

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

V.

MICHAEL THOMAS DYER,

RESPONDENT,

APPELLANT.

APPELLATE CASE NO. 2021-000680

RECORD ON APPEAL

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RECEIVED
Dec 31 2021
SC Court of Appeals

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

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STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

COURT OF GENERAL SESSIONS

STATE	)	
	)	
	)	TRANSCRIPT OF RECORD
V.	)	2021-GS-32-00786
	)	2021-GS-32-02382
MICHAEL THOMAS DYER	)	2021-GS-32-00815
	)	2021-GS-32-00820
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		2021-GS-32-00823
		2021-GS-32-00824
		2021-GS-32-00825
		2021-GS-32-00856A
		2021-GS-32-00812

MAY 24-27, 2021
LEXINGTON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE WALTON J. MCLEOD, IV, JUDGE; AND
A JURY.

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BETHANIE K. CREPPON
CIRCUIT COURT REPORTER

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2 * * *

3 THE COURT: Is the State ready to call their
4 first case?

5 MS. WELLMAN: We are, Your Honor.

6 THE COURT: Very well. Which case are we
7 calling?

8 MS. WELLMAN: Your Honor, at this time, the
9 State would be calling the case for trial against
10 Michael T. Dyer, 2021-GS-32-00786.

11 Your Honor, may I approach?

12 THE COURT: Yes, ma'am.

13 MS. WELLMAN: Again, that's 2021-GS-32-00786,
14 State versus Michael Dyer, one count criminal sexual
15 conduct with a minor in the first degree.

16 2020-GS-32-02382, criminal sexual conduct with
17 a minor in the first degree.

18 2021-GS-32-00815, sexual exploitation of a
19 minor in the first degree.

20 2021-GS-32-00820, sexual exploitation of a
21 minor in the first degree.

22 2021-GS-32-0821, sexual exploitation of a minor
23 in the first degree.

24 2021-GS-32-0822, sexual exploitation of a minor
25 in the first degree.

1 2021-GS-32-0823, sexual exploitation of a minor
2 in the first degree.

3 2021-GS-32-0824, the State will be proceeding
4 on the amended indictment against Michael T. Dyer,
5 one count of sexual exploitation of a minor in the
6 first degree.

7 2021-GS-32-0825, sexual exploitation of a minor
8 in the first degree.

9 2021-GS-32-0856A, the State will be proceeding
10 on the amended indictment against Michael T. Dyer,
11 one count of sexual exploitation of a minor in the
12 first degree.

13 Finally, 2021-GS-32-00812, The State versus
14 Michael Thomas Dyer, one count of disseminating
15 harmful material to a minor.

16 Here's the State's proposed witness list. And
17 that would be it, Your Honor.

18 THE COURT: Thank you.

19 MS. MAULDIN: Your Honor, may I approach?

20 THE COURT: Yes, ma'am.

21 (Sidebar conference.)

22 THE COURT: All right. Ladies and gentlemen,
23 the indictments here charge the defendant with
24 criminal sexual conduct with a minor in the first
25 degree, sexual exploitation of a minor in the first

1 degree, and disseminating harmful material to a
2 minor.

3 These indictments allege crimes involving a
4 minor child which allegedly occurred between the
5 dates of January 1st, 2020, and July 5th, 2020, at
6 [REDACTED] Ramblin Road in Lexington County.

7 I remind you, the fact that the defendant was
8 arrested, charged, and indicted in this case is not
9 evidence in this case, and cannot be considered by
10 you as evidence of guilt in this case, nor does it
11 create any presumption or inference of guilt.

12 The documents here simply -- are simply the
13 formal written instrument which contain the charges
14 made against the defendant. It is the formal
15 document by which this case is brought into this
16 court.

17 The defendant has pled not guilty to these
18 indictments, and that plea puts the burden on the
19 State to prove the defendant guilty. A person
20 charged with committing a criminal offense in South
21 Carolina is never required to prove himself
22 innocent, no matter what the seriousness of the
23 charge may be.

24 The defendant will always be presumed innocent
25 of the crime for which the indictment was issued,

1 unless guilt has been proved by evidence satisfying
2 you of that guilt beyond a reasonable doubt.

3 Now, I have several questions I'm going to be
4 asking you. But, before I do that, I want to give
5 the attorneys the opportunity to stand up and
6 introduce themselves to you at this time.

7 MS. WELLMAN: Good afternoon. My name is
8 Ashley Wellman. I'm an assistant solicitor in the
9 Eleventh Circuit Solicitor's Office.

10 MS. MAYES: Good afternoon. My name is Suzanne
11 Mayes. I'm Deputy Solicitor here in the Eleventh
12 Circuit Solicitor's Office. We work Lexington
13 County, Edgefield County, McCormick County, and
14 Saluda County. We prosecute criminal cases before
15 the Circuit Court.

16 Also present in the courtroom is Caitlyn Clark;
17 she is a paralegal with the Eleventh Circuit
18 Solicitor's Office. Also who will be present in the
19 courtroom this week is Heather Clamp. She's also a
20 victim advocate in the Eleventh Circuit Solicitor's
21 Office, and Investigator John Bishop, also an
22 investigator with the Eleventh Circuit Solicitor's
23 Office.

24 MS. MAULDIN: Thank you, Your Honor. My name
25 is Sarah Mauldin. This is David Mauldin. We both

1 work here in Lexington. This is Michael Dyer, our
2 client and defendant in the case. And working with
3 us on the case is Shannon O'Cain.

4 THE COURT: All right. Ladies and gentlemen,
5 is any member of the jury panel related by blood or
6 marriage to, or a personal friend of the defendant,
7 Michael Thomas Dyer, formerly of [REDACTED] Ramblin Road in
8 the South Congaree area of Lexington County? If so,
9 please stand.

10 (No response.)

11 THE COURT: Is any member of the jury panel a
12 former employee or customer of Excel Trucking Group
13 in Columbia, South Carolina?

14 (No response.)

15 THE COURT: Has any member of the jury panel
16 ever been represented now or in the past by the
17 attorneys Sarah and David Mauldin whose office is in
18 Lexington, South Carolina?

19 (No response.)

20 THE COURT: Is there any member of the jury
21 panel who thinks they might have heard anything
22 about this case?

23 (No response.)

24 THE COURT: Now, the following is a list of
25 possible witnesses in this case: Daniel Alonzo,

1 South Congaree Police Department; James Baxley;
2 Justin Britt from the Richland County Sheriff's
3 Department; Aniket Chauhan; **Minor 2** ;
4 **Minor 1** ; Paula Hare from the Lexington County
5 Sheriff's Department; Richard Helms; Sean Kilcoyne
6 from the Richland County Sheriff's Department;
7 Michelle Mabrey; Michael Phipps of the Lexington
8 County Sheriff's Department; Eric Russell, Dickerson
9 Child Advocacy Center; Josh Shumpert, South Congaree
10 Police Department; Aaliyah Simon, Dickerson Child
11 Advocacy Center; Janet Snider; Tammy Todd; Tracy
12 Williams; Dr. L. Alex Young; William Young; Charles
13 Williams; Chris Watkins; Don Kneece; Tanya Priest;
14 Shannon O'Cain.

15 Has anyone ever been related by blood or
16 marriage to any of the people I just listed or has
17 anyone had a close personal or social relationship
18 with any of the potential witnesses I just called
19 out? If so, please stand.

20 Yes, sir. Your juror number?

21 PROSPECTIVE JUROR: Juror No. 16.

22 THE COURT: And which witness did you have a
23 prior relationship with?

24 PROSPECTIVE JUROR: Dr. Young.

25 THE COURT: Okay. We'll come back to that --

1 well, the fact that you know Dr. Young, will that
2 affect your ability to be fair and impartial in
3 hearing this case?

4 PROSPECTIVE JUROR: No, sir.

5 THE COURT: Anyone else?

6 (No response.)

7 THE COURT: Has anyone on the jury panel had
8 prior representation or dealings with the attorneys
9 involved for the State? That would be Ashley
10 Wellman and Suzanne Mayes.

11 (No response.)

12 THE COURT: Does any member of the jury panel
13 have any religious or moral beliefs that would
14 prevent them from passing judgment on another person
15 with regards to the question of guilt?

16 (No response.)

17 THE COURT: Are you or any of your close
18 friends or relatives employed in the field of law
19 enforcement? Law enforcement would include any
20 police departments in South Carolina or in other
21 states; the State Law Enforcement Division, or SLED,
22 or any federal law enforcements agencies and
23 military police agencies?

24 All right. Yes, ma'am. Your juror number?

25 PROSPECTIVE JUROR: 213.

1 THE COURT: And what is your connection there?

2 PROSPECTIVE JUROR: My cousin is in law
3 enforcement.

4 THE COURT: Your cousin is in law enforcement.
5 Where is he in law enforcement?

6 PROSPECTIVE JUROR: North Charleston.

7 THE COURT: The fact that you have a cousin
8 employed in law enforcement, would that affect your
9 ability to be fair and impartial in this case?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Yes, ma'am. Your juror number?

12 PROSPECTIVE JUROR: 128.

13 THE COURT: If you would just explain your
14 connection.

15 PROSPECTIVE JUROR: My husband is employed by
16 Town of Lexington, law enforcement officer.

17 THE COURT: Okay. Do you think that would
18 affect your ability to be fair and impartial?

19 PROSPECTIVE JUROR: No, sir.

20 THE COURT: Okay. Thank you. Anyone else?

21 (No response.)

22 THE COURT: Are any of -- are you or any of
23 your close friends or relatives employed by any
24 prosecuting agencies in South Carolina or other
25 states, including the district attorney's office,

1 solicitor's office, or attorney general's office?

2 If so, please stand.

3 (No response.)

4 THE COURT: Are you or any of your close
5 friends or relatives currently employed or
6 previously employed in a jail, prison, or other
7 detention center?

8 (No response.)

9 THE COURT: Are you or any of your close
10 friends or relatives currently employed or
11 previously employed by the Town of South Congaree?

12 (No response.)

13 THE COURT: Have you or any of your close
14 friends or relatives ever been the victim of an act
15 of child abuse, including sexual abuse?

16 (No response.)

17 THE COURT: Are you or any of your close
18 friends or relatives currently employed or
19 previously employed by the Dickerson Child Advocacy
20 Center?

21 (No response.)

22 THE COURT: Are you or any of your close
23 friends or relatives presently or in the past a
24 member or financial supporter or otherwise involved
25 or connected with any group that has as its primary

1 concern the promotion of law enforcement or victim's
2 rights? These groups include, but are not limited
3 to MADD, SADD, or any local police or trooper's
4 association?

5 (No response.)

6 THE COURT: Are you or any of your other close
7 friends or relatives presently or in the past a
8 member or financial supporter or otherwise involved
9 or connected with any group that promotes stricter
10 enforcement of the laws?

11 (No response.)

12 THE COURT: Have you or any of your close
13 friends or relatives ever provided financial or
14 volunteer support for or been employed by or
15 involved in any way with any organization that
16 promotes the prevention of violence or abuse or
17 provides treatment or other services for victims of
18 violence or abuse?

19 Okay. Front row, what is your juror number?

20 PROSPECTIVE JUROR: 138.

21 THE COURT: And your prior?

22 PROSPECTIVE JUROR: Growing up, my mother was a
23 child abuse investigator.

24 THE COURT: Your mother was?

25 PROSPECTIVE JUROR: Yes, sir.

1 THE COURT: Do you think that would affect your
2 ability to be fair and impartial?

3 PROSPECTIVE JUROR: I don't think so, sir.

4 THE COURT: All right. Thank you.

5 Yes, sir?

6 PROSPECTIVE JUROR: Number 16. I was formerly
7 employed as a victim's advocate at a children's
8 advocacy center in St. Lewis City, Missouri.

9 THE COURT: And your prior employment, would
10 that affect your ability to be fair and impartial in
11 hearing this case?

12 PROSPECTIVE JUROR: No, Your Honor.

13 THE COURT: Yes, ma'am, your juror number?

14 PROSPECTIVE JUROR: 146.

15 THE COURT: Yes, ma'am.

16 PROSPECTIVE JUROR: I served on the board of
17 Sister Care for several years, and then I also
18 volunteered with the guardian ad litem program.

19 THE COURT: Based upon that prior involvement
20 of those organizations and serving as a guardian ad
21 litem, do you think that would inhibit your ability
22 to be fair and impartial in hearing this case?

23 PROSPECTIVE JUROR: No, sir.

24 THE COURT: Yes, sir, your juror number?

25 PROSPECTIVE JUROR: 162. I'm currently

1 employed in the department of social services in IT.

2 THE COURT: You currently work with the
3 department of social services?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: In what department?

6 PROSPECTIVE JUROR: IT department.

7 THE COURT: The fact you're employed with DSS,
8 would that affect your ability to be fair and
9 impartial in hearing this case?

10 PROSPECTIVE JUROR: No, sir.

11 MS. WELLMAN: Your Honor, may we approach?

12 THE COURT: Sure.

13 (Sidebar conference.)

14 THE COURT: Why don't we let her go?

15 MR. MAULDIN: Yeah, let her go.

16 THE COURT: Yes, ma'am, go ahead.

17 PROSPECTIVE JUROR: I used to work at the
18 department of social services in Lexington County
19 four years ago.

20 THE COURT: What was your juror number?

21 PROSPECTIVE JUROR: 122.

22 THE COURT: You formerly worked at DSS?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Okay. The fact that you formerly
25 worked at DSS, would that affect your ability to be

1 fair and impartial?

2 POTENTIAL JUROR: No, sir.

3 THE COURT: Yes, ma'am?

4 PROSPECTIVE JUROR: I work for an attorney who
5 represents DSS.

6 THE COURT: Okay. You're a paralegal; is that
7 correct?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: What's your number, ma'am?

10 PROSPECTIVE JUROR: 24.

11 THE COURT: Okay. Counsel?

12 (Sidebar conference.)

13 THE COURT: Ladies and gentlemen, I asked
14 several questions throughout this voir dire process.
15 But I just want to also say if there's any juror who
16 would like to address me in private, I'll be happy
17 to see you at this time, myself and the attorneys.

18 Obviously, some of these questions, you may not
19 want to stand up and disclose something, and that's
20 fine. But if that is the case, I'd like you to just
21 raise your hand, and I'll be happy to see you
22 privately.

23 (No response.)

24 THE COURT: Okay. Just a few more, ladies and
25 gentlemen.

1 Has any member of the jury panel formed or
2 expressed an opinion about any issue or matter
3 involved in this case?

4 (No response.)

5 THE COURT: Is any member of the jury panel
6 aware of any bias or prejudice towards either the
7 State or the defendant in this case?

8 (No response.)

9 THE COURT: Finally, does any member of the
10 jury panel know of any reason whatsoever why he or
11 she should not sit as a juror in this case, with
12 emphasis placed on your ability to be fair and
13 impartial to both the State and the defense?

14 (No response.)

15 THE COURT: All right. Counsel, any additional
16 questions?

17 MS. MAYES: None from the State, Your Honor.

18 MS. MAULDIN: No further questions. But may we
19 approach?

20 THE COURT: Sure.

21 (Sidebar conference.)

22 THE COURT: If I could have Juror 138 and 162
23 come up front, please, to meet with me.

24 THE BAILIFF: Juror No. 138.

25 THE COURT: Yes, sir, I want to follow up.

1 Your mother was a child abuse investigator?

2 PROSPECTIVE JUROR: In Boone, Iowa.

3 THE COURT: The fact that your mother was a
4 child abuse investigator, would that affect your
5 ability to be fair and impartial in this case?

6 PROSPECTIVE JUROR: I don't believe so. It's
7 been 30, 35 years ago.

8 THE COURT: So you can be fair and impartial?

9 PROSPECTIVE JUROR: I believe so. And I did
10 also want to say, I didn't answer, but working for
11 the news, I very well may have heard details of this
12 case before.

13 THE COURT: Where do you work?

14 PROSPECTIVE JUROR: ABC News.

15 THE COURT: Which department?

16 PROSPECTIVE JUROR: I'm reporting, cameraman,
17 and weather. But I don't remember it, so that's why
18 I didn't stand up. I don't remember it, but I may
19 have very well heard it.

20 THE COURT: All right. Have a seat.

21 THE BAILIFF: Juror No. 162.

22 THE COURT: You mentioned that you work for
23 DSS.

24 PROSPECTIVE JUROR: I work for DSS.

25 THE COURT: Is that state or county?

1 PROSPECTIVE JUROR: Richland County, DSS State.

2 THE COURT: But your office is in Richland
3 County?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: You're not focused on Lexington
6 County?

7 PROSPECTIVE JUROR: No. I work on Browning
8 Road. Actually, it's IT.

9 THE COURT: So you don't have --

10 PROSPECTIVE JUROR: No, I don't.

11 THE COURT: You're IT. I think that's covered
12 by the questions.

13 All right. Ladies and gentlemen, the Clerk of
14 Court is going to take care of some things at the
15 moment. She might need a few minutes. Just remain
16 seated and quiet, and we'll get this process done
17 very shortly.

18 (Brief pause in the proceedings.)

19 THE CLERK: Ladies and gentlemen, when your
20 name is called, you need to come forward through the
21 gates and up here to the podium in the center, turn
22 around, and face back, that way, until you are
23 instructed by the clerk to have a seat in the jury
24 box or to return to your seat, please.

25 Juror No. 204, D.K. Ulmer.

1 (Juror No. 204 comes forward.)

2 THE CLERK: What say you for the State?

3 MS. WELLMAN: Please present the juror.

4 THE CLERK: What say you for the defense?

5 MS. MAULDIN: Please excuse the juror.

6 THE CLERK: You may return to your seat,
7 please, sir.

8 162, Dan Rusu.

9 (Juror No. 162 comes forward.)

10 THE CLERK: What say you for the State?

11 MS. WELLMAN: Please present the juror.

12 THE CLERK: What say you for the defense?

13 MS. MAULDIN: Please seat the juror.

14 THE CLERK: Have a seat in the jury box, sir.

15 104, Dana Kubik.

16 (Juror No. 104 comes forward.)

17 THE CLERK: What say you for the State?

18 MS. WELLMAN: Please present the juror.

19 THE CLERK: What say you for the defense?

20 MS. MAULDIN: Please excuse the juror.

21 THE CLERK: You may return to your seat.

22 Number 9, Nicole Battle.

23 (Juror No. 9 comes forward.)

24 THE CLERK: What say you for the State?

25 MS. WELLMAN: Please present the juror.

1 THE CLERK: What say you for the defense?
2 MS. MAULDIN: Please seat the juror.
3 THE CLERK: Please have a seat in the jury box.
4 Number 54, Sandra Ericksen.
5 (Juror No. 54 comes forward.)
6 THE CLERK: What say you for the State?
7 MS. WELLMAN: Please present the juror.
8 THE CLERK: What say you for the defense?
9 MS. MAULDIN: Please excuse the juror.
10 THE CLERK: You can have a seat.
11 119, Tab McCullough.
12 (Juror No. 119 comes forward.)
13 THE CLERK: What say you for the State?
14 MS. WELLMAN: Please present the juror.
15 THE CLERK: What say you for the defense?
16 MS. MAULDIN: Beg the court's indulgence.
17 (Brief pause in the proceedings.)
18 MS. MAULDIN: Please seat the juror.
19 THE CLERK: Have a seat in the jury box.
20 Number 188, Mandy Strickland.
21 (Juror No. 188 comes forward.)
22 THE CLERK: What say you for the State?
23 MS. WELLMAN: Please present the juror.
24 THE CLERK: What say you for the defense?
25 MS. MAULDIN: Please seat the juror.

1 THE CLERK: Please have a seat in the jury box.
2 161, Abigail Roulston.
3 (Juror No. 161 comes forward.)
4 THE CLERK: What say you for the State?
5 MS. WELLMAN: Please present the juror.
6 THE CLERK: What say you for the defense?
7 MS. MAULDIN: Please excuse the juror.
8 THE CLERK: Please return to your seat.
9 178, George Smith.
10 (Juror No. 178 comes forward.)
11 THE CLERK: What say you for the State?
12 MS. WELLMAN: Please present the juror.
13 THE CLERK: What say you for the defense?
14 MS. MAULDIN: Please seat the juror.
15 THE CLERK: Please have a seat in the jury box.
16 187, Samantha Straws.
17 (Juror No. 187 comes forward.)
18 THE CLERK: What say you for the State?
19 MS. WELLMAN: Please present the juror.
20 THE CLERK: What say you for the defense?
21 MS. MAULDIN: Please seat the juror.
22 THE CLERK: Please have a seat in the jury box.
23 Number 100, Robert Knight.
24 (Juror No. 100 comes forward.)
25 THE CLERK: What say you for the State?

1 MS. WELLMAN: Please present the juror.

2 THE CLERK: What say you for the defense?

3 MS. MAULDIN: Please seat the juror.

4 THE CLERK: Please have a seat in the jury box.

5 Number 4, Lynda Apple.

6 (Juror No. 4 comes forward.)

7 THE CLERK: What say you for the State?

8 MS. WELLMAN: Please present the juror.

9 THE CLERK: What say you for the defense?

10 MS. MAULDIN: Please excuse the juror.

11 THE CLERK: Please return to your seat.

12 Number 206, Steven Vickers.

13 (Juror No. 206 comes forward.)

14 THE CLERK: What say you for the State?

15 MS. WELLMAN: Please present the juror.

16 THE CLERK: What say you for the defense?

17 MS. MAULDIN: Please excuse the juror.

18 THE COURT: Please return to your seat.

19 183, Laurie Steele.

20 (Juror No. 183 comes forward.)

21 THE CLERK: What say you for the State?

22 MS. WELLMAN: Please present the juror.

23 THE CLERK: What say you for the defense?

24 MS. MAULDIN: Please seat the juror.

25 THE CLERK: Please have a seat in the jury box.

1 Number 40, Bryan Cirrincione.

2 (Juror No. 40 comes forward.)

3 THE CLERK: What say you for the State?

4 MS. WELLMAN: Please excuse the juror from the
5 trial of this case.

6 THE CLERK: Return to your seat.

7 Number 126, William Mims.

8 (Juror No. 126 comes forward.)

9 THE CLERK: What say you for the State?

10 MS. WELLMAN: Please excuse the juror from the
11 trial of this case.

12 THE CLERK: Please return to your seat.

13 214, Amanda White-Tate.

14 (Juror No. 214 comes forward.)

15 THE CLERK: What say you for the State?

16 MS. WELLMAN: Please present the juror.

17 THE CLERK: What say you for the defense?

18 MS. MAULDIN: Please seat the juror.

19 THE CLERK: Please have a seat in the jury box.

20 124, James Miles.

21 (Juror No. 124 comes forward.)

22 THE CLERK: What say you for the State?

23 MS. WELLMAN: Please present the juror.

24 THE CLERK: What say you for the defense?

25 MS. MAULDIN: Please excuse the juror.

1 THE CLERK: Please return to your seat.
2 Number 24, Rachelle Brown.
3 (Juror No. 24 comes forward.)
4 THE CLERK: What say you for the State?
5 MS. WELLMAN: Please present the juror.
6 THE CLERK: What say you for the defense?
7 MS. MAULDIN: Please excuse the juror.
8 THE CLERK: Please return to your seat.
9 Number 27, Adam Burger.
10 (Juror No. 27 comes forward.)
11 THE CLERK: What say you for the State?
12 MS. WELLMAN: Please present the juror.
13 THE CLERK: What say you for the defense?
14 MS. MAULDIN: Please seat the juror.
15 THE CLERK: Please have a seat in the jury box.
16 Number 36, Adrian Caughman.
17 (Juror No. 36 comes forward.)
18 THE CLERK: What say you for the State?
19 MS. WELLMAN: Please present the juror.
20 THE CLERK: What say you for the defense?
21 MS. MAULDIN: Please excuse the juror.
22 THE CLERK: Return to your seat.
23 Number 2, Melvyn Adkerson.
24 (Juror No. 2 comes forward.)
25 THE CLERK: What say you for the State?

1 MS. WELLMAN: Please present the juror.

2 THE CLERK: What say you for the defense?

3 MS. MAULDIN: Please seat the juror.

4 THE CLERK: Please have a seat in the jury box.

5 219, Bruce Wingard.

6 (Juror No. 219 comes forward.)

7 THE CLERK: What say you for the State?

8 MS. WELLMAN: Please excuse the juror from the
9 trial of this case.

10 THE CLERK: Please return to your seat.

11 123, Tammy Merrihew.

12 (Juror No. 123 comes forward.)

13 THE CLERK: What say you for the State?

14 MS. WELLMAN: Please present the juror.

15 THE CLERK: What say you for the defense?

16 MS. MAULDIN: Please seat the juror.

17 THE CLERK: Please have a seat in the jury box.

18 Proceed with alternates?

19 THE COURT: Alternate strikes are two and one.

20 THE CLERK: Number 144, Matthew Powell.

21 (Juror No. 144 comes forward.)

22 THE CLERK: What say you for the State?

23 MS. WELLMAN: Please present the juror.

24 THE CLERK: What say you for the defense?

25 MS. MAULDIN: Please excuse the juror.

1 THE CLERK: Please return to your seat.
2 Number 42, Shannon Coffey.
3 (Juror No. 42 comes forward.)
4 THE CLERK: What say you for the State?
5 MS. WELLMAN: Please present the juror.
6 THE CLERK: What say you for the defense?
7 MS. MAULDIN: Please excuse the juror.
8 THE CLERK: Return to your seat.
9 209, Blakely Watts.
10 (Juror No. 209 comes forward.)
11 THE CLERK: What say you for the State?
12 MS. WELLMAN: Please present the juror.
13 THE CLERK: What say you for the defense?
14 MS. MAULDIN: Please seat the juror.
15 THE CLERK: Have a seat in the jury box.
16 That's alternate number one, Your Honor.
17 Number 67, Gustavo Guinea.
18 (Juror No. 67 comes forward.)
19 THE CLERK: What say you for the State?
20 MS. WELLMAN: Please present the juror.
21 THE CLERK: What say you for the defense?
22 MS. MAULDIN: Please seat the juror.
23 THE CLERK: Please have a seat in the jury box.
24 That's alternate number two, Your Honor.
25 THE COURT: Thank you.

1 Anything from counsel for voir dire?

2 MS. WELLMAN: We'd request one more alternate,

3 Your Honor.

4 THE CLERK: Number 160, John Rostetter.

5 (Juror No. 160 comes forward.)

6 THE CLERK: What say you for the State?

7 MS. WELLMAN: Please present the juror.

8 THE CLERK: What say you for the defense?

9 MS. MAULDIN: Please excuse the juror.

10 THE CLERK: Please return to your seat.

11 Number 111, Troy Lowman.

12 (Juror No. 111 comes forward.)

13 THE CLERK: What say you for the State?

14 MS. WELLMAN: Please present the juror.

15 THE CLERK: What say you for the defense?

16 MS. MAULDIN: Please excuse the juror.

17 THE CLERK: Please return to your seat.

18 Number 101, James Koon.

19 (Juror No. 101 comes forward.)

20 THE CLERK: What say you for the State?

21 MS. WELLMAN: Please present the juror.

22 THE CLERK: What say you for the defense?

23 MS. MAULDIN: Please seat the juror.

24 THE CLERK: Have a seat in the jury box.

25 That's alternate number three, Your Honor.

1 THE COURT: Counsel, if y'all would approach,
2 please.

3 (Sidebar conference.)

4 THE COURT: Thank you for your willingness to
5 serve on the jury for this case. It's about 3:30.
6 I have several things I've got to take up with the
7 attorneys. The first thing I'll do is dismiss you
8 for today. The bailiff will take you down to the
9 jury room and kind of walk you through your
10 procedure for tomorrow when you return.

11 I have some things scheduled for tomorrow
12 morning as well. So what I'll start off by saying
13 is I'd like you back tomorrow at 12:45 in your jury
14 so we can start promptly at 1:00 p.m. tomorrow. I
15 would ask you to go ahead and eat lunch before you
16 come to the courthouse. We'll get the case started
17 with hearing the case at 1:00 p.m. tomorrow.

18 Tomorrow, you'll start hearing the case.
19 Everything you need to know about the case will be
20 presented to you from that witness stand. It's
21 vitally important that when you go home tonight, you
22 don't discuss this case. You've heard some
23 indictment information and nothing more. You
24 haven't heard any evidence in this case.

25 Please don't research the parties involved in

1 this case. Please don't research the law at all.
2 Please don't discuss this case with your family
3 members around the dinner table tonight or over the
4 phone or any other social media, electronic
5 platform. Come to the courthouse tomorrow having
6 not done any sort of research, and we'll begin
7 hearing the case then. Otherwise, I hope you have a
8 nice evening and we will see you tomorrow. Have
9 good evening. Obviously, please don't discuss the
10 case with one another while you're in the courthouse
11 as well. Do not discuss at any time with anyone.
12 Thank you.

13 (The jury exits the courtroom at 3:26 p.m.)
14 THE COURT: All right, ladies and gentlemen,
15 you were not selected for the trial of this case.
16 That doesn't mean we may not have more work for you
17 this week. I don't anticipate anything tomorrow.
18 So what I'm going to ask is, Tuesday night, to call
19 the clerk of court phone number, which I'm sure has
20 been provided to you already, so we can see if we
21 need you to come in Wednesday morning.

22 Otherwise, you're free to go for the day. And
23 please check with the phone line Tuesday evening to
24 see if you have any responsibilities on Wednesday.
25 Thanks for being here. See you later.

1 THE CLERK: You can check the website or the
2 phone number. The message will be on both. It's on
3 your pink card.

4 (Jury pool excused.)

5 THE COURT: All right. We had several meetings
6 in chambers this morning before we came out for voir
7 dire. We can use this opportunity to kind of
8 memorialize some of those. Some involve
9 stipulations, some do not. I anticipate we're going
10 to do one of the forensic interviews today and do
11 the other one tomorrow.

12 Madam Solicitor, who's the witness we're going
13 to call today during pretrial?

14 MS. WELLMAN: Your Honor, the State filed two
15 motions for the admission of forensic interview
16 recordings. This afternoon, we are proceeding just
17 on the motion with regards to **Minor 2** . The
18 forensic interviewer for **Minor 2** is Mr. Eric Russell.
19 He is present in the courtroom today.

20 THE COURT: Okay. Before we get to that, have
21 y'all had a chance to discuss any more what we went
22 over in chambers as far as, really, a few
23 stipulations regarding bad acts, Lyle, that sort of
24 thing? Have y'all had a chance to discuss that?

25 MS. MAYES: Not in terms of making any

1 additional redactions, Your Honor. But I believe at
2 the close of today's pretrial matters, the defense
3 will supply us with the exact times that they may
4 have an issue with. We're already making
5 substantial redactions, but we're certainly willing
6 to take a look and see what else we can agree on.
7 If there isn't an agreement, we can follow that up
8 and make that redaction first thing in the morning.
9 I think we're pretty much on the same page in
10 regards to the proposed redactions. Mainly,
11 removing the prior bad acts and unrelated bad acts.

12 THE COURT: We'll take that up at 9:00 a.m.
13 tomorrow.

14 Anything else before we have Mr. Russell?

15 MS. MAULDIN: Your Honor, I know we discussed
16 it in chambers. I feel like I need to put my
17 continuance motion on the record.

18 THE COURT: I agree. And, as we discussed
19 also, I'm not going to rule on it until you've had
20 an opportunity -- I guess I'll deny it for the
21 moment and continue with pretrial. I think once
22 you've had an opportunity to make more record
23 tomorrow after you've had a chance to review the
24 document or forensic statement --

25 MS. MAULDIN: That's fine, Your Honor.

1 THE COURT: The record will reflect you've got
2 a motion for a continuance.

3 Are you ready to proceed?

4 MS. WELLMAN: Yes, Your Honor. Do you have the
5 packet of my motion, my memo, and the case law with
6 the redactions?

7 THE COURT: I believe I do. I should take a
8 moment to organize.

9 All right. I'm ready.

10 MS. WELLMAN: Your Honor, at this time, the
11 State would call Mr. Eric Russell.

12 ERIC RUSSELL

13 being first duly sworn, testified as follows:

14 THE WITNESS: I do.

15 THE CLERK: Have a seat, sir. Once you're
16 seated, remove your mask and state your name for the
17 record, spelling your last.

18 THE WITNESS: Eric Russell, R-U-S-S-E-L-L.

19 VOIR DIRE EXAMINATION

20 BY MS. WELLMAN:

21 Q. Mr. Russell, where do you work?

22 A. Dickerson Children's Advocacy Center.

23 Q. And can you tell us what the Dickerson Child
24 Advocacy Center is?

25 A. Advocacy center is a one-stop shop for kids

1 that have abuse allegations. We provide forensic
2 interviews, as well as medical, as well as therapy
3 for the children.

4 Q. Specifically, what is your role at Dickerson?

5 A. I am the director of forensic services.

6 Q. What does that mean?

7 A. The house is divided into two sides. We have
8 the clinical or therapeutic side where therapists
9 give therapy to children, and we have a forensic
10 side, which is the forensic interview side, the
11 forensic medical side. I oversee the forensic side.

12 Q. Specifically, can you explain to the Court what
13 a forensic interview or investigative interview is?

14 A. This is an interview of a child who has
15 allegations of child abuse. It's a fact-finding
16 interview to find out if anything did happen. It's
17 done in a child-friendly environment instead of
18 having a child to go a police station or something
19 like that where the child would be nervous. So a
20 child-friendly environment.

21 Q. Are those interviews done on behalf of
22 Dickerson or on behalf of the law enforcement
23 agency?

24 A. Either law enforcement or DSS requests us to do
25 those.

1 Q. Can you tell us a little bit about the training
2 that's required in order for you to conduct those
3 types of interviews?

4 A. The training that I went to, I went through in
5 2018, I believe it was. It's called Child First.
6 It's a 40-hour class given by the Metropolitan
7 Advocacy Center. It teaches all different types of
8 child development, that type of thing; teaches you
9 interviewing the children, what you can and cannot
10 ask them; no leading questions, that kind of thing.

11 Q. Are you required to keep up with some training?

12 A. Yes. There is ongoing training yearly.

13 Q. Are you subject to evaluations or peer reviews?

14 A. We have the -- all the CACs of South Carolina
15 are under the South Carolina Network For Children
16 Advocacy Centers. And they put on four statewide
17 interviews a year, and we're required to attend at
18 least two of them.

19 Q. Is your training up to date?

20 A. It is.

21 Q. And you mentioned, as part of your training,
22 that you were trained to not use things like leading
23 questions.

24 A. Correct.

25 Q. What other sort of rules and guidelines do you

1 have?

2 A. As far as what we can ask?

3 Q. How you conduct those interviews?

4 A. Well, the interview is conducted -- I went
5 through this class in 2003 as well and we used
6 something at that time called RATACs. They're not
7 used anymore. Rapport building, anatomy
8 identification, touch inquiry, and all like that.
9 So you get into the room with a child; you sit down
10 and make them comfortable, and then you just kind of
11 transition.

12 After you do what's called episodic memory
13 recall, you transition from that into has anything
14 happened to you; not asking them who did what to
15 you, just has anything happened.

16 Q. How about guidelines for the children? Are
17 there rules or guidelines that they have?

18 A. We ask them to give us assurance they will be
19 honest with us. We ask them to not guess; if they
20 don't know the answer, don't make up something; tell
21 us you don't know and correct us if we get something
22 wrong.

23 Q. Are the child's parents or guardians present
24 for that interview?

25 A. No, just the interviewer and the child.

1 Q. Prior to the interview, do you have any
2 interactions with the children?

3 A. Prior to the interview, we go get them out of
4 the waiting room and walk straight to the interview
5 room.

6 Q. You said the interview room. Where are the
7 interview rooms?

8 A. At Dickerson, we have three. They're probably,
9 I don't know, 40 or 50 feet from where the child
10 would be sitting in the waiting room.

11 Q. Are there safeguards to ensure what the child
12 is saying isn't being heard out in the hallway?

13 A. There are. The interview rooms have SOUNDPROOF
14 barriers or boards in the ceiling. There's a little
15 white noise machine that you can use. They're set
16 outside so nobody outside of the interview room can
17 hear unless they're in the observation room.

18 Q. You mentioned the observation room. Who's
19 allowed to observe these interviews?

20 A. Law enforcement and DSS.

21 Q. Are they allowed to just walk in and interrupt
22 the interview or do they have to sit and watch?

23 A. They sit and watch. If they have what they
24 feel is a vital question that needs to be asked
25 right now, they can write it on a piece of paper and

1 slip it under the door. Otherwise, the standard
2 practice of when the interviewer feels that they've
3 got all they need, the interviewer will leave the
4 child in the room for a minute, go out and check
5 with the observer to see if they need anything else,
6 and come back.

7 Q. What, if any, measures do you use prior to this
8 interview process to assess a child's competency to
9 tell you what's going on?

10 A. Other than us speaking with them about agreeing
11 to tell the truth, you know, not guessing, and that
12 kind of thing, that's the main thing.

13 Q. Do you ask them any questions to assess their
14 ability to remember details?

15 A. We do. There's something called an episodic
16 memory recall, and we ask them to tell -- a lot of
17 people do it differently. But we ask them to tell a
18 story and want them to tell the specific information
19 of that particular story; not something like we
20 normally do this or usually would do this, tell me
21 exactly what you did on this particular time.

22 Q. And you mentioned earlier that you use
23 non-leading questions. Why is that important?

24 A. Because we don't want to put anything in the
25 child's mind that they don't bring to the interview.

1 Q. When assessing a child's -- or interviewing a
2 child when there's an allegation of sexual abuse,
3 how do you, as the interviewer, determine the
4 child's knowledge of anatomy?

5 A. We have something called an anatomical drawing.
6 It is age-appropriate. When you're interviewing,
7 just say, for example, a five-year-old child, then
8 you'd have a preschool or elementary drawing of this
9 child, and you have them identify parts of the body.
10 Because on the drawing, the child does not have any
11 clothes on.

12 Q. Are you also trained in recognizing signs of
13 improper coaching or improper external influence?

14 A. We are.

15 Q. What do you look for?

16 A. We look for if a child says things that a
17 normal child of that age would not have the ability
18 or knowledge to know or if they say -- sometimes
19 they'll come right out and say Mama told me to say
20 this. Things like that.

21 Q. Are the interviews recorded?

22 A. They are.

23 Q. And the equipment used to record those
24 interviews, has that been able to accurately record
25 and document those interviews?

1 A. It does. We use the iRecord equipment.

2 Q. How are those videos stored?

3 A. Stored on a hard drive.

4 Q. Is there any way to change, alter, add, or
5 delete portions of those interviews?

6 A. No, ma'am.

7 Q. Are you able to burn those interviews to a CD?

8 A. We are.

9 Q. Who has access to those recordings?

10 A. The interviewers.

11 Q. Anyone outside of the Dickerson Center?

12 A. No.

13 MS. WELLMAN: May I approach the witness?

14 THE COURT: Certainly.

15 BY MS. WELLMAN:

16 Q. Mr. Russell, I'm handing you what's been marked
17 as Court's Exhibit No. 1. If you could, look
18 through that and tell me if you recognize it.

19 A. Looks like my training file from Dickerson.

20 Q. Is that a true and accurate copy of the
21 certificates that you've received as part of your
22 training that are contained in your file at the
23 Dickerson Center?

24 A. Yes, ma'am.

25 Q. Does there appear be any changes, alterations,

1 or deletions?

2 A. No, ma'am.

3 MS. WELLMAN: Your Honor, the State would move
4 to introduce Court's Exhibit 1 into evidence. I
5 previously provided Ms. Mauldin a copy, as well as
6 Your Honor, with Mr. Russell's certificate
7 documenting his training.

8 THE COURT: Just to be clear, you're going to
9 admit it into the record, but not in evidence?

10 MS. WELLMAN: This -- that's probably my -- I
11 misspoke. But, yes, this is Court's Exhibit 1, just
12 documenting his training certificates.

13 THE COURT: Right.

14 Ms. Mauldin, did you have a chance to look it
15 over?

16 MS. MAULDIN: Yes, sir. No objection.

17 THE COURT: Okay.

18 (Court's Exhibit No. 1 marked for
19 identification.)

20 MS. WELLMAN: For the purposes of this hearing,
21 Your Honor, that's all from the State.

22 THE COURT: Any cross-examination?

23 MS. MAULDIN: Yes, Your Honor.

24 VOIR DIRE EXAMINATION

25 BY MS. MAULDIN:

1 Q. Good afternoon, Mr. Russell. Good to see you
2 again.

3 A. You as well.

4 Q. As a preliminary matter, you interviewed
5 Minor 2 . Did you have a chance to review his
6 client intake form?

7 A. I apologize. I cannot hear what you're saying.

8 Q. I'm sorry. I should take the mask off.

9 You interviewed Minor 2 ?

10 A. That's correct.

11 Q. Did you have a chance to review his Dickerson
12 client intake form?

13 A. Yes, ma'am.

14 Q. There's a note that appears his grandmother
15 made that indicated that he had speech or hearing
16 problems. Are you aware of what those would be?

17 A. I'm not.

18 Q. Now, how long does it normally take between the
19 time that law enforcement says they need you to
20 perform an interview and the time that a child
21 normally is interviewed?

22 A. That's a very subjective question because it
23 depends on how busy we are. Right now, we're
24 booking three and a half, four weeks out.

25 Q. How many kids do y'all see a month or a week?

1 A. Again -- I can give you this: In 2019, we saw
2 700-something, and in 2020, we saw 350-something
3 because COVID kind of shut us down for a while.

4 Q. Do you have any guidelines on how quickly you
5 need to have the appointment with the child once a
6 referral has been made?

7 A. Just as soon as possible.

8 Q. Okay. In this case, do you know if law
9 enforcement drove the children there to the
10 Dickerson Center?

11 A. I don't know that for a fact, but I would doubt
12 it. It's very seldom that law enforcement brings
13 the children. Normally, it's the caregiver.

14 Q. All right. And you said that you ask the child
15 to promise to tell the truth and you discuss not
16 guessing. But, in this situation, there was no
17 evaluating whether the child actually knew the
18 difference in the truth and a lie or guessing or
19 saying something that you know within your personal
20 knowledge; is that right?

21 A. The only evaluation I used with this child --
22 and this is kind of a standard thing that I do:
23 When I get the child out of the waiting room, I tell
24 them my name. I get them into the room and ask them
25 if they remember my name. If he says I don't know,

1 he knows not to guess, and that's exactly what he
2 should tell me.

3 Q. But, beyond that, there's no do you understand
4 the difference in truth or lie; it's just promise to
5 tell the truth?

6 A. Correct.

7 Q. And the same thing with guess: It's not do you
8 understand what a guess is or what a guess is not,
9 but just don't guess?

10 A. There's a set of cards that can be used for a
11 really young child. But if you use it on a child
12 that's got a little bit of age on it, it's kind of
13 silly, if you understand what I mean. So we try to
14 do it without using that.

15 Q. Okay. And I believe you used the phrase
16 episodic memory. You said that you try to keep the
17 children from explaining what they normally do or
18 what usually happens. Why is that?

19 A. Because we want them to talk about specific
20 incidents. My standard go-to with that is, tell me
21 everything you've done from the time you got up this
22 morning until right now. I don't want to know what
23 you did last week or what you normally do, I want to
24 know what happened today.

25 Q. So your interviewers are trained not to do

1 that. And if the child gets into generalization,
2 it's to bring them back to the specific events?

3 A. Interviewers are trained not to do what?

4 Q. Not to just let them sort of free-range, well,
5 we normally do this or we normally do that?

6 A. Right. Try to keep them on track for a
7 specific event.

8 Q. And if a child says something that sounds to
9 you as if someone has told them something and the
10 child is repeating that, would it be your practice
11 to instruct the child not to repeat what somebody
12 else has told them, but to tell what's only within
13 his or her own personal knowledge?

14 A. It can be done many different ways. The
15 specific interview we're talking about here today,
16 one of the things he brought up and I asked him, is
17 that something somebody told you about or is that
18 something you saw with your own eyes? And he says
19 he saw it with his own eyes.

20 Q. So if that happened in an interview, the proper
21 thing would be for the evaluator to address that and
22 instruct the child to talk about only things that he
23 or she had seen or heard with his or her own eyes,
24 right?

25 A. Right.

1 Q. All right. And beyond a child saying, well,
2 so-and-so told me something, how else would you
3 determine whether there had been any coaching?

4 A. Again, if the child is using language that a
5 normal child that age would not know or understand,
6 that's kind of a red flag. So we stop and ask them
7 about that kind of thing. That's probably one of
8 the big ones.

9 Q. Anything else come to mind?

10 A. Not off the top of my head.

11 Q. And beyond instructing the child to stick to
12 things within his own personal knowledge, do you
13 take any other steps if something like that arises?

14 A. Again, we're not trained to direct the child
15 and tell them what they can or cannot say. If we go
16 down that road and it looks like the child is
17 telling us something that's not of their knowledge,
18 on the form we have to complete after the interview,
19 there's a box we can check that says it seems like
20 this child was coached because A, B, C, or this
21 child couldn't complete the interview because of
22 developmental delays, things like that.

23 Q. If it's not immediately apparent, like if the
24 child doesn't say, well, my mother told me to say
25 this, do you -- are you trained to ask questions or

1 try to ferret that out; you know, is that something
2 you heard from somebody else?

3 A. Yeah. Like I said, is that something that
4 somebody told you or is that something you saw with
5 your own eyes? You want to talk about only things
6 that you've seen with your eyes or felt with your
7 body.

8 Q. And that's as far as you would go down that
9 road?

10 A. Yes, ma'am.

11 Q. Okay.

12 MS. MAULDIN: Your Honor, I beg the Court's
13 indulgence.

14 THE COURT: Sure.

15 (Brief pause in the proceedings.)

16 BY MS. MAULDIN:

17 Q. When you use the word forensic, you just mean
18 in preparation for court. You're not talking about
19 a scientific basis?

20 A. I wouldn't say in preparation for court,
21 because not all forensic interviews end up going to
22 court. Again, I call it a fact-finding interview by
23 a neutral party to see whether or not something has
24 or has not taken place.

25 Q. Would you agree there's no scientific basis to

1 what you do?

2 A. Well, it's a -- I don't know that I can agree
3 to that. And I can't recite it to you, but there is
4 scientific research that has gone into the forensic
5 classes and that sort of thing, the training we
6 receive to do this. I can't tell you what it is. I
7 don't know off the top of my head. But I know it's
8 occurred.

9 Q. Thank you. No further questions.

10 THE COURT: Redirect?

11 MS. WELLMAN: Yes, Your Honor.

12 VOIR DIRE EXAMINATION

13 BY MS. WELLMAN:

14 Q. Mr. Russell, in response to some of the
15 questions Ms. Mauldin asked you, I want to talk to
16 you about your interview of **Minor 2** .

17 Did **Minor 2** appear to follow your questions and
18 follow the conversation?

19 A. Yes, ma'am, he did.

20 Q. Okay. Did he appear to be capable of
21 understanding what was going on and what you were
22 supposed to be talking about?

23 A. He did.

24 Q. Was he capable of remembering the details?

25 A. He was.

1 Q. Did he, in fact, provide details of what he
2 witnessed?

3 A. He did.

4 Q. Was he able to tell you where these assaults
5 occurred?

6 A. Yes, ma'am.

7 Q. Was he able to tell you clothing?

8 A. Yes, he was.

9 Q. How about who all was involved?

10 A. He was.

11 Q. Was he able to tell you how some of that
12 clothing was arranged?

13 A. He did.

14 Q. Based on your training and experience, did you
15 find any red flags or see any red flags that might
16 have alerted you to the possibility of some external
17 coaching?

18 A. No, ma'am.

19 Q. How about improper influence, either from your
20 questions or from a third party?

21 A. No, ma'am.

22 Q. Was he speaking in age appropriate language?

23 A. He was.

24 Q. Did you notice any developmental delays that
25 caused you some concern?

1 A. He communicated just fine with me.

2 Q. Was he able to tell the difference between what
3 he heard from someone else and what he actually saw
4 with his own eyes?

5 A. He was.

6 Q. When you were conducting the interview, did you
7 use leading questions or were they more open-ended
8 that allowed **Minor 2** to tell the story?

9 A. They were open-ended questions.

10 Q. Okay. Did you conduct this interview in
11 accordance with your training?

12 A. I did.

13 Q. Was there anything that stood out to you that
14 caused you some concern during this interview?

15 A. No, ma'am.

16 MS. WELLMAN: No further questions.

17 THE COURT: Any recross?

18 MS. MAULDIN: No, Your Honor.

19 THE COURT: All right. The witness may step
20 down.

21 Counsel, anything else?

22 MS. WELLMAN: No further witnesses, Your Honor,
23 with regards to the video for **Minor 2**. We'll address
24 the video for **Minor 1** tomorrow.

25 THE COURT: Right. But as far as other than

1 you wanting it to be admitted?

2 MS. WELLMAN: Your Honor, I think I've laid out
3 my arguments sufficiently in my memo. If you need
4 to hear something else, I'll be happy to continue
5 arguing.

6 THE COURT: No. No.

7 Ms. Mauldin, anything else as far as opposition
8 to admission?

9 MS. MAULDIN: Your Honor, just as long as we're
10 clear that the child would have to testify in court
11 before the admission of the video, we're on the same
12 page.

13 THE COURT: Sure. I think that's exactly how
14 it's laid out in practice and case law. But having
15 heard from the forensic interviewer, heard questions
16 from both the State and the defendant, I find
17 there's -- it was done with particularized guarantee
18 of the trustworthiness by the statute 17-23-175.
19 You noted the process --

20 Yes, ma'am.

21 MS. WELLMAN: Your Honor, I think,
22 specifically, the law is requiring you to make
23 specific findings with regards to each of those
24 issues. If you could, go through them for purposes
25 of the record.

1 THE COURT: One page before. The statements
2 were not elicited by leading questions; Russell
3 noted they were open-ended; the manner in which the
4 interview was conducted; he certainly notated, and I
5 have in my hand, copies of his training background,
6 the methods he uses with the Child First process.

7 He also noted he had previous training from the
8 RATAC, but, obviously, that's not what he used here.
9 But his experience was well documented. The
10 statements, in my listening to them, contained a
11 detailed account of what happened and, certainly, I
12 believe, had internal coherence necessary to be
13 clear of what the minor was describing in the
14 interview. He certainly was advised of the
15 importance of, you know, forthright and honest
16 answers to -- as far as providing background on the
17 situation.

18 MR. MAULDIN: Your Honor, that's based on you
19 hearing the testimony today and your own review of
20 the tape?

21 THE COURT: That is correct. That is from me
22 hearing the interview with my own ears on my own
23 computer. Thank you for clarifying that,
24 Mr. Mauldin.

25 All right. So that satisfies this portion of

1 the trial. Obviously, for tomorrow, whenever
2 Mr. Russell is brought up, he'll be briefed as far
3 as how much of the testimony that was provided today
4 will not be provided in front of the jury. I expect
5 his testimony will lay the foundation that the
6 interview occurred. But as far as the techniques
7 and --

8 In fact, I'll just read directly: There should
9 be no testimony to such things as techniques and the
10 instruction of the interview subject of the
11 importance of telling the truth, nor the purpose of
12 the interview is to allow law enforcement to
13 determine whether a criminal investigation is
14 warranted.

15 I know Mr. Russell, as a witness, has probably
16 done this before, but I just wanted to note that
17 that is what will be expected.

18 MS. MAYES: Your Honor, do you mind reading
19 that one more time? With the mask, it was --

20 THE COURT: I was reading from
21 State v. Anderson. The sole purpose of the
22 testimony is to lay a foundation to the introduction
23 of the videotape, and questioning must be limited to
24 that subject, which is there will be no testimony to
25 such things as techniques or the instruction to the

1 interview subject, nor the importance of telling the
2 truth, or that the purpose of the interview is to
3 allow law enforcement to determine whether a
4 criminal investigation is warranted.

5 Is that clear?

6 MS. WELLMAN: Yes, sir, Your Honor.

7 THE COURT: All right. What's next?

8 MS. WELLMAN: For purposes of today, that's all
9 the State has. But I believe Ms. Mauldin wanted to
10 address --

11 THE COURT: Yes, ma'am?

12 MS. MAULDIN: Yes, Your Honor. We would ask
13 the Court to conduct a competency hearing on both
14 children; however, if we're taking up the tape of
15 **Minor 1** tomorrow, I think it might fit in better
16 with that, so I'd ask we do it --

17 THE COURT: Tomorrow?

18 MS. MAULDIN: Yes, Your Honor.

19 The only other thing is the motion to sequester
20 the witnesses.

21 THE COURT: Which is, essentially, stipulated
22 to, as long as everyone does it?

23 MS. MAULDIN: Yes, sir.

24 THE COURT: It's so ordered.

25 MS. MAULDIN: And I would like you to know that

1 Shannon O'Cain is my investigator at the public
2 defender's office. We'd like to keep her in the
3 courtroom. She's essential to assisting us in
4 trying the case.

5 MS. MAYES: No objection.

6 THE COURT: All right. So the parties
7 stipulate to sequester the witnesses for trial. And
8 we will start tomorrow.

9 Yes, ma'am?

10 MS. WELLMAN: Nothing, Your Honor. Thank you.

11 THE COURT: We'll start tomorrow morning. Just
12 so I'm clear, we'll have **Minor 1** 's forensic
13 interview; foundation, competency, we'll address.
14 We'll let you complete any record that needs to be
15 done regarding your motion for a continuance.

16 Anything else?

17 MS. WELLMAN: Nothing from the State, Your
18 Honor.

19 MS. MAULDIN: I can put the Lyle matters on the
20 record now, if Your Honor would like, or in the
21 morning.

22 THE COURT: I think it will make more sense
23 to -- if they redact what's needed, we don't need to
24 have the Lyle.

25 Right? Y'all can just tell me that first thing

1 in the morning, and we'll go from there. I would
2 hope we have plenty of time in the morning to get
3 all this done before we start.

