebar.

(WHEREUPON, a bench conference was held.)

THE COURT: Ms. Joseph, is the State ready to proceed?

MS. JOSEPH: Yes, Your Honor.

The State calls John Camelo.

THE COURT: All right. Have him come forward.

THE BAILIFF: Come on up here.

THE CLERK: Good morning.

If you would, place your left hand on the Bible and

raise your right hand.

WHEREUPON,

JOHN CAMELO,

after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

THE BAILIFF: Right this way, sir.

THE COURT: Sir, if you would keep your voice up to make sure that person on the second row, that last person, they can hear you.

THE WITNESS: Certainly, sir.

THE COURT: Yes, ma'am.

MS. LUTTRELL: May it please the Court.

DIRECT EXAMINATION

BY MS. LUTTRELL:

Q Good morning, Mr. Camelo.

Would you, please, introduce yourself to the jury? Tell them your name.

A Good morning.

My name is John Camelo.

Q And do you live here in Beaufort?

A I do.

Q How do you know -- or do you know anyone by the name of J.M. ?

A Yes, I do.

Q And how do you know J.M. ?

A I met her through her mother, Lori Michelle.
Q When did you meet Lori?
A Approximately 2014, sometime around May of 2014, working -- I was working as a pool monitor at their community pool. And Lori and the kids would go swimming at the pool. We struck up conversations, eventually. And then we began dating for possibly four or five months. Throughout that time is when I began to know J.M. and A.M. .
Q And when you say you met them at their community, was that in Bluffton?
A That was in Hardeeville.
Q Hardeeville. In Beaufort County?
A Beaufort County, yes.
Q Now, did, at some point, you and Lori start dating?
A We did.
Q And when was that -- or how far into knowing them did you and Lori start dating?
A Again, it was approximately May -- let me retract. When I began to meet -- or to see them at the pool, it was maybe a month or two prior to May. Around May is when our -- we began dating.
Q And as your relationship progressed, you guys were dating, did you get to know J.M. a little bit more closely?

A Yes.
Q Did you ever spend time at their house?
A I did.
Q How often?
A I couldn't tell you exactly, but maybe two, three times a week, if that.
Q And at any point when you and Lori started dating, did you notice anything in particular about J.M. 's behavior?
A Yes. I observed red flags -- what I considered red flags in terms of her actions, gestures, mannerisms, things that a nine-year-old child at the time wouldn't normally be -- you don't --
Q Okay. Now, you say "red flags." Let me back up a little bit. Have you ever worked in a law enforcement capacity?
A I did. I spent four years as a police cadet and police cadet supervisor with Beaufort City. I was, also, a volunteer fire fighter for several years. I was a private investigator for 10 years. Also, a Sunday school teacher, Boy Scout leader.

And so I've had a lot of training --

MR. GROSE: Your Honor, at this time, I have a matter of law to take up.

THE COURT: All right. Take the jury out.

(WHEREUPON, the jury was excused from open court at approximately 11:58 a.m.)

THE COURT: Yes, sir.

MR. GROSE: Your Honor, I'd first like the record to reflect that when we had a sidebar about scheduling matters, I, also, brought up my concerns about them trying to portray Mr. Camelo as somebody who had special training in order to be able to detect child abuse or sexual abuse. Of course, I had objected in their opening when they suggested that. And, initially, their first question sounded like it was going to be limited to just the behavior that he witnessed that he thought was odd.

Now, he's talked about, you know, not just his employment history, but he's talked about training that he has had. And that's the point I objected. Because this seems to be clearly moving into that he has some sort of training to be able to detect child sexual abuse.

My concern is, you know, that line of cases, Kromah, Jennings, Anderson that deal with improper vouching or bolstering, they're not limited to just the forensic interviewers. There are other witnesses -- no witness is allowed to come in here and say, I believe that somebody is telling the truth, or able to come in here and say, I have an opinion that this child was sexually abused. And that's the direction that he's going in.

And I think it's done in kind of a clever way. Because they're trying to present him and tell you a little bit about the background, but doing it in a way that you would normally qualify somebody as an expert without offering him as an expert so that it has that same, you know, appeal to a jury. And -- and that's my concern.

So I would move to limit his testimony.

THE COURT: Do you want to respond?

MS. LUTTRELL: Yes, Your Honor.

All I'm doing right now is laying a foundation for him to give a lay opinion based on personal experiences. He was a private investigator for 10 years.

My next question was going to be if he had personal experience. And I can tell you --

THE COURT: Why don't we do this. Why don't we proffer a couple of questions.

Do you want to do that?

MS. LUTTRELL: I can do that, Your Honor.

THE COURT: Okay. Let's go ahead and proffer some questions.

MS. LUTTRELL: Do you want me to start over with the experience, or just go from there?

THE COURT: Just right from there.

MS. LUTTRELL: All right.

DIRECT EXAMINATION

BY MS. LUTTRELL:

Q So aside from your experience as a private investigator, Boy Scouts, Vacation Bible School, do you have any personal experience with child abuse -- child sexual abuse?

A Absolutely. I was personally sexually abused by a male for a -- during my youth between the ages of 12 and 13.

Q And in addition to that, did you yourself raise a daughter?

A I did. I raised a stepdaughter.

Q A stepdaughter. And so you were raising her from the time she was very young through a teenager?

A From the age of five till she was 17.

Q So you observed her behavior growing up as well?

A Most certainly.

MS. LUTTRELL: And from there, I was just going to ask what behaviors seemed odd to him or not typical of a nine-year-old.

THE COURT: All right. Mr. Grose, do you want to ask him any questions?

MR. GROSE: Well, she said in her argument that she was building up to ask him a lay opinion. I don't think we've heard that question yet.

CROSS-EXAMINATION

BY MR. GROSE:

Q So I'd like to know, Mr. Camelo, what is the lay opinion you plan to offer?

THE COURT: You can go ahead and answer.

THE WITNESS: My opinion is based, again, on her actions, based on her gestures, based on what I observed. You know, having been a -- personally sexually abused, I know what a child should and should not know.

MS. LUTTRELL: Your Honor, I can clarify that. I'm not going to ask him if he thought that J.M. was being sexually abused. All I'm going to -- and I can ask it right now.

REDIRECT EXAMINATION

BY MS. LUTTRELL:

Q Mr. Camelo, what were the behaviors that raised red flags to you?

A Being overly clingy with men, particularly, wanting to kiss my cheek, wanting to touch me in areas that a -- you know, where a child -- a minor should not be touching a male, particularly, the genital area.

Q And as a result of that behavior, did you ever ask J.M. about that behavior?

A Yes, I did.

Q And where were you when you asked her about that?

A At their house in the living room --
Q And --
A -- while watching television.
Q And when was that?
A When as in a specific date or --
Q No. Just the month and year you asked her.
A Sometime around -- sometime around May, again, of 2014.
Q And did she tell you -- did she say anything to you at that point? Without telling me what she said.
A Actually, no, it wasn't in May. It was a couple of months after having met her. So it may have been late June, July.

And I asked her if anyone had touched her, or if anyone had done anything inappropriate to her. And she said, Yes, my grandfather. She stated, My grandfather.

MS. LUTTRELL: That's as far as I'm going with that testimony.

THE COURT: All right. We're still in the proffer stage.

Anything else, Mr. Grose?

MR. GROSE: Well, you know, just to follow-up on that.

RECROSS-EXAMINATION

BY MR. GROSE:

Q Mr. Camelo, I believe you said that you started

dating her in May; is that right?
A Sometime around May.
Q So you met her a couple of months before May at the swimming pool? And by "her," I mean Lori.
A Correct.
Q Okay. So it would have been -- if it was a couple months after you met her when you had these conversations with J.M. , that would have been in May?
A Again, I don't know exact dates. I cannot tell you. It's been four years. I cannot tell you, specifically, how long.

MR. GROSE: That's all the questions I have.

I -- I do have my initial concern. And I, also, do have concerns about, you know, the 801(d) limitations that are placed on what he can testify to about the conversation that they had.

THE COURT: All right. First of all, as to -- I'm going to limit the question -- there will be no questions regarding whether or not he had an opinion regarding abuse. And I think you indicated there wouldn't be any questions like that.

MS. LUTTRELL: That's correct, Your Honor.

THE COURT: As far as Counsel is concerned under 801, do you want to address that?

MS. LUTTRELL: I can instruct him -- do you want me

to instruct him?

THE COURT: Yes. Go ahead and instruct him at this point.

MS. LUTTRELL: You cannot say what she told you or who she named.

THE COURT: And I think -- with those two instructions, I think I'm going to let him -- number one, no opinion testimony regarding abuse. And then, of course, you just gave him some instructions under 801.

MS. LUTTRELL: And, Your Honor, there is a second time that J.M. disclosed to this witness. I do plan to ask about that. Do you want me to proffer that now as well?

THE COURT: Yeah. For the sake of brevity, let's go ahead and do that now and see if Mr. Grose has any issue with it.

We're back in proffer stage -- still in proffer.

FURTHER EXAMINATION

BY MS. LUTTRELL:

Q Now, after J.M. made this initial disclosure to you, was there a time when she then gave you additional information involving a similar incident?

A Correct. She provided me a piece of paper -- provided to me a piece of paper on which -- it was, actually, a paper towel on which she wrote a statement.

Q And when was that?
A July.
Q So this was -- was this before or after she did an initial interview with Hopeful Horizons?
A This was after.
Q And where were you when she made that -- or when she wrote on that piece of paper?
A At the house.
Q And did J.M. tell you why she had not told the interviewer everything the first time?
A She said she was afraid.
THE WITNESS: I retract that, Your Honor.
I asked her if she would tell me what she wanted to state. And that's when she made the statement that she couldn't tell me verbally, but she could write it down. At which time, of course, she ran off afraid, embarrassed, very frightened, very -- yeah, very embarrassed to provide the statement to me. I read the statement.
BY MS. LUTTRELL:
Q And then did you tell Lori at that point as well?
A Absolutely. After I read the statement, it became even more concerning to me. At which time, I provided the paper to Lori. And I instructed her to provide that to the investigators.
Q So did J.M. come to you and say she didn't tell

the interviewer everything the first time?

A Correct.

THE COURT: Anything, Mr. Grose, by way of examination?

MR. GROSE: No, sir. Just, again, I hope they keep everything within the confines of 801(b).

THE COURT: All right. And I think the witness has been given specific instructions in that regard. So I'm pretty sure he's in tune with that.

If nothing further, we can bring the jury back.

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

THE COURT: All right. Counsel.

I failed to tell you when you exited this time -- and this is probably going to be like a broken record. Every time you exit the courtroom, I'm going to probably tell you, please, ma'am, and, please, sir, do not discuss this case with each other. And I failed to tell you that when you walked out. But just etch that in your mind. I'm going to tell you that every time that you exit.

Go ahead.

MS. LUTTRELL: Thank you, Your Honor.

CONTINUED DIRECT EXAMINATION

BY MS. LUTTRELL:

Q So, Mr. Camelo, going back to -- so we talked about

your professional experience. Do you have any personal experience with child sexual abuse?

A I most, certainly, do. I was sexually abused by a male between the ages of 12 and 13.

Q Was that someone close to your family?

A It was a friend of the family.

Q So your professional experience, your personal experience. Do you have any kids?

A I raised a stepdaughter from the age of five to the age of 17.

Q So you got to see her behavior ranging --

MR. GROSE: Objection. Leading.

THE COURT: Sustained.

BY MS. LUTTRELL:

Q So did you get to observe her behavior from the time she was a cute little five-year-old all the way up to a teenage girl?

A Yes. I, most certainly, did.

Q So going back to those red flags you talked about. What were some of the behaviors that you observed of J.M. that raised red flags for you?

A Gestures of a sexual nature that a nine-year-old -- that a minor wouldn't normally know without having been shown or taught by someone.

Q Could you describe those for the jury?

A Sure. Wanting to kiss me, particularly on the cheek often, grope my -- my groin area. She, also, liked to hug me often, more than you would expect someone, particularly that isn't her guardian or parent raising her.

Q Did she ever -- or what did she refer to you as?

A She did often call me her dad, and would tell people I was her father, her new dad.

Q Did you tell her to call you "dad"?

A No.

Q So that was something that she did?

A She volunteered.

Q Now, at some point, did you ask J.M. about her behavior, or talk to her about her behavior towards you?

A Towards me? I didn't, specifically, ask her anything. But I did ask her if anyone had ever done anything inappropriate to her.

Q And when did you do that?

A A couple of months -- approximately -- I can't tell you the specific time frame, but after having met her mom and been dating her. And this was at her house -- at their house.

Q So summer of 2014?

A Yes.

Q And what did you do -- first, what was her demeanor when she made that first disclosure to you?

A She was very shy, frightened, anxious, saddened.
Q And without telling me what she said to you, did she indicate that something had been going on?
A The information was very concerning to me, so concerning.

MR. GROSE: Objection. That's not responsive to the question and outside of your ruling on Rule 801.

THE COURT: All right. I'm going to overrule your objection.

Go ahead.

THE WITNESS: She made the disclosure -- a disclosure of information that was very concerning to me, so much so that that same day, I proceeded to inform her mother.

BY MS. LUTTRELL:
Q And do you know -- were you there -- did Lori contact law enforcement?
A Absolutely. The same day.
Q After law enforcement was contacted, do you know if J.M. went to be interviewed at Hopeful Horizons?
A Yes.
Q And after her first interview, was there a time where J.M. made a second disclosure to you?
A There was a second disclosure to me. It was written on paper. She was afraid to make any verbal statements to me. She handed the paper to me and ran off very scared,

saddened, embarrassed.

I, obviously, read the paper, which was even more concerning than the first disclosure. And when her mother was at the house, I -- I gave that paper to her and informed her that she should -- in fact, that she must present that information to the investigators.

Q And was law enforcement contacted?

A Yes.

Q So this second disclosure, that was after she had spoken with counselors; is that right?

A Correct.

Q And did J.M. come to you with this information --

A Yes.

Q -- or did you ask her? Did you approach her with a question?

A I believe it had -- if I may, there was an incident involving a male, a man much older than J.M. . This person was over the age of 18 knocking on the door asking, specifically, for J.M. . And, of course, I was concerned. Lori wasn't home. I was not going to allow this man to speak to any minor. And I told him he needed to leave.

And it was after that that I said -- I asked her if there was anything else that she needed to say, and that she shouldn't be afraid, and that nothing that had ever

happened to her would be considered her fault. And that is when she made that disclosure to me.

Q Now, let's talk a little bit about this other older male. Do you know who this man was?

A Not at the time. I had no idea who he was. Of course, I didn't know why this man would be asking for a minor, a nine-year-old girl by name, specifically.

Q Did you find out who he was?

A I found out, eventually, that he lived a few doors down from their townhouse.

Q So he was a neighbor in the community?

A Yes.

Q And did you ask J.M. , specifically, about him?

A I asked her about him, specifically.

Q And what did she say?

A She said he had not done anything inappropriate to her, or said anything inappropriate to her.

Q And was law enforcement contacted about that incident?

A Yes.

Q And are you aware if anything came of that?

A I don't know what the end result was, but I do know there was an investigation made.

Q Going back to why we're here today. After J.M. made these disclosures, you told Lori?

A Correct.
Q And law enforcement was contacted?
A Correct.
Q Did you attend -- did you go with them to Hopeful Horizons for the second interview as well?
A I believe I did.
Q Did you ever -- during your time dating Lori, did you ever meet the Defendant?
A Once for sure. One -- it was one brief encounter where she introduced him to me and vice versa. This was at the community pool. He pulled up to pick them up. And I happened to be standing there. And she introduced us.

It was a very brief encounter, hello, I'm such and such. It may have been -- it was, certainly, less than five minutes, maybe a couple of minutes. And there may have been a second encounter, but I do not remember, specifically.

Q But you never came to the house when he was staying there?
A No.
Q And he was -- the two of you never hung out together with Lori?
A Oh, no, absolutely not.
Q At some point, did your relationship with Lori end?
A Yes.

Q When was that?
A Very shortly after -- after all of this initiated, which, unfortunately, became very stressful, a very stressful, strange situation. And I just felt it was best to end the relationship.
Q Had you moved in with Lori and the kids over the summer?
A I did move in with them primarily because they had a fear of him coming around the house.
MR. GROSE: Objection. Speculation. Hearsay.
THE COURT: Sustained.
MR. GROSE: Move to strike.
THE WITNESS: I moved in -- I apologize.
THE COURT: I'm going to sustain the objection, and allow you to rephrase the question.
BY MS. LUTTRELL:
Q When you moved in, did you help pay any rent as well?
A I did pay some, yes.
Q And so after these disclosures were made, did you move out of the home?
A Yes.
Q And approximately when was that?
A I can't give you a specific timeframe, probably early fall.
Q Did you keep in contact with Lori after you moved out

of the house?
A No.
Q Did you ever help her -- or do you know if Lori and the kids had to move out of the townhouse?
A Oh, yes. Yes, they did. They had to move into a motel.
Q Did you assist them with that?
A I did assist them with that.
Q Now, after Lori and the kids moved into the hotel, did they, eventually, move out of state?
A They did.
Q And have you had any contact with Lori or J.M. since then?
A No.
Q No contact in the last four years?
A Correct.
MS. LUTTRELL: Your Honor, may I have a moment?
THE COURT: Yes.
(Pause.)
MS. LUTTRELL: No further questions at this time.
THE COURT: Cross-examination, Mr. Grose.

CROSS-EXAMINATION

BY MR. GROSE:
Q As far as the timeline is concerned, the -- I believe you said that you and Lori started dating in May of 2014;

is that right?
A Sometime around -- approximately around that time.
Q Okay. And when you started dating, you had known each other for one to two months before that; is that right?
A I can't tell you, specifically, but approximately.
Q Okay. And you were a monitor at the pool at the apartment complex that they lived in; right?
A At the community.
Q Okay. University Park?
A Correct.
Q Okay. And so that's where y'all met was at the pool. And within a couple of months, you started dating Lori; is that right?
A Correct.
Q And at what point did you start spending time in the unit where Lori lived with J.M. ?
A Sometime in June or July.
Q Okay. And at what point did you move in and start staying there?
A In -- sometime in July.
Q Okay.
A Mid-July, I would say.
Q Mid-July?
A Approximately.

Q Okay. Now, this townhouse-type unit was two floors; is that right?
A Correct.
Q And four bedrooms?
A I don't know. I don't remember, specifically. I know there was a bedroom downstairs with one, two -- yeah, two, maybe three upstairs.
Q And you were probably aware that the downstairs bedroom was where Charles stayed when he visited?
A Not initially.
Q But you were, eventually, made aware of that?
A Yes.
Q And that's the bedroom you moved into, isn't it?
A Yes.
Q And I think you testified to this already. But when J.M. first told you that she had been abused, you were the one that asked that question of her, weren't you?
A Not initially. She disclosed the information.
Q Right. But you were asking her about it?
A I -- I inquired as to what she was stating.
Q Okay. But you were the one who first brought up the subject with J.M. ?
A Clarify that.
Q Okay. Correct me if I'm wrong. But I understood your testimony that there was some behavior that you

thought was odd. And because of that, you went to J.M. and asked if anybody --

A I did. That's correct. Yes, I did ask her if anyone had done anything inappropriate.

Q So then you would agree that you were the one who initiated those conversations; is that right?

A Sure.

Q Okay. And at that point, had you moved in to the townhouse?

A No, I was visiting.

Q Okay. Now, you were asked some questions about the behaviors. And some of the things that you listed were kissing you often, and hugging you with you not being the child's guardian; is that right?

A Correct.

Q Okay. Now, pretty early on, though, Lori was referring to you as "dad"; right?

A No.

Q Okay. When did she start referring to you as "dad"?

A Who is "she"?

Q Lori -- not Lori, I mean, J.M. . My apologies.

A I can't give you a specific time frame.

Q Okay. Did A.M. ever refer to you as dad?

A No.

Q Okay. Did Lori, to your knowledge, ever tell the children that you could be their new dad?
A I do not remember that.
Q Okay. Do you remember meeting with Ms. Luttrell and April Winston?
A Ms. Luttrell?
Q The lady who was just asking you questions?
A Oh, oh.
Q Do you remember that?
A I remember meeting them, perhaps, a couple of months ago.
Q Yeah. And do you remember telling them that Lori told the kids that Camelo could "be their new dad"?
A I do not remember.
Q Do you remember J.M. introducing people -- introducing you to people as her new dad?
A Yes.
Q And this was something that -- calling you dad was something that, also, bothered you, wasn't it?
A Why?
Q No. It was something that bothered you?
A Not necessarily bothered me. But it made me question why she would want to call me dad that soon into a relationship with her mother.
Q Right. And you said that -- earlier, you talked

about you and Lori breaking up; isn't that right?
A Correct.
Q And you attributed it to the stress of this; is that right?
A On my part.
Q Okay. You had, also, learned some information about Lori's background, hadn't you?
A What information are you, specifically, asking me about?
Q That she had been a stripper in Florida and had smoked marijuana --
MS. LUTTRELL: Objection, Your Honor. Relevance.
THE COURT: Sustained.
MR. GROSE: Your Honor, this is in response to the testimony before. I'd like to take up a matter of law.
THE COURT: All right. Take the jury out.
Please do not discuss the case with each other. Don't do any research while you're out.
(WHEREUPON, the jury was excused from open court at approximately 12:29 p.m.)
THE COURT: Mr. Grose.
MR. GROSE: Your Honor, the question that was asked on direct was the reason for the breakup of the relationship. And they were allowed to paint a particular picture to the jury.

I was provided by e-mail a summary of an interview that the prosecution's office did with Mr. Camelo preparing for trial. And in at that interview, it says, After he started dating Lori, he learned that she used to be a stripper in Florida and she smoked marijuana. He decided this was not a relationship he wanted to continue. And then it goes into, he, eventually, you know, moved into the house.

And so I don't think that -- the suggestion that was made on direct was that Mr. Dent and the allegations were responsible for the breakup. But that's contrary to what he told the Prosecutors.

Also, he had told them -- according to their summary, he had told them that Lori had told the kids that Camelo could be their new dad.

THE COURT: What's the matter of law?

MR. GROSE: Huh?

THE COURT: What's the matter of law?

MR. GROSE: The matter of law is the Sixth Amendment allows me to ask him questions about his testimony. Excluding the other information that he knows that's relevant to the issue of the breakup denies us of a right to confront him.

THE COURT: Relevancy?

MR. GROSE: Well, it's -- they've already -- this is

to rebut the suggestion that they made that the allegations by J.M. against Charles Dent was the reason that the relationship broke up. And this is contrary to that.

THE COURT: I thought the witness said it was stress.

MR. GROSE: Yeah. He said it was stress related.

THE COURT: He didn't, specifically, indicate it had anything to do with -- to do with this.

MR. GROSE: Oh, yeah, he did on direct. And then he repeated that on cross.

THE COURT: Do you want to respond to that, Ms. Luttrell?

MS. LUTTRELL: Your Honor, my first response is this is not relevant, why the two of them broke up. It is not relevant to the charge that we're here today on. And it in no way affects his credibility as a witness.

And in addition, I believe on direct, he said that the stress after this is the reason they broke up.

I will, also, say looking at my notes from my interview with him, the witnesses testimony is not different than what he told me. He did say that after the disclosures and the behavior of J.M. , it made him uncomfortable and he started distancing himself. And there was stress that made him want to end the relationship.

THE COURT: Well, let's do this. I disagree with Mr. Grose that there's any depravation of any Sixth Amendment privilege. And I don't think it's relevant.

But I will allow him if this witness wants to tell -- to say that was part of why he broke up. I don't see where it's relevant. But I don't have an issue with him asking the question. If he responds to it, fine. I think if there's any relevancy at all, it's a scintilla. And I don't see anything beyond that.

MS. LUTTRELL: Well, and, Your Honor, our objection for relevance -- also, he's trying to get -- he's trying to tarnish Lori Mayo's credibility as a witness and a mother through this witness by asking about her past. And he can ask him why did they breakup. But if this --

MR. GROSE: Well --

MS. LUTTRELL: He can't lead the --

THE COURT: Lori is not going to be a witness; right?

MS. LUTTRELL: She is going to be a witness, Your Honor.

THE COURT: Well, you can ask her that question.

MR. GROSE: Well, my problem is, Judge, if he denies that, then I'm entitled to present extrinsic evidence that he made that statement. But before I can do that, I have to give him a chance to admit, or deny, or explain the statement. He's denied the statement that Lori said --

THE COURT: All right. Proffer the question to him and let's see what he says.

MR. GROSE: Okay.

CROSS-EXAMINATION

BY MR. GROSE:

Q Was one of the reasons that the relationship broke up because you learned that Lori used to be a stripper in Florida and that she smoked marijuana?

A I -- it wasn't a reason for me separating myself from her.

Q Did you tell Ms. Luttrell and Ms. Winston that after you started dating Lori, you learned that she used to be a stripper in Florida and she smoked marijuana, and you decided this was a relationship -- was not a relationship that you wanted to continue? Did you make those statements --

A It's not a relationship I would want to have with anyone.

Q And part of that was her background as a stripper and the fact that she smoked marijuana?

A Perhaps.

MR. GROSE: That's --

THE COURT: What about it, Ms. Luttrell?

MS. LUTTRELL: Your Honor, I still don't think it's relevant to the case at hand, to the charges, or as to his

credibility as to why they broke up.

I, also, think it's improper for him to ask this witness questions that would -- he's really doing it just to tarnish the credibility of another witness who will be testifying and he can cross-examine her on.

THE COURT: I think Mr. Grose has in his hand a statement that was taken.

MS. LUTTRELL: And we're looking for the summary that we sent him. I have the written notes.

THE COURT: He's reading from something that he says y'all participated in.

MS. LUTTRELL: I have the notes, the actual notes. It was not a transcript. It was just a trial preparation meeting. I'm looking at the actual notes --

THE COURT: How did you get it?

MS. LUTTRELL: We sent him a summary.

MR. GROSE: This is an e-mail from Ms. Joseph addressed to me. Ms. Luttrell and Ms. Winston are copied. It says, Good afternoon. Here are the notes from Rebecca's CC'd here and April's meeting with John Camelo. This was who the victim first disclosed to.

I don't have handwritten notes, but I was represented these were the notes.

MS. LUTTRELL: And --

MR. GROSE: I mean, she's welcome to look at it.

MS. LUTTRELL: And, Your Honor --

THE COURT: Yes.

MS. LUTTRELL: -- I'm looking at the notes. It does not say he broke up with her because of that information. That is in the middle of this -- the trial prep notes with him.

It says that after he started dating Lori, he learned that she used to be a stripper in Florida and she smoked marijuana. He decided this was not a relationship he wanted to continue.

He, eventually, moved into the house, but said it was purely as a renter. And he told Lori he was moving in to help her pay bills and rent a room. He does not talk about breaking up with her at that point. That comes later in our interview with him.

MR. GROSE: The -- that is a quote. That is exactly what I asked him about. And that implies that the background as a stripper and the marijuana was part of the relationship that he didn't want -- reason why he didn't want to continue the relationship. And he just agreed to that.

You know, I want to get that in. And then I want to move on to some of the other things in the timeline that are important.

THE COURT: All right. We're at a proffer right now,

but let me just say this. You know, sometimes -- the bell has already been rung one time. When I say the bell has been rung, I mean he asked that question and the jury is sitting right there. And then he says he's got a legal question, a legal issue.

So, I mean, the jury has heard the first question was she a stripper. The jury has heard it. So --

MS. LUTTRELL: Well, Your Honor, if you sustain our objection, we would ask that -- we were going to ask that you strike it from the record similarly to what he did when I asked a question --

THE COURT: I understand that.

MS. LUTTRELL: -- that he did not like.

THE COURT: I strongly believe, as I said earlier, I challenge the relevancy of it. I don't think it's relevant. I still don't think it's relevant, even after I've heard the proffer. And even though I said a minute ago --

After having heard the proffer and hearing argument, Mr. Grose, I just don't see where it's relevant. And I'm going to move this along. I'm going to sustain the objection as to relevancy and strike that last question you asked regarding that.

Anything further?

And I'll note your objection for the record.

MR. GROSE: And I'll -- either later today or tomorrow, I'll get a clean copy. Because I made some notes. So I can put this e-mail into the record --

THE COURT: All right.

MR. GROSE: -- as a proffer.

THE COURT: All right.

MR. GROSE: Again, though, I mean, if they ask about stuff, I feel like I'm entitled to go into it.

MS. JOSEPH: And, Your Honor, it's 12:40, so the State -- this will be our only witness before we break for lunch, if you're okay with that.

THE COURT: All right. The Court has ruled on that issue.

Do you want to bring the jury back?

THE BAILIFF: Yes, Your Honor.

(WHEREUPON, the jury came into open court at approximately 12:41 p.m.)

THE COURT: All right. Mr. Grose.

MR. GROSE: Thank you, Your Honor.

May it please the Court.

CONTINUED CROSS-EXAMINATION

BY MR. GROSE:

Q I want to go back, Mr. Camelo. I want to go back to when you moved into the townhouse. Okay. One of the reasons that you moved in is you were going to pay bills;

is that correct?
A Not pay bills. I would assist her with paying rent.
Q Okay. You were going to assist her with paying rent. Are -- do you know what time frame the lease ran on for that apartment -- or that townhouse?
A No.
Q Okay. So you don't know when the lease was up, do you?
A No.
Q Do you -- I believe earlier you said you moved out sometime in the fall; is that right?
A Approximately, yes.
Q Okay. Could it have been at the end of August of 2014?
A It may have been. Again, it's been four years. I can't tell you, specifically.
Q Could it have been when the lease was up and not renewed?
A Possibly.
Q Okay. Do you -- were you aware that Mr. Dent was paying the lease on that townhouse?
A After the fact.
Q Okay. So if you didn't find out about it until after the fact, you don't know when he quit paying the lease on the townhouse, do you?

A No.
Q Okay. Now, after this was reported to police, I think you talked about that you were aware that there -- that J.M. went to Hopeful Horizons for an interview?
A Correct.
Q Okay. And, of course, you weren't in the room during that interview?
A No.
Q Okay. And I think you said that you were, also, aware that she went back for a second interview; is that correct?
A Correct.
Q And that was roughly two weeks later?
A I can't give you a specific time.
Q Okay. Between the first two interviews -- between the first interview and the second interview is when you had this second conversation with J.M. ; is that right?
A Yes.
Q And if I told you that that was on July 18th of 2014, would that sound right?
A Yes. Approximately -- I'm assuming so, yes.
Q If you want, I can show you a copy of your statement and see --
A Sure.
Q -- if that will refresh your memory.

A Sure.
Thank you.
July 21st, 2014.
Q Well, that was the --
A Oh, okay.
Q That's the date that you signed the statement, but the February -- I mean -- sorry --
A Friday, July 18th, 2014.
Q Okay. And I think you testified earlier that that was the same day that this other person had come to the house; is that right?
A Yes.
Q And do you remember that person's name being Maurice?
A No.
Q You, eventually, found out it was somebody that lived in the neighborhood; is that right?
A Yes.
Q And, actually, this person came to the house on more than one occasion, didn't he?
A All in the same day.
Q Right. He came like three times that day, didn't he?
A Yes.
Q And one of the times, he came into the house without asking for permission, didn't he?
A He helped -- he opened the door and walked in.

Q Without permission?
A Correct.
Q And when that happened, you told him he should leave; is that right?
A Yes.
Q And he came back again; right?
A Yes.
Q And sat down on the porch?
A He was found -- I observed him sitting on the back porch on a lawn chair.
Q Okay. And you understood the purpose that he was there for was he was wanting to see J.M. ?
A Yes.
Q Okay. And, of course, that was something that you talked to J.M. about; is that right?
A Yes.
Q And as I understand it, you were concerned about what this person's intentions might be?
A Yes.
Q And he was much older than J.M. ?
A Yes.
Q And, eventually, you -- you called the police; is that right?
A Yes.
Q Okay. And so it was -- and you talked with J.M.

about this person who was a stranger to you coming to the house; right?

A Yes.

Q And it was after you talked to J.M. about that is when this second conversation happened regarding her being sexually abused?

A By whom?

Q Well, the -- what you testified to earlier that -- about what she had gone to be interviewed for?

A Yes.

MR. GROSE: Okay. I beg the Court's indulgence for a minute.

THE COURT: Yes, sir.

(Pause.)

MR. GROSE: That's all I have.

Thank you, Your Honor.

THE COURT: Anything on redirect?

MS. LUTTRELL: Very briefly, Your Honor.

THE COURT: Okay.

REDIRECT EXAMINATION

BY MS. LUTTRELL:

Q Mr. Camelo, this neighbor coming by the house asking for J.M. , that occurred after J.M. made the disclosure; is that right?

A Yes.

Q And you asked her, specifically, about this man, Maurice?
A Yes.
MR. GROSE: Objection to any hearsay, Your Honor.
THE COURT: Sustained.
MS. LUTTRELL: Your Honor, may I have a moment?
THE COURT: Yes.
(Pause.)
MS. LUTTRELL: Your Honor, may we approach?
THE COURT: Yeah.
(WHEREUPON, a bench conference was held.)
THE COURT: Ms. Luttrell.
MS. LUTTRELL: Thank you, Your Honor.
BY MS. LUTTRELL:
Q Mr. Camelo, after Maurice came by and knocked on the door and you talked to J.M. about that, did she indicate to you that Maurice had done anything with her or to her?
MR. GROSE: Same objection.
THE COURT: Your objection is noted.
THE WITNESS: No.
MS. LUTTRELL: Thank you, Your Honor.
No further questions.
THE COURT: Anything on recross, Mr. Grose?
MR. GROSE: No, sir.

THE COURT: All right, sir. You can step down.

THE WITNESS: Thank you.

THE COURT: Are y'all finished with this witness?

MS. JOSEPH: We're finished with this witness, Your Honor.

And we think this is a good time to stop for lunch. It's 12:51.

THE COURT: We're going to stop for lunch. And we're going to reconvene about 2:15. I don't want you to woof your food down. I want you to enjoy it a little bit. We're going to resume at 2:15.

Here again, my admonitions about talking about the case, researching the case, don't do anything at all but eat your lunch. We'll see you at 2:15.

Have a good lunch.

(WHEREUPON, the jury was excused from open court at approximately 12:52 p.m.)

THE COURT: We'll be in recess until 2:15.

(WHEREUPON, a lunch break was taken.)

THE BAILIFF: Are you ready for the jury?

THE COURT: Yes, sir.

MR. GROSE: Actually, Judge, can we take up something before --

THE COURT: Hold on.

MR. GROSE: I had indicated before the break that I

wanted to mark the two-page e-mail as part of the proffer regarding Mr. Camelo's testimony. I'd like to do that at this time.

THE COURT: All right. Any objection?

MS. LUTTRELL: No objection.

THE COURT: State's No. 6?

MR. GROSE: Either Court's next number in order or Defense Exhibit No. 1. It doesn't matter to me.

THE COURT: Let's make it Defendant's Exhibit No. 1.

MR. GROSE: Fair enough.

Also --

THE COURT REPORTER: Did you say Defendant's?

MS. LUTTRELL: I just want to make sure that if it's labeled as Defendant's Exhibit No. 1, it doesn't go back to the jury.

MR. GROSE: It's not in evidence. It's just a proffer.

MS. LUTTRELL: Okay.

MS. JOSEPH: Why don't we call it a Court's Exhibit?

THE COURT: Okay. Court's Exhibit.

MS. LUTTRELL: So it will not be admitted and going back to the jury.

MS. JOSEPH: For example, like the first forensic interviews and Ms. Shauw Chin's resume, all that was Court's Exhibits for the record. And this would be just a

Court's Exhibit.

THE COURT: Is that all right with you?

MR. GROSE: I've done it both ways. It doesn't matter.

(WHEREUPON, Court's Exhibit No. 6 was marked for identification and admitted into evidence.)

THE COURT: Anything else?

MR. GROSE: Just real quick. I understand that they intend to begin introducing photos that were recovered from the devices in Alabama during the next witness. Some are just going to be presented for the witness to identify. Others are going to be admitted into evidence.

The Court has not yet -- these are not -- these are the photographs of J.M. . These are not the ones that you're hearing testimony on tomorrow.

But the Court's, also, not yet ruled, I don't believe, on our motion for failure to comply with the statute that requires the Solicitor to be the one to initiate the application for the search warrant.

THE COURT: I thought that I ruled on that at the outset.

MR. GROSE: You ruled on that --

THE COURT: I mean, you have an interpretation of the statute. And we went back and forth on some dialogue in terms of how you interpreted the language and how I interpreted the language. But I'm almost unequivocally

sure that at the end of that, I ruled.

MR. GROSE: Well, that was on the motion to quash the indictments based on the arrest warrants. That same issue applies to the application for the search warrant.

Candidly, I anticipate what you're ruling is going to be. But I think the way the record stands right now, were this case to go up on appeal, the Attorney General's Office is going to say I haven't preserved that objection by asking for a ruling.

THE COURT: All right. Well, since I understand -- I thought I had addressed it, but if I haven't, the same ruling would be applicable.

Does that preserve the record for you?

MR. GROSE: I believe it does. And can the record reflect that -- I don't want to have to do this all again when they admit them. They can just be admitted subject to my previous objection.

THE COURT: Right. And you can just say subject to your objection. And I'll know that.

MR. GROSE: Thank you, sir.

THE COURT: Anything else?

MS. JOSEPH: Nothing from the State, Your Honor.

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

(WHEREUPON, the jury came into open court at approximately 2:28 p.m.)

THE COURT: Good afternoon.

Did everybody enjoy their lunch?

(WHEREUPON, all of the jurors indicated in the affirmative.)

THE COURT: Okay. Madam Solicitor, call your next witness.

MS. JOSEPH: Thank you, Your Honor.

The State calls Lori Mayo.

THE BAILIFF: Right up here, please.

THE CLERK: If you would, place your left hand on the Bible and raise your right hand.

WHEREUPON,

LORI MAYO,

after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

THE BAILIFF: Right this way.

DIRECT EXAMINATION

BY MS. JOSEPH:

Q Hi, Lori. I know I'm standing pretty far away from you. So you're going to have to speak up.

Lori, how many children do you have?

A Two.

Q And what are their names?

A A.M. and J.M. .

Q And how old are they today?

A 13 and 15.
Q And who's who?
A A.M. is 15. And J.M. is 13.
Q So in 2014, four years ago, how old were they?
A Nine and 11.
Q And where do you currently live?
A In New York.
Q And did you ever used to live in Beaufort County?
A Yes.
Q And when did you live in Beaufort County?
A From 2012 to 2014.
Q And where did you live in Beaufort County?
A In Bluffton.
Q Okay. And do you remember the addresses or, at least, the street where you used to live?
A We lived on in two different -- two different houses.
Q Okay. So on in two different places?
A Yes.
Q Were they near each other?
A Yes.
Q How near each other were they?
A Probably about seven or eight houses down.
Q So why did you move between two houses that were so close together?

A Charles wanted us to move into a bigger apartment.
Q Okay. And how did you feel about that?
A I did not want to.
Q Why not?
A I'm a pretty independent person. And I wanted to be able to pay for everything on my own. And I wanted to get to a point where I wouldn't need any help at all. And he wanted us to move to a bigger place where it cost more. And I didn't -- I didn't want to depend on anyone.
Q And what was the size difference of the two houses?
A We went from a two-bedroom to a four-bedroom.
Q And what did you do with the extra bedroom at the new house?
A The extra bedroom downstairs was for Charles.
Q Okay. And you keep saying "Charles," who is Charles Dent to you?
A My dad.
Q And do you see him in the courtroom?
A Yes.
Q Can you identify him for us?
A He's right there in the tan jacket.
MS. JOSEPH: Let the record reflect that the witness has identified the Defendant.
BY MS. JOSEPH:
Q How would you characterize your relationship with

your dad prior to 2012, prior to you moving to Beaufort County?

A We didn't speak very much at all, occasionally, on holidays and birthdays over the phone.

Q And what led to you guys getting back in touch?

A My brother's suicide.

Q So what was your brother's name?

A Matthew.

Q And what year did he kill himself?

A 2012.

Q And why did that event lead you to get closer with Charles?

A My brother, Matthew, and Charles were really close with each other. And I was really close with my brother.

So when he died, Charles had -- he was very emotional. He told us that he had no one left. He had nowhere to go for holidays. And he didn't know how he would function at the house where my brother killed himself. And I sort of felt an obligation to my brother to befriend him and to give him a chance in our lives.

Q Prior to moving to Beaufort County, where did you live?

A Florida. Jacksonville, Florida.

Q And did you live in -- what type of neighborhood did you live in?

A It definitely wasn't a very nice neighborhood.
Q And was that part of the reason you moved?
A No. I'm fine being in a neighborhood -- I mean, I can survive anywhere.
Q Okay. Where did Charles live when you lived in Beaufort? Did he live with you?
A Alabama.
Q He lived in Alabama?
A Uh-huh.
Q How often did he visit?
A I'd say maybe every other month.
Q Okay. And how long would he stay?
A About a week at a time.
Q Okay. I'm going to ask you some questions. And I want you maybe to distinguish between the first house and the second house.
A Okay.
Q So did he pay your rent when you lived in Beaufort?
A He paid part of it.
Q Okay. And that's for both houses?
A Yes.
Q And did he pay your cable?
A I don't remember.
Q Did he pay for your cell phone?
A Not until 2014.

Q All right. Tell us about that.
A I had my own phone. And he kept telling me that he could get me a new phone on his plan. I didn't want to. I had my own phone and my own phone plan. But he went ahead and ordered a phone on his account and gave me a new phone.
Q We're going to talk about that cell phone again in a moment. Did he buy you a car?
A No.
Q Did he want to buy you a car?
A Yes.
Q Can you tell us about that?
A Yes. I was driving a PT Cruiser. And something happened, like, I don't know if it was like a flat tire or something was wrong with the car -- oh, the battery had died. And he kept telling me that my kids would be safer in a brand new vehicle. And he would lease one in his name and my kids would be safer.
Q Let's talk about that. So he wanted to put his name on the lease?
A Yes.
Q Was his name on the lease for the homes in Beaufort?
A Yes.
Q And could you have afforded those houses on your own?
A No.

Q So going -- you said that he sort of pushed you to have a cell phone?
A Yes.
Q And did he, also, give J.M. a cell phone?
A He did give her a cell phone without my knowledge.
Q And then, at one point, you found a naked image on that cell phone?
A I did.
Q Of a naked --
MR. GROSE: Objection, Your Honor. Number one, it's leading. And, number two, this is not relevant. And, number three, they've never produced this supposed photo.
MS. JOSEPH: I can move on, Your Honor.
THE COURT: Move on.
I'm going to sustain all of the objections.
MR. GROSE: And I'd request a curative instruction.
THE COURT: Okay. Disregard.
Go ahead.
BY MS. JOSEPH:
Q Who is John Camelo? And when I ask that question, I'm asking who is he to you, not who is he in the world.
A He's my ex-boyfriend.
Q And, to your knowledge, did your daughter, J.M. , make a disclosure to John?
A Yes.

Q Okay. And did John then come to you about that disclosure?
A Yes.
Q And then did J.M. make a disclosure to you?
A I'm -- I believe I asked her about it.
Q But then she shared some information about something that had happened to her?
A Yes.
Q And where did you have that conversation, physically? Do you remember?
A I remember the conversation with John was when we were swimming at the pool. And I think that I had the conversation with J.M. when we got home.
Q And do you remember what time of year that would have been?
A I don't.
Q Maybe summer of 2014?
A It was the same day that I contacted somebody about it.
Q Okay. So you just said you contacted someone about it. Did you first call A.M. 's therapist?
A I did.
Q What did she tell you to do?
MR. GROSE: Objection. Hearsay.
MS. JOSEPH: This is -- I can rephrase the question.

THE COURT: Rephrase the question.

I'm going to sustain the objection.

Rephrase the question.

BY MS. JOSEPH:

Q After calling the therapist, what did you do?

A I called the police.

Q And you gave a statement to law enforcement?

A I did.

Q And law enforcement set up a series of interviews and exams for J.M. . And you took her to those appointments?

A Yes.

Q Did you have contact with Charles Dent, the Defendant, after J.M. made her first disclosure?

A Yes.

Q And why did you have contact with him?

A I was instructed to make it seem like I didn't know anything, and that I hadn't contacted the police.

Q Specifically, did you text the Defendant?

A There were text messages.

Q And do you remember those text messages?

A Yes.

Q Do you remember them word for word?

A No.

Q If I showed you a copy of those text messages, would

that refresh your memory?
A Yes.
Q So I'm handing you a copy of those text messages. If you could, take a moment to review those.
MR. GROSE: I'm going to object. That's -- that's not a copy of the text messages. That's a document that can be used to refresh her memory. But it's not a copy of the text messages.
THE COURT: All right. I'll so note that.
Go ahead.
BY MS. JOSEPH:
Q So, as Mr. Grose said, that's not a copy of the text messages. That's a copy of a police report; is that correct?
A Yes.
Q Okay. And after taking a moment to look over those text messages, is that a true and accurate depiction of those text messages?
A Yes, as far as I know.
Q And turning to -- I know that they're listed by date. The June 10th conversation, can you read how that -- can you read that conversation, please?
A Sure. The conversation starts out with Mr. Dent asking Michelle --
Q I'm going to pause you. First of all, can you read a

little bit slower. And, also, it says "Michelle." What is your legal name?

THE COURT: What's your objection, Mr. Grose?

MR. GROSE: Judge, this is a hearsay document. This is not the text messages. If this can be used to refresh her memory, then she can testify about it. But she can't read a document written by somebody else.

THE COURT: I'm going to overrule your objection. And go ahead, ma'am.

MS. JOSEPH: Thank you.

BY MS. JOSEPH:

Q So what is your legal name, Lori?

A Lori Michelle Mayo.

Q So you go by both "Lori" and "Michelle"?

A Yes.

Q So this document refers to you as "Michelle"?

A Yes.

Q So starting over on June 10th, 2014, if you could just read a little bit slower and louder.

A Sure. The conversation starts out with Mr. Dent asking Michelle why she is trying to ruin his life. He tells her not to bring the kids into her drama. And that she needs to pay half the rent, half the cable, and $30 for her phone and -- $30 for her phone for her and her boyfriend.

Michelle tells Mr. Dent that he brought the kids into it. And that she wasn't going to let him ruin their lives like he did her childhood and most of her life. Michelle said that it was a mistake to let him see the kids.

Mr. Dent said that he didn't know that she hated him so much.

Michelle said she didn't know that he touched her daughter.

Mr. Dent said that he would never touch the children and she knew that.

Mr. Dent told her that he couldn't break the lease or she would get evicted. He told her she could pay the next two months and then renew it in her name, if that is what she wanted. He asked her if she asked the kids to hate him, too. Then he asked if they hated him -- it says, if they hated them.

Michelle tells him that Diamond Realty will be e-mailing him an addendum to sign so he can be removed from the lease.

He tells her that he loves her and the kids and that he is sorry if he ever hurt her.

Q All right. So then the next date is June 15th of 2014. Can you read those text messages as well?

A Sure. Michelle sends him a message saying, Happy Father's Day.

Q I'm sorry. And the next one is June 23rd, 2014. Continue.

A Mr. Dent told her that he had not heard from Diamond Realty and said that he would like to get his phone back.

Michelle told him that if he wanted to be an asshole, she could, too. And that he wanted everything in his name, so now he could pay for it. She said that he's the one that cared about his credit so much so he could make sure he paid the rent on time.

Michelle told Mr. Dent --

Q She was glad.

A I'm sorry. I lost my place.

Q That's okay.

A It's really small.

Q I know.

A Michelle told Mr. Dent she was glad she didn't get the car or he would want to take that back, too. She told him if he turned the phone off, he would never get to talk to the kids again in his life.

Mr. Dent told Michelle he was done paying and it was up to her and her boyfriend now.

She told him that she was not paying and that he needed to pay the rent or ruin his credit. She told him that he wanted everything in his name, not her.

Mr. Dent told her that he was not paying her

boyfriend's rent. She told him that it was his rent and his credit. He told her that he didn't live there, he couldn't come there, and wasn't welcome there.

She told Mr. Dent that she didn't care about her credit score and would have a new place before the eviction went through.

Mr. Dent told Michelle that he wanted his name off of the lease and asked what he was doing wrong.

She told him that he was doing everything wrong and she was going to keep his name on the lease.

Mr. Dent told her, why would I pay for you and your boyfriend to live rent free? He told her that it was all her choice, not his.

She told him that she was not going to argue with him and pay what he has been paying or the rent won't get paid. She told him to fuck up his credit if he wanted to and that it did not matter to her.

Q All right. And then the next texts -- and there's only two more batches of texts. The next texts are from July 2nd of 2014. Can you keep reading?

A Sure.

Michelle texted Mr. Dent and told him that he showed pictures of his penis to J.M. . She asked him if he was serious and told him that he was sick. Michelle told Mr. Dent that he had way more than his credit to worry

about if the rent didn't get paid.

She, also, told him that he needed to give her back the allotment that he owed. Michelle said that he owed her and her daughter his fucking life. Michelle told him that she would be expecting the rent and her allotment in her account by Friday, unless he wanted his mom and brother to find out, too.

Q And then the last texts are from July 3rd, 2014, the next day. Can you read those as well?

A Sure.

Michelle texted Mr. Dent and told him to keep his money and that they didn't need shit from him. She said that she did not care if the rent got paid or not, and that it was not about money. It was about him being a pedophile and molesting children. She said he [sic] hoped he got what he deserved.

The next one, too?

Q Yes, please.

A Mr. Dent texted Michelle and told her that he didn't take care of the cable bill yet. And then on Tuesday, it would be $325. He, also, told her that she agreed to pay $30 a month on her phone. Mr. Dent told her that he would have no choice but to have them turned off since she didn't want to be responsible.

Michelle told Mr. Dent to go to hell.

Q All right. Now, I'm showing you a copy of your statement. I just have one question about this statement. So do you recognize this statement?
A Yes.
Q And how do you recognize it?
A It's my handwriting.
Q And is your name on it, too?
A Yes.
Q What date was that statement written?
A June 10th, 2014.
Q And I should have asked this before. So that statement is the statement you gave law enforcement; right?
A Yes.
Q So law enforcement came to your house and they took that statement?
A Yes, on June 10th.
Q On June 10th. And that's when the text messages I had you read started?
A Yes.
Q All right. So I already asked you why you had contact with Mr. Dent after the disclosures?
A Yes.
Q You, obviously, had a lot of contact about the rent. Why were you concerned with the rent?