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

5 THE COURT: Anything else for the record today?

6 MS. WELLMAN: No, Your Honor.

7 (The following proceedings were held
8 May 25, 2021.)

9 THE COURT: All right. Just a little bit of
10 housekeeping here: Yesterday, when we called the
11 case, I read a summary that was agreed upon by the
12 attorneys in the case, basically just getting
13 information about the indictments.

14 Madam Court Reporter, I'm going to hand this to
15 you for Court's Exhibit 2.

16 (Court's Exhibit No. 2 marked for
17 identification.)

18 THE COURT: We've got -- I believe the forensic
19 interviewer is here?

20 MS. WELLMAN: Yes, sir.

21 THE COURT: We'll start with that, and we'll do
22 the competency examinations after that. Is that
23 fine?

24 MS. WELLMAN: Yes, Your Honor.

25 Permission to proceed?

1 THE COURT: Yes.

2 MS. WELLMAN: Your Honor, the State would call
3 Ms. Aaliyah Simon.

4 AALIYAH SIMON

5 being first duly sworn, testified as follows:

6 THE WITNESS: Yes.

7 THE CLERK: Have a seat right up here, ma'am.
8 Once you're seated, state your full name, spelling
9 your last, please. You may remove your mask.

10 THE WITNESS: My name is Aaliyah Simon. Simon
11 is S-I-M-O-N.

12 VOIR DIRE EXAMINATION

13 BY MS. WELLMAN:

14 Q. Good morning, Ms. Simon. Where do you work?

15 A. Dickerson Children's Advocacy Center.

16 Q. Is that here in town?

17 A. Yes.

18 Q. What is your role at Dickerson Child Advocacy
19 Center?

20 A. I am the multidisciplinary team and advocacy
21 services coordinator.

22 Q. What are your duties and responsibilities?

23 A. So I conduct forensic interviews. I put
24 together a meeting each month for the
25 multidisciplinary team which consists of DSS, law

1 enforcement, medical staff, therapists. Yes.

2 So it's pretty much what I do.

3 Q. And how long have you worked at Dickerson?

4 A. This will be my fifth year.

5 Q. Where were you working before that?

6 A. Lexington County DSS.

7 Q. Talking a little bit about your current
8 position, you mentioned you conduct forensic
9 interviews. Are those the investigative interviews
10 that are conducted on children?

11 A. Yes.

12 Q. Okay. We talked a little about them yesterday.
13 But can you briefly tell us what that is?

14 A. A forensic interview is a neutral, fact-finding
15 investigative tool used to gather information
16 regarding allegations of abuse.

17 Q. And can you tell us a little bit about the
18 training that you personally received in order to
19 conduct those interviews?

20 A. So we have to go through a 40-hour course with
21 the Metropolitan Children's Advocacy Center. It's
22 called Child First.

23 Q. Are you required to complete any continuing
24 education courses, sort of keep yourself up to date,
25 anything like that?

1 A. Yes. So we have to participate in a quarterly
2 peer review. Once a year, we have it with the
3 entire state; the other three times, we have it with
4 children advocacy centers within a close proximity.
5 And I have personal development as well as like 40
6 hours' worth of conferences and webinars regarding
7 it.

8 Q. And have you successfully gone through the
9 peer-review process?

10 A. Yes.

11 Q. Is your training up to date?

12 A. Yes.

13 Q. As part of that training, did you specifically
14 gain experience on how to conduct interviews in
15 cases where there's allegations of child abuse?

16 A. Yes.

17 Q. What, if any, rules or guidelines are there for
18 the interviews that you conduct?

19 A. That there must be open-ended questions. I'm
20 sorry. Open-ended questions is a big part of it.

21 Q. Why is that important?

22 A. So the child can tell their story in their own
23 words.

24 Q. Are the children told the importance of telling
25 the truth during these interviews?

1 A. Yes.

2 Q. Are they told, if you don't know something,
3 tell me you don't know?

4 A. Right.

5 Q. What about -- are they told what to do if they
6 don't remember or if you get something wrong? What
7 are they told to do?

8 A. They are told to correct me if I get anything
9 wrong, to not guess about anything. If they don't
10 know something, just say they don't know.

11 Q. Is anyone present for the interview other than
12 you and the child?

13 A. No.

14 Q. Is anyone allowed to observe the interviews?

15 A. Yes.

16 Q. Who is allowed to?

17 A. Law enforcement, DSS, and the prosecutor's
18 office.

19 Q. What measures, if any, do you use to assess
20 whether a child is competent to talk about the
21 allegations?

22 A. Well, in the beginning stages, it's called
23 rapport building, so there's a narrative process.
24 And so from that narrative process, we get enough
25 information during that time to see whether the

1 child will be able to answer questions.

2 Q. Are you trained to recognize any signs of
3 outside coaching, improper influence, or anything
4 like that during the interview?

5 A. Yes.

6 Q. What do you look for?

7 A. Words or phrases that a child around that age
8 should not be able to understand or convey in that
9 type of setting.

10 Q. Such as -- can you give us an example?

11 A. Things of like -- I'm trying not to be too
12 graphic. A child may say -- I've had children use
13 different terms for their body parts, for instance.
14 They usually don't use the correct term. Like
15 vagina is usually my bottom, my private part, my
16 pocketbook, something like that. So based off of
17 that usage.

18 Q. During the interview, what techniques or
19 methods do you use to assess the child's knowledge
20 of the anatomy?

21 A. We have anatomical drawings. And from the
22 anatomical drawing, we name the body parts.
23 Usually, I say something along the lines of tell me
24 what you call these body parts, your body parts.

25 Q. And these interviews, are they recorded?

1 A. Yes.

2 Q. Are those recordings stored and saved at the
3 Dickerson Center?

4 A. Yes.

5 Q. Who has access to those videos?

6 A. The forensic interviewers.

7 Q. Is there any way for you guys to modify, alter,
8 delete, edit, change those interview recordings in
9 any way?

10 A. No.

11 Q. Drawing your attention to July 9th of 2020, did
12 you have an occasion to conduct a forensic interview
13 on a **Minor 1** ?

14 A. Yes.

15 Q. Okay. And have you had an opportunity to
16 review that recording since July 9th of last year?

17 A. Yes.

18 Q. Did you use -- or did you conduct that
19 interview in accordance with your training?

20 A. Yes.

21 Q. Did you use those open-ended questions that you
22 talked about?

23 A. Yes.

24 Q. Did **Minor 1** appear to understand why she was
25 there?

1 A. Yes.

2 Q. Did she appear to be able to understand you and
3 converse with you?

4 A. Yes.

5 Q. Did you notice any developmental delays or
6 anything that sort of raised concern for you about
7 Minor 1 's competency?

8 A. No.

9 Q. Was she able to -- or did she make any kind of
10 disclosures?

11 A. Yes.

12 Q. Was she able to tell you where incidents
13 occurred?

14 A. Yes.

15 Q. Was she able to tell you other details like
16 what she might have been wearing?

17 A. Yes.

18 Q. Was she able to tell you who else was there?

19 A. Yes.

20 Q. Was she able to describe the situation?

21 A. Yes.

22 Q. Was she able to tell you what happened in a
23 logical way?

24 A. Yes.

25 Q. Okay. Did you see any signs of external

1 coaching?

2 A. No.

3 Q. Improper influence?

4 A. No.

5 Q. Did **Minor 1** use age-appropriate language to
6 describe things?

7 A. Yes.

8 Q. Were you able to discern whether she was
9 telling you things that someone told her or things
10 that she saw or that she felt?

11 A. No.

12 Q. I'm sorry?

13 A. Can you say that again?

14 Q. That was probably confusing. Did you make sure
15 that **Minor 1** understood we're talking about things
16 that you saw -- you saw, you felt, you heard?

17 A. Yes. That's a part of -- in the beginning,
18 that's a part of the guidelines.

19 Q. Was she clear about the difference between what
20 someone told her and what she felt or what she saw?

21 A. Yes.

22 Q. Okay.

23 MS. WELLMAN: If I could have one second, Your
24 Honor.

25 May I approach?

1 THE COURT: Yes, ma'am.

2 BY MS. WELLMAN:

3 Q. This is the Court's Exhibit No. 3. Do you
4 recognize that?

5 A. Yes.

6 Q. Please tell the Court what it is.

7 A. This is my certificate for the training for
8 Child First.

9 Q. Is that a true and accurate copy of those
10 certificates?

11 A. It is.

12 Q. Those are the certificates you received --

13 A. Yes.

14 Q. -- after completing your training?

15 A. Yes.

16 MS. WELLMAN: Your Honor, we'd ask that be
17 added to the record.

18 THE COURT: That will be Court's Exhibit 3?

19 MS. WELLMAN: It's the exact same thing that I
20 provided in that entire packet to the Court and to
21 Ms. Mauldin.

22 THE COURT: All right.

23 (Court's Exhibit No. 3 marked for
24 identification.)

25 MS. WELLMAN: No further questions for the

1 purposes of this.

2 THE COURT: Cross-examination.

3 MS. MAULDIN: Thank you, Your Honor.

4 VOIR DIRE EXAMINATION

5 BY MS. MAULDIN:

6 Q. Good morning, Ms. Simon.

7 A. Good morning.

8 Q. Why is it that you don't use leading questions
9 in an interview with a child?

10 A. Because we want the child to be able to speak
11 in their own words.

12 Q. And what effect would it have if you had used
13 leading questions in your interview with a child?

14 A. I'm not sure.

15 Q. Would that suggest to the child what to say?

16 A. That could. Yes.

17 Q. And would that lead to a false report from the
18 child?

19 A. It could.

20 Q. And when you interviewed **Minor 1** , you made sure
21 that she understood that she was to talk about only
22 things she had personal knowledge of; is that
23 correct?

24 A. Yes.

25 Q. But in one place in the interview with you, she

1 told you that he had done things to his family, his
2 niece, another girl, and probably a lot of people;
3 is that correct?

4 A. Correct.

5 Q. And would you agree that she was saying
6 something that she didn't have personal knowledge of
7 there?

8 A. Yes.

9 Q. And later, she outright named her grandmother.
10 She said that Gammy had told her some things to that
11 effect; is that right?

12 A. Correct.

13 Q. And you said that you saw no signs of any
14 coaching or undue influence?

15 A. Correct.

16 MS. MAULDIN: Beg the Court's indulgence.

17 THE COURT: Yes, ma'am.

18 BY MS. MAULDIN:

19 Q. Would you agree that when you asked **Minor 1**
20 about taking photographs, you asked her a leading
21 question and asked, has anyone ever taken pictures
22 of you without your clothes on?

23 A. I'm sorry. Can you rephrase that? I'm not
24 sure --

25 Q. I'm sorry. I didn't mean to make that more

1 confusing than it needed to be. But at one point in
2 the interview, there had been no discussion about
3 pictures being taken without clothes on; is that
4 right?

5 A. Uh-huh.

6 Q. And you asked **Minor 1** whether anyone had taken
7 pictures of her without any clothes on; is that
8 right?

9 A. I did. But she had already talked about
10 devices; she had already talked about them.

11 Q. But there had been no mention up until that
12 point of anybody taking any photographs or taking
13 any photographs of her or that her clothes were off?

14 A. No.

15 Q. And, at that point in the interview, there had
16 already been substantial conversation about
17 Mr. Dyer. No other possible people; is that right?

18 A. I'm sorry. Rephrase that.

19 Q. At that point in your interview with her, the
20 discussion had been about Mr. Dyer and not anybody
21 else?

22 A. Correct.

23 MS. MAULDIN: All right. Your Honor, I have no
24 further questions.

25 THE COURT: Any redirect?

1 MS. WELLMAN: Yes, Your Honor.

2

3

4

VOIR DIRE EXAMINATION

5

BY MS. WELLMAN:

6

Q. Ms. Simon, when Minor 1 was talking about the things that she had heard about other people, was she clear about whether she saw that or whether she just heard about it?

7

8

9

10

A. She had just heard about that. She was only talking about the part with other people -- with other children. Not -- she didn't say anything about her interaction in that part.

11

12

13

14

Q. For those specific instances?

15

A. Right.

16

17

Q. But she was clear whether she had heard this or whether she felt it?

18

19

A. She was clear about what she heard. She said she heard it.

20

21

22

Q. Now, when she was talking about the things that actually happened to her, was she able to describe how it felt?

23

A. Yes.

24

25

Q. Was she able to describe other details about what happened to her?

1 A. Yes.

2 Q. And Ms. Mauldin asked you about your question
3 regarding photos. Did you say, did Mr. Dyer or did
4 Mr. Mike take photos of you, or did you say has
5 anyone taken photos of you?

6 A. Has anyone.

7 Q. And was she able to name the person who took
8 photos?

9 A. Yes.

10 Q. Was she able to describe what device or what
11 piece of equipment was used to take those photos?

12 A. Yes.

13 Q. Did you put those ideas in her mind?

14 A. No.

15 Q. Who took the photo or what device was used, did
16 that come from **Minor 1** ?

17 A. Yes.

18 Q. Let's see.

19 MS. WELLMAN: No further questions, Your Honor.

20 THE COURT: Recross?

21 MS. MAULDIN: Your Honor, just --

22 VOIR DIRE EXAMINATION

23 BY MS. MAULDIN:

24 Q. If you learned that someone else had conducted
25 an interview of **Minor 1** and that that interview had

1 included suggestive language or leading questions,
2 would that change your opinion about her interview
3 with you?

4 A. I'm sorry. You're going to have to ask me that
5 again.

6 Q. If someone else had conducted an interview with
7 **Minor 1** , and if that interview had included
8 suggestive language or leading questions, would that
9 change your opinion about the validity of your
10 interview with **Minor 1** ?

11 A. My interview is neutral. I just gather the
12 information.

13 Q. Well, let me ask it this way: If someone had
14 told a child what to say, would that throw questions
15 on the child's answers in the interview with you?

16 A. You're asking me about somebody else's --
17 somebody else interviewed the child?

18 Q. Yes.

19 MS. WELLMAN: Your Honor, this calls for
20 speculation. She is completely unaware of what
21 other conversations might have been out there. I
22 think it's inappropriate for this hearing.

23 THE COURT: I think they're discussing that at
24 this moment.

25 Anything else?

1 MS. MAULDIN: I may be able to --

2 THE COURT: Rephrase the question a little
3 more.

4 BY MS. MAULDIN:

5 Q. If you found out that the grandmother had
6 talked to this child and had suggested answers to
7 her and asked her leading questions, would that
8 cause you to question the validity of your
9 interview?

10 MS. WELLMAN: Same thing.

11 THE COURT: I think it is -- it's a
12 hypothetical. I find it kind of speculative as
13 well.

14 I know what you're trying to do and -- why
15 don't you come up -- well, it's just us in here.
16 You can try to rephrase it.

17 The jury is not here, so we can talk. I don't
18 want to straight up hypo -- I mean -- but I think --

19 (Sidebar conference.)

20 BY MS. MAULDIN:

21 Q. Ms. Simon, have you seen any other videos in
22 this case other than the one that you made of
23 Minor 1 's interview with you?

24 A. No.

25 THE COURT: All right. Anything further?

1 MS. MAULDIN: No, Your Honor.

2 THE COURT: All right. The witness may step
3 down.

4 Anything else from the State?

5 MS. WELLMAN: Not for the purposes of this
6 hearing.

7 THE COURT: Based on Ms. Simon's testimony and
8 my reviewing of the -- watching the interview
9 myself --

10 MS. MAULDIN: Your Honor, may I be heard on the
11 matter?

12 THE COURT: Sure.

13 MS. MAULDIN: Your Honor, I do think it's
14 important for Your Honor to see the recordings that
15 Tammy Todd made, because I believe those had a
16 bearing on whether her -- the child's interview was
17 tainted and whether her testimony at trial would be
18 as well. I think that Your Honor needs to hear
19 those.

20 And I will point out there was a leading
21 question about photographs that was done in their
22 interview and, also, that **Minor 1** very clearly told
23 Ms. Simon about things that happened with other
24 people. She used, first, language that indicated
25 she had first-hand knowledge of these events, and

1 then later, reported that her grandmother told her
2 about these other things involving other people.

3 Clearly, she didn't understand the rules to
4 stay within what she knew and things that had
5 happened to her because she's discussing this stuff
6 as if it's first-hand information. And she just
7 keeps repeating what she's heard from somebody else.

8 But, Your Honor, I do think you need to hear
9 the tape before you rule on it.

10 THE COURT: To your point in response about
11 what she heard, I mean, they are open-ended
12 questions. And, as I recall, you know, an examiner
13 took the open-ended questions and tried to, on more
14 than one occasion, to focus what she did know. It's
15 a long interview. But I think that will happen in
16 open-ended questions.

17 As far as the photographs -- as far as taking
18 photographs, I recall there being several incidences
19 referring to using iPads during the interview. In
20 this day and age, in every single electronic device
21 is also a camera. Doesn't seem overly leading to
22 ask if photographs were being taken with an iPad or
23 an iPhone or electronic device that everyone has in
24 this day and age.

25 As far as the videos from the grandmother?

1 MS. MAULDIN: Yes, sir. These are videos that
2 the grandmother made of the grandmother questioning
3 the child herself --

4 THE COURT: And these were disclosed when?

5 MS. MAULDIN: Your Honor, we knew about two of
6 the videos prior to the beginning of the trial. At
7 that point, we did not know when the videos were
8 made; whether they were made before she went to the
9 Dickerson interview or after the Dickerson
10 interview.

11 Yesterday, in discussions with the Solicitor's
12 Office -- I don't think they knew about them ahead
13 of time. But through our discussions, they
14 questioned Ms. Todd about it. They found an
15 additional three videos, and they learned the time
16 frame of the videos; that some were conducted before
17 Ms. Todd went to the police, so before anybody
18 talked to anybody about the case. And then two were
19 done between the time that she went to the police
20 and the time the child went to the Dickerson
21 interview.

22 So we know now that all of those happened
23 before this interview. So if there was any improper
24 questioning or anything like that, it's the first
25 time that anybody interviewed this child when she

1 went to Dickerson, but after all five of the videos.

2 THE COURT: Well, as far as -- wouldn't that be
3 better suited for your case in chief or even in
4 cross-examination to when the victim is on the
5 stand, as far as what she -- prior statements she
6 made to her grandmother? I don't -- I mean, I
7 understand your point that it gives this inference
8 that maybe she was coached in the forensic
9 interview. But the interviewer -- just like
10 yesterday, I mean, the interview seems to have gone
11 the way the interview was supposed to go, as far as
12 the nature of the examination, the manner of the
13 questions.

14 How long are the videos?

15 MS. MAULDIN: Your Honor, each one of them is a
16 few minutes. I think they're in the range of, like,
17 two or three minutes each. I'm not talking about,
18 like, half an hour or anything like that.

19 And, Your Honor, I would point out that the
20 focus of this is whether the circumstances
21 surrounding the making of the statement provides
22 particularized guarantees of trustworthiness. The
23 whole point is to decide whether that interview was
24 trustworthy. I think this directly relates to
25 whether this is trustworthy or not.

1 MS. WELLMAN: Your Honor, if Ms. Mauldin would
2 like to play these for the Court for this hearing,
3 we don't have a problem with it.

4 THE COURT: Okay. I didn't know what made more
5 sense, for me to hear it in chambers or we can do it
6 in here and we --

7 MS. WELLMAN: If she wants to play it for the
8 hearing, that's fine.

9 THE COURT: Okay. Why don't we just play it on
10 the device back there first?

11 MS. MAULDIN: I would say this needs to be on
12 the record, Your Honor.

13 THE COURT: No. I'm not saying I'm not going
14 to play it on the record. I just wanted to watch it
15 before I watch it. That's all. That's fine. Play
16 it.

17 (Video is played for his Honor.)

18 MS. MAULDIN: Thank you, Your Honor. As you
19 heard -- in these, the grandmother is clearly
20 directing the child how to answer her. And you even
21 heard, in the last one, her tone changed when she
22 says, tell me what else; I don't care about the
23 phone. The number of times seems to change. She
24 talks about she doesn't remember another specific
25 time with his penis. Later on, she's talking about

1 multiple times.

2 I think what's significant is we don't have an
3 entire conversation in either of these. We don't
4 know what went on before or after that and what the
5 grandmother may have directed her to say. But these
6 are highly suggestive. She's asking leading
7 questions, you know, about her laying on the bed,
8 holding her legs down.

9 I think this just -- it's problematic and
10 taints the interview that she gave. And we would
11 move that it not be introduced into the case. And I
12 would ask the Court to allow me to make a copy of
13 the video given to us and make it a Court's Exhibit.

14 THE COURT: What is the difference in time
15 between when these cell phone videos were made and
16 when the forensic interview was conducted?

17 MS. WELLMAN: One second, Judge.

18 THE COURT: Okay.

19 MS. WELLMAN: Your Honor, the ones where she is
20 wearing blue and white, we believe that video was
21 taken the night of July 9th, which would have been
22 after the forensic interview. And then I think
23 there's three others that are sometime between June
24 10th and June 16th -- my apologies; sometime after
25 the forensic interview on the 9th and prior to his

1 arrest on July 10th.

2 THE COURT: But there were some done in June
3 prior to --

4 MS. WELLMAN: Okay. There were some prior to
5 the forensic interview, yes. I apologize, Your
6 Honor. The two where she's wearing blue and white
7 could have been any time prior to his arrest on July
8 10th.

9 THE COURT: On one hand, she's the legal
10 caregiver of the victim, right?

11 MS. WELLMAN: Yes, Your Honor.

12 THE COURT: So doesn't seem illogical that a
13 parent or grandparent in charge of a child is going
14 to ask what happened.

15 MS. WELLMAN: Exactly.

16 THE COURT: But the last video, particularly,
17 she sounded frustrated with the child a little bit.
18 And I heard it in a quick fragment. I probably need
19 to hear it more than once. It sounded like a jet
20 flew over in one part of the video where she was
21 getting frustrated with the child. I'll need to
22 hear that again. Ultimately, though --

23 Answer this, Ms. Mauldin, why does this just
24 not go towards, you know, the jury can make what
25 they want to of the videos? You can certainly use

1 these videos and say here's our concern, ladies and
2 gentlemen. I mean, obviously, some of those videos
3 took place before the interview, but the process of
4 the interview itself doesn't seem to show the
5 witness was coached by the forensic interviewer and
6 otherwise seemed to be within the norms that are
7 expected of that type of interview. How are you
8 unable to point out that she could have been coached
9 in your case in chief?

10 MS. MAULDIN: Yes, Your Honor. I understand
11 the Court's point. I would simply argue that these
12 videos indicate that the interview itself was
13 tainted and that that erodes the particularized
14 guarantees of trustworthiness provided by the
15 statute.

16 THE COURT: Okay. Anything else?

17 MS. WELLMAN: Your Honor, I was going to say
18 the statute doesn't require that no one have any
19 conversation with the child about what happened
20 prior to the interview. That would be ideal, yes.
21 But one thing I did notice from that last video is,
22 yes, the grandmother would ask some leading
23 questions, but when there was something that wasn't
24 right or maybe not perfectly clear, **Minor 1** did come
25 back and clarify based on those leading questions.

1 I did hear that.

2 She was also able to provide details in
3 addition to what was asked by the grandmother;
4 details that are consistent; details that came from
5 **Minor 1** 's mouth, not Tammy's. They came from her
6 mouth. Those were similar details. And any
7 inconsistencies, if Ms. Mauldin wants to introduce
8 that in her case in chief, I think she can argue
9 that. But that doesn't go to what is this
10 particular video at issue in this hearing
11 inadmissible or taints that forensic interview in
12 general.

13 THE COURT: Well, it -- the issue would be that
14 for however many forensic interviews we have on any
15 given day in the state of South Carolina, if we
16 found out after the fact that someone made a video
17 of the person and discussed the issues beforehand,
18 you know, there's a consequence there.

19 Well, the interview itself -- and I'm focusing
20 on the interview which was provided in advance to
21 the Court. Obviously, both sides are familiar with
22 it. It appears to meet the requirements under
23 17-23-175, it was a statement that was made in an
24 investigative interview, preserved through video
25 recording, and the child is expected to testify here

1 and is subject to cross-examination.

2 The forensic interview itself does appear to
3 have that level of trustworthiness between the
4 examiner, Ms. Simon, and the minor. I recall there
5 was one issue with a question about the pictures. I
6 think we addressed that on the record already. But
7 in my hearing of the statement and the interview, I
8 thought it was a detailed account of the alleged
9 offense that could be understood as far as the
10 factual basis for the allegations in this case.

11 Obviously, the interviewer is properly trained
12 and presented those qualifications to the Court. I
13 believe it's admissible. I also think the defense
14 is well -- which the State has already noted for me,
15 you know, those text messages can add some
16 inferences as well, and that will be theirs to use
17 at the appropriate time.

18 All right. What's next?

19 MS. WELLMAN: Your Honor, we do have **Minor 1** in
20 the courtroom right now. We're ready to proceed
21 with the competency hearing.

22 THE COURT: We talked about this in chambers as
23 far as me doing it or us splitting it up.

24 MS. WELLMAN: I think it would be better if,
25 you know, we lay the foundation as the State;

1 Ms. Mauldin can cross-examine, and then if the Court
2 has any additional questions, I think that would be
3 the best way to do that.

4 THE COURT: Do you agree with that,
5 Ms. Mauldin?

6 MS. MAULDIN: Yes, sir.

7 THE COURT: If I think it's going one direction
8 or another, I'll let you know.

9 MS. WELLMAN: Okay. Yes, Your Honor.

10 THE COURT: Call your next witness.

11 MS. WELLMAN: Your Honor, at this time, the
12 State would call Minor 1 .

13 Minor 1
14 being first duly sworn, testified as follows:

15 THE WITNESS: Yes, ma'am.

16 THE CLERK: Have a seat right up there. Once
17 you're seated, you can take your mask off. I need
18 you to state your name and spell your last.

19 THE WITNESS: My name is Minor 1 . Minor 1
20 is spelled Minor 1 .

21 IN-CAMERA EXAMINATION

22 BY MS. WELLMAN:

23 Q. Minor 1 , how old are you?

24 A. I'm ten years old.

25 Q. I need you to speak up a little bit for me.

1 A. I'm ten years old.

2 MS. WELLMAN: May I approach, Your Honor, and
3 put that microphone a little closer?

4 THE COURT: Sure.

5 BY MS. WELLMAN:

6 Q. Try again.

7 A. I'm ten years old.

8 Q. Minor 1 , where do you go to school?

9 A. Congaree Elementary.

10 Q. What grade are you in?

11 A. Fourth grade.

12 Q. Minor 1 , do you know why you're here today?

13 A. Yes, ma'am.

14 Q. Why are you here?

15 A. Because of Michael.

16 Q. I need you to speak up for me.

17 A. Because of Michael.

18 Q. Okay. And do you know who that man sitting
19 next to you is?

20 A. He is the Judge.

21 Q. And do you know the difference between a truth
22 and a lie?

23 A. Yes, ma'am.

24 Q. If I told you I'm wearing a pink shirt, would
25 that be the truth or a lie?

1 A. It would be a lie.

2 Q. A lie because I'm wearing a black shirt?

3 A. Yeah.

4 Q. You mentioned you were in school. And what
5 happens if you tell a lie at school?

6 A. I -- if it's a really big lie, I would be
7 suspended. If it's a small lie, I would just get in
8 trouble.

9 Q. So if you didn't do homework one night and you
10 came to school the next day and told your teacher
11 that your dog ate it, would that be the truth or
12 would that be a lie?

13 A. It would be a lie.

14 Q. So what happens if you don't tell the truth in
15 here? Would you get in trouble?

16 A. Yes.

17 Q. Would you get in trouble from the Judge?

18 A. Yes.

19 Q. **Minor 1** , do you understand what your job is in
20 court this week?

21 A. Yes.

22 Q. What is your job?

23 A. To tell the truth and what I know and felt.

24 Q. Speaking about what you know, are you supposed
25 to talk about what you know and what you saw and

1 what you felt on your body and what you heard or
2 what someone else might have told you?

3 A. I would tell the truth about what I felt,
4 heard, and have seen.

5 Q. Okay.

6 MS. WELLMAN: Nothing further, Your Honor.

7 THE COURT: Okay.

8 Ms. Mauldin, do you have any questions you want
9 to ask?

10 IN-CAMERA EXAMINATION

11 BY MS. MAULDIN:

12 Q. When you went to the Dickerson Center, you told
13 them about some things that someone else had told
14 you; is that right?

15 A. Yes, ma'am.

16 Q. And those were some things that your
17 grandmother had told you?

18 A. Not things -- one of them were things my
19 grandmother had told me.

20 Q. Do you mind explaining what you mean?

21 A. The thing about he had done it to someone else,
22 I heard that from Gammy because she had been looking
23 it up. But I didn't know really. I was just saying
24 that to say it and see, like, if it helps.

25 Q. Well, I'd like to ask you what you mean by

1 that, too. You just said that you were just saying
2 it to say it and see if it helps. What do you mean?

3 A. Like, if she would get what I mean by how much
4 she can do it without me -- without my grandmother
5 noticing what was going on.

6 Q. All right. And that was after Ms. Simon told
7 you that you were to say things only that you knew
8 about, not things other people had told you?

9 A. Yes, ma'am.

10 MS. MAULDIN: No further questions.

11 THE COURT: Any redirect?

12 IN-CAMERA EXAMINATION

13 BY MS. WELLMAN:

14 Q. **Minor 1** , when you said you were just saying it
15 to say it, was that just something you thought
16 Ms. Simon needed to know?

17 A. Yes, ma'am.

18 Q. Why is that?

19 A. Because I thought that it would help with what
20 was going on and just give her details about,
21 like -- since he was doing it for so long without my
22 grandmother noticing, then he would be slick with
23 it.

24 Q. But you understand the difference between what
25 your grandmother told you --

1 A. Yes.

2 Q. -- and what happened to you?

3 A. Yes, ma'am.

4 MS. WELLMAN: Nothing further, Your Honor.

5 THE COURT: Anything else, Ms. Mauldin?

6 MS. MAULDIN: No, Your Honor.

7 THE COURT: Okay.

8 MS. WELLMAN: Can she step down?

9 THE COURT: Yeah. If I could just a second.

10 Minor 1 , do you understand that the attorneys
11 from both sides will be asking you some questions
12 today?

13 THE WITNESS: Yes.

14 THE COURT: And I think you understand your job
15 is just to answer the questions truthfully?

16 THE WITNESS: Not tell any lies.

17 THE COURT: That's correct. That's correct.
18 I'm satisfied. You may step down.

19 MS. WELLMAN: Your Honor, we're going to get
20 Minor 2 .

21 THE COURT: You need a formal ruling just on
22 her?

23 MS. WELLMAN: If you'd like to do it now.

24 THE COURT: I'm going to find under 601(b),
25 after hearing the response to the questions from

1 both counsel, that she's competent to testify.

2 MS. WELLMAN: Thank you, Your Honor.

3 THE COURT: It will be up to the jury for what
4 they make of it.

5 MS. MAYES: One more matter for the Court, Your
6 Honor. Although witness sequestration is imposed,
7 the victim, **Minor 1** , would be exempt from that
8 pursuant to the Victim Witness Bill of Rights and
9 statute.

10 Also, Chief Investigating Officer Alonzo would
11 also -- or Chief Shumpert, whichever may be, would
12 be the lead investigating officer and would be
13 responsible for the evidence. So we'd ask that they
14 remain as well.

15 THE COURT: Okay. They're a testifying party
16 as well?

17 MS. MAYES: Yes, sir, Your Honor.

18 THE COURT: Which one? I'd just say choose one
19 and go with it.

20 MS. MAYES: I think it's going to be Chief
21 Shumpert. He's in control of the evidence. He's an
22 evidence custodian.

23 THE COURT: Okay.

24 MS. WELLMAN: Your Honor, at this time, the
25 State would call **Minor 2** .

1 Minor 2

2 being first duly sworn, testified as follows:

3 THE WITNESS: Uh-huh.

4 THE CLERK: Say I do.

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

6 THE CLERK: Have a seat right up there. Once
7 you're seated, you can take your mask off. I need
8 you to speak up loud and clear. State your name and
9 then spell your last.

10 THE COURT: Good morning, Minor 2 .

11 THE WITNESS: Good morning.

12 THE COURT: Minor 2 , can you tell us your name
13 for the record?

14 THE WITNESS: Minor 2

15 IN-CAMERA EXAMINATION

16 BY MS. WELLMAN:

17 Q. Minor 2 , can you spell Minor 2 for the court
18 reporter?

19 A. Uh-huh. Minor 2 .

20 Q. Spell your last name for her.

21 A. Minor 2 .

22 Q. Minor 2 , how old are you?

23 A. Nine.

24 Q. And where do you go to school?

25 A. Congaree Elementary.

1 Q. What grade are you in?

2 A. Third.

3 Q. Did you get a report card this year?

4 A. Yes.

5 Q. How did you do?

6 A. Good.

7 Q. Good. All right. And why are you here today,

8 Minor 2 ?

9 A. (Nonverbal response.)

10 Q. Are you here to tell us about the things that
11 you saw?

12 A. Yes.

13 Q. Things that you saw involving who?

14 A. Mr. Mike and my sister.

15 Q. Who's your sister?

16 A. Minor 1 .

17 Q. Do you know who that man is right next to you
18 in the black robe?

19 A. The Judge.

20 Q. Okay. And do you know who me and Ms. Suzanne
21 are?

22 A. Yes.

23 Q. And do you know what we do?

24 A. Yes.

25 Q. When -- what's the difference between a truth

1 and a lie?

2 A. A truth is actually something that actually
3 happened and a lie is not.

4 Q. So if I told you I'm wearing a pink shirt, is
5 that a truth or a lie?

6 A. A lie.

7 Q. And, Minor 2 , you said you were in school.

8 A. Uh-huh.

9 Q. Did you ever have homework?

10 A. No. Last year.

11 Q. Last year. Okay. So let's say you had an
12 assignment that you had to do and you're at school
13 and you just didn't do it. And the next day, your
14 teacher asked where it was, and you said your dog
15 ate it. Is that a truth or is that a lie?

16 A. A lie.

17 Q. Okay. Would the truth be I just didn't do it?

18 A. Yeah.

19 Q. Okay. What happens if you don't tell the truth
20 at school?

21 A. Your teacher would get mad at you.

22 Q. Would you get in trouble?

23 A. Yes.

24 Q. And what about in this room? If you don't tell
25 the truth, what happens?

1 A. The Judge does something about it. I forgot
2 what --

3 Q. You get in trouble with the Judge?

4 A. Yeah.

5 MS. WELLMAN: One second, Your Honor.

6 BY MS. WELLMAN:

7 Q. And we talked about it a little bit a second
8 ago, Minor 2, but what is your job as a witness?

9 A. To tell the story of what happened and what I
10 saw.

11 Q. Very good. Do you talk about things that
12 someone else told you or things you saw yourself?

13 A. Things I saw myself.

14 Q. And is it really important for you to tell the
15 truth when you're in here?

16 A. Yes, ma'am.

17 Q. Okay.

18 MS. WELLMAN: No further questions, Your Honor.

19 THE COURT: Ms. Mauldin?

20 IN-CAMERA EXAMINATION

21 BY MS. MAULDIN:

22 Q. Good morning.

23 A. Good morning.

24 Q. You said that your job is to tell the story.

25 What do you mean by that?

1 A. Tell what happened that I saw.

2 Q. All right.

3 MS. MAULDIN: Thank you, Your Honor. No
4 further questions.

5 THE COURT: Okay.

6 Minor 2 , you understand that both the attorneys
7 on both sides of the courtroom will ask you
8 questions today? And you can tell the truth to all
9 the questions they have, right?

10 THE WITNESS: Yep.

11 THE COURT: Okay. The witness may step down.

12 All right. I'm going to find Minor 2 is
13 competent to testify under 601(b) based on the
14 questions and the responses I heard today.

15 All right. Let's take a short break.

16 (Short recess.)

17 THE COURT: Okay. We're back on the record --

18 MR. MAULDIN: We're waiting on Ms. Mauldin.

19 She stepped out.

20 THE COURT: Okay. No problem.

21 Okay. Where are we?

22 MS. WELLMAN: Your Honor, we're ready to
23 continue and proceed. And then Ms. Mauldin has two
24 issues she'd like to address before the Court.

25 MS. MAYES: Your Honor, regarding the forensic

1 interview, we are in agreement to remove a portion
2 where there is discussion by **Minor 1** about
3 using her hand to touch the genitals of the
4 defendant.

5 Now, we believe that this testimony, whether
6 through her on the stand or through her forensic
7 interview, is permissible under current law. It's
8 consistent with the State v. Whitner,
9 State v. McClellan and other cases --
10 State v. Kirton and other cases that have followed.
11 But for purposes of just moving forward and trying
12 to keep the forensic interview clean, we have agreed
13 to redact the reference to her touching the private
14 parts of the defendant.

15 The next objection by the defense was
16 discussion by **Minor 1** during the course of the
17 forensic interview to the hole in the wall. The
18 child has described that he would become angry with
19 her when she would not comply with the sexual
20 demands and, on one occasion, struck the wall.

21 We have a photograph documented by Chief
22 Shumpert. The State intends to offer that as
23 evidence during the course of the trial. And it
24 corroborates the child's account of at least one
25 incident of sexual assault. That would be

1 admissible and relevant under 403 and corroboration
2 of **Minor 1** 's testimony, so we move to keep
3 that portion in the forensic interview.

4 THE COURT: All right.

5 Ms. Mauldin?

6 MS. MAULDIN: Your Honor, just to summarize
7 everything we're doing, the State has agreed not to
8 allow any allegations of any harm caused by the
9 children's grandmother, things that would sound like
10 domestic violence. And then any allegations that
11 predate -- I'm sorry, Your Honor.

12 THE COURT: That's okay.

13 MS. MAULDIN: And then any allegations that
14 predate the time frame in the warrants -- in the
15 indictments, rather, from 2020.

16 And I would also move to exclude the
17 allegations that Mr. Dyer yelled at **Minor 1** , hit the
18 walls, and took her food, and then any allegations
19 that are not enumerated in the indictments where she
20 would generalize and say things like he would make
21 me do this or he would make me do that that are not
22 related to a specific event in the indictments.

23 We've talked about this in chambers. I
24 understand the Court's position. I'd just, for the
25 record, argue that these things are not relevant and

1 don't serve a legitimate purpose. That is
2 prohibited under Rule 404(b). And even if those two
3 apply, the probative value is substantially
4 outweighed by the danger of unfair prejudice; that
5 they haven't been proven by clear and convincing
6 evidence.

7 And specifically to the allegations of yelling,
8 making the holes in the walls, and taking food,
9 those are allegations of, essentially, child abuse;
10 that those would be other bad acts under 404(b), and
11 that's not what he's charged with. It's not similar
12 to these charges and I would request it to stay out.
13 And it's not sufficiently connected to the
14 allegations in the indictment. I would, for the
15 record, make that argument.

16 MS. MAYES: If I may respond briefly, Your
17 Honor. We do believe that it's res gestae evidence
18 of the crime, the underlying circumstances and chain
19 of events, and would be admissible as corroborating
20 evidence. We don't consider it a prior bad act. It
21 is part and parcel of the ongoing sexual abuse of
22 Minor 1 .

23 THE COURT: So to the extent both counsel have
24 stipulated to several items, those are noted. As
25 far as keeping out the conduct of hitting a wall and

1 withholding Toaster Strudels, I think they were that
2 type of conduct; I'll deny defense counsel's motion.
3 I also think it goes to the coercive nature of at
4 least the elements of exploitation, the overall
5 chain of events. I think it's appropriate, so that
6 will be denied.

7 All right. Where are we now? The continuance?

8 MS. MAULDIN: Yes, sir. And one minor thing:
9 I asked the Court to allow me to take a copy of the
10 tapes from Tammy Todd. The Solicitor's Office made
11 a copy of that for me. I would just ask that that
12 be made a Court's Exhibit at this time.

13 THE COURT: Okay. That will be Court's Exhibit
14 4. And, obviously, you may be using that in your
15 case in chief later.

16 MS. MAULDIN: Thank you, Your Honor.

17 (Court's Exhibit No. 4 marked for
18 identification.)

19 MS. MAULDIN: Then, as to my motion for a
20 continuance, I would move for a continuance based on
21 the State's failure to turn over Brady material, as
22 we've discussed in chambers. And I would point out
23 I moved for a continuance yesterday afternoon. We
24 discussed that in chambers earlier here today.
25 We've taken up some other motions, but Your Honor

1 has allowed me to make this motion at this time.

2 We learned yesterday that the alleged victim in
3 this case made the prior claim of sexual assault in
4 2015. In that case, a man named Kevin Dowd was
5 charged with CSC with a minor in the first degree.
6 The case was later dismissed. And we found out that
7 now she can't remember making the allegation. And
8 that incident -- the triggering event for that
9 information being revealed was that we had looked at
10 the Dickerson Center paperwork that referred to a
11 form. We asked the solicitor for that, and they
12 provided it.

13 However, I'm not alleging that anybody
14 intentionally failed to disclose anything. I don't
15 think that's the case. A different solicitor worked
16 on the prior case a few years ago, but the result is
17 the same. And that deprives Mr. Dyer of his due
18 process right to a fair trial under the 5th and 14th
19 Amendment and the 6th Amendment right to present a
20 defense, and the right to effective assistance of
21 counsel in the corresponding State constitutional
22 amendment. This is evidence that's favorable to
23 him. It was in the possession of the Solicitor's
24 Office. It was not turned over, and it supports
25 impeachment evidence.

1 We would also base our motion on the fact that
2 Ms. Todd made these tapes. As I explained earlier,
3 we knew about two of them. We didn't know when they
4 had been made. Yesterday, we got three additional
5 tapes. And now it appears that at least some of
6 those tapes were made before the Dickerson Center
7 interview when the child went in and talked to the
8 interviewers.

9 Before this, we knew that Ms. Todd had some
10 problems. We have text messages that indicate that
11 she's a very angry woman. We would expect that in a
12 case like this, but they go farther than that. It
13 shows that she was envious of **Minor 1** and this, what
14 she called the relationship between **Minor 1** and
15 Mr. Dyer. She saw this as something that they had
16 been doing behind her back.

17 She says that while she was discussing this
18 with **Minor 1** and Mr. Dyer, she claims that **Minor 1**
19 was confessing this to her. In the text messages,
20 she asked whether **Minor 1** seemed to enjoy when he
21 touched her; whether she came on to him or wanted
22 him to do it; whether she had orgasms; Your Honor,
23 some really disturbing things.

24 She manipulated Mr. Dyer and extorted an
25 agreement from him to give her his mobile home and

1 that she would not report it to the police in
2 exchange for his leaving the home and that he would
3 get some counseling. She shared text messages
4 between the two of them with friends to try to
5 humiliate him. And she questioned at least one
6 other person about whether he may have done
7 something to that person's child, and was
8 disappointed when that person found no evidence of
9 that.

10 We had the evidence that Ms. Todd had been
11 manipulative in those aspects beforehand. But that,
12 in addition to the tapes that show what she was
13 doing leading up to the forensic interview, that's
14 new information, and that changes things for us.
15 We've watched that old forensic interview. The
16 allegations in the old forensic interview --

17 THE COURT: Okay. I'm -- I want to clarify
18 which one you're talking about.

19 MS. MAULDIN: The one from 2015 are
20 suspiciously similar to the allegations in the
21 present case. In both, the perpetrator is an adult
22 man. And one is her grandfather; so, you know,
23 married to her grandmother. And this one is
24 Grandmother's boyfriend.

25 The other one is that he uses his finger. This

1 one is the same. She alleges in each case that his
2 finger went inside her. In one, she describes it
3 feels bad; the other, feels weird. In each, there's
4 an allegation that it happens when it's dark and
5 other people are sleeping and that it happens in his
6 room and that she's lying back on the bed and that
7 the person is mean to either her or other children
8 and mean to, in each case, the different
9 grandmothers.

10 So, to me, it raises the suspicion that
11 somebody that knew about the prior case has had an
12 influence on the report of this case. And, as I
13 argued before, the tapes that we've seen from
14 Ms. Todd don't show the whole conversation. They
15 give the impression that there's been some
16 discussion ahead of time and that they are reviewing
17 some of what they've already talked about.

18 So on the whole, taking everything together, we
19 would ask for a continuance. If she's going to deny
20 making the prior allegations, we need time to
21 investigate that and to be able to, as much as we
22 can, bring in evidence of that.

23 THE COURT: Didn't the State already stipulate
24 to prior charges?

25 MS. MAYES: We do, Your Honor. We stipulate

1 that the report was made. Of course, anything
2 involving the person, the date of the report that
3 she received a forensic interview, statements that
4 were made during the forensic interview, that she
5 received a medical exam and any statements
6 affiliated with that, the State believes that
7 Minor 1 is fully subject to cross-examination
8 on those issues.

9 Tammy Todd is also present in the courthouse
10 and is available to be called as a witness --

11 THE COURT: And, Ms. Mayes, I'm sorry. But I
12 just want to confirm that's being stipulated to.

13 So I didn't mean to cut off your argument,
14 Ms. Mauldin.

15 MS. MAULDIN: Your Honor, in taking everything
16 as a whole, we need additional time to prepare for
17 this stuff. This information came to us, I believe,
18 beginning at lunchtime yesterday. We were still in
19 court until the end of the day. We just need to get
20 more information.

21 And the Solicitor's Office has provided what
22 we've asked for. That's not the issue. But the
23 issue is having time to sufficiently prepare for his
24 defense and be ready to go forward.

25 Your Honor, if I may have a moment?

1 THE COURT: Sure.

2 (Brief pause in the proceedings.)

3 MS. MAULDIN: Your Honor, that's all.

4 THE COURT: Madam Solicitor?

5 MS. MAYES: Yes, sir, Your Honor. And, as
6 defense counsel noted, both the State and the
7 defense were previously unaware of this. But upon
8 learning it, **Minor 1** was four years old; we
9 have provided that file, including the case file
10 notes, the forensic interview, both the hard copy
11 and the video, which defense counsel viewed
12 yesterday, as did staff with the State, as well as
13 other aspects of that case, including the medical
14 exam.

15 We've also provided information from Tammy Todd
16 that **Minor 1** told her that her mom told her to say
17 those things. That has been confirmed by **Minor 1** .
18 She's fully subject to cross-examination to that.
19 Tammy Todd is present and can be called as a witness
20 as well.

21 But the State stipulates that that statement
22 was made by **Minor 1** to her grandmother. And we
23 would agree for that stipulation to be part of the
24 record, regardless of whether any side calls Tammy
25 Todd. We want to be completely transparent with

1 that. We believe, Your Honor, that the situation
2 regarding this evidence remains the same a month
3 from now or a year from now.

4 Carly David, the mother, is deceased and has
5 been deceased for several years. There's simply
6 nothing more that could be added because **Minor 1** was
7 at such a tender age, just four years old, is
8 something she can be cross-examined about. She
9 acknowledges that she doesn't recall this event, and
10 she did tell her grandmother that she believes her
11 mom told her to say that. Again, whether she's
12 cross-examined on that or it's recognized as a
13 stipulation, we believe that that is all part and
14 parcel of that prior event.

15 Your Honor, regarding the recorded interviews,
16 we did learn of them from defense counsel. We did
17 provide what we were able to obtain. That has now
18 been made a Court's Exhibit. If anything, Your
19 Honor, that would enhance the defense in this case
20 far more than the situation that they were facing
21 prior to the existence of those videotapes.

22 We have provided them. We believe they will be
23 used for impeachment of **Minor 1** and probably other
24 witnesses who are called by the State. And, in
25 addition, Tammy Todd is present in the courthouse

1 and can be called by the defense if they choose to
2 follow up on that any further.

3 THE COURT: Ms. Mauldin, anything else on that
4 in reply?

5 MS. MAULDIN: No, Your Honor.

6 THE COURT: All right. I've heard counsel for
7 the defendant and the State's attorneys. I believe
8 all objections have been noted at this point in the
9 pretrial hearings. Under the current circumstances
10 as I see it, I deny the motion for a continuance.

11 MR. MAULDIN: Your Honor, is your denial of the
12 motion for a continuance also contingent upon the
13 assertions the State made that it would stipulate to
14 those certain things?

15 THE COURT: Madam Solicitor, if you would just
16 note the stipulations for the record, which you sort
17 of did in your argument, but let's do it officially
18 now.

19 MS. MAYES: Yes, sir, Your Honor. I may have
20 to actually borrow the copy that I provided to the
21 defense because I know they have them readily
22 available.

23 MR. MAULDIN: Well, I'll just summarize. I
24 took notes, Your Honor --

25 And you correct me if I'm wrong, Ms. Mayes.

1 -- that she's stipulated the report was made
2 sometime in 2015; that she had -- were not the
3 results of the medical exams, but she was taken to
4 two medical exams on two different dates. And one
5 of those -- and at the forensic interview, the
6 statement was reaffirmed or reasserted. And I don't
7 have the dates, but we'll hash those out for the
8 stipulation, but that she would stipulate to that;
9 that she would stipulate the -- I don't know the
10 timeframe of the statement, but when **Minor 1** told
11 Tammy Todd that her mother made her do it --

12 Do you know the timeframe for that?

13 MS. MAYES: We do not. We can obtain that
14 information.

15 MR. MAULDIN: But both that Tammy Todd said
16 that **Minor 1** said her mother made her say it and
17 that **Minor 1** said -- and that **Minor 1** has adopted
18 that statement as well.

19 THE COURT: Regarding the prior incident?

20 MR. MAULDIN: Right. So **Minor 1** herself has
21 adopted that statement, and that Tammy Todd confirms
22 that she made that statement.

23 THE COURT: I don't know if it's practical at
24 this point, but maybe we can come up with a written
25 stipulation to put in the record.

1 MS. MAYES: I believe we can, Your Honor,
2 between now and tomorrow morning.

3 MR. MAULDIN: If that's part of the bases of
4 your ruling, Your Honor, I want to make sure that we
5 have --

6 MS. MAYES: Okay. Then I think we can probably
7 do that over lunch.

8 THE COURT: Yeah, I think you need that
9 stipulation done before we start direct testimony.
10 That way, it's done.

11 MS. MAYES: Okay.

12 THE COURT: Anything else for the moment?

13 MR. MAULDIN: Not that we're agreeing to the
14 denial --

15 THE COURT: Of course. But I would like that
16 clearly noted in the record that this is what the
17 parties are stipulating to; that way, when y'all go
18 into cross-examination, there's no confusion about
19 what everyone has agreed to.

20 MS. MAYES: Thank you, Your Honor.

21 THE COURT: Anything else before the jury comes
22 back?

23 MS. MAYES: No, Your Honor.

24 THE COURT: I told them 12:45. Just plan to
25 start at 1:00?

1 MS. MAYES: Yes, sir, Your Honor.

2 THE COURT: And, you know, just for the benefit
3 of the record, we've had several bench
4 conferences -- or, excuse me, chambers conferences.
5 The defendant is ready to proceed to trial and there
6 will be no other -- obviously, there's no plea
7 that's going to happen here; is that correct?

8 MS. MAULDIN: That's correct, Your Honor.

9 THE COURT: All right. Well, I'll see y'all in
10 30 minutes. See you shortly.

11 MS. MAYES: Thank you, Your Honor.

12 (Brief recess.)

13 THE COURT: The jury is here. I asked the
14 bailiff to just ask them to write the name of a
15 foreperson on a sheet of paper. As soon as I get
16 that, we'll get started.

17 MS. MAYES: We both worked on something, Your
18 Honor, and I believe Mr. Mauldin is finalizing that.

19 THE COURT: Oh, I didn't realize. Do I need to
20 hold them up a second?

21 MS. MAYES: I think so, Your Honor.

22 THE COURT: All right.

23 Madam Court Reporter, our jury foreperson will
24 be Juror No. 2, Melvyn Adkerson. That will be
25 Court's Exhibit No. 5.

1 (Court's Exhibit No. 5 marked for
2 identification.)

3 MS. MAYES: Your Honor.

4 THE COURT: Yes, ma'am.

5 MS. MAYES: The State has no objection. It is
6 in Mr. Mauldin's handwriting and it is a merger of
7 what both the State and the defense originally
8 proposed. And we will mark that as a Court's
9 Exhibit to be a stipulation.

10 MR. MAULDIN: Or, if you want, we can --

11 THE CLERK: I'll make copies of it.

12 THE COURT: All right. So this stipulation
13 between the parties will be Court's Exhibit 6.

14 (Court's Exhibit No. 6 marked for
15 identification.)

16 THE COURT: Is the State ready to proceed?

17 MS. MAYES: Yes, sir, Your Honor. We would ask
18 for one addition: In the first sentence where it
19 says prior sexual abuse involving **Minor 1** was
20 made to police on 5/8/15, that should say when she
21 was age four. So we would just add when she was age
22 four to the first sentence.

23 THE COURT: Do you see where she's referring
24 to?

25 MR. MAULDIN: She's talking about the first

1 sentence, Your Honor. She was four years old on
2 that date in 2015. She just wants some mention of
3 her age.

4 THE COURT: All right. So without going
5 through copies again, they'll be able to say she was
6 four years of age.

7 MR. MAULDIN: Yes.

8 THE COURT: All right. Anything else?

9 MS. MAYES: Not at this time, Your Honor. I'll
10 pass up where I made that addition.

11 THE COURT: All right. Thank you.

12 Is the defendant ready to proceed?

13 MS. MAULDIN: Yes, Your Honor.

14 THE COURT: All right. We can bring them.

15 (The jury enters the courtroom at 1:17 PM.)

16 THE COURT: Ladies and gentlemen of the jury,
17 welcome back. Thank you for being on time today. I
18 had a matter come up in a totally unrelated case I
19 had to deal with at the last second, and that's why
20 we're starting a little bit later. My apologies.