A Because that's where me and my children sleep.
Q And, in fact, after you told law enforcement -- after you reported the disclosure to law enforcement, what happened to you and J.M. ?
A What do you mean?
Q Did you remain in the house?
A We -- I believe we -- the lease was up at the end of August, if I'm not mistaken. And we were forced to leave.
Q Okay. So the -- I just want to separate those two things. So the lease was up?
A Yes.
Q So it's not clear if you would have been able to stay?
A I definitely would not have been able to stay.
Q Why not? Can you explain that?
A The realty company would not remove his name without him sending a letter. And they, also, would not allow me to just make a new lease by myself.
Q Okay. And then -- I'm sorry. So where did you move into?
A We had to stay in a hotel.
Q Can you tell me a little bit about that, staying in a hotel?
A It sucked. We stayed in the hotel for a couple of months while we tried to find a home.

Q Did you notice any changes in your daughter after the disclosures?
A Yes.
Q And what changes did you notice?
A She went from a child to a young lady in no time. She had nightmares. And she was definitely more sexual.
Q Has she been diagnosed with ADHD?
A Yes.
Q And that was prior to this?
A Yes.
Q Circling back, how old were you in 2012 -- or 2014?
A Uh...
Q How old are you now?
A I'm 35.
Q So you were about 31?
A Yes.
Q So you were a grownup?
A Yes.
Q Prior to John Camelo, did you have any boyfriends or girlfriends that lived in the house?
A Yes.
Q And I say boyfriends and girlfriends because you date men and women?
A Yes.
Q So you had significant others, people that you dated

that lived in the house?
A No. Not in Beaufort County, no.
Q Not in Beaufort County. Okay. What about Dee?
A Yes. That was a coworker.
Q That was a coworker. Did the Defendant have any issues with anyone else living in the apartment?
A He loved it when Dee lived there and brought her friends over.
Q So he had no issue with Dee living in the apartment?
A No.
Q But he did have an issue with John Camelo living in the apartment?
A Yes.
Q And why do you think he had that --
MR. GROSE: Objection. Speculation.
THE COURT: Sustained.
BY MS. JOSEPH:
Q What did Mr. Dent know about John Camelo?
A He knew that --
MR. GROSE: Objection. Also, speculation.
MS. JOSEPH: Your Honor, this is things that he would have learn based off what Lori, his daughter, told him.
THE COURT: I'll allow it.
THE WITNESS: I told him that he used to be in law enforcement. And he had a background with helping young

girls who had been sexually assaulted.
BY MS. JOSEPH:
Q Did you observe -- and maybe you didn't. Did you observe that that information made the Defendant uncomfortable?
A Yes.
MR. GROSE: Objection. Speculation. Move to strike.
MS. JOSEPH: Your Honor --
THE COURT: Overruled.
BY MS. JOSEPH:
Q And after learning that information about John Camelo, did the Defendant, in fact, get frustrated, or you can use a different word, with John Camelo living there?
A He was very upset.
Q Did --
A The -- I'm sorry.
Q No. It's okay. One last question. Well, it's not one last question because I'm a lawyer and it can never be one last question.
So J.M. came to you twice to talk to you about things that had been happening to her?
A She went to John.
Q Right. She went to John, but she also -- you, also, talked to her twice?
A Yes.

Q Do you know -- did J.M. tell you why she didn't tell you everything at first?
A At first --
MR. GROSE: Objection. Hearsay.
MS. JOSEPH: Your Honor, the Defense opened the door to this question during their opening statement when they said --
MR. GROSE: If we're going to argue this, we need to take up a matter of law.
THE COURT: I can rule now, Counsel.
MR. GROSE: Okay.
THE COURT: I'm going to overrule your objection.
Go ahead.
BY MS. JOSEPH:
Q So to restate the question. Do you know and did J.M. tell you why she didn't tell you everything at first?
A Yes.
Q And what did she tell you?
A She told me that she thought that I would be mad at her. And she, also, was embarrassed.
MS. JOSEPH: I beg the Court's indulgence for a moment.
THE COURT: All right.
(Pause.)

MS. JOSEPH: Nothing further.

Thank you.

Please answer Mr. Grose's questions.

THE COURT: All right. Mr. Grose, cross-examination subject to your prior objections.

MR. GROSE: Thank you, Your Honor.

THE COURT: All right.

CROSS-EXAMINATION

BY MR. GROSE:

Q I believe you just testified that J.M. went to John first both times?

A Yes.

Q Okay. Do you still have your statement there in front of you?

A Yes.

Q And that was the statement that you identified that was made on June 10th?

A Yes.

Q Of 2014?

A Yes.

Q And this was a statement that you made to law enforcement?

A Yes.

Q And you knew that this was a statement that was going to be used as part of the official police investigation;

is that right?
A No. I wouldn't know what it would be used for.
Q Well, you knew you were making a report to the police?
A Yes.
Q All right. And you knew that when you talked to the police, it's important to tell them the truth?
A Yes.
Q And to tell them everything?
A Yes.
Q If you could, take a look with me at the first line of your statement. It says, On June 9, 2014, I questioned my daughter because of my own suspicions about my dad ever doing anything that she didn't want him doing.
A Yes.
Q Is that right?
A Yes.
Q And take and read over that to yourself for a second, the entire statement.
A (Witness complied.)
Q Having read over that, you would agree with me that John Camelo's name is never mentioned anywhere in that statement, is it?
A No.
Q And so if we were to just look at this statement, it

would appear that you were the first person to question J.M. or bring up any type of abuse with J.M. ; is that correct?

A Yes.

Q Okay. And at the very beginning, we said that that happened on June 9th; is that right?

A That's what the statement says, yes.

Q Okay. So based on that, you didn't call law enforcement the same day that you questioned your daughter, did you?

A No. It looks like I contacted them on June 10th.

Q Okay. And that was after contacting a counselor for A.M. ?

A Yes.

Q Okay.

A It was in the evening.

Q Okay. Well, you know, you can call the police at night?

A Yes.

Q Okay. Now, you talked about living in Jacksonville, Florida. Is that where you lived before you moved to the Beaufort County area?

A Yes.

Q And you, in fact, had lived in Jacksonville for quite a while, hadn't you?

A Yes.
Q I think your mother, whose name was, also, Lori, and Charles were married on two occasions; right?
A Yes.
Q They got married, divorced, and then they remarried?
A And then divorced again, yes.
Q And then divorced again. And you lived with your mother in Jacksonville; is that right?
A We lived in a suburb of Jacksonville.
Q Okay. And Matthew, your brother, lived with Charles?
A Yes.
Q Okay. And you mentioned -- you mentioned that you had a close relationship with your brother, Matthew?
A Yes.
Q And, in fact, Matthew would come and visit you and your children in the Jacksonville area?
A And my mom, yes.
Q And your mom.
MS. JOSEPH: Objection, Your Honor. Under Rule 401 and 402, I'm just not sure what the relevance of this is.
THE COURT: What's the relevance?
MR. GROSE: Your Honor, they -- I need to get into the relationship that J.M. had with Matthew, as well as his --
THE COURT: I'm going to sustain the objection.

MR. GROSE: Your Honor, can I take up a matter of law?

THE COURT: You can.

Take the jury out.

Please do not discuss the case with each other or do any research or investigation.

(WHEREUPON, the jury was excused from open court at approximately 2:57 p.m.)

THE COURT: Mr. Grose, yes, sir.

MR. GROSE: Judge, the -- the reality of this is -- and they already brought up Matthew's suicide. The reality of this is that mental illness runs in this family, particularly on the mother's side. And J.M. was close to both Matthew and to her grandmother.

Her grandmother, also, committed suicide, and may have even made one suicide attempt while living in the same household. And this is entirely relevant. Because you heard yesterday that the -- they plan to ask the counselor -- well, not the counselor, but the so-called independent expert about trauma.

And we have counseling records where when they were going through the potential different types of trauma that J.M. had experienced -- and it has information in there about, you know, the history of suicide and the fact that she knew -- either was told or knew enough about suicide

of a family member or of a person that she would have, you know, images about that in her mind.

And so if -- if trauma is going to be an issue in this case like they're making it, then I'm entitled to show the other sources of trauma. And so it is very relevant to why we're here if that's, you know, the State's theory.

I mean, they're going -- they're going to argue, you know, that some of J.M. 's behaviors were related to trauma. And I think I'm entitled to go into the traumas that she's experienced in her life.

THE COURT: Mr. Grose, I'm going to let Counsel respond to that. But I -- rarely, do I see a lawyer anticipate what the State's going to do and make an objection before I even hear what the State is going to do.

MR. GROSE: I'm not anticipating it.

THE COURT: Well, that's what you just said. You said you anticipate that their argument is going to be about trauma and you now need to go into this.

MR. GROSE: Well, they told us that yesterday. I mean, I'm entitled to rely on what they put forward in the hearing yesterday.

THE COURT: All right. Ms. Joseph.

MR. GROSE: I have two packages of records I'd like

to mark as Defendant's Exhibit Nos. 2 and 3.

THE COURT: Have you seen those?

MS. JOSEPH: I have? When he says Defense Exhibit -- I know we've gone over this a million times. This will not be going back to the jury.

MR. GROSE: It will not be going back to the jury. It will just be marked for identification.

MS. JOSEPH: I mean, I know that he's being kind of cavalier about this. But, Your Honor, I do want to point out that these are the counseling records of a nine-year-old person. We don't -- I mean, we're here deciding about her sexual abuse allegations. But we, also, know she had two suicides in her family.

This is not a casual matter. We are talking about mental health tainting testimony. I'm very concerned about where this is going.

MR. GROSE: I'm concerned about where it's going if we don't get to put this in. I fully believe this is a serious matter. This is a 61-year-old man that has only a simple possession of marijuana on his record, that if he gets convicted of this is going to spend the rest of his life in prison.

And the State has said -- and they're calling witnesses to talk about characteristics of child abuse. And they've said they're going to have testimony about

trauma. And this goes to our Sixth Amendment right to confront and cross-examine it.

And I just need to have this marked and put in the record. I don't have a problem if these records -- these two exhibits are sealed after this trial is over, as long as they're in the record.

MS. JOSEPH: To briefly respond, Your Honor. Tessa has not met with the -- Ms. Trask, our expert, has not met with the victim. She is not -- she is, literally, going to define trauma and say that sex abuse can cause trauma. I mean, she is speaking in the biggest generalities possible.

And if he wants to argue that her trauma was caused from other things, he is welcome to argue that at the end. But -- and she's already said that her brother committed suicide. I just think that he wants to paint this picture that -- I think that he's gathered enough information from this witness where the jury understands the picture. And I think that this is not relevant to the extent where he is asking the questions.

MR. GROSE: I don't --

MS. JOSEPH: And, also, he -- after our witness testifies -- because I think that you're right, Your Honor. This is maybe my more important point. I was so overwhelmed by this idea of mental health being brought

in -- I'm sorry. I got a little off track.

He is welcome to subpoena this witness and call her himself. I just think that our witness is not going to testify to what he thinks she's going to testify to. She's never met this little girl. She's talking complete generalities. So it's very frustrating to me that he's trying to paint my victim like a head case.

MR. GROSE: These snarky remarks are getting a little old.

But moving past that. We don't have in the record the -- the fact that J.M. 's mother -- I mean grandmother, also, committed suicide. And I'm sure she would object if I started arguing something that's outside of the record. And I don't --

THE COURT: Mr. Grose, let me ask you this. Don't you think that -- and I understand what you're saying. But we've got -- we've got a situation where we're going to do a proffer on another hearing, I think, as far as the Alabama people coming. When that -- what's this witness --

Ms. Trask, is that her name? Right?

MS. JOSEPH: Yes, Your Honor.

THE COURT: Whenever they call her, do you want to do a proffer and let's just kind of see at that time? And then --

MR. GROSE: No. Because that's their witness. I do get to cross-examine their witness.

THE COURT: Well, I'll ask --

MR. GROSE: But we did a proffer last night. And I wanted to get into the substance of the testimony, which I thought you were supposed to do under your gatekeeping role. I was overruled on that objection. So I think we're already past the proffer stage.

And I, also, you know, get to cross-examine witnesses that they call regarding what I think are the -- the theories and themes of my case. I mean, this is -- this gets to a big part of our defense, based on the evidence that they've told us that they're going to present, Your Honor.

What they're -- what I anticipate that they're going to do, based on what's been represented with the bullet points that they went over, is that they're going to say that, you know, J.M. 's symptoms of trauma confirm she was sexually abused. I mean, that is the reason why our Supreme Court in Weaverly and Schumpert and reaffirmed in Anderson have said that this type of testimony is even relevant to begin with.

So they've already put state of mind and mental health into issue. And that's why Judge Mullen issued the orders on our motions that allowed for the disclosure of

these records is because the state of mind is going to be an issue.

MS. JOSEPH: I'm not comfortable saying that that is why Judge Mullen did that. Judge Mullen -- we had a hearing about this. I think that's a misstatement of Judge Mullen's reasoning on that.

We had a hearing where she was given a brief set of facts about this case. She looked to see if there was anything relevant at all in those counseling records, and that's why she let them in, Your Honor. She was not making that determination. That is a misstatement.

MR. GROSE: Well, there was a motion based on the fact that J.M. 's state of mind was going to be an issue. It was a motion, initially, to get records from the children's advocacy center, Hopeful Horizons.

And we followed the procedure that was set forth in the Blackwell case from about a year ago now on how to get the records and reviewed them. And she determined they were relevant. And my reason for moving for them was for this very possibility today, that we would be --

THE COURT: So did Judge Mullen make a finding that they were relevant?

MR. GROSE: She -- well, she -- she made a finding --

THE COURT: That's what you're saying. You said she found they were relevant.

MR. GROSE: She found that they were discoverable.

THE COURT: You're saying that she made a finding on the record that they were relevant?

MR. GROSE: Well, I asked for -- the ultimate admissibility was left to the trial judge. But if there wasn't anything in these records that related --

THE COURT: I understand that, Mr. Grose. But what I'm hearing you saying is that Judge Mullen made a finding that they were relevant. And that's not the case.

MR. GROSE: Well, she had to make a finding under Blackwell to disclose them, you know. Blackwell said that a party can't just ask for mental health records and they be turned over. That there has to be some sort of basic determination as to whether or not the public policy, in this case the Sixth Amendment confrontation right, overrides the privacy right created by statute for mental health records.

So she did, at least, make a determination that complied with that procedure that was set forth by our Supreme Court.

MS. JOSEPH: It's the concerns in Blackwell that the State is concerned about here. Once again, there is a higher threshold to release mental health records because they are mental health records.

There's a reason that I am so deeply concerned with

J.M. 's mental health becoming a focal point of the Defense. And I think what's important to note, Your Honor, is that frequently when we have legal arguments, we get very bogged down in the minutia.

And if we zone out right now, Mr. Grose is arguing that whether or not J.M. experienced other trauma is a pillar of his defense. That just simply can't be the case. Because she is -- they're going to watch the videos. Basically, her -- the red flags that John Camelo talked about are one small aspect of this case. Her disclosure is, clearly, the focal point of this case.

And so I think that he's trying to argue that the fact that she experienced other traumas is this pivotal thing in this case. And it just simply can't be, Your Honor. And I think he's allowed to ask maybe one or two questions about, you know, was she close with Matt? Did Matthew kill himself? Was she close with your mom? Did your mom kill herself?

I apologize. I'm being real glib.

But I think he has to move on. He can't just rake over the coals with this information. And that's what he's been doing. I mean, we're on question four. I mean, at this point, we're sort of at the zip code of where they lived in Jacksonville. I mean, he's really going deep.

THE COURT: I think --

Go ahead, Mr. Grose. But I'm inclined that the four questions Counsel outlined, those are the questions that I would permit you to ask.

MR. GROSE: Okay. I don't think that that allows us to go into it deeply enough. I mean, I think --

THE COURT: Well, those are the four questions I'm going to let you ask.

MR. GROSE: Okay. But the only thing I would like to point out, this would not be an issue --

THE COURT: And I understand that, Counsel. But those are the four questions I'm going to let you ask. Move on.

MR. GROSE: I was going to say I don't even have to ask those four questions if they're not going to call their expert this afternoon. I mean, that's why this is relevant.

MS. JOSEPH: We're calling her. But, once again, she's speaking in such extreme generalities. She's, literally, providing the definition of the word trauma.

MR. GROSE: That's not what she said last night.

THE COURT: Mr. Grose, I will say it for the fourth, fifth time. I will allow you to ask those four questions and none other. Now, if you ask me that again --

MR. GROSE: Fair enough.

THE COURT: Do you understand my ruling?

MR. GROSE: That I can ask was she close to her brother -- or to her uncle? Did her uncle commit suicide? Was she close to her mother? Did her mother commit suicide?

THE COURT: Yeah, one, two, three, four.

MR. GROSE: Fair enough.

THE COURT: Anything further before we bring the jury back?

MR. GROSE: I do want my exhibits marked as a proffer for the record.

THE COURT: You've got two of them?

MR. GROSE: Yes, sir.

(WHEREUPON, Court's Exhibit Nos. 7 and 8 were was marked for identification and admitted into evidence.)

THE COURT: Anything before we bring the jury back?

(WHEREUPON, there was no response.)

THE COURT: Bring the jury back.

(WHEREUPON, the jury came into open court at approximately 3:14 p.m.)

THE COURT: We're back on the record, Mr. Grose.

MR. GROSE: Thank you, Your Honor.

THE COURT: All right.

CONTINUED CROSS-EXAMINATION

BY MR. GROSE:

Q When we left off, I think I was asking you about your

brother, Matthew. J.M. was close the Matthew, wasn't she?

A I don't know if I would say that, but they loved each other.

Q Okay. And I think you already testified that Matthew committed suicide?

A Yes.

Q And J.M. was close to your mother, wasn't she?

A Yes.

Q And your mother, also, committed suicide, didn't she?

A Yes.

Q Okay. Now, it was after Matthew's suicide that you ended up moving to the Beaufort County area; is that right?

A Yes.

Q Okay. And the -- that's when Mr. Dent and you began to re-establish a relationship; is that right?

A Yes.

Q Okay. And at the time, Mr. Dent's brother owned property in this area; is that correct?

A I believe he had a timeshare.

Q At Hilton Head?

A Yes.

Q And so that was one of the reasons why this area was selected?

A Yes.
Q Okay. Now, the first unit that you lived in, how big was that?
A It was a two-bedroom.
Q Okay. And do you recall what the rent was for that?
A I do not.
Q You do not?
A No.
Q Okay. And your father paid the rent, didn't he?
A We both split the rent.
Q Okay. Do you remember what that split was?
A Half and half.
Q Okay. And then when you moved, do you know what the rent was at that place?
A It was either $1,100 or $1,300 a month. I can't remember exactly.
Q Okay. And since you don't remember the difference -- or the amount of rent for the first unit, you don't know how much of an increase that was or was not, do you?
A Not exactly, no.
Q Okay. Now, you talked about wanting to be self-sufficient. When you were living in the Beaufort County area, did you have a job?
A Yes.
Q Okay. And did you have more than one job?

A Yes.
Q Okay. How many jobs did you have in that approximate two-year period?
A Four that I can think of.
Q Okay. And what was the first one?
A The first one, I believe I worked at Cracker Barrel.
Q And how long did you work there?
A I don't recall.
Q All right. And what was the second one?
A I don't remember the order of them.
Q Okay. Well, where were they?
A I, also, worked at Publix. I worked for a temp agency at Republic Services. And the first one just slipped my mind. I can't remember.
Q Okay. Well, there was periods of time that you were not employed while you lived in this area, too, wasn't there?
A Yes.
Q Okay. Do you remember how much you were employed versus how much you were unemployed?
A I would say I was employed 90 percent of the time.
Q Now, did you and your father have an understanding that he was going to help with the rent for a year, and then you were supposed to take it over?
A No.

Q The Solicitor asked you about some text messages before; is that right?
A Yes.
Q Okay. And do you still have that document in front of you?
A Yes.
Q Okay. I don't want to necessarily go into those again. But that is not a printout of text messages, is it?
A They are very -- they were the text messages, yes.
Q Okay. But that is, actually, a report written by somebody else. It's not written by you, is it?
A It's, actually, typed. It's not written.
Q Well, okay. Typed, written. But it's -- you didn't type it, did you?
A I did not type it.
Q Okay. And it's not screen shots of the text messages, or anything like that, is it?
A No.
Q Okay. Now, you and your father, you had arguments about money going back to the fall of 2013, didn't you?
A I don't know what you're talking about.
Q I've got some documents I'd like for you to take a look at. Is that all right?
A Yeah.

Q Just take a moment and read those.
A (Witness complied.)
Q One of the things in those messages is you and your father arguing about money, isn't it?
A It -- I believe we were arguing about the half of the rent that he had to pay.
Q And you were arguing about money for J.M. for dance lessons?
A Yes.
Q And so arguments for -- about money started in 2013?
A I wouldn't -- I wouldn't say we were arguing.
Q Okay. Well, there was, at least, a disagreement, wasn't there?
A Yes.
Q And you were upset that he hadn't sent more money than he had sent?
A That he had not sent the money for the rent, yes.
Q All right. Well, and in those messages, it reflects that some had been sent, but it wasn't enough?
A I don't -- I don't see where anything says any money had been sent.
Q So, anyway, my question is, though, those were in 2013?
A Yes. The date on here says 2013.
Q All right. So the first time that some dispute or

discussions about the money coming up the first time wasn't June 9th or 10th, was it?

A No.

Q Okay. I'll take those back from you.

I want to go back to John Camelo for a second. Is it fair to say that you met him in the -- for the first time in the spring of 2014?

A I don't recall when I met him.

Q Okay. You met him at the swimming pool; right?

A Yes. That was my other job.

Q Okay. And at the swimming pool, he was -- I don't know what the right word was. He wasn't necessarily a lifeguard, but he was somebody --

A He was a security guard.

Q Security guard. He wasn't working in law enforcement then, was he?

A No.

Q And he wasn't working as a private investigator then, was he?

A I'm not sure.

Q Okay. And for a period of time, you and John Camelo dated?

A Yes.

Q Okay. And so it was a romantic relationship for you; is that correct?

A Yes.
Q Okay. And John Camelo in a very short period of time moved into the townhouse that you were living in; isn't that right?
A He did not move in. He had his own place.
Q Okay. He didn't stay in the bedroom on the first floor?
A He -- he stayed over every once in a while, like, for maybe the night. It wasn't until June 10th that I asked him to come stay with us.
Q Okay. But he did move in, didn't he?
A No. He still had his own place.
Q Well, but he spent more nights there than he spent anywhere else, didn't he?
A He worked overnight.
Q Okay. So you're saying John Camelo never lived in your townhouse?
A I'm not saying he never lived there. But he had his own place. So I asked him to stay over several times.
Q Okay. And the Solicitor asked you about one of your friends named Dee living there?
A Yes.
Q Do you recall that question?
A Yes.
Q And -- but Dee was not a romantic interest for you,

was she?
A No.
Q Okay. Now, during the two years, roughly, that you were living in Beaufort County, is it fair to say that John Camelo was the only romantic interest that lived or stayed over for extended periods of time in your townhouse?
A Yes.
Q Okay. Now, John Camelo, also, your children referred to him as "dad," didn't they?
A My son has never referred to anyone as dad.
Q Okay. J.M. did?
A Yes.
Q Did you ever tell people that John was the new dad for J.M. and A.M. ?
A No.
Q Okay. Has there ever been any other men involved in your life that J.M. has referred to as "dad"?
A Yes.
Q And who was that?
A Pretty much every man I've ever dated.
Q Okay. The one person that J.M. has probably never referred to as her dad is her real dad; is that correct?
A Yes. She's never met him.
Q Okay. And so how many men have you dated --

MS. JOSEPH: Objection --

BY MR. GROSE:

Q -- that J.M. --

THE COURT: Hold on. Hold on.

MS. JOSEPH: I mean, I'm objecting, basically, because the question started with, "how many men." But I think that going deep into the witnesses dating history is not relevant under Rule 401 and 402.

I think that I've allowed this -- you know, I've allowed this to go on. And I know that in his opening, he talked extensively about the witness -- talking about calling Mr. Camelo "dad." And he's been allowed to ask questions about that.

But, now, we're going into the witnesses dating history. And I just don't think that's relevant.

THE COURT: I don't think -- I'll hear from you.

MR. GROSE: I don't want to get into the dating history. I just want to know how many people, other than John Camelo, J.M. has referred to as "dad."

THE COURT: That's not what you asked.

MR. GROSE: Well, I'll ask it that way.

THE COURT: I'll let you ask that. But I'm not going to let you get into any dating history.

MR. GROSE: That's fine. Fair enough. I didn't intend to.

THE COURT: Okay.
BY MR. GROSE:
Q Other than John Camelo, how many men has J.M. referred to as "dad"?
A I couldn't tell you the exact number. I don't know.
Q More than five?
A I don't know.
MS. JOSEPH: Objection, Your Honor.
THE COURT: Sustained.
BY MR. GROSE:
Q Now, as far as the lease on the second townhome, would you agree that you stayed there through the end of the lease?
A Yes.
Q And would you agree that your father continued to pay for it through the end of the lease?
A No.
Q Would you agree that when you moved out, there was some damage that your father paid for?
A No.
Q Okay. Did you pay for it?
A No.
Q Okay. Now, there was -- I think after you moved out of the townhouse, you went to a hotel; is that right?
A Yes.

Q And you were in the hotel for maybe a couple of months?
A Yes.
Q And it was you, and J.M. , and A.M. staying there?
A Yes.
Q Anyone else?
A No.
Q Okay.
A My dog.
Q Your dog. Okay. And after that, you moved to North Carolina; is that right?
A Yes.
Q Okay. Now, the hotel was noisy at night, wasn't it?
A Not that I recall.
Q Not that you recall. Okay. Fair enough.
Now, while J.M. was living in Beaufort, South Carolina, Beaufort County, South Carolina, she attended schools here, didn't she?
A Yes.
Q And she was an A and B student, wasn't she?
A A's, B's, and C's.
Q But she didn't have any problems in school?
A J.M. has always had problems in school.
Q Well, she had more problems when y'all moved to North Carolina, though, didn't she?