21 First of all, Juror No. 2, Mr. Adkerson, thank
22 you for agreeing to serve as the foreman of the
23 jury. Appreciate your service.

24 Before I begin to tell you about the trial
25 process, our Clerk of Court is going to swear you

1 in.

2 (Jury sworn.)

3 THE CLERK: They're all sworn in.

4 THE COURT: Thank you.

5 All right, ladies and gentlemen, we're about to

6 start the case of The State versus Michael Dyer.

7 Before we begin the actual trial of the case, I

8 thought it might be helpful if I explained,

9 basically, how a trial proceeds.

10 First, the State will make an opening

11 statement. An opening statement is not evidence.

12 It is simply an outline to help you understand what

13 the party expects the evidence will show. The

14 defendant may, if he wishes, present an opening

15 statement, but he does not have to for reasons I

16 will explain later.

17 Following opening statements, you will hear

18 testimony and evidence in the case. This will

19 consist of testimony from the State's witnesses, as

20 well as any physical exhibits introduced in the

21 case.

22 Following the completion of the testimony, the

23 attorneys will again have an opportunity to make

24 what's called a closing argument or summation to

25 you. This is an opportunity for the attorneys to

1 summarize the case from their respective points of
2 view. Again, these arguments are not evidence.

3 Following the closing statements by the
4 attorneys, I will instruct you on the law of South
5 Carolina as it pertains to the issues in this case.
6 When I have completed my instructions to you, you
7 can begin your deliberations in order to reach a
8 verdict.

9 Now, ladies and gentlemen, you are the jury in
10 this case. And I want to take a few minutes and
11 tell you something about your duty as jurors and to
12 give you some instructions. At the end of the
13 trial, I'll give you more detailed instructions.
14 Those instructions will actually control your
15 deliberations.

16 It will be your duty to decide, from the
17 evidence, what the facts are. You and you alone are
18 the judges of the facts. You will hear the
19 evidence, decide what the facts are, and then apply
20 those facts to the law which I will give to you.
21 This is how you'll reach your verdict. In doing so,
22 you must follow that law whether you agree with it
23 or not.

24 The evidence will consist of testimony of
25 witnesses, documents and other things received in

1 evidence as exhibits, and any facts on which the
2 lawyers agree or which I may instruct you to accept.
3 You should not take anything I may say or do in the
4 trial as indicating what I think the evidence -- or
5 what your verdict should be.

6 Now, this is a criminal case brought by the
7 State of South Carolina. The State charges the
8 defendant with criminal sexual conduct with a minor
9 in the first degree, sexual exploitation of a minor
10 in the first degree, and dissemination of obscene
11 material to a minor. The charges against the
12 defendant are contained in the indictments. The
13 indictment is not evidence of anything; it is simply
14 the description of the charge made by the State
15 against the defendant.

16 The defendant has pled not guilty to the
17 charges and is presumed innocent unless and until
18 proven guilty beyond a reasonable doubt. Proof
19 beyond a reasonable doubt is proof that leaves you
20 firmly convinced of the defendant's guilt.

21 A defendant has a right not to testify and
22 never has to prove innocence or present any
23 evidence. The burden of proof is always upon the
24 State of South Carolina.

25 The following things are not evidence, and you

1 must not consider them as evidence in deciding the
2 facts of the case: Statements and arguments of the
3 attorneys, questions and objections of the
4 attorneys, and any testimony that I instruct you to
5 disregard.

6 Now, evidence can be direct or circumstantial.
7 Direct evidence is testimony by a witness about what
8 the witness personally saw, heard, or did.
9 Circumstantial evidence is indirect evidence; that
10 is, it is proof of one or more facts from which one
11 can find another fact. You are to consider both
12 direct and circumstantial evidence. The law permits
13 you to give equal weight to both, but it is up for
14 you to decide how much weight to give any evidence.

15 Now, there are rules of evidence which control
16 what can be received in evidence. When a lawyer
17 offers an exhibit in evidence and a lawyer on the
18 other side thinks that it is not permitted by the
19 rules of evidence, that lawyer may object. If I
20 overrule the objection, the question may be answered
21 or the exhibit may be received.

22 If I sustain the objection, then the question
23 cannot be answered or the exhibit cannot be
24 received. Whenever I sustain an objection to a
25 question or deny a motion to admit any exhibits into

1 evidence, you must ignore the question or the
2 existence of the exhibit, and you must not guess
3 what the answer would have been or what the exhibit
4 would have shown.

5 Sometimes it may be necessary for me to request
6 that you leave the courtroom while I discuss the
7 attorneys' legal questions that come up during the
8 trial. When this occurs, you should not speculate
9 about our discussions or the reason why you were
10 asked to leave the room. This is simply a procedure
11 that the law requires when certain legal issues
12 arise.

13 There also may be occasions where I ask the
14 attorneys to approach the bench so that I can
15 discuss a legal issue with them in private. I will
16 do this as often as possible so you will not be
17 required to leave the courtroom more than is
18 absolutely necessary.

19 Again, if I ask the attorneys to step up to the
20 bench or if I ask you to leave the courtroom, please
21 don't think that anybody is trying to hide anything
22 from you or keep evidence from you. This is simply
23 a procedure used by all lawyers and all courts to
24 determine and decide legal questions.

25 Now, in deciding the facts of this case, you

1 may have to decide which witnesses to believe and
2 which witnesses not to believe. You may believe
3 everything a witness says or only part or none of
4 it. In deciding what to believe, you may consider a
5 number of factors, including the following: The
6 witness' ability to see, hear, or know the things
7 testified to; the quality of the witness' memory;
8 the witness' manner while testifying; whether the
9 witness has an interest in the outcome of the case
10 or any motive, bias, or prejudice; whether the
11 witness was contradicted by anything the witness
12 said or wrote before the trial or by other evidence,
13 or how reasonable the witness' testimony when
14 considered in light of other evidence which you
15 believe.

16 Now, until I advise you to begin your
17 deliberations, you must not discuss this case with
18 anyone, including your fellow jurors, friends,
19 family members, or anyone involved with the case.
20 This includes discussions face-to-face or those by
21 telephone or e-mail, social media, whatever app you
22 have on your phone. No communications whatsoever of
23 any kind discussing this case with anyone.

24 Now, you don't have your devices with you now,
25 I don't believe. At the end of the day, those will

1 be returned to you. Obviously, when you get a hold
2 of them, I expect you not to do any sort of
3 independent research or look into the facts of this
4 case or the parties involved.

5 Also, along those same lines, you're not to
6 look at any sort of news article. If something does
7 become apparent or is disclosed to you, I'll need to
8 know if that happens during the course of this
9 trial.

10 Now, after this case is submitted to you, you
11 must discuss it only in the jury room with your
12 fellow jurors. The attorneys and parties in this
13 case have been advised they are not to talk with you
14 at all. So if you see someone involved in this case
15 and they don't even say hello, they're not being
16 unfriendly; they're just following my instructions.

17 It is important for you to keep an open mind
18 and not decide any issue in this case until all the
19 evidence has been presented, the parties have made
20 their closing arguments, and I have instructed you
21 on law of the case. It is your solemn
22 responsibility to determine the guilt or innocence
23 of the defendant. And your verdict must be based
24 solely on the evidence as it is presented to you in
25 this trial and on the law as I instruct you at the

1 close of the trial.

2 I don't see anyone with any notepads out there.
3 But if there's a notepad or anything on the floor I
4 can't see, please don't take any notes during this
5 case. I want your complete and undivided attention
6 on the witness stand. That's where you will hear
7 the evidence of the case, and that's where your
8 attention needs to be focused.

9 But, at this time, I'd like you to give your
10 complete and undivided attention to the attorneys in
11 this case who will be giving you their opening
12 statements in the case. I appreciate your service
13 this week. We'll do everything we can to make this
14 as efficient as possible for you. Please give your
15 attention to the attorneys.

16 MS. MAYES: May it please the Court?

17 THE COURT: Yes, ma'am.

18 MS. MAYES: What this case is really about is
19 broken trust. Broken trust. In this case, a
20 child's innocence, her trust, was betrayed by a
21 person that she should be able to rely on, any child
22 should be able to rely on, to protect her and to
23 care for her; this defendant, Michael Dyer.

24 Who is Michael Dyer and who was he to Minor 1
25 ? Minor 1 , I'm going to talk about you.

1 Minor 1 , ten years old. Minor 1 , at the time of
2 this offense, this horrific, unthinkable crime,
3 Minor 1 was a third-grader at Congaree Elementary.
4 Minor 1 lost both of her parents; her mom and dad
5 are deceased.

6 As a result of that, a series of tragic, tragic
7 events in her young childhood, she was placed to
8 live with her grandmother. Her grandmother is Tammy
9 Todd; her grandmother on her father's side.

10 The testimony and evidence that you'll hear in
11 this case is that when young Minor 1 went to live
12 with her grandmother, her grandmother had a
13 relationship with this defendant, Michael Dyer, that
14 was sometimes platonic, sometimes more than
15 platonic; sometimes she called him a boyfriend,
16 sometimes he was just a friend. But he was a man
17 her grandmother brought into Minor 1 's life.
18 Minor 1 never had any say in that matter.

19 And, as a result, in early 2020, last year,
20 just before COVID and just before the pandemic
21 closed the schools down, Minor 1 and her little
22 brother, Minor 2 , went with their grandmother in this
23 man's home to live. And that was at [REDACTED] Ramblin
24 Road in the South Congaree area of Lexington County.

25 So you'll hear that as that transpired in early

1 2020 -- **Minor 1** was eight at the start of 2020, and
2 then she turns nine in [REDACTED] of 2020 -- and then,
3 in the spring, endures. And during the course of
4 that spring, we all know what took place. By late
5 March, the schools had closed. The children were
6 quarantined at home due to the pandemic. And,
7 during that time, she was in his home and under his
8 roof every day and every night.

9 At times, the testimony in this case will be
10 hard to listen to. I submit this evidence is not
11 presented for the purpose of making anyone feel
12 uncomfortable. It is absolutely necessary in the
13 presentation of the State's case.

14 When we talk about the sexual abuse of a child,
15 there is nothing that you will see or hear that
16 greater defines the crime against a child, the crime
17 against the body of a child, the crime against the
18 soul of a child than the facts that will be laid
19 bare in this courtroom this week. And I submit the
20 evidence is undeniable.

21 Your job as jurors is to apply the facts that
22 you hear in this case. The testimony that you hear
23 right there from the witness stand, you apply that
24 evidence to the law. That is your job as jurors.

25 And you also get to rely on the same common

1 sense that you use every single day at home raising
2 your family or on your job at work. That same
3 common sense will guide you through the course of
4 this case. It's the evidence that lights the path.
5 The evidence will lead the way.

6 And so when we talk about what the evidence is
7 in this case, it's evidence not only of sexual abuse
8 against **Minor 1** , what we call criminal sexual
9 conduct with a minor in the first degree, but also
10 evidence of sexual exploitation of a minor. He was
11 taking photos of her; photos that will be evidence
12 in this case. **Minor 1** will tell you about those
13 photos and, ultimately, you'll see and hear evidence
14 about what was found on this man's phone; the sexual
15 exploitation of **Minor 1** , of this child.

16 The law is actually very simple. And at the
17 close of this case, after you have heard all of the
18 evidence, Your Honor will charge you on exactly what
19 the law is. So when we talk about criminal sexual
20 conduct with a minor in the first degree, under the
21 law, under South Carolina law, that is defined as
22 sexual battery against a child who is under the age
23 of 11.

24 And, as I said, **Minor 1** 's date of birth is
25 [REDACTED] 2011. She is currently ten years old.

1 She was nine when these events occurred. So we know
2 she was under the age of 11. And then when we talk
3 about sexual battery, as Your Honor will charge you
4 at the end of the case, sexual battery simply means
5 any intrusion, however slight into the genitals of a
6 child.

7 And in this case, you have two indictments that
8 will be before you for criminal sexual conduct with
9 a minor in the first degree. The first indictment
10 deals with what we call digital penetration or
11 digital intrusion of the genitals. And that's
12 simply him using a finger or fingers to penetrate or
13 intrude the genital opening of Minor 1 .

14 Secondly, what we would call sexual
15 intercourse, but in the indictment, it would be
16 worded intrusion of the vagina. And you'll hear
17 from Minor 1 on exactly how that happened while in
18 his home; Michael Dyer used his genitals to intrude
19 the vagina of Minor 1 . This is any intrusion
20 however slight. You'll hear directly from Minor 1
21 about those events.

22 You'll also hear from Minor 1 's little brother,
23 Minor 2 , just one year younger than her. They're
24 living together in a mobile home in South Congaree,
25 which is smaller and allows certain things to be

1 heard and seen. You'll hear about how **Minor 2** was
2 able to see something happen to his sister right
3 there on the living room couch. You'll hear from
4 **Minor 2** about how Mike Dyer would have **Minor 1** lay
5 with him, lay with him on the couch. He would
6 entice her. If she laid with him, he'd let her use
7 his iPad or phone or anything to distract her. And
8 you'll hear from **Minor 2** about what he saw happen to
9 his sister.

10 Next you'll have before you indictments,
11 multiple indictments, for sexual exploitation of a
12 minor in the first degree. Again, the law is very
13 simple. It's got a big, long caption to that crime;
14 but the crime involves photographing of the genitals
15 of a minor in a way that is sexually explicit, lewd,
16 lascivious, any of those things that, I submit, when
17 you hear from **Minor 1** about those photos, how they
18 were made is unmistakably. These photos were taken
19 not just on one day; they were taken on multiple
20 days, on his living room couch and on the bed in his
21 bedroom.

22 You'll hear from Michael Phipps. Michael
23 Phipps is an expert forensic analyst of cell phones.
24 He works with the Lexington County Sheriff's Office.
25 You'll hear about that forensic analysis of the

1 phone that was taken from Michael Dyer on the date
2 of his arrest last summer in July of 2020. I submit
3 to you he took many efforts to conceal this
4 evidence. He tried to delete those photos. I
5 submit you'll hear exactly from Detective Phipps
6 about how he knows those photos have been edited by
7 the defendant and attempted to delete the photos to
8 get rid of them, to conceal the evidence.

9 But that's the thing about smart phones.
10 Sometimes, where we are today with technology is, no
11 matter the efforts he takes to conceal the evidence,
12 the evidence lights the path. The evidence leads
13 the way. Those photos weren't really deleted like
14 he thought they were.

15 Finally, there's an indictment before you for
16 dissemination of harmful material to a minor. What
17 does that mean? That includes pornographic images
18 that are shown to a minor. You'll hear directly
19 from **Minor 1** how did he instruct her to pose for
20 those photos he took of her. He showed her
21 pornography with adults, and then instructed her how
22 to pose like the girls in the photos.

23 You'll hear directly from **Minor 1** that he tells
24 her she needs to learn how to do this; she's
25 supposed to learn how to do this. You'll hear again

1 from Detective Mike Phipps about what was found on
2 that phone.

3 I submit that it's important to keep in mind
4 throughout this trial that sexual abuse of a child
5 is the central thing, from beginning to end. And
6 when we talk about child sexual abuse, I submit it's
7 a crime of silence, and it's a crime of shame.

8 You'll hear from **Minor 1** that she kept this a
9 secret for days and weeks and months. She learned
10 to live with that secret until she couldn't anymore.
11 You'll hear how she broke that silence. She knew
12 she had to break free. That's what brought us here
13 today. You'll hear directly from **Minor 1** when she
14 takes that stand. You'll hear it from her. Even if
15 there weren't photos he took and kept on his phone,
16 I submit to you that **Minor 1** 's testimony alone
17 is proof beyond a reasonable doubt in this case.
18 This case goes way beyond that.

19 You'll hear from **Minor 2** about what he saw.
20 You'll see the evidence he made that he kept that he
21 couldn't get rid of. The evidence that's undeniable
22 and unmistakable.

23 After all is said and done, I submit the State
24 will meet its burden of proof, abundant proof beyond
25 a reasonable doubt, that Michael Dyer is guilty of

1 criminal sexual conduct with a minor, sexual
2 exploitation of a minor and disseminating harmful
3 materials to a minor, **Minor 1** . Thank you.

4 THE COURT: Counsel?

5 MR. MAULDIN: Thank you, Your Honor.

6 I imagine when somebody comes for jury duty,
7 the first thing they're hoping is they don't expect
8 to be picked at all. Maybe if they are picked, it
9 will be something like a forgery or a bar room
10 fight. When the case is called, sexual conduct with
11 a minor, sexual exploitation of a minor, a juror
12 might have a visceral reaction; a reaction of
13 disgust, shock. And that's a natural reaction.
14 That's a reaction we all should have.

15 But a juror shouldn't let that reaction
16 minimize their duty in this courtroom. The duty is
17 to examine the evidence, to critique the witnesses.
18 It's just the same. The burden isn't any less if
19 the case is more serious or more disturbing.

20 The Judge's role is the same; the law about
21 reasonable doubt is the same; the lawyers' jobs are
22 the same, it's just a different topic. And although
23 it is disturbing, you should try to set that aside
24 and judge witnesses by the credibility in the
25 courtroom.

1 We're dealing with child witnesses. And,
2 often, children have bad memories, they're
3 influenced by others, they tend to exaggerate or
4 outright lie. Many people do that. But sometimes
5 children are a little bit more susceptible to that
6 because we have to teach them morals, how to grow
7 up, and how not to be selfish and understand the
8 difference between right and wrong. It has to be
9 taught. So you'll have these child witnesses.

10 They take these children for interviews at the
11 advocacy center and industry around just doing an
12 interview. They call it forensic. But, basically,
13 it's just an interview of the child. They do try to
14 take steps not to try to suggest things to the
15 child. But, basically, it's just an interview. The
16 child makes an allegation; they take them for an
17 interview.

18 It's interesting these things are called
19 advocacy centers because that means they speak for
20 someone. I'm an advocate. I'm a lawyer. I'm not
21 neutral. I'm for Mr. Dyer. They're advocates;
22 they're for the State. That means they're for
23 something.

24 And we're also going to have doctor testimony.
25 Interviewing is not a science like DNA or gunshot

1 residue. But she was taken for a doctor exam, and
2 we anticipate there's going to be doctor testimony
3 that the exam is normal. They're going to be kind
4 of wishy-washy about it and say, well, you know,
5 well, penetration could still happen and it would be
6 a normal exam; so we can't say it happened, but we
7 can't say it didn't happen either.

8 Now, if you can say -- you can sit there and
9 say, well, it could have happened, but we can't say
10 it did and we can't say it didn't, is that proof
11 beyond a reasonable doubt? It's not. And that's
12 exactly what we'll be left with after you examine
13 the evidence in this case. Thank you.

14 THE COURT: Is the State ready to call their
15 first witness?

16 MS. WELLMAN: Yes, Your Honor. Your Honor, at
17 this time, the State would call **Minor 1** .

18 **Minor 1**
19 being first duly sworn, testified as follows:

20 THE WITNESS: Yes.

21 THE CLERK: Go ahead and have a seat.

22 THE COURT: Ladies and gentlemen of the jury,
23 before we start, there's a vent going above us here.
24 If any member of the jury can't hear, raise your
25 hand, and let us know. Okay? Thank you.

DIRECT EXAMINATION

BY MS. WELLMAN:

Q. Go ahead and take your mask off for me.

Say your name and spell your last name.

A. Minor 1 . Minor 1, Minor 1 .

Q. Minor 1 , how old are you?

A. I'm ten years old.

Q. And what is your date of birth?

A. [REDACTED] 2011.

Q. So when did you turn ten?

A. I turned ten [REDACTED], 2021.

MS. MAYES: Your Honor, they're having trouble hearing.

THE COURT: Okay. If you can, try to speak closer to the microphone. Thank you.

BY MS. WELLMAN:

Q. All right. Minor 1 , try that again. When did you turn ten?

A. I turned ten [REDACTED] 2021.

Q. Okay. Where do you live?

A. [REDACTED] Ramblin Road.

Q. Is that in Lexington County or is that South
Congaree?

A. It's in South Congaree.

Q. Do you go to school?

1 A. Yes.

2 Q. Where?

3 A. Congaree Elementary.

4 Q. What grade are you in?

5 A. Fourth grade.

6 Q. When did you move to Ramblin Road?

7 A. Around the beginning of last year.

8 Q. Okay. And who do you live with right now?

9 A. My grandmother and my brother and my dog and my
10 cat.

11 Q. What's your grandmother's name?

12 A. Tammy Kay Todd.

13 Q. How about your brother? What's your brother's
14 name?

15 A. Minor 2 .

16 Q. And you mentioned you live with your
17 grandmother.

18 A. Yes.

19 Q. Do you know why you live with your grandmother
20 instead of your parents?

21 A. Because, when I was five, my father had died.
22 So something happened at my other house and stuff,
23 so I had to go to DSS and start living with my
24 grandmother since I was -- I been living with my
25 grandmother since I was five.

1 Q. And what about your mom? What happened to your
2 mom?

3 A. She died when I was seven.

4 Q. When you moved to Ramblin Road beginning of
5 last year, did anyone else live with you there?

6 A. Michael.

7 Q. Do you know Michael's last name?

8 A. Dyer.

9 Q. **Minor 1** , do you see Michael Dyer in the
10 courtroom today?

11 A. (Indicating.)

12 Q. Is that the defendant wearing the blue shirt?

13 A. Yes.

14 Q. When you moved into Ramblin Road, do you know
15 the relationship the defendant had with your
16 grandmother?

17 A. They were dating on and off as friends, and
18 then as boyfriend, and then friends.

19 Q. After you moved into [REDACTED] Ramblin Road -- was
20 that the defendant's home? Do you know?

21 A. Yes.

22 Q. Okay. Did you and the defendant ever do
23 anything together?

24 A. Yes.

25 MS. WELLMAN: May I approach the witness?

1 THE COURT: Yes, ma'am.

2 BY MS. WELLMAN:

3 Q. Minor 1, this is State's Exhibit 1. Do you
4 recognize that?

5 A. Yes.

6 Q. Can you please tell the jury what it is?

7 A. That is exactly the road and the number [REDACTED]
8 Ramblin Road.

9 Q. Is this a picture of your home?

10 A. Yes.

11 Q. Is this a fair and accurate representation of
12 what your home looks like?

13 A. Yes.

14 Q. Will this help illustrate your testimony to the
15 jury?

16 A. Yes, ma'am.

17 MS. WELLMAN: Your Honor, the State would move
18 State's Exhibit 1 into evidence for illustrative
19 purposes, and would ask to publish to the jury.

20 MS. MAULDIN: Without objection.

21 THE COURT: Without objection,
22 State's Exhibit 1 is admitted into evidence.

23 (State's Exhibit No. 1 admitted into evidence.)

24 BY MS. WELLMAN:

25 Q. Is that your home?

1 A. Yes, ma'am.

2 Q. That's the same home that you lived in with the
3 defendant?

4 A. Yes, ma'am.

5 Q. And you said that while you were living in that
6 home, you and the defendant did some things
7 together?

8 A. Yes.

9 MS. WELLMAN: May I approach the witness?

10 THE COURT: Yes, ma'am.

11 BY MS. WELLMAN:

12 Q. **Minor 1** , this is State's Exhibit 2. Do you
13 recognize this picture?

14 A. Yes, ma'am.

15 Q. What is this a picture of?

16 A. Whenever I was in third grade, I was -- had the
17 Daddy-Daughter dance, and he had went with me.

18 Q. Who is he?

19 A. Michael Dyer.

20 Q. So he took you to the Father-Daughter -- the
21 Daddy-Daughter dance?

22 A. Yes.

23 Q. What color is your shirt?

24 A. It is orange.

25 Q. And who took this photo?

1 A. Michael. Because he was the only one there
2 with me.

3 Q. And this is State's Exhibit 3. Do you
4 recognize that?

5 A. Yes, ma'am.

6 Q. Okay. Can you tell the jury what State's
7 Exhibit 3 is?

8 A. Whenever we used to go out to eat, we used to
9 go to El Jimador. That's me and my brother at El
10 Jimador.

11 Q. And when you say we used to go out to eat, who
12 all is we?

13 A. Gammy, Mr. Mike, me, and my brother.

14 Q. Who took this photo? Do you remember?

15 A. It might have been Mike; might have been my
16 grandmother. But I'm not going to guess.

17 Q. Okay. So when -- you mentioned you guys would
18 go to El Jimador. Did you start doing that after
19 you moved into this home?

20 A. Yes.

21 Q. Minor 1, after you moved into this house with
22 the defendant, did anything ever happen while you
23 were living there that made you feel uncomfortable?

24 A. Yes.

25 Q. What was that?

1 A. Him touching me.

2 MS. WELLMAN: Your Honor, if I could ask

3 Minor 1 to step down, I have a separate --

4 THE COURT: An exhibit for her to look at from
5 there?

6 MS. WELLMAN: That's fine.

7 THE COURT: Okay. Well, that's fine. You've
8 got a large -- okay. The witness can step down and
9 point or look at it, however she'd like.

10 BY MS. WELLMAN:

11 Q. Can you look at State's Exhibit 4? Do you
12 recognize that?

13 A. Yes.

14 Q. Tell the jury what State's Exhibit 4 is.

15 A. It --

16 THE COURT: I need her to speak up. The court
17 reporter is taking down everything we're saying.
18 Maybe you could even turn so she can hear you.

19 BY MS. WELLMAN:

20 Q. So what is State's Exhibit 4?

21 A. It is a picture of inside of the house that I
22 live at.

23 Q. That Ramblin Road house?

24 A. Yes, ma'am.

25 Q. And is it a fair and accurate diagram?

1 A. Yes, ma'am.

2 Q. Will it help illustrate to the jury some of
3 your testimony?

4 A. Yes, ma'am.

5 MS. WELLMAN: Your Honor, the State would move
6 to introduce State's Exhibit 4 into evidence for
7 illustrative purposes and would ask to publish.

8 MS. MAULDIN: No objection.

9 THE COURT: All right. State's Exhibit 4 in
10 for demonstrative purposes in evidence.

11 (State's Exhibit No. 4 admitted in evidence.)

12 BY MS. WELLMAN:

13 Q. So this is a diagram of your house?

14 A. Yes.

15 Q. You mentioned that some -- Mr. Mike would touch
16 you. Were there specific rooms in the house --

17 A. Yes, ma'am.

18 Q. And what were those rooms?

19 A. Do you want me to circle them?

20 Q. Sure. So which room is this?

21 A. That's my living room.

22 Q. And what room is this?

23 A. That was his bedroom.

24 Q. Who is he --

25 COURT REPORTER: I'm having a hard time hearing

1 the witness.

2 THE COURT: Yeah, I know it's tough.

3 MS. WELLMAN: We'll put her back up on the --

4 THE COURT: Okay. You may even want to turn
5 toward her so she is at the microphone.

6 BY MS. WELLMAN:

7 Q. Okay, Minor 1 . So you circled two rooms.

8 Which rooms would the defendant touch you?

9 A. My living room and Michael's bedroom.

10 Q. Okay. And Michael's bedroom, is that what's
11 labeled as bedroom number 1?

12 A. Yes, ma'am.

13 Q. Minor 1 , I want to start by talking about the
14 living room.

15 A. Yes, ma'am.

16 Q. While you were in the living room, did the
17 defendant touch you one time or more than one time?

18 A. More than one time.

19 Q. Okay. You mentioned that he touched you.

20 Where did he touch you?

21 A. On my private parts.

22 Q. What did he use to touch your private parts?

23 A. His private part and his fingers.

24 Q. We're talking just about the living room right
25 now. Okay? We'll talk about the bedroom in a

1 minute. But in the living room --

2 A. His fingers.

3 Q. Okay. You mentioned that he used his finger to
4 touch your private part.

5 A. Yes, ma'am.

6 Q. Did he touch you on top of your clothes or
7 under your clothes or something else?

8 A. Under.

9 Q. Did he touch you on top of your underwear or
10 under your underwear?

11 A. Sometimes both.

12 Q. When he would touch you under your underwear,
13 would he touch you on your private part or inside
14 your private part?

15 A. Both.

16 MS. WELLMAN: May I approach the witness?

17 THE COURT: Yes, ma'am.

18 BY MS. WELLMAN:

19 Q. Minor 1, this is State's Exhibit 5. Do you
20 recognize this?

21 A. Yes, ma'am.

22 Q. Can you tell the jury what State's Exhibit 5
23 is?

24 A. State's Exhibit 5 is a picture of the couch.

25 Q. In this living room?

1 A. Yes.

2 Q. Okay. Is State's Exhibit 5 a fair and accurate
3 representation of what the couch in your house looks
4 like?

5 A. Yes, ma'am.

6 Q. Is it a fair and accurate representation of
7 what the house looked like when you were living with
8 the defendant?

9 A. Yes, ma'am.

10 Q. Will it help illustrate your testimony to the
11 jury?

12 A. Yes, ma'am.

13 MS. WELLMAN: State would move to introduce
14 State's Exhibit 5 into evidence and would ask to
15 publish to the jury.

16 MS. MAULDIN: No objection.

17 THE COURT: State's Exhibit 5 is admitted into
18 evidence.

19 (State's Exhibit No. 5 admitted in evidence.)

20 BY MS. WELLMAN:

21 Q. Minor 1 , while you were in the living room,
22 would the defendant sometimes ask you to come sit on
23 this couch with him?

24 A. Yes, ma'am.

25 Q. Would he use anything or --

1 MS. MAULDIN: Objection; leading, Your Honor.

2 THE COURT: Can you rephrase your question?

3 BY MS. WELLMAN:

4 Q. What would prompt you to go sit on the couch
5 with the defendant?

6 A. Him telling me to.

7 Q. Did he ever offer anything in exchange for
8 coming to lay on the couch with him?

9 A. Give me his iPad and not yelling at me.

10 Q. When you would get on the couch, would he ask
11 you to wear certain things --

12 MS. MAULDIN: Objection; leading, Your Honor.

13 THE COURT: Sustained.

14 But you can continue to try to articulate your
15 question.

16 BY MS. WELLMAN:

17 Q. What would you wear when --

18 A. I would wear a dress.

19 Q. And when you would go on the couch with the
20 defendant, would he do anything to that dress?

21 A. Yes, ma'am.

22 Q. What, if anything, did he do?

23 A. He would either put his fingers under the dress
24 or just tell me not to wear any underwear with the
25 dress that I had on.

1 Q. You mentioned sometimes -- or that when he
2 would put his fingers inside of your private part,
3 did you ever notice anything about his hands or
4 anything specific?

5 A. His fingernails hurt me.

6 Q. Where did they hurt you?

7 A. Both in and out.

8 Q. Minor 1 , while you were on the couch with the
9 defendant, did he ever show you anything?

10 A. Yes, ma'am.

11 Q. What did he show you?

12 A. He would show me videos of people doing
13 something.

14 Q. How would he show you those videos?

15 A. On his phone.

16 Q. Did he use a particular application on his
17 phone?

18 A. Yes, ma'am. Instagram and Twitter.

19 Q. So they were photos of people doing something?

20 A. Yes, ma'am.

21 Q. Were they pictures or were they videos or
22 something else?

23 A. Both.

24 Q. What were they doing?

25 A. Something I'm not able to say because my

1 grandma told me not to say the word.

2 Q. You can't get in trouble for anything that you
3 say. So I need you to tell me, Minor 1 ; what were
4 the people doing?

5 A. I would say it as making babies.

6 Q. Would the defendant say anything to you?

7 A. You need to learn how to do this, or just sit
8 in this position, or something.

9 Q. When you say making babies, I need you to be
10 explicit. Okay? What does it mean to you to make
11 babies?

12 A. I don't understand what you're saying.

13 Q. The people in the photos or the videos that you
14 said were making babies, what were -- how were they
15 making babies? Can you just explain to the jury
16 what you saw?

17 A. Them with their clothes off.

18 Q. You mentioned that he would tell you to pose in
19 certain positions. And were those positions the
20 same positions that some of the people were in?

21 A. Yes, ma'am.

22 MS. WELLMAN: May I approach the witness?

23 THE COURT: Yes, ma'am.

24 Counsel, for both of your examinations, you're
25 free to move around the courtroom as needed.

1 MS. WELLMAN: Thank you, Your Honor.

2 BY MS. WELLMAN:

3 Q. Minor 1, this is State's Exhibit 7. Do you
4 recognize this?

5 A. Yes, ma'am.

6 Q. Please tell the jury what State's Exhibit 7 is.

7 A. Me on the couch in the living room; him telling
8 me to pose, and I didn't -- no. He was taking a
9 picture. But then --

10 Q. Hold on just a second. Okay?

11 So this is a photograph of you. Who took this
12 photograph?

13 A. Michael.

14 Q. And do you -- can you tell the jury what color
15 shirt or dress you're wearing?

16 A. The Gamecock color red.

17 Q. Okay. And can you describe the position of
18 your underwear?

19 A. Off of my body.

20 Q. Speak up, sweetie.

21 A. Off of my body.

22 Q. And can you tell the jury how you're
23 positioned?

24 A. I really don't know how to explain that.

25 Q. Are you sitting? Standing? Or something else?

1 A. Kind of sitting and laying.

2 Q. Sitting and what?

3 A. Laying.

4 Q. Laying. And is that your face that we can see?

5 A. Yes, ma'am.

6 Q. And how about in the background? What are we
7 looking at?

8 A. That is a birdcage.

9 Q. How did you know to get into this position?

10 A. Because he told me to.

11 Q. Who is he?

12 A. Michael Dyer.

13 Q. This is State's Exhibit 8. Do you recognize
14 this?

15 A. Yes, ma'am.

16 Q. And can you please tell the jury what State's
17 Exhibit 8 is?

18 A. In the same posture as I was before, just a
19 little something different.

20 Q. What's different?

21 A. My hands are in my face.

22 Q. Is this the same -- a photo from --

23 A. Happened on the same day.

24 Q. Do you know which photo was taken first?

25 A. The first one you showed me.

1 Q. The one where we could see your face?

2 A. Yes, ma'am.

3 Q. And you mentioned that in State's Exhibit 8,
4 your hand is covering your face. Can you tell the
5 jury why you put your hand over your face?

6 A. Because I didn't know he was taking a picture
7 and I looked back to see if he was taking a picture
8 and I saw him do that. And he took the first
9 picture, and then I put my hand over my face.

10 Q. Why would you put your hand over your face?

11 A. Because I just didn't want to be taking a
12 picture.

13 Q. Okay. How did it make you feel?

14 A. Weird.

15 Q. Minor 1, when did the defendant take those
16 photographs of you? Was it before or after you
17 moved into --

18 A. After I moved into his house.

19 Q. So that would have been after the beginning of
20 2020?

21 A. Yes, ma'am.

22 Q. You also mentioned that the defendant would
23 touch you in the bedroom, which you've circled
24 bedroom number 1. Did that happen one time or more
25 than one time?

1 A. More than one time. Not as much as the living
2 room, though.

3 Q. And how would the defendant touch you in the
4 bedroom or where --

5 A. He'd touch me with his private part.

6 Q. His what, honey?

7 A. His private part and his finger.

8 Q. And where would he touch you?

9 A. On my private part.

10 Q. I want to talk about a time when he would use
11 his private part.

12 THE COURT REPORTER: Judge, the jury is having
13 a hard time hearing.

14 THE COURT: Can you hear the witness, ladies
15 and gentlemen? Please raise your hand if you cannot
16 hear the testimony.

17 Okay. I'm going to max out the volume on the
18 microphone.

19 MS. WELLMAN: Is it possible to turn the vent
20 down?

21 THE COURT: That is a riddle I'd never be able
22 to solve.

23 Ladies and gentlemen, the vent comes on and
24 off, and I will look into that. But I don't think I
25 can solve it right this minute. But I'm going to

1 turn up the microphone. I think that's as high as I
2 can go.

3 MS. WELLMAN: If I can have just one second,
4 Your Honor?

5 THE COURT: Sure.

6 MS. WELLMAN: May I approach the witness?
7 Is that better?

8 MS. MAYES: Your Honor, may we approach?

9 THE COURT: Sure.

10 (Sidebar conference.)

11 THE COURT: All right. Ladies and gentlemen,
12 first of all, thank you for telling me you're having
13 trouble hearing. I've maximized the microphone.
14 But is there any juror who felt --

15 Ma'am, I know you raised your hand. Is there a
16 certain point where maybe she got away from the
17 microphone or -- I know we kind of transitioned into
18 another portion of the testimony.

19 Do you need to go back a few minutes or -- now,
20 I can't hear you.

21 THE JUROR: Just a little bit; like a little
22 bit before --

23 THE COURT: Okay. Why don't we just go back
24 to -- we just started the testimony regarding the
25 bedroom. Why don't we go back to that?

1 And, Miss David, if you can just try to talk
2 into the microphone. It may sound loud to you, but
3 that's okay. We just want everyone in the courtroom
4 to be able to hear everything you're saying.

5 BY MS. WELLMAN:

6 Q. Minor1 , can you sit up a little bit, too, just
7 so you're closer to the microphone?

8 A. Yes, ma'am.

9 Q. So you mentioned that the defendant would also
10 touch you in the bedroom. Is that bedroom number 1?

11 A. Yes, ma'am.

12 Q. And how would the defendant touch you?

13 A. With his private part and his penis.

14 Q. And where would he touch you?

15 A. On my private part.

16 Q. Did that happen one time or more than one time?

17 A. More than one time, but not as much as the
18 living room.

19 Q. Minor1 , I want to talk about when he would
20 touch you. Was that on top of your clothes? Under
21 your clothes? Or something else?

22 A. Under my clothes.

23 Q. Would that be on top of your underwear? Under
24 your underwear? Or something else?

25 A. Both.

1 Q. The times when he would touch you underneath
2 your underwear, would he touch you on your private
3 part or inside your private part?

4 A. Both.

5 Q. I want to talk about a time when the defendant
6 was using his private part.

7 Did he use his private part to touch inside
8 your private part or on top?

9 A. Inside.

10 Q. While the defendant was doing that, what were
11 you doing?

12 A. I was on his iPad, not paying attention.

13 Q. Why weren't you paying attention?

14 A. Because I don't like when he does it, and I
15 just wanted to not think about it.

16 Q. Okay. One of the times when he would use his
17 private part to touch your private part inside, what
18 did it feel like?

19 A. Weird.

20 Q. Did it feel -- can you describe that a little
21 more for us?

22 A. Different from his fingers.

23 Q. How so? How was it different?

24 A. It was just different.

25 Q. Was it painful? Was it comfortable? Was it --

1 can you describe it a little more than just weird
2 for the jury?

3 A. Painful.

4 Q. Where did it hurt?

5 A. On my private part.

6 Q. On or in?

7 A. In.

8 Q. And --

9 A. And on.

10 Q. We were talking about how in the living room,
11 he would show you things on his phone. Did he ever
12 show you anything on his phone in the bedroom?

13 A. Yes, ma'am.

14 Q. What did he show you?

15 A. The same thing he would show me in the living
16 room.

17 Q. Is that the -- were they photos and videos as
18 well?

19 A. Yes, ma'am.

20 Q. What did he say to you when he was showing you
21 those photos in the bedroom?

22 A. He would say: I wish you were wearing that, or
23 get in that pose that they were doing.

24 Q. Did the defendant ever take photos of you in
25 the bedroom?

1 A. Yes, ma'am.

2 MS. WELLMAN: May I approach the witness?

3 THE COURT: Yes, ma'am.

4 BY MS. WELLMAN:

5 Q. Minor 1, this is State's Exhibit 9. Do you
6 recognize this?

7 A. Yes, ma'am.

8 Q. If you could, tell the jury what State's
9 Exhibit 9 is.

10 A. It is of me kneeling in the bed. And there's
11 the iPad right beside me.

12 Q. Was this photograph -- is this a photograph of
13 you in the living room, the bedroom, or somewhere
14 else?

15 A. Bedroom.

16 Q. How do you know?

17 A. Because of the blankets that are in there.

18 Q. And do you have underwear on in this picture?

19 A. I have them on me, but not on me.

20 Q. Are they up around your waist? Are they down
21 by your knees? Or something else?

22 A. Down by my knees.

23 Q. What color underwear are you wearing?

24 A. Gray.

25 Q. And you mentioned the tablet. Is that up here?

1 A. Yes, ma'am.

2 Q. Is that the defendant's tablet?

3 A. Yes, ma'am.

4 Q. Who took this photograph?

5 A. Michael Dyer.

6 Q. When did he take this photograph?

7 A. Whenever I was living at his house.

8 Q. And how did you know to get in this particular
9 position?

10 A. Because he would make me do that every time.

11 Q. This is State's Exhibit 10. Do you recognize
12 this?

13 A. Yes, ma'am.

14 Q. Can you tell the jury what State's Exhibit 10
15 is?

16 A. It is of me in his bedroom whenever I was
17 living at his house around the middle of last year.

18 Q. Do you have underwear on in this picture?

19 A. Yes. But there's a reason you cannot see them.

20 Q. How do you know this is you?

21 A. Because I've never -- like, that's the only
22 person who has ever taken a picture of me.

23 Q. Do you remember this photograph?

24 A. Yes, ma'am.

25 Q. Are you laying on your back? On your stomach?

1 Something else?

2 A. My back.

3 Q. And are your knees -- are your legs up? Down?

4 Something else?

5 A. Kind of like that.

6 Q. Pulled up?

7 A. Like up, then.

8 Q. How did you know to get in this position?

9 A. Because he told me to.

10 Q. Who is he?

11 A. Michael Dyer.

12 Q. And how do you know this is in the bedroom?

13 A. Because of the blankets.

14 Q. Is that the gray-and-white-striped blanket?

15 A. Yes.

16 Q. **Minor 1** , this is State's Exhibit 11. Do you
17 recognize that?

18 A. Yes, ma'am.

19 Q. Can you please tell the jury what State's
20 Exhibit 11 is?

21 A. It is of me in the bedroom; in his bedroom,
22 whenever we lived there.

23 Q. Are you wearing underwear in this picture?

24 A. No, ma'am.

25 Q. How did you know to get in this position?

1 A. Because he told me to.

2 Q. Is this a similar position that you were in, in
3 State's Exhibit 10?

4 A. Yes, ma'am.

5 Q. How is this picture different?

6 A. You cannot see as much.

7 Q. You're looking at State's Exhibit 10 and 11.

8 A. That's closer up.

9 Q. Are you doing anything different in State's
10 Exhibit 11?

11 A. You can see my hand.

12 Q. What are your hands doing?

13 A. They're just there.

14 Q. Are your hands on your body?

15 A. Yes.

16 Q. Where are they on your body?

17 A. On my legs.

18 Q. How did you know to put your hands there?

19 A. Because he told me to.

20 Q. Who is he?

21 A. Michael Dyer.

22 Q. **Minor 1** , this is State's Exhibit 12. Do you
23 recognize this?

24 A. Yes.

25 Q. Please tell the jury what State's Exhibit 12

1 is.

2 A. It is me in the bedroom whenever I was living
3 with him.

4 Q. Who is him?

5 A. Michael Dyer.

6 Q. Are you wearing underwear in this photo?

7 A. Yes, ma'am.

8 Q. Where is your underwear?

9 A. At my knees.

10 Q. What color underwear are you wearing?

11 A. Gray.

12 Q. How are you positioned in State's Exhibit 12?

13 A. The same way I was in the living room, sitting
14 and laying down.

15 Q. When you say sitting and laying down, is that
16 sort of on your knees? On your elbows? Something
17 else?

18 A. Kind of like that (demonstrating).

19 Q. Who told you to get in this position?

20 A. Michael Dyer.

21 Q. And do you see a body part of someone else in
22 this picture?

23 A. Yes, ma'am.

24 Q. What do you see?

25 A. Michael Dyer's hands.

1 Q. Do you see hands? You see fingers?

2 A. Fingers.

3 Q. How many fingers do you see?

4 A. Three.

5 Q. Do you remember this photo?

6 A. Yes, ma'am.

7 Q. What is the defendant doing --

8 A. He was touching my private part.

9 Q. Did he take this photograph?

10 A. Yes, ma'am.

11 Q. If I missed it, I'm sorry. Is this when you
12 were --

13 A. Yes, ma'am.

14 Q. -- living in the blue house?

15 A. Yes.

16 Q. In State's Exhibit 12, you mentioned that he
17 was touching your private part. Was he touching
18 sort of on the outer part of your private part? On
19 the inner part of your private part?

20 A. Outer.

21 Q. When he would take these photographs, would he
22 touch inside the private part? Outside your private
23 part? Something else?

24 A. Sometimes both.

25 Q. Minor 1 , this is State's Exhibit 13. Do you

1 recognize this photo?

2 A. Yes, ma'am.

3 Q. Please tell the jury what State's Exhibit 13
4 is.

5 A. It is of me laying on the bed and him having
6 his fingers on my private part and mine on my legs.

7 Q. You said you laid on the bed. Whose bed?

8 A. Michael Dyer's.

9 Q. Is that your hands?

10 A. On top.

11 Q. Do you have nail polish on in that picture?

12 A. If I did, I cannot tell.

13 Q. Going back to State's Exhibit 11, can you tell
14 if you're wearing nail polish there?

15 A. Gold.

16 Q. You're wearing gold nail polish. Was that on
17 one day or different days?

18 A. Can I see that other picture again?

19 Q. Uh-huh.

20 A. The picture in this one -- I don't see the
21 dress, so I really don't know.

22 Q. If you're wearing nail polish in one, do you
23 have nail polish on in the other?

24 A. No.

25 Q. Going back to State's Exhibit 13, you said

1 that's your hands without nail polish.

2 A. Yes, ma'am.

3 Q. Where are your hands?

4 A. Around my legs and on my private part.

5 Q. How did you know to put your hands there?

6 A. Because he told me.

7 Q. You said that's his fingers.

8 A. Yes, ma'am.

9 Q. Whose fingers?

10 A. Michael Dyer's.

11 Q. How many fingers do you see?

12 A. Two.

13 Q. Two. Looking at State's Exhibits 12 and 13,
14 those are the photos with Michael Dyer's fingers?

15 A. Yes, ma'am.

16 Q. Do you notice anything different about his
17 nails?

18 A. One of them is longer and one of them is
19 shorter.

20 Q. Is this sort of the longer nail that you say
21 hurt?

22 A. Yes, ma'am.

23 Q. Minor 1 , this is State's Exhibit 14. Do you
24 recognize this?

25 A. Yes, ma'am.

1 Q. Speak up for me.

2 A. Yes, ma'am.

3 Q. Can you tell the jury what State's Exhibit 14
4 is?

5 A. Of me laying down and him taking a picture of
6 my private part.

7 Q. Who is him?

8 A. Michael Dyer.

9 Q. And are you wearing anything in this photo?

10 A. Yes, ma'am.

11 Q. What are your wearing?

12 A. A dress.

13 Q. What color?

14 A. Teal.

15 Q. And how is that dress positioned?

16 A. Up.

17 Q. Do you have any panties or underwear on?

18 A. No, ma'am.

19 Q. And is that the defendant's bed?

20 A. Yes, ma'am.

21 Q. You said that the defendant took this photo.

22 When did he take this photo?

23 A. Around whenever we started living there.

24 Q. Is that your face in the picture?

25 A. Yes, ma'am.

1 Q. How are your legs positioned?

2 A. Like, out.

3 Q. Did you know to get in this position or did
4 someone tell you --

5 A. He told me.

6 Q. Who is he?

7 A. Michael Dyer.

8 Q. Minor 1 , do you remember any of the -- or,
9 specifically, do you remember any of the images he
10 would show you on his phone to tell you to get in
11 those positions?

12 A. Not the exact ones. But, some of them, the
13 positions are the same.

14 Q. Minor 1 , this is State's Exhibit 15. Do you
15 recognize this photograph?

16 A. Yes, ma'am.

17 Q. Speak up.

18 A. Yes, ma'am.

19 Q. Can you please tell the jury what State's
20 Exhibit 15 is?

21 A. It is of a girl in the same position as me.

22 Q. And do you remember seeing this photograph
23 before?

24 A. I don't remember the exact one, but something
25 like that.

1 Q. Is that photograph that -- or is this a
2 picture -- are you in -- is that the same
3 position --

4 A. Yes, ma'am.

5 Q. -- as you are in State's Exhibit 14?

6 A. Yes, ma'am.

7 Q. Minor 1, you can't guess. Okay?

8 A. Yes, ma'am.

9 Q. So I want to make sure that we're all very
10 clear what body parts you're talking about.

11 A. Yes, ma'am.

12 Q. So this would be State's Exhibit 16. Have you
13 seen this before?

14 A. Yes, ma'am.

15 Q. So that's the front of State's Exhibit 16, and
16 there's the back.

17 A. Yes, ma'am.

18 Q. Will State's Exhibit 16 help illustrate your
19 testimony?

20 A. Yes, ma'am.

21 Q. Is this a fair and accurate picture of a little
22 girl's body like yours?

23 A. Yes, ma'am.

24 MS. WELLMAN: Your Honor, the State would move
25 to introduce -- if I could just ask her to step

1 down.

2 THE COURT: Very well.

3 MS. MAULDIN: No objection, Your Honor.

4 (State's Exhibit No. 16 admitted into
5 evidence.)

6 BY MS. WELLMAN:

7 Q. Minor 1 , you've been talking to us about where
8 the defendant would touch you. Okay? When we are
9 in the living room with that couch --

10 THE COURT: Miss David, you don't have a
11 microphone, so I'll need you to speak in as loud of
12 a voice as you can so we can all hear you.

13 THE WITNESS: Yes, sir.

14 BY MS. WELLMAN:

15 Q. Speak up a little louder for me. Okay?

16 A. Yes, ma'am.

17 Q. All right. Minor 1 , while you were in the
18 living room, can you circle the part of your body
19 that the defendant would touch?

20 A. (Witness complies.)

21 Q. What do you call that?

22 A. My private part.

23 Q. Now, is there any other part of your body that
24 he would touch in the living room?

25 A. Yes.

1 THE COURT REPORTER: I'm sorry. I can't hear
2 her.

3 THE COURT: You may need to move that to this
4 corner of the jury box and have her talk through the
5 witness stand.

6 MS. WELLMAN: Minor 1 , go back up there.

7 THE COURT: To those in the back corner of the
8 jury box, if you need to stand up to see down here,
9 feel free to do so.

10 MS. WELLMAN: Are you talking about right here,
11 Judge?

12 THE COURT: Yes. Put it up where Mr. Waters
13 is.

14 MS. WELLMAN: Can everyone see that?

15 THE COURT: If she needs to move closer, she
16 can hold the microphone and move it over there.

17 MS. WELLMAN: Okay.

18 BY MS. WELLMAN:

19 Q. Minor 1 , when you were in the defendant's
20 bedroom, can you go and circle the part of your body
21 that the defendant would touch?

22 A. Yes, ma'am. (Witness complies.)

23 Q. Sit back down. What do you call that part?

24 A. My private part again.

25 Q. Minor 1 , this is State's Exhibit 17. Can you

1 tell the jury what State's Exhibit 17 is?

2 A. It is of a man wearing underwear.

3 Q. Okay. Will State's Exhibit 17 help illustrate
4 your testimony to the jury?

5 A. Yes, ma'am.

6 MS. WELLMAN: Your Honor, the State would move
7 to introduce State's Exhibit 17.

8 MS. MAULDIN: Without objection.

9 THE COURT: All right. So admitted.

10 (State's Exhibit No. 17 admitted in evidence.)

11 BY MS. WELLMAN:

12 Q. So I showed you that State's Exhibit 17 has a
13 front and a back. You can't guess. So if you need
14 to see the back, just let us know.

15 While you were in the living room of the
16 defendant's home, where would the defendant -- what
17 part of his body would the defendant use to touch
18 your private part?

19 A. (Witness complies.)

20 Q. Just so we're clear, what do you call that?

21 A. His fingers.

22 Q. And when you were in his bedroom, what part of
23 his body would he use to touch your private part?

24 A. (Indicating.)

25 Q. What do you call that?

1 A. His private part.

2 Q. When you were in the bedroom, was he wearing
3 underwear all the time? Some of the time?

4 A. Sometimes.

5 Q. Minor 1 , while you were either in the living
6 room or the bedroom, were you aware if Minor 2 was
7 around?

8 A. Yes, ma'am.

9 Q. Were you ever aware if Minor 2 came into the
10 bedroom while you and Mr. Mike were in the bedroom?

11 A. Yes, ma'am.

12 Q. What were you -- or what was going on in the
13 bedroom when Minor 2 walked in?

14 A. I was not aware that time, but I was aware
15 other times he could have walked in. He was in the
16 hallway --

17 Q. All right. Stop, stop, stop right there.

18 Did Minor 2 ever walk into the living room while
19 you and Mr. Mike were on the couch?

20 A. Yes, ma'am.

21 Q. Minor 1 , where was your grandmother?

22 A. She was either outside gardening or going to
23 get groceries for us.

24 Q. Was there ever a time when you told the
25 defendant no?

1 A. Yes.

2 Q. What would happen when you told the defendant
3 no?

4 A. He would get very mad and yell a lot.

5 Q. Did he ever do anything else --

6 MS. MAULDIN: Objection, Your Honor, based on
7 the prior --

8 THE COURT: So noted. Objection overruled.

9 BY MS. WELLMAN:

10 Q. Minor 1 , did the defendant do -- ever do
11 anything else when you said no?

12 A. Other than yell and go to his room and punch
13 holes in the wall.

14 MS. MAULDIN: Objection, Your Honor. I'm
15 renewing the prior objection.

16 THE COURT: Duly noted. Still overruled.

17 BY MS. WELLMAN:

18 Q. Minor 1 , this is State's Exhibit 18. Do you
19 recognize this?

20 A. Yes, ma'am.

21 Q. Can you please tell the jury what State's
22 Exhibit 18 is?

23 A. State's Exhibit 18 is a picture of the hole in
24 the wall from him punching.

25 Q. Is this just -- is there one hole in the wall?

1 More than one?

2 A. More than one.

3 Q. Is this a fair and accurate depiction of what
4 the walls would like when Mr. Mike got mad?

5 A. Yes, ma'am.

6 Q. Will it help illustrate your testimony?

7 A. Yes, ma'am.

8 MS. WELLMAN: Your Honor, the State would move
9 to introduce State's Exhibit 18 into evidence.

10 MS. MAULDIN: Subject to the objection.

11 THE COURT: Subject to previous objection,
12 Exhibit 18 is admitted in evidence.

13 (State's Exhibit No. 18 admitted in evidence.)

14 BY MS. WELLMAN:

15 Q. Minor 1 , did you see the defendant punch that
16 hole in the wall?

17 A. Not the exact one, but I've seen him punch
18 holes in the walls in the bathroom.

19 Q. How did it make you feel?

20 A. Sad.

21 Q. Did you tell your grandmother -- or what do you
22 call your grandmother?

23 A. Gammy.

24 Q. Did you tell Gammy right away what was going
25 on?

1 A. Not right away.

2 Q. Why not?

3 A. Because he would say that she wouldn't like me
4 anymore, she wouldn't want to take care of me
5 anymore.

6 Q. Who is he?

7 A. Michael Dyer.

8 Q. About how long did you keep that secret?

9 A. Months.

10 Q. At some point, did you eventually tell Gammy?

11 A. Yes, ma'am.

12 Q. Where were you when you eventually told Gammy?

13 A. I was in the kitchen of our house.

14 Q. Did something happen to make --

15 A. Yes.

16 Q. What happened?

17 A. We -- I told him I don't want him touching my
18 private parts, and he would get mad and he threw my
19 food down.

20 Q. Do you remember what you were eating that day?

21 A. Toaster Strudels.

22 Q. After you told Gammy, did you go and talk to
23 someone at the Dickerson Child Advocacy Center?

24 A. Yes, ma'am.

25 Q. And did you tell them what you told us today?

1 A. Yes, ma'am.

2 MS. WELLMAN: If I could have one second.

3 (Brief pause in the proceedings.)

4 MS. WELLMAN: Your Honor, if I could just beg
5 the Court's indulgence.

6 THE COURT: Yes, ma'am.

7 (Brief pause in the proceedings.)

8 BY MS. WELLMAN:

9 Q. Minor 1 , I want to make sure that -- we had
10 some issues with the vent. So I want to make sure
11 we all could hear and understand.

12 Going back to when you were on the couch --

13 A. Yes, ma'am.

14 Q. -- you said you would wear a dress.

15 A. Yes, ma'am.

16 Q. Why would you wear a dress?

17 A. Because it would make it easier for him to
18 touch me.

19 Q. And how did you know that?

20 A. Because he would tell me.

21 Q. Going back to this hole in the wall, did you
22 ever see the defendant punch holes in the wall?

23 A. Yes, ma'am.

24 Q. And how long after you would say no would the
25 defendant get this mad?

1 A. Like, right after.

2 Q. So is that photo in State's Exhibit 18
3 consistent with the holes in the wall that you
4 actually did see?

5 A. Yes, ma'am.

6 Q. So you're not saying that this actually was --
7 that you saw this one. But you saw him make holes
8 like this when he got mad?

9 A. Yes, ma'am.

10 Q. Could you hear him --

11 A. Yes.

12 Q. -- punch those holes in the wall?

13 A. Yes. And I could hear him across the street,
14 too.

15 Q. Again, talking about when the defendant would
16 use his fingers, I want to make sure we're all
17 clear. If we go back -- again, State's Exhibit 16,
18 you said that he would touch your private part.
19 Could you feel his finger inside your private part
20 or just on top?

21 A. Both.

22 Q. Both. Okay.

23 When he would use his private part to touch
24 your private part, could you feel that inside or on
25 the top of --

1 A. Both.

2 MS. WELLMAN: If I could beg the Court's
3 indulgence for just one moment.

4 (Brief pause in the proceedings.)

5 BY MS. WELLMAN:

6 Q. Minor 1 , this hole in State's Exhibit 18, did
7 that appear after you were able to hear him punching
8 walls?

9 A. It would appear after I heard him punching
10 holes in the wall.

11 MS. WELLMAN: May I approach?

12 THE COURT: Yes, ma'am.

13

14 BY MS. WELLMAN:

15 Q. Minor 1 , you mentioned that the defendant would
16 take photos of you.

17 A. Yes, ma'am.

18 Q. What would he use to take those photos?

19 A. His phone.

20 Q. Okay. Minor 1 , this is State's Exhibit 19. Do
21 you recognize what's inside?

22 A. Yes, ma'am. That is his phone.

23 Q. All right. When you say his phone, whose
24 phone?

25 A. Michael Dyer.

1 Q. Okay. How do you know?

2 A. Because of the stickers on the back, and my
3 grandma did not have the same phone.

4 Q. Do you remember the specific sticker?

5 A. Yes, the Monster sticker.

6 Q. Is this phone in the same or substantially the
7 same condition as it was when the defendant would
8 use it to take photos of you?

9 A. Yes, ma'am.

10 Q. Is this the phone he would use to take the
11 photos that we talked about earlier?

12 A. Yes, ma'am.

13 Q. Did the defendant ever allow you to use this
14 phone?

15 A. Yes, ma'am.

16 Q. When? Why?

17 A. Whenever I asked for it.

18 Q. Okay. The photos that we went through,
19 **Minor 1** , to make it very clear, all of those photos,
20 who took them?

21 A. Michael Dyer.

22 Q. Did he take them before or after you moved into
23 [REDACTED] Ramblin Road?

24 A. After.

25 Q. And that would have been after January or the

1 early part of 2020?

2 A. Yes, ma'am.

3 Q. And, like all of those photos, did they occur
4 inside the home?

5 A. Yes, ma'am.

6 MS. WELLMAN: Your Honor, at this time, the
7 State would move to introduce State's Exhibits 2, 3,
8 7, 8, 9, 10, 11, 12, 13, 14, 15, and State's Exhibit
9 19 into evidence, and would ask to publish to the
10 jury.

11 THE COURT: Counsel, any objection?

12 MS. MAULDIN: Beg the Court's indulgence.

13 Your Honor, we would just object on the basis
14 that there's not a sufficient foundation to admit
15 them into evidence at this point.

16 THE COURT: As far as -- well, actually, y'all
17 approach a minute.

18 (Sidebar conference.)

19

20 BY MS. WELLMAN:

21 Q. Minor 1, thinking back to when you were four
22 years old, okay, so that was six years ago, do you
23 remember talking to someone about a situation
24 between you and a Kevin Dowd?

25 A. Yes, ma'am.

1 Q. Speak up.

2 A. Yes, ma'am.

3 Q. Who is Kevin Dowd?

4 A. My mother's father.

5 Q. What, if anything, do you remember about the
6 situation between you and Kevin?

7 A. Really, just -- it was just weird.

8 Q. Okay. Do you remember a time when Gammy asked
9 you about that incident?

10 A. Yes, ma'am.

11 Q. Do you remember what you said?

12 A. Yes, ma'am.

13 Q. What did you say?

14 A. I would -- she asked me if it was anything to
15 do with my mom telling me to lie about anything that
16 had happened, and I said maybe she could have.
17 Because, now, I don't remember exactly what happened
18 because that was years ago -- six years ago,
19 actually. So I won't be able to remember much as I
20 remembered then.

21 Q. Okay.

22 THE COURT: Actually, one more thing. Sorry.

23 (Sidebar conference.)

24 THE COURT: All right. Ladies and gentlemen,
25 we've been going about an hour and 20 minutes or so.

1 We're going to take our midafternoon break at this
2 point. The bailiff will take you back to the jury
3 room.

4 Refresh yourselves. Do not discuss the case in
5 any way. You're free to talk with one another about
6 other stuff, but do not discuss this case in any
7 way. Thank you. We'll see you back in a few
8 minutes.

9 (The jury exits the courtroom at 2:53 PM.)

10 THE COURT: All right. We'll take a --

11 If we take a short break now, or whenever we
12 finish talking about this case, Miss David, just
13 remember, your testimony -- you're still on the
14 stand. You can certainly walk with someone if you
15 need to go to the restroom or something, but please
16 don't discuss your testimony with the attorneys.
17 They won't discuss it with you.

18 Just be advised you're still on the witness
19 stand and, as soon as we get back from this break,
20 we'll start off with cross-examination. Okay?

21 THE WITNESS: Yes, sir.

22 MS. MAYES: Your Honor, for the record, if she
23 could be escorted by our victim advocate, Heather
24 Clamp --

25 THE COURT: Yes.

1 MS. MAYES: -- she will be in her care. There
2 will be no discussion of the case, but she will need
3 to leave for the restroom.

4 THE COURT: Okay.

5 Y'all take a few minutes, and then we'll come
6 back and knock out the photos.

7 MS. WELLMAN: Thank you.

8 (Short recess.)

9 THE COURT: Okay. During this break, I was
10 notified by a bailiff that one of the jurors had a
11 particularly tough time with the subject matter of
12 the trial. We have three alternates.

13 At this time, what I'm going to do is call up
14 that juror and excuse her, you know, ask her if she
15 has spoken with anybody on the jury panel about her
16 feelings and what she's experiencing. Assuming the
17 answer is no, we'll bring the jury pool back here.

18 Our first alternate is Juror No. 209,
19 Mr. Watts. I'll inform Mr. Watts he is no longer an
20 alternate, but in the game, so to speak.

21 Also, I spoke with counsel in light of most of
22 the photographic evidence also going to be -- being
23 addressed by the investigator in this case,
24 Mr. Phipps, we're going to hold off on admitting all
25 those documents, the pictures, the phone evidence,

1 until that testimony has been done. It's all been
2 marked for identification. Assuming, after that
3 testimony is heard and it meets those requirements,
4 we'll address the admittance of it and publishing of
5 it at that time.

6 Anything else before we bring up our juror?

7 MS. WELLMAN: No, Your Honor.

8 THE COURT: Okay. Let's bring up Juror 188.

9 Also, yesterday, you know, we spoke with
10 Mr. Russell. But, obviously, Ms. Simon is fully
11 aware that her testimony will be very, very short.

12 MS. WELLMAN: Yes, Your Honor.

13 THE COURT: All right.

14 MS. WELLMAN: Your Honor, just for the Court's
15 information, a few moments ago, I said I was going
16 to call Aaliyah Simon next. But I'm just going to
17 go ahead and call **Minor 2**.

18 THE COURT: Okay.

19 Come on in. Good afternoon, Ms. Strickland.
20 It's my understanding -- and you just relax. Okay?
21 You're having a tough time hearing the subject
22 matter. This is a very -- this is very sensitive
23 subject matter, obviously, and we don't want to
24 subject you to any more than is necessary. So I'm
25 going to excuse you from further service on the

1 jury. We appreciate you being here, and we
2 recognize it is not easy.

3 THE JUROR: Thank you. I'm sorry.

4 THE COURT: You don't have to apologize. I
5 appreciate you telling us.

6 Let me ask you this: Have you voiced your
7 concerns or your feelings to anyone else on the
8 jury?

9 THE JUROR: No.

10 THE COURT: Did you just tell the bailiff or
11 the foreperson?

12 THE JUROR: I spoke to --

13 THE COURT: Jeanette, no one else?

14 THE JUROR: No.

15 THE COURT: Anything else before I let this
16 juror go?

17 MS. MAYES: Nothing from the State, Your Honor.

18 MS. MAULDIN: No, Your Honor.

19 THE COURT: Thank you, Ms. Strickland. You're
20 free to go.

21 THE JUROR: Thank you.

22 THE COURT: All right. When we bring up --
23 let's just double-check and make sure everyone is
24 ready to move forward. She indicated to me that she
25 did not talk to anybody but the bailiff, so I see

1 she did her job the way she was supposed to.

2 Why don't we go ahead and bring Miss David up
3 to the stand?

4 And we're just going to pick up where we left
5 off, Miss David. I think there may be a question or
6 two from the State, and then I'll let Ms. Mauldin
7 ask you some questions.

8 THE WITNESS: Yes, sir.

9 THE COURT: Let's bring the jury up.

10 (The jury enters the courtroom at 3:16 PM.)

11 THE COURT: Okay. Mr. Foreman, ladies and
12 gentlemen of the jury, welcome back. I hope you had
13 a nice break. I hope you were able to catch your
14 breath on the break we just had.

15 I have excused a juror, which is -- we have
16 alternates for a reason, and it happens in trials.
17 But, first of all, Juror No. 209, Mr. Watts --
18 Ms. Watts -- excuse me. Ms. Watts, you are no
19 longer an alternate. You will now be a member of
20 the jury moving forward.

21 You know -- let me just ask it this way: Does
22 anyone on the jury panel at this point have any
23 concern about their ability to be fair and impartial
24 hearing this case moving forward?

25 (No response.)

1 THE COURT: All right. We broke during the
2 State's direct examination. We're going to pick up
3 right where we left off.

4 MS. WELLMAN: Thank you, Your Honor.

5 May I approach the witness?

6 THE COURT: Yes, ma'am.

7 BY MS. WELLMAN:

8 Q. Minor 1 , this is State's Exhibit 15 that we
9 talked about earlier.

10 A. Yes, ma'am.

11 Q. You said this was a girl?

12 A. Yes, ma'am.

13 Q. Is this a grown-up girl?

14 A. She looks like a teenager.

15 Q. But you're not saying she's a child, correct?

16 A. Yeah.

17 Q. But when you said girl, you just meant not a
18 boy?

19 A. Yes.

20 Q. Okay. Minor 1 , one more question: Last year,
21 when this was going on, did your school shut down
22 and did you switch to virtual learning?

23 A. Yes, ma'am.

24 Q. And that was when you were living with the
25 defendant?

1 A. Yes, ma'am.

2 MS. WELLMAN: Your Honor, no further questions
3 for Minor 1 . But I would say that the State will
4 stipulate that the individual in State's Exhibit 15
5 is an adult.

6 THE COURT: Yes, ma'am.

7 Cross-examination?

8 Please answer any questions the attorney has
9 for you now, okay?

10 Ms. Mauldin?

11 CROSS-EXAMINATION

12 BY MS. MAULDIN:

13 Q. Good afternoon, Minor 1 . I'd like to start and
14 ask you a few questions about some of the things
15 that you talked about.

16 First of all, when Ms. Wellman, the solicitor,
17 asked you about what happened in the living room, at
18 first you said that he touched your private part
19 with his private part and his finger. Is that
20 right?

21 A. Uh-huh.

22 Q. And then she went back over that with you and
23 asked you again, and you said, no; that it was his
24 finger in the living room. Right?

25 A. Yes, ma'am.

1 Q. Okay. And then you mentioned looking at an
2 iPad or a tablet. Do you remember the brand of that
3 device you used? Do you know whether it was
4 specifically an iPad or was it just a tablet?

5 A. It was an Android.

6 Q. Okay. And then you said when you would look at
7 that, you would not pay attention to what was
8 happening; is that right?

9 A. Yes, ma'am.

10 Q. Okay. And then the photo that Ms. Wellman
11 asked you about, was that the back door where
12 there's a hole in the wall?

13 A. That is around the back door.

14 Q. Okay. And I believe you said that you didn't
15 see anybody make that hole in the wall. Is that
16 right?

17 A. Yes.

18 Q. Okay. I'd like to go back to just some
19 background information with you and make sure I'm
20 straight on that.

21 A. Yes, ma'am.

22 Q. You moved into Mr. Dyer's home with your
23 grandmother and your little brother, right?

24 A. Yes, ma'am.

25 Q. And, before that, you had lived with your

1 grandmother since you were five?

2 A. Yes, ma'am.

3 Q. Is that right?

4 And that's your grandmother's home now, isn't
5 it?

6 A. Yes, ma'am.

7 Q. That used to be Mr. Dyer's home?

8 A. Yes, ma'am.

9 Q. And you pointed out on the diagram of the
10 rooms; but the way the house is set up, if you go in
11 the front door, Mr. Dyer's room would have been the
12 room at the far end on the left; is that right?

13 A. Yes, ma'am.

14 Q. Where you and **Minor 2** stayed would have been on
15 the far end on the right; is that right?

16 A. Yes, ma'am.

17 Q. And then the living room and the kitchen are
18 one larger area in the middle?

19 A. Yes, ma'am.

20 Q. All right. Now, when you -- let me show you a
21 picture.

22 A. Yes, ma'am.

23 Q. When you mentioned gardening, can you show us,
24 in this picture, where your grandmother would have
25 done the gardening?

1 A. She would have done it to this side, and around
2 the back around here, and the porch.

3 Q. Okay. And how far away from the house would
4 she have done that?

5 A. Just around the house.

6 Q. Okay. Back when you moved in and back at the
7 time when Mr. Dyer was still living in this house,
8 he was working a job?

9 A. Yes.

10 Q. And do you know where he worked?

11 A. Excel Truck Groups.

12 Q. All right. And when he was working there, he
13 worked during the daytime?

14 A. Yes.

15 Q. Do you know the difference between full-time
16 and part-time?

17 A. Yeah.

18 Q. Was he working a full-time or part-time job?

19 A. I think it was full-time.

20 Q. So that meant he would be gone most of the day
21 during the weekdays?

22 A. Yes.

23 Q. And then, back during that time, was your
24 grandmother working anywhere?

25 A. No, ma'am.

1 Q. So she was -- would she -- if y'all were home
2 for the pandemic, she'd be there with you and Minor 2
3 at home?

4 A. Yes, ma'am, taking care of us.

5 Q. I see. And how old is your grandmother?

6 A. 55 now.

7 Q. Okay. And, back then, you said that Mr. Dyer
8 was working. And so he was earning money. And so
9 he would pay for some things, like the bills at the
10 house and that sort of stuff. And I believe you
11 mentioned in your interview he would pay bills on
12 his tablet. So you're aware that he was doing that;
13 is that right?

14 A. (Nonverbal response.)

15 Q. Okay. And you talked about the photo of going
16 out to eat. If y'all went out to eat, who would pay
17 for that?

18 A. It was Michael.

19 Q. Okay. And then he also bought some things for
20 you and some things for Minor 2 ; is that right?

21 A. Tablets.

22 Q. Okay. And Pokemon cards and that kind of
23 thing?

24 A. (Nonverbal response.)

25 Q. Okay. And in the house, who would be in charge

1 of cleaning the house?

2 A. My grandmother.

3 Q. And who would be in charge of cooking?

4 A. My grandmother.

5 Q. Did she cook every day or --

6 A. She cooked most of the days, unless we got food
7 from a place and they sent it to us.

8 Q. I see. And Ms. Wellman asked you about this a
9 little bit; I'd like to go into it a little bit
10 more: You reported that someone had done something
11 to you in the past. Is that right?

12 A. Yes, ma'am.

13 Q. And that was Kevin Dowd?

14 A. Yes, ma'am.

15 Q. And he was your --

16 A. My mom's dad.

17 Q. He was your grandfather on --

18 A. My mom's.

19 Q. -- the other side? Not connected to Ms. Todd
20 or anything like that?

21 And the allegation back then was that he had
22 taken you into his room and he put his finger in
23 your private part. Is that right?

24 A. Yes, ma'am.

25 Q. Okay. And then in -- this was back in May of

1 2015 when you were four; is that right?

2 A. (Nonverbal response.)

3 Q. And, after that, you went to -- I don't know if
4 you know which hospital. But you went to one
5 hospital and they did a medical exam on you; is that
6 right?

7 A. Yes, ma'am.

8 Q. Do you remember that?

9 A. Yes, ma'am.

10 Q. And do you remember that you repeated to them
11 then the same thing happened?

12 A. Yes, ma'am.

13 Q. And then that same month, they took you to have
14 an interview to sit down and talk about it, like
15 with Ms. Simon in this case; is that right?

16 A. Yes, ma'am.

17 Q. When you sat down with that person, you said
18 the same thing again; that he had put his finger in
19 your private part. Is that right?

20 A. (Nonverbal response.)

21 Q. And just so that we hear your answer out loud,
22 I saw that you nodded your head. But --

23 A. Yes, ma'am.

24 Q. And then in September of that year, you went to
25 the Dickerson Center; is that right?

1 A. Yes, ma'am.

2 Q. And at that time, they did a medical exam
3 there?

4 A. Yes, ma'am.

5 Q. And when we're talking about a medical exam for
6 this kind of stuff, we're not talking about a
7 regular trip to the doctor; this is a trip where
8 they look at your private parts, right?

9 A. They would look, yes.

10 Q. And then after those things happened back in
11 2015, you told your grandmother that your mother
12 made you say that stuff?

13 A. She had asked if -- because we were trying to
14 get it down to what he had done because I wouldn't
15 open up to her. So we started talking about it, and
16 that's what I told her. Yes.

17 Q. You told her that your mother told you to say
18 that stuff?

19 A. Yes. But now I'm not sure because it's been
20 six years. I don't know that much about what
21 happened; I just know that it happened.

22 Q. Do you remember when you had that conversation
23 with your grandmother about telling Mom it wasn't
24 true? When was that?

25 A. That was around 2016.

1 Q. All right. Before you moved in with Mr. Dyer?

2 A. Yes.

3 Q. And then I'd like to ask you about some
4 questions -- ask you some questions about when you
5 went and talked to Ms. Simon, too.

6 A. Yes.

7 Q. Well, first of all, the first time you told
8 anybody that anything had happened, the police
9 didn't come right away, did they?

10 A. No, ma'am.

11 Q. All right. And after you told about it, it was
12 still some time after that before you went to the
13 Dickerson Center; is that right?

14 A. Yes, ma'am.

15 Q. Okay. And that was several days, a few weeks,
16 between that stuff happening; is that right?

17 A. Yes.

18 Q. Okay. And then you went to the Dickerson
19 Center and you talked to Ms. Simon about it?

20 A. Yes.

21 Q. And the police officers were there while you
22 were there?

23 A. Yes.

24 Q. Did they drive y'all over there?

25 A. No, ma'am.

1 Q. Did your grandmother drive you?

2 A. Yes, ma'am.

3 Q. Okay. And then -- let's see. You told your
4 grandmother what happened with Mr. Dyer; is that
5 right?

6 A. Yes, ma'am.

7 Q. And when you told her, she didn't put you and
8 **Minor 2** in the car and take off and leave, did she?

9 A. No, ma'am.

10 Q. Y'all stayed in the house that night?

11 A. Yes, ma'am.

12 Q. And the police didn't come then, did they?

13 A. Yes, ma'am.

14 Q. And when you went and talked to Ms. Simon, you
15 told her that he had made you do some things so that
16 you could look at his phone?

17 A. (Nonverbal response.)

18 Q. And you meant the only way he would do that
19 would be to let you hold the phone?

20 A. (Nonverbal response.)

21 Q. And the same thing happened with the tablet; is
22 that right?

23 A. Yes, ma'am.

24 Q. And, in fact, you told her that the way you put
25 it was that he tried to touch you. And you said, if

1 you're going to do that, then give me your phone.

2 Do you remember saying that?

3 A. Yes, ma'am.

4 Q. And he'd give you your phone?

5 A. Yes, ma'am.

6 Q. Give you his phone?

7 A. Yes, ma'am.

8 Q. All right. And you mentioned another time
9 watching something called Bed Wars; is that right?

10 A. Yes, ma'am.

11 Q. And that's something about a Lego game?

12 A. Yes, ma'am.

13 Q. And you said that during that episode, he was
14 touching you for a little while, and then you
15 decided to leave and go to the bathroom. And then
16 you came back into the same room, and it happened a
17 little more, and then you left again?

18 A. And then I actually left, yeah.

19 Q. That time. Okay.

20 And then you also explained to her that -- at
21 one point, that it would make you mad if you had to
22 go back in the video, so you would tell him to stop
23 interrupting you because you were watching the video
24 and you had to X out of where you were; is that
25 right?

1 A. Yes, ma'am.

2 Q. Okay. And when you talked to Ms. Simon, you
3 told her that it felt weird on your body; is that
4 right?

5 A. Yes, ma'am.

6 Q. And when Ms. Wellman asked you about how it
7 felt, you again used the word weird; is that right?
8 And it wasn't until she said painful and other words
9 you said, oh, it was painful; is that right?

10 A. Yes.

11 Q. And when you talked to Ms. Simon, you were
12 clear that he didn't put anything on his private
13 part when any of this was happening?

14 A. Yes.

15 Q. And, at one time, there was something on your
16 leg, and that was something that looked green to
17 you?

18 A. Uh-huh.

19 Q. You never saw anything come out of his private
20 part?

21 A. No, ma'am.

22 Q. And you never felt anything come out of his
23 private part?

24 A. No, ma'am.

25 Q. And do you remember telling her that he took

1 pictures of you only one time?

2 A. No, ma'am.

3 Q. You don't remember telling her that?

4 A. No, ma'am.

5 Q. Okay.

6 A. That's what I had thought in the beginning, but
7 then he ended up taking more pictures.

8 Q. All right. He wanted you to -- you wanted him
9 to buy you an iPhone 11; is that right?

10 A. (Nonverbal response.)

11 Q. Never asked him about that?

12 A. Because I was -- he wanted to buy me an iPhone.

13 Q. He wanted to buy you a phone?

14 A. (Nonverbal response.)

15 Q. You didn't ask him to buy you an iPhone?

16 A. Not in the beginning, no. He suggested him
17 buying the phone for me.

18 Q. Okay. You say not in the beginning. Can you
19 explain what you mean by -- did it happen later?

20 A. Yes.

21 Q. And what happened later?

22 A. I said sure. Like, I just said sure, and we
23 ended up seeing if we can get an iPhone. And we
24 didn't get a phone. I just didn't want one after.

25 Q. You told Ms. Simon that your Aunt Annie was

1 there the last time this happened; is that right?

2 A. Aunt Na Na.

3 Q. Aunt Na Na?

4 A. But her real name is Renee.

5 Q. Okay. That makes sense. Thank you for
6 clearing that up. I understand now.

7 So the next day, you were laying on the couch
8 with Mr. Dyer again, is that right, and you had on
9 the dress again?

10 A. (Nonverbal response.)

11 Q. Your grandmother still pretty upset about all
12 this happening?

13 A. Yeah.

14 Q. Still pretty mad at him?

15 A. Yes.

16 MS. MAULDIN: Thank you.

17 THE COURT: Any redirect?

18 MS. WELLMAN: Briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. WELLMAN:

21 Q. **Minor 1** , after you told Gammy about what was
22 happening, did the defendant leave the house?

23 A. No, ma'am; not right after.

24 Q. Okay. But did he leave the next day or was it
25 the following day?

1 A. It was the following day.

2 Q. Okay. And was that the last time you saw him
3 until today?

4 A. Yes, ma'am.

5 Q. **Minor 1** , this is State's Exhibit 19. This is
6 the phone that you identified as belonging to the
7 defendant.

8 A. Yes, ma'am.

9 Q. Who was in charge of this phone?

10 A. Him.

11 Q. Who is him?

12 A. Michael Dyer.

13 Q. And who kept this phone?

14 A. Michael Dyer.

15 Q. Who controlled when you were allowed to use it?

16 A. Michael Dyer.

17 MS. WELLMAN: I beg the Court's indulgence for
18 one second.

19 (Brief pause in the proceedings.)

20 MS. WELLMAN: Nothing further, Your Honor.

21 THE COURT: Any recross?

22 MS. MAULDIN: No, Your Honor.

23 THE COURT: All right. The witness may step
24 down.

25 MS. WELLMAN: Your Honor, we're going to get

1 our next witness.

2 THE COURT: Very well.

3 MS. WELLMAN: Your Honor, at this time, the
4 State would call Minor 2 .

5 Minor 2

6 being first duly sworn, testified as follows:

7 THE WITNESS: Yes, ma'am.

8 DIRECT EXAMINATION

9 BY MS. WELLMAN:

10 Q. Can you tell the jury your name and spell your
11 last name?

12 A. Minor 2 , Minor 2 .

13 Q. And do you go by Minor 2 or do you go by
14 Minor 2 ?

15 A. Minor 2 .

16 Q. Okay. And, Minor 2 , how old are you?

17 A. Nine.

18 Q. When is your birthday?

19 A. [REDACTED].

20 Q. Of what year?

21 A. 2012.

22 Q. And where do you live? Do you know your
23 address?

24 A. [REDACTED] Ramblin Road.

25 Q. Minor 2 , this is State's Exhibit 1 that's

1 already in evidence. Is that your house?

2 A. Yes.

3 Q. And who do you live with at that house?

4 A. My sister, my dog and cat, and my Gammy.

5 Q. What's your sister's name?

6 A. Minor 1 .

7 Q. Is that Minor 1 right back there?

8 A. Yeah.

9 Q. And you said you live with your dog and your
10 cat?

11 A. Uh-huh.

12 Q. And Gammy. Is that right?

13 A. (Nonverbal response.)

14 Q. Who's Gammy?

15 A. Tammy Kay Todd.

16 Q. Is that your grandmother?

17 A. Yeah.

18 Q. When did you move to this house?

19 A. I forgot.

20 Q. Was it maybe the beginning of last year?

21 A. Yeah, sort of.

22 Q. Do you remember when school shut down because
23 of COVID and you had to learn from home?

24 A. Yes, ma'am.

25 Q. Okay. Was that last year?

1 A. No. It was 2019 -- wait. No. 2020. I
2 dropped my mask.

3 Q. So when your school shut down for virtual
4 learning, were you living at this house?

5 A. Yes.

6 Q. At that time, were you living with anyone else
7 other than your sister, Gammy, your dog, and your
8 cat?

9 A. Yes.

10 Q. Who else were you living with?

11 A. Wait. In virtual?

12 Q. No, no, no, at your house, here. When you
13 moved in last year, who else were you living with?

14 A. Mr. Mike.

15 Q. Do you see Mr. Mike in the courtroom today?

16 A. Yeah.

17 Q. Can you point him out for me?

18 A. (Witness complies.)

19 Q. Are you pointing to the defendant in the blue
20 shirt?

21 A. (Nonverbal response.)

22 THE COURT: Madam Solicitor, I think I need a
23 verbal response.

24

25 BY MS. WELLMAN:

1 Q. All right. Yes or no: When you are
2 identifying Mr. Mike, are you talking about the
3 defendant in the blue shirt?

4 A. Yes.

5 Q. When you were living at this house with the
6 defendant, did anything ever happen that made you
7 feel uncomfortable?

8 A. Yeah.

9 Q. What was that?

10 A. So I was in my --

11 THE COURT: Counsel, please approach.

12 (Sidebar conference.)

13 MS. WELLMAN: If I could beg the Court's
14 indulgence.

15 THE COURT: Take a moment.

16 MS. WELLMAN: Thank you, Your Honor.

17 BY MS. WELLMAN:

18 Q. All right, **Minor 2**. So, again, I was asking if
19 anything ever happened while you were living at
20 Ramblin Road that made you feel uncomfortable. Sit
21 up and talk in the microphone.

22 A. Yes.

23 Q. What was that?

24 A. I was in my room once on my iPad. I was going
25 to go check on **Minor 1**. I went in Mr. Mike's room.

1 I saw Mr. Mike on top of Minor 1 , but there was a
2 little bit of space through them. When I asked him
3 what are you doing, he said "nothing" and got off.

4 Q. All right. Minor 2 , you said you were in your
5 room?

6 A. Yes.

7 Q. Was that the room in the Ramblin Road house?

8 A. (Nonverbal response.)

9 Q. Minor 2 , can you see this?

10 A. Yeah.

11 Q. So this is State's Exhibit 4. It's already in
12 evidence. Does this look like a diagram of your
13 house, the Ramblin Road house?

14 A. Yes.

15 Q. All right. Now, your room, is that bedroom
16 number 2 or bedroom number 1?

17 A. Bedroom number 2.

18 Q. So right here. So this is the room that you
19 were in?

20 A. Yeah.

21 Q. And you said you went into Mr. Mike's room.
22 Which room is Mr. Mike's room?

23 A. Bedroom 1.

24 Q. Bedroom 1. Do you know about what time of day
25 this was? Or was it light outside or dark outside?

1 A. It was kind of in the morning.

2 Q. Okay. And you said you saw your sister and
3 Mr. Mike. Was this before or after you moved into
4 the Ramblin Road house?

5 A. After.

6 Q. Was it around the time when you were learning
7 virtually?

8 A. Kind of and not.

9 Q. Okay. But it was after you moved in. Was it
10 before or after -- we'll talk about that later.

11 So you said you saw them in there. Where was
12 **Minor 1** in Mr. Mike's room?

13 A. On the bed.

14 Q. Was she sitting on the bed? Laying on the bed?
15 Or something else?

16 A. Laying on the bed.

17 Q. Do you remember what she was wearing?

18 A. A dress.

19 Q. Do you remember anything about that dress?

20 A. No.

21 Q. Was it down? Was it --

22 MS. MAULDIN: Objection; leading, Your Honor.

23 THE COURT: I'll allow leading. The objection
24 is noted. And we'll monitor as we go, but with this
25 type of witness, we'll allow leading.

1 BY MS. WELLMAN:

2 Q. Minor 2 , was the dress, like, all the way down?
3 Was it pulled up? Was it twisted? Or was it
4 something else? Do you remember?

5 A. Yeah.

6 Q. Okay. Can you tell the jury how you saw
7 Minor 1 's dress?

8 THE COURT: You can tell the jury. There's no
9 wrong answer. All you have to do is answer the
10 lawyer's question, and that's going to be fine.
11 Okay?

12 THE WITNESS: It was kind of up. Yeah.

13 BY MS. WELLMAN:

14 Q. Do you remember if Minor 1 was wearing
15 underwear? Could you tell?

16 A. No.

17 Q. With Mr. Mike, could you tell what, if
18 anything, he was wearing?

19 A. Yeah.

20 Q. Okay. Can you tell the jury?

21 A. He was wearing underwear.

22 Q. So you said Minor 1 was laying on the bed. Was
23 she laying on her back? On her stomach? Something
24 else?

25 A. On her back.

1 Q. And how was Mr. Mike standing -- or how was
2 Mr. Mike's body?

3 A. He was on his stomach. But there was air
4 through it, so he was like this [demonstrating].

5 Q. When you did this [demonstrating], what are
6 you -- where were his hands?

7 A. Like, beside Minor 1's face, like this
8 [demonstrating].

9 Q. So were they on the bed? On the wall? Or
10 something else?

11 A. On the bed.

12 Q. And they were right here by her head?

13 A. Yes.

14 Q. Was Mr. Mike standing straight up or was he
15 bending over?

16 A. Bending over.

17 Q. And you said you asked what -- what are you
18 guys doing, and he said "nothing." And he got up,
19 right?

20 A. (Nonverbal response.)

21 Q. How did he get up?

22 A. He got up and got off the bed.

23 Q. Got off of what?

24 A. The bed.

25 Q. And did he get up quickly or slowly? Did he

1 roll over?

2 A. In the middle.

3 Q. Minor 2 , do you know what Minor 1 and Mr. Mike
4 were doing?

5 A. Sort of.

6 Q. Remember, the Judge said you can't get in
7 trouble. So what were they doing?

8 A. Can I spell it out?

9 Q. I need you to say it.

10 A. Okay. Sex.

11 Q. And that was in Mr. Mike's room we talked about
12 as bedroom number 1, right?

13 A. Mr. Mike's room was bedroom -- wait.

14 Can I see it again? Yeah.

15 Q. Okay. Good. Minor 2 , do you ever remember
16 seeing something in another room?

17 A. Yes.

18 Q. When I mean something, I mean something with
19 Minor 1 and Mr. Mike.

20 A. Yes.

21 Q. What room?

22 A. The couch in the living room.

23 Q. The couch in the living room.

24 Minor 2 , this is State's Exhibit 5. Is that the
25 couch that was in the living room?

1 A. Yes.

2 Q. When you walked into the living room and you
3 saw Minor 1 and Mr. Mike in the living room, where
4 were they?

5 A. On the couch.

6 Q. Do you remember how Minor 1 was dressed?

7 A. No.

8 Q. Do you remember if she was wearing --

9 A. She was wearing short clothes.

10 Q. Short clothes.

11 Was Mr. Mike doing anything?

12 A. Yes.

13 Q. What was Mr. Mike doing?

14 A. I was in the bedroom -- no. Not the bedroom.
15 The kitchen. They were just near the living room.

16 Q. That right here?

17 A. Yeah. I could see them from the kitchen. So
18 Minor 1 was on his phone. They were side by side on
19 the couch. I saw Mr. Mike -- he had his finger
20 right here [indicating].

21 Q. Okay. Can you --

22 A. His leg -- her leg.

23 Q. Her leg. Where on her leg?

24 A. Her thigh.

25 Q. And what was he doing?

1 A. He was going like this [demonstrating].

2 Q. If you could --

3 MS. WELLMAN: Your Honor, if I could ask Minor 2
4 to stand up and turn towards the jury so I can make
5 sure they can see?

6 THE COURT: Go ahead and stand up and
7 demonstrate what you just did.

8 MS. WELLMAN: Maybe if we could have him come
9 down and in front of the jury.

10 THE COURT: Okay. Just don't get any testimony
11 from him.

12 You can demonstrate very briefly what you
13 witnessed.

14 THE WITNESS: Right here?

15 BY MS. WELLMAN:

16 Q. Over here. So if you could demonstrate for the
17 jury what you saw Mr. Mike doing with his hand.

18 A. (Witness complies.)

19 MS. WELLMAN: Thank you.

20 Your Honor, for purposes of the record, could
21 we just --

22 THE COURT: This is a previously -- let me make
23 sure.

24 (Sidebar conference.)

25 MS. WELLMAN: Your Honor, for purposes of the

1 record, if the record could reflect that Minor 2
2 showed a pointing motion with his finger and his arm
3 moved back and forth.

4 Is that sufficient?

5 MS. MAULDIN: In the air.

6 MS. WELLMAN: In the air.

7 THE COURT: Okay. So noted.

8 BY MS. WELLMAN:

9 Q. Minor 2 , this is State's Exhibit 21. Okay? And
10 State's Exhibit 22. Do you recognize these?

11 A. (Nods head.)

12 Q. Are these fair and accurate drawings of a
13 little girl and a man?

14 A. (Nods head.)

15 Q. And would they help illustrate your testimony
16 to the jury?

17 A. (Nods head.)

18 Q. You have to answer.

19 A. Yes.

20 MS. WELLMAN: I want to show these to the jury,
21 starting with State's Exhibit 21.

22 THE COURT: Okay.

23 BY MS. WELLMAN:

24 Q. Minor 2 , if you can step down for me.

25 Now, when you were in the living room -- I'll

1 give you a marker. Can you circle on the picture of
2 the little girl where you saw Mr. Mike's hand?

3 A. (Witness complies.)

4 Q. Did you see it anywhere else?

5 A. No.

6 Q. Could you tell if Minor 1 was wearing
7 underwear?

8 A. No.

9 Q. You couldn't tell?

10 A. No.

11 Q. You got to speak up.

12 A. No.

13 Q. And, again, Minor 2, we just can't guess. This
14 is State's Exhibit 22. This is a picture of a man.

15 Can you circle what part of Mr. Mike's body he
16 was using on Minor 1 ?

17 A. (Witness complies.)

18 Q. Thank you. All right. You can hop back up.

19 Minor 2, at the time that you went into
20 Mr. Mike's room and saw Minor 1 and Mr. Mike, and
21 the time in the living room, do you know where Gammy
22 was?

23 A. I'm pretty sure she was at the store. Yeah, at
24 the store.

25 Q. And did you -- after the first time you saw

1 something between Minor 1 and Mr. Mike, did you tell
2 Gammy?

3 A. Yes.

4 Q. You think so?

5 A. (Nonverbal response.)

6 Q. Minor 2 , did you ever see Mr. Mike's phone?

7 A. Yes.

8 Q. Minor 2 , this is State's Exhibit 19. Do you
9 recognize this?

10 A. Yes.

11 Q. Speak up.

12 A. Yes.

13 Q. Okay. Can you please tell the jury what
14 State's Exhibit 19 is?

15 A. Mr. Mike's phone.

16 Q. Is it in the same or substantially the same
17 condition as it was when you last saw it?

18 A. Yes.

19 Q. Minor 2 , in June of last year, did Mr. Mike
20 leave the house?

21 A. Yes.

22 Q. Was that the last time you saw him?

23 A. No -- wait. Yes.

24 Q. Until today?

25 A. Yes.

1 Q. Okay. After he left the house, did you ever
2 see that phone again until today?

3 A. No.

4 Q. Minor 2 , this is State's Exhibit 3. Do you
5 recognize this picture?

6 A. Yes.

7 Q. And can you tell the jury what it is?

8 A. Us eating at a restaurant.

9 Q. Speak up.

10 A. Us eating at a restaurant.

11 Q. Who is us?

12 A. Me and my sister and Gammy and Mr. Mike.

13 Q. Gammy and who?

14 A. Mr. Mike.

15 Q. Speak up.

16 A. Mr. Mike.

17 Q. Minor 2 , do you know who took this photo?

18 A. Gammy.

19 Q. Okay.

20 MS. WELLMAN: Your Honor, if I could beg the
21 Court's indulgence for just one moment.

22 (Brief pause in the proceedings.)

23 MS. WELLMAN: Your Honor, the State would move
24 to introduce State's Exhibits 21 and 22 into
25 evidence.

1 THE COURT: Without objection?

2 MS. MAULDIN: Without objection.

3 THE COURT: All right. State's Exhibits 21 and
4 22 admitted into evidence.

5 (State's Exhibit Nos. 21 and 22 admitted in
6 evidence.)

7 BY MS. WELLMAN:

8 Q. Minor 2, this is State's Exhibit 23. Do you
9 recognize this?

10 A. Yes.

11 Q. Okay. And can you tell the jury what is
12 depicted in State's Exhibit 23?

13 A. Minor 1 eating on the couch.

14 Q. Is that the same couch shown in State's Exhibit
15 5?

16 A. Yes.

17 Q. All right. And was this the couch that was at
18 [REDACTED] Ramblin Road?

19 A. Yes.

20 Q. Minor 2, I want to ask you one more question
21 about when you went into Mr. Mike's bedroom. Do you
22 recall, were the lights on or off?

23 A. Off.

24 Q. And I think the vent came on as we were
25 talking, so I want to make sure. Could you tell if

1 Minor 1 was wearing underwear?

2 A. No.

3 Q. No, she was not or, no, you couldn't tell?

4 A. I could not tell.

5 MS. WELLMAN: No further questions.

6 THE COURT: All right.

7 Cross-examination?

8 Now the other attorney is going to ask you some
9 questions. Okay?

10 MS. MAULDIN: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. MAULDIN:

13 Q. Good afternoon, Minor 2 .

14 A. Good afternoon.

15 Q. Back when you lived in Mr. Dyer's house --
16 excuse me, I'm going to take that off so you can
17 hear me. He bought some things for you and Minor 1 ;
18 is that right?

19 A. Right.

20 Q. So he would buy clothes for each of you?

21 A. Yeah.

22 Q. And bought tablets for you?

23 A. Yeah.

24 Q. Pokemon cards and that kind of stuff?

25 A. (Nonverbal response.)

1 Q. And you went to the Dickerson Center and talked
2 to Mr. Russell like we talked about, right?

3 A. (Nonverbal response.)

4 Q. And when you went, your grandmother went over
5 there, too?

6 A. Yeah.

7 Q. And the police were there, too?

8 A. Yes.

9 Q. You talked to Mr. Russell about seeing Mr. Dyer
10 and **Minor 1** in his room; is that right?

11 A. I don't remember, but I'm pretty sure.

12 Q. You don't remember talking to Mr. Russell about
13 it?

14 A. (Nonverbal response.)

15 Q. And, specifically, do you remember that you
16 told him it had happened three months beforehand?

17 A. Yes.

18 Q. Do you remember that? Remember, you also told
19 him it happened a month before?

20 A. (Nonverbal response.)

21 Q. I'm sorry. I see you nodding your head. I
22 know what you mean, but this lady is taking down
23 what you say. So, if you don't mind, if you could,
24 answer out loud.

25 A. Yes.

1 Q. Thank you. That helps.

2 And you told Mr. Russell that you told your
3 grandmother, Ms. Todd, what you had seen; is that
4 right?

5 A. Yes, ma'am.

6 Q. And you and your grandmother have talked about
7 this since this all happened; is that right?

8 A. Yes, ma'am.

9 Q. And she's still pretty mad about what happened
10 in the house?

11 A. Uh-huh. Yes, ma'am.

12 Q. And today when Ms. Wellman, the solicitor,
13 asked you about what you saw in the room, you said
14 that they were having sex; is that right?

15 A. Yes, ma'am.

16 Q. Do you remember, when Mr. Russell asked you
17 about it, he asked you what sex meant to you? Do
18 you remember that question?

19 A. Yes, ma'am.

20 Q. And your answer, at that point, was that it was
21 kissing and hugging with your clothes off?

22 A. Yes, ma'am.

23 Q. Okay. Now, today, you talked some about seeing
24 what happened on the couch, too. And I believe that
25 you pointed out on that picture that you saw his

1 finger on her leg; is that right?

2 A. Yes, ma'am.

3 Q. Do you remember that, back when you talked to
4 Mr. Russell, you had said you had seen his finger
5 inside her?

6 A. (Nonverbal response.)

7 Q. And I saw you nod your head. I take it that
8 you mean yes?

9 A. Yes, ma'am.

10 Q. But you're saying today you didn't actually see
11 his finger go inside her, but you saw his finger on
12 her leg?

13 A. No. His finger was right here. But I saw it
14 going like this right here [demonstrating].

15 Q. But from where you were, you couldn't see it
16 going inside --

17 A. I put it a little further than I was supposed
18 to.

19 Q. Now, when you saw them on the couch, you were
20 in the kitchen. And you went to tell them that
21 dinner was almost ready, right?

22 A. Yes, ma'am.

23 Q. Who was cooking the dinner?

24 A. Gammy.

25 Q. Your grandmother? Do you call her Gammy or do

1 you call her --

2 A. I call her Gammy.

3 Q. All right. So she was cooking in the kitchen
4 when you saw this happen on the couch in the living
5 room?

6 A. Yes, ma'am.

7 Q. All right. And this was -- what time of day
8 was it?

9 A. In the afternoon.

10 Q. Okay. And you told her what happened on the
11 couch, too, right?

12 A. I don't remember telling her.

13 Q. Okay. When you talked to Mr. Russell, you
14 mentioned something about Alex and Preston, some
15 other children that you knew; is that right?

16 A. Yes, ma'am.

17 Q. And they live in your neighborhood?

18 A. No.

19 Q. They don't?

20 Okay. Where do they live?

21 A. In Lexington, too.

22 Q. All right. You talked about being around those
23 kids. Would you ever go over to their house?

24 A. Yes, ma'am.

25 Q. And during the time that you'd go over to their

1 house, was that after you had moved into Mr. Dyer's
2 home?

3 A. Yes, ma'am.

4 Q. And when you would go to their house, would it
5 be for just one day or would you stay for a few days
6 or what?

7 A. Sometimes multiple days, but sometimes one day.

8 Q. Okay. And was it just you or would Minor 1 go,
9 too?

10 A. Minor 1 goes sometimes, but not most of the
11 time.

12 Q. And you have some aunts and uncles, too?

13 A. (Nonverbal response.)

14 Q. And during this time, did you see any of your
15 aunts and uncles?

16 A. No, ma'am.

17 Q. You didn't see your aunts and uncles any of the
18 time that you lived in Mr. Dyer's house?

19 A. I saw them sometimes. Yes.

20 Q. I probably asked that in a confusing way.
21 But would they come over to your house?

22 A. Sometimes.

23 Q. Would you ever go over to their houses?

24 A. Sometimes.

25 Q. Okay. And Mr. Dyer doesn't live in the house

1 there anymore, right?

2 A. No, ma'am.

3 Q. And your grandmother owns the house now, right?

4 A. Yes, ma'am.

5 Q. Okay.

6 MS. MAULDIN: Your Honor, I beg the Court's
7 indulgence.

8 (Brief pause in the proceedings.)

9 MS. MAULDIN: No further questions.

10 THE COURT: Redirect?

11 REDIRECT EXAMINATION

12 BY MS. WELLMAN:

13 Q. **Minor 2** , I'm going back to the living room. Was
14 Mr. Mike's fingers going under **Minor 1** 's clothes or
15 on top of them?

16 A. Under.

17 Q. And I couldn't see because you were sitting
18 down and you've got that box around you.

19 But I heard you say that when you did the
20 circle on the little girl, you did it farther up.

21 A. On accident.

22 Q. Do what? I couldn't hear you.

23 A. I can draw it again.

24 Q. Well, I'd like you to show me where his finger
25 went. Not necessarily where it started, but where

1 it went.

2 A. Yes, ma'am.

3 MS. WELLMAN: If the witness can step down.

4 BY MS. WELLMAN:

5 Q. So we're going back to State's Exhibit 21.

6 There's your marker. Maybe draw a box to show where
7 his finger went.

8 A. (Witness complies.)

9 Q. What do you call that part of the body?

10 THE COURT: Did you hear that, Madam Court
11 Reporter?

12 THE COURT REPORTER: I didn't.

13 BY MS. WELLMAN:

14 Q. Say it again. What do you call the part of the
15 body that you drew a square around it?

16 A. A too-too.

17 MS. WELLMAN: Nothing further, Your Honor.

18 THE COURT: Recross?

19 MS. MAULDIN: Very briefly.

20 RE CROSS-EXAMINATION

21 BY MS. MAULDIN:

22 Q. **Minor 2** , you remember that you went and talked
23 to the solicitors last week about what you saw?

24 A. Yes, ma'am.

25 Q. And you remember you told them that what you

1 meant by sticking his finger in her was that he had
2 his hand under her dress; is that right?

3 A. Kind of, yes.

4 Q. Do you remember that you told them that you
5 weren't able to see his finger or hand inside her
6 private parts?

7 A. I was able to.

8 Q. So you're saying you were today. But when you
9 told them last week, you said you couldn't see that;
10 is that right?

11 A. They said for me to tell the truth. Yes,
12 ma'am.

13 Q. Today, you're saying you could see it; last
14 week, you said you couldn't see it. Is that right?

15 A. I -- I'm by the Bible.

16 THE COURT: It's okay to answer the question.
17 Whatever the answer is, it's okay. Just answer
18 the --

19 THE WITNESS: Yes, ma'am.

20 MS. MAULDIN: Thank you, Your Honor. No
21 further questions.

22 THE COURT: All right. The witness may step
23 down. Thank you.

24 (Sidebar conference.)

25 MS. WELLMAN: Your Honor, at this time, the

1 State would call Eric Russell.

2 THE COURT: Very well.

3 MS. WELLMAN: Your Honor, if I may approach,
4 just to collect State's Exhibits 21 and 22 and get
5 them down.

6 THE COURT: That will be fine.

7 ERIC RUSSELL

8 being first duly sworn, testified as follows:

9 THE WITNESS: I do.

10 THE CLERK: If you'll have a seat and take your
11 mask off. State your first and last name, spelling
12 your last name for the record.

13 THE WITNESS: Eric Russell, R-U-S-S-E-L-L.

14 DIRECT EXAMINATION

15 BY MS. WELLMAN:

16 Q. Mr. Russell, where do you work?

17 A. The Dickerson Children's Advocacy Center.

18 Q. Is that here in town?

19 A. Yes, ma'am.

20 Q. And how long have you worked there?

21 A. Since December of 2017.

22 Q. Drawing your attention to July 9th of 2020, did
23 you have an occasion to interview Minor 2

24 ?

25 A. I did.

1 Q. And did you do that as part of your job at the
2 Dickerson Center?

3 A. That's correct.

4 Q. And what person or agency referred **Minor 2** to
5 the Dickerson Center for an interview?

6 A. The South Congaree Police Department.

7 Q. At the Dickerson Center, are you able to record
8 the interviews?

9 A. Yes, ma'am.

10 Q. And how are those recordings stored?

11 A. They're stored on a hard drive through an
12 iRecord system.

13 Q. And can the computer record multiple interviews
14 at one time or just one?

15 A. The system can record multiples at one time.

16 Q. And who sets up the recording equipment before
17 an interview starts?

18 A. It stays set up. We just turn it on.

19 Q. On July 9th of 2020, to your knowledge, was the
20 recording equipment working properly?

21 A. It was.

22 Q. Once a video is recorded on the system, is
23 there any way to change, alter, add, or delete
24 portions of the recording?

25 A. No.

1 Q. Are you able to burn the recordings to CDs?

2 A. We are.

3 MS. WELLMAN: May I approach the witness?

4 THE COURT: Yes, ma'am.

5 BY MS. WELLMAN:

6 Q. I'm handing you what has been marked as State's
7 Exhibit 6. Do you recognize that?

8 A. I do.

9 Q. Please tell the jury what State's Exhibit 6 is.

10 A. A DVD of the recording with **Minor 2**. It's got
11 my initials on it.

12 Q. Have you had an opportunity to review this
13 recording?

14 A. I have.

15 Q. You mentioned that it has your initials on it.
16 Did you put your initials on here after you reviewed
17 that recording?

18 A. I did.

19 Q. Is State's Exhibit 6 a true and accurate
20 recording of the interview you conducted with **Minor 2**
21 on July 9th, 2020?

22 A. Yes.

23 Q. Does it fairly and accurately portray that
24 interview?

25 A. It does.

1 MS. WELLMAN: Your Honor, the State would move
2 to introduce State's Exhibit 6 into evidence.

3 MS. MAULDIN: Subject to the prior motion.

4 THE COURT: Subject to previous objections,
5 State's Exhibit 6 will be admitted into evidence.

6 (State's Exhibit No. 6 admitted in evidence.)

7 MS. WELLMAN: And the State would move to
8 publish to the jury.

9 THE COURT: Understood.

10 Ladies and gentlemen, you're now going to watch
11 a video. If something comes up during that
12 interview, wave at me. But, otherwise, that's what
13 will be playing for the next little while.