A The schools are very different than here.
Q Okay. So you never told anybody that she went from being an A and B student in South Carolina to a struggling student in North Carolina?
A I've told a lot of people.
Q You've told a lot of people that?
A I don't hide, I mean, what we're going through.
Q Okay. But my point is she did better for the two years that she was in South Carolina grade-wise than she did after she moved to North Carolina?
A She did better grade-wise here in South Carolina in Beaufort County schools, yes.
Q All right. And I think you just attributed that to a difference in the schools; is that correct?
A I would definitely say it was because the schools are better here.
Q They are better here?
A Yes.
Q But she did better here?
A Yes.
MR. GROSE: Okay. I beg the Court's indulgence for a moment.
THE COURT: Yes, sir.
(Pause.)
MR. GROSE: That's all the questions I have at this

time.

Thank you.

THE COURT: Redirect.

MS. JOSEPH: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MS. JOSEPH:

Q So Mr. Grose was asking you questions about what you told the counselor about J.M. ; is that correct?

A I didn't hear --

MR. GROSE: The question --

THE COURT: Hold on.

MR. GROSE: The question was about grades. And I didn't identify a counselor. I just asked if she had ever told anybody about grades.

MS. JOSEPH: Okay. Let me rephrase.

THE COURT: Rephrase.

BY MS. JOSEPH:

Q So one of the people that you told about J.M. 's grades was a counselor?

A Most likely. I don't recall.

MR. GROSE: I object to the leading.

THE COURT: All right. Sustained.

BY MS. JOSEPH:

Q Did you take J.M. to a counselor after the disclosures were made?

A Yes.

Q I'm going to show some photos. Be careful not to show them to the jury.

MR. GROSE: Objection. This is outside the scope of cross-examination.

MS. JOSEPH: Your Honor, under Rule 611, it's at the Court's discretion whether I can ask questions outside of cross. If Your Honor decides that I can't ask questions outside cross -- these questions are about photographs that we discussed.

It may be better to recall this witness and have her identify the photos tomorrow when certain other people are testifying. That would -- recalling a witness during my case in chief is, also, at the Court's discretion.

THE COURT: Let's do it this way --

MS. JOSEPH: You want to do it that way?

THE COURT: Yes.

MR. GROSE: Thank you, Your Honor.

THE COURT: All right.

MS. JOSEPH: Nothing else for this witness at this time.

Mr. Grose may have one or two other questions.

MR. GROSE: I do not.

THE COURT: All right. Thank you.

Ladies and gentlemen of the jury, do y'all need a

break?

(WHEREUPON, the jurors indicated in the negative.)

THE COURT: Everybody is good?

All right. Next witness.

MS. JOSEPH: Your Honor, the State calls Investigator LaVan.

THE COURT: I failed to ask these two important people down in front of me. Do y'all need a break?

THE CLERK: No. I'm good.

THE COURT REPORTER: I'm fine.

MR. GROSE: Your Honor, may we approach?

THE COURT: Yes.

(WHEREUPON, a bench conference was held.)

THE CLERK: Okay. If you would, place your left hand on the Bible and raise your right hand for me.

WHEREUPON,

CORNELIUS LAVAN,

after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

Come right around here.

MS. LUTTRELL: May I proceed, Your Honor?

THE COURT: Yes.

DIRECT EXAMINATION

BY MS. LUTTRELL:

Q Good afternoon, Detective LaVan. Would you, please,

introduce yourself to the jury?
A Sure. My name is Investigator Cornelius LaVan. And I'm with the Beaufort County Sheriff's Office.
Q And how long have you worked for the Beaufort County Sheriff's Office?
A Since 2011.
Q What position do you hold there now, Investigator?
A Criminal investigator.
Q And what are some of your job duties as an investigator?
A Generally speaking, obviously, we investigate criminal cases that are brought to our attention by the public. It is our job to further investigate those crimes once they've been, initially, reported to the sheriff's office.
Q Have you held any other positions with the Beaufort County Sheriff's Office?
A Yes, I have.
Q What positions?
A I was an animal control officer before I was an investigator.
Q And have you served in the military at all?
A Yes, I have. I spent 20 years in the Marine Corp. And I'm retired now from the Marine Corp.
Q How did you got involved in the case that we're here

for today?
A This case, in particular, obviously, like I mentioned before, Ms. Mayo, who just testified, she filed a complaint with the Beaufort County Sheriff's Office. And then that case was assigned to me as a criminal investigator. And that's how I got involved.
Q Did you respond when she made that initial phone call?
A Not that particular day. I believe approximately two days after the report was filed with us, I made contact with Ms. Mayo.
Q But did another officer go out the same day that she called?
A Yes.
Q And then after that officer took an initial report, then you took over the case?
A Correct.
Q Now, after you made contact with Ms. Mayo, what was the first step you took in the case?
A The first thing I did was I called her on the telephone. We briefly talked about what she, originally, reported. Then I scheduled what we refer to as a forensic interview.
MR. GROSE: Objection to the use of the term forensics, Your Honor.

THE COURT: I'm going to -- I'm going to overrule that objection. I'm going to overrule.

Go ahead.

BY MS. LUTTRELL:

Q So you scheduled an interview?

A I did.

Q Where did you schedule the interviews?

A Hope -- I get the names mixed up. It's Hopeful Horizons, formerly known as Hope Haven.

Q And did you speak to J.M. in this case?

A No, I did not.

Q Why not?

A Because of her age and the allegations, we, typically, don't interview someone of her age, according to those allegations.

Q So you let someone else who's trained to handle that?

A Correct.

Q And that --

MR. GROSE: Objection, Your Honor. That gets into the Anderson prohibition. And it's, also, leading.

THE COURT: I'm going to overrule the objection.

Go ahead.

BY MS. LUTTRELL:

Q Okay. So after you scheduled these interviews at Hopeful Horizons, do you attend these interviews?

A I did -- I do.
Q And when was the first interview? Do you recall?
A If I'm not mistaken, the first one was done on -- I want to say -- and I could be wrong about this date, in particular. I think it was maybe July 10th, or something, close to that.
Q And do you attend the interview as well?
A Yes.
Q Now, during the interview, are you observing it as it's going on?
A I'm not in the actual room. I'm in another room watching from a monitor, if that answers your question.
Q Yes. Now, at that point, after this initial interview, did you obtain any warrants in this case?
A According to that first interview, yes, I did.
Q Were those warrants, actually, executed at that point?
A No, they were not.
THE COURT: What's your objection?
MR. GROSE: It depends on what they ask next, Your Honor.
BY MS. LUTTRELL:
Q And prior to any warrants being, actually, executed in this case, was there a point where you set up a second interview with Hopeful Horizons?

A I did.
Q And why did you do that?
A That was based on some new revelations in the case. There was another disclosure, the term we're using, from J.M. . And I recalled those warrants and we conducted -- a second interview was conducted with J.M. .
Q And was that, also, done at Hopeful Horizons?
A Yes, it was.
Q And did you attend that interview?
A I did.
Q When was that interview?
A That one was, if I'm not mistaken, on July 21st of that year.
Q Now, when you were first speaking with Lori about this case and taking that initial report, did you advise her at all about contact with the Defendant in the case?
A I may have. It wouldn't be out of routine for me to make that request. But I can't definitely say that I did or didn't.
Q And when you say it wouldn't be out of your routine to make that request, what kind of request are you talking about?
A Because of the allegations, that her daughter was assaulted, I may have asked her do not make contact with

the suspect, or pretend like there's nothing wrong so the suspect does not get -- he doesn't get aroused to what's going on.

Q Just act like everything is normal?

A Correct.

Q Now, when you took these reports, did you learn a location of the allegations?

A I did.

Q And what were those locations?

A The first location was, I think, . And the second one should have been .

Q And are those both in Beaufort County?

A I'm sorry. They're both in Bluffton, in Beaufort County.

Q And what else did you do as part of your investigation? Did you collect any evidence in this case?

A I did. When the second disclosure was brought to my attention, there was a pair of shorts and two notes that I collected as part of those -- those new disclosures.

Q And you turned those into evidence?

A I did.

Q Was anything done with that pair of shorts in this case?

A No. If you're asking if there was any analysis done on the shorts, there was not.

Q And why not?
A Because so much time had passed from the time of the allegations until the time I collected the shorts. The shorts could have been washed 20, 30 times since then. So I would highly doubt there would be any significant evidence recovered from the shorts.
Q What were -- what was the time of the allegations? What was the date of the initial allegation or when the incident occurred -- the allegations of when it occurred?
A We're not talking about the report date. We're talking about --
MR. GROSE: And that would be speculation from this witness. I have no objection to the report date.
THE COURT: Ask the question again, ma'am.
BY MS. LUTTRELL:
Q What was the date of the alleged incident in this case?
MR. GROSE: And, again, that is outside his personal knowledge.
THE COURT: You'll get to cross-examine him in a minute. I'm going to allow it. You've got cross-examination.
Go ahead and ask the question.
BY MS. LUTTRELL:
Q What were the dates of the alleged incidents?

A If I'm not mistaken, somewhere between March of 2014 and, I believe, June of 2014. But I might be off a little bit. I'll have to refer to my notes.
Q Was this allegation put in a report and a warrant?
A It is. It's all documented in the affidavit and in the report as well.
Q So would it refresh your memory if you took a look at those --
A It would.
Thank you.
It would, yes.
Q -- two pieces? Do you have them with you, or would you like me to give you a copy?
A If you have a copy, that would be fine.
MS. LUTTRELL: Do you have a copy of that, Mr. Grose?
MR. GROSE: Uh-huh.
MS. LUTTRELL: Your Honor, may I approach?
THE COURT: Yes, ma'am.
BY MS. LUTTRELL:
Q I'm showing you the warrants you took out in this case. Are those the warrants?
A Yes, ma'am.
Q And what are the dates of the incidents listed on those warrants?
A On this particular one I'm reading, the dates are

April -- I'm sorry, April of 2013 and August of 2013.
Q And are there additional warrants with other dates as well?
A Yes.
Q Could you go ahead and refresh your memory -- you can refresh your memory with all of them.
A The second set of dates are from August of 2013 to April of 2014.
Q Now, during your investigation in this case, was there, at some point, a report made to you about another potential male trying to make contact with J.M. ?
A There was. There was an incident that was brought to my attention, yes.
Q And was that after the initial report had been made to you?
A The reporting of the incident was after the initial reporting -- the initial report, yes.
Q I guess -- it might kind of be confusing. So you had already been working with this family --
A Correct.
Q -- when they came to you with some other information about a totally different person?
A Yes.
Q And did you investigate that?
A I read the report that was written by another deputy

and, also, went out and spoke with the young man's mother about him. And he was quickly ruled out as anybody that may have been involved in this incident.

Q And was that a young man who lived in their neighborhood?

A That was reported to us, yes.

Q And you were in here when Mr. Camelo testified. And he testified about this man -- or, I guess, older teenager named Maurice. Is that the same incident we're talking about right now?

A Yes.

Q And he was ruled out as a suspect?

A Yes.

Q Did you collect anything else in this case, like bed sheets?

A No. Bed sheets, no.

Q And why was that?

A Because, again, at the time the incident was reported, it was just -- happened in two separate locations. Obviously, the first location at the time the incident was reported, we didn't have access to that house.

And the second incident, because so much time had passed, again, the same thing with the shorts. Evidence is washed, destroyed, gotten rid of, so there was no need,

at that point, to collect any bed sheets or anything like that, especially according to the nature of the incident.

Q Did you take any photos of the house?

A No. And for the same reason.

Q Did you contact DSS in this case?

A I didn't personally, but they were contacted by the sheriff's office.

Q I'm sorry. For the jury, could you explain what DSS is in case no one knows?

A Yes. Department of Social Services.

Q And is that agency, typically, contacted in these sort of cases?

A They are, yes.

Q But you don't work with them?

A No.

Q Now, after J.M. 's second interview at Hopeful Horizons, did you then take out warrants in this case?

A Yes, ma'am, I did.

Q And, at some point, were those warrants executed and an arrest made?

A They were.

Q And who was the person arrested in this case?

A He was arrested --

Q What's his name? What's the name of the person that was arrested in this case?

A Charles Dent.

MS. LUTTRELL: Your Honor, may I have a moment?

THE COURT: Yes.

(Pause.)

MS. LUTTRELL: Nothing else.

THE COURT: Cross-examination, Mr. Grose.

MR. GROSE: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. GROSE:

Q They asked you about notifying DSS. DSS is not involved in this matter, are they?

A To my knowledge, no, sir.

Q Okay. And you would know if they were?

A Yes.

Q Okay. As far as the timeline is concerned, the date of the report to law enforcement was June 10th of 2014; is that correct?

A Yes.

Q All right. And you hesitated, but would that refresh your memory?

A Yes.

Q Okay. And that says the dispatch date was June 10th of 2014?

A Yes.

Q Okay. The first interview at Hopeful Horizons was on

July 10th; is that correct?
A Yes.
Q Okay. Then the second report came in on July 18th; is that right?
A When you say "second report," what do you mean by that?
Q Well, when they -- the family reported that there was more information?
A I'd have to refer to my notes. But that sounds pretty accurate.
Q Okay. And July 18th was, also, the date that involved that other neighbor, wasn't it?
A Again, I would have to look at the report to give you an exact date.
Yes, sir. You're correct.
Q All right. And that -- the name of that person was Maurice McKay?
A According to this report, yes, sir.
Q Okay. And your name is on that report as somebody who had reviewed that report, isn't it?
A Yes, sir.
Q As one of the reviewing officers?
A Yes, sir.
Q And, you know, in that report, there's information about Maurice acting in a manner that caused him to be

referred for a mental health evaluation, isn't there?
A Can I --
Q Yes, sir. That's why we have them, to refresh your memory; right?
A I'm sorry. What is your question again, sir?
Q I can kind of direct you to where I'm looking at.
A Sure.
Q I'm looking at that part down there.
A Okay. This is from the sister of Maurice.
Q Right.
A Okay.
Q But it was --
MS. LUTTRELL: Objection, Your Honor. May we approach?
THE COURT: Yes.
(WHEREUPON, a bench conference was held.)
BY MR. GROSE:
Q Investigator, I think where I was leaving off, the report does indicate that Maurice was referred for a medical or mental evaluation?
A I don't think it says that particularly, but there's some reference to a mental evaluation.
Q Okay. And so that was on July 18th of 2014; correct?
A It was.
Q Well, the report date, I mean?

A Right. Yes.
Q Okay. And then the next interview at Hopeful Horizons was on July 25th?
A Correct.
Q Okay. Now, they asked you some questions about not being trained to conduct those interviews when children are young. Do you recall those questions?
A Are you saying when I was first questioned today?
Q By the Solicitor, yes, sir.
A I don't remember the question exactly, but my answer was something similar to that, yes.
Q Okay. And so the protocol when you get a report like this is for -- involving a child is for law enforcement not to conduct additional questioning of the child; is that right?
A It's a common practice. I wouldn't say that it was protocol. But I do think it's the smart thing to do.
Q Right.
A To have somebody trained to question her.
Q And you're supposed to minimize the number of people that talk to a child before that interview is done where it's recorded?
A I would agree with that.
Q All right. And the two interviews are videotaped?
A Are we talking about --

Q The July 10th and the July --
A At Hopeful Horizons, those are the interviews --
Q Yes, sir.
A Yes.
Q And they, also -- the Solicitor has, also, asked you some questions about advice that you might give a complaining party. Do you recall those questions?
A I do.
Q And you couldn't recall what advice you did or did not give to Lori Mayo in this case, could you?
A No.
Q Because it's been four years; fair?
A That's fair.
Q All right. But one of the things that you said that is typical for you to advise people is not to have any contact at all?
A I'd say it's routine.
MR. GROSE: All right. Fair enough. I'll just take that report back.
And I just want to check, but I think that's about it, Your Honor.
THE COURT: All right. Ms. Luttrell, anything on redirect?
MS. LUTTRELL: No, Your Honor.
MR. GROSE: Just one second.

(Pause.)

MR. GROSE: Yeah. That is it. I just wanted to check.

Thank you.

THE COURT: You can step down.

THE WITNESS: Thank you, Your Honor.

MS. JOSEPH: Your Honor, could we briefly approach about scheduling?

THE COURT: All right. Is it me or is the air off in here?

THE CLERK: I think it's off, Your Honor.

THE COURT: This is church hot.

Yeah. You can come forward.

(WHEREUPON, a bench conference was held.)

THE COURT: All right. Ladies and gentlemen, we're going to take about a 10-minute break. We're going to probably, in all likelihood, go until about 5:30, give or take. And I hope you don't mind that. I want you to work with me as much as you can.

Let's take about a 10-minute break. And then we'll come back. Remember, don't talk about the case. Don't do any research or investigation.

(WHEREUPON, the jury was excused from open court at approximately 3:55 p.m.)

THE COURT: All right. We'll take a break.

(WHEREUPON, a break was taken.)

THE COURT: Before we bring the jury back, let's go on the record for a matter.

Previously, Mr. Grose was questioning I think -- Ms. Mayo, I think, was the witness at the time questioning regarding the suicide that was committed by her -- who was it?

DEFENDANT DENT: Brother.

THE COURT: Her brother and mother. And I limited Mr. Grose to four questions at that time. I have since thought about that. And I am reconsidering my ruling in that regard. And I will allow Mr. Grose a little bit more latitude in that area. And I am going to leave it up to him as to how he would proceed in that regard.

And I've, also, advised Counsel for the State -- both parties at sidebar of my reconsideration of that particular ruling I made at that time after having giving it some more thought.

So I just wanted to put that on the record. And I'll allow Counsel to proceed in any manner they deem appropriate.

Okay. Is that satisfactory?

MS. JOSEPH: 100 percent, Your Honor, yes.

THE COURT: Anything else from the Defense?

MR. GROSE: No, sir.

THE COURT: All right.

MR. GROSE: Actually --

THE COURT: Yes, sir.

MR. GROSE: -- when Ms. Mayo was testifying, there was the copy of the report that she was reading from. I would request -- it doesn't have to be now, but that we, at some point, make that a Court's Exhibit so that if -- since there was an objection to that, that we would be able to have that in any potential record on appeal.

THE COURT: Okay. Make sure you remind me of that.

MR. GROSE: Yes, sir.

Thank you, Judge.

THE COURT: Do you want to do it now?

MS. LUTTRELL: Yes, Your Honor.

THE COURT: Madam Court Reporter, that would be Court's Exhibit No. 7?

THE COURT REPORTER: Court's Exhibit No. 9.

(WHEREUPON, Court's Exhibit No. 9 was marked for identification and admitted into evidence.)

THE COURT: Bring the jury in, please.

(WHEREUPON, the jury came into open court at approximately 4:19 p.m.)

THE COURT: All right. Ms. Joseph.

MS. JOSEPH: Thank you, Your Honor.

The State calls J.M. .

THE CLERK: Come right up here. And if you would, put your left hand on the Bible and raise your right hand.

WHEREUPON,

J.M. ,

after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

THE BAILIFF: All right. This way.

DIRECT EXAMINATION

BY MS. JOSEPH:

Q Hi, J.M. .

A Hi.

Q Can you speak up a little bit?

A Hi.

Q Good job. Can you spell your first and last name for us?

A J.M. .

Q J.M. , like ?

A Yes.

Q How old are you, J.M. ?

A I'm 13.

Q What grade are you in school?

A Seventh.

Q What's your favorite class?

A History.

Q And what's your least favorite class?

A Math.
Q Okay. J.M. , you know why we're here today, don't you?
A Yes, ma'am.
Q Okay. I'm going to ask you to speak up again. Okay.
A Okay.
Q I know it's hard. I'm going to ask you a few more questions. But just to get started, why don't you tell me why you think we're here?
A That's a hard question.
Q Okay. Do you want me to ask smaller questions?
A Yes, please.
Q Okay. You're in Beaufort County now. Did you used to live in this area with your mom?
A I did.
Q And who else lived in the house?
A My brother.
Q Okay. And was that a long time ago?
A About four years ago.
Q Okay. And did anyone else live in the house?
A Sometimes, someone would come and visit.
Q Who would come and visit?
A My grandfather.
Q And what's his name? Do you remember?
A Charles Dent.

Q And let's talk a little bit about the house. So did you live in one house or two houses?
A Some -- I moved houses in the same neighborhood.
Q So how many houses total?
A Two.
Q So two houses in the same neighborhood. Did you have your own room in the houses?
A Yes.
Q And did your grandfather visit you at both houses?
A Yes.
Q Okay. And then about how long would he stay when he would come and visit?
A I'm not sure. I think every month or so.
Q Do you remember how long he would stay?
A About a week.
Q All right. So we're here today because you told John Camelo something. So do you remember who John Camelo is?
A My mom's ex-boyfriend.
Q Okay. And did he live with you for a while?
A Yes.
Q And do you remember what you told John?
A Not really.
Q Okay. And you told your mom sort of the same information; is that true?
MR. GROSE: I'm going to object to the leading.

MS. JOSEPH: I can rephrase.

THE COURT: Rephrase. Sustained.

BY MS. JOSEPH:

Q So you remember you had certain conversations with John. Did you have similar conversations with your mom?

A No, not before.

Q Not before what?

A Not before, like, John told my mom.

Q Okay. So John told your mom. Okay. So you don't remember, specifically, what you told John, or what you told your mom?

A I don't remember.

Q Okay. You don't remember?

A (Witness shook her head.)

Q But do you remember anything about what was done to you while you lived in those houses?

A Yes.

Q Can you tell us what you remember?

A I remember he started kissing me, like, on my face, my mouth. He started licking my belly, like, my belly button and started, like, touching me in weird places. And he took pictures of his private parts and told me to take pictures of mine.

Q Okay. So let's back up a little bit. You keep saying "he." So who is "he"?

A Charles Dent.
Q Okay. That's your grandfather?
A (Witness nodded.)
THE COURT: Make sure you say "yes" or "no." Make sure you give a verbal answer.
THE WITNESS: Like his name?
THE COURT: No. Don't say "uh-huh" or "huh-uh." Make sure you say "yes" or "no."
Do you see that young lady on the back? Make sure you speak loud enough so the young lady on the back row can hear you. Okay. Can you do that for me?
THE WITNESS: Yes, sir.
THE COURT: Pull that microphone up a little bit closer. That might help.
There you go.
BY MS. JOSEPH:
Q So you said Charles Dent. And I asked is that your grandfather?
A Yes.
Q Okay. And so you said that he kissed you on the face. Where on the face?
A On my mouth.
Q Okay. And then you said he licked your belly?
A Yes.
Q And then you said that he touched you in weird

places. What are weird places?
A My private parts.
Q Did he touch you under your clothes or over your clothes?
A Over my clothes.
Q And then you said he made you take photographs -- or, I'm sorry, he took photographs of his -- what did you say?
A His private parts.
Q His private parts. Okay. Was that under his clothes or over his clothes?
A Under his clothes.
Q So the photographs were of his private parts under his clothes?
A (Witness nodded.)
Q And then how do you know he took these photographs?
A He showed me afterwards.
Q Okay. And then you said that he took photos of you as well?
A He told me to take pictures of mine, and he looked afterwards.
Q Okay. And when you're talking about private parts, do you mean top private parts or bottom private parts?
A Bottom private parts.
Q So he showed you photos of his private parts --
MR. GROSE: Objection to the leading, Your Honor.

THE COURT: Rephrase, if you can.

MS. JOSEPH: Let me ask the question --

THE COURT: I'm going to give her a little bit of latitude.

BY MS. JOSEPH:

Q Let me ask the question I'm trying to ask, which is, did he show you pornography?

A Yes.

Q And what did you see?

A People having sex.

Q Did he show you that once or more than once?

A Once.

Q Okay. Did he ever make you touch his penis?

A He didn't make me touch. He made me lick his private parts.

Q Can you tell me about that?

A It's hard to explain. I'm sorry.

Q That's okay. When you say he made you, what does the that mean?

A It means he told me to.

Q Okay. Once or more than once?

A Once.

Q Do you remember him telling you that there -- let me rephrase.

Do you know what the word "consequences" means?

A Sort of.
Q Can you try to tell me what it means?
A Someone getting disciplined in a certain way.
Q Right. Okay. Yeah. Did your grandfather tell you that there would be -- were there any consequences if you told?
A No.
Q Did he threaten you in any way?
A No.
Q Okay. No, he didn't threaten you, or, no, you don't remember?
A No. He didn't threaten me.
Q In what state do you live in now?
A New York.
Q So you remember living in the houses here in this area?
A Yes.
Q Do you remember where you moved after the houses?
A I don't remember.
MS. JOSEPH: That's okay.
J.M. , I have no other questions for you. Mr. Grose is going to ask you some questions. Okay. And you have to do your best to speak up. And you have to do your best to say "yes" or "no" out loud. Okay.
THE COURT: Mr. Grose.

MR. GROSE: Thank you, Your Honor.

May it please the Court.

CROSS-EXAMINATION

BY MR. GROSE:

Q My name is Charles Grose. And I'm going to ask you some questions. Okay.

A Okay.

Q And I need you to speak up like you -- and into that microphone, if you can. Okay. You're a little nervous, aren't you?

A Yes.

Q Okay. That's -- I understand that. And so I'll try to get through this as quick as I can. If I do ask you anything that you don't understand, will you let me know?

A Yes.

Q Because I want to make sure you have a fair chance to answer what I'm talking about.

Okay. And as far as the speaking up thing goes, this lady who's sitting right here, she's called a court reporter. And she has to take down everything that we say. And so that's why the Judge and everybody is asking you to make verbal responses, not only so we can hear you, but for that, too. Okay.

A Okay.

Q All right. Now, I think you just testified that your

grandfather never threatened you; is that right?
A No, he never threatened me.
Q Okay. And I think you testified today that as far as you're saying that he had you lick his private parts, that only happened once?
A Yes.
Q Okay. And the -- as far as your claims that he touched you on the private parts on the bottom part of your body, you said that was always over clothing?
A Yes. It was always over clothing.
Q All right. So he never touched your privates under your clothing?
A No.
Q And by "no," you're agreeing with that statement; is that right?
A Yes.
Q Okay. And as far -- they asked you about telling something to John Camelo?
A Yes.
Q Okay. And I think you said that John Camelo was your mother's boyfriend at that time; is that right?
A Yes.
Q And did you refer to him as your dad back then?
A No.
Q You never referred to him as your dad?

A No. I just called him John.
Q Okay. Have you ever referred to anybody as your dad?
A Back then?
Q At any time.
A Now, I do refer to somebody as my dad.
Q Is that somebody in New York?
A Yes.
Q And so other than that person in New York, have you ever referred to anybody as your dad?
A No.
Q And I know some of these questions are personal, but I've got to go through them. Okay. As far as your real dad, you've never met him, have you?
A No, I haven't.
Q Okay. And so it's probably been kind of hard on you growing up without knowing him?
A Yes.
Q Okay. You do have, you know, other people in your life in your family that are important to you, don't you?
A Yes.
Q And your mother is important to you?
A Yes.
Q And your -- you would want to try to please her, if you could?
A (Witness nodded.)

Q Is that a "yes"?
A Yes.
Q Okay. Your brother, A.M., I think is important to you?
A Yes.
Q Okay. And before you moved to South Carolina, you were living in Florida, weren't you?
A Yes.
Q I don't know the exact town, but it was near Jacksonville; is that right?
A Yes, it was.
Q Okay. Was it Orange Park?
A I'm not sure. I don't remember.
Q And that doesn't really matter. There was a time when you lived in Florida that in addition to living with you -- I mean, in addition to you living -- see, I told you I could probably ask a question you might not understand. Let me start over.

When you were living in Florida, in addition to living with your mother and your brother, there was a time that your grandmother lived with you, wasn't there?
A I'm not sure. I don't remember.
Q You don't remember that?
A I don't.
Q Okay. But you do remember your grandmother?

A Not really.
Q Okay. Was there also -- I'm going to move on. Was there a time when you had an uncle that would come visit you in Florida?
A Yes.
Q Okay. And was that your Uncle Matthew?
A Yes, it was.
Q And is that your mother's brother?
A Yes.
Q Okay. And he would come down there kind of frequently, wouldn't he?
A Yes.
Q And your mother was close to your Uncle Matthew?
A I'm not sure.
Q Okay. You were close to him?
A Yes.
Q And, in fact, some of the times when he would come and visit you, he would be the baby-sitter for you and your brother, wouldn't he?
A Sometimes, yeah.
Q Okay. And, sometimes, he would come and spend the whole summer, wouldn't he?
A I'm not sure.
Q Okay. But he would come and stay for a long period of time?

A I believe so, yes.
Q Okay. At some point -- and I'm not going to go into any details, I promise you. But at some point, he killed himself, didn't he?
A Yes, he did.
Q And that was something that was hard on you, wasn't it?
A Yes.
Q Okay. And when you were living in Florida, did you kind of move around a lot from one house to another?
A I'm not sure.
Q You don't remember that, do you, very well?
A I don't.
Q All right. Since you have been in South Carolina -- or since you've left South Carolina, you've lived in North Carolina, haven't you?
A Yes.
Q And, now, you're living in New York?
A Yes.
Q Okay. So you've moved around some during that period -- well, let me rephrase that. How many houses have you lived in since you left South Carolina?
A I'm not really sure. I think, like, three.
Q Like, three? So that would be three in about four years?

A I'm pretty sure.
Q Okay. And when you lived here in South Carolina, you went to school, didn't you?
A Yes.
Q And you were a pretty good student, weren't you?
A Yes.
Q You made A's and B's?
A Yes.
Q And when you got to North Carolina, you didn't do as well in school, did you?
A No, I didn't.
Q Okay. And I'm not going to get into all the details, but you struggled with grades, didn't you?
A Yes.
Q And you had a hard time getting along with people; right, at first?
A Sort of.
Q Huh?
A Sort of.
Q Okay. But, eventually, that got better, though, didn't it?
A I'm not really sure. I think.
Q All right. Now, I want to just ask you about some of the things that you like to do. You have taken dance lessons, haven't you?

A Yes, I have.
Q And is that something that you like to do?
A Yes.
Q And have there been acrobatics involved in --
A Yes.
Q -- the dance classes? Is that right?
A Yes.
Q Okay. And you like to go swimming, at least, when it's warm enough to; right?
A Yes, I do.
Q Okay. And do you remember doing that in Florida?
A No.
Q But you did it here in South Carolina; right?
A Yes.
Q And you've done it where you lived in North Carolina, and probably even in New York?
A Yes.
Q Okay. And when you first made these allegations, I want to ask you about that just a little bit. Okay. The -- was the first person you talked to John Camelo, or was it your mother?
A It was John.
Q Okay. And did John start that conversation?
A No. I started it.
Q Okay. And did he ask you questions?

A No. I just told him what happened.
Q So he didn't question you about it at all?
A I'm not really sure.
Q You don't remember?
A I don't remember.
Q Okay. And it's okay to say if you don't remember, I mean, if that's the case. Okay. So you don't really remember how that conversation started, do you?
A No, I don't.
Q All right. And do you remember how the conversation went with your mother?
A No.
Q You don't remember much about that, do you?
A No, I don't.
Q And do you remember if anybody asked you, your mother, for example, to make sure you said certain things when you went to see the lady at Hope Haven?
A I don't remember.
Q You don't recall that?
A No, I don't.
Q Okay. And after -- do you remember going to Hope Haven?
A Yes.
Q Do you remember going both times or just once? How many times do you remember going? Let me ask it that way.

A To Hope Haven?
Q Yes, ma'am.
A I think I went, at least, once a week there.
Q Okay. Well, I meant to -- for the interview?
A Oh, I think I went once. I'm not sure.
Q Okay. And you talked with -- or maybe you don't remember. Do you remember whether or not you talked with John Camelo after you went to the interview?
A No.
Q You don't remember?
A No. I don't remember.
Q Okay. And do you remember whether you talked to your mother after you went to the interview?
A No. I don't remember.
Q Okay. There's really a lot of things about this you don't remember, isn't there?
A Yes, there is.
Q And in order to get ready to come to court today, you've been talking to people about this again, haven't you?
A To, like, my mom? Are you trying to --
Q Anybody.
A I believe I talked to my social worker about it.
Q Okay. Did you talk to your mom about it?
A Not really.

Q Did you talk to these people about it?
A Yes, sir, I did.
Q Okay. And did they practice with you the type of questions they were going to ask?
A I'm not sure.
Q You don't remember?
A I'm really not sure, but -- I don't remember a lot about yesterday. It was a lot to remember.
MR. GROSE: Okay. I beg the Court's indulgence for a moment.
(Pause.)
MR. GROSE: That's all I have, J.M. . I know this was hard talking to a stranger, but thanks for answering my questions.
THE COURT: Any redirect?
MS. JOSEPH: Briefly.
THE COURT: Okay.

REDIRECT EXAMINATION

BY MS. JOSEPH:
Q Are you okay, J.M. ?
A Yeah.
Q You have to speak up again. Okay. I know it's hard.
A Okay.
Q So you met me yesterday?
A Yes.

Q For the first time?
A I believe I met with you over the phone once.
Q That's true. We talked on the phone once. Very good memory. And I brought you in this courtroom?
A Yes.
Q And I sort of showed you around?
A Yes.
Q And, actually, I put you up on the stand?
A Yes.
Q Did I tell you what to say?
A No.
Q Did your mom tell you what to say here today?
A No.
Q Did anyone tell you what to say?
A No.
Q Are you just trying to do the best to tell us what you remember?
A Yes.
THE COURT: Anything else?
MS. JOSEPH: Nothing else.
THE COURT: Anything on recross?
MR. GROSE: No, sir.
THE COURT: All right. J.M. , thank you for coming.
MS. JOSEPH: Your Honor, the State next calls Tessa

Trask.

MR. GROSE: And, Your Honor, while this witness is coming in, I'd like to -- for the record, this is all subject to the proceedings in front of you yesterday afternoon; is that correct?

THE COURT: Yes. Subject to those proceedings.

MR. GROSE: Thank you, sir.

THE CLERK: Good afternoon.

If you would, place your left hand on the Bible and raise your right hand.

WHEREUPON,

TESSA TRASK,

after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

THE BAILIFF: Right this way.

DIRECT EXAMINATION

BY MS. JOSEPH:

Q Hi, Ms. Trask.

Let's start by talking a little bit about your educational background. You went to college. What degree did you receive when you graduated?

A My bachelor's degree is in political science with the minor in international studies.

Q Do you have any additional degrees?

A I do. I have a Masters Degree in Psychology from the

Citadel.

Q And are you working towards any certificates at this time?

A Yes, ma'am, I am. I'm working towards my license. My license will be as a licensed professional counselor. And I will have that license in August.

Q What does that license require?

A It requires a specific amount of clinical hours while under clinical supervision of a licensed counselor.

Q And how many supervision hours does it require?

A It requires 150 supervision hours.

Q And how many have you completed?

A 147.5.

Q Okay. In addition to your educational background, where do you currently work?

A I work at Hopeful Horizons. We're the local child advocacy, domestic violence, and rape crisis center.

Q And you may have more than one role. So what are your roles at Hopeful Horizons?

A Yes, ma'am. I have a dual role at Hopeful Horizons. So I'm a therapist. I work with victims of child abuse, sexual violence, and domestic violence. And then I'm, also, a forensic interviewer.

Q And did you conduct the interview in this case?

A I did not.

Q Okay. Have you ever met the victim in this case?
A No, I have not.
Q Have you ever read the case file?
A No.
Q You did, however, observe some court proceedings yesterday?
A Yesterday, during pretrial.
Q In addition to the certificate that you're working towards, are you, also, a Child First certified interviewer?
A I am. I received my Child First forensic interview certification in July of 2017.
Q Have you ever been qualified as an expert before?
A I have.
Q And were you qualified as an expert in behavioral characteristics of child victims of sexual abuse?
A Yes, ma'am. That's correct.

MS. JOSEPH: Your Honor, at this time, we ask that Ms. Trask -- or Mrs. Trask be qualified as an expert in behavioral characteristics of child victims of sexual abuse.

THE COURT: All right. Any objection to that?

MR. GROSE: Just subject --

THE COURT: Subject to --

MR. GROSE: -- to the proceedings we had yesterday,

Your Honor. That's it.

THE COURT: All right. And I'll deem her so qualified subject to any objection.

Counselor.

MS. JOSEPH: Thank you, Your Honor

BY MS. JOSEPH:

Q Ms. Trask, can you define the traumagenic model?

A Absolutely. So in cases of child sexual abuse, we refer to the traumagenic model. And when we do so, we are thinking about how child sexual abuse can be traumatic for the child. It's considered traumatic for the child because it's introducing sexuality or sexual contact -- content in a way that is traumatic, and in a way that's developmentally inappropriate for that child at that time.

When I say traumatic, what I mean is that the child is perceiving the abuse itself to be a traumatic event. They may experience trauma symptoms or any other reactions that a child or an adult may experience when a traumatic event occurs.

Q And do you have a working definition of trauma? And how did you come up with that definition?

A Yes. So in my experience in working at Hopeful Horizons and, also, at a CAC in Charleston in the past, I developed my own working definition of trauma just based on research, training, experience --

MR. GROSE: I'm --

THE COURT: Hold on.

MR. GROSE: I'm going to object to any testimony that's not been subject to peer review, Your Honor.

THE COURT: Give me more details.

MR. GROSE: Well, I think under the Chavis case that we talked about, the subject matter of testimony has to be deemed reliable. And if it's something that somebody has developed themselves, it's not subject to peer review. I don't know that that past is the standards for admissibility.

If, however, she wants to testify about something that has been peer reviewed, I wouldn't have an additional objection to that.

THE COURT: Ms. Joseph.

MS. JOSEPH: This goes to weight, not admissibility, Your Honor. I have, clearly, laid the foundation that this is a definition that Ms. Trask has gained through several sources. If Your Honor wants, I could lay the foundation of what exact sources. Although, I think she, actually, did do that already.

THE COURT: I think she's done that already. And I do agree, Counselor, I think it goes to weight. So I'm going to let you go ahead.

BY MS. JOSEPH:

Q So, once again, what is your working definition of

trauma?

A Sure. And just to clarify. This is a definition that has come from my experience and training, my education, and then my experience with working with victims of child abuse, domestic violence, and sexual assault. So what I consider to be trauma has about six parts.

So the first part is something that is extremely stressful or scary. It's something that occurs outside of the realm of someone's typical experience. It's not something they would expect to happen. It's something that makes them feel temporarily overwhelmed. Their ability to cope -- they're not able to cope in the moment, rather.

Another piece is it makes them change the way that they think about themselves, about others, and the world. It makes them feel helpless, ashamed, or horrified.

Q Okay. And what are some symptoms of trauma? And I just want to clarify that we're not necessarily talking about trauma from sexual abuse, but just trauma in general. What are some symptoms of trauma?

A Sure. So in the field, the consensus is that there are three main categories of symptoms when it comes to trauma. And they're called avoidance, hypervigilance, and reexperiencing symptoms.

Q Can you define those symptoms, not give examples, but just help us understand them?

A Absolutely. So avoidance would be trying to avoid thinking about, talking about, having feelings about, or coming into contact with anything that might remind you of the traumatic experience.

Reexperiencing would be having intrusive thoughts, nightmares about the traumatic experience. The classic reexperiencing symptom would be the flashbacks, like you're, actually, reliving it.

And then there's the hyperarousal, also, sometimes known as vigilance symptoms, which is not being able to sleep, irritability, feeling on guard, or really jumpy.

Q And how could sexual abuse trauma, specifically, look?

A Sexual abuse trauma -- there's a range of ways that children can present when they've been sexually abused. So some children may exhibit no signs and symptoms. And then some children may exhibit like a complete 180 in their behavior or in their personality.

It's important to know that the signs and symptoms of child sexual abuse aren't necessarily proof that it did or did not occur. But there's some things that we do expect to see.

So you're going to expect to see the trauma symptoms

that we talked about earlier, the avoidance, the hypervigilance, the reexperiencing. You would expect to see a change in behavior, like a change in sleep patterns, eating patterns, or energy. So changes that you can see that are observable.

You may see new internalizing or externalizing behavior on the part of the child, or you may see behaviors that look a lot like aggression, acting younger than the child is.

Q What about developmentally inappropriate presentation of sexual behaviors?

A That's, certainly, something that you may expect to see when child sexual abuse has occurred.

Q And I know I just said it out loud, but what is that?

A So developmentally inappropriate sexual behavior; is that correct?

Q Yes.

A Okay. So that's when a child is exhibiting behaviors, either through their actions, or through their language, or simply through their interest and intention in sexualized topics that are not developmentally appropriate. And what I would mean by that is it's not something you would expect to see from a child at that age or at that developmental level.

Q Can ADHD and trauma have similar presentations?

A They can. Sometimes, trauma goes undiagnosed and is diagnosed as ADHD or ADD instead.

Q And why would that happen -- in fact, turning to the symptoms of trauma, which one, in particular, of those might meet that misdiagnosis?

A Sure. And while I'm not an expert in ADD or ADHD, what you sometimes see that can be confusing would be the parts of ADHD and ADD that are difficulty concentrating, having intrusive thoughts, acting out behaviorally. So some of those hypervigilance symptoms that we talked about for trauma.

Q Thank you.

And then this is a broad question, but what can you tell me about the disclosure process?

A Okay. So, as we know in the field, disclosure is a process. So what I mean by that is it's not a one-time event. It happens incrementally or gradually over time. There are different stages of disclosures and there's even different kinds of disclosures.

So what we know is there are accidental disclosures, which is what it sounds like, a child accidentally disclosures, or the abuse is revealed by chance. Usually, younger kids are doing that.

And then you've got your purposeful disclosures, which are ones where the child is actively making the

choice to disclosure.

So those are the two kinds of disclosures. And you do have a range in the stages of disclosure. And the stages of disclosure can range from tentative to active to recanting, which means taking it back and then reasserting the disclosure. But it's not necessarily linear.

Q Can you define grooming for us?

A Sure. So grooming is a dynamic that we see a lot in child sexual abuse cases from my experience and from the literature.

So grooming is -- there's a couple different pieces to the definition. So the first one is the giving of privileges, things of value, money, treats, prizes.

And then the second piece would be creating, developing, maintaining a trusting relationship with the child and the family so that the perpetrator can gain access to the child.

And then the third piece would be the perpetrator is gradually exposing the child to sexual contents, and so normalizing sexual content through that gradual exposure.

Q Okay. What are some risk factors of sexual abuse?

A So there's risk factors of sexual abuse for the child. And then there are some risk factors of sexual abuse for the caregiver.

So risk factors for the child would be age, emotional

well being, prior history, and whether or not the child has any kind of delay or disability.

Risk factors for the caregiver would include whether there's any substance used, or substance abuse on behalf of the caregiver, and then, also, whether the caregiver is a single parent.

And I want to be careful when I say that because I don't want to come off as blaming single parents, of course, for this happening. But what we know is single parents are at a higher risk for a perpetrator to seek them out in order to gain access to that child.

Q Going back to the definition of grooming that you gave, do you feel comfortable saying -- and maybe you don't -- that single-parent households are at risk because there could be financial dependency?

A That could be one of the reasons why, yes.

Q And then going back to delays. You said that any sort of delays could be a risk factor?

A Right.

Q So that could be developmental delays. What other type of delays are you talking about?

A Developmental delays, intellectual delays or disabilities, or physical disabilities.

MS. JOSEPH: I have no other questions for you at this time, Ms. Trask. Mr. Grose may have some questions

for you.

THE COURT: Mr. Grose, cross-examination.

MR. GROSE: May it please the Court.

CROSS-EXAMINATION

BY MR. GROSE:

Q Going back to the questions they asked you about your background for a minute, if that's all right.

A Sure.

Q I believe that you testified that you're working to become a licensed professional counselor?

A Yes, sir. That's correct.

Q Okay. And your title right now is, actually, an LPCI?

A Yes, sir. That stands for licensed professional counselor intern.

Q That was going to be my next question.

And in order to complete that, you have to have so many hours of clinical experience; correct?

A That's correct.

Q And that's 2,000 hours?

A Yes, sir.

Q And as of yesterday, I think I asked you how many you've completed and you weren't able to answer that question.

A No, sir. I'm not able to tell you exactly how many

hours I have.
Q Okay. And one of the things that I think that you testified to is you're kind of using sort of your own framework for explaining some of this?
A Can you clarify the question?
Q Well, they asked you what your working definition of trauma was?
A They did.
Q Okay. And so this is kind of what you've decided to do based on things that you've read, I guess?
A My testimony is based on a combination of my education, my training, and my experience in the field.
Q Okay. Now, you, I think, testified that you've never met J.M. ?
A That's correct.
Q So if you've never met J.M. , you've never interviewed J.M. ?
A I have not interviewed J.M. .
Q And even though your position is at Hopeful Horizons, you have not read the file that Hopeful Horizons keeps on J.M. ?
A I have not read the file.
Q Okay. And you've not read, reviewed any social history documents on J.M. , or anything like that?
A No, sir, I have not.

Q And I don't think you've interviewed J.M. 's mother either, have you?
A No, sir.
Q Okay. And so your role here today is to just come and talk about these topics; is that right?
A Yes, sir. That's correct.
Q And to be clear, you're not offering any kind of opinion regarding J.M. one way or the other?
A No, sir. That's not my job.
Q Okay. Now, as far as diagnosis, there -- they asked you about ADHD; is that right?
A I believe Ms. Joseph did ask me about ADHD.
Q And you're not -- you don't know whether J.M. has that diagnosis or doesn't have that diagnosis, do you?
A No.
Q Okay. Because you wouldn't have reviewed any records regarding that?
A No.
Q Okay. And so when you're talking about symptoms and presentation, you're just talking about those in a general kind of way; right?
A I am.
Q All right. Because, I mean, there's a whole book that deals with diagnosis of mental health type issues, the DSM V. It's probably two or three inches thick?

A There is.
Q And there are different things in that that deal with trauma; right?
A There are.
Q Okay. And so children can have sources of trauma that aren't sexual abuse; isn't that correct?
A That is correct.
Q Okay. Loss of a close relative could be one of them?
A Certainly.
Q Okay. And there's -- also, we know that children sometimes have adjustment disorders, don't we?
A An adjustment disorder is a clinical diagnosis in the DSM.
Q And that can result from the stress of a move; correct?
A It could.
Q All right. And I guess what I'm -- I'm getting at is -- is that, you know, there's -- there's a lot of things that could come under the umbrella of somebody providing clinical counseling that don't necessarily have to do with sexual abuse; is that correct?
A Can you clarify the question?
Q Well, there's lots of different diagnoses?
A Sure.
Q And symptoms of one diagnosis can, also, go to

another diagnosis?

A Certainly.

Q Okay. And, again, you're not here to offer an opinion in this case about J.M. ?

A No, sir, I'm not.

Q That's not your role?

A It is not.

MR. GROSE: That's all I have, Your Honor.

MS. JOSEPH: No further questions for the witness. We ask that she be excused.

THE COURT: Any objection?

MR. GROSE: No objection.

THE COURT: Thank you, ma'am.

You can step down. Appreciate you coming.

MS. JOSEPH: Thank you, Ms. Trask.

At this time, Your Honor, the State is done with witnesses. And we ask that we be done for the evening. We have several witnesses lined up for tomorrow.

THE COURT: And, ladies and gentlemen of the jury, I apologize to you. I told you I was going to keep you until 5:30. I'm not going to be able to do that. So I'm sure you're not upset about that. So I'm going to let you go for the evening.

And here again, I just want to tell you, I hate using the word "admonish," because that's sort of like talking

to children in school. So I'm just going to tell you, don't talk about the case with anybody. If anybody's at your house, don't discuss it with them. Don't read anything. Don't research anything. If somebody comes up to you and wants to ask you what you were doing today and they're persistent about it, you get their name and bring their name to me.

But I want y'all to have a good evening. And I'll see you tomorrow morning at 9:30.

All right. Take care.

(WHEREUPON, the jury was excused from open court at approximately 5:04 p.m.)

THE COURT: Anything before we break for the evening?

MS. JOSEPH: Nothing, Your Honor.

Our witnesses will be available starting at 9:00 tomorrow.

THE COURT: And that would be who?

MS. JOSEPH: We're going to start in with the interviews first thing. And then -- we'll do that. And then, hopefully, we will -- then we'll address the Alabama motion. I think that makes the most sense.

THE COURT: Right.

MS. JOSEPH: And then we'll recall Lori. And we'll do our two Alabama people. Even if Alabama materials don't come in, they have to be called for, like, a limited

purpose.

THE COURT: Okay. And I think the only thing we've got to deal with is the whole Alabama thing.

That's the only motions out there; right?

MS. JOSEPH: That is my understanding, Your Honor.

THE COURT: But we've dealt with the whole arrest warrant?

MR. GROSE: Well, we've dealt with the arrest warrant. I guess we've dealt with the statutory part of the search warrant, also.

So I think we've dealt with those, yes, sir.

THE COURT: All right. Thank you.

MR. GROSE: What time do you want us to be here? Do you want us here at 9:30 or -- I guess what we're going to do is we're going to do the interviews first and then the proffer. Is that the plan?

THE COURT: That's the plan. And I think that's going to take about -- well, about an hour and a half to two hours, something like that?

MS. JOSEPH: Yes, sir.

THE COURT: I will be walking in the door about 9:27.

MR. GROSE: Okay.

THE COURT: So I'll see you then.

MS. JOSEPH: And, Your Honor, the Defense has, helpfully, provided the State with a transcript. So we'll

be muting the video as we go. And the Defense agrees that the last quote that he wants muted is the last part of the video. So we'll just turn off the video at that point.

THE COURT: And that's where you've got the little --

MS. JOSEPH: Yeah. There is no actual clapping, it turns out. But she does say things like thank you for being honest.

THE COURT: Okay.

MR. GROSE: And I just wanted to make sure we were still on the record when she said I was helpful because that's --

MS. JOSEPH: Yes. They were beautiful transcripts.

THE COURT: Okay. Thank you.

(WHEREUPON, the proceedings were concluded at approximately 5:07 p.m., to be reconvened on Wednesday, May 23, 2018.)

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT	)	2014-GS-07-01671
	)	2014-GS-07-01672
	)	2014-GS-07-01673
	)	2014-GS-07-01674
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
CHARLES DENT,	)	**VOLUME II**
DEFENDANT.	)	
	)	

May 23 and 24, 2018
Beaufort, South Carolina

B E F O R E:

THE HONORABLE ALEX KINLAW, JR., JUDGE; and a jury.