14 (State's Exhibit 6 published to the jury and
15 his Honor.)

16 MS. WELLMAN: No further questions of this
17 witness.

18 THE COURT: Recross?

19 MS. MAULDIN: No, Your Honor.

20 THE COURT: All right. The witness may step
21 down.

22 (Sidebar conference.)

23 THE COURT: All right.

24 Ladies and gentlemen, we've reached the point
25 in the day where it's 4:45. We're not going to call

1 any more witnesses today. I'd ask you to be back in
2 your jury rooms tomorrow morning about 8:50, and
3 we'll start around 9:00 a.m. tomorrow and continue
4 on with the State's case.

5 Obviously, you'll be dismissed from the
6 courtroom now and go back to the jury room and
7 collect your belongings. As you know, please don't
8 discuss this case with one another. Please don't
9 discuss the case with anyone else that you know or
10 do any type of independent research on anything
11 involving this case. I appreciate it very much.
12 I'll see you-all in the morning. Thank you.

13 (The jury exits the courtroom at 4:47 PM.)

14 THE COURT: We'll start tomorrow morning at
15 9:00 a.m.

16 At the bench here just now, Ms. Mauldin brought
17 up the potential confusion as far as the picture of
18 the adult that was shown to **Minor 1** . The State
19 certainly attempted to clarify that through
20 questioning and even stood up at counsel's table and
21 made the stipulation.

22 I certainly think it's no harm in reading
23 something at the appropriate time, because that's
24 not an aggravating factor we want to have hanging
25 out there. We want that to be very clear. So if

1 you'll just maybe put together some language, we'll
2 figure out a time to make sure that's not an issue.

3 All right. I'll see y'all in the morning.

4 MS. WELLMAN: Thank you, Judge.

5 (The following proceedings were held

6 May 26, 2021.)

7 THE COURT: All right. Good morning, ladies
8 and gentlemen. All right. First order of business:
9 I heard from one of the bailiffs, one of the jurors,
10 I'm told, 187, Samantha Straws, communicated to me
11 that she -- I don't know the age of her child, but
12 one of her children had some medical issue last
13 night. She is here and present, but I think has
14 some concerns. And I think the general idea was
15 just let Mr. Waters, who's the bailiff assigned to
16 the jury, hold onto her cell phone. If anything
17 comes up with her child in the morning or afternoon,
18 if they need to get to her, we can certainly take a
19 break. I was going to bring her up here and make
20 sure she's good to go as far as listening to the
21 evidence today with the condition, obviously, that
22 we'll be monitoring her cell phone for her. And
23 just go from there.

24 Any questions before I bring her up?

25 MS. WELLMAN: No, Your Honor.

1 THE COURT: All right. Let's bring up number
2 187, Ms. Straws, Samantha Straws.

3 (Juror Straws enters the courtroom.)

4 THE COURT: Good morning, Ms. Straws. I
5 understand that you may have a potential issue with
6 one of your children.

7 THE JUROR: Right.

8 THE COURT: She had a medical issue last night?

9 THE JUROR: She swelled up. She ate something
10 and it's swelling in the lip a little bit. It's not
11 the first time, so I'm not really, really concerned.
12 We're just watching her and assessing it to make
13 sure that swelling went down.

14 THE COURT: If Mr. Waters holds onto your phone
15 today, obviously, it's on, and he'll just answer any
16 call that comes through. Can you advise your family
17 that he's going to have the phone?

18 THE JUROR: Sure. Sure.

19 THE COURT: If you're comfortable, we're just
20 going to leave you on the jury. And if he gets a
21 call --

22 THE JUROR: Okay. Okay.

23 THE COURT: If he gets a call that says we need
24 to take a break --

25 THE JUROR: Home. Home. It will come from

1 home.

2 THE COURT: All right. So you're good to go
3 with us today and we'll monitor your phone.

4 THE JUROR: Yes. Yes.

5 THE COURT: All right. Thank you very much.

6 (Juror Straws exits the courtroom.)

7 THE COURT: You can bring them on up.

8 MS. WELLMAN: Your Honor, the only thing I
9 wanted to put on the record before they get here,
10 this morning, after Dr. Young testifies, he'll be
11 the first witness, we're going to move on to the
12 second forensic interview. That has been redacted.
13 Both of us have reviewed the actual copy and agreed
14 to what we have.

15 THE COURT: The first one is --

16 MS. WELLMAN: And all references regarding,
17 like, telling the truth, that has been redacted.

18 THE COURT: What are you going to be offering
19 Dr. Young as an expert in?

20 MS. MAYES: Child abuse and neglect, Your
21 Honor. And she'll expound on that further.

22 THE COURT: Okay.

23 MR. MAULDIN: What are you offering her as an
24 expert in?

25 MS. MAYES: Child abuse and neglect.

1 MR. MAULDIN: I noticed Dustin said she was an
2 expert in child sexual assault examinations.

3 MS. MAYES: It will include that.

4 MR. MAULDIN: But nothing about psychology and
5 any of that?

6 MS. MAYES: No.

7 MR. MAULDIN: Just the medical aspect of it?

8 MS. MAYES: Right.

9 MR. MAULDIN: We're not going into psychology
10 and consistent this and consistent behavior that?

11 THE COURT: If we need to have a quick bench
12 conference after foundational testimony, so be it.

13 MR. MAULDIN: I just want to make sure, because
14 child abuse and neglect is a wide, wide category.

15 MS. MAYES: She is a medical doctor.

16 MR. MAULDIN: Okay. From the medical aspect.
17 Okay. Just wanted to make sure.

18 THE COURT: Thank you.

19 (The jury enters the courtroom at 9:38 AM.)

20 THE COURT: Okay. Mr. Foreman, ladies and
21 gentlemen of the jury, welcome back. I hope you had
22 a nice evening. When we left off, the State was in
23 the process of presenting their case in chief. And
24 we'll pick up where we left off yesterday.

25 Madam Solicitor?

1 MS. MAYES: The State calls Dr. Alex Young.

2 ALEXANDRA YOUNG, M.D.

3 being first duly sworn, testified as follows:

4 THE WITNESS: I do.

5 THE CLERK: Have a seat up there. Take your
6 mask off, state your first and last name, and spell
7 your last name for the record.

8 THE WITNESS: First name is Ladonna; middle
9 name Alexandria; last name Young, Y-O-U-N-G.

10 DIRECT EXAMINATION

11 BY MS. MAYES:

12 Q. Good morning, Dr. Young.

13 A. Good morning.

14 Q. Can you tell us a little about yourself,
15 beginning with your educational training and
16 background?

17 A. Yes. I obtained a Bachelor of Science from
18 Howard University in 2007. I received my medical
19 degree from University of Tennessee Health Science
20 Center in 2011. I completed a three-year residency
21 training in general pediatrics from University of
22 Tennessee Health Science Center in 2014, and after
23 completing an additional three years in child abuse
24 and neglect in a fellowship from Eastern Virginia
25 Medical School in 2017.

1 And I have been employed with the University of
2 South Carolina School of Medicine, as well as Prisma
3 Health, previously Palmetto Health, since 2017,
4 August.

5 Q. And, Dr. Young, you are a medical doctor?

6 A. Yes.

7 Q. And you currently practice medicine here in the
8 Columbia area?

9 A. Yes.

10 Q. And what hospitals are you affiliated with?

11 A. I have privileges at Prisma Health Children's
12 Hospital, previously called Palmetto Health
13 Children's Hospital. I also see patients at the
14 Metropolitan Children's Advocacy Center in Columbia.
15 I see patients at the Aiken County CAC in Aiken,
16 South Carolina, as well as in Orangeburg and York
17 County here in South Carolina.

18 Q. Now, Dr. Young, what type of board
19 certification do you hold?

20 A. In general pediatrics.

21 Q. When we talk about pediatrics, we're talking
22 children within what age groups?

23 A. From birth all the way up to 21 years.

24 Q. Now, within the field of pediatrics, what, if
25 any, training do you have specific to child abuse

1 and neglect?

2 A. Well, every pediatrician that is
3 board-certified and licensed has to go through a
4 three-year residency training in general pediatrics.
5 However, if you want to sub-specialize like I did,
6 you have to do an additional three years.

7 So I did an additional three years of
8 fellowship training in nothing but child abuse and
9 neglect pediatrics.

10 Q. Dr. Young, tell us a little bit more about your
11 experience in child abuse and neglect.
12 Specifically, have you seen children for the purpose
13 of a child sexual assault examination?

14 A. Yes. I have examined over 1,000 children.
15 About 50 percent of those have been physically
16 abused, and about 50 percent have been either sexual
17 abuse or sexual assault.

18 Q. All right. And is it possible for you to
19 estimate how many child sexual assault examinations
20 you've done during the course of your career as a
21 pediatrician?

22 A. I have personally performed sexual assault
23 exams on approximately 200 children.

24 Q. Have you been previously qualified as an expert
25 in the field of child abuse and neglect, to include

1 child sexual assault examinations?

2 A. Yes.

3 Q. Is it possible for you to estimate how many
4 such times you've testified as an expert in that
5 field?

6 A. This will be my 30th time.

7 MS. MAYES: Your Honor, at this time, the State
8 would offer Dr. Alex Young as an expert in the field
9 of child abuse and neglect, to include child sexual
10 assault examinations.

11 THE COURT: Any objection?

12 MR. MAULDIN: Not if we limit that to the
13 medical aspects of child abuse and neglect.

14 THE COURT: Very well.

15 Ladies and gentlemen, normally, a person cannot
16 give opinion testimony. However -- normally, when a
17 person testifies, they must testify as to what they
18 either saw, heard, or sensed by smell or something
19 of that nature.

20 However, there is an exception when someone is
21 qualified because of education or experience,
22 they're permitted to give their opinion in certain
23 areas if the Court qualifies them that way.

24 This witness will be qualified in the area of
25 child abuse and neglect, with emphasis on child

1 sexual assault, to give opinion testimony in that
2 area. That does not mean you must accept the
3 opinion, but it is evidence for you to use in any
4 way you see fit.

5 Proceed.

6 BY MS. MAYES:

7 Q. Dr. Young, as an expert in this field and as a
8 pediatrician, can you tell us whether or not you're
9 familiar with literature and clinical research by
10 fellow peers regarding child sexual assault medical
11 findings?

12 A. Yes, I am.

13 Q. And, in addition to literature and research in
14 the field, do you also have your own clinical
15 experience in that regard concerning child sexual
16 assault examinations?

17 A. Yes, I do.

18 Q. I'm going to start by asking you whether or not
19 you had an opportunity to conduct a medical
20 examination on **Minor 1** .

21 A. Yes, I did.

22 Q. Where **Minor 1** is concerned, what was the date
23 of her sexual assault examination?

24 A. I examined **Minor 1** on July 9th, 2020.

25 Q. July 9th.

1 Now, during the course of preparing for a
2 medical exam, is it necessary or part of your
3 medical diagnosis and treatment to obtain a medical
4 history?

5 A. Yes.

6 Q. Is obtaining a medical history routine in the
7 course of conducting these examinations?

8 A. Yes.

9 Q. What was the last time frame regarding **Minor 1**
10 of sexual contact prior to that examination,
11 according to the medical history?

12 A. Approximately one month.

13 Q. Okay. One month prior?

14 A. Yes.

15 Q. I want to start by asking you about the exam
16 process, what you look at regarding the genitalia of
17 a child. And tell us a little bit more about that,
18 how you approach the examination.

19 A. So, first, we like to make sure that the child
20 is comfortable with the exam room and the process.
21 So we have someone explain to the child exactly
22 what's going to happen. And, in a child-friendly
23 manner, we do the physical exam by looking at their
24 skin; asking the child if there's anything that they
25 want to talk to us about, about any skin findings.

1 And then towards the middle of our exam is when we
2 do the genital exam.

3 The genital exam for our children is not like
4 the exam an adult female has when they go to an
5 adult physician. So there are no instruments used;
6 there's no speculum involved; but we do an exam of
7 the external genitalia.

8 Q. All right. When we talk about the genitalia,
9 female genitalia, including the genitalia of a
10 female child, what is the hymen?

11 A. So the hymen is a tissue that is circular
12 tissue that is surrounding the vaginal opening that
13 anatomically always has an opening in the center of
14 it.

15 Q. Okay. So I want to ask you a little bit more
16 about that. I'm going to show you what's State's
17 Exhibit 54 and ask you whether or not you're
18 familiar with what's depicted in this diagram.

19 A. Yes.

20 Q. And can you tell us whether or not this would
21 be helpful in illustrating your testimony?

22 A. Yes.

23 MS. MAYES: This would be State's 54 as
24 evidence, Your Honor, female genitalia.

25 MR. MAULDIN: No objection, Your Honor.

1 THE COURT: State's 54 admitted in evidence.

2 (State's Exhibit No. 54 admitted in evidence.)

3 BY MS. MAYES:

4 Q. Dr. Young, if you could --

5 MS. MAYES: Your Honor, if we could have

6 permission for the witness to step down?

7 THE COURT: Very well.

8 Doctor, when you're down there, just remember
9 you don't have a microphone next to you. So please
10 speak in a voice so that the court reporter can hear
11 you as well.

12 THE WITNESS: Okay.

13 So when we begin an exam on a young child, we
14 have them in what's called a supine position, which
15 is just a medical term for the child laying on her
16 back. And we have them in what's called a frog-leg
17 position, which they have their feet together and
18 their knees laid out to the side so that we can see
19 the genital exam.

20 And the first thing you notice in the outermost
21 plane of a child at this age would be what's called
22 the labia majora, which are these, which is just a
23 medical term for what lay people term the outer lips
24 of the genital exam.

25 And in the next plane, which is set back a

1 little bit behind the labia majora, is what would be
2 the minora, which would be these smaller or the
3 minor lips that are set back. And with that same
4 plane, you also have what would be the clitoral
5 hood, and then you would also have the posterior
6 facet.

7 And then in the third plane that's set back a
8 little bit more ever so slightly would be where you
9 would have the vaginal opening and the hymenal
10 tissue, which is the tissue that surrounds the
11 vaginal opening.

12 So there's potentially three planes you
13 encounter when you're looking at a child, with the
14 outermost being the labia majora. Then you come in
15 to the labia minora and the posterior facet and, the
16 innermost set plane, you have the vaginal opening
17 with the hymen.

18 Q. And, Dr. Young, with you being six feet away,
19 you may pull your mask down.

20 Dr. Young, what, if anything, can you tell us
21 about any common misconceptions about hymenal tissue
22 and the hymen itself?

23 A. So there is a common misunderstanding that the
24 hymen is actually a sheet or a tissue that covers
25 the vaginal opening. That is actually anatomically

1 incorrect.

2 Every child that has a normal anatomical setup
3 will have an opening in that hymen tissue. And it
4 is not a complete tissue that covers the opening of
5 the vaginal --

6 Q. It's not a shield over the vaginal opening?

7 A. Correct.

8 Q. So in this particular case, can you tell us,
9 regarding Minor 1 , what, if anything, did you
10 observe during the course of her medical exam?

11 A. So Minor 1 had a normal genital exam. There
12 was no evidence of injury to the labia minora or
13 majora. Her hymenal tissue was complete and intact
14 all the way around without any laceration or deficit
15 to the hymen tissue.

16 Q. And what, if anything, can you tell us in
17 regards to a normal exam in cases of child sexual
18 assault?

19 A. So it's actually common to have a normal exam
20 after a child has reported sexual abuse or sexual
21 assault.

22 Q. Okay. Tell us how, if at all, there may be
23 intrusion of the vaginal opening without injury to
24 the hymenal tissue or hymenal opening?

25 A. So, anatomically, the hole is there for a few

1 reasons. Once the child is of an appropriate age,
2 that hole is used for three functions primarily:
3 For menstrual tissue, or a period to exit the body
4 comes out of the vaginal opening with that hymen
5 being open; later on in life, that's where the baby
6 comes out from; or, in the case of intercourse,
7 that's where a penis enters. So that structure was
8 made to accommodate those three functions.

9 So it's possible for those functions to occur
10 without injury of the hymen. Sometimes injury can
11 occur, but it's not always 100 percent incident.
12 You can have those three functions happen without
13 having any deficit to the hymen.

14 Q. So when we talk about injuries, such as a fresh
15 laceration or a fresh tear, how quickly may an
16 injury such as that heal from the time of an assault
17 or an episode of sexual abuse?

18 A. So the tissue of the vaginal canal and the
19 hymen is very similar to the actual tissue that
20 lines the cheeks inside your mouth. So I don't know
21 if you've ever bitten the inside of your mouth, but
22 on that first day, the injury is present and
23 painful; but, as days progress, it heals. And
24 usually within a week or two, it's completely
25 healed, and you may not remember that you had that

1 injury to the same part of your mouth.

2 And the same thing is true for the vaginal
3 tissue or the hymen: You can have acute injury but,
4 over time, it can heal completely.

5 Q. All right. And when you have last sexual
6 contact a month prior or approximately a month prior
7 to an examination, can you tell us whether or not
8 you would expect to find lacerations or tears?

9 A. It is highly uncommon to find any injuries a
10 month after the encounter.

11 Q. Why is that?

12 A. Because that tissue can heal quickly and
13 completely.

14 Q. Okay. Now, when we look at the location of the
15 hymenal opening in regards to the vaginal opening,
16 what, if anything, can you tell us about whether
17 there can be intrusion of the vaginal opening
18 without injury to the hymenal tissue?

19 A. So you can actually have penetration of the
20 labia minora and the labia majora without having
21 penetration into the vaginal opening through the
22 hymen. So that would not result in a lot of injury
23 if you were just going through the labia majora and
24 the labia minora or the outer and inner lips and not
25 entering in through the vaginal opening or the

1 hymen.

2 Q. Can you have intrusion into the vaginal opening
3 without injury to the hymen?

4 A. Yes.

5 Q. Thank you, Dr. Young. You may return.

6 Now, I know you said before that you are
7 familiar with research, both clinical research and
8 the literature within this field.

9 A. Yes.

10 Q. Dr. Young, what, if any, studies have been done
11 on females who are known to have engaged in sexual
12 intercourse, but have normal findings to the hymen,
13 such as **Minor 1** 's findings?

14 A. So Dr. Nancy Kellogg published an article in
15 2014 in Pediatrics, which is the journal for the
16 Academy of Pediatrics, where they did a look at 36
17 girls who were pregnant, known to be pregnant, and
18 they did their genital exam to assess for injuries.
19 And only two out of those 36 girls who were
20 pregnant, so having a known incident of sexual
21 encounter, had any evidence of injury to the hymen.

22 So 34 of those girls had normal hymen exams and
23 only two of them had injury to their hymen at the
24 time of their confirmed pregnancy.

25 Q. And the subjects of that study, were they

1 adolescents or teenagers?

2 A. Yes. I can give you the average age. The
3 range was age 12 to 17.

4 Q. So 34 of those subjects had normal exams?

5 A. Yes.

6 Q. Including normal hymenal tissue?

7 A. 34 had no injuries that were consistent with
8 penetrating injury.

9 Q. And, yet, those subjects were all known to be
10 pregnant at the time of their exam?

11 A. Yes.

12 Q. Considering those factors, Dr. Young, in
13 relation to **Minor 1** , can a normal exam still
14 be consistent with a medical history of sexual
15 assault?

16 A. Yes.

17 Q. Can that include digital penetration or
18 penetration of the genital opening with a finger?

19 A. Yes.

20 Q. Can that include penetration of the genital
21 opening with a penis?

22 A. Yes.

23 Q. And did you include that opinion in your
24 medical summary regarding **Minor 1** ?

25 A. Yes.

1 Q. And when we talk about the genital mucosa or
2 the lining, as you've described, considering that
3 area as you testified to may heal quickly, would you
4 necessarily expect any findings after approximately
5 one month of last sexual abuse?

6 A. It would be uncommon to have any physical exam
7 findings at that time.

8 MS. MAYES: Beg the Court's indulgence.

9 (Sidebar conference.)

10 MS. MAYES: Your Honor, if I may approach?

11 THE COURT: Yes, ma'am.

12 BY MS. MAYES:

13 Q. Dr. Young, if you could, just take a moment to
14 review this photograph. I'm going to show you
15 what's State's 55. Just review it only without any
16 further description.

17 MS. MAYES: That would be State's 55 for
18 identification only at this time.

19 BY MS. MAYES:

20 Q. Dr. Young, having reviewed that photograph, can
21 you tell us whether or not you would expect medical
22 findings or injury to the hymenal tissue with that
23 degree of intrusion?

24 A. Can you repeat the question, please?

25 Q. Can you tell us whether or not you would expect

1 injury to the hymenal tissue with that degree of
2 intrusion as depicted in State's 55?

3 A. I wouldn't expect to see any genital injury.

4 Q. As a result of what's depicted in State's 55?

5 A. I don't necessarily think that the
6 photograph -- that photograph in particular would
7 affect my assessment.

8 Q. And that assessment being that **Minor 1** 's exam
9 was normal?

10 A. Yes.

11 Q. And that normal exam does not rule out sexual
12 assault having occurred approximately a month prior?

13 A. Correct.

14 MS. MAYES: Thank you, Dr. Young.

15 THE COURT: Cross-examination?

16 MR. MAULDIN: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. MAULDIN:

19 Q. So you're saying that in a normal exam, you
20 cannot rule out sexual abuse, correct?

21 A. Correct.

22 Q. Also, with a normal exam, it could be that
23 sexual penetration never did occur as well, correct?

24 A. Correct.

25 Q. And we've talked about -- the solicitor talked

1 with you about the various parts of the female that
2 you examined, to include the vaginal opening and the
3 hymen around it. And you said it was uncommon for
4 the complete covering of the vaginal opening by the
5 hymen, correct?

6 A. Correct.

7 Q. It does have them, but that's very rare?

8 A. Extremely rare.

9 Q. Most of those hymens are crescent-shaped,
10 basically like a moon shape that covers about the
11 lower part of it; is that correct?

12 A. A crescent shape is a normal -- is one of the
13 anatomical variants, but you can also have an
14 annular shape.

15 Q. Right. That's the next most common, is the
16 annular, where it looks like a doughnut shape, where
17 it's circular all the way around and there's a hole
18 in the middle; is that correct?

19 A. Correct.

20 Q. And that hole is called the hymenal orifice; is
21 that correct?

22 A. Or the vaginal opening.

23 Q. Or the vaginal opening. And when the hymen is
24 present like that -- when the hymen is still present
25 like that, that opening is -- isn't the rule of

1 thumb about a millimeter per year old?

2 A. No, sir.

3 Q. Well, how wide was the vaginal opening in
4 Minor 1 's case?

5 A. I did not measure her vaginal opening.

6 Q. Now, when you're looking at all these various
7 aspects, you're looking for things like tears. And
8 that could be done by fingernails or lacerations or
9 that kind of sort. Is that what you're looking for?

10 A. We're looking for bruising, lacerations,
11 bleeding, ulcerations, absence of hymen altogether,
12 multiple different findings that we're assessing
13 for.

14 Q. And there could be, actually, tears to the
15 hymen that are healing scars; is that right?

16 A. There could be healing lacerations, yes.

17 Q. Is the hymenal tissue any different than the
18 vaginal tissue that you talked about like a sheet?

19 A. They're made up of the same cells.

20 Q. And if you find any of these things, you can be
21 more certain that there is abuse that occurred; is
22 that correct?

23 A. Can you please clarify --

24 Q. If you find any of these injuries that you've
25 just discussed, you can be a little more certain

1 that abuse had occurred; is that correct?

2 A. They're supporting findings, but they don't
3 make up the totality of our assessment.

4 Q. Because that could depend on the type of injury
5 and the placement of the injury?

6 A. Most of those things that go into our
7 assessment, so I don't want to say that --

8 Q. Okay. But injuries could also be indicative of
9 an accident, like a straddle fall, is that correct,
10 like on monkey bars?

11 A. Straddle falls usually result in injury to the
12 labia majora or possibly the labia minora, but to
13 have injury to the hymen, you have to have direct
14 and focal penetrating injury.

15 Q. Well, there could be evidence of
16 self-mutilation; say, there was scratching done
17 because the area was itchy?

18 A. You can see excoriations on the labia and not
19 to the hymen.

20 Q. And possibly even self-masturbation could be
21 indicative of some kind of finding; is that correct?

22 A. They've actually done studies that look at
23 self-masturbation. There haven't been any incidents
24 of findings of hymenal tissue injury because of
25 masturbation.

1 Q. And you refer to this article by -- is it
2 Dr. Nancy Kellogg; is that right?

3 A. Yes.

4 Q. Okay. I was provided a copy by the
5 prosecutor's office. Looks like it was published in
6 2004; is that correct?

7 A. Yes.

8 Q. Not 2014.

9 Okay. And the sample size in this was 36
10 girls?

11 A. Correct.

12 Q. Okay. Was that from across the country or was
13 that in a certain area of the country? Do you know?

14 A. The study was conducted at the Texas Health
15 Science Center in San Antonio, Texas.

16 Q. So it was looking at Texas.

17 And you say the average age was 15 years or a
18 little over 15 years old?

19 A. The average was 15, but the range was from 12
20 to 17 years.

21 Q. And when you talked about 80 -- 80 what
22 percent, was it that was normal that you said?

23 A. No. So the percentage of children that have
24 completely normal exams is 64 percent. The
25 percentage of children that had definitive injury

1 from penetration was six percent, or two out of the
2 total of 32.

3 Q. Right. But there is 22 percent where it was
4 inconclusive; is that correct?

5 A. Yes.

6 Q. And eight percent where there was suggested
7 evidence of levels of penetration; is that correct?

8 A. Yes.

9 Q. Okay. So that's 36 percent where there's some
10 evidence, but it's not -- only six percent of it is
11 definitive evidence?

12 A. Yes.

13 Q. And they talked about the average time of the
14 last report of sexual contact versus the date of the
15 exam, don't they?

16 A. Yes.

17 Q. And when they talk about that average time, the
18 normal group, their last sexual report was an
19 average of 3.1 months before the exam?

20 A. Correct.

21 Q. And the suggestive group, their average time
22 was 2.9 months before the exam?

23 A. Incorrect.

24 Q. Is that not correct?

25 A. The suggestive group was 1.75 months. I

1 believe the number --

2 Q. I meant the inconclusive group. I'm sorry.

3 2.9 for inconclusive group of -- and that's
4 close to three months. 1.75 months for the
5 suggestive group, is that correct; the sexual
6 contact or the reported sexual contact was close to
7 two months or one and three-quarter months? And the
8 average time for the definitive group is reporting
9 that sexual contact happened one month before the
10 exam?

11 A. Yes.

12 Q. So one month before the exam?

13 A. Yes.

14 Q. And Dr. Nancy Kellogg wrote this article; is
15 that right?

16 A. Yes. Her and her associates.

17 Q. And do you know that she testified in the trial
18 of the San Antonio forum in the 90s, the two trials?

19 A. I'm not aware of that.

20 Q. So you're not aware that she had to recant her
21 testimony ten years later and those people are out
22 of prison?

23 A. No, I'm not aware of that.

24 Q. So you didn't study the person whose article
25 you're relying on?

1 A. No.

2 Q. You didn't Google her?

3 A. No.

4 Q. Oh. So your exam here with **Minor 1** is normal
5 and, based on the history, it happened one month
6 before the exam, correct, the last sexual contact,
7 right?

8 A. Yes.

9 Q. And, based on the history, they reported no
10 prior injuries; is that correct?

11 A. Can you repeat that question, please?

12 Q. They reported no prior injury to the vaginal
13 area?

14 A. For **Minor 1** ?

15 Q. Yes. Other than the allegation here, they
16 reported no prior injury, as noted on your report?

17 A. I'm not familiar with them reporting any
18 history of any injuries for **Minor 1** .

19 Q. So they didn't report to you any kind of prior
20 molestation by anybody else; is that correct?

21 A. Correct.

22 Q. Because that would have been important for you
23 to know when you're making that exam?

24 A. If that information is available, yes, that
25 would be important for me to know.

1 Q. So, to a reasonable degree of medical
2 certainty, you can't say that penetration didn't
3 happen; is that correct?

4 A. Correct.

5 Q. But, to a reasonable degree of medical
6 certainty, you can't say it did happen either, based
7 on your exam?

8 A. Based off the medical history, which was a part
9 of what I take into my assessment, would be history
10 provided and the exams to come up with my
11 assessment.

12 Q. Well, I'm talking about your exam. We're
13 talking about medical here. Based on your medical
14 exam, you can't say there was penetration?

15 A. So part of my medical training is to not make
16 an assessment without a history. So to ask me to
17 make an assessment with one and not the other would
18 be inconsistent with what medical physicians are
19 trained to do.

20 Q. Well, that's fine. But taking the exam in a
21 vacuum, if there's a normal exam, you can't say
22 there was penetration either, can you?

23 A. I cannot medically take an exam in a vacuum.

24 Q. So you're just saying you can't say what
25 happened one way or the other?

1 A. I cannot do an assessment with just with an
2 exam. The medical history is just as valuable as
3 the exam.

4 MS. MAULDIN: No further questions.

5 THE COURT: Redirect?

6 MS. MAYES: Yes, sir, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. MAYES:

9 Q. Okay. First of all, about this study, the
10 study regarding the normal exams in 34 pregnant
11 teenagers, is that study still relied upon by
12 pediatricians in your field?

13 A. Yes.

14 Q. On a daily basis?

15 A. It's a part of our training.

16 Q. And then when we talk about the results of the
17 exam Mr. Mauldin was asking you about, you can have
18 intrusion of the genital opening without injury; is
19 that correct?

20 A. Yes.

21 Q. And can you tell us whether or not you can also
22 have intrusion that results in an injury, but that
23 injury has healed?

24 A. Yes.

25 Q. Are both of those possibilities regarding

1 Minor 1 's exam?

2 A. They are possibilities, yes.

3 Q. Is there any reason that a normal exam rules
4 out a penetrating trauma to Minor 1 in the
5 past?

6 A. You have to take the history into account, so
7 an exam in and of itself cannot be used to make an
8 assessment.

9 Q. And when we talk about that, especially in
10 regards to the genital opening as depicted in
11 State's 54, does penetration of the vagina always
12 result in trauma?

13 A. No.

14 Q. Can there be an act of intrusion or penetration
15 into the genital opening that doesn't result in any
16 trauma at all?

17 A. Yes.

18 Q. And when you look at this and you're taking
19 into account the labia minora or the inner lips of
20 the vagina, do you consider that the genital
21 opening, Dr. Young?

22 A. It's a part of the genitalia. Yes.

23 Q. And that's part of your medical training and
24 understanding?

25 A. Yes.

1 MS. MAYES: Nothing further.

2 THE COURT: Recross?

3 MR. MAULDIN: I don't have any further
4 questions for this witness.

5 THE COURT: All right. The witness may step
6 down. Thank you.

7 MS. MAYES: We'd ask that Dr. Young be excused.

8 THE COURT: Any objection from the defense?

9 MR. MAULDIN: No, Your Honor.

10 THE COURT: Madam Solicitor, real quick.

11 (Sidebar conference.)

12 THE COURT: All right. Ladies and gentlemen,
13 we're going to set up some equipment here. We'll
14 give you a break while we're doing that; probably
15 get you back here in five to ten minutes.

16 Head back to your jury room. Please don't
17 discuss the case while you're out, and we'll see you
18 back here in a few minutes. Thank you.

19 (The jury exits the courtroom at 10:19 AM.)

20 THE COURT: All right. Let's take a short
21 break. We'll set up the video and we'll get started
22 when you're ready.

23 (Short recess.)

24 THE COURT: Are you ready?

25 MS. WELLMAN: Yes, sir. I'm sorry. I didn't

1 mean to hold anyone up.

2 THE COURT: Ms. Simon is next?

3 MS. MAYES: Yes, Your Honor.

4 THE COURT: And she knows as far as the
5 foundational limitations?

6 MS. WELLMAN: Yes.

7 THE COURT: Let's bring them up.

8 (The jury enters the courtroom at 10:41 AM.)

9 THE COURT: All right. Ladies and gentlemen of
10 the jury, Mr. Foreman, welcome back. I hope you had
11 a chance to refresh yourselves. We're going to pick
12 up with the State's case in chief.

13 Next witness, please.

14 MS. WELLMAN: Your Honor, at this time, the
15 State would call Ms. Aaliyah Simon.

16 AALIYAH SIMON

17 being first duly sworn, testified as follows:

18 THE WITNESS: Yes, ma'am.

19 THE CLERK: Once you have a seat, you can take
20 your mask off. State your first and last name, and
21 spell your last name.

22 THE WITNESS: My name is Aaliyah Simon,
23 S-I-M-O-N.

24

25

Q. On July 9th of 2020, when you were conducting

1 the interview of **Minor 1** , was that interview
2 recorded?

3 A. Yes, it was.

4 Q. To your knowledge, was the recording equipment
5 working properly that day?

6 A. Yes.

7 Q. At the Dickerson Center, is there any way to
8 change, alter, delete, or edit parts of those
9 recordings?

10 A. No.

11 Q. Who has access to the recordings of the
12 interviews?

13 A. Just the forensic interviewers.

14 MS. WELLMAN: May I approach the witness?

15 THE COURT: Yes, ma'am.

16 BY MS. WELLMAN:

17 Q. Ms. Simon, I am showing you what is marked as
18 State's Exhibit 20. Do you recognize that?

19 A. Yes.

20 Q. Can you please tell the jury what State's
21 Exhibit 20 is?

22 A. The forensic interview for **Minor 1** .

23 Q. Is this the -- a recording of the interview
24 that you conducted with **Minor 1** on July 9th of
25 2020?

1 A. Yes.

2 Q. Okay. Have you had an opportunity to review
3 this recording?

4 A. Yes.

5 Q. And is it a fair and accurate recording of the
6 interview you conducted with Ms. David?

7 A. It is.

8 Q. Are these your initials?

9 A. Yes.

10 Q. And did you put these initials on after you
11 reviewed it?

12 A. Yes.

13 Q. Okay.

14 MS. WELLMAN: Your Honor, the State would move
15 to introduce State's Exhibit 20 into evidence, and
16 would further move to publish to the jury.

17 MS. MAULDIN: Subject to prior objections, Your
18 Honor.

19 THE COURT: So noted.

20 State's Exhibit 20 is admitted into evidence,
21 subject to objection.

22 (State's Exhibit No. 20 admitted in evidence.)

23 THE COURT: Ladies and gentlemen, once again,
24 we're playing a video for you. Obviously, focus
25 your attention on the video. Thank you.

1 (State's Exhibit 20 published to his Honor and
2 the jury.)

3 MS. WELLMAN: No further questions, Your Honor.

4 THE COURT: All right. Any cross?

5 MS. MAULDIN: No, Your Honor.

6 THE COURT: All right. The witness may step
7 down. Thank you.

8 MS. WELLMAN: Your Honor, may Ms. Simon be
9 excused?

10 THE COURT: Without objection by the defense?

11 MS. MAULDIN: No objection, Your Honor.

12 MS. WELLMAN: And may we approach?

13 THE COURT: Sure.

14 (Sidebar conference.)

15 THE COURT: All right. We're going to take a
16 short break while we -- well, we're going to take a
17 short break. I'll send you to your jury room for
18 about ten minutes. Please don't discuss the case
19 while you're out, and I'll see you back here very
20 shortly.

21 (The jury exits the courtroom at 11:33 AM.)

22 THE COURT: All right. Let's try to keep it to
23 ten.

24 (The jury enters the courtroom at 11:46 AM.)

25 THE COURT: All right. Mr. Foreman, ladies and

1 gentlemen of the jury, welcome back. We'll just
2 pick up where we left off.

3 Next witness.

4 MS. WELLMAN: Your Honor, at this time, the
5 State would call Josh Shumpert.

6 JOSH SHUMPERT

7 being first duly sworn, testified as follows:

8 THE WITNESS: I do.

9 THE CLERK: Have a seat and take your mask off.
10 State your first and last name, and spell your last
11 name for the record.

12 THE WITNESS: Joshua Shumpert. Shumpert,
13 S-H-U-M-P-E-R-T.

14 DIRECT EXAMINATION

15 BY MS. WELLMAN:

16 Q. Where are you employed?

17 A. South Congaree Police Department.

18 Q. And what is your role at South Congaree Police
19 Department?

20 A. I'm the police chief there.

21 Q. Chief Shumpert, how long have you been the
22 chief of Congaree Police Department?

23 A. A little over eight years.

24 Q. And how long have you been serving South
25 Congaree in Lexington County as a law enforcement

1 officer?

2 A. 17 years.

3 Q. Were you working and duly sworn on June 17th of
4 2020?

5 A. Yes, I was.

6 Q. Did you receive a report from Tammy Todd
7 regarding a sexual assault of Minor 1 ?

8 A. Yes, I did.

9 Q. And, based on that report, how old was Minor 1 ?

10 A. She was nine.

11 Q. And where were you when you took that report?

12 A. In my office at the police department.

13 Q. Was anyone with Ms. Todd?

14 A. Her friend was with her, Michelle Mabrey.

15 Q. Did you receive some information about where
16 this alleged assault occurred or was that -- was it
17 alleged to have occurred within South Congaree?

18 A. It was in our jurisdiction on Ramblin Road.

19 Q. Is that in Lexington County?

20 A. Yes.

21 MS. MAULDIN: Objection; time and place.

22 THE COURT: What was question -- what was the
23 location of the --

24 MS. WELLMAN: Is Ramblin Road in Lexington
25 County?

1 THE COURT: Overruled.

2 BY MS. WELLMAN:

3 Q. Chief Shumpert, based on the report and
4 information you received, what, if anything, did you
5 do?

6 A. After I received the report, I then did my
7 incident report and called in Investigator Alonzo
8 from our agency to follow up with the investigation.

9 Q. Did you reach out to any other agencies or
10 centers?

11 A. I did. I reached out to the Dickerson Center
12 in Lexington County to schedule a forensic
13 interview.

14 Q. And is that the Dickerson Child Advocacy
15 Center?

16 A. It is.

17 Q. When you reached out to them, were they
18 operating under normal business hours?

19 A. They were not. They were limited staff due to
20 COVID, and they tried to get me in as quick as
21 possible.

22 Q. So you reached out to Dickerson for those
23 interviews. Who did you set up interviews for?

24 A. Minor 1 and Minor 2 .

25 Q. And what was the first available appointment

1 you were able to get for them?

2 A. July the 9th, 2020.

3 Q. You said you reached out to Investigator
4 Alonzo.

5 A. I did.

6 Q. Did you direct him to start the investigation
7 or do anything?

8 A. I did. I directed him to try to obtain phone
9 records.

10 Q. For whom?

11 A. On Mr. Dyer.

12 Q. You mentioned that you set up interviews at
13 Dickerson for **Minor 1** and **Minor 2** . Were you present
14 for those interviews?

15 A. I was.

16 Q. Did those interviews, in fact, occur on July
17 9th, 2020?

18 A. They did.

19 Q. Did **Minor 1** also receive a medical exam that
20 day?

21 A. I believe she stayed afterwards for that.

22 Q. But it was July 9th?

23 A. Yes, it was.

24 Q. Chief Shumpert, when you received this initial
25 report, did you gain any information about whether

1 Mr. Dyer was still in that Ramblin Road home?

2 A. He was not. That's one of the concerns I had.

3 The grandmother advised me he had already left.

4 Q. So going back to July 9th, you said you went to
5 the Dickerson Center. Did you personally observe
6 the interviews with **Minor 1** and **Minor 2** ?

7 A. I did.

8 Q. Following the interviews on July 9th, 2020, are
9 you aware of whether your agency obtained arrest
10 warrants for Mr. Dyer?

11 A. We did.

12 Q. And were you present on July 10th, 2020, when
13 Mr. Dyer was arrested?

14 A. I was.

15 Q. And do you see Mr. Dyer in the courtroom today?

16 A. I do.

17 Q. Can you please identify him?

18 A. Gentleman with the blue mask, blue shirt, and
19 blue tie.

20 Q. At the time of his arrest, do you have any
21 personal knowledge as to whether any property was
22 taken with Mr. Dyer?

23 A. A phone.

24 Q. Did you have an opportunity to personally
25 observe that phone on July 10th of 2020?

1 A. I did see it then.

2 MS. WELLMAN: May I approach the witness?

3 THE COURT: Yes, ma'am.

4 BY MS. WELLMAN:

5 Q. Chief Shumpert, I'm showing you what's marked
6 as State's Exhibit 31. Do you recognize this?

7 A. I do.

8 Q. Can you please tell the jury what State's
9 Exhibit 31 is?

10 A. It's myself in a picture beside the phone that
11 Mr. Dyer had.

12 Q. Is this a still shot from a --

13 A. From a body cam.

14 Q. And on what date was this video?

15 A. That was July 10th.

16 Q. And is this from the time of the defendant's
17 arrest?

18 A. Yes.

19 Q. Okay. That's a photo of you. What else do you
20 see in this photograph?

21 A. Officer holding a phone.

22 Q. Is this the phone that was seized from the
23 defendant on July 10th of 2020?

24 A. Yes, it is.

25 MS. WELLMAN: The State would move --

1 BY MS. WELLMAN:

2 Q. Or is this a fair and accurate representation
3 of you and the phone as it appeared on July 10th of
4 2020?

5 A. It is.

6 MS. WELLMAN: Your Honor, the State would move
7 to introduce State's Exhibit 31 into evidence.

8 MS. MAULDIN: No objection.

9 THE COURT: State's Exhibit 31 admitted in
10 evidence.

11 (State's Exhibit No. 31 admitted in evidence.)

12 MS. WELLMAN: Would move to publish to the
13 jury.

14 THE COURT: Very well.

15 BY MS. WELLMAN:

16 Q. So again, Chief Shumpert, we're looking right
17 here. Is that the phone seized from the defendant?

18 A. It is.

19 MS. WELLMAN: May I approach?

20 THE COURT: You may.

21 BY MS. WELLMAN:

22 Q. Chief Shumpert, this is State's Exhibit 19. Do
23 you recognize this?

24 A. I do.

25 Q. Can you please tell the jury what State's

1 Exhibit 19 is?

2 A. That's the phone that was seized and placed
3 into evidence from Mr. Dyer.

4 Q. Is it in the same or substantially the same
5 condition as it was when you saw it on July 10th of
6 2020?

7 A. It is.

8 Q. Chief Shumpert, as part of your role at South
9 Congaree Police Department, do you also serve as the
10 evidence custodian for your agency?

11 A. I do.

12 Q. What is the process by which your agency uses
13 to store and securely maintain evidence?

14 A. The property is brought back to the police
15 department; it is logged into our system along with
16 the case number of the incident. The evidence or
17 property, at that time, is placed in a bag,
18 heat-sealed, and locked into evidence and secured.

19 Q. When it's locked into evidence, who has access?

20 A. Only myself and Major Jones.

21 Q. Does Major Jones also serve as an evidence
22 custodian?

23 A. He does.

24 Q. Chief Shumpert, you just identified State's
25 Exhibit 19 as the cell phone that was seized from

1 the defendant on July 10th. Has that phone been
2 properly maintained as evidence at the South
3 Congaree Police Department since July 10th of 2020?

4 A. It has.

5 Q. Has that item of evidence been maintained in
6 accordance with your protocols?

7 A. It has.

8 Q. And has it been properly packaged?

9 A. It has.

10 Q. You mentioned heat-sealed.

11 A. Yes, ma'am.

12 Q. Can you explain that to the jury?

13 A. They're open plastic bags. And we have,
14 basically, a hot wire that goes in. You place it
15 over the plastic and it burns the plastic where it
16 seals it.

17 Q. Does the South Congaree Police Department
18 attach any stickers or other identifying -- or any
19 other method to identify an item of evidence?

20 A. There are times that we put evidence tape on
21 that. Sometimes there's maybe a case number or
22 something attached to the front of that, identifying
23 numbers.

24 Q. I'm coming back with State's Exhibit 19. Is
25 there any kind of identifying information on the bag

1 that -- containing this phone?

2 A. It has a case number, a unique number, the
3 evidence and what type of evidence is in this bag.

4 Q. And what is the case number?

5 A. Case number on this is 2020-06 -- correction:
6 00185.

7 Q. And is that the case number assigned to -- or
8 that was assigned to the report you took for this
9 investigation?

10 A. It is.

11 Q. Chief Shumpert, are you aware of whether -- or
12 you mentioned Investigator Alonzo was assigned to
13 this case.

14 Are you aware whether Investigator Alonzo
15 obtained an additional search warrant for this
16 phone?

17 A. I believe he did for records.

18 Q. Were there any other --

19 A. There was also a search warrant that was done
20 for the data on the phone.

21 Q. Are you personally aware of whether that search
22 warrant was executed?

23 A. It was.

24 Q. Do you know who executed that search warrant or
25 who conducted that search?

1 A. Mike Phipps.

2 Q. Do you have any personal knowledge as to
3 whether the phone was returned to the evidence room
4 at South Congaree Police Department?

5 A. It was.

6 Q. From the time of the defendant's arrest on July
7 10th until this trial, with the exception of the
8 time it was submitted to Deputy Phipps for the data
9 search, was State's Exhibit 19, at all times, in the
10 exclusive care, custody, and control of the South
11 Congaree Police Department?

12 A. It was.

13 Q. Chief Shumpert, on March 3rd of 2021, as part
14 of this investigation, did you have an opportunity
15 to observe the [REDACTED] Ramblin Road evidence -- or,
16 excuse me, residence?

17 A. I did.

18 Q. And did you have an opportunity to observe the
19 interior of that residence?

20 A. I did.

21 Q. And is that the residence of Minor 1 ?

22 A. It was.

23 Q. Chief Shumpert, you mentioned that you knew of
24 a data search on this phone. Do you have any
25 personal knowledge as to some of the results of that

1 extraction?

2 A. I do.

3 MS. WELLMAN: May I approach the witness?

4 MS. MAULDIN: Your Honor, may we approach?

5 (Sidebar conference.)

6 MS. WELLMAN: May I approach the witness?

7 THE COURT: Yes, ma'am.

8 BY MS. WELLMAN:

9 Q. Chief Shumpert, I'm handing you what is marked
10 as State's Exhibit 7, 8, 9, 10, 11, 12, 13, and 14.
11 If you can, just look at those and tell me if you
12 recognize them.

13 A. I do.

14 Q. Are those exhibits photographs what you know to
15 be of the victim?

16 A. Yes.

17 MS. MAULDIN: Objection -- withdrawn, Your
18 Honor.

19 THE COURT: All right. Thank you.

20 BY MS. WELLMAN:

21 Q. I can rephrase. Based on those photos, are you
22 able to make an identification?

23 A. Yes.

24 Q. And have you had an opportunity to meet

25 Minor 1 ?

1 A. I have.

2 Q. Based on what you observed in those
3 photographs, did you -- or, excuse me. Did you take
4 any photos at the residence on March 3rd?

5 A. I did.

6 Q. What did you photograph?

7 A. A couch.

8 MS. WELLMAN: May I approach?

9 THE COURT: Yes, ma'am.

10 Counsel, feel free to maneuver around the
11 courtroom as you see fit.

12 BY MS. WELLMAN:

13 Q. Chief Shumpert, this is State's Exhibit 5 and
14 State's Exhibit 18. They're already in evidence.
15 Do you recognize these photographs?

16 A. I do.

17 Q. Are these the photographs that you took --

18 A. They are.

19 Q. -- on March 3rd of this year?

20 A. Yes, ma'am.

21 Q. Was that the couch that you observed in the
22 living room of [REDACTED] Ramblin Road?

23 A. It is.

24 Q. And is that some wall damage that you observed?

25 A. It is.

1 MS. WELLMAN: I beg the Court's indulgence for
2 one moment.

3 (Brief pause in the proceedings.)

4 BY MS. WELLMAN:

5 Q. I want to talk about this couch for one more
6 minute.

7 MS. WELLMAN: If I can approach the witness?

8 THE COURT: Yes, ma'am.

9 BY MS. WELLMAN:

10 Q. Chief Shumpert, these are State's Exhibit 7 and
11 8, which you previously identified. Is this couch
12 that you photographed at [REDACTED] Ramblin Road, is that
13 visible in State's Exhibits 7 and 8?

14 A. It is.

15 Q. Chief Shumpert, are you aware of schools within
16 South Congaree closing due to the COVID-19 pandemic?

17 A. Yes, ma'am.

18 Q. And do you know approximately when those
19 closures occurred?

20 A. I don't know exact dates. But I'd say it was
21 around June or so -- February --

22 Q. So --

23 A. This time of year.

24 Q. So spring of 2020?

25 A. Uh-huh.

1 MS. WELLMAN: No further questions, Your Honor.

2 THE COURT: All right.

3 Cross-examination.

4 MS. MAULDIN: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. MAULDIN:

7 Q. Chief Shumpert, this was recorded on June 17th;
8 is that right?

9 A. Yes, ma'am.

10 Q. And it didn't come in like a normal 911 call --
11 excuse me, I'm sorry. It didn't come in like a
12 normal 911 call or anything like that. This was
13 Ms. Todd coming to your office?

14 A. Yes, ma'am.

15 Q. So you met with her, talked to her that day.
16 And, ordinarily, when you get a report that a crime
17 has occurred, you would go out and talk to the
18 witnesses, if you're assigned to investigate that
19 case, right?

20 A. Yes, ma'am.

21 Q. And you didn't interview **Minor 1** or **Minor 2**
22 yourself, did you?

23 A. No. That's not common practice to do that with
24 kids.

25 Q. Right. With children, you send them to the

1 Dickerson Center; is that right?

2 A. Yes, ma'am.

3 Q. And they didn't end up going there until July
4 9th?

5 A. Yes, ma'am.

6 Q. And when they went there, you and Officer
7 Alonzo were there at the same time?

8 A. We were.

9 Q. And you were there the whole time they were
10 there at the Dickerson Center?

11 A. Yes, ma'am.

12 Q. And the couch that you took a picture of -- if
13 you'll bear with me.

14 On this diagram, could you show where the couch
15 was?

16 A. Right here, living room area.

17 Q. Would you just draw a circle around, like a
18 general area.

19 A. (Witness complies.)

20 MS. MAULDIN: No further questions, Your Honor.

21 THE COURT: Any redirect?

22 MS. WELLMAN: No, Your Honor.

23 THE COURT: Thank you. The witness may step
24 down.

25 THE WITNESS: Thank you, Your Honor.

1 MS. MAYES: State calls Justin Britt.

2 JUSTIN BRITT

3 being first duly sworn, testified as follows:

4 THE WITNESS: I do.

5 THE CLERK: Have a seat and take your mask off.

6 Please state your name and spell your last name for
7 the record.

8 THE WITNESS: All right. Justin Britt. Last
9 name is B-R-I-T-T.

10 DIRECT EXAMINATION

11 BY MS. MAYES:

12 Q. Good midmorning. Tell us a little bit about
13 yourself. Where are you currently employed?

14 A. I currently work for the Richland County
15 Sheriff's Department.

16 Q. What is your job title there?

17 A. I'm a lieutenant in investigations.

18 Q. All right. Lieutenant Britt, within Richland
19 County, do you have the authority to make an arrest?

20 A. Yes, ma'am.

21 Q. I want to take you to July 10th of last year,
22 July 10th of 2020, and ask you whether or not you
23 were aware, on that date, of warrants for the arrest
24 of the defendant in this case, Michael Dyer?

25 A. Yes, ma'am.

1 Q. And can you tell us whether or not those
2 warrants were obtained by South Congaree Police
3 Department in Lexington County?

4 A. Yes, ma'am.

5 Q. All right. During the course of the process of
6 making the arrest, was it learned that the defendant
7 was physically in Richland County?

8 A. Yes, ma'am.

9 Q. What location in Richland County was Michael
10 Dyer on July 10th, 2020?

11 A. The Whiskey Tavern.

12 Q. Are you familiar with the Hickory Tavern --

13 A. Hickory. Yes, ma'am.

14 Q. -- in the Garner's Ferry Road area?

15 A. Yes, ma'am.

16 Q. And because these warrants were from Lexington
17 County, can you tell us whether or not it's routine
18 to have the assistance of Richland County in the
19 execution of those arrest warrants?

20 A. Yes, ma'am.

21 Q. Were you present when that occurred?

22 A. Yes, I was.

23 Q. I'm going to show you some photographs and ask
24 you whether or not you had an opportunity to review
25 a photograph developed from a body camera.

1 And is it possible to estimate how many
2 officers were out there that day, Lieutenant Britt?

3 A. Well, my team is a four- or five-man team that
4 day.

5 Q. All right. Were there also officers with the
6 South Congaree Police Department?

7 A. Yes, ma'am.

8 Q. Do you know whether or not that included the
9 chief, Chief Shumpert, present in the courtroom?

10 A. It did.

11 Q. And going back to that particular day, were you
12 in a vehicle of your own?

13 A. Yes, ma'am.

14 Q. All right. And then, were there other vehicles
15 there that other members of law enforcement were in
16 as well?

17 A. Yes, ma'am.

18 Q. And I want to start by showing you these
19 photographs and ask you whether or not any of those
20 officers had a body camera.

21 A. Okay.

22 Q. And have you had an opportunity to review
23 footage from one of the body cameras present that
24 day?

25 A. Yes, ma'am.

1 Q. I'm going to show you several photographs, they
2 are State's Exhibit 24, 30, and 27, and ask you
3 whether or not you recognize what's depicted in
4 those photographs in relation to the body camera
5 that you reviewed?

6 A. Yes, ma'am.

7 Q. Do these appear to be a fair and accurate
8 representation of what is depicted on the body
9 camera?

10 A. Yes, ma'am.

11 Q. Do you see your vehicle in these photographs,
12 Lieutenant Britt?

13 A. Yes, ma'am.

14 Q. I'll show you specifically State's 24 and ask
15 you whether or not you observe your vehicle in that
16 photograph?