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

ALEXANDRA M. JOSEPH, ESQ.
S. REBEKAH LUTTRELL, ESQ.
Assistant Solicitors

E. CHARLES GROSE, JR., ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness
(DW) - Denotes Defense Witness
(IC) - Denotes In Camera

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

PROCEEDINGS

THE COURT: Anything we need to address before --

MS. JOSEPH: Your Honor, in order for this to be a speedier process, I am using Court's Exhibits Nos. 1 and 2 to play. And then I will show her and enter into evidence what's going to be State's Exhibit Nos. 1 and 2 [sic]. I've told that to Mr. Grose, and he understands why I'm doing it. It's just to make everything go smoother. And he's fine with that.

In addition, Your Honor, I just want to remind the Court that I will be muting certain sections of the tape. And I am going off of the transcript provided by Mr. Grose. And then in order to avoid any issues with this witness, I'm going to be not going into great detail about her experience interviewing children. I'll be doing it less than I did in pre-trial. Because in pre-trial, I have different things to prove, just so the Defense is aware of that.

MR. GROSE: I think, under the Anderson procedure, it's just, basically, she works there and she did an interview. I think that's it.

MS. JOSEPH: And that's, basically, what I'll be hitting on.

MR. GROSE: If that's it, we're fine.

THE COURT: And correct me if I'm wrong, Mr. Grose.

In pre-trial, when we were putting her up as to qualifications and all that, you didn't have any problems with that. Or was there any objections?

Just jog my memory. Were there any objections regarding her qualifications that you raised?

MR. GROSE: Well, not in pre-trial. But the determination under Anderson, for lack of a better description, it's a two-part process. In pre-trial, you have to determine whether she's qualified. And we didn't object to that. You had to make certain statutory findings. While we objected under some of those findings, we didn't object to that part of it.

THE COURT: Right.

MR. GROSE: Now, I would have an objection to the jury being told that she's an expert in interviewing, because of the separate function that you serve on admissibility versus presenting the evidence for a jury.

THE COURT: And I think there was some agreement that she would be called -- or known as a custodian?

MS. JOSEPH: Yes.

THE COURT: I think the term you used, Ms. Joseph, was custodian of records.

MS. JOSEPH: Record keeper, record custodian, yes, Your Honor.

THE COURT: And I think Mr. Grose had an issue

regarding expert in forensic interviewing.

MS. JOSEPH: I will not be using the word "forensic interview."

THE COURT: Okay.

MS. JOSEPH: And I'm not seeking to qualify her as an expert. I will lay a brief foundation just so the jury doesn't wonder -- I mean, the jury will recognize her from the video, Your Honor. But just where you work now, in that capacity, do you interview children. And then I'll move right into why we're here today.

THE COURT: And --

MR. GROSE: Basically, I wouldn't say she's exactly a records custodian because she did the interview. But it's analogous to that. She's here to authenticate the tape, yes, I did this interview, and this is a true and accurate copy of it. And they play it. And that really should probably be the --

THE COURT: Extent.

MR. GROSE: -- extent of her testimony.

THE COURT: And you're okay with that?

MS. JOSEPH: I'm going to ask her, you know, where do you work? Do you -- in that role, do you interview children? She doesn't interview children anymore, but she used to.

THE COURT: Right.

MS. JOSEPH: And then, did you interview the victim in this case? On what date? Did you interview her again? Yes. I'm going to ask her, you know, is it uncommon to have two interviews? No, it's not really uncommon.

And then I'm going to ask her, under the rule, about how she's allowed to say the disclosure was made to her. Was the disclosure made to you? Yes. Then time and place.

MR. GROSE: Well, of course, we're not going to call her "victim." We're going to try to avoid doing that.

MS. JOSEPH: I didn't do that.

THE COURT: Okay.

MR. GROSE: As far as the time and place, I think what's on the video speaks for itself.

THE COURT: Right.

MR. GROSE: This is, actually, a statutorily enacted rule of evidence, basically, that's broader than what the time and place exceptions are under the statute. So I think since her whole interview is coming in, it just needs to speak for itself.

THE COURT: All right. And, obviously, the Court did an analysis under Anderson based on the input from both sides. And so I did an analysis under that case.

So I'm satisfied that we're ready to proceed with those sort of streamline --

MS. JOSEPH: And can I ask her about time and place

of the disclosure? Those would be my only questions about the disclosure. I'm treating her like any witness that hears a disclosure from a child in a sex abuse case.

MR. GROSE: You're not -- because we have this whole -- I don't think she needs to emphasize beyond what's on the tape.

MS. JOSEPH: It's not bolstering in any way. It's not speaking to the truth of the child, which I would understand his concerns if that was the case.

It's just foundation, Your Honor.

THE COURT: Just time and place?

MS. JOSEPH: Just time and place.

THE COURT: I don't think that would be prejudicial at all, Mr. Grose, unless you find it to be prejudicial. And if you do --

MR. GROSE: I just think they're just trying to repeat it as many times as they can. I mean, they're actually -- I mean, the time and place exception in 801(d) is because you can't go into what somebody told you. But then we have this statute that, for this particular witness, creates different rules.

And so, you know, not only are -- is the -- I mean, the jury is going to see what she said about time and place in the interview. So I just -- you know, I guess it just gets cumulative at some point.

THE COURT: Well, let's just -- so that's going to be an objection you're going to make?

Because if it is, I'll note it on the record so we won't have to --

MR. GROSE: Okay. And I would just ask that when they move the video into evidence that we just note the pre-trial objections at that time.

THE COURT: All right.

MR. GROSE: So I don't --

THE COURT: And you can stand and make sure you do it. I'll probably remember to note your objection but if I don't, make sure you stand and make that objection.

Let me say this. I anticipate getting a telephone call sometime during the course -- maybe during the course of the video. And if I do so, I'll take a break. I'll send the jury back probably. I don't -- it will probably take me -- I'm going to be probably talking 10 or 15 minutes.

MS. JOSEPH: That's completely fine, Your Honor.

THE COURT: So I'll send the jury back if that occurs. I don't know what time that will happen, but it will happen.

MS. JOSEPH: Your Honor, that's completely fine.

In addition, the State just wants Your Honor to be aware that after the video, we will need to let the jury

go back, maybe even break so we can discuss the Alabama matters.

THE COURT: Okay.

MS. JOSEPH: So the State -- and as Your Honor is very well aware, these are quite lengthy videos.

THE COURT: You think?

MS. JOSEPH: I, actually, remember them being much shorter, just so you know.

THE COURT: A movie always becomes shorter the second time you look at it.

MR. GROSE: Are we going to fast-forward through that long break again?

MS. JOSEPH: Yes, Your Honor. I am going to fast-forward through the long break in the first interview. In the second interview, it's so short that I'm not going to do that.

MR. GROSE: That's fine.

THE COURT: All right. Anything else before we bring the jury in?

MR. GROSE: No, sir.

THE COURT: From the State?

(WHEREUPON, there was no response.)

THE COURT: Okay.

(WHEREUPON, State's Exhibit Nos. 16 and 17 were marked for identification only.)

(WHEREUPON, the jury came into open court at approximately 9:46 a.m.)

THE COURT: Good morning.

All right. Is the State ready to proceed?

MS. JOSEPH: Yes, Your Honor.

The State calls Shauw Chin Capps.

THE CLERK: Good morning.

If you would, place your left hand on the Bible and raise your right hand.

WHEREUPON,

SHAUW CHIN CAPPS,

after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

THE BAILIFF: Right this way.

DIRECT EXAMINATION

BY MS. JOSEPH:

Q Good morning, Ms. Capps.

A Good morning.

Q How are you doing this morning?

A Fine.

Thank you.

Q Are you all settled in?

A Yes.

Q Are you currently employed?

A Yes.

Q Where do you work?
A I work at Hopeful Horizons.
Q And what is your current position at Hopeful Horizons?
A I'm the chief executive officer.
Q In your current role -- well, what is Hopeful Horizons?
A Hopeful Horizons is a nationally accredited children's advocacy center. And we're, also, a domestic violence and sexual assault center.
Q Do you say that -- do you do that definition a lot as the CEO of Hopeful Horizons?
A Yes.
Q In your current role as CEO, do you interview children?
A In my current role, I do not interview children.
Q Back in 2014, so four years ago, did you interview children?
A Yes. Prior to the merger of the organization in 20 -- which was in 2017, we were called Hope Haven of the Lowcountry. And so I was employed from 2003 up to present. And from 2003 until the point of the merger, which was 2017, I conducted our forensic interviews.
Q Okay. Turning to this case, in preparation for this trial, I asked you to look back at an interview you

conducted with J.M. ?

A Correct.

Q On what dates did you interview J.M. ?

A There were two interviews that I conducted with J.M. . The first one was July 10th, 2014, and the second one was July 25th, 2014.

Q So you did two interviews with her?

A I did.

Q And is it uncommon to do two interviews?

A It's not uncommon. It's not necessarily common either. However, it all depends on whether there's, actually, a need to do a second interview. And per law enforcement's requests, you know, if there is reason to do a second interview, we -- we would do a second interview. And we continue to do second interviews.

Q Okay. And during the course of this interview, did J.M. make a disclosure to you?

A Yes, she did.

MR. GROSE: Same objections from the pre-trial hearing.

THE COURT: All right. Subject to your objection, Mr. Grose.

BY MS. JOSEPH:

Q And we're just going to talk about time and place. Did she say physically where the act had occurred?

A Yes. She identified three locations for the events that occurred. The first --

Q And were any of those in Beaufort County?

A Yes.

Q And were they at two different houses in Beaufort County?

A Yes.

Q And then as far as -- did she give a time frame for the abuse?

A The time frame she was able to provide was that it happened after her eighth birthday.

Q Okay. So after her eighth birthday?

A Uh-huh.

Q Do you know how old J.M. was when you interviewed her?

A Yes. She was nine years old.

Q So between eight and nine?

A Yes.

Q In preparation for this trial, I asked you to review the interviews that you conducted in this case; is that correct?

A That's correct.

Q And you actually -- you made a copy of those interviews?

A Yes.

Q And you reviewed them?
A Yes.
Q So I'm handing you what's been marked as State's Exhibit Nos. 16 and 17. Do you recognize those disks?
A I do.
Q And how do you recognize those disks?
A I've watched the interview through -- with these disks. And, also, I initialed it when I watched it.
Q So I asked you to initial it. And you put your initials on it after you reviewed it?
A Yes.
Q Were those videos altered in any way?
A No.
Q Were they in the same format and did they look the same as when you viewed them originally?
A Absolutely, yes.
MS. JOSEPH: Your Honor --
BY MS. JOSEPH:
Q Oh, and I'm sorry. What is the date on State's Exhibit No. 16?
A July 10th, 2014.
Q So that's the July 10th video?
A Uh-huh.
Q And then what's the date on State's Exhibit No. 17?
A July 25th, 2014.

MS. JOSEPH: Your Honor, at this time, the State would move to enter State's Exhibit Nos. 16 and 17 into evidence. And then we would move to publish these to the jury.

THE COURT: All right. What says the Defense?

MR. GROSE: Subject to our pre-trial hearing, Judge.

THE COURT: All right. Your objection subject to the pre-trial hearing is so noted.

It will be State's Exhibit Nos. 16 and 17?

MS. JOSEPH: Yes, Your Honor.

THE COURT: All right.

(WHEREUPON, State's Exhibit Nos. 16 and 17 were admitted into evidence.)

(WHEREUPON, State's Exhibit No. 16 was played in open court.)

MS. JOSEPH: Your Honor, at this time, I'm going to fast-forward through the time that the interviewer was out of the room.

(WHEREUPON, State's Exhibit No. 16 continued to be played in open court.)

MS. JOSEPH: And, Your Honor, at this time, we're going to play the second video.

THE COURT: You're going to do that after we take a five-minute break -- let's say a 10-minute break.

Ladies and gentlemen of the jury, the same

instruction I gave you yesterday. I'm going to let you take a break, stretch your legs, go to the restroom, do anything like that before we look at the other video.

Don't talk about the case with each other. Don't do any research, or anything like that.

We'll be back in about 10 minutes.

(WHEREUPON, the jury was excused from open court at approximately 11:00 a.m.)

THE COURT: All right. We'll be down for about 10 minutes.

(WHEREUPON, a break was taken.)

THE COURT: Anything before we bring the jury back?

MS. JOSEPH: Nothing, Your Honor.

MR. GROSE: Just briefly.

THE COURT: Yes.

MR. GROSE: And it's not likely to come up again. But we were going to stay away from the use of the term "forensic interview." And it crept in in the first part of her interview. So I'd just like to remind everybody to stay away from that.

MS. JOSEPH: Your Honor, my understanding at the beginning of this is that we are all going to do our best to stay away from that term. I mean, I didn't use the term. I think she used it once.

MR. GROSE: And that's exactly right. And I'm just

reminding everybody, so.

THE COURT: All right. Are you -- you're talking about this witness; right?

MR. GROSE: Yes, sir -- well, all witnesses. It happened in her --

MS. JOSEPH: Just to clarify for the witness.

We're staying away from the term "forensic interview." I've never had that come up before in a trial. So we're just going to call it "interview."

THE WITNESS: Okay.

THE COURT: Are you okay with that?

THE WITNESS: No. I didn't know.

THE COURT: Okay. Anything else before we bring the jury back?

MR. GROSE: No, sir.

THE COURT: Okay. Go get them.

(WHEREUPON, the jury came into open court at approximately 11:21 a.m.)

THE COURT: All right. The jury is assembled.

Ms. Joseph.

MS. JOSEPH: Thank you, Your Honor.

(WHEREUPON, State's Exhibit No. 17 was played in open court.)

THE COURT: Let me do this. I'm going to -- it is about five minutes to 12:00. I'm going to send the jury

back to the room. And I'll give you some instructions as to lunch in a minute.

So just bear with me for a minute. I need to talk to these lawyers about a few things. Don't discuss the case with each other while you're back there.

(WHEREUPON, the jury was excused from open court at approximately 11:54 a.m.)

THE COURT: All right. Question -- my first question is, are you going to -- any other questions of this witness?

MS. JOSEPH: I have no other questions, Your Honor.

MR. GROSE: I don't.

THE COURT: All right. And my next question -- well, first of all, she's been sitting up here for a while. Can she --

MS. JOSEPH: She -- as far as the State is concerned, Judge, she can be excused. Yes, Your Honor.

THE COURT: Thank you, ma'am.

MR. GROSE: I would just -- I have no objection to her being excused. But I think we do need to let the jurors know after a break that --

THE COURT: That I excused her.

MR. GROSE: That she was excused and -- I don't want the record to look like --

THE COURT: I'll tell you what, so we'll have a clean

record, Mr. Grose, what I'll do is I will bring the jury back and instruct them in here regarding lunch plans. And then I will excuse her on the record.

MR. GROSE: Okay.

THE COURT: So the record will be clear.

MS. JOSEPH: That makes sense, Your Honor.

THE COURT: But the other thing I was going to ask, the next witness is who?

MS. JOSEPH: Well, we have to sort of discuss how we're going to handle that, Your Honor.

THE COURT: This is the Alabama thing?

MS. JOSEPH: Yeah, basically. But shortly, Your Honor, it is the investigator from Alabama, who, as far as the State is concerned, is doing, basically, the chain to show how he got the electronic devices, you know. We got a search warrant. We went to the house. We got the electronic devices. And then it's the electronic task force member who is the one that went on the electronic devices and pulled the images.

And then, Your Honor, there's Lori, who we're recalling for the limited purpose of looking at some photographs.

THE COURT: Okay. So we would want to do a proffer on both of the Alabama witnesses?

MS. JOSEPH: Yes, Your Honor.

And the State -- you know, we all go home and think about things. I think I did that yesterday. That the Alabama discussion got mixed in with the discussions of 12 images of the victim. And the State feels those are, actually, two separate discussions. There's the child porn question. And then there's the 12 images of the victim.

So going forward, we just want to make sure that those are two distinctive issues. And the State has two separate positions on those.

THE COURT: Right. But depending -- the --

MS. JOSEPH: The child porn only comes in if those files were mixed, that is my understanding.

THE COURT: That was the discussion.

MS. JOSEPH: That was the discussion. Those were the findings. And then as far as the 12 images, which are not child porn and they're of the victim in this case, we would like to be heard separately on that. But those witnesses, the three I listed, are necessary to establish those photos anyway.

THE COURT: Well, let's be clear. I'm not making any ruling as to what comes in.

MS. JOSEPH: Right.

THE COURT: That's what you say.

MS. JOSEPH: Yes.

THE COURT: I've got to hear the proffer first. I don't want it misunderstood that I'm making any finding --

MS. JOSEPH: I completely understand. I just wanted to separate those two things in your mind.

And just to preview something for the Court. The answer about whether or not the files were mixed is, of course, slightly more complicated because it just was. So you'll have to just hear from him.

THE COURT: So it's my understanding that we're going to have a proffer on both of the Alabama witnesses.

MS. JOSEPH: Yes, Your Honor.

MR. GROSE: Can I ask which two? Because you listed four.

MS. JOSEPH: So it's going to be Investigator Joey Stone. And it's, actually, going to be Arthur Agee.

And Arthur Agee is not the officer that did the report in this case. He has replaced the officer that did that report. Basically, one officer moved on and he filled his spot on the task force. But he has independently reviewed the materials. He did not produce a report in the case, but --

THE COURT: Well, is that going to be -- is that going to be an objection?

MR. GROSE: Yeah. There's two objections there.

I mean, they listed on their witness list Justin

Cole, who's the one who did the report, did the examination. And they've already acknowledged needing to call one of the investigators. They've listed two investigators that were involved in executing the search warrant. And they're going to call one of them.

So they've already acknowledged needing to prove the chain. And so if they don't have Mr. Cole, then they can't prove the chain.

And then the second question --

MS. JOSEPH: Can I address that first point first?

THE COURT: Yeah.

MS. JOSEPH: We can -- I mean, we'll do that in proffer. We'll establish the chain for Your Honor.

MR. GROSE: Well, I mean --

MS. JOSEPH: He can say that we can't, I understand his objection, but we can.

MR. GROSE: Well, I don't know --

THE COURT: Well, here's my question. You've got a guy, an investigator, who's coming from Alabama. But he wasn't involved at all in getting any of the materials. He's just coming as a substitute.

And I understand where Counsel is going to go with that objection regarding that.

Is that what you're telling me?

MS. JOSEPH: No, Your Honor -- well, yes and no.

Classic lawyer answer. He was not involved in the initial investigation. He will testify that the first thing that they do is they photograph each and every electronic device that's seized. They get the serial numbers on the device, and then they mirror the devices. So all the contents of the devices are perfectly mirrored.

He then reviewed those mirrors, which is the process that Detective Cole did when he made his first report.

MR. GROSE: Well --

MS. JOSEPH: So he did all the things Detective Cole did in preparing for this case.

MR. GROSE: Well, that's interesting that she thinks that. But I need to get -- to ask Detective Cole --

MS. JOSEPH: Completely --

MR. GROSE: Can I finish?

MS. JOSEPH: I'm agreeing with him.

MR. GROSE: Okay. But they don't have Detective Cole. So without being able to ask Detective Cole that, they've got a link in the chain. But then I think -- I'll get you the cite over lunch. I think it's the Melendez-Diaz case out of the United States Supreme Court on the chain of custody.

I think you get to examine the person who, actually, made those mirrors. Because this goes to some of the issues that were already really -- you know, we were

already discussing in the case is how the stuff was organized on there. And you know --

THE COURT: Well, if we're going to have a chain of custody argument --

And, obviously, Counsel, you're going to raise that issue.

MR. GROSE: Chain and confrontation clause.

THE COURT: Any case law that you come up with, share that with Ms. Joseph --

MR. GROSE: Okay.

THE COURT: -- and Ms. Luttrell over lunch.

And I guess I'll just have to hear it and then, I guess, deal with whatever objections come up at the time during the proffer. But I just know -- based on what you just told me, I just know that Counsel may have some concern about that. And I don't know where it's going to go. But I'd have to wait and see -- hear it and see it.

MS. JOSEPH: And, Your Honor, I just think it's important to note this for the record. I have -- and we will discuss the issue of chain. I have my own case law that I'll provide to you and to Defense.

THE COURT: All right.

MS. JOSEPH: But part of the chain and part of notification, just the underlying principles of this, is that Defense's burden -- if they don't know everyone in

the chain and they can't examine everyone in the chain. In this case -- and this, I think, is really important for Your Honor to know this. They hired their own expert, an expert, who, by the way, we have stipulated to the qualifications of because he is more than qualified. He's an expert in this field. And he, actually, got to go to Alabama. And do you know what he looked at, Your Honor? He looked at those mirrored copies. So they had no issues with looking at those mirrors --

MR. GROSE: I didn't -- no, I didn't say that. I did not say that --

MS. JOSEPH: I'm just saying --

MR. GROSE: No, no. We -- yes, we sent somebody to Alabama and he looked at it. He didn't look at every single device. He looked at certain things to get certain information and to consult with me. Nothing about that should be construed as relieving them of their burden.

I didn't know this was going to be an issue because Mr. Cole was on --

THE COURT: The witness list.

MR. GROSE: -- the witness list. And they have an address for him. I mean, the address is on the witness list.

So we need to make sure that a copy of their witness list is in the record. But they've got an address on the

witness list.

I did some research on him. He's still in Alabama. And he's still consulting and is available as a witness. He's just not here. They could have subpoenaed him here. We subpoenaed records -- some of the records you looked at yesterday, we got them from North Carolina using the process of interstate subpoenas.

THE COURT: Let me ask you this, Ms. Joseph. When did you find out he was going to be unavailable, Mr. Cole?

MS. JOSEPH: Last week.

THE COURT: Did you not let Mr. Grose know that?

MS. JOSEPH: No, Your Honor.

THE COURT: Well --

MR. GROSE: No. This is the first I've heard of it, that he's unavailable.

MS. JOSEPH: But --

MR. GROSE: She sent a witness list last week that his name -- I mean, the witness list -- I'll check it. It came out on either Thursday or Friday. You've got a copy of it. And his name was on the witness list. And there was nothing about him being unavailable.

MS. JOSEPH: But, Your Honor, I -- two weeks ago, Defense and I e-mailed each other. So I have always -- I want to be very clear. Detective Cole is no longer a police officer. He makes a lot of money now --

THE COURT: Here's my point --

MS. JOSEPH: No, no. I have a really good point --

THE COURT: Let me tell you what my point is.

MS. JOSEPH: Yes.

THE COURT: My point is this, a case of this magnitude and a case as serious as this case is, I've got a pet peeve about if something -- if there's a witness that the Prosecution or the State put on the witness list, gave it to Defense Counsel and he's relying on it, and then the Prosecution comes in on D day and says, well, this guy is not coming, we're sending this person here. I don't know how that will impact, I mean, the Defense's case.

I guess, I'm just -- I've got a pet peeve about communications between lawyers on both sides. And if something came up, like, there was a witness that's going to be unavailable, let the other side know the witness is going to be unavailable and why. And then maybe that was something -- if you knew that two weeks ago, maybe that's something we could have addressed pre-trial. I mean, we had pre-trial matters. That could have been something I could have heard and we could have dealt with.

But, you know, I don't -- and I'm not throwing the pitch fork at either you -- or either side. That's just a pet peeve of mine. I just like cases being tried with

everybody being open and clear as a whistle. I think these cases require that, that everybody on both sides be transparent as much as they can about every -- not just some, every iota of discovery.

And discovery will include things -- the evidence you exchange by way of the rules of discovery. But, also, part and parcel of that is letting both sides know when you've got a -- some -- some problem with a witness appearing or not appearing, and that kind of stuff. That's just where I'm at.

Because when we -- when you come in here -- and every case is important, it's important to the State, it's important to the Defense. And I just think that the playing field must be extremely level. That's the only way -- that's the only way you can play ball. It has to be extremely level on both sides.

So having said that, I just think, Ms. Joseph, you had an obligation, I think, to let Mr. Grose know before today that Mr. Cole was not going to be here. I just think you should have told him.

MS. JOSEPH: I think that's fair, Your Honor. I apologize to Mr. Grose.

THE COURT: You should have told him.

So that's -- that's a path that we've got to cross once we put -- we do the proffer on both of those Alabama

witnesses. We'll cross that bridge when we get to it.

And we're going to do that -- well, I'm going to -- it's 10 minutes after 12:00. I'm going to bring the jury back in here. I'm going to excuse --

And I will probably never get your name right.

THE WITNESS: Ms. Capps.

THE COURT: Ms. Capps. I can get that part.

I'll excuse Ms. Capps, and then give them instructions on lunch. And my thinking is, let everybody go to lunch.

And get back at what time? Because I hate to start anything --

MR. GROSE: I think we should --

THE COURT: I'll do whatever you want to do.

MR. GROSE: I think we should give the jurors longer than we get and take up the proffer, so that they're not just sitting back there.

MS. JOSEPH: So I say that we come back at 1:00, the jury comes back at 2:00, or we could come back at 1:30 and the jury could come back at 2:30, Your Honor.

MR. GROSE: Can we have 1:30?

THE COURT: 1:30. And the jury comes back at 2:30. That will work?

MR. GROSE: That will work.

And can I have about two minutes with Mr. Dent.

Because I have a time-sensitive decision I have to make regarding a witness. And I just want to confer with him real quick.

THE COURT: When do you want to do it?

MR. GROSE: I'm going to go in that room back there.

THE COURT: You want to do it now?

MR. GROSE: If I could.

THE COURT: Before I bring them back?

MR. GROSE: Never mind. I'm getting ahead of myself. That will be quick. We'll just do that and --

THE COURT: I'm just going to bring them in and tell them when to come back.

MR. GROSE: I wasn't thinking through straight. That will give me enough time.