17 A. Yes, ma'am.

18 Q. And also State's 27, and you whether or not you
19 observe your vehicle in that photograph?

20 A. Yes, ma'am.

21 MS. MAYES: Your Honor, at this time, we would
22 offer State's 24 as evidence with permission to
23 publish.

24 THE COURT: Without objection?

25 MS. MAULDIN: Without objection.

1 THE COURT: All right. State's 24 is admitted
2 into evidence.

3 (State's Exhibit No. 24 admitted in evidence.)

4 BY MS. MAYES:

5 Q. And looking here, Lieutenant Britt, are you
6 familiar with this establishment?

7 A. Yes, ma'am.

8 Q. What establishment would that be?

9 A. Hickory Tavern.

10 Q. Is that the location that you previously
11 referred to --

12 A. Yes, ma'am.

13 Q. -- as the place where the arrest was made?

14 A. Yes, ma'am.

15 Q. Now, who actually went into the Hickory Tavern
16 restaurant?

17 A. Myself and one of the guys on my team,
18 Investigator Kilcoyne.

19 Q. And can you tell us whether or not you went
20 inside that location in order to make this arrest?

21 A. We did.

22 Q. Tell us how much time was involved from when
23 you first went through the doors of that restaurant,
24 then located the defendant, and came back outside of
25 that restaurant?

1 A. Less than three minutes, two minutes.

2 Q. So it went quickly?

3 A. Yes, ma'am.

4 Q. Who was with you as you went into the
5 restaurant?

6 A. Investigator Kilcoyne.

7 Q. Okay. He is also with the Richland County
8 Sheriff's Department?

9 A. He is, yes, ma'am.

10 Q. And does he also have the authority to make an
11 arrest within the jurisdiction of Richland County?

12 A. Yes, ma'am.

13 Q. Do you recall where within the Hickory Tavern
14 restaurant the defendant Michael Dyer was located?

15 A. Yes, ma'am. He was seated at the bar.

16 Q. All right. Now, when you make an arrest such
17 as this in a public place, what, if anything, is the
18 protocol for any property that that person might
19 have on them or with them?

20 A. All right. Once we secure that and the
21 individual, we hand it to the investigator, the case
22 investigator, immediately.

23 Q. All right. If, such as this, a person is
24 arrested in a public place and they have a personal
25 item with them, what is your protocol or procedure

1 for collection of that personal property?

2 A. We take it -- as we're securing that person, we
3 take it. We -- again, we secure it all, and then we
4 hand it over to the investigator as soon as we
5 possibly can in that process.

6 Q. Okay. Would that include an item such as a hat
7 or a wallet?

8 A. Anything. Wallet, keys, anything that -- any
9 property that we have, we try to get it over to the
10 investigator as soon as possible.

11 Q. Does that also include cell phones?

12 A. It does.

13 Q. I'm going to show you also, previously
14 identified by you from the body cam, State's 27 and
15 30. Again, do you see your vehicle present in these
16 photographs?

17 A. In both of them, yes, ma'am.

18 Q. Are you aware as to whether or not the
19 defendant, Michael Dyer, had a cell phone as part of
20 his property during the course of this arrest?

21 A. Yes, ma'am.

22 MS. MAYES: State's 27 for evidence, Your
23 Honor.

24 THE COURT: Without objection?

25 MS. MAULDIN: No objection.

1 THE COURT: So admitted, State's Exhibit 27.

2 (State's Exhibit No. 27 admitted in evidence.)

3 BY MS. MAYES:

4 Q. And looking here, whose vehicle is this in the
5 background behind the phone?

6 A. That's my vehicle.

7 Q. And then going back to 24, already in evidence,
8 this particular photo, can you tell us whether it's
9 made before the arrest or after the arrest?

10 A. I'm sorry?

11 Q. This particular photo, can you tell us whether
12 it was -- this particular photo from the body cam,
13 can you tell us whether this is taking place before
14 the arrest or after the arrest?

15 A. That was post-arrest.

16 Q. All right. So we see here the Hickory Tavern;
17 you've identified your vehicle.

18 Do you know whether or not anyone is inside
19 that vehicle with you, Lieutenant Britt?

20 A. Yes, ma'am, there is. The defendant is in
21 there with me.

22 Q. So as we're looking right here, can you tell us
23 whether or not that is the defendant, Michael Dyer?

24 A. Yes, ma'am.

25 Q. All right. And then you've already mentioned

1 that South Congaree officers were present there at
2 the scene. Do you know which agency these officers
3 are with that are approaching your vehicle?

4 A. Those are South Congaree.

5 Q. All right. Now, you mentioned that the arrest
6 is actually made inside Hickory Tavern. You have
7 identified that the defendant had a phone as part of
8 his property. Tell us how long it took you from the
9 time that arrest is made at the bar area and the
10 property collected to then exit that door into the
11 parking lot, if you had to estimate.

12 A. Less than a minute.

13 Q. During the course of that time, did this phone
14 remain in your eyesight and within your line of view
15 from the time the arrest was made and that property
16 was collected to the time you exit the door?

17 A. We all walked out at the same time. Yes,
18 ma'am.

19 Q. And that phone remained within your line of
20 sight and in Detective Kilcoyne's line of sight that
21 entire time?

22 A. Yes, ma'am.

23 Q. And once the two of you exited the Hickory
24 Tavern restaurant, can you tell us whether or not it
25 was transferred to another agency?

1 A. Yes, ma'am. It was passed to the South
2 Congaree Police Department.

3 Q. Can you tell us whether or not that's routine
4 or protocol to transfer the property at that point
5 in time?

6 A. Yes, ma'am. As soon as we can get it to the
7 case investigator, we hand it right over.

8 Q. Okay. So any and all property collected with
9 the defendant, can you state, Lieutenant Britt, that
10 it came with the two of you to that door and to the
11 parking lot area, following his arrest?

12 A. Yes, ma'am.

13 Q. Did you ever witness anyone tamper with or
14 manipulate the phone in any way that would have
15 damaged that evidence?

16 A. No, ma'am.

17 MS. MAYES: Beg the Court's indulgence.

18 (Brief pause in the proceedings.)

19 MS. MAYES: Nothing further.

20 THE COURT: Cross-examination?

21 CROSS-EXAMINATION

22 BY MS. MAULDIN:

23 Q. Officer Britt, are you sure you didn't drive
24 him up to Bluff Road to make the transfer and that
25 it didn't happen in the parking lot?

1 A. I'm sorry, ma'am?

2 Q. Are you sure that you didn't make the transfer
3 farther up Bluff Road rather than in the parking
4 lot?

5 A. Yes. I'm positive.

6 Q. All right.

7 MS. MAULDIN: Nothing further, Your Honor.

8 THE COURT: Any redirect?

9 MS. MAYES: No redirect, Your Honor.

10 THE COURT: The witness can step down.

11 MS. MAYES: The State calls William Young. We
12 would ask that Lieutenant Britt be excused to return
13 to Richland County.

14 THE COURT: All right. Without objection.

15 WILLIAM YOUNG

16 being first duly sworn, testified as follows:

17 THE WITNESS: I do.

18 THE CLERK: When you have a seat, you can take
19 your mask off. State your name, first and last,
20 spelling your last name for the record.

21 THE WITNESS: William Young, Y-O-U-N-G.

22 DIRECT EXAMINATION

23 BY MS. MAYES:

24 Q. Good afternoon, Mr. Young. Tell us a little
25 bit about yourself and where you are currently

1 employed.

2 A. I am currently employed with South Carolina
3 Department of Probation, Parole, and Pardon Services
4 as a domestic violence agent in the Orangeburg
5 office.

6 Q. So I want to go back to before you had the job
7 that you now have in Orangeburg.

8 And tell us a little bit about whether you
9 previously were employed by law enforcement in
10 Lexington County.

11 A. Yes, ma'am, I was.

12 Q. Okay.

13 A. My first law enforcement position in Lexington
14 county was with Batesburg-Leesville Police
15 Department. After that, I went to work for the
16 South Congaree Police Department.

17 Q. All right. Were you working for the South
18 Congaree Police Department on July 10th, 2020, when
19 the arrest of Michael Dyer occurred?

20 A. Yes, ma'am, I was.

21 Q. Did you have a body camera that you normally
22 wore on your person?

23 A. Yes, ma'am, I did.

24 Q. And have you had the opportunity to review that
25 body camera footage as it relates to circumstances

1 surrounding the arrest of Michael Dyer?

2 A. Yes, ma'am, I have.

3 Q. I'm going to show you what is State's Exhibit
4 53 and ask you whether or not you recognize it.

5 A. Yes, ma'am. Those are my initials on it.

6 Q. All right. What did you recognize this to be?

7 A. That is my body cam footage from the day of the
8 arrest of Mr. Dyer.

9 Q. Is it a fair and accurate representation of the
10 events as you recall them?

11 A. It is, ma'am.

12 MS. MAYES: This would be State's 53 for
13 evidence, Your Honor.

14 MS. MAULDIN: Without objection, Your Honor.

15 THE COURT: State's Exhibit No. 53 admitted in
16 evidence.

17 (State's Exhibit No. 53 admitted in evidence.)

18 BY MS. MAYES:

19 Q. Now I want to go back a little bit before we
20 talk further about that body camera and ask if
21 you're familiar with the location of the Hickory
22 Tavern in Richland County.

23 A. Yes, ma'am. It is on Garner's Ferry Road in
24 the old Woodhill Mall parking lot outside of Target.

25 Q. Woodhill Mall, off Garner's Ferry?

1 A. Yes, ma'am.

2 Q. Specifically, do you recognize the individuals
3 here in the foreground of this photograph?

4 A. I do, ma'am. One is Investigator Daniel Alonzo
5 from South Congaree Police Department. He is the
6 smaller of the two gentlemen. The other one is
7 Sergeant Charles Williams from the South Congaree
8 Police Department.

9 Q. And then are you familiar with whether or not
10 there were officers with Richland County also
11 present there at that scene for the arrest of
12 Michael Dyer?

13 A. Yes, ma'am. It was in Richland County. It was
14 their arrest.

15 Q. All right. Then are you familiar, looking here
16 at the face of this establishment, which
17 establishment this is?

18 A. That is Hickory Tavern there.

19 Q. And then are you familiar with whose vehicle
20 this is or what county this vehicle belongs to?

21 A. Yes, ma'am. That's Investigator Britt from
22 Richland County.

23 Q. This particular photograph is taken from whose
24 body cam?

25 A. My body cam, ma'am.

1 Q. And who is the person right here where we see a
2 thumb?

3 A. Behind my thumb is Michael Dyer.

4 Q. Okay. So let me go further into that.

5 Why do we only see your thumb here with the
6 phone?

7 A. Because the only reason you see my thumb is
8 because I'm holding the phone.

9 Q. Where are you positioning that body cam on your
10 person?

11 A. The body cam is attached to my vest just about
12 midchest.

13 Q. So when you're wearing the body cam, you're
14 photographing everything within your point of view?

15 A. Yes, ma'am.

16 Q. And then, looking here, can you tell us where
17 the item shown in this photograph -- State's 24, can
18 you tell us where this item that you're holding came
19 from?

20 A. Yes, ma'am. I was given that item by a
21 Richland County investigator.

22 Q. All right. So let me go back a little further.
23 You said you also recognize the person whose knee is
24 shown here sitting inside Lieutenant Britt's truck.

25 A. Yes, ma'am. That is Mr. Dyer.

1 Q. The defendant in this case.

2 So during the course of this arrest, where,
3 approximately, were you in the parking lot area
4 waiting for the officers to exit Hickory Tavern?

5 A. Initially, I was sitting where Mr. Dyer was
6 sitting in that truck, watching the front of the
7 building.

8 Q. All right. From that location, were you able
9 to visualize the officers as they exited the front
10 of the restaurant?

11 A. Yes, ma'am, I was.

12 Q. At that point in time, did they leave your line
13 of sight?

14 A. No, ma'am, they did not.

15 Q. How long would you estimate that it took them
16 to come out of the front door of the Hickory Tavern
17 and approach you there in the vehicle?

18 A. Less than a minute.

19 Q. And did they remain in your eyesight that
20 entire time?

21 A. Yes, ma'am, they did.

22 Q. What, if any, property was transferred to you
23 at that time?

24 A. They gave me the cell phone that you see in my
25 hand, along with his vehicle keys, that I recall.

1 Those two items, I recall.

2 Q. I'm going to show you another photograph and
3 ask you whether or not you recognize this. This is
4 State's 27?

5 A. Yes, ma'am. That is a photograph of me holding
6 the cell phone at the truck that belonged to
7 Investigator Britt.

8 Q. State's 30?

9 A. That is me handing the phone to Investigator
10 Alonzo with Sergeant Williams in the background.

11 Q. Okay. And then State's 31, already in
12 evidence, can you tell us whether or not the phone
13 is depicted in that photograph as well?

14 A. Yes, ma'am, the phone is.

15 MS. MAYES: So, Your Honor, our understanding
16 is that State's 27 and 31 are already in evidence;
17 State's 30 is not. The State offers it at this
18 time.

19 MS. MAULDIN: No objection.

20 THE COURT: State's Exhibit 30 is in evidence
21 without objection.

22 (State's Exhibit No. 30 admitted in evidence.)

23 BY MS. MAYES:

24 Q. So looking here at State's 31, already in
25 evidence, do you recognize this item?

1 A. Yes, ma'am. That item is the cell phone that
2 belonged to Mr. Dyer that was handed to me by
3 Richland County investigators.

4 Q. State's 27, already in evidence, do you
5 recognize this item?

6 A. Yes, ma'am. That's the same cell phone I
7 handed to Investigator Alonzo that was just shown in
8 the previous picture.

9 Q. And State's 30, now in evidence, can you tell
10 us what is taking place in this photograph?

11 A. I am transferring the phone from my custody to
12 the custody of Investigator Alonzo.

13 Q. And the item shown here in State's 30?

14 A. That's the cell phone, ma'am, that was
15 transferred to custody.

16 Q. And does all of this still occur in the parking
17 lot area of the Hickory Tavern restaurant?

18 A. Yes, ma'am.

19 Q. I want to go back to State's 31. Can you tell
20 us whether or not the phone had any unique or
21 identifying features, such as the shape?

22 A. It does have a unique case due to the cameras
23 or buttons on the back of it.

24 Q. I'm going to show you what is State's 19 and
25 ask you to take your time.

1 A. Yes, ma'am. That is the phone that I had in my
2 hand and the cord.

3 Q. Do you recognize that to be the same phone?

4 A. Yes, ma'am, I do.

5 Q. Do you also recognize the cord?

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

7 Q. Was that cord attached to it?

8 A. The cord was with the phone. Yes, ma'am.

9 Q. Do we see that depicted there in the photograph
10 that we're looking at?

11 A. Yes, ma'am.

12 Q. Officer Young, was this -- was this phone
13 tampered, altered, or maneuvered in any way in your
14 presence that would damage it?

15 A. No, ma'am.

16 MS. MAYES: Ask permission at this time, Your
17 Honor, to publish body cam footage, State's 53.

18 THE COURT: Very well.

19 (State's Exhibit No. 53 published for His Honor
20 and the jury.)

21 BY MS. MAYES:

22 Q. Who is seated in the driver's seat?

23 A. Investigator Britt.

24 Q. Lieutenant Britt, Richland County?

25 A. Yes, ma'am.

1 Q. What is taking place here?

2 A. I'm transferring custody of the cell phone from
3 myself to Investigator Alonzo.

4 Q. Investigator Alonzo is with which agency?

5 A. I'm sorry, ma'am?

6 Q. He is with which agency?

7 A. South Congaree Police Department.

8 Q. Do you also see Chief Shumpert?

9 A. Yes, ma'am.

10 Q. Who is the phone with now?

11 A. Investigator Alonzo.

12 Q. As they leave the parking lot area?

13 A. Sorry, ma'am?

14 Q. As they leave the parking lot area?

15 A. Yes, ma'am, the parking lot area of the Hickory
16 Tavern.

17 Q. Okay. Whose phone are you now holding?

18 A. My personal cell phone.

19 Q. So from the start of that video where we see
20 Lieutenant Britt in the truck, who was possessing
21 the phone at that point in time?

22 A. I am now.

23 Q. And until we see the transfer, whose phone
24 [sic] had that been in throughout that time?

25 A. The phone had been in my custody until it was

1 transferred to Investigator Alonzo.

2 Q. Officer Young, at any point in time did you do
3 anything to damage this phone in any way?

4 A. No, ma'am.

5 Q. Was it properly maintained as evidence until it
6 was transferred to Investigator Alonzo with South
7 Congaree Police Department?

8 A. Yes, ma'am.

9 Q. And is that normal and routine for the transfer
10 of property during the course of an arrest?

11 A. Yes, ma'am.

12 Q. To your knowledge, did it then remain in the
13 custody and control of the South Congaree Police
14 Department for the remainder of the investigation?

15 A. Yes, ma'am.

16 MS. MAYES: Nothing further, Your Honor.

17 THE COURT: Cross-examination.

18 MS. MAULDIN: No questions for this witness,
19 Your Honor.

20 THE COURT: All right. The witness may step
21 down.

22 THE WITNESS: Thank you.

23 MS. MAYES: May we approach?

24 (Sidebar conference.)

25 THE COURT: All right. Ladies and gentlemen,

1 we're going to take our lunch break. I'm going to
2 give you about an hour and ten minutes for lunch.
3 We'll ask you to be back in your jury room around
4 ten till 2:00, and we'll start right around 2:00.

5 Please enjoy your lunch; please don't discuss
6 the case with anyone while you're out, and we'll see
7 you back for a 2:00 start time. Thank you.

8 (Luncheon recess 12:40 PM - 2:02 PM.)

9 THE COURT: The jury is back. Make sure we
10 have everything we need.

11 Ms. Mauldin, I did receive your e-mail,
12 potential charge. I got that.

13 MS. MAULDIN: Thank you, Your Honor.

14 THE COURT: Thank you for doing it.

15 MS. MAULDIN: Certainly.

16 THE COURT: Is the State ready to proceed?

17 MS. WELLMAN: Yes, sir, Your Honor.

18 THE COURT: All right.

19 Defense?

20 MS. MAULDIN: Yes, sir.

21 THE COURT: All right. Let's bring them up.

22 (The jury enters the courtroom at 2:07 PM.)

23 THE COURT: Mr. Foreman, ladies and gentlemen
24 of the jury, welcome back. I hope you had a
25 relaxing lunch. We'll continue on with the State's

1 case.

2 Next witness, please.

3 MS. MAYES: The State calls Daniel Alonzo.

4 DANIEL ALONZO

5 being first duly sworn, testified as follows:

6 THE WITNESS: I do.

7 THE CLERK: Have a seat. You can take your
8 mask off. State your first and last name. Spell
9 your last name for the record.

10 DIRECT EXAMINATION

11 BY MS. MAYES:

12 Q. Good afternoon. Can you tell us a little about
13 yourself?

14 A. My name is Daniel Alonzo. Last name is spelled
15 A-L-O-N-Z-O. I'm an investigator with South
16 Congaree Police Department.

17 Q. And how long have you been with South Congaree
18 Police Department?

19 A. Approximately two years.

20 Q. Can you tell us whether or not you were
21 involved in the investigation regarding Michael
22 Dyer? And that was a report of sexual abuse
23 involving Minor 1 .

24 A. I was involved with the investigation primarily
25 after the initial report was taken.

1 Q. So I want to take you back to the course of
2 this investigation, Investigator Alonzo, and ask you
3 what role, if any, did you play in the arrest of
4 Michael Dyer on July 10th, 2020, over in Richland
5 County?

6 A. I was the investigating officer that was able
7 to obtain, I guess, whatever property he had on his
8 person after the -- after his arrest at the Tavern
9 in Richland County.

10 Q. I'm going to take a look at some photos that
11 are already in evidence at this time and just have
12 you identify them, if you can, yourself.

13 Do you see yourself anywhere in this
14 photograph? And this is State's 24 that we're
15 looking at here.

16 A. Yes, ma'am, I do.

17 Q. Where are you at in this photograph?

18 A. I am the shorter gentleman approaching the
19 vehicle.

20 Q. And you're coming out of what establishment?

21 A. I'm actually walking away from the Tavern that
22 the -- that Mr. Dyer was in.

23 Q. The Hickory Tavern in Richland County?

24 A. That's correct.

25 Q. For what purpose were you approaching this

1 individual who was holding a phone?

2 A. I was approaching him to take possession of the
3 phone that was in Mr. Dyer's possession.

4 Q. And here we take a look at State's 30, already
5 in evidence.

6 Who is depicted here in this photograph?

7 A. That would be Sergeant Williams of South
8 Congaree Police Department and myself.

9 Q. And what is taking place right here in State's
10 30 as we see you?

11 A. Officer Young is handing over the phone to me.

12 Q. Okay. Now, this particular phone, I'm going to
13 show you, what is State's 31, already in evidence,
14 and ask you, based on your knowledge of the case and
15 your memory of this event, did it have any unique
16 features or characteristics about it?

17 A. It had a clear case with a sticker on the back.
18 I believe it was a Monster sticker.

19 Q. A Monster sticker?

20 A. Correct.

21 Q. And then what, if anything, is attached to the
22 phone, as you see it here in State's 31?

23 A. That's going to be the charging cable that goes
24 with the phone.

25 Q. I'm going to show you what is State's 19 and

1 ask you whether or not you recognize it.

2 A. Yes, ma'am, I do.

3 Q. How so?

4 A. I placed the items in the bag.

5 Q. Okay. So I'm going to ask you in more
6 detail -- I'm going to remove these items here.

7 Do you recognize this item?

8 A. I do.

9 Q. How so?

10 A. It was the item that was handed to me when he
11 was arrested.

12 Q. And it's unique in what way?

13 A. The sticker, the phone, the case. I mean,
14 there's no other phone that was handed to me that
15 day?

16 Q. Do you recognize the Monster sticker that you
17 previously described?

18 A. I do.

19 Q. Do you recognize the charging cord that is also
20 depicted in State's 31?

21 A. I do.

22 Q. And then on the back, is there anything unique
23 or different about the shape of the opening for the
24 camera lens?

25 A. It's readily available to take photographs or

1 whatever is needed.

2 Q. And it's some type of oblong shape?

3 A. Correct.

4 Q. Whose initials are on this bag here?

5 A. Those are mine.

6 Q. And can you tell us, once the phone was seized
7 on this particular date, July 10th, 2020, how you
8 would have packaged it at that time?

9 A. Yes, ma'am. All our packages are open. So
10 it's basically two open sides to how we package
11 items. So, essentially, we have to slide it
12 underneath, seal one side, put the items in, and
13 seal the other. Once they're sealed, they're
14 sealed.

15 Q. And do you recognize this package?

16 A. I do.

17 Q. How so? What's unique about it that attributes
18 it to this case?

19 A. Every package that we seal has to have affixed
20 on it a property ID number or evidence ID number
21 that is associated with whatever property.

22 Q. And was that done in this case?

23 A. Yes, ma'am.

24 Q. And what, if anything, does this tell you about
25 the make and model of this phone?

1 A. It tells me that it's a Samsung Galaxy S9.

2 Q. And what, if any, case number is attributed to
3 this?

4 A. Our case number is 600, as well as case number
5 which is associated with this case is 2020-00185.

6 Q. That's a unique case number for this
7 investigation involving Michael Dyer?

8 A. Yes, ma'am.

9 Q. Was this label placed on the phone when you
10 packaged it?

11 A. Yes, ma'am.

12 Q. Now, you mentioned the heat-sealing or the
13 sealing of it. Let me ask you a little bit more
14 about that. You said the bag comes to you open?

15 A. Yes, ma'am.

16 Q. How is it that this end becomes closed and this
17 end becomes closed so that all four corners are
18 closed to prevent any type of tampering?

19 A. There's two corners already enclosed and
20 sealed. The other two corners are physically sealed
21 by whoever is taking the property.

22 Q. And using what type of method?

23 A. It's a wired heat-seal. So it has to be placed
24 underneath the wire, enclosed, held until the
25 plastic is affixed to each other, glued to each

1 other.

2 Q. Once this bag is heat-sealed containing
3 evidence, what does it require in order to get into
4 it?

5 A. You have to cut it open with some sort of
6 instrument.

7 Q. And who actually heat-sealed this phone as
8 evidence prior to submitting it to the evidence room
9 at South Congaree Police Department?

10 A. I sealed it.

11 Q. You sealed it yourself?

12 A. Yes, ma'am.

13 Q. And once you sealed it, did you affix this
14 label to it?

15 A. I did. Yes, ma'am.

16 Q. When you sealed it, was it heat-sealed so that
17 it was enclosed by all four corners?

18 A. Yes, ma'am.

19 Q. And who actually retrieved this item,
20 ultimately, for transfer to the Lexington County
21 Sheriff's Department for extraction analysis by Mike
22 Phipps? Who actually transferred it to Phipps?

23 A. I did.

24 Q. Okay. When it was retrieved to be transferred
25 to Mike Phipps, did it remain in your custody that

1 entire time?

2 A. Yes, ma'am, it did.

3 Q. Did it remain in this bag, sealed, that entire
4 time?

5 A. Yes, ma'am.

6 Q. Did you ever see any evidence that this bag had
7 been cut or opened prior to your delivery to Mike
8 Phipps for the purposes of a phone extraction?

9 A. No, ma'am.

10 MS. MAYES: Your Honor, at this time, the State
11 offers 19 as evidence.

12 MS. MAULDIN: Without objection, Your Honor.

13 THE COURT: All right. State's Exhibit 19 is
14 admitted into evidence.

15 (State's Exhibit No. 19 admitted in evidence.)

16 BY MS. MAYES:

17 Q. Now, Investigator Alonzo, I want to ask you a
18 few more questions just about some actions that you
19 took during the course of this investigation.

20 Ultimately, were you able to obtain phone records
21 for Michael Dyer?

22 A. Yes, ma'am, I was.

23 Q. What company or service provider did you obtain
24 those records from?

25 A. That's going to be Verizon.

1 Q. And what is the date that you actually received
2 records from Verizon for Michael Dyer?

3 A. Give me one second, ma'am. Let me take a look.

4 Q. Okay.

5 A. That would have been June 27th of 2020.

6 Q. Now, was that in the form of a search warrant?

7 A. Yes, ma'am.

8 Q. Can you tell us whether or not Verizon was able
9 to provide records for Michael Dyer?

10 A. Yes, ma'am. They were.

11 Q. On what date did you receive those records from
12 Verizon?

13 A. Those records would have returned -- they were
14 returned on the 26th. They were signed and served
15 on the 25th.

16 Q. And you received those records on what date?
17 You could check the return on the search warrant.

18 A. I am. Yes, ma'am. Just one second.

19 Q. I'll show you an item and ask whether or not
20 you recognize it.

21 A. Yes, ma'am, I do.

22 Q. Who served this search warrant and had it
23 executed?

24 A. I executed the search warrant.

25 Q. On what date were the Verizon records received?

1 A. July the 27th of 2020.

2 Q. Okay. July or June?

3 A. I'm sorry. That says June. July was when it
4 was -- no, you're right. It is June. I'm sorry.

5 Q. So June 27th of 2020, you received the Verizon
6 records?

7 A. Yes, ma'am.

8 Q. Can you tell us what phone number was
9 attributed with this Verizon account that you
10 executed the search warrant for?

11 A. The phone number was going to be 803 --

12 Q. Okay. Hold on just one moment, if you will.

13 A. Sure.

14 Q. Verizon records, can you give us that phone
15 number one more time?

16 A. Yes, ma'am. It's [REDACTED].

17 Q. 71 what?

18 A. 7149.

19 Q. All right. [REDACTED].

20 MS. MAYES: Your Honor, pursuant to a
21 previously filed notice of evidence and the
22 certification from Verizon, the State offers at this
23 time State's Exhibit 70, being the letter of
24 authentication, and then the additional subscriber
25 record affiliated with that account, which is

1 State's 69.

2 THE COURT: Without objection?

3 MS. MAULDIN: Yes, sir.

4 THE COURT: State's Exhibit what?

5 MS. MAYES: 69, Your Honor, is the subscriber
6 information, and then State's 70 is the
7 certification letter from Verizon.

8 THE COURT: State's Exhibit 69 and 70, so
9 admitted.

10 (State's Exhibit Nos. 69 and 70 admitted into
11 evidence.)

12 BY MS. MAYES:

13 Q. And do you have a copy of this with you as
14 well, Investigator Alonzo?

15 A. I do. Yes, ma'am.

16 Q. Looking here, we see an account number for
17 [REDACTED]; that being the same account number
18 that you previously indicated the search warrant was
19 executed for?

20 A. Yes, ma'am.

21 Q. Regarding this particular account number and
22 phone number, what name, if any, was affiliated with
23 that Verizon account?

24 A. Michael T. Dyer.

25 Q. And what address, if any, was affiliated with

1 that account?

2 A. [REDACTED] Ramblin Road.

3 Q. Can you tell us whether or not, based on your
4 experience with this investigation, you know that
5 address [REDACTED] Ramblin Road? Have you been to that
6 location?

7 A. In the process of this investigation, I have.
8 Yes.

9 Q. Do you have information as to whether or not
10 that's the residence of Minor 1 ?

11 A. It is.

12 Q. And the former residence of the defendant,
13 Michael Dyer?

14 A. That's correct.

15 Q. Now, you told us about transferring the phone
16 to Detective Mike Phipps with the Lexington County
17 Sheriff's Department. Did you obtain a search
18 warrant for the purpose of transferring that item?

19 A. Yes, ma'am, I did.

20 Q. And what was the purpose of submitting that
21 phone, the phone, which is State's Exhibit 19 that
22 you previously identified, to Detective Phipps for
23 analysis?

24 A. It was for the extraction of the data of the
25 phone.

1 Q. And do you know whether or not a phone
2 extraction was acquired and received by Mike Phipps?

3 A. Yes, ma'am.

4 Q. I'm going to show you an item and ask you
5 whether or not you recognize it.

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

7 Q. Does it bear a label?

8 A. Yes, ma'am, it does.

9 Q. What case number is affiliated with that label?

10 A. 2020-00185.

11 Q. Okay. This will be State's 58. Do you see any
12 type of evidence tape affiliated with this CD that
13 you received from Detective Phipps?

14 A. Yes, ma'am.

15 Q. What type of tape?

16 A. It's evidence tape that's tamper proof.

17 Q. Okay. And whose initials are on it?

18 A. Mine.

19 Q. And what date?

20 A. March 10th of '21.

21 Q. Did this extraction CD remain in its original
22 format from the time it was received to Mike Phipps
23 to the time it was placed in evidence?

24 A. Yes, ma'am.

25 Q. Has it been altered or changed by you in any

1 way?

2 A. No, ma'am.

3 Q. Have you had the opportunity, Investigator
4 Alonzo, to be familiar with any type of photographs
5 that were recovered from that phone?

6 A. Yes, ma'am.

7 Q. During the course of this investigation, did
8 you go to the forensic interview of **Minor 1** ?

9 A. Yes, ma'am, I did.

10 Q. You observed that interview?

11 A. I did.

12 Q. You observed her in person?

13 A. Yes, ma'am.

14 Q. Did you recognize the person depicted in any of
15 those photographs that came off Michael Dyer's
16 phone?

17 A. Yes, ma'am, I did.

18 Q. Who did you recognize that person to be?

19 A. **Minor 1** .

20 Q. Does that include sexually explicit images of
21 that child?

22 A. Yes, ma'am.

23 MS. MAYES: Nothing further.

24 THE COURT: Cross-examination?

25 MS. MAULDIN: Your Honor, no questions for this

1 witness.

2 THE COURT: The witness may step down. Thank
3 you.

4 MS. WELLMAN: Your Honor at this time, the
5 State calls Mr. Richard Helms.

6 RICHARD HELMS

7 being first duly sworn, testified as follows:

8 THE WITNESS: I do.

9 THE CLERK: You can have a seat take. Please
10 take your mask off. State your first and last name,
11 and spell your last name for the record.

12 DIRECT EXAMINATION

13 BY MS. WELLMAN:

14 Q. Good afternoon, Mr. Helms. Can you please tell
15 the jury where you work?

16 A. Excel Truck Group.

17 Q. And what is your role at Excel Truck Group?

18 A. Current day, I'm parts and sales service
19 representative.

20 Q. Thinking back to June of 2020, what was your
21 role at that time?

22 A. I was a parts manager.

23 Q. Okay. In June of 2020, did you work with the
24 defendant, Michael Dyer?

25 A. I did.

1 Q. And for how long had you worked with him; do
2 you recall?

3 A. Approximately, I guess, at that time, two
4 years.

5 Q. Did you have his number stored in your phone?

6 A. Yes, I did.

7 Q. Did you communicate with him via text messages?

8 A. Yes, I did.

9 Q. Thinking back to June 22nd of 2020, did you
10 communicate with the defendant via text messages on
11 that date?

12 A. I did.

13 MS. WELLMAN: May I approach the witness?

14 THE COURT: Yes, ma'am.

15 BY MS. WELLMAN:

16 Q. Mr. Helms, I'm handing you what is marked
17 State's Exhibit 63, 64, and 65. If you could, take
18 a moment and look at those and tell me if you
19 recognize them.

20 A. I do. I definitely recognize my phone number
21 and conversations.

22 Q. So these are records from the Verizon Wireless
23 records that we just introduced into evidence for
24 the defendant. You said that you recognized your
25 phone number. Starting -- let's see.

1 And do you recognize the content of the
2 conversation?

3 A. I do.

4 Q. With whom are you communicating in these text
5 messages?

6 A. Mike Dyer.

7 MS. WELLMAN: Your Honor, the State would move
8 to introduce State's Exhibit 63, 64, and 65 into
9 evidence.

10 THE COURT: Without objection?

11 MS. MAULDIN: Without objection.

12 THE COURT: State's Exhibits 63, 64, and 65 are
13 admitted into evidence.

14 (State's Exhibit Nos. 63, 64, and 65 admitted
15 into evidence.)

16 BY MS. WELLMAN:

17 Q. Mr. Helms, can you see that?

18 A. I can.

19 Q. Can you see the date of this text message?

20 A. I can.

21 Q. What is that date?

22 A. 6/22/2020.

23 Q. We have an originating number or original
24 mobile device number, MDN. Do you see that number?

25 A. I do.

1 Q. And what is that number?

2 A. [REDACTED].

3 Q. And is that the number that you had stored in
4 your phone for Michael Dyer?

5 A. Yes.

6 Q. And your phone number, you said you saw that
7 number on this document. Is that the terminating
8 mobile device number?

9 A. It is.

10 Q. And what is that number?

11 A. [REDACTED].

12 Q. And is that a text messages you received from
13 the defendant?

14 A. Yes.

15 Q. What was that message?

16 A. Can we do it at lunch tomorrow, please.

17 Q. Okay. Mr. Helms, this is State's Exhibit 64.

18 Is this a text message that you sent to the
19 defendant?

20 A. Yes.

21 Q. That originating mobile device number, is that
22 your phone number?

23 A. Yes.

24 Q. [REDACTED]?

25 A. Yes.

1 Q. And you said that was the text message you sent
2 to the defendant. And is that you saying: If you
3 want to meet me this afternoon after work, you're
4 more than welcome to stay here tonight?

5 A. Yes.

6 Q. Do you recall receiving -- or exchanging that
7 text message with the defendant?

8 A. I do. Uh-huh.

9 Q. Shortly after that, did you receive a text
10 message from the defendant in response?

11 A. Yes.

12 Q. And is that up at the top -- or, I guess,
13 that's actually a message from you; is that correct?

14 A. That's correct.

15 Q. And then did you receive a text message in
16 response from the defendant?

17 A. Yeah. I had texted him and he had replied.

18 Q. Okay. And is that this: Already made the
19 nonrefundable reservation?

20 A. Yes. That was his reply to my: Okay, if you
21 want to check it out this afternoon, let me know.

22 Q. Do you recall what you were talking about?

23 A. Yes, I do. At the time, I was moving from
24 Columbia to Kershaw, and I had an apartment that was
25 going to become available. And, at the time, Mike

1 had expressed to me he was without living
2 arrangements, and I had offered him to be able to
3 stay there.

4 MS. WELLMAN: If I could beg the Court's
5 indulgence one moment.

6 (Brief pause in the proceedings.)

7 Nothing further, Your Honor.

8 THE COURT: Any cross-examination?

9 MS. MAULDIN: No, Your Honor.

10 THE COURT: All right. The witness may step
11 down.

12 MS. WELLMAN: Your Honor, at this time, the
13 State would call Mr. James Baxley.

14 JAMES BAXLEY

15 being first duly sworn, testified as follows:

16 THE WITNESS: I do.

17 THE CLERK: Have a seat. Take your mask off.
18 State your first and last name, and spell your last
19 name.

20 THE WITNESS: James Baxley, J-A-M-E-S,
21 B-A-X-L-E-Y.

22 DIRECT EXAMINATION

23 BY MS. WELLMAN:

24 Q. Where do you work?

25 A. Excel Truck Group.

1 Q. And what is your role at Excel Truck Group?

2 A. Service supervisor.

3 Q. Okay. Were you working at Excel Truck Group in
4 June of 2020?

5 A. Yes, ma'am.

6 Q. At that time, were you working at Excel Truck
7 Group with the defendant, Michael Dyer?

8 A. Yes, ma'am.

9 Q. Did you have the defendant's phone number
10 stored in your phone at that time?

11 A. Yes, ma'am.

12 Q. And do you recall exchanging a text -- or
13 receiving a text message from the defendant on June
14 24th of 2020?

15 A. Yes, ma'am.

16 Q. And how about on June 25th?

17 A. Yes, ma'am.

18 MS. WELLMAN: May I approach the witness?

19 THE COURT: Yes, ma'am.

20 BY MS. WELLMAN:

21 Q. Mr. Baxley, I'm handing you 66, 67, and 68. Do
22 you recognize those exhibits?

23 A. Yes, ma'am.

24 Q. Can you please tell the jury what those are?

25 A. That is a text message that Mike sent to me

1 saying that he was going to be in at 8:00.

2 Q. Do you recall receiving that text message?

3 A. Yes, ma'am.

4 Q. And how about State's 67 and 68? Do you
5 recognize those as well?

6 A. Yes, ma'am.

7 Q. Are these also records of text messages you
8 received?

9 A. Yes, ma'am.

10 Q. And 67 and 68, on what date did you receive
11 those text messages from the defendant?

12 A. That was June 25th.

13 Q. Okay. Do you recall receiving those text
14 messages from the defendant?

15 A. Yes, ma'am.

16 MS. WELLMAN: Your Honor, these are records
17 from the Verizon records already in evidence. State
18 would move to introduce these.

19 THE COURT: Without objection?

20 MS. MAULDIN: Yes, Your Honor.

21 THE COURT: State's Exhibits 66, 67, and 68
22 admitted in evidence.

23 (State's Exhibit Nos. 66, 67, and 68 admitted
24 in evidence.)

25 BY MS. WELLMAN:

1 Q. So, Mr. Baxley, from whom did you receive those
2 texts?

3 A. From Mike.

4 Q. And on what date did you receive that text
5 message?

6 A. June 24th.

7 Q. And that "James, will be in at 8:00," is that a
8 text message you would have normally received from
9 the defendant?

10 A. Yes.

11 Q. Will be in at 8:00. Do you recall what that
12 was in reference to?

13 A. He was supposed to be there at 7:00. He was
14 letting me know that he was not going to be in at
15 7:00.

16 Q. So the originating mobile device number,
17 [REDACTED], would that have been from the
18 defendant's phone?

19 A. Yes.

20 Q. The terminating mobile device number,
21 (803) 319-3744, do you recognize that number?

22 A. Yes, ma'am. That's my number.

23 Q. Okay. And this is State's Exhibit 67. Is this
24 the record of another text message you received from
25 the defendant?

1 A. Yes, ma'am.

2 Q. On what date did you receive this text message?

3 A. June 25th.

4 Q. Of what year?

5 A. 2020.

6 Q. The originating mobile device number, is that
7 [REDACTED] number in your phone for this
8 defendant?

9 A. Yes, ma'am.

10 Q. And the terminating mobile device number,
11 [REDACTED], is that, again, your phone number?

12 A. Yes, ma'am.

13 Q. And the content of that message, can you read
14 that for us?

15 A. It says: James, not going to be in today.
16 Sick. See if Chris Hayes will work the back
17 counter.

18 Q. Did you also receive text messages from the
19 defendant regarding whether he was going to come
20 into work?

21 A. No. He normally texts just his boss.

22 Q. And this is State's Exhibit 68. Another
23 record. The originating mobile device number, do
24 you recognize that number?

25 A. Yes. That's mine.

1 Q. And is this a record of the response you sent
2 to the defendant?

3 A. Yes, ma'am.

4 Q. On what date did you respond?

5 A. June 25th of 2020.

6 Q. Mr. Baxley, do you recall -- why would the
7 defendant have needed to let you know that someone
8 else would have needed to work that back counter?

9 A. Because he controlled the parts at the back
10 counter for our service department, and he was
11 letting us know there would be nobody back there.

12 Q. Who is he?

13 A. Mike Dyer.

14 MS. WELLMAN: No further questions.

15 THE COURT: Any cross-examination?

16 MS. MAULDIN: Not for this witness, Your Honor.

17 THE COURT: All right. The witness may step
18 down.

19 MS. MAYES: The State calls Detective Mike
20 Phipps.

21 MIKE PHIPPS

22 being first duly sworn, testified as follows:

23 THE WITNESS: I do.

24 THE CLERK: You can have a seat. Take your
25 mask off. State your first and last name, and spell

1 your last name for the record.

2 THE WITNESS: My name is Michael Phipps,
3 P-H-I-P-P-S.

4 DIRECT EXAMINATION

5 BY MS. MAYES:

6 Q. Good afternoon, Detective Phipps.

7 A. Good afternoon.

8 Q. Tell us a little bit about yourself. Where are
9 you employed and in what capacity?

10 A. I currently work for the Lexington County
11 Sheriff's Department in their forensic services
12 unit.

13 As part of that function, I've been tasked over
14 to the Secret Service as a task force officer on the
15 South Carolina Electronic Cyber Crimes Task Force.
16 And I've been doing that for the last two years full
17 time.

18 Q. All right. And, Detective Phipps, if you could
19 pull the microphone a little bit closer to you. You
20 said you were currently working in conjunction with
21 the Secret Service task force. Tell us,
22 specifically, what your job description is with that
23 unit.

24 A. I work in the forensic lab doing examinations
25 on digital evidence.

1 Q. How long have you been doing examinations on
2 digital evidence?

3 A. Approximately 16 years ago, I started. Back
4 then, I was a crime scene investigator at the
5 sheriff's department. And, as a collateral duty,
6 with the crime scene work, I started taking classes
7 in digital forensics.

8 Approximately 14 years ago, I started receiving
9 specific courses dealing with cell phones. And
10 then, for the last two years, it's been full time in
11 the lab doing pretty much nothing but computers and
12 cell phones.

13 Q. When you talk about digital evidence, does that
14 include smart phones?

15 A. It does.

16 Q. And cell phone extractions?

17 A. Yes, ma'am.

18 Q. Is it possible, Detective Phipps, for you to
19 estimate how many such extractions you've done
20 regarding smart phones over the course of your
21 career?

22 A. It's not really a statistic I can keep track
23 of. It's in excess of a thousand.

24 Q. Do you receive regular training through the
25 Secret Service, through the Lexington County

1 Sheriff's Department, and other law enforcement
2 agencies regarding the extraction of cell phones?

3 A. Yes, ma'am. I've had approximately 266 hours
4 of training specific to cell phones.

5 Q. Have you testified previously as an expert in
6 the courts of this state in the field of cell phone
7 extraction and analysis?

8 A. Yes, ma'am.

9 Q. And that includes forensic analysis of images?

10 A. Yes, ma'am.

11 Q. Is it possible for you to estimate how many
12 such times you've testified as an expert regarding
13 cell phone extraction or the analyzation of digital
14 evidence?

15 A. 17 times.

16 MS. MAYES: Your Honor, at this time, the State
17 offers Detective Mike Phipps as an expert in the
18 field of cell phone forensic analysis.

19 MS. MAULDIN: Without objection, Your Honor.

20 THE COURT: All right. Ladies and gentlemen,
21 this witness will be qualified in the area of cell
22 phone extraction and analysis of digital evidence.

23 Is that correct, Madam Solicitor?

24 MS. MAYES: Yes, sir, Your Honor.

25 THE COURT: He will give opinion testimony in

1 that area. That does not mean you have to accept
2 the opinion, but it is evidence for you to use in
3 any way you see fit.

4 BY MS. MAYES:

5 Q. And, Detective Phipps, you've been within this
6 role of doing cell phone extractions for the
7 Lexington County Sheriff's Department, specifically
8 in that unit, for how many years?

9 A. It's 14 years I've been working with cell
10 phones.

11 Q. Okay. I'm going to show you what's State's 19
12 and ask you whether or not you recognize this item
13 already in evidence.

14 A. Yes, ma'am, I do.

15 Q. How so?

16 A. By the Town of South Congaree's evidence tag
17 here and the unique features of the phone and its
18 case.

19 Q. I'm going to show you some photos regarding
20 that phone. And these are 46, 47, 48, and 49.

21 MR. MAULDIN: No objection, Your Honor.

22 THE COURT: 47, 48, and 49?

23 MS. MAYES: 46, 47, 48, and 49.

24 BY MS. MAYES:

25 Q. And, Detective Phipps, can you tell us whether

1 or not you recognize those photographs?

2 A. Yes, ma'am. These are photographs I took when
3 the evidence was brought to me in the lab.

4 Q. Looking here at 47 --

5 THE COURT: And, just without objection, those
6 exhibits are admitted into evidence, 46, 47, 48, and
7 49.

8 (State's Exhibit Nos. 46, 47, 48, 49 admitted
9 in evidence.)

10 MS. MAYES: Thank you, Your Honor. Permission
11 to publish?

12 THE COURT: Yes, ma'am.

13 BY MS. MAYES:

14 Q. Looking here at State's 47, did this phone have
15 any unique characteristics about it?

16 A. Well, the decal, obviously, was applied by the
17 owner to that outer case. The SIM card is visible.
18 You can tell it's a Verizon SIM card.

19 And you can't make it out in this image, but
20 there's an IMEI number, which is a unique identifier
21 of the phone, on the very lower portion of the back
22 of the phone.

23 Q. I'm going to show you State's 48. And this
24 particular phone, what make and model was this
25 phone?

1 A. This is a Samsung Galaxy S9. The model was
2 SM-G960U.

3 Q. And what are we looking at here?

4 A. The model that I just read out is the top left
5 of the first line. It's kind of hard to make out.
6 The very last line you're seeing there is an IMEI
7 number, which is also a unique identifier.

8 Q. And do your records reflect the IEMI [sic]
9 number for this particular phone being a Samsung
10 Galaxy S9?

11 A. Yes.

12 Q. What is that IEMI number?

13 A. The number is [REDACTED].

14 Q. Ends in [REDACTED]?

15 A. Yes, ma'am.

16 Q. As depicted here in this photograph?

17 A. That's correct.

18 Q. Being State's Exhibit 48.

19 Is that a unique identifying feature for this
20 phone?

21 A. It is.

22 Q. Does it set it apart from any other phone?

23 A. It does.

24 Q. It's the equivalent of a serial number of
25 sorts?

1 A. Yes, ma'am.

2 Q. So this would be the only Samsung Galaxy S9
3 with that IEMI number?

4 A. That's correct.

5 Q. Detective Phipps, take us through the process
6 of actually performing an extraction on a phone such
7 as this. Did you have a search warrant in order to
8 conduct that extraction?

9 A. I did.

10 Q. And once you received the search warrant -- I
11 know we just looked at these photos, including
12 State's 48, which is on the overhead. What's the
13 purpose of taking these photographs?

14 A. These photographs just show the item of
15 evidence in the condition that I received it in.

16 Q. So looking back at State's 47, what do we see
17 up here in the background? What are we looking at
18 right here and right here and that bears that label?

19 A. That's a clear plastic packaging that I
20 received the phone in from South Congaree Police
21 Department. It has their evidence label with their
22 information printed on it, and the plastic is
23 heat-sealed on two sides.

24 Q. Does this packaging appear consistent with that
25 and what's depicted in your photograph?

1 A. Yes, ma'am, it does.

2 Q. The packaging with the label and the process of
3 heat-sealing it?

4 A. Yes, ma'am.

5 Q. Now, when something arrives to you heat-sealed,
6 who actually opens it up for purposes of that
7 extraction?

8 A. I do.

9 Q. Is this the packaging we see right here
10 underneath the phone, as you've laid it out for
11 purposes of taking this photo?

12 A. It is.

13 Q. What's the next thing you do in the course of
14 your examination?

15 A. After photographs are taken, there's some
16 handwritten notes that are taken. At that point, we
17 remove the SIM card and we power the device up in
18 what's called a faraday box to prevent it from
19 communicating with the network. At that point in
20 time, we determined the device was locked with a
21 security code or password.

22 Q. Tell us about that and what significance, if
23 any, that there was a passcode required for this
24 phone in order for you to access it.

25 A. It's pretty common these days that people

1 protect their device with some type of unique
2 passcode or pattern PIN. In this case, it was like
3 an alphanumeric string that we didn't have. And
4 that caused us to have to use special forensic tools
5 we have access to in our lab that allows us to
6 bypass that passcode and still extract data off of
7 the phone without knowing what the passcode is.

8 Q. So, just to clarify, you didn't have the
9 passcode or the password to enter this phone?

10 A. We did not.

11 Q. And it was in a position that it was locked if
12 someone doesn't have the passcode?

13 A. That's correct.

14 Q. What type of software allowed you to bypass
15 that passcode?

16 A. Some specialized software by a company called
17 Cellebrite.

18 Q. And that's available to law enforcement?

19 A. It is.

20 Q. During the course of a lawful search warrant?

21 A. Yes, ma'am.

22 Q. Now, once you were able to utilize that
23 passcode and access the phone, what, if anything,
24 did you determine regarding ownership information?

25 A. Once we get the data off the phone, we then

1 process it with some software tools that -- it's a
2 process called parsoning. It makes sense of that
3 data, that raw data, and presents it in a readable
4 format.

5 It breaks it down into categories; it takes
6 images and puts them in an image category; it
7 creates an account category for us so we can see
8 various accounts that someone may have used or set
9 up on the phone.

10 In this instance, we found accounts specific to
11 the suspect in this case.

12 Q. All right. I'm going to ask you a few more
13 questions about that.

14 MS. MAYES: Beg the Court's indulgence.

15 (Brief pause in the proceedings.)

16 BY MS. MAYES:

17 Q. Detective Phipps, I'm going to show you what is
18 State's 35, 33, 34, and 32 and ask you whether or
19 not you recognize these items.

20 A. Yes, ma'am, I do. They're printed excerpts
21 from the reports generated by Physical Analyzer,
22 which is a software we use.

23 Q. Your report?

24 A. Yes, ma'am.

25 Q. So these items that we just identified are

1 screen caps taken directly from your forensic
2 analysis of this phone?

3 A. Yes, ma'am.

4 MS. MAYES: This would be State's 35, 33, 34,
5 and 32 for evidence, Your Honor.

6 MR. MAULDIN: No objection.

7 THE COURT: So admitted, Exhibits 32, 33, 34,
8 and 35.

9 (State's Exhibit Nos. 32, 33, 34, 35 admitted
10 in evidence.)

11 BY MS. MAYES:

12 Q. Looking here at State's 35, Detective Phipps, I
13 believe you indicated just a few moments ago that
14 you were able to retrieve ownership information
15 consistent with the defendant in this case. Where
16 is that information observed?

17 A. Well, in this case, the phone we're dealing
18 with is an Android phone. And, 99 percent of the
19 time, when you set up an Android phone, you got to
20 also link that phone to a Gmail account. Some
21 people don't necessarily remember doing that because
22 they sometimes have other e-mail providers, but
23 Android likes to be linked to a Gmail account.

24 So, in this case, [REDACTED] was the
25 e-mail address associated with the phone itself.

1 And then, falling further down on the page, you can
2 see other accounts such as Pinterest, Facebook, that
3 are also associated with the name of a person in the
4 e-mail address or account name.

5 Q. So looking here at this column where we see
6 name, what name is affiliated with each of these
7 accounts?

8 A. Michael Dyer.

9 Q. You mentioned the [REDACTED]. How did
10 that particular Gmail account relate to registration
11 of the phone?

12 A. That is the primary account with the device or
13 the handset.

14 Q. And then did you determine whether or not there
15 were any social media accounts also affiliated with
16 this same user named Michael Dyer and this phone?

17 A. Yes. There were, as you see, Facebook,
18 Pinterest, Twitter accounts also associated.

19 Q. Facebook, is that a form of social media?

20 A. It is.

21 Q. Pinterest, is that a form of social media?

22 A. Yes.

23 Q. And then also Twitter, is that a form of social
24 media?

25 A. Yes.

1 Q. And where Twitter is concerned, what name was
2 associated with the Twitter account?

3 A. A Mike D.

4 Q. And what, if any, additional username was
5 associated with that Twitter account?

6 A. A [REDACTED].

7 Q. [REDACTED]?

8 A. Yes, ma'am.

9 Q. I'm going to show you the next item, which is
10 State's 33. Are you able to observe this from where
11 you are seated?

12 A. I believe so. Yes.

13 Q. Is there a location in this phone where the
14 user type and owner is identified?

15 A. I believe something is being cut off on the
16 left-hand margin there. Right.

17 Q. Is that helpful?

18 A. Yes, ma'am.

19 Q. Okay. What are we looking at here?

20 A. Under the name, you got Michael Dyer, which is
21 the account that's on the phone itself. Software is
22 also identifying the fact that a secure folder has
23 been set up on this phone.

24 Q. All right. A secure folder.

25 And then is there a date affiliated with that

1 secure folder? And if I need to hand you this
2 document to view with the naked eye, I will do so.

3 A. Yeah. Might have to zoom in a little bit with
4 that one.

5 Q. State's 33?

6 A. A January 28th, 2020, shows created.

7 Q. So January 28th, 2020, a secure folder is
8 created.

9 What, if anything, Detective Phipps, is
10 significant about the creation of a secured folder?

11 A. Samsung devices have a feature that allows the
12 user to go in and set up a secure area of the phone,
13 which is sort of separate from the main operating
14 system. It's not on by default. The user has to go
15 in and ask the device to set it up. They have to
16 link that account to a Samsung account, to a phone
17 number, and e-mail address.

18 Once the account is set up, there will be an
19 icon on the phone that says secure folder. They
20 also have to select a passcode of some type for that
21 folder. Whether it's by biometric password, PIN,
22 pattern, whatever it is, they have to set up a
23 password that can be the same or different from the
24 main phone's password. That way, you could hand
25 your phone off to someone to use without them going

1 through everything you had, your private stuff, in a
2 separate, secured area.

3 Q. So the secure folder requires a separate
4 password?

5 A. It does, yes.

6 Q. Now, looking over here to the right, what, if
7 anything, are we observing and why does it say last
8 log 5/6/2020?

9 A. Most people don't reboot their phones very
10 often. So, a lot of times, you see dates and times
11 that project further back in time than you would
12 expect to see. In this instance, this date and time
13 also correlated to the last time the phone was
14 rebooted prior to me receiving it in the lab.

15 Most people, unless they accidentally let their
16 battery run down or whatever, they're constantly
17 charging their phone; the phone never goes through a
18 complete power cycle. So things like this, where
19 you have an application or service you're logged
20 into, it just shows you're continuously logged into
21 it.

22 Q. Okay. So just to clarify, does that mean that
23 5/6/2020 was the last time anybody had this phone on
24 or used this phone?

25 A. No. It means that was the last -- that was the

1 time that the folder was logged into, and there was
2 not a power cycle and reentry into that folder after
3 that.

4 Q. Okay. So just to clarify a little further,
5 when you talk about rebooting it, that this is the
6 last date it was actually rebooted, does that mean
7 the phone had died down to nothing and then had to
8 be cut back on and recharged?

9 A. When I received it, it was powered off. So,
10 yes.

11 THE COURT: Let's just take a moment here. If
12 everybody in the jury box will stand up pretty
13 quickly; get up on your foot and move your body
14 around. We started at 10 after 2:00.

15 All right. Have a seat.

16 BY MS. MAYES:

17 Q. Okay. So the phone can be continued to be used
18 by the user even after the data being rebooted?

19 A. Yes.

20 Q. And does that include daily use?

21 A. Yes.

22 Q. Hourly use?

23 A. Yes.

24 Q. Okay. Now I'm going to show you what is
25 State's 32. Just briefly, clarify what, if any,

1 service provider was affiliated with this phone.

2 A. Verizon.

3 Q. What, if any, phone number was affiliated with
4 this phone that you were doing the extraction on?

5 A. [REDACTED].

6 Q. All right. And so all the discussion that
7 you've had about this particular phone and what you
8 found on the extraction all regards the Verizon
9 account which is [REDACTED]?

10 A. Yes.

11 Q. Detective Phipps, when you're performing this
12 extraction, were you aware that the investigation of
13 this case involved the sexual abuse of a child?

14 A. I was.

15 Q. Were you specifically looking for any type of
16 evidence on this phone?

17 A. Yes. I was looking for images involving a
18 young child.

19 Q. And, ultimately, can you tell us whether or not
20 images of that nature were found?

21 A. They were.

22 Q. I'm going to show you some photographs and ask
23 you whether or not you recognize them.

24 A. Yes, ma'am. I do.

25 Q. Now, these particular photographs that we're

1 seeing here in State's 11, 12, 10, 8, 14, 13, 9 and
2 7, for purposes of this trial and using them for
3 your testimony, have they been redacted in some
4 format?

5 A. They have. The genitalia has been obscured.

6 Q. When you found them, were they redacted?

7 A. They were not.

8 Q. So that's all occurred just for presentation
9 for this trial, in this segment of the trial.

10 A. Yes, ma'am.

11 MS. MAYES: Beg the Court's indulgence.

12 (Brief pause in the proceedings.)

13 BY MS. MAYES:

14 Q. Now, you previously mentioned a secure folder
15 or a secure path on this phone. I'm going to show
16 you State's 71 and ask you whether or not you
17 recognize this.

18 A. Yes, I do.

19 Q. How so?

20 A. It's a screenshot of the Physical Analyzer
21 report that was generated in this case.

22 Q. Does that include information regarding the
23 secure folder?

24 A. Yes, ma'am.

25 MS. MAYES: This would be State's 71 for

1 evidence, Your Honor, as well as 11, 12, 10, 8, 14,
2 13, 9, and 7 for evidence.

3 MR. MAULDIN: No objection.

4 THE COURT: All right. State's Exhibits 7, 8,
5 9, 10, 11, 12, 13, 14, and State's Exhibit 71
6 admitted into evidence without objection.

7 (State's Exhibit Nos. 7, 8, 9, 10, 11, 12, 13,
8 14 and State's Exhibit No. 71 admitted in evidence.)

9 MS. MAYES: Your Honor, we would request
10 permission for Detective Phipps to step down for
11 purposes of publishing.

12 THE COURT: Detective, please remember, when
13 you're away from the microphone, I'll need you to
14 speak in an audible voice where everyone can hear.

15 BY MS. MAYES:

16 Q. Again, Detective Phipps, all of this data,
17 including the photographs that were found, were
18 affiliated with this Verizon account ending in 7149?

19 A. Yes, ma'am.

20 Q. And that's the account under the name Michael
21 Dyer that you previously identified?

22 A. It is.

23 Q. I'm going to show you State's 71. I'm going to
24 hand you this and ask you to tell us what we're
25 looking at and what, if anything, they may have

1 significant to the images that you testified were
2 found of a young child.

3 A. This tab that's open is device users. It's
4 just identifying the 150 unique identifier is being
5 associated with the secure folder.

6 The fact that that populated means that a
7 secure folder was set up on the device and being
8 used in some form.

9 Q. Do you recall, based upon your examination, if
10 any of the sexually explicit images were found in
11 this secure folder?

12 A. These were artifacts -- these images were
13 artifacts that were found in the secure folder.

14 Q. And this secure folder would also require a
15 separate password or passcode?

16 A. It does.

17 Q. In order for images to be placed in the secure
18 folder, does that require user activity?

19 A. It does.

20 Q. It's a purposeful act carried out by the owner
21 or operator of that phone?

22 A. Specifically, with images, there's two ways to
23 get an image in your secure folder: You can go in
24 your gallery and select to move it into the secure
25 folder or, if you're in the secure folder, there's a

1 camera button available where you can take a picture
2 and it populates directly in the gallery within the
3 secure folder.

4 Q. Now, in any of the images that you observed
5 that were sexually explicit in nature, did any of
6 those images show the face or facial features of the
7 child that you described?

8 A. They did.

9 Q. Did you also recover, on this same phone, any
10 photographs depicting a clothed child?

11 A. Yes, we did.

12 Q. A clothed female child?

13 A. Yes, ma'am.

14 Q. I'm going to show you State's 23 and 2.

15 A. Those are the ones. Yes, ma'am -- or two of
16 the ones.

17 MS. MAYES: For evidence, Your Honor, State's
18 Exhibit 23 and 2.

19 THE COURT: All right. State's Exhibit 23 and
20 2 are admitted in evidence.

21 (State's Exhibit Nos. 2 and 23 admitted in
22 evidence.)

23

24 BY MS. MAYES:

25 Q. State's 2, State's 23. Looking here, Detective

1 Phipps, is this the child that you're referring to
2 that you found clothed images of?

3 A. She is.

4 Q. What is observed in the background there? What
5 type of furniture is the child on?

6 A. It's a couch; appears to be in the living room
7 area. And the couch has a unique pattern to it, the
8 fabric.

9 Q. Does there appear to be any individual in the
10 foreground?

11 A. There's a leg in shorts or exposed knee in the
12 bottom left corner.

13 Q. Detective Phipps, you've told us about sexually
14 explicit images of a child. Based upon your
15 observations of this child in State's 23 and State's
16 2 that we just looked at a few moments ago, what, if
17 anything, is similar regarding the sexually explicit
18 images of the child that you observed?

19 A. The general characteristics of the child itself
20 is consistent with the sexually explicit images, as
21 well as specifically this couch; the pattern is very
22 similar to a pattern you see in the sexually
23 explicit images.

24 Q. Does that seem to be age and facial
25 characteristics of the child?

1 A. Yes, ma'am.

2 Q. You, yourself, have never met **Minor 1** ?

3 A. I have not.

4 Q. We're going to look here at State's 11, already
5 in evidence. Again, the redaction we're seeing on
6 this photograph, when you first observed it, was it
7 redacted?

8 A. It was not.

9 Q. That's for purposes of placing it here on the
10 overhead?

11 A. Yes, ma'am.

12 Q. State's 11, Detective Phipps, tell us what
13 we're looking at.

14 A. Here, it appears to be a young female who's
15 wearing some type of red clothing on her upper body;
16 can't tell if it's a dress or a top, but some type
17 of red clothing. Her fingers are visible in the
18 image. There appears to be some possible remnants
19 of some type of fingernail polish that's visible on
20 some of the fingers.

21 A little further down, she's on some type of
22 fabric that has -- it's hard to see in this image,
23 but it's sort of a two-tone, bluish-gray color.

24 Q. Do you see that bluish-gray-color fabric in
25 other photographs that you recovered?

1 A. We did.

2 Q. And if you could show us again the fingernail
3 polish that you referred to?

4 A. (Witness complies.)

5 Q. That's observed on one finger or multiple
6 fingers of the hand?

7 A. Multiple.

8 Q. Does this appear to be the hands of a child?

9 A. It does.

10 Q. Is the pubic area also devoid of any pubic
11 hair?

12 A. It was.

13 Q. Does part of your training and experience,
14 Detective Phipps, in the analyses of sexually
15 explicit images, include images of children?

16 A. It does.

17 Q. Does that include identifying children who are
18 pubertal or prepubertal in age?

19 A. Yes, ma'am.

20 Q. Does that appear consistent with this?

21 A. It does.

22 Q. What, if any, information was obtained in the
23 file data or file path for this image? And you can
24 enlarge that however you'd like.

25 A. I'm not sure if I know how to drive it.

1 So the information that's printed at the bottom
2 of the photo, this name, this long string, is sort
3 of the generic file name that is given to the image
4 by the file system.

5 The image we're looking at isn't the actual
6 native image or the original image when the picture
7 was taken, it's an artifact that you can see in the
8 path. This path that's listed here, the first part
9 of this is just the extraction that we do, this ZIP
10 file. But then, the data, user, and user 150, that
11 150 indicates that it came from that secure folder
12 path. So it was originally in that path, and it was
13 a what we call a cache file.

14 A cache file is a file that the operating
15 system creates when it thinks it may have to refer
16 to something again. So when you're browsing the
17 Internet and a page loads, all those components of
18 the Internet page populate on your screen. And then
19 you click away from it and go somewhere else and
20 then, a few minutes later, you come back to it. All
21 those little individual components are cache;
22 they're stored on your local system so it doesn't
23 have to be pulled down again a second time.

24 So the operating system is doing something
25 similar here where it created sort of a duplicate

1 image of the original image. The original image was
2 not found on the device. Don't know if it was
3 deleted, you know, but it just wasn't there anymore.

4 But we found this artifact, which is a smaller
5 resolution image in this cache path within the 150
6 secure folder identification.

7 Q. You mentioned may have been deleted. Detective
8 Phipps, what, if any, evidence have you discovered
9 during the course of this cell phone analysis to
10 indicate that these images had been deleted or an
11 attempt to delete them was made?

12 A. Well, we didn't find the full-resolution image.
13 So either the image was still there, encrypted
14 somehow, and we couldn't dig it out, or it was
15 deleted. It was on there. And it was on there at
16 one point in time in a resolution that is larger
17 than this cache image, which is a smaller resolution
18 file.

19 Q. You mentioned deleted or encrypted. If it had
20 been encrypted, would that also require specific
21 user activity?

22 A. That's correct.

23 Q. To encrypt it or hide it somehow in the smart
24 phone?

25 A. Yes.

1 Q. Okay. And then --

2 A. Or move it off the device, onto something else.

3 Q. And then the other option would be that it was
4 deleted?

5 A. Yes, ma'am.

6 Q. Because you did not find the original format of
7 the photo?

8 A. Yes, ma'am.

9 Q. Now, your software. How does your software
10 allow you to recover images even after there's been
11 an attempt to delete them from the phone?

12 A. If it's the original image, when you delete
13 something, a lot of times -- of course, you got
14 trash bins, so it's a temporary space.

15 The operating system says, well, you might not
16 really want to delete it, so it's over here
17 temporarily. Then, later on, you can go back and
18 tell it, yeah, I truly want to delete that or it
19 times out after a certain number of days and purges
20 that file.

21 Software tools can recover some of those
22 because, until that file gets physically overwritten
23 in that memory space that it sits on that device,
24 usually, it's not deleting the whole image; it's
25 deleting just a portion of the header so that the

1 device knows, hey, that memory space is available; I
2 can use it again if I need to.

3 So the software automated process goes in and
4 identifies as deleted headers and can reconstruct
5 them and tell us, hey, this was a file that was
6 here, but it has been deleted at some point in time.

7 Q. Looking here at the 150. The 150 indicates
8 what?

9 A. The 150 is specific to that secure folder.

10 Q. So that's the indication to you that, at one
11 point in time, this image was within that secure
12 folder?

13 A. Yes, ma'am.

14 Q. And then what, if any, date is this image
15 recovery and then what more about that date and what
16 it means or does not mean?

17 A. Well, the dates listed there, the modified
18 accessed, that's just a point in time where the
19 operating system interacted with that file path. So
20 it doesn't necessarily mean -- it does not mean that
21 that's when the photo was originally created, and it
22 doesn't necessarily mean that's when it was deleted
23 or anything else.

24 It just means, at some point in time,
25 specifically on that date, something happened that

1 caused that operating system to update that file
2 path.

3 Q. Would access be a fair description of that?

4 A. It could be. But it could be something
5 automated as well.

6 Q. So the image could have preceded the date of
7 April 19th, 2020?

8 A. Yes.

9 Q. But on April 19th, 2020, something happened on
10 that phone where the image had to have already
11 existed by that date?

12 A. Yes.

13 Q. Now, once we see that date, can that date be
14 altered or changed in any way?

15 A. Not by the user.

16 Q. Okay. So on 4/19/20, this image was somehow
17 accessed or utilized in some form on that phone?

18 A. Correct. Something happened to the file path;
19 specifically, the path. It could be a grouping of
20 files that all got updated at the same time, too.

21 Q. Next, Detective Phipps, I'm going to show you
22 State's 12 and ask you to describe what, if
23 anything, we're looking at in this photograph.

24 A. It's a little hard to make out. But, again, in
25 this instance, the image at the very top of the

1 screen, there's -- I don't know if it's a red
2 pillow, but there's red visible there. Could be
3 clothing or a pillow. I'm not quite sure. But,
4 obviously, it's the backside of a young female.

5 Visible, down at the bottom, is this same
6 gray-and-blue-striped pattern that we had with the
7 other image; this time, appears to have gray
8 underwear visible, and it appears to be an adult's
9 hand in the image.

10 Q. All right. What, if any, date is affiliated
11 with this image?

12 A. This would be April 19th, 2020.

13 Q. So the same date we saw on the previous image?

14 A. Yes, ma'am.

15 Q. Now what, if any, indication do you have that
16 this image was also from that secure folder
17 identified as 150?

18 A. Again, the user 150 in the file path.

19 Q. State's 10.

20 A. Again, we've got some type of red clothing,
21 fabric material visible at the top of the image. It
22 appears to be consistent with the same images that
23 we saw in the previous series, to include the
24 bedspread or whatever this fabric is here, this gray
25 and blue stripe.

1 Q. And what, if any, date is affiliated with this
2 image?

3 A. Same date: April 19th, 2020.

4 Q. What, if any, indication is there that this is
5 affiliated with the secure folder?

6 A. The user 150.

7 Q. So all three of these images from that secure
8 folder were accessed in some way on 4/19/20?

9 A. Yes, ma'am.

10 Q. Next is State's 8. What, if anything, is
11 significant about this photograph?

12 A. This image appears to be taken from a different
13 location, or area anyway, from a different
14 perspective. It's hard to make out in the dark.
15 But there's a bookcase, a white piece of furniture
16 here; there's a birdcage or some type of animal cage
17 here.

18 In this instance, the female's face is visible
19 with her hand covering her face. It's really dark
20 right there. But it is red, when you look at the
21 actual photos; still some red clothing.

22 Here, we're dealing with blue underwear,
23 different colored underwear. And it's going to be
24 almost impossible to make out on this overhead but,
25 in this lower section here, when viewed directly on

1 the print, there's a pattern that is consistent with
2 the couch that we saw in the other photo.

3 Q. You're referring to State's 23?

4 A. That's correct.

5 Q. And the couch pattern located here below her
6 knees?

7 A. Yes, ma'am.

8 Q. State's 14 -- let me go back to the one we were
9 just on, State's 8. I'm sorry. I meant to have you
10 discuss the file date information.

11 A. With this one, it's April 25th, 2020. And it
12 has the same user 150 file path.

13 Q. From the secure folder?

14 A. Yes, ma'am.

15 Q. State's 14?

16 A. In this photo, you can see the young lady's
17 face more visible. Again, you can see this
18 blue-gray bedspread, blue-teal, bluish-teal-looking,
19 greenish-top-to-it dress that she's wearing. And in
20 this one, we've got a May 4th, 2020, and the same
21 user 150 file path.

22 Q. From the secure folder?

23 A. Yes, ma'am.

24 Q. State's 13?

25 A. In this one, we noted that the fingernails

1 appear to be cleaner in this image. They didn't
2 appear to have residue on them, fingernail polish,
3 or anything like in the previous images.

4 Here, you can see what appears to be the
5 child's hands up top with an adult's hands on the
6 bottom of the image.

7 Q. What date is affiliated with this image?

8 A. That's 5/4/2020.

9 Q. And on this one, you noted that there is no
10 nail polish; whereas, in the first image, there does
11 appear to be nail polish.

12 A. That's correct.

13 Q. On the child?

14 A. That's correct. And the same user path, 150.

15 Q. Now looking here at this particular photograph,
16 Detective Phipps, how are you able to distinguish
17 the hands of a child from the hands of an adult?

18 A. Well, the hands, they just have a more mature
19 look to the fingers themselves, the nailbeds. And
20 here, you've got three sets of hands.

21 So by virtue of the posture or position that
22 the child is in, it's a logical assumption that her
23 hands are coming from the top; therefore, someone
24 else's hands would have to be coming from the
25 bottom.

1 Q. Left hand of the child, right hand of the
2 child, and this is the hand belonging to someone
3 else?

4 A. That's correct.

5 Q. That is State's 13. Looking here at State's 9,
6 what, if anything, can you tell us about this image?

7 A. This image, we're seeing what looks like a bed,
8 possibly pillows, red pillows up here, the same
9 blue-and-gray-striped covering.

10 What's interesting here is there's something
11 here just over the right side that appears to be a
12 device -- the screen of a device, computer, tablet,
13 something that's lit up in that corner.

14 Q. Now, in this particular photo, where is the
15 child's head? Is that visible to you?

16 A. Yes. Right here.

17 Q. And what you identified as a tablet or device,
18 that appears to be on -- where is that?

19 A. In this area right here.

20 Q. So in close proximity to the child's head?

21 A. Yes, ma'am.

22 Q. In viewing proximity to the child?

23 A. Yes.

24 Q. And what, if any, date is associated with this
25 image?

1 A. 5/31/2020.

2 Q. What, if anything, can you tell us about this
3 photo in relation to that secure folder, 150, you
4 told us about?

5 A. It has the same user, 150 file path.

6 Q. State's Exhibit 7?

7 A. This is back in what appears to be the living
8 room area. The cages are visible. You can see what
9 looks like a bookcase, a little better in this
10 image.

11 You see the child with some type of red
12 clothing top on, blue underwear; you can see a
13 little bit more of her face. So it's a different
14 image -- separate image taken than what we saw
15 previously. And, again, it's hard to see on the
16 overhead, but there's a pattern to the furniture
17 covering right here that's consistent with that same
18 couch we saw earlier. With this one, it has a file
19 date of July 2nd, 2020.

20 Q. What, if any, indications are there that this
21 photo was also in a secure folder?

22 A. This one -- let's see. I don't think this one
23 is in a secure folder path.

24 Q. We want to separate this out.

25 Now, the date on this photo is 7/2/20. Again,

1 does that mean it has the date it was created?

2 A. It does not.

3 Q. It just means that at some point on 7/2/20,
4 what happened in regards to this image and that
5 phone?

6 A. The operating system somehow interacted with
7 that file path. It could be anything. It could be
8 updating itself. But the phone had to be on and
9 someone doing something, usually, with the phone to
10 cause that date to update.

11 Q. Could that also include deletion?

12 A. It could.

13 Q. The face of this child in State's 7, is that
14 consistent with the facial characteristics of the
15 child in State's 23?

16 A. It is.

17 Q. Do you have any indications that this phone
18 also accessed Twitter?

19 A. We did. We found a Twitter account installed
20 on the phone. The name was a Mike D; username was

21 [REDACTED].

22 MS. MAYES: State's 36 and 37 for evidence.

23 THE COURT: State's Exhibit 36?

24 MS. MAYES: Yes, sir.

25 THE COURT: That's 36 and 37?

1 MS. MAYES: Correct, Your Honor.

2 THE COURT: 36 and 37 without objection?

3 MR. MAULDIN: That's correct.

4 THE COURT: So admitted.

5 (State's Exhibit Nos. 36 and 37 admitted in
6 evidence.)

7 BY MS. MAYES:

8 Q. Looking here at this Twitter account that you
9 said the username is [REDACTED], do you -- did you
10 observe anything during the course of your
11 extraction on this phone to indicate that Twitter,
12 that app, that social media platform, had been
13 utilized to find pornographic images?

14 A. We did. We found numerous adult porn images
15 that result back to a path of Twitter; meaning that
16 they were exchanged somehow, originally viewed on
17 Twitter, sent as a Tweet in some form.

18 Q. I'm going to show you what is State's 26, 25,
19 28, 29, and 72, and ask you whether or not you
20 recognize those images.

21 A. I do.

22 Q. How so?

23 A. They're images -- screen captures from the
24 Physical Analyzer report that was generated. And
25 they show a path for the Twitter account, a cache.

1 Again, we're dealing with cache files that were
2 generated as a result of Twitter activity on the
3 device.

4 Q. Does this include images that depict sexually
5 explicit nudity?

6 A. It does.

7 Q. And sexual activity, including intercourse?

8 A. Yes.

9 MS. MAYES: Your Honor, this would be State's
10 25, 26, 28, 29, and 72 for evidence.

11 MR. MAULDIN: May we approach, Your Honor?

12 (Sidebar conference.)

13 THE COURT: All right. Defense counsel made an
14 objection regarding --

15 MR. MAULDIN: Relevance, because the images
16 were not identified.

17 THE COURT: Right, as to State's Exhibits 26,
18 28, and 29. That objection is sustained.

19 Exhibits 25 and 72, the objection is overruled.

20 (State's Exhibit Nos. 25 and 72 admitted in
21 evidence.)

22 All right. Ladies and gentlemen, we're going
23 to take our afternoon break here, try to make this
24 ten minutes. Just refresh yourselves quickly. I'll
25 get you back up here as soon as possible. Thank

1 you. Please don't discuss the case while you're
2 out.

3 (The jury exits the courtroom at 3:40 PM.)

4 MS. MAYES: We have the original extraction,
5 Your Honor, it is State's 58. Because it contains
6 the full extraction, including the images that we
7 know aren't coming in, some of the images that are
8 not coming in, we will mark it for ID. It will be
9 marked for ID.

10 It will be discussed on the record, but we
11 won't actually be admitting into evidence the full
12 extraction because it's going to contain all of the
13 images, including some images which have been ruled
14 not admissible.

15 MR. MAULDIN: And there's a bunch of other
16 stuff not relevant to the case.

17 THE COURT: It's marked for identification
18 State's Exhibit 58; is that right?

19 MS. MAYES: Correct, Your Honor.

20 (State's Exhibit No. 58 marked for
21 identification.)

22 THE COURT: Are we ready to bring the jury
23 back, everyone?

24 MS. MAYES: Yes, sir.

25 THE COURT: Mr. Mauldin, are we ready to

1 proceed?

2 MR. MAULDIN: Yes, sir.

3 THE COURT: All right. Let's bring the jury
4 up.

5 (The jury enters the courtroom at 3:55 PM.)

6 THE COURT: Mr. Foreman, ladies and gentlemen
7 of the jury, welcome back. We'll continue where we
8 left off with the State's case.

9 BY MS. MAYES:

10 Q. Detective Phipps, you had discussed the use of
11 Twitter in association with the username [REDACTED].

12 Did you find any sexually explicit images that
13 appeared to have been accessed using the Twitter
14 platform or application?

15 A. We did.

16 Q. And how did you go about identifying the
17 sexually explicit images that were related to
18 Twitter?

19 A. Again, looking at the file path you see the
20 image in, and it points back to the fact that's it's
21 an artifact from Twitter application or Twitter use
22 on the phone.

23 Q. I'm going to take you back specifically to
24 State's Exhibit 10, which you've identified as an
25 explicit image of someone appearing to be a child.

1 A. Yes, ma'am.

2 Q. Did you find any Twitter sexually explicit
3 photographs that depict an adult in the same type of
4 position?

5 A. I did.

6 Q. I'm going to show you State's 72, already in
7 evidence, and ask you whether or not you recognize
8 that.

9 A. I did.

10 Q. Was that image recovered during the course of
11 your extraction?

12 A. It was.

13 Q. How, if at all, is that similar to what is
14 depicted in State's Exhibit 10 of the child?

15 A. This image depicts an adult female on her back,
16 with her legs up, exposing her genitalia.

17 Q. What, if any, indication do you have that
18 State's 72 came from Twitter?

19 A. In the file path, you have this Twitter.com
20 path or cache image file.

21 Q. Next I want to show you State's 14. Is the
22 full face of that child visible in State's 14?

23 A. It is.

24 Q. Did you examine State's 23?

25 A. Yes, ma'am.

1 Q. Does that appear to be a child of the same age
2 and the same facial characteristics?

3 A. Yes, ma'am.

4 Q. On that patterned couch that you previously
5 described?

6 A. It does.

7 Q. During the course of your analysis, did you
8 recover any sexually explicit images of an adult
9 that appear to be of a similar-type pose?

10 A. I did.

11 Q. I'm going to show you State's 25, already in
12 evidence, and ask you what, if anything, is
13 significant about this photo?

14 A. As you can see, the posing is very similar.
15 And with the file path, again you can see the
16 Twitter file path. That's where the images derived
17 from.

18 Q. Is there an indication that the image here of
19 this adult female came from the Twitter application?

20 A. Yes.

21 Q. And that pose and positioning appears to be
22 identical in State's 25 and State's 14?

23 A. Yes, ma'am.

24 Q. Regarding --

25 MS. MAYES: Beg the Court's indulgence.

1 (Brief pause in the proceedings.)

2 BY MS. MAYES:

3 Q. Regarding this photograph in State's 14, what,
4 if any, additional indications did you have of user
5 activity affiliated with this image?

6 A. In addition to the image you see here, I found
7 an identical image, except it was in black and
8 white, and it was in a file path that indicated that
9 the user had applied a filter or manipulated it in
10 some way.

11 So they had gone to the effort to take the
12 original image and then apply a filter to it to
13 create a separate image in black-and-white.

14 Q. Whoever took this photograph and then stored it
15 on the phone, that you described as being the phone
16 registered to M. Dyer, also created a version of
17 this photo in black-and-white?

18 A. They did.

19 Q. And that required specific user activity?

20 A. It does.

21 Q. And the use of a filter?

22 A. It does.

23 Q. That's an editing feature of the Samsung Galaxy
24 S9?

25 A. It is.

1 Q. Did you find any other registered users for
2 this phone, Detective Phipps, other than the account
3 associated with M. Dyer and [REDACTED]?

4 A. I'm not recalling any. Those were specifically
5 the majority of the user activity associated with
6 those accounts, but I don't recall any other at this
7 point.

8 Q. Any other usernames associated with this phone
9 other than that of Mike Dyer or Michael Dyer?

10 A. Right.

11 Q. Now, in addition to the sexually explicit
12 images that you've told us about and have been
13 identified, I'm going to ask you about any other
14 user activity that was noted on the phone. And I'm
15 going to show you what is State's 38, 39.

16 A. Yes, ma'am.

17 Q. You're familiar with those items?

18 A. They are, again, screen captures from the
19 software. This is specifically identifying the
20 documents in the document folder of the phone.

21 Q. Do those appear to be personal documents or
22 receipts?

23 A. They do.

24 Q. I'm going to show you also State's 40, State's
25 41, State's 42, and State's 43 and ask you if you're

1 familiar with these items as well.

2 A. Yes, ma'am. Again, they're -- it's multiple
3 pages of one document that's been printed out.

4 Q. And do all of them appear to be consistent with
5 business receipts and/or hotel receipts?

6 A. They are.

7 MS. MAYES: State's 38, 39, 40, 41, 42, and 43
8 for evidence, Your Honor.

9 THE COURT: Without objection?

10 MR. MAULDIN: Yes, sir.

11 THE COURT: All right. State's Exhibits 38,
12 39, 40, 41, 42, 43 admitted in evidence.

13 (State's Exhibit Nos. 38, 39, 40, 41, 42, 43
14 admitted in evidence.)

15 BY MS. MAYES:

16 Q. Beginning here with State's 38, Detective
17 Phipps, tell us what we're looking at.

18 A. Again, this is under the documents tab, and
19 it's showing documents that I've tagged that were
20 unique to the user.

21 In this case, there's a series of PDF documents
22 that start with the file name Dyer, and then some
23 additional PDFs here, and then a Home2 Suites
24 document at the bottom.

25 Q. All right. Regarding the Home2 Suites

1 document, what is the date related to that document?

2 A. It was created on July 9th, 2020.

3 Q. So that is its creation date; meaning, that is
4 the original date for that particular image
5 document?

6 A. Yeah. But that -- it can mean various things.
7 But that's the most current date that it's showing.

8 Q. Now I'm going to show you what is State's
9 Exhibit 39 and ask you what we're looking at here.
10 And I'm going to move over here and record these
11 dates.

12 A. This is a receipt for Courtyard by Marriott.
13 The receipt is in the name of a Michael Dyer, and it
14 has an arrival and departure date.

15 Q. All right. If you could, put that on the
16 overhead.

17 All right. And, again, this is in the name of
18 who?

19 A. Michael Dyer.

20 Q. And does it have an address affiliated with it?

21 A. [REDACTED] Ramblin Road, West Columbia.

22 Q. And regarding this hotel receipt, what is the
23 date for this receipt?

24 A. Well, it lists an arrival and departure date.
25 I'm not sure if there's a date on the receipt.

1 Q. The arrival date?

2 A. The arrival date is June 12th, 2020.

3 Q. And the departure date?

4 A. June 14th.

5 Q. All right.

6 Next, State's 40?

7 A. This is another receipt for Home Suites by
8 Hilton -- Home2 Suites by Hilton in the name of
9 Michael Dyer. That's [REDACTED] Ramblin Road.

10 Q. And what is the arrival or check-in date?

11 A. The arrival date is 6/17/2020 with a departure
12 of 7/7.

13 Q. Was this receipt recovered from that phone?

14 A. It was.

15 Q. In the name of Michael Dyer?

16 A. Yes, ma'am.

17 Q. State's 41, also for Home2 Suites, what dates
18 are affiliated with staying at that hotel?

19 A. Arrival of 6/17/2020, departure 7/7.

20 Q. And then over in the left-hand column, do we
21 see charges for dates throughout 6/22, 6/23, 6/24,
22 6/25, and 6/26?

23 A. That's correct.

24 Q. And then at the bottom, 6/27 and 6/28?

25 A. Yes, ma'am.

1 Q. And then State's 42, already in evidence, does
2 that cover the dates of 6/28, 6/29, 6/30/ 7/1, 7/2,
3 7/3, and 7/4?

4 A. Yes, ma'am.

5 Q. And then State's 43, does that cover State's --
6 State's 43, does that cover the dates of 7/4, 7/5,
7 7/6, and 7/7 of 2020?

8 A. It does.

9 Q. And, again, all of these receipts recovered on
10 the phone of Michael Dyer?

11 A. Yes, ma'am.

12 Q. Now, did you also do a search for any web
13 history potentially related to this case?

14 A. I did.

15 Q. I'm going to show you what is State's 44 and 45
16 and ask you whether or not you're familiar with
17 these images.

18 A. I am.

19 Q. Who recovered those images during the course of
20 the extraction?

21 A. I did.

22 Q. And those images were found in what location in
23 the phone?

24 A. It's a Google search term. So it's
25 specifically registering a search term when you type

1 that search term into a search window for Google.

2 Q. And you have the capability of recovering that
3 during the course of your extractions?

4 A. That's correct.

5 MS. MAYES: State's 44 and 46.

6 THE COURT: Without objection?

7 MR. MAULDIN: Yes, sir.

8 THE COURT: State's Exhibits 44 and 46 admitted
9 in evidence.

10 (State's Exhibit Nos. 44 and 46 admitted in
11 evidence.)

12 BY MS. MAYES:

13 Q. Where State's 44 is concerned, tell us what
14 we're looking at, Detective Phipps, and how you went
15 about recovering this during the course of your cell
16 phone extraction.

17 A. This is showing a Google quick search box. I
18 don't know if I can distinguish between, like, a
19 voice search -- when you're doing a voice search or
20 whether it's physically typed out. But the value
21 that was searched for was sexual assault against a
22 minor on July 9th of 2020.

23 Q. And what, if any, source file information was
24 affiliated with that?

25 A. Again, it's found on the root of that drive or

1 the root of the partition for the phone in question.

2 Q. Now, again, in order for this to be recovered
3 as something from the Google quick search box, does
4 that require user activity?

5 A. It does.

6 Q. It's a specific entry that the user makes by
7 typing that in or giving a voice command to search
8 for that information?

9 A. Correct.

10 Q. What, if anything, happens when a phrase such
11 as this is entered into Google?

12 A. Usually, you're immediately presented with
13 search results, so you get a population of things to
14 click on to go to other sites.

15 Q. And that occurred on July 9th of 2020?

16 A. Yes, ma'am.

17 Q. What are we looking at in State's 46 -- 45?

18 A. This is an image -- again, when you go to
19 websites, it pulls down the little images for
20 various portions of the website. It's going to be
21 the entire site or just a pop-up in a website. This
22 is an artifact of web browsing history at the same
23 time this search was executed.

24 Q. Now you may return.

25 Looking here at this image that you have

1 identified as being that of a child, State's 11, and
2 then the numerous other images that you also
3 identified as those being of a child, Detective
4 Phipps, can these images be accessed or manipulated
5 remotely?

6 A. The images that we found in the locations that
7 we found them are an artifact of user activity and
8 nothing remotely generated.

9 Q. And what do you mean by that?

10 A. Means that, you know, I couldn't send you a
11 text message and embed an image and have it pop up
12 in the location where we found it.

13 Q. In other words, this activity was generated on
14 that same Samsung Galaxy S9 device?

15 A. Yes.

16 Q. The image file dates that you noted and all
17 those dates that we listed there on the easel, those
18 dates that transcend April 19th, 2020 through July
19 2nd of 2020, can those dates, in an image file path,
20 be altered after the fact?

21 A. Not by the user, no.

22 Q. So the date shown in that file path, can you
23 tell me whether or not the dates shown in these file
24 paths is the last date that that image was accessed
25 or some form of activity occurred regarding that

1 image on the phone?

2 A. The image -- specifically, the image that we
3 have on the screen, which is a cache image, again,
4 it's not the original one; we don't know where the
5 original is. But that cache image was last
6 interacted with by the phone or the operating system
7 or the user on that date.

8 Q. So that would be the last interacted with date?

9 A. Yes.

10 Q. But the original date or creation date could
11 have preceded that?

12 A. That is correct.

13 Q. And is that also true for the images that we
14 observed, such as State's 25 and State's 72
15 regarding the adult images that are sexually
16 explicit in nature?

17 A. I'm sorry. Restate your question.

18 Q. Yes. I'm going to show you State's 72 and 25.
19 Regarding the sexually explicit images of adults, is
20 there any way to know when those images were first
21 accessed by the user?

22 A. I don't recall if there was any date metadata
23 associated in the images or not. It's not printed
24 on the images if it was.

25 Q. Did you find evidence of multiple sexually

1 explicit images that had been acquired through that
2 Twitter application?

3 A. We did.

4 Q. Finally, Detective Phipps, I'm going to show
5 you these items and ask you whether or not you
6 recognize them. This will be State's 62, State's
7 55, State's 60, 57, 59, 56, 61, and 73.

8 A. Yes, ma'am. I do.

9 Q. You recognize all of these items?

10 A. I do.

11 Q. Who recovered these in the course of the phone
12 extraction of Michael Dyer's phone?

13 A. I did.

14 Q. Is this the original format which you obtained
15 these images?

16 A. Yes. They're the unredacted versions of the
17 images.

18 Q. As you originally discovered them on the phone?

19 A. Yes, ma'am.

20 MS. MAYES: Your Honor, all of these items are
21 marked and for evidence at this time.

22 MR. MAULDIN: No objection, Your Honor.

23 THE COURT: All right. State's Exhibits 62,
24 55, 60, 57, 59, 56, 61, and 73 are admitted into
25 evidence.

1 (State's Exhibit Nos. 55, 56, 57, 59, 60, 61,
2 62, and 73 admitted in evidence.)

3 MS. MAYES: These are sealed, Your Honor. We
4 request permission to publish to the jury in an
5 individual format.

6 THE COURT: Proceed.
7 Counsel.

8 (Sidebar conference.)

9 THE COURT: Ladies and gentlemen, I'm going to
10 allow you to pass those images down. You can see
11 them. I'll give you a few minutes, if I can. I
12 just don't want a distraction from any other
13 testimony.

14 So we'll take a moment and pass them down and
15 review them one by one.

16 (The jury views unredacted images.)

17 THE COURT: When the photographs make it all
18 the way through, just hand them to the bailiff.

19 Madam Solicitor, the bailiff has all the
20 evidence.

21 MS. MAYES: Briefly, Your Honor.

22 BY MS. MAYES:

23 Q. I'm going to show you what is for ID only,
24 being State's 58. Did you prepare an original
25 extraction CD?

1 A. I did.

2 Q. Did you provide that to the South Congaree
3 Police Department?

4 A. Yes, ma'am, I did.

5 Q. For ID only, if you could take a look at
6 State's 26.

7 A. Yes, ma'am.

8 Q. Among the images of adult pornography,
9 commercial adult pornography on Twitter, did that
10 include images depicting sexual intercourse?

11 A. It did.

12 MS. MAYES: Nothing further, Your Honor.

13 THE COURT: Cross-examination?

14 CROSS-EXAMINATION

15 BY MR. MAULDIN:

16 Q. Investigator Phipps, so these dates don't mean
17 necessarily that these were days that the pictures
18 were looked at or brought up on the phone. You just
19 can't tell; is that correct?

20 A. That's correct.

21 Q. And, in fact, when you mentioned the photos
22 that you say were a little girl in the photos, that
23 the were eight in a unique setting; is that correct?

24 A. Correct.

25 Q. And unique setting, what does that mean?

1 A. To me, it just means -- it's not a duplicate
2 image. It's an image taken, and then the camera
3 moves some amount so you can tell a change in aspect
4 or whole change in scenery, whatever it is. But
5 it's separate images captured.

6 Q. Even though they may have been taken on the
7 same day, they're separate images?

8 A. That's correct. I don't know what day they
9 were taken.

10 Q. Right. Because the way the phone was when you
11 received it, there was no metadata for you to know
12 the creation date of any of those photos?

13 A. That's correct.

14 Q. So as far as you know, they could have been on
15 the same day or they could have been done at any
16 time?

17 A. That's correct.

18 Q. But, it appears in four of the pictures, she
19 has a red top on; is that correct?

20 A. I don't remember the exact count. But I do
21 recall there's different clothing involved,
22 different settings as far as the room appearance.

23 Q. Right. But some of them, it appears, the same
24 clothing is involved. Say, the gray panties, there
25 are two photos of those?

1 A. That's correct.

2 Q. That could indicate that they were taken on the
3 same day?

4 A. It could.

5 Q. Even though they were unique settings?

6 A. Correct.

7 Q. Now, does Cellebrite have the ability to
8 decrypt these secure folders on the Samsung?

9 A. I haven't done a lot of testing in that aspect.
10 I set up a test bed phone, same style phone, and
11 have been working through it, but it's a fairly
12 tedious process and have not made a determination
13 whether an encrypted folder can be automatically
14 parsed by our software tool.

15 Q. Is it something that can be done that you just
16 haven't been able to do or is it --

17 A. Well, first, I haven't determined whether the
18 phone in question here truly had encrypted data -- I
19 haven't made that determination -- but also don't
20 know whether we have the ability to decrypt it,
21 should it have been encrypted.

22 Q. Do other people have the ability to do that
23 with Cellebrite?

24 A. Not that I'm aware of. Someone with Cellebrite
25 may, but not other people with the same tool.

1 Q. The one that you have?

2 A. Correct.

3 Q. All right.

4 MR. MAULDIN: No further questions, Your Honor.

5 THE COURT: Redirect?

6 MS. MAYES: Yes, sir, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. MAYES:

9 Q. Regarding the inquiry by defense counsel about
10 whether or not the images could all be on the same
11 day, again, regarding State's 11 and 13, is there a
12 difference in these photographs as to the child's
13 fingernail polish?

14 A. It is. One appears clean nailbeds and the
15 other appears to have some type of residue.

16 Q. And then regarding State's 12 and 13, I want to
17 show you specifically the hands of the adult as
18 depicted in 13 and in 12. Does there appear to be
19 any difference in nail length in these photographs?

20 A. It's hard to tell because it's just the two
21 fingers. But I -- I can't -- the image in State's
22 13 is not in really sharp focus, so it's difficult
23 to say.

24 Q. Okay. If there is a difference in nail length,
25 could that also indicate the images were taken on

1 two separate dates?

2 A. It could.

3 Q. And, again, you're familiar with State's 23
4 recovered from the phone?

5 A. Yes, ma'am.

6 Q. The image of a child on a couch?

7 A. Yes, ma'am.

8 Q. Does that appear to be the same couch in
9 State's 5?

10 A. It does.

11 Q. Some of these images, such as State's 7, do
12 they appear to be taken on that couch?

13 A. They do.

14 Q. With the birdcage in the background?

15 A. Yes.

16 Q. And then in State's 9, for example, does this
17 appear to be a different location?

18 A. It does.

19 Q. That would also be a different setting,
20 correct?

21 A. That's correct.

22 Q. And then you've noted that the child has
23 different clothing in multiple photographs.

24 A. That's correct.

25 Q. Here, in State's 9, she's wearing some type of

1 red clothing?

2 A. Correct.

3 Q. You also noted that there was underwear of
4 different colors depicted in some of the
5 photographs.

6 A. Yes, ma'am.

7 Q. State's 7 depicts what color of underwear?

8 A. Blue.

9 Q. State's 12, directly underneath the child,
10 depicts what color of underwear?

11 A. Gray.

12 Q. And then, finally, State's 14?

13 A. Teal-top dress, some type of clothing.

14 Q. Does this teal dress depict a different type of
15 clothing than in any of the other photographs that
16 you saw?

17 A. It does.

18 Q. Is this also the photograph where the user had
19 edited it to a black-and-white format as well?

20 A. It is.

21 MS. MAYES: Nothing further.

22 THE COURT: Recross?

23

24 RECROSS-EXAMINATION

25 BY MR. MAULDIN:

1 Q. Investigator Phipps, can somebody change
2 clothes in one day?

3 A. A person can change clothes in one day.

4 Q. Can they move from one location to another in
5 one day?

6 A. Yes, sir.

7 Q. Can they remove fingernail polish?

8 A. They can.

9 MR. MAULDIN: No further questions.

10 THE COURT: Thank you.

11 The witness may step down.

12 MS. WELLMAN: Your Honor, at this time, the
13 State will rest.

14 THE COURT: Very well.

15 Will the attorneys approach real quick?

16 (Sidebar conference.)

17 THE COURT: All right. Ladies and gentlemen,
18 the State has rested their case. I have some
19 matters I need to take up with the attorneys at this
20 time.

21 Instead of starting anything else today, I'm
22 going to go ahead and let you go now. We'll start
23 off a little bit later tomorrow. I'll just ask you
24 to be back in your jury room no later than 9:15, no
25 later than 9:15. That way, we can hopefully start

1 shortly thereafter, no later than 9:30. So you're
2 free to go for the evening.

3 Please don't discuss the case with anyone at
4 the courthouse, anyone on the panel, or with your
5 family and friends. Otherwise, we'll see you
6 tomorrow morning at 9:15 in the jury room.

7 (The jury exits the courtroom at 4:34 PM.)

8 THE COURT: All right. Any motions?

9 MS. MAULDIN: Yes, Your Honor. At this time,
10 I'd move for a directed verdict. And, generally,
11 taking the evidence as a whole in the light most
12 favorable to the State, there's insufficient
13 evidence to submit the case to the finder of fact.

14 And I would also base this motion on all of my
15 prior motions and objections, and both singularly
16 and the cumulative effect of those.

17 But, Your Honor, I also have a more specific
18 directed verdict motion as to the exploitation
19 charges. He's charged with eight counts of those.
20 We would move for a directed verdict on some of
21 those. And I'll explain what I mean by that.

22 THE COURT: Okay. Before you do that, let me
23 find something here.

24 (Brief pause in the proceedings.)

25 THE COURT: Thank you.

1 MS. MAULDIN: Thank you, Your Honor.

2 THE COURT: So what are your specific DV
3 arguments regarding exploitation?

4 MS. MAULDIN: Okay, Your Honor. The crime of
5 exploitation is focused on the act of encouraging or
6 coercing the child to be in the sexually -- in the
7 state of sexually explicit nudity for the purpose of
8 producing the sexually explicit material.

9 And I would argue that taking the photos of the
10 child is one continuous act rather than each image
11 being a separate single act of exploitation. He's
12 charged with exploitation for each single image.

13 And I would compare this with the charge of
14 assault and battery. If somebody punches them and
15 kicks them, they're charged with one charge of
16 assault and battery, not one for the punch and one
17 for the kick. Same with grand larceny: You break
18 into somebody's house, you steal a gun and some
19 jewelry, you're not charged with two counts of grand
20 larceny; it's one count for the theft of both items.

21 THE COURT: If I understand you correctly --
22 and I'll let you keep talking. But, basically,
23 you're arguing this should be one indictment for
24 exploitation versus not five, probably, or more?

25 MS. MAULDIN: Yes, Your Honor. Eight of them.

1 THE COURT: Eight. Okay.

2 MS. MAULDIN: Yes, Your Honor. And the
3 exploitation statute itself refers to material.
4 There's also a definitional statute, 16-15-375.
5 That defines material as pictures, drawings, digital
6 electronic files, et cetera. They use the plural
7 form of those things.

8 If they had intended for each item to be one
9 specific image or one specific digital file, they
10 would have used the singular form of those words.
11 So it's clear that they intended those to be
12 material encompassing multiple images, multiple
13 digital files.

14 Even if you don't think that that definition is
15 clear that that's their intent, it's, at best,
16 ambiguous. And I would argue that the whole --
17 means that this is a penal statute, Your Honor, as
18 to view it in the light most favorable to Mr. Dyer.

19 The way that that applies in this case, first
20 of all, I would argue that all of the photos, in the
21 time frame of the indictment, from January to July,
22 should count as one exploitation, and the State has
23 not met their burden on directed verdict for that.

24 Even if Your Honor does not accept that
25 argument, I would still argue that each of the files

1 that were created on a single day, in a single
2 incident of exploitation on that particular day
3 should count as one episode rather than each image
4 that may have been taken some on the same day. So
5 that's my argument, Your Honor.

6 We've gotten different versions of exactly how
7 many days the pictures were taken. In the forensic
8 interview, **Minor 1** mentioned that it happened one
9 time and there were four pictures. On the stand,
10 she did say that there were two images that were
11 taken on one day. We've got testimony that says
12 that things are similar in some of the photos and
13 different in others.

14 I would argue it's hard -- nail polish, it's
15 hard to see that. Fingernail length, even
16 Investigator Phipps said that was hard to tell. I
17 would just ask the Court to consider that they have
18 to meet the burden of proving that that happened in
19 different episodes, if Your Honor doesn't accept the
20 argument that this is one overarching incident of
21 exploitation.

22 And, Your Honor, I would argue that treating
23 the images as eight separate offenses would subject
24 him to double jeopardy and violate his right to due
25 process under the 5th and 14th Amendment and

1 corresponding sections of the South Carolina
2 Constitution.

3 THE COURT: All right.

4 Any response from the State?

5 MS. WELLMAN: Yes, Your Honor. With regards to
6 the eight separate images, I want to make it very
7 clear -- and I go -- which I think -- first of all,
8 **Minor 1** was up on that stand and testified that
9 these photos were not all taken at the same time.

10 Yes, she did say the ones on the couch, the
11 first one, he told her get in this position. That's
12 inducing, encouraging, coercing. It's not just
13 coercing. It is inducing, encouraging, coercing, or
14 employing. That's the first element of the
15 exploitation charge. So by this defendant -- and,
16 again, testimony from the witness stand and from the
17 forensic interview, get in this position, do this.

18 From the images in the living room, the first
19 one, he's like, get in this position, and he's like,
20 oop, and he takes a picture. She looks back; she
21 doesn't want her picture taken. He takes it again.
22 Those are two completely individual, separate, and
23 distinct acts. Both of those images -- both of
24 those photographs qualify as sexual exploitation of
25 a minor. They're all out of order at this point.

1 But, again, the first one, look back. She's
2 looking back and she says stop; no; I don't want my
3 picture taken, so she covers her face and does it
4 again. That is two distinct acts, two actions by
5 this defendant.

6 And then for the ones in -- I just want to make
7 sure I get them all. I can also point out to the
8 Court, starting with the most obvious, State's
9 Exhibit 14, in this image, she's not wearing any
10 underwear. She is wearing a dress, a teal dress.
11 In State's Exhibit 9 --

12 THE COURT: So you would consider that one
13 incident?

14 MS. WELLMAN: I would say yes.

15 THE COURT: All right.

16 MS. WELLMAN: With regards to --

17 THE COURT: I don't think we're disagreeing
18 about incidents; we're just talking about the
19 numerical amount.

20 MS. WELLMAN: But I think if she was arguing
21 this was all one, sort of potentially a chain of
22 events --

23 THE COURT: Well, the assault and battery now,
24 if you got into a fight, hit multiple times in a
25 day, but I think if you beat somebody up ten days

1 out of the month on separate days, that might be 10
2 separate indictments. I mean, I get the analogy.

3 MS. WELLMAN: I understand the analogy, too.
4 But what I'm trying to relay to the Court is, just
5 by looking at these images, for example, State's
6 Exhibit 12 and State's Exhibit 13, the adult
7 fingers -- or the nail length on the adult fingers
8 looks different to me. I think that raises a
9 question that goes to the jury. So there's that.

10 There is different clothing. I would also
11 argue there appears to be a difference in weight in
12 the different pictures. But the reality is, Your
13 Honor, it doesn't matter whether these photos were
14 taken one day. It doesn't matter. The statute --
15 and it is also routine to charge for each individual
16 image.

17 Each time this defendant said, get in this
18 position; do this; each time the defendant took a
19 picture of her for each separate image, each time he
20 put his hand here and snapped a picture, each time
21 he pulled her labia here and took a picture, they're
22 each individual pictures.

23 With regards to the definition of material, the
24 use of plural, it could be pictures; it could be
25 videos; it could be drawings; it could be

1 recordings; it could be any of them.

2 Also, from the witness stand, **Minor 1** talked
3 about, this day, I was wearing gold nail polish. No
4 nail polish. It's all separate, and the statute
5 allows for multiple charges. These are separate and
6 distinct crimes, separate and distinct actions.

7 This is not analogous to assault and battery
8 where there's one fight. These are separate,
9 independent, distinct actions by this defendant.
10 And I would ask Your Honor to deny that motion.

11 THE COURT: You get the last word.

12 MS. MAULDIN: Your Honor, I would ask the Court
13 to consider this as one overarching episode of
14 exploitation, and not only as many indictments as
15 Your Honor believes they have met the burden for
16 directed verdict as to how many different days that
17 it occurred.

18 THE COURT: All right. The record will reflect
19 that you renewed all your objections.

20 Before you got to exploitation, was there
21 something else you addressed or was it just renewing
22 your previous --

23 MS. MAULDIN: Your Honor, I made a directed
24 verdict motion --

25 THE COURT: How about this: With regards to

1 the other charges, the other indictments, to the
2 extent you made a directed verdict motion, those
3 will be denied as to CSC and dissemination of
4 obscene material.

5 Let me -- is there any other -- other than me
6 ruling on the exploitation, anything else?

7 MS. MAULDIN: No.

8 THE COURT: Anything else from the State on
9 that?

10 MS. WELLMAN: Your Honor, I'd be happy to see
11 if I can go find some case law for you on that.
12 But --

13 THE COURT: I see both arguments. So give me a
14 few minutes. If you find something, great. I'll be
15 back before 4:55. Thanks.

16 (Brief recess.)