MS. JOSEPH: And, Your Honor, normally, I wouldn't say anything. But just for the record, on May 3rd, I did tell Defense Counsel that our contact was Arthur Agee. And I provided him a cell phone number. And I provided him Arthur Agee's CV on Monday of this court week.

Your Honor, I agree that I did not say that Detective Cole was not available. But I let him know it was Arthur Agee that we had contact with.

MR. GROSE: And that's true. But Arthur Agee -- and, actually, for all this bickering back and forth, she's, actually, been very cooperative with us as far as

obtaining records and being able to view the stuff in Alabama.

And I had asked for -- to try to help facilitate some of that, you know, who do we need to talk to. I've talked to Mr. Agee on the phone. I understand that he is the person who has custody of it now. That has never been an issue.

I've had plenty of cases where, you know, people at SLED who have done stuff in the forensic chain or been investigators have gone on to work for another agency and then have come back and testified at trial. I think the 1980s cold case they're trying in the other courtroom is just like that. People have retired, former investigators, but they're coming back to testify at trial.

I didn't think that that meant Mr. Cole was unavailable. I just thought it meant he wasn't the person to deal with to get this. And, like I said, his address is on the witness list. I looked him up. He lives in what appears to be a nice house, based on what Google maps says for that address. He's on LinkedIn. He's a consultant now. I just assumed, like she said, he's gone into consulting where he can make more money, and he would come.

THE COURT: All right. Anything else before I bring

the jury in and give them that limited instruction regarding lunch and excusing Capps?

(WHEREUPON, there was no response.)

THE COURT: Nothing further.

Bring the jury back.

THE BAILIFF: Are you ready, Your Honor?

THE COURT: Yes.

(WHEREUPON, the jury came into open court at approximately 12:12 p.m.)

THE COURT: All right. Ladies and gentlemen, first of all, both sides have finished any questioning of Ms. Capps. So I'm going to excuse her.

So, Ms. Capps, you can step down.

THE WITNESS: Thank you.

THE COURT: Any objection to her being excused?

MS. JOSEPH: None from the State.

MR. GROSE: No, sir.

THE COURT: Okay. No objection from the State or the Defense.

Thank you, ma'am.

THE WITNESS: Thank you.

THE COURT: Next, we're going to do this for lunch plans. I'm going to excuse you to go to lunch now. I'm going to give you an extended lunch, so you'll have an opportunity to eat your lunch a little slower than you

normally would. I'm going to let you come back at 2:30.

We've got some matters that we need to take up before you come back. But I didn't want you sitting back there waiting for us to take care of those matters. So I decided just to give you an extended lunch to allow us to go to lunch and then, also, take up those matters. So that's what -- I wanted you to do that.

During lunch, even though you've got an extended time, here again, please, don't discuss the case with each other. Do not read any newspapers. Do not cut on your television set. And if anybody comes up to you and wants to talk about this case with you, get their name and report that person back to me. And I'll deal with that person or persons accordingly.

So enjoy your lunch. And I'll see you back at 2:30.

(WHEREUPON, the jury was excused from open court at approximately 12:14 p.m.)

THE COURT: Just -- we're still on the record. This is one thing before we break for lunch. In going back to the point, the witness list that I was --

And, Ms. Joseph, I'm addressing this, I guess, to you. The witness list that I was provided with and, also, Mr. Grose was provided, this witness list was clocked in with the clerk's office by your office on May 18th, which, according to my recollection, was probably last week.

On this witness list that your office clocked in with the clerk's office, it has number 11 as the witness, Detective Cole. So my point is you clocked this witness in -- witness list in. You gave it to the Court. You gave it to Mr. Grose. You clocked it in as this being the witness list that's going to be utilized in this trial. And Mr. Cole's name was on here. That's my point.

MS. JOSEPH: No. I completely agree. I should have explicitly told him that I couldn't use Cole. I completely understand and I agree.

THE COURT: But I just wanted the record to be clear that that's what the witness list said, and your office clocked it in on the 18th of May. So you knew at that time that Mr. Cole wasn't going to be here when you clocked in the witness list.

Am I right?

MS. JOSEPH: Yes, Your Honor.

THE COURT: All right. We're going to break for lunch. And we'll be back at 1:30. Okay. We'll stand down until 1:30.

(WHEREUPON, a lunch break was taken.)

(WHEREUPON, State's Exhibit Nos. 18, 19, and 20 were marked for identification only.)

THE COURT: Ms. Joseph.

MS. JOSEPH: So, Your Honor, in light of having --

after Your Honor's -- I don't want to call it a ruling. But after discussing the Alabama matter with Your Honor yesterday, and after reaching an understanding with the Court that if the child pornography was not in the same folders as the images of the daughter that it would not be admissible under 404(b).

THE COURT: Right.

MS. JOSEPH: We have rediscussed matters with Arthur Agee. The child pornography was deleted. And when anything is deleted on a computer, the first thing that is deleted is the pathway where it was stored. So they can't say -- he cannot say with any certainty where the child pornography was stored on the computer.

Does that make sense?

THE COURT: It makes sense.

MS. JOSEPH: I'm only asking if it makes sense because I barely understand it. We were going to argue that because there was a chance -- you know, we don't know for certain that maybe it should be let in. But I think in light of everything that's happened, the State is not going to attempt to get in the 404(b) evidence, specifically, the child porn.

So right now, the only thing that's being discussed is the approximately 12 images of the victim. The State's arguing that they're sexual images, the images of the

victim that were found on the Defendant's camcorder and camera. And we are now going to proffer all three witnesses just so Your Honor will get a preview of exactly what we're going to do.

And the State would request that we argue this at the end of the proffer. Because I genuinely think all of the questions will be addressed through the proffer testimony. That's not to mean that Defense can't object as we go along. But I think -- as far as the big question about chain and Agee's role in this, I think that all of that will be ironed out if we're allowed to proffer all the testimony.

THE COURT: All right. Y'all already probably talked about that before --

MS. JOSEPH: We, actually, hadn't.

MR. GROSE: Well, Your Honor, we hadn't. But this is a proffer. So I'm okay arguing the objections at the end of the testimony.

THE COURT: Okay.

MS. JOSEPH: And I want to be clear that we are -- I'm going to put the witnesses up in the order that I intend to put them up in front of the jury. So I'm going to start with Lori Mayo.

THE COURT: Okay.

MS. JOSEPH: Because Defense Counsel and I had

briefly talked about doing a different order. So I'm going to call Ms. Mayo to the stand.

(WHEREUPON, State's Exhibit No. 21 was marked for identification only.)

THE COURT: If you'll swear her in. I know she was sworn in previously, but let's do it again.

THE CLERK: Yes, Your Honor.

Place your left hand on the Bible and raise your right hand.

WHEREUPON,

LORI MAYO,

after first having been duly sworn, testified as follows:

THE CLERK: And just put that microphone where they can hear you.

Thank you.

THE COURT: All right.

DIRECT EXAMINATION

BY MS. JOSEPH:

Q Ms. Mayo, I'm going to hand you something.

MS. JOSEPH: And I'm providing Defense a copy, although I have already provided it --

MR. GROSE: We've got it, yeah.

BY MS. JOSEPH:

Q I'm showing you something marked as State's Exhibit No. 21. Do you recognize what -- I'm going to call them

photographs. Do you recognize them?
A Yes.
Q I'm calling them photographs, but what are they photographs of?
A They are screen shots, or just pictures of actual text messages on a cell phone.
Q So they're pictures of a cell phone screen?
A Yes.
Q And you had the opportunity to look through these photos?
A Yes.
Q And do you recognize your name in the photos?
A Yes.
Q And your phone number?
A Yes.
Q And then you read through the body of the text messages that are displayed in the photographs?
A Yes.
Q Have they been materially altered in any way?
A Not that I'm aware of.
Q Okay. So are they a true and accurate depiction of the testimony between -- I'm sorry. Who are the text messages between?
A Between Charles and I.
Q Are they a true and accurate depiction of those text

conversations?

A I am fairly certain they are.

MS. JOSEPH: Your Honor, based on that foundation, we would move to enter State's Exhibit No. 21 into evidence.

THE COURT: Any objection?

MR. GROSE: Well, I mean, I think they would have to do that in front of the jury.

MS. JOSEPH: Yes.

MR. GROSE: I don't have a specific objection to those, as long as she can identify them in front of the jury. But these are separate from the photographs that I thought we were doing the proffer on.

MS. JOSEPH: It is. I was just going to go through her genuine testimony today. Because I, literally, am going to ask her about those text messages and then the other photos. And then we're done.

So I'm about to address some photographs that are not the photos in dispute. I've shown these to Defense Counsel. These photographs are of the victim and the Defendant. I'll stop using the word "victim." They are of J.M. and the Defendant in the home where the allegations took place.

THE COURT: So these text messages here are screen shots of the text messages we talked about --

MS. JOSEPH: Yes.

MR. GROSE: And I -- they haven't told me this. But I think they're doing this to cure my objection to the use of the incident report yesterday.

MS. JOSEPH: Yes.

MR. GROSE: And I would much rather have the actual text messages in evidence than what happened yesterday. So any of my caution is -- because these were probably brought in with the Alabama stuff. But this is not what we have an objection to. And so I --

MS. JOSEPH: I'm just going through her whole testimony. She's being called for a fairly limited purpose. So I'm just going to go through everything I expect to question her about on the stand in front of the jury.

MR. GROSE: That's fair enough. I just didn't understand --

THE COURT: You're okay?

MR. GROSE: Yes.

THE COURT: I just wanted to make sure those were the same text messages that was contained in the incident report the other day.

MS. JOSEPH: They are. Your Honor, to be fully honest with the Court, there's slightly more, like, a little bit more material because the incident report was a summary. But I have provided Defense Counsel with these

text messages prior to our break for lunch. So he has had a chance to look that over.

THE COURT: Was that other document moved into evidence, the incident report?

MS. JOSEPH: No.

MR. GROSE: I don't think the incident report --

THE COURT: Was that was marked for identification, or it just wasn't even marked?

MS. JOSEPH: It was not even marked.

MR. GROSE: I think it might have been marked as a Court's Exhibit.

MS. JOSEPH: I didn't mark it.

Did you mark it?

MR. GROSE: Well, it was one of y'all's copies, but I think we did mark it. And that was my concern, that they were going by a summary yesterday and not the actual thing. And so, now, we have the actual thing. So I'm -- unless something changes in her testimony between now and when we're in front of the jury, I'm not --

MS. JOSEPH: And I agree I'm going to need to do that in front of the jury. I recognize that.

THE COURT: All right.

MS. JOSEPH: Similarly, this is not -- I'm just getting into those other photos. So I'm going to hand you a stack of photos. This is State's Exhibit Nos. 1, 2, 3,

4, and 5.

And I'll come back and show them to you.

So this is State's Exhibit Nos. 1 through 5.

And I know --

MR. GROSE: Yeah. I just wanted to -- yeah.

BY MS. JOSEPH:

Q So, first, do you recognize those photographs?

A Yes.

Q How do you recognize those photographs?

A That's my daughter in our old house.

Q All right. Have those photographs -- did you take those photographs?

A I am not sure who took the photographs.

Q Okay. That's a fine answer. Did you -- are those photographs materially -- have they been materially altered in any way?

MR. GROSE: I -- if she's not the one who took the photographs, I don't know how she can answer that question.

MS. JOSEPH: That's true. I guess I'm thinking if she could identify a photo of her house; right? She wouldn't have necessarily had to take the photo of her house.

MR. GROSE: I think she can identify -- I mean, this isn't like a crime scene where I'm standing next to the

officer taking photographs and I can say, yeah, this is how it looked at the crime scene. I think she can testify that's a picture of my daughter, and whether or not she recognizes the background. But I don't think she can testify about whether or not those photographs have been altered since they were taken.

THE COURT: Do you want to respond?

MS. JOSEPH: Your Honor, what I'm trying to get her to testify to is the subject of the photographs, the background of the photographs, the time period that they were taken, how old her daughter was, how old J.M. was. I agree that -- when I'm using the word "altered," I don't mean, you know, is she behind the camera cropping it. I guess I mean --

THE COURT: But she wouldn't be in a position to know that, would she?

MS. JOSEPH: Right. I guess when I say "altered," I'm not using it in that way. I mean, it's more like, yeah, are they accurate for what they depict. There's a photograph of her daughter at a birthday party. She can say, that's my daughter at a birthday party. That's what she looked like, you know. I was there. I mean, I know his point that she's not standing over the person taking the photograph --

MR. GROSE: And I'm okay with that. I'm just not

okay with her saying these are accurate as they were taken and haven't been altered.

THE COURT: Okay. So why don't you phrase the question that way with that amendment.

MS. JOSEPH: Yes, Your Honor

BY MS. JOSEPH:

Q So I'm going to go photo by photo. So hold up the very first photo for me so I can see it. And what number is on the front?

A One.

Q Okay. So of the photo -- what does that photo depict?

A It's my daughter standing in front of the living room window.

Q Okay. And when you say "living room window," which house was this?

A The second house.

Q In Beaufort County?

A Yes.

Q Okay. And when I say what does it depict, is there a special occasion that's happening?

A It was a birthday.

Q And do you remember what birthday party it was?

A That was her ninth birthday.

Q That was her ninth birthday. And did you attend that

birthday party?
A I don't think it was a party. It was just the family. It was just us.
Q Were you at the house --
A Yes.
Q -- when that photograph was taken?
A I am not sure.
Q Okay.
A I was there that day.
Q How about this, did you see your daughter dressed like that?
A Yes. I have the same pictures of her in that outfit on her birthday.
MS. JOSEPH: Perfect.
Based on that, Your Honor, we would move to enter in State's Exhibit No. 1.
MR. GROSE: And my --
THE COURT: Subject --
MR. GROSE: Well, we're having this hearing -- I mean, I don't want to have to -- I thought we weren't going to do the objections every time. Because these are the photographs that came off the device in Alabama. And so if they can't establish the chain and satisfy the confrontation clause, then I'm going to have an objection. And --

THE COURT: Let's hold off on the admissibility --

MS. JOSEPH: Right. Let's hold off on the admissibility --

THE COURT: -- until we do the proffer.

MS. JOSEPH: I agree with that.

Does he have any other objections?

MR. GROSE: That's -- that's going to be --

MS. JOSEPH: I mean, we're proffering testimony. I know that's not why we're necessarily here. But if there are objections, I'd like to sort of handle them now.

MR. GROSE: That's going to be my objections. Although, if we're going to go through photo by photo, I might want to ask her some questions about some of them, but not this one.

MS. JOSEPH: So he still has objections about where the photos came from, which is the general reason that we're here. But, seemingly, no objection about this photograph.

THE COURT: Let me make sure I understand, Mr. Grose. Once we get the proffer on the Alabama testimony, what you're asking me to do is to -- you want to reserve your objections as to the admissibility of the photos at the same time that you assert any objections, if any, to the chain in the Alabama --

MR. GROSE: Yeah. Judge, if -- if I can -- I don't

want this to take longer than necessary, I promise.

THE COURT: All right.

MR. GROSE: Just so the record doesn't get clouded. I still have my objection for the solicitor's office not applying for the search warrant. You've already ruled on that. I don't plan on arguing that again.

I just want a -- I don't want that to be lost on the record somehow. With what transpired before lunch, I have questions about the chain of custody of the evidence from Alabama. Because we're not really talking about just this -- these photographs. We're talking about the computers. And they've already acknowledged that they have to prove the chain of custody by bringing an officer from Alabama that was involved in the search to --

THE COURT: I think the computers are out. We're just camera --

MS. JOSEPH: Camera, yeah, Your Honor.

MR. GROSE: Well, they're going to say that these are on the computers, too, or some of them.

MS. JOSEPH: Not --

THE COURT: Not based on what I just heard.

MS. JOSEPH: Yeah. Just to be very clear. These photos -- first of all, we're seeking to enter the four photos you have in your hand.

MR. GROSE: It was five.

THE WITNESS: Five.

MS. JOSEPH: The five photos you have in your hand, we're seeking to, actually, enter these through this witness. We are not saying that the Defendant took these. We're seeking to enter them to show the location where the crime occurred, just like you would enter crime scenes.

I mean, this is all -- the first photo is in the living room. That's not necessarily helpful. But the next ones are in the photograph -- the next photos are in the Defendant's bedroom and they're in the kitchen. And in her forensic interview, she talks about one of the assaults occurring in the kitchen.

So that's -- these photos, in the State's opinion, are not tied -- and I should have said this earlier. I apologize. I'm just trying to be very precise here.

These photos, in the State's opinion, we're not arguing that the Defendant took them. We will not be saying they came from his computer. We will not be saying that they came from his camera or camcorder. We are seeking to enter them just to satisfy the two facts that I mentioned, Your Honor. So, in my opinion, they are very much removed from where they came from.

And full disclosure to the Court. The State was just provided the of interest photos of J.M. , which are the sexual in nature images. We, actually, were not provided

these by law enforcement. We, actually, were provided these five photos by the Defense's expert, who independently looked at the computer and then in a drop box sent these to us, like, two days ago.

So we didn't acquire these photos. We don't know where they came from. We don't have the chain to do that. Literally, she's a mom looking at photos of her daughter. She is a homeowner looking at photos of her old house. And that is her grounds for getting these images in.

MR. GROSE: And just to give you more information on that -- and this gets back to what you said about if somebody has something, share what they have. We went through a process where we could have somebody look at the photographs in Alabama. And he was allowed to bring back copies of the photographs.

And out of an abundance of caution, you know, I told them I might want to use some of them, I might not want to use -- I'm not going to use any of them. But out of an abundance of caution, I sent them a link to the file of what our guy provided us. Because I didn't want to be in a position where we were sandbagging them on something.

So these are images that came off the devices in Alabama. Now, I can't tell you how many there were, but there was a number of them. And these -- while what we provided to them were what came off of two cameras that

were collected in the search warrant.

Now, as far as, you know, our objections today, you know, they've got to establish, you know, at least, enough of a chain of custody for how these ended up on the image, or the clone, or whatever you -- whatever the proper term is.

And so without -- and, in fact, my understanding is that a lot of the photographs that came off of the -- the devices, the two cameras -- and I can't tell you how many were deleted and how many weren't. But a lot of them had been from -- what I understand, had been deleted. I don't know if that's the case or not. And I don't know, you know, which ones were and which ones weren't standing here right now. I might could be able to figure out what we think it might be. But that's not -- you know, we didn't make the clone and we didn't run the initial test.

So that's why I'm hesitant to agree to any of these photographs that might seem somewhat innocuous. Because, you know, we're objecting to anything they want to introduce that would trace back to those devices through law enforcement that were collected in the search warrant.

If they wanted to introduce photographs to show where the incident location happened, that could be done without using photographs that, you know, came off the device that was in question.

And if we want to get into it, there's, also, you know, some case law -- and I could get the case. But there's, also, some case law that you don't get to just introduce a photograph of a complaining witness in a birthday dress or whatever to -- you know, those could be -- I mean, there's been cases that have been reversed for entering photographs in that manner.

So my -- but, still, my main objection is that all of the photographs that we're going to be talking about have the confrontation clause issue, because of them being collected from devices that were obtained in a search warrant without Mr. Cole, I believe it was, being here.

THE COURT: All right. So my understanding is your expert that you hired for those photos were sent by way of drop box to you?

MS. JOSEPH: Yes, Your Honor.

THE COURT: The question that I understood, Counsel, that you're asking is threefold. One, can you identify who is depicted in the photograph? Is this, in fact, your daughter, J.M. ? That's question number one.

Question number two, as I understand, that you're asking is, do you recognize this location as being your house, or your dwelling, or where you resided; is that correct?

MS. JOSEPH: Yes. That's correct, Your Honor.

THE COURT: Question number three, which I think Counsel had a challenge about was whether or not this witness was in a position to say whether or not the photographs were altered. And I think everybody agrees she's not in a position to say that.

MS. JOSEPH: Right.

THE COURT: What was the third? There was a third prong.

MS. JOSEPH: Age.

THE COURT: Age. Is this the age of the child? And it is my understanding that those were the limited questions you were asking.

MS. JOSEPH: Yes, Your Honor.

THE COURT: I don't see, initially, Mr. Grose, how those -- if the window of questions is limited to those three questions, how that's prejudicial to your client. I'm trying to -- I'm trying to weigh the probative value versus the prejudicial value.

So I don't see how -- if those questions are limited to those three questions.

MR. GROSE: Can I see the photographs for a second?

THE COURT: Yeah. Take a look at it. And since your expert sent the photos by way of drop box to the State, you've already saw the pictures.

MR. GROSE: I've seen the pictures. That's the

point. Basically, I sent somebody to Alabama so I could see what the pictures were, other than the one or two dozen that they disclosed to me.

But that does not speak to what was done when the devices were, actually, examined. We did not examine the actual devices, as I understand it. We examined the images that were made by the witness who is not going to be here.

THE COURT: Those pictures there came from a camcorder?

MS. JOSEPH: The camera and the camcorder, yes, Your Honor.

THE COURT: The camera and camcorder. There's no pictures there from the actual computer?

MR. GROSE: But some of these --

MS. JOSEPH: It's the same images that were on all of the devices.

MR. GROSE: But some of these -- and this gets to whether they've been altered or not. I mean, some of these are recovered photographs. I don't know which ones exactly are or aren't. But some of them have been deleted.

I'm looking at State's Exhibit No. 5. And if -- can we just hand this up to His Honor to look at it?

THE CLERK: Certainly.

MR. GROSE: What's coming next is in this other set of photographs that they have over here -- and they showed these to me yesterday.

MS. JOSEPH: I showed them to him yesterday, but, also, he's had them for months.

MR. GROSE: Well, I've had those. But she told me yesterday that she was going to introduce those. And what they're going to do is in this second set, they're going to argue that -- some of the pictures where J.M. 's wearing the same top as she is in State's Exhibit No. 5 are prejudicial to us because they're going to argue that they're sexual in nature.

And so I feel like that since we've had this confrontation clause, chain of custody issue come up that I have to object to every single photograph that came from those devices. The fact that we've been able to look at them, the fact that we've been able to get duplicates of it is not relevant to the inquiry.

The inquiry is, can they establish a chain of custody? And do we get to cross-examine Investigator Cole, who did the examination? And I would want to cross-examine him about State's Exhibit Nos. 1 through 5, in addition to the others as well.

THE COURT: Well, I mean, we've already crossed the bridge that Investigator Cole is not going to be here.

MR. GROSE: Right. And that's -- but you haven't ruled on the implications of that yet.

MS. JOSEPH: So I guess hold off --

MR. GROSE: That's what I thought I was holding off to argue after they make the proffer.

THE COURT: And we can let you do that. And I think the case you submitted was in what line?

MR. GROSE: I submitted --

THE COURT: The Melendez --

MR. GROSE: -- the Melendez-Diaz case, which I think stands -- it was a drug case. But I think it stands for the proposition that I get to cross-examine, on behalf of Mr. Dent, the person who did the actual analysis.

THE COURT: Right.

MR. GROSE: And that would apply to State's Exhibit Nos. 1 through 5 as well is my point.

THE COURT: Which is your argument that that person would, obviously, be Mr. Cole?

MR. GROSE: That person is Mr. Cole, yes, sir, or Detective Cole.

THE COURT: Detective Cole.

MS. JOSEPH: He's no longer a detective.

So I don't know if we need to necessarily go through State's Exhibit Nos. 1 through 5 during the proffering stage, but the State would contend that State's Exhibit

Nos. 1 through 5 should be handled separately. We are seeking to admit them fully through Lori. We will not be admitting them through any law enforcement -- any electronic examiner.

We understand Defense's objection. So now, would Your Honor like me to move on to the next batch of photos, or do you want me to go through State's Exhibit Nos. 1 through 5?

THE COURT: Well, I still don't think we've finished with Mr. Grose's point. I'm still unclear as to whether or not he wants to argue the admissibility after the Alabama proffer.

MS. JOSEPH: I think it has to be handled that way, Your Honor. Because I think that so many of these issues will be addressed --

THE COURT: I'm talking about even --

MR. GROSE: I do have a question I'd like to ask her during the proffer about one of those photographs. Now, I don't know if you want me to do it on this set or --

THE COURT: Well, is your position on the admissibility what I just stated regarding the pictures? Do you want to argue later?

MR. GROSE: I'd like to argue later. But since we're doing a proffer, I would like to ask her one question.

THE COURT: Yes. I'll do that.

Go ahead.

Are you finished?

MS. JOSEPH: Yes.

THE COURT: Go ahead.

MR. GROSE: Can I --

MS. JOSEPH: I want to just be clear that at trial in front of the jury, I am going to go through State's Exhibit Nos. 1 through 5 individually and ask, is that your daughter, where was this taken, and age. Then I'm going to seek to admit State's Exhibit Nos. 1 through 5. Because it's the State's position that I do not need any other foundation to do so.

MR. GROSE: And I don't think they could be admitted until -- I mean, they could be identified by a witness and then admitted later, not unlike we do with the drugs in a case going --

MS. JOSEPH: The --

THE COURT: But, I mean, I don't see why they can't be admitted for the limited purpose of what she identified -- I mean subject to any objections that you may have through this witness.

MS. JOSEPH: Because, Your Honor -- you're right --

THE COURT: For that limited purpose, I don't see why they can't be.

MR. GROSE: But I think I have to object to every

photograph from Alabama if Mr. Cole was involved in the analysis.

THE COURT: Which would be photos -- State's Exhibit Nos. 1 through 12, all of them? This is State's Exhibit Nos. 1 through 5, but she's got 12.

MS. JOSEPH: I believe there's 16.

THE COURT: State's Exhibit Nos. 1 through 16. You're going to object --

MR. GROSE: I'm going to object to all of them, yes, sir.