17 THE COURT: All right. I've looked into the
18 matter. For now, I'm going to deny the motion.

19 But, Ms. Mauldin, at the end of your case, if
20 you want to reassert the motions and reargue it
21 again, that will be fine. But, at this point, the
22 directed verdict motion is denied.

23 Anything else for the record right now?

24 MS. MAYES: Nothing from the State, Your Honor.

25 MS. MAULDIN: No, Your Honor.

1 (The following proceedings were held May 27,
2 2021.)

3 THE COURT: Okay. We've been having a meeting
4 in chambers about proposed jury charges for the past
5 15 minutes or so. And we're making some changes
6 after consulting with the attorneys.

7 The State rested yesterday. Does the defense
8 intend to put up a case at this time?

9 MS. MAULDIN: No, Your Honor.

10 THE COURT: Does the defendant wish to testify?

11 MS. MAULDIN: He does not, Your Honor.

12 THE COURT: Sir, if you could stand up. Sir,
13 would you raise your right hand.

14 MICHAEL DYER

15 being first duly sworn, testified as follows:

16 THE DEFENDANT: Yes, sir.

17 THE COURT: At this time, I'm going to explain
18 to you some of your rights. If you don't understand
19 anything I say, please let me know; if you want me
20 to explain anything in more detail, please let me
21 know.

22 Do you understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: We've now reached the stage of the
25 trial where you may present your defense. You have

1 the right to claim the protections given to you by
2 the 5th Amendment of the Constitution of the United
3 States which says, in part, that no person shall be
4 compelled in any criminal case to be a witness
5 against himself. This means you cannot be required
6 to testify in this case. You have the right to
7 testify on your own behalf. However, no one can
8 make you testify. This is a personal right, and no
9 one can waive this right except you.

10 If you decide to testify, you'll be subject to
11 the same rules that govern other witnesses, and you
12 may be examined and cross-examined on any relevant
13 issue in this case.

14 In addition, if you have any convictions
15 involving dishonesty or false statement or for
16 crimes punishable by imprisonment for more than a
17 year, and this Court determines that the probative
18 value of admitting this evidence outweighs its
19 prejudicial effect to you, the Solicitor will be
20 able to introduce your record and attack your
21 credibility.

22 If you decide to testify, this decision on your
23 part must be freely, voluntarily, and intelligently
24 made with the knowledge of the protections given to
25 you by the 5th Amendment and the consequences of

1 your decisions to testify.

2 If you decide not to testify, I will instruct
3 the jurors that they cannot give the fact that you
4 did not testify any consideration whatsoever, and
5 there is to be absolutely no prejudice to you
6 because you did not testify. It is left up entirely
7 to you whether or not you testify.

8 I believe you've already talked to your
9 attorney. But you may talk with your attorney
10 further, or anyone else, but the final decision will
11 be left entirely up to you.

12 Do you understand what I've explained to you?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Do you have any questions about
15 what I've explained to you?

16 THE DEFENDANT: No, I do not.

17 THE COURT: Have you discussed this with your
18 attorney?

19 THE DEFENDANT: Yes, I have.

20 THE COURT: Do you wish to discuss it any
21 further?

22 THE DEFENDANT: No, sir.

23 THE COURT: Do you wish to testify?

24 THE DEFENDANT: Your Honor, I will not be
25 testifying today.

1 THE COURT: Very well.

2 Anything else?

3 MS. MAULDIN: No, Your Honor.

4 THE COURT: We don't have Ms. Mayes here. But
5 my intent is just to bring up the jury, tell them
6 good morning, allow the defense to present their
7 case -- I suspect she will rest -- and I just tell
8 the jury I have some matters to take up with you,
9 and we'll get them back at some point to charge them
10 on the law of the case and do closing arguments.

11 MS. WELLMAN: I know -- Ms. Mayes is actually
12 on the phone, I believe, about something you guys
13 were discussing. I'm not sure. Are you fine with
14 doing this part without her or would you like to
15 wait?

16 THE COURT: We're not going to do anything
17 other than bring them in and make them leave.
18 I think we're okay. She did tell me she was making
19 a call, actually.

20 MS. WELLMAN: I don't have a problem with it.

21 THE COURT: We can wait another three or four
22 minutes. It's up to you. You're here and you're in
23 charge right now. Whatever you want to do.

24 MS. WELLMAN: That's completely fine with me.
25 I have no problem bringing them in and filling a

1 chair for a few minutes.

2 THE COURT: All right.

3 Are y'all ready to bring them up?

4 MS. MAULDIN: Yes, sir.

5 THE COURT: All right. Let's bring them up.

6 (The jury enters the courtroom at 9:43 AM.)

7 THE COURT: Okay. Mr. Foreman, ladies and
8 gentlemen of the jury, welcome back. I hope you had
9 a nice evening. When we left yesterday, the State
10 had rested their case.

11 At this time, we'll have the opportunity to
12 hear from the defense on their case. All right?

13 Ms. Mauldin.

14 MS. MAULDIN: Your Honor, the defense rests.

15 THE COURT: Very well.

16 Ladies and gentlemen, the defense has rested
17 their case. I have additional matters now to take
18 up with the attorneys, so I will actually send you
19 back to the jury room at this time. Since the
20 defense has rested, I will meet with the attorneys
21 and, the next time we come up here, we'll proceed
22 with closing arguments and I will charge you on the
23 law of the case. And, after you've been charged on
24 the law, you'll be able to begin your deliberations.

25 At this time, please return to the jury room,

1 and please do not discuss the case.

2 (The jury exits the courtroom at 9:47 AM.)

3 THE COURT: All right. Renewing all motions
4 and objections, Ms. Mauldin?

5 MS. MAULDIN: Your Honor, we're making our
6 motion for directed verdict based on all prior
7 motions and objections.

8 THE COURT: Okay. And I think the record will
9 show all of your prior objections renewed. We did
10 discuss more at that length your directed verdict
11 motion regarding the multiple indictments on
12 exploitation.

13 I looked further into it over the evening last
14 night, and I do think there's evidence for the jury
15 to weigh each one of the exploitation indictments as
16 a separate indictment, not as one. I think that is
17 in keeping with the plain reading of the statute as
18 well the applicable statute, and the motion remains
19 denied.

20 All right. Anything else for the record at the
21 moment?

22 MS. MAYES: Just a few matters. Your Honor, we
23 did discuss the charge earlier.

24 A couple of things in that regard: The State
25 did submit the unanimity charge that would allow for

1 an instruction to the jury; that they need only find
2 that at least one incident of digital penetration
3 occurred, pursuant to that indictment, and at least
4 one incident of penile penetration occurred,
5 pursuant to the other criminal sexual conduct with a
6 minor indictment, and that finding must be unanimous
7 as to both.

8 Regarding the sexual exploitation first degree
9 charge, Your Honor, the only record -- the only
10 evidence in the record thus far is the evidence of
11 the production of those materials, which is what has
12 been testified to by **Minor 1** . So we believe that
13 supports the sexual exploitation of a minor first
14 degree without any lesser included offenses.

15 And then, as to the harmful material to a minor
16 dissemination, Your Honor, I believe we just were
17 requesting additional definitions there of material,
18 sexual activity, and then the sexually explicit
19 nudity that would be required under that specific
20 statute.

21 Also, I know we had a discussion about
22 circumstantial evidence --

23 MR. MAULDIN: I'll go ahead and object to, Your
24 Honor, charging circumstantial evidence in this
25 case. We don't think that charge is appropriate,

1 based on the evidence presented at trial.

2 THE COURT: Madam Solicitor?

3 MS. MAYES: Yes, sir, Your Honor.

4 And the State's position regarding
5 circumstantial evidence is that there are numerous
6 fields of testimony here where circumstantial
7 evidence would be applicable; one, being the lack of
8 medical findings, but yet the description by the
9 child of feeling some type of intrusion. We believe
10 that would be circumstantial in nature that the jury
11 can consider.

12 And then, during the course of the trial, Your
13 Honor, there were objections by the defense to the
14 admission of two photographs that depicted an adult
15 engaged in sexual explicit nudity and posed in a
16 certain manner.

17 We had a discussion at sidebar. We had an
18 objection under Rule 403. At that time, Your Honor
19 determined that the probative value outweighed the
20 prejudicial effect.

21 The State's position is that that is
22 circumstantial evidence; not only of the potential
23 dissemination of harmful material to a minor charge,
24 but also in support of the sexual exploitation
25 charges because **Minor 1** 's testimony and then the

1 evidence presented pursuant to the forensic
2 interview is that the defendant would access the
3 sexually explicit of adults via Twitter. And these
4 images were found via Twitter and that was testified
5 to by Detective Mike Phipps.

6 Minor 1 testified that he would locate images,
7 view images, and then have her pose in similar
8 formats. And we believe that those similar poses
9 are certainly circumstantial evidence to support
10 Minor 1 's testimony; that he's viewing these Twitter
11 images as he is producing the sexually explicit
12 materials.

13 And that's the State's position regarding
14 circumstantial evidence, Your Honor.

15 THE COURT: And the image you're referring to
16 that -- you referenced Rule 403, which is the image
17 of the adult whose face I have redacted, but it was
18 offered for the purpose regarding the testimony of
19 having the minor do something in the course of what
20 the defendant saw on the computer screen of another
21 person?

22 MS. MAYES: Yes, sir, Your Honor, corroborating
23 evidence of that.

24 And we have those two exhibit numbers. There
25 were two photos. And just for the record, there

1 were actually multiple, multiple sexually explicit
2 images recovered by Detective Phipps. And Your
3 Honor viewed several photos, and those were
4 excluded. We were only offering what was truly
5 probative and necessary in the trial of this case.

6 THE COURT: And while we did have a bench
7 conference, those photos that were excluded were
8 noted on the record.

9 MS. MAYES: Yes, Your Honor, and that was
10 Exhibit No. 25 and Exhibit No. 72, both depicting
11 adults in similar positions as **Minor 1** was viewed
12 via Twitter as he was committing the acts of sexual
13 exploitation regarding her. And there were multiple
14 other images that were not offered as evidence in
15 this case although they do exist. And these were
16 the images the State found highly probative.

17 THE COURT: Okay.

18 All right. We'll take a few minutes to finish
19 up this verdict form. How much time -- are y'all
20 essentially ready for closing arguments?

21 MS. MAULDIN: Yes, sir.

22 THE COURT: Okay. How much time do you
23 anticipate for closing?

24 MS. MAYES: 30 to 40 from the State, Your
25 Honor, from Ms. Wellman.

1 MS. MAULDIN: Your Honor, probably no more than
2 15 or 20.

3 THE COURT: Okay. So an hour, hour and 15 for
4 closing.

5 MR. MAULDIN: Your Honor, may we have a copy of
6 the new charge?

7 THE COURT: Certainly. You're cordially
8 invited to come back and make sure we have it the
9 way we discussed, because I want you to have a
10 handwritten copy before we bring the jury up. If
11 you have any last objections, so be it. That way,
12 you'll having it for closing arguments to use in any
13 way you see fit. Don't tell them I'm going to give
14 them a copy of it or they won't listen.

15 All right. We'll be in recess while we work on
16 the final touches on the charge and the verdict
17 form. Thanks.

18 (Brief recess.)

19 THE COURT: With great effort, we finalized the
20 jury instruction.

21 Madam Solicitor, I made one correction, which I
22 think is highlighted on your charges, but otherwise
23 ready to go. Is the State ready to proceed?

24 MS. MAYES: Yes, sir, Your Honor.

25 THE COURT: Is the defendant ready to proceed?

1 MS. MAULDIN: As soon as Mr. Mauldin gets back
2 in here.

3 THE COURT: Okay.

4 MS. MAULDIN: Judge, may we approach?

5 (Sidebar conference.)

6 THE COURT: All right. Mr. Mauldin, are you
7 ready to proceed?

8 MR. MAULDIN: Yes, sir.

9 THE COURT: All right. Let's bring the jury
10 in.

11 (The jury enters the courtroom at 11:32 AM.)

12 THE COURT: All right. Mr. Foreman, ladies and
13 gentlemen of the jury, welcome back. It's now time
14 for the attorneys to make their closing arguments.
15 The arguments of the attorneys are not evidence in
16 this case. Their statements and arguments are meant
17 to help you understand the evidence and apply the
18 law to the evidence. You should disregard any
19 remark, statement, or argument which is not
20 supported by evidence that was entered during the
21 trial or the law that I will explain to you after
22 the arguments.

23 So, at this time, please give your complete and
24 undivided attention to the attorneys as they make
25 their closing arguments.

1 MS. WELLMAN: Thank you, Your Honor. May it
2 please the Court?

3 THE COURT: Yes, ma'am.

4 MS. WELLMAN: Good morning. We told you when
5 this trial began that this case was about broken
6 trust. Children don't choose to come into this
7 world. They don't choose where they get to live or
8 with whom they live. They can't provide shelter for
9 themselves; they can't provide food, security. They
10 have to rely on the adults, the grownups in their
11 lives, to provide those things. They have the right
12 to trust the adults in their home to keep them safe.

13 **Minor 1** lost her father when she was very, very
14 young. And when her grandmother got into a
15 relationship with this man, did he fill a gap that
16 she'd been missing? This little girl trusted the
17 defendant enough to go to the daddy-daughter dance
18 with him. She trusted him.

19 That man right there, he didn't just break her
20 trust, he destroyed it, demolished it. He violated
21 her, ripped away her childhood, demeaned her, and
22 stole her innocence in, as Ms. Mayes said, the worst
23 way: Through chronic sexual abuse that lasted
24 months and with what is nothing less than
25 psychological warfare, psychological torture.

1 Ladies and gentlemen, we've shown you some
2 photos during this trial. And please know, I know
3 are hard to look at; they hurt, enrage; and they
4 should, but they also tell a story. This is State's
5 Exhibit 14. I'm sure you remember. Do you see her
6 face? Her facial expression?

7 Look at her face as she's laying on the
8 defendant's bed, her dress pushed up above her
9 waist, no underwear. Told to get in this position
10 by the defendant. And her legs are spread wide for
11 him. Do you see her face as she looks up at the man
12 who gave her an impossible choice?

13 You can either learn from those women in the
14 Twitter videos or images and lay still while the
15 defendant keeps pushing his private part or his
16 penis into her private part or her vagina; just keep
17 going, lay still for more than five seconds as he
18 pushes or inserts deeper or maybe you don't get to
19 eat tonight because the defendant is going to throw
20 away her food.

21 For children, sexual assault, it's a crime of
22 shame and it's a crime of silence. But, for
23 **Minor 1** , it was also a crime of fear. Look in her
24 eyes. That pain, that torment, that fear as she
25 looks up at the man who said, you're a nine-year-old

1 orphan, you have lost your parents. And if you
2 break your silence, if you say anything, your Gammy,
3 the one person that you have left, she's not going
4 to love you anymore. She's going to think you're
5 weird. She's going to take you to that adoption
6 place.

7 Ladies and gentlemen, over the past two days,
8 you heard what happened to **Minor 1** . She is here,
9 brave, strong. Between January 1st of 2020 and at
10 the end of June of last year, she lived with that
11 man right there at [REDACTED] Ramblin Road here in
12 Lexington County. COVID happened; the world shut
13 down.

14 And the defendant digitally penetrated her,
15 inserted his penis into her vagina when she was only
16 nine years old. Nine. He showed her pornographic
17 videos and images through Twitter. I didn't even
18 know that was on that site, but he found it.

19 You need to learn how to do this; get in this
20 position. And then he took photos of her. Photos
21 in demeaning poses, photos of the defendant with his
22 fingers on her, on her genitals, photos of her laid
23 out like some of the women in the photos that he
24 showed her. When she said no, I don't want to do
25 this, he took away her food. **Minor 1** also told you

1 that he would take her drink or put it up where she
2 couldn't reach it. If she said no, he'd yell,
3 punched holes in the wall. Pretty scary for a
4 nine-year-old kid. Or he would threaten her, don't
5 tell, don't get help, because if you do, your
6 grandmother is going to get rid of you.

7 On Tuesday, Ms. Mayes told you that as jurors,
8 your job is to apply the evidence in this case. You
9 look at the facts, the facts that you heard from
10 this courtroom, and apply them to the law. Judge
11 McLeod is going to give you the law, and we'll talk
12 about that more in a minute. But that's your job as
13 jurors. The evidence will lead the way and it will
14 light the path, just like we told you it would.

15 You will have direct evidence to consider.
16 That is evidence that you heard from the witness
17 stand; things the witnesses saw with their own eyes,
18 heard with their own ears, felt on their own bodies;
19 things that they found, such as the photographs.
20 That's some of the direct evidence that you'll have.

21 You'll also have some circumstantial evidence
22 that you can consider. This is where you use your
23 reason and your common sense, the same reason and
24 common sense that you use in your everyday life when
25 you evaluate the credibility of the witnesses.

1 Now, whatever happened with **Minor 1** six years
2 ago when she was only four, she told you about it;
3 she said she didn't really remember. And she didn't
4 want to talk about it when her Gammy asked her. "I
5 wouldn't open up when Gammy asked, did your mom tell
6 you to say that? I don't remember what happened."
7 But, regardless, that has nothing to do with why
8 we're here this week.

9 **Minor 1** 's credibility has been supported over
10 and over and over again by the real evidence in this
11 case, eyewitness testimony from her little brother.
12 He didn't want to tell you what he saw. He didn't
13 know if he could use the words, but he told you.
14 And we'll talk about that in a minute. It was
15 also -- **Minor 1** 's credibility is also supported by
16 the photos they found, the photos that I submit to
17 you corroborate everything that **Minor 1** told you.

18 We told you on Tuesday the evidence in this
19 case is undeniable and it's unmistakable. I submit
20 to you that when you take the circumstantial
21 evidence and the direct evidence, it's nothing short
22 than unmistakable and undeniable. And now that
23 you've seen it yourself -- you were all paying
24 attention. You saw the photos. I know they hurt.
25 I know they were hard. I know it was really hard to

1 hear from **Minor 1** . But you were all here with us,
2 and I trust that you see.

3 The defendant is charged with two counts of
4 criminal sexual conduct with a minor in the first
5 degree, one count of disseminating harmful material
6 to a minor, and eight counts of sexual exploitation
7 of a minor in the first degree. You were all here.
8 You went through the evidence with us. But I just
9 want to go through it again and just make it a
10 little easier for you guys when you get into the
11 jury room.

12 Criminal laws are broken up into elements.
13 These are the things that the State has to prove.
14 This is my burden. I have to prove the element to
15 you beyond a reasonable doubt, just the element.
16 Judge McLeod will read you a definition of beyond a
17 reasonable doubt, so you'll hear it again. I just
18 want to make it clear right now.

19 Proof beyond a reasonable doubt is proof that
20 leaves you firmly convinced of the defendant's
21 guilt. There are very few things in this world that
22 we know with absolute certainty. And in criminal
23 cases, the law does not require proof that overcome
24 s every possible doubt. It's proof beyond a
25 reasonable doubt. And I submit to you that the

1 proof reaches that burden with regards to each
2 element of the crime.

3 First, criminal sexual conduct with a minor in
4 the first degree. This one is pretty short. The
5 law requires there be a sexual battery of a minor
6 under the age of 11. **Minor 1** sits in this courtroom
7 today ten years old. She was nine when the
8 defendant did this to her. Her date of birth,
9 [REDACTED] of 2011. So that part's very, very
10 easy.

11 So what is sexual battery? Judge McLeod will
12 tell you again, so don't worry, but sexual battery
13 is defined as sexual intercourse, cunnilingus,
14 fellatio, anal intercourse and, this is important,
15 any intrusion however slight of any part of a
16 person's body or any object into the genital or anal
17 openings of another person, except when such
18 intrusion is accomplished for medically recognized
19 treatment or diagnostic purposes.

20 Now, the language of the statute is important.
21 It's intrusion into the genital openings; not
22 vaginal, genital. If the statute wanted to just
23 criminalize intrusion into the vaginal opening,
24 that's what it would have said. It's intrusion into
25 the genital openings.

1 I told you the defendant's charged with two
2 counts of criminal sexual conduct with a minor in
3 the first degree. One for digital penetration --
4 digital penetration -- excuse me, digital intrusion
5 into the genital openings. That's using fingers.
6 State's Exhibit 55. The defendant documented his
7 guilt. And, again, I know this is hard to look at.
8 I know it's not easy. It's nothing in comparison to
9 what **Minor 1** endured. So look closely.

10 You heard from Dr. Young who described the
11 female genitalia. She talked about the labia. And
12 in just a minute, we'll go back to that diagram that
13 she used. I know this is hard. **Minor 1** told you
14 from that witness stand that the defendant did this
15 to her; that these are his fingers in this image.

16 This is the diagram that Dr. Young used to
17 explain everything to you. She talked about the
18 labia minora, the labia majora, this diagram of the
19 genital opening of a female. Looking at this image,
20 his fingers are here. I submit to you that this is
21 documented photographic proof that the defendant,
22 his fingers intruded into the genital openings of
23 **Minor 1** .

24 Now, as the jury, you have to unanimously agree
25 that an intrusion into the genital openings by

1 digital or by the defendant's fingers occurred.
2 However, you don't all have to agree on which
3 incident of digital intrusion is in the indictment.
4 It could be the one that I just showed you. It
5 could also be the one that **Minor 2** witnessed in the
6 living room.

7 You remember when he stepped down and he showed
8 you what the defendant did, that man did, to his
9 sister. His index finger extended, arm moving back
10 and forth. His finger might have started on her
11 leg. **Minor 2** showed you where his finger ended,
12 under her clothing where he drew that green box. I
13 submit to you that **Minor 2** 's eyewitness testimony is
14 also proof beyond a reasonable doubt that the
15 defendant committed a sexual battery on **Minor 1**
16 digitally.

17 The defendant is also charged with criminal
18 sexual conduct with a minor in the first degree
19 based on penile penetration, vaginal intercourse.
20 You heard from **Minor 1** ; she told you about it.

21 (Video played for the jury and his Honor.)

22 He put his private part in hers for more than
23 five seconds. You know, **Minor 1** told you about how
24 when the defendant's nails were longer and he was
25 using his fingers. She told you about it scratching

1 inside. She told you how that felt. She also told
2 you what it felt like when his private part or his
3 penis would go inside hers. It felt weird, it hurt.
4 She could tell it wasn't his finger. I submit to
5 you that that is proof of sexual battery by penile
6 penetration beyond a reasonable doubt.

7 There's also **Minor 2** . **Minor 2** , in the witness
8 stand and in his forensic interview, talked about
9 there was one day he was in his room playing on his
10 iPad and he wanted to go check on his sister, so he
11 went into the defendant's room. He saw **Minor 1**
12 laying on the bed, the defendant towering over her,
13 dress probably pushed up.

14 Do you remember what he showed you what the
15 defendant was doing with his hands? He was bent
16 over, had his hands pressed against the bed on
17 either side of her head. Making babies, having sex.
18 In the forensic interview, he described that as
19 hugging with your clothes off. It makes sense
20 that's how an eight-year-old would describe that.
21 It makes sense that's how an eight-year-old would
22 describe vaginal intercourse.

23 We have proven sexual battery by both digital
24 and penile penetration. So that's the first two
25 indictments.

1 The defendant is also in this courtroom on one
2 count of disseminating harmful material to a minor.
3 The statute is a little longer, and Judge McLeod
4 will go through all of it with you, I promise. But
5 this one is still very simple. The person is guilty
6 of disseminating harmful material to a minor when
7 they sell, furnish, present or distribute to an
8 individual less than 18 years of age material that
9 is harmful to minors or allows the minor to review
10 or peruse that material.

11 Again, we know **Minor 1** is less than 18. She's
12 nine. [REDACTED] of 2011. So she's less than 18.
13 Remember when she told you how he would show her
14 pornographic videos or pictures of people doing it?
15 You need to learn how to do this. You need to learn
16 how to do this. She also told you that he would
17 show her pictures of women in various poses. Get in
18 this position, lay like this. You saw some of those
19 images.

20 Remember how much they matched with the poses
21 that you saw? The one where she's laying on her
22 back in the teal dress, the one where she's laying
23 on the defendant's bed in the red dress and you
24 could see her genitals. **Minor 1** told you that the
25 defendant told her remove the underwear; hold your

1 legs up. She demonstrated it a little bit in her
2 forensic interview, and she showed you a little bit
3 here. It was a very similar picture that Detective
4 Phipps found on the defendant's phone.

5 Detective Phipps also found other images, other
6 videos right where **Minor 1** told you that you'd find
7 them, in Twitter. Where would a nine-year-old get
8 that? Where would a nine-year-old know to take off
9 your clothes and hold your legs over your head? The
10 defendant. He showed her that. So, yes, the
11 defendant did present to a minor, someone under the
12 age of 18.

13 The next element is material. The statute
14 defines material as a picture, a drawing, video
15 recording, film, digital electronic files, just
16 other visual representations. One picture is
17 sufficient; one image, one video. So that would be
18 the material.

19 And, finally, that material has to be harmful
20 to minors. The statute defines that. Harmful to
21 minors means any material that the quality or the
22 performance that depicts such as sexually explicit
23 nudity or sexual activity, that, taken as a whole,
24 the average adult person, applying contemporary
25 community standards, would find the depiction of

1 sexually explicit nudity or sexual activity is
2 patently offensive to prevailing standards in the
3 adult community concerning what is suitable for
4 children, suitable for minors.

5 There is no reason that a nine-year-old needs
6 to watch pornographic videos, see these images. And
7 that to a reasonable person, the material or
8 performance taken as a whole lacks serious literate,
9 artistic, political, or scientific value for minors.
10 No. There is nothing about those images, nothing
11 about those videos that has any relevance, any
12 significance to a minor.

13 I would submit to you that we have met our
14 burden of proving that the defendant did disseminate
15 harmful material to a minor. Sexual activity does
16 include sex. It also includes sexually explicit
17 nudity. And you saw some of those images. What is
18 that? Those images of the women, what are they, if
19 they're not sexually explicit? And even if **Minor 1**
20 just saw those images on his phone, the statute
21 still says allowing a minor to review.

22 Finally, the defendant is charged with eight
23 counts of sexual exploitation of a minor in the
24 first degree. Judge McLeod will tell you again,
25 someone is guilty of sexual exploitation of a minor

1 in the first degree when they use, employ, induce,
2 coerce or encourage an individual less than 18 to
3 engage in sexual activity or sexually explicit
4 nudity in a live performance or for production of
5 material containing a visual representation of the
6 sexual activity or sexual explicit nudity for the
7 purpose of sexual stimulation.

8 Well, again, we already know **Minor 1** is nine.
9 She's under the age of 18. You heard from the
10 witness stand, you heard from **Minor 1** 's interview,
11 he said get in this position. He took the photos.
12 Those are his fingers in the photo. So, yes, the
13 defendant did use an individual under the age of 18.
14 He induced her; he coerced her; he encouraged her to
15 get in those positions. He took the photos.

16 Again, sexual activity, sexually explicit
17 nudity. The statute defines sexual activity as
18 anything from touching in an act of apparent sexual
19 stimulation or sexual abuse of the clothed or
20 unclothed genitals, pubic area, or buttocks of
21 another person. That's sexual activity.

22 Sexually explicit nudity, we talked about that
23 moments ago. But, again, it includes uncovered or
24 less than opaque ly covered genitals, pubic area, or
25 buttocks. And in a live performance or production,

1 so producing a photo that has that visual
2 representation of the sexual activity or sexually
3 explicit nudity and for the purpose of sexual
4 stimulation.

5 I told you we have eight photos. You've seen
6 them. And, again, I know this is hard. I know
7 these photos are painful to look at. But, as
8 jurors, you have to evaluate the evidence in this
9 case. You have to examine closely what the
10 defendant did to **Minor 1** .

11 So look, look hard. Is this sexual activity
12 when the defendant is using his hands on her? Is it
13 sexually explicit nudity? It certainly is the
14 uncovered human genitalia. And as you look at these
15 images, what would a reasonable person think they're
16 for? Judge McLeod will tell you, for the purpose of
17 sexual stimulation, would a reasonable person infer?
18 This is what the images are for.

19 Combine these photos with the porn, the other
20 porn on his phone, this phone, the same phone that
21 **Minor 1** identified as the phone he used to show her
22 the images; the same phone she told you he used to
23 take photos of her; the same phone he used to coerce
24 her or manipulate her onto that couch with him; the
25 same phone found on his person at the time of his

1 arrest. All of the images on that phone combined
2 with what he did to her over a several-month period,
3 a reasonable person would know exactly what these
4 photos are for.

5 State's Exhibit 62, file image 725803. The
6 gold nail polish **Minor 1** told you she was wearing.
7 Her hands are placed where the defendant told her to
8 put her hands. Laying on that bed, the defendant's
9 bed, her dress pushed up for him, a full display for
10 that man. Is this sexually explicit nudity?
11 Absolutely. Is the purpose of this image for sexual
12 stimulation? What else could it be for?

13 Sexual exploitation of a minor in the first
14 degree. Image 482138. **Minor 1** on the defendant's
15 bed, her underwear pulled down to her knees in a
16 position similar to what else was found on the
17 defendant's phone. Her legs are spread, her
18 genitals and anal opening are clearly exposed.
19 Guys, I know this is hard. I know. Sexually
20 explicit nudity for the purpose of sexual
21 stimulation? I submit to you that it is. And
22 that's State's Exhibit 61.

23 In the living room, we're now in the living
24 room. State's Exhibit 73. **Minor 1** , still nine, on
25 the couch in a position she was told to get into by

1 the defendant, as the defendant stands behind her.
2 Again, notice that a different -- she's wearing a
3 different outfit, different color underwear. She's
4 in a different place. Again, on her knees, her legs
5 are spread, her genitals clearly exposed to the
6 defendant.

7 Remember she told you how she looked back, hey,
8 what are you doing? This is sexually explicit
9 nudity for the purpose of sexual stimulation. And
10 that is file 290E0 -- excuse me, 0E0.

11 "What are you doing?" "Don't take my picture."
12 State's Exhibit 57. She's embarrassed. She doesn't
13 like this. She's covering her face in shame. She
14 told you that. She asked, don't take my picture.
15 But, again, she's still on that couch, on her knees;
16 her legs are spread at the defendant's direction
17 with the defendant standing behind her, genitals
18 clearly exposed; covering her face. This is
19 sexually explicit nudity for the purpose of sexual
20 stimulation. File E07CBC.

21 We're back in the bedroom again. State's
22 Exhibit 56. That's **Minor 1** . She told you, just
23 like all of these other photos, that the defendant
24 took this photo between the time period when she
25 moved in, in early 2020, to before she told anyone

1 what was happening in June of 2020. She identified
2 these adult fingers as his. She told you about the
3 different nail lengths and how it didn't hurt as bad
4 when his nails were short; that he told her to put
5 her hands there. Why else would someone take this
6 photo, if it's not for the purpose of sexual
7 stimulation? Is this sexually explicit nudity?
8 Absolutely. File BCABF5.

9 Image B7280D9. Again, State's Exhibit 60.
10 Minor 1 , red dress, no underwear, in a position the
11 defendant told her to get into. Remember when she
12 told you how he told her to put her knees over her
13 head and hold her legs? She showed you a little
14 bit. The defendant told her to do that. Is this
15 sexually explicit nudity? It wouldn't be hard to
16 look at if it wasn't. It's of a child, a
17 nine-year-old little girl, who trusted that man.
18 And what else could this be for?

19 This is image AD034F. We talked about this one
20 earlier, where the defendant documented what he did.
21 On his bed, her underwear pulled down, legs spread
22 for him as he's behind her, dress pushed up; the
23 defendant's fingers intruding into her genital
24 openings. Photo taken by the defendant, just like
25 the others at [REDACTED] Ramblin Road here in Lexington

1 County between June -- January and July of 2020. I
2 submit to you that this is not only sexually
3 explicit nudity, but it's sexual activity. It is
4 touching of the genitals in an effort to manually
5 stimulate for the purpose of sexual stimulation or
6 gratification.

7 Finally, State's Exhibit 59, in that teal
8 dress. Again, look at her face. She's staring up
9 at that man right there knowing what's about to
10 happen. "Hold still; you need to learn how to do
11 this; I know you like it." Do you remember when she
12 told you he would tell her that? Dress pushed up.
13 Her legs are spread again wide for him. Sexually
14 explicit nudity? Yeah. The purpose of sexual
15 stimulation? Of course. Image 25C13D.

16 Minor 1 sat up in that witness stand and
17 identified all of those photos. She told you that
18 man right there took them in her home between
19 January and July of 2020. She told you in her
20 forensic interview that it finally stopped when he
21 threw away her food and she just -- her grandmother
22 was there, heard the argument, and came in. And
23 that's how this stopped. The defendant didn't stop
24 when he got caught by Minor 2. It stopped when
25 Minor 1 was brave.

1 All of those photos that I just showed you,
2 Detective Phipps found on the defendant's phone.
3 Again, I submit to you, they corroborate the who,
4 the what, the where, the when, and the why. It
5 corroborates everything that **Minor 1** told you. And
6 these images were found on his phone. Sure, they
7 maybe had been moved, encrypted; someone tried to
8 delete them, maybe. But they were in a secure
9 folder.

10 Remember that 150 secure folder that required
11 an extra password that the defendant set up just
12 before **Minor 1** moved in? Remember Detective Phipps
13 telling you about that?

14 That phone that he used to talk to his
15 employees -- or, excuse me, fellow employees; that
16 phone that **Minor 2** said he took with him when he
17 left; that phone that **Minor 1** told you he
18 controlled, all those images were found on that
19 phone off of his Twitter account. That's where all
20 the images were, the porn images.

21 Now, this is the last time I'm going to get to
22 talk to you. In just a moment, I'm going to sit
23 down and Ms. Mauldin is going to get up and talk to
24 you. I'm going to sit down, and I guarantee I'm
25 going to immediately remember something I forgot to

1 tell you or she's going to say something and I'm
2 going to want to jump up and be like, oh, wait,
3 wait, wait; remember this? But I'm not going to be
4 able to.

5 I have to trust that you guys were paying
6 attention; that you listened to the evidence; that
7 you don't get distracted by details; that you
8 remember Dr. Young talking about there wouldn't be
9 an injury; that the genital tissue is very similar
10 to like the skin inside your cheek. You ever bit
11 down really hard inside your cheek and then it's
12 heeled completely in a couple days?

13 She told you that she didn't expect to find any
14 injuries after a month. COVID made it impossible to
15 get **Minor 1** to an exam quickly. But Dr. Young is an
16 expert in pediatrics and child abuse. She knows.
17 She knows. She sees it. She conducts these exams,
18 and she told you there wouldn't be an injury.

19 She also told you that the intrusion, like we
20 saw with the defendant's three fingers -- you
21 remember that picture? I don't think I need to show
22 it to you again. But that wouldn't cause an injury.

23 All of the evidence in this case corroborates
24 what **Minor 1** told you. The evidence does light the
25 path; it does lead the way. The evidence is

1 undeniable, and it's unmistakable. The State has
2 more than met its burden of proof with regards to
3 two counts of CSC with a minor in the first degree,
4 disseminating harmful material to a minor, and eight
5 counts of sexual exploitation of a minor in the
6 first degree.

7 When you go back into that jury room, you'll
8 get a verdict sheet for each charge. So you'll have
9 11. And I am asking you, because the State has met
10 its burden of proof, that you return a verdict of
11 guilty on all counts. And let's let this be the
12 absolute last time the defendant can hurt a child
13 like he did --

14 MS. MAULDIN: Objection; future dangerousness.

15 THE COURT: Overruled.

16 MS. MAULDIN: Thank you, Your Honor. May it
17 please the Court?

18 THE COURT: Yes, ma'am.

19 MS. MAULDIN: Ladies and gentlemen, **Minor 1**

20 has lied before. She testified this week
21 that, in 2015, that she had said that her
22 grandfather molested her. She admitted that she
23 went to the hospital and told them the lie; she
24 admitted that she went for an interview and told the
25 lie again; she admitted that she went to the

1 Dickerson Center and told the lie another time after
2 that. Her grandfather was arrested and charged.
3 That charge was dismissed. She later admitted that
4 she told her grandmother that her mother told her to
5 lie.

6 She is a child who has lied to medical experts,
7 who has lied to interviewers. You did hear that her
8 mother had passed away before these allegations
9 occurred, but that doesn't change the fact that she
10 is a child who will make false accusations. She
11 didn't say that she didn't remember these things.
12 She admitted that she told those lies. **Minor 1**

13 is lying now.

14 There are some real problems with the story she
15 told. The solicitor asked you not to be distracted
16 by the details, but I would submit those details
17 matter and there are problems.

18 She went to the Dickerson Center on July 9th of
19 2020; she talked to Ms. Simon, and her story changed
20 over the course of the interview. At first, she
21 said he put his finger in her a couple of times.
22 Towards the end of the interview, she said 30, maybe
23 40 times. Ms. Simon asked if it happened every
24 week. Then she said once a week. The story grew.
25 She said he had done it at least five times a week.

1 She told Ms. Simon about him putting his private
2 part in her. She said it was ten times. By the end
3 of the interview, she said that it happened one time
4 a week the whole time. Those things can't both be
5 true. Either it happened a few times or it happened
6 a lot. She's old enough to know the difference.

7 If she's exaggerating about the number of times
8 that it happened, she's lying. If she's lying about
9 that, you can't take her word for any of this.
10 These are criminal charges against Mr. Dyer, and the
11 stakes are too high for that.

12 If you look at the allegations that she made,
13 she said it happened the whole time and that it
14 happened once a week. She's a child; he's an adult
15 man. She said that he didn't put anything on his
16 private part. If he had put his penis inside her
17 once a week, it would have hurt. Ms. Simon asked
18 her how it felt on her body. Her answer was that it
19 felt weird. That was the only word that she used to
20 describe it.

21 On the witness stand, she used the same word.
22 She said that it felt weird. Then the solicitor
23 asked how it felt. She said, did it feel painful,
24 and gave her a couple of other options. And then
25 she said painful, but only after the solicitor

1 suggested to her that word.

2 She also said that she never saw anything come
3 out of his private part. The purpose of male
4 gratification is to ejaculate. She said she didn't
5 see anything on his penis, so we know there was no
6 condom or anything like that.

7 If he were touching her for sexual
8 gratification and it was happening as often as she
9 claims, she would have seen something come out or
10 she would have felt something come out. Again, when
11 she described how it felt, she used the word weird.
12 She never used the word wet to describe what had
13 gone on.

14 Her demeanor during the interview is important
15 as well. She testified about him being angry,
16 punching walls, threatening to take her to the
17 adoption place. But when she talks about it in the
18 Dickerson interview, she talked about how she would
19 get up and leave the room and come back and then
20 leave the room and come back again. She said that
21 she would just stop when she got tired of it. She
22 said that she would put on some shorts and he
23 couldn't do it. And at one point, she said she
24 would yell at him when she was watching a video and
25 she was worried that she would lose her place and

1 miss that.

2 Her description of their interaction and her
3 demeanor is very lackadaisical. Her demeanor in the
4 video is not a child that was in fear, not a child
5 that was a victim of psychological warfare.

6 There's some other unrealistic aspects of this
7 story, too. There's testimony that he would do this
8 when the child's grandmother wasn't around. But
9 **Minor 2** told you that he saw Mr. Dyer touching
10 **Minor 1** on the couch. You saw the diagram of the
11 home. The living room and the kitchen are one large
12 area together.

13 He said that he saw it when he came in to tell
14 them that the food was ready and Grandmother was
15 cooking the food in the kitchen. The kitchen and
16 the living room is that wide open space. The couch
17 is against the back wall. That means the person
18 that was in the kitchen cooking the dinner could
19 easily see into the living room and would be facing
20 the people who -- anybody that was sitting on the
21 couch that way.

22 It's just unbelievable that anybody would be
23 that bold to touch a child in the way that **Minor 2**
24 described in front of the grandmother just like
25 that. There's no way that she didn't see this

1 happen or that she just turned a blind eye to this.
2 She's 55. She's not some feeble, old person. She
3 still has the children today. If anybody thought
4 that she had involved or permitted this to go on,
5 the children would have been taken away and she
6 would have been charged, too. But that didn't
7 happen. She still has the children.

8 **Minor 1** said that he would hit the walls.
9 Never heard **Minor 2** say that. Ms. Todd was also
10 there during the day. She was the one doing the
11 cooking. If **Minor 1** were not allowed to eat, her
12 grandmother would have noticed that. Her
13 grandmother would have seen the child was not eating
14 her meals and something was preventing her and would
15 have known something was wrong.

16 **Minor 2** said that he saw this happen on two
17 occasions. He said that he told his grandmother
18 each time. He said that one time it happened, they
19 were still in school and they had just gotten off
20 the bus. And that was before the virus, and that
21 would have been as early as March. This wasn't
22 reported until June. So either he's lying about it
23 or it didn't happen.

24 There's a little bit that's been made about
25 this being COVID and they were home, they weren't in

1 school, to insinuate that there was no opportunity
2 to tell anybody else. Mr. Dyer was going to work
3 every day, had a full-time job. He was out of the
4 house. They could have discussed this with their
5 grandmother.

6 They also had chances to tell other adults
7 about what happened. **Minor 2** testified that they
8 have uncles and aunts. Those people were around.
9 **Minor 2** also said that they left the home and would
10 go and stay at Austin and Preston's house. They
11 could have told the adults there when they were out
12 of the home. But they didn't do that.

13 As far as the investigation goes, on the video,
14 **Minor 1** said that she told her grandmother the same
15 day he touched her and that the last time was four
16 weeks ago. Her grandmother went to the police
17 station on June 17th. The interview was on July
18 9th.

19 Four weeks ago would mean that the last time it
20 happened, the day that she told her grandmother
21 would have been four weeks prior or around June 9th,
22 much earlier than her grandmother actually reported
23 to the police. So that would have to mean that her
24 grandmother didn't report it right away. Why not?
25 Either because she didn't believe her or it didn't

1 happen.

2 They didn't even call Ms. Todd to testify.
3 She's the children's grandmother. She was the one
4 who was there the whole time. If there were signs
5 of this, she would have seen it and would have had
6 something to say. But you didn't hear a single word
7 from her. She's never taken the witness stand this
8 week.

9 When the police investigated, they responded.
10 They talked to Ms. Todd. They didn't interview the
11 children. Now, normally, police interview witnesses
12 and try to get to the truth. But with children,
13 they just send them to the Dickerson Center that
14 advocates their responsibility to investigate the
15 case. When they got to the Dickerson --

16 At the Dickerson Center -- let's talk about
17 that. The word advocacy is in their name. Their
18 job is to advocate for children. Their job is not
19 to look for truth. They're not trying to look for
20 the truth; they're not trying to be neutral. They
21 take referrals from the police and DSS. Their job
22 is to look for allegations. They're not trying to
23 find inconsistencies. They're not trying to look at
24 other evidence. Their job is merely to get a story
25 about what happened. And that's what they did here

1 with both children.

2 And you heard from Dr. Young. **Minor 1** went to
3 the doctor. She was examined on July 9th. Again,
4 the report was made on June 17th. The doctor
5 testified that wounds can heal so quickly and that
6 since so much time had gone by, that the wounds
7 could have healed. There was no priority to get
8 this child to the doctor. I know it was during
9 COVID, but there was a time lapse of 23 days.

10 Certainly, if this were that important to look
11 for evidence, they would have found a way to get the
12 child in for an appointment if there was a report of
13 sexual abuse. If she had been examined sooner, that
14 would have been additional evidence that nothing
15 happened.

16 Now, **Minor 1** had a normal exam. That means
17 there is no medical evidence that this happened.
18 And, yes, a child who has been abused can have a
19 normal exam, but children who are not sexually
20 abused can also have normal exams.

21 Dr. Young went around and around in circles
22 trying to avoid saying that having a normal exam
23 could mean that there was no penetration. And why
24 is that? I would submit that that's because she's
25 also a child advocate. She's put herself in that

1 role, and she's looking for evidence as well,
2 looking for something to help the case.

3 There were problems with the study she relied
4 on. The doctor said there were 64 percent of the
5 girls in that study was normal. But 64 percent of
6 36 is 22, not 34, and that's what the solicitor
7 wrote on the board. The average time between the
8 last reported sexual conduct and normal finding was
9 3.1 months. Fourteen of those girls had normal
10 findings; two had definite findings. And those two
11 reported an average time of last sexual contact to
12 be one month, just like **Minor 1** .

13 The doctor also really didn't know the
14 reliability of the study that she relied on. If her
15 sources aren't reliable, her testimony is not
16 reliable. And I'd point out as well that the only
17 opening that she referred to was the vaginal opening
18 and nothing else.

19 In this case, the police, the Dickerson Center
20 advocate, and the doctor all wanted to believe
21 **Minor 1** , and that got in the way of doing their
22 jobs. Your job is to look carefully and critically
23 at the evidence and not just take their word for it.

24 The solicitor talked about the photographs.
25 And it's true that somebody took those awful

1 photographs. There's no question about that. But
2 we don't know who did that. There are certainly
3 enough problems with **Minor 1** 's story about other
4 things that you just can't take her word that
5 Mr. Dyer was the one who took them.

6 The solicitor spent a lot of time about the
7 phone and which officer had it and which officer had
8 it when and what they did with it. But that doesn't
9 change the fact that anybody who had the passcode,
10 anybody that had the passcode with the folder, would
11 be able to access these photographs.

12 Yes, the accounts were in this name, but,
13 certainly, if somebody else used it and was using it
14 for the purpose as explained, they would not have
15 made a separate account on the phone to try and put
16 their name in the phone, too.

17 The dates on the pictures don't mean what they
18 would like them to mean. Investigator Phipps
19 explained that those are not the dates the pictures
20 were taken. He explained that only means it was the
21 last time something happened with that file. It
22 might mean it was accessed. It could just as easily
23 mean that it was some internal process with the
24 phone or some operating system on the phone. The
25 fact that there are different dates on the images

1 also doesn't mean the pictures were taken different
2 dates. Yes, there are differences in the pictures.
3 Children can change clothes. They can move from one
4 place to the other. That doesn't prove these were
5 different occasions.

6 The Judge is going to instruct you on the law
7 as to the exploitation charges, photographs. The
8 law describes getting the child to pose for
9 material. Material is defined as pictures. And
10 that's plural, not singular, a picture. The Judge
11 will instruct you on the law, and that includes
12 multiple images and multiple files. It doesn't say
13 one picture or one electronic file. The allegations
14 are that he made child images over a period of time.
15 That is one allegation of exploitation.

16 The State has the burden of proving their case
17 beyond a reasonable doubt. Mr. Dyer is presumed
18 innocent of the charges. He's not guilty unless the
19 State convinces you of his guilt. If there is a
20 real possibility that he is not guilty, then you
21 must find him not guilty.

22 You have to consider every element of every
23 charge. You have to consider whether the State has
24 met their burden for each element of each charge. I
25 would submit to you that when you look at each

1 element of each charge, you will find that the State
2 has not met its burden and that Mr. Dyer is not
3 guilty.

4 THE COURT: Ladies and gentlemen, before I
5 start, I'd like everyone to stand up real quick for
6 about five seconds and move your body around a
7 little bit.

8 Thank you. Please be seated.

9 Members of the jury, it is now my duty as the
10 trial judge to instruct you on the law applicable to
11 this case. In that regard, it is your duty as
12 jurors to accept and apply the law as I now state it
13 to you. Furthermore, it's your exclusive duty to
14 decide all the issues of fact in this case and
15 determine the effect, value, weight, and truth of
16 the evidence.

17 All the parties have a right to expect you will
18 carefully consider and evaluate the evidence and
19 apply the law in this case to it so that, in the
20 end, all parties receive a fair and impartial trial.

21 During this trial, you and I have separate
22 duties to perform. As the trial judge, it is my
23 responsibility to preside over this trial and rule
24 upon the admissibility of evidence offered during
25 the trial. In that regard, you are to consider only

1 the evidence before you; thus, you are to consider
2 only the testimony which has been presented from the
3 witness stand together with any exhibits admitted
4 into the record of this case.

5 If you have any preconceived ideas about what
6 the law is or what you thought the law ought to be
7 and it does not agree with what I tell you the law
8 is, you are obligated under your oath to abandon
9 these preconceptions because you are sworn to accept
10 the law as I now state it to you.

11 In this trial, you're the sole and exclusive
12 judges of the facts. Do not infer that I have an
13 opinion about the facts from anything I have said or
14 done during the course of this trial. In this
15 regard, the law simply does not permit me to have an
16 opinion about the facts. As jurors, it is your duty
17 alone to determine the effect, value, weight, and
18 truth of the evidence presented during the course of
19 this trial.

20 Now, the evidence from which you are to decide
21 what the facts are consist of in this case are, one,
22 the sworn testimony of witnesses, both direct and on
23 cross-examination; the exhibits which have been
24 admitted into evidence; and any facts to which all
25 the attorneys have agreed and stipulated.

1 The following things are not evidence and you
2 must not consider them as evidence when deciding the
3 facts of the case: One, statements and arguments of
4 the attorneys; two, questions and objections of the
5 attorneys; and three, any testimony that I instruct
6 you to disregard.

7 While the argument of counsel is a beneficial
8 part of every trial, you should remember that the
9 statements made by counsel are not evidence. In
10 presenting arguments, counsel will often refer to
11 the evidence. However, you should base your verdict
12 on the evidence as you remember it. Therefore, if
13 there are any conflicts between the recollection of
14 counsel about the evidence and your own
15 recollection, you should rely upon your own
16 understanding of the evidence.

17 Furthermore, evidence may be direct or
18 circumstantial. Direct evidence is testimony by a
19 witness about what the witness personally saw,
20 heard, or did. Circumstantial evidence is indirect
21 evidence. In other words, it is proof of one or
22 more facts from which one can find another fact.
23 You may consider both direct and circumstantial
24 evidence equally. Trials may be proven by
25 circumstantial evidence. The law makes no

1 distinction between the weight or value to be given
2 to either direct or circumstantial evidence.

3 However, to the extent the State relies on
4 circumstantial evidence, all of the circumstances
5 must be consistent with each other and, when taken
6 together, point conclusively to the guilt of the
7 accused beyond a reasonable doubt. If these
8 circumstances merely portray the defendant's
9 behavior as suspicious, the proof has failed.

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

15 Now, a stipulation is an agreement, admission,
16 or concession made in judicial proceedings by the
17 parties thereto with their attorneys. Stipulations
18 are binding upon those who make them. A stipulation
19 is an agreement or understanding. The Court and the
20 jury must accept the stipulations as binding upon
21 the parties. If counsel for the parties have
22 stipulated to any fact or any facts have been
23 admitted by counsel, you'll regard that fact as
24 being conclusively proved as to the party or parties
25 making the stipulation or admission.

1 In this case, counsel for the parties have
2 stipulated to the following: A prior report of
3 sexual abuse involving Minor 1 was made to
4 police on March 8th, 2015, when Minor 1 was four
5 years old. The report made by her mother, Carly
6 Dowd, who is now deceased -- or was made by her
7 mother, Carly Dowd, who is now deceased.

8 The allegation was made against Minor 1 's
9 maternal grandfather, who is not a party in this
10 case. The allegation was that the grandfather took
11 her in his room and digitally penetrated her. On
12 March 8th, 2015, Minor 1 was taken to Palmetto
13 Richland Memorial Hospital for a medical exam.
14 Minor 1 repeated the allegation at this time.

15 March 18th, 2015, Minor 1 was taken to Care
16 House of the Pee Dee in Florence for a forensic
17 interview. Minor 1 repeated the allegation.

18 On September 30th, 2015, Minor 1 was taken to
19 the Dickerson Center for a second medical exam.
20 Minor 1 repeated the allegation. Sometime later,
21 Trinity told her grandmother, Tammy Todd, that her
22 mother made her say these allegations. The charge
23 arising from this allegation was dismissed in 2018.

24 As an additional stipulation and in reference
25 to her testimony, Minor 1 referred -- excuse

1 me -- Minor1 referred to an unknown person in one of
2 the photographs, which was State's 25 and 72, as a,
3 quote, girl, unquote; and, later, quote, teenager,
4 unquote. The parties agree and the Court concurs
5 that the person depicted in this exhibit was over
6 the age of 18 and not a minor.

7 Now, furthermore, it is your job as jurors to
8 determine the credibility or believability of the
9 witnesses who have testified in this case. You must
10 evaluate the evidence to determine which evidence
11 convinces you of its truth.

12 In determining the believability of witnesses
13 who have testified in this case, you may believe one
14 witness over many or many over one. You may believe
15 a part of the testimony of a witness and reject the
16 remaining part. You may believe the testimony of a
17 witness in its entirety or reject it in full. You
18 may consider whether the witness has an interest in
19 the result of the trial, whether the witness is
20 prejudiced for either party, the opportunity for the
21 witness to have seen the matters and things about
22 which the witness may testify, and the way the
23 witness acts on the witness stand.

24 Now, the rules of evidence ordinarily do not
25 permit witnesses to testify to opinions or

1 conclusions. An exception to this rule exists for
2 witnesses we call expert witnesses. A witness who,
3 by education and experience who has become an expert
4 in some art, science, or profession may give an
5 opinion to the subject the witness claims to be an
6 expert in and may also give reasons for the opinion.

7 You should consider an expert -- any expert
8 opinion given by a witness like any other evidence,
9 and give it the weight you think it deserves. If
10 you decide an expert witness' opinion is not based
11 on sufficient evidence or experience or if you
12 decide that the reasons given in support of the
13 opinion are not sound or that the opinion is
14 outweighed by other evidence, you may disregard the
15 opinion entirely.

16 An expert witness' testimony is to be given no
17 greater weight than that of other witnesses simply
18 because the witness is an expert. And you do not
19 have to accept the expert's opinion even though it
20 is uncontradicted.

21 The defendant in this case is presumed
22 innocent. This is no mere legal theory. It is a
23 fundamental and substantial right to which everyone
24 is entitled. It is like a robe of righteousness
25 placed around the defendant that remains