THE COURT: Okay.

MR. GROSE: Can I ask her one question about these now?

MS. JOSEPH: Actually, Your Honor, I think that you could, in fact, rule on State's Exhibit Nos. 1 through 5 without hearing it, because I -- I'm going to be very clear. I could have gone on Facebook and found 15 photos of J.M. at the right age, as long as she was in the house. I mean --

THE COURT: Well, I'm inclined -- just to circumvent. I'm inclined to rule that photos -- State's Exhibit Nos. 1 through 5 are admissible for the purposes that you established, subject to any objection that Mr. Grose has.

Now, as to the other photos, we'll deal with that when the time comes. And after the proffer from the

Alabama witness, you can renew your objections.

MR. GROSE: Can I ask her just one question on State's Exhibit Nos. 1 through 5?

THE COURT: Yes.

CROSS-EXAMINATION

BY MR. GROSE:

Q Can you -- do you still have those?

MS. JOSEPH: I think the Judge has State's Exhibit No. 5.

THE COURT: Do you need State's Exhibit No. 5?

MR. GROSE: Yes. If you could just hand that back to her.

BY MR. GROSE:

Q In State's Exhibit No. 5, it looks like there's somebody on the couch. Do you see that foot over there?

A Yes.

Q Do you know who that is?

A I can't tell for a hundred percent certainty. I would think it's my son.

MR. GROSE: Okay. Thank you.

REDIRECT EXAMINATION

BY MS. JOSEPH:

Q I'm going to come get State's Exhibit Nos. 1 through 5 back from you and get the texts back from you.

MS. JOSEPH: And then does Your Honor have State's

Exhibit Nos. 6 through 16 [sic]?

THE COURT: I do.

There's no objection to the text messages coming in; right?

MR. GROSE: Right. I'm not going to object to that.

THE COURT: All right.

MR. GROSE: But those aren't related to --

THE COURT: Right.

MS. JOSEPH: Now, we're talking about State's Exhibit Nos. 6 through 15. And then --

BY MS. JOSEPH:

Q So, Lori, I'm going to hand you photos that have been marked State's Exhibit Nos. 6 through 15. Very carefully, without showing them to the jury, can you briefly look through these photos?

MR. GROSE: Is it through 16 or 15?

MS. JOSEPH: State's Exhibit Nos. 6 through 15.

MR. GROSE: Okay. Thank you for clarification.

BY MS. JOSEPH:

Q All right. Setting aside photo 15 for now, State's Exhibit Nos. 6 through 14, do you know who took those photos?

A I do not.

Q Okay. Do you know who's depicted in those photos?

A I do.

Q Who is depicted in those photos?
A My daughter, J.M. .
Q Looking at photo -- State's Exhibit No. 6, where was that photograph taken?
A That was taken in the first house.
Q And when you say, "the first house," do you mean in Beaufort County?
A Yes.
Q And approximately how old is J.M. in that photograph?
A I couldn't say for sure, seven or eight.
Q Looking at the next photo, State's Exhibit No. 7, who's depicted in that photograph?
A J.M. .
Q Approximately how old does she look?
A I don't know. Maybe eight or nine.
Q Which house?
A This was the second house.
Q In Beaufort County?
A Yes.
Q Okay. Looking at State's Exhibit No. 8, who is depicted in that photograph?
A My daughter.
Q And how old does your daughter look in those photographs -- that photograph?

A This is the same as the last photo. So about eight or nine.
Q And then looking at State's Exhibit Nos. 6, 7, and 8, you said that it was in the Beaufort house?
A Yeah.
Q Do you know where in the house it was?
A In which picture?
Q We're just talking about State's Exhibit Nos. 6, 7, and 8, so any of them?
A I do know that -- no. I couldn't say for sure in those.
Q That's okay. Looking at State's Exhibit No. 9, what does photograph nine depict?
A My daughter.
Q Approximately how old does she look?
A About eight or nine.
Q And where was that photograph taken?
A That was in the second house.
Q And do you know where in the second house that was taken?
A Yes.
Q Where was that taken?
A That was in the living room.
Q Are we on State's Exhibit No. 10?
A Yes.

Q Looking at State's Exhibit No. 10, who is depicted in that photograph?
A J.M. .
Q And approximately how old does she look?
A About eight or nine.
Q And where was that taken?
A In the second house in Beaufort County.
Q And do you know where in the house?
A That was in the living room.
Q Okay. And then looking at State's Exhibit No. 11, who is in that photo?
A J.M. .
Q And where was that photograph taken?
A In the second house.
Q Do you know where in the second house?
A In the living room.
Q And then approximately how old was she?
A About eight or nine.
Q And then looking at -- are we on State's Exhibit No. 12?
A Yes.
Q State's Exhibit No. 12, who does that photo depict?
A My daughter, J.M. .
Q Approximately how old is she?
A About seven or eight.

Q And where was that photograph taken?
A The first house in Beaufort.
Q And do you know where in the house?
A In the living room.
Q And then looking at State's Exhibit No. 13, where was that photograph taken?
A I couldn't say for sure.
Q And then -- did I already ask who it was of?
A No.
Q Who is that photograph of?
A J.M. .
Q And approximately how old is she?
A I mean, since she's -- I can only go by -- I mean, this is the same picture, just like closer.
Q Okay.
A But it would be in the first house. And she was about seven or eight.
Q Okay. And then are we on State's Exhibit Nos. 15 or 14?
A State's Exhibit No. 14.
Q State's Exhibit No. 14, who is that a photo of?
A J.M. .
Q Do you know how old she is in that photo?
A Again, she would have been seven or eight.
Q And then do you know where it was taken?

A In the first house.
Q And where in the first house?
A I couldn't say for sure.
Q And then are we -- we're on State's Exhibit No. 14. We're done. Looking at State's Exhibit No. 15, are you able to say with certainty what photograph 15 is of?
A I'm not.
Q Do you recognize anything about that photo?
A I do.
Q What do you recognize?
A She had a pair of green shorts exactly like it that she had for dance.
Q So that was -- is it safe to say that was a dance costume she was given?
A Her leotard and the shorts, yes.
Q And when we say "she," who was "she"?
A J.M. .
Q In that photograph, it depicts a body part?
A Yes.
Q Does that look, to your knowledge and as a mother, like the body part of your daughter?
A Yes.
Q And approximately how old was she when she had that dance uniform?
A I couldn't say for sure. Because I believe she was

in dance for those two -- for the whole two years. So I don't know at what point she was given this outfit.

Q Okay. And when you say "the whole two years," do you mean in Beaufort County?

A Yes.

Q She was in dance in Beaufort County for two years ages seven, eight, and nine?

A Uh-huh.

Q And she was given a dance outfit that resembles that one?

A Yes.

Q And can you say -- can you identify where that photograph was taken?

A I cannot.

MS. JOSEPH: And that's it. We will not be entering the photos through her. We're just going to identify them to be entered later. And that's my only questions for this witness.

THE COURT: Mr. Grose.

MR. GROSE: Just a couple follow-ups.

RECROSS-EXAMINATION

BY MR. GROSE:

Q If I could see State's Exhibit Nos. 13 and 15, please.

A (Witness complied.)

Q In State's Exhibit No. 13, you said you were unsure where that was taken?

A Yes.

Q Okay. And what makes you unsure about that?

A It's blurry. And there's not much of a background.

Q Okay. And in State's Exhibit No. 15, you, initially, said you're not sure who that is, didn't you?

A I cannot say for 100 percent certainty.

MR. GROSE: That's all I have.

THE COURT: All right. Anything else, Ms. Joseph?

MS. JOSEPH: Nothing else.

So the State is next going to call Lieutenant Joey Stone.

THE COURT: You can step down.

MR. GROSE: And I will have an additional objection to State's Exhibit Nos. 13 and 15 at this point. Because she can't identify the location of one, possibly, both, and the identity of State's Exhibit No. 15.

MS. JOSEPH: And, Your Honor, at the appropriate time, once we've laid the foundation for them coming in, the State's argument would be that goes to weight and not admissibility. Our expert will be testifying that all these photos were pulled from the same devices at the same time, and especially State's Exhibit No. 13, it's a series.

So she maybe can't identify that one in the series. It's, basically, one photo that someone cropped in on. Because she can identify State's Exhibit Nos. 12 and 11, then she can identify State's Exhibit No. 13.

THE COURT: All right.

MS. JOSEPH: And just to be clear. I'm sorry. I'm talking a lot. But for State's Exhibit No. 15, she, obviously, freely admits it's a cropped photo. She can't see whose head it is. I mean, she's doing her best. And I think the jury will be able to weigh that.

Again, we're calling Lieutenant Stone.

WHEREUPON,

JOEY STONE,

after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

THE BAILIFF: Would you care for some water?

THE WITNESS: I'm good right now.

DIRECT EXAMINATION

BY MS. JOSEPH:

Q Hi, Lieutenant Joey Stone.

A Hello.

Q I'm calling you Lieutenant. Where do you work?

A I work at the Calhoun County Sheriff's Office in Anderson, Alabama.

Q How far a drive is that?

A About six hours.
Q Do you know that because you just drove down?
A That's correct.
Q How did you get involved in this case?
A In July of 2014, Investigator LaVan from the Beaufort County Sheriff's Office contacted me and said he had a warrant on an individual and could we go pick him up.
Q Okay.
A And that's how I, originally, got involved. And then that warrant was recalled. There was a time frame where he continued the investigation and then obtained new warrants. And in August of 2014, that's when we made the arrest.
Q Okay. So he called you. I assume he told you -- how about this, let me not assume things. So you were serving our warrants -- South Carolina warrants?
A Correct. And I was in -- I was the supervisor over the warrant unit. So I probably passed him off, originally, to one of the warrant guys.
Q Okay. And did you get a search warrant for Alabama property in this case?
A I did.
Q And why did you get that search warrant?
A To help further his investigation once we -- I had a copy of his report, and all the things that the child had

disclosed in her interview. And then when they served the warrant, they saw electronic devices, cameras, cell phones in plain view. That compounded with Detective LaVan's report, I got a search warrant based on that.

Q So were you there when the search warrant was issued?

A I was.

Q Or executed?

A I obtained the search warrant from the Judge.

Q Okay. And you said that electronic devices in plain view were seized?

A Correct -- well, they weren't seized, just seeing them in plain view. Plus, what his investigation had revealed. And that's where, you know, digital media is stored on is cameras, and stuff.

Q So they were collected?

A It wasn't collected. The scene was held at that time, typed a search warrant, had the search warrant signed, and then we went and executed it.

Q So you got an additional search warrant for the electronic devices?

A Yes. After we got everything back to the office, then there was another search warrant signed for all the devices that we got.

Q Do you know -- and you may have to look at your report. Do you know how many electronic devices were

seized?
A I don't know how many electronics devices were seized. I know how many we sent to Hoover, the Secret Service, for examination.
Q Okay. Let's start there. So you collected some electronic devices?
A Yes.
Q And then you turned them over to -- what did you call it?
A The Secret Service. It's the Alabama Electronic Crimes Task Force.
Q What do they do?
A They forensically examine digital media.
Q So how many devices did you turn over to them?
A 23.
Q 23. And you have your report in front of you. And, I assume, that you listed all of the devices?
A Yes -- that I submitted to them?
Q Yes.
A Yes. It was on their actual submission form.
Q Their submission form. I'm not going to -- I'll talk to you about that in just a second.
MS. JOSEPH: So, Your Honor, under State v. Brockmire, which we handed up to you, evidence property custody forms are not testimonial. So, at this time,

we're going to attempt to show Investigator Stone his evidence property custody form.

And just so your judge -- Your Honor is aware and then, just so Defense is aware, there was a mention of marijuana on this that my Defense -- or my co-counsel noted. We whited that out for the purposes of this proffer. After we're done here, I'm going to make a copy of it so that it will even appear less, sort of, visible.

But I'm showing State's Exhibit No. 18 to Defense at this time.

BY MS. JOSEPH:

Q And, Lieutenant, I'm handing you State's Exhibit No. 18. What is this?

A This is our evidence custody form.

Q And is your signature somewhere on there?

A No.

Q Okay. But was it in your original report?

A Was what in my original --

Q That evidence form, was it in the report in this case?

A Yes, yes. The individual who signed this is the one who, actually, transported it from the residence to the office.

Q Okay. But this form is part of your case file?

A It is, yes.

Q Has it been materially altered in any way? I understand I removed a reference to marijuana. I won't mention that at trial. But has it been materially altered in any way?

A No.

Q And does it accurately depict -- does it accurately list the items that it's meant to list?

A It does.

MS. JOSEPH: At this time, Your Honor, the State would enter State's Exhibit No. 18.

THE COURT: Any objection?

MR. GROSE: Yeah. If I may?

THE COURT: Yes.

CROSS-EXAMINATION

BY MR. GROSE:

Q Can I see that? It's Lieutenant; right? Lieutenant Stone?

A Yes.

Q Who's that first signature?

A Jeff Thompson.

Q And, I guess, he printed his name there?

A Yes, below it.

Q And then who is that?

A Jeff Thompson.

Q And that's -- he put his name below that?

A He put it in the evidence locker.
Q So he's the only one -- was Jeff Thompson the one that transported it from the scene?
A Yes, it appears so.
Q Okay. Now, I understand you testified that you obtained the search warrant?
A Yes.
Q Did -- prior to obtaining the search warrant, did you or anybody else consult with any authorities in South Carolina?
A Yes.
Q Who?
A Investigator LaVan.
Q Anyone else?
A No.
Q Okay.
A Not to my -- I was the lead investigator on the case. I believe he's the only one I talked to.
Q And that's fair. That's all I want to know. Were you involved in serving the search warrant?
A I was.
Q Were you there the entire time that the search warrant was served?
A I was not.
Q How long were you there?

A I got there, walked around, looked around. They probably started taking photographs. And I had to leave.
Q All right. So that doesn't sound like you were there very long?
A No.
Q How long?
A Maybe 15, 20 minutes probably.
Q All right. And so they were still taking photographs when you left?
A Oh, yeah. I mean, it probably took several hours to do this entire search warrant. There was, I think, 50 something items recovered and logged.
Q And is there a log of who recovered those items?
A There is.
Q And do you have a copy of that with you?
A Yeah. The -- yes.
Q And were -- did you recover any of the items?
A No.
Q Okay. Is anybody, other than you, that executed the search warrant here in South Carolina?
A No, sir.
MR. GROSE: I beg the Court's indulgence for a moment.
THE COURT: Yes, sir.
MS. JOSEPH: And, Your Honor, at this point --

obviously, he's free to ask questions in proffer. But I think this is going to the larger issue. And the State has a response to this. I understand that --

MR. GROSE: Can I finish asking my questions before we get to the argument?

THE COURT: Go ahead.

BY MR. GROSE:

Q Was David Becker one of the people that was involved in serving the search warrant?

A He was.

Q Was he involved in collecting the items?

A He probably assisted in collecting the items.

Q Okay.

A There was several investigators there that collected items.

Q All right. You said you had that log with you?

A It's not a log. I mean, I've got their -- I've got Investigator Thompson's supplement and Investigator Becker's supplement.

Q Okay. So that's a report?

A Right.

Q All right. And so from your personal knowledge, you don't know who collected any of the electronic devices; right?

A I mean, what the report says.

Q Right. But that's --
A I didn't firsthand see it --
Q That's what I mean.
A -- if that's what you're asking, no, sir.
MR. GROSE: Yeah. You didn't firsthand see it.
That's all at this time.
Thank you, Your Honor.
MS. JOSEPH: Was that an objection to State's Exhibit No. 18 coming in?
MR. GROSE: That was -- I thought -- I'm confused with whether or not we're arguing this at the beginning or the end. I thought we were going through the proffer and then we're going to argue all this at the end.
MS. JOSEPH: Right. So okay.
MR. GROSE: Yes. There will be an objection.
THE COURT: All right.
MR. GROSE: But --
THE COURT: Okay.

REDIRECT EXAMINATION

BY MS. JOSEPH:
Q So I'm showing you State's Exhibit Nos. 19 and 20. And these are the back of the forensic reports. So what are State's Exhibit Nos. 19 and 20 of?
A State's Exhibit No. 19 is of a Fuji film camera. It looks like it had an SD card in the camera. And State's

Exhibit No. 20 is a JVC camcorder.

Q And then State's Exhibit No. 18 was that property form?

A Yes.

Q And can you read off of item one and two and then tell me if State's Exhibit Nos. 19 and 20 depict items one and two on that property form? Does that make sense?

A Yes. Item number one on our property sheet was a JVC mini camcorder. The model number is GZ-E300RU. That model number matches State's Exhibit No. 20.

Q Actually, do me a favor. Can you just read it off of State's Exhibit No. 20 as well, just so the record has a match.

A Okay. Model number on State's Exhibit No. 20, which is a JVC camcorder is GZ-E300RU. And then item number two on our evidence sheet is a black Fuji film digital camera. The serial number is 7S -- Sam -- 45123.

State's Exhibit No. 19 is a Fuji -- a picture of a Fuji film camera with serial number 7S451213.

Q Okay. And you did not create State's Exhibit Nos. 19 and 20; is that correct?

A No, I did not.

Q But you and -- but you did go to the scene?

A Yes.

Q And you -- did you walk around the scene?

A I did.
Q Did you observe any electronic -- well, actually, looking at your property list, items one and two, does it say the location where those items were seized?
A Item number one, the JVC camcorder, was found on the coffee table in the living room. And number two, the Fuji film digital camera, was found on the coffee table in the living room.
Q And did you walk by the coffee table in the living room when you were at the scene?
A I did.
Q State's Exhibit Nos. 19 and 20 depict a camcorder and camera. Do you recognize that camera and camcorder?
A I mean, I don't recognize it, first, offhand. But I also -- I submitted all this stuff. I've had it in my hands before where I submitted it to the Secret Service four years ago.
Q And you were the one that submitted it to the Secret Service?
A I am.
Q So you have seen these items before?
A Yes.
Q And, to your knowledge, this is a true and accurate depiction of that camera and that camcorder?
A Yes.

Q And, in part, you're forming that because the serial numbers match?
A Correct.
MS. JOSEPH: So, Your Honor, at this time, we would move to enter State's Exhibit Nos. 19 and 20 into evidence as well. I understand this is the proffer stage.
THE COURT: Same objection to be argued?
MR. GROSE: To be argued at the end of all of this, yes, sir.
THE COURT: All right.
BY MS. JOSEPH:
Q So you didn't collect the evidence in this case?
A I didn't.
Q You did not?
A No.
Q Right. Because you were the lead investigator?
A That's correct.
Q Okay. So you have underlings to do that stuff for you?
A I was the supervisor at the time.
Q Right. You're the supervisor.
A So I have people that do stuff like that.
Q I'm going to make an assumption, which I shouldn't do. But I assume, at some point, you were the type of officer that collected evidence?

A Yes.
Q You were the low guy on the totem pole?
A Yes. I still collect evidence.
Q And when you collect evidence, do you write down the serial numbers?
A Yes.
Q So -- and I'm just using this as a hypothetical just for the proffer stage. If you collected a gun, would you write down the serial number?
A Yes.
Q If you collected a TV, would you write down the serial number?
A Yes.
Q If you collected a computer, would you write down the serial number?
A Yes, ma'am.
Q A camera?
A Yes.
Q If you collected drugs, would you write down the serial number?
A There's no serial number on drugs.
Q Let's just pretend a cheeseburger was important to a case, which you never know. Would you collect a serial number from a cheeseburger?
A There's no serial number on a cheeseburger.

Q So it's just items that have serial numbers --
A Correct.
Q -- that you write them down?
And why do you do that?
A So we can identify them later and say that item we took from that house is the same item that -- you know, if we have it in our hands in court, or whatever.
Q So if I had 15 cameras that were identical in this room, one of the cameras was the camera from State's Exhibit No. 19, could you find me that camera based on that evidence sheet?
A I could.
Q And how could you?
A By the serial number.
MS. JOSEPH: I don't have any other questions. Mr. Grose may.
THE COURT: Mr. Grose.

RECROSS-EXAMINATION

BY MR. GROSE:
Q If you worked as a homicide investigator and you take the deceased for an autopsy, you maintain the chain of custody, don't you?
A The coroner, I guess, maintains that custody of the body.
Q Right. But it's important that nothing -- that

nobody alter that body between the time it's removed from the scene until the time the medical examiner does the autopsy; is that right?

A It is. Sometimes funeral homes take -- take them up there.

Q But you can establish that the body is in the same condition. Even though there would never be any doubt who it was, you still have to establish it was in the same condition if called upon to do so?

A Yes, sir.

MR. GROSE: Thank you.

THE COURT: Yes, ma'am.

MS. JOSEPH: I'm sorry. I have one more question, Your Honor, if you don't mind.

This is the evidence form from the Alabama Electronic Crimes Task Force.

MR. GROSE: All right. Now, I do have a problem with her asking about this. Because so far, he's been testifying about things that he could be considered potentially a record custodian from his department. This would not be the case.

MS. JOSEPH: So he just testified that he's the one that took the items to the Alabama -- well --

THE WITNESS: I didn't physically take them. I created the submission form.

FURTHER EXAMINATION

BY MS. JOSEPH:

Q So is this the submission form --

MS. JOSEPH: May I ask that question?

MR. GROSE: Yes.

BY MS. JOSEPH:

Q Is this the submission form?

A It is.

Q You can tell from that far away?

A Yes. I've seen a few.

Q You've seen a few of those?

A I mean, this is the submission form. Like, we have a copy, a PDF form. And then we fill it out and send it with our evidence technician who transports it to the lab.

Q So I'm confused, is this part of it or -- just tell me. I don't know.

A Yeah. It's like a booklet you've got to fill out for, you know, who you are, our agency, case number. Now, this part, I don't -- I believe they created this.

Q Okay. So they create this -- oops, as I throw papers at you. So I'm taking that down.

A And this is my handwriting on the bottom of this.

Q So everything I've now handed you is the form that you fill out. So you -- I mean, I don't know. Tell me how you fill it out. Do you look at the devices and write

down the serial numbers and send them? What do you do?
A Yeah. You just, basically, go down through there and check the boxes that you're going to -- of what you want. And then you have to put our -- you have to -- when you send it to them, you have to number it one through 10. It's numbered one through 20. And then you'll see a box over here where it says, agency item number.

So their number one may be our number five. So you have to fill it out how they want it. So that way, theirs are in chronological order, where we may just skip around evidence because we collect a lot of stuff.

MS. JOSEPH: I understand.

I'm going to mark this State's Exhibit -- I don't know where we are.

THE COURT REPORTER: State's Exhibit No. 22.

MS. JOSEPH: State's Exhibit No. 22.

(WHEREUPON, State's Exhibit No. 22 was marked for identification only.)

BY MS. JOSEPH:

Q And this is, just again, for the record, the submittal form to the Alabama Electronic Task Force; is that correct?

A Yes.

MS. JOSEPH: And now, Mr. Grose has an additional question.

FURTHER EXAMINATION

BY MR. GROSE:

Q Do you still have -- is this your evidence form?

A That's our evidence.

Q So State's Exhibit No. 18, on the camcorder found on the coffee table, is there a serial number for that?

A No. It's a model number.

Q Where is the model number you're looking at?

A Right there, model number.

Q Model number, is that G2?

A GZ-- no, hold on.

Q Yeah.

A You and I both have eye problems. GZE300RU.

Q And is there a serial number depicted for item one?

A Not on that evidence sheet.

Q And on State's Exhibit No. 22, which is a four-page document, with item one, is there a serial number there?

A There's not.

Q Okay. So all those questions about the serial number, I guess item one is kind of like --

A It was a model number, not serial number.

Q Right. But when she was asking you about serial numbers, item one is kind of like that hamburger, it didn't have one; right?

A It don't have one, no, sir.

MS. JOSEPH: That's it for this witness, Your Honor.

THE COURT: All right. Thank you, sir.

MS. JOSEPH: And the State next calls Arthur Agee. Joey Stone, don't go far.

And we're going to make a copy of State's Exhibit No. 18 so the white-out is less visible.

THE COURT: I'm not trying to rush Counsel in any form or fashion, but I do realize the jury is back there. And I don't want the jury to sit back there a long period of time.

MS. JOSEPH: I think Arthur will be fast. I just think our argument will be long. Hopefully, not so since you've heard it.

MR. GROSE: And this is important. I don't want to be rushed on this. And I don't want --

THE COURT: No. I don't want you to be rushed.

MR. GROSE: And I don't want the jury to be uncomfortable.

THE COURT: I was just reminding you guys.

MR. GROSE: Should we address that somehow, or -- I mean --

THE COURT: Address?

MR. GROSE: Well, the jury's comfort would be my concern. I mean, I don't know how long this is going to take. And it's -- she says he'll be quick, but the

argument might be a long time. I just -- I raise that for your consideration.

THE COURT: Well, I mean, I don't want to send them back off site. I mean, they're already probably back in the jury room by now.

THE BAILIFF: We have everybody. All I can tell you, Judge, is they have all the water, drinks, and snacks they can possibly consume and comfortable chairs.

MR. GROSE: Is it a fairly comfortable jury room here?

THE BAILIFF: Oh, yes, sir.

MR. GROSE: I mean, I've practiced in some courthouses where it's kind of small and not --

THE BAILIFF: No. They've got nice chairs and everything in there.

THE COURT: Okay. Swear him in, Madam Clerk.

THE CLERK: If you would, raise your right hand please.

WHEREUPON,

ARTHUR AGEE,

after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

THE BAILIFF: Come right around this way.

DIRECT EXAMINATION

BY MS. JOSEPH:

Q Hi, Mr. Agee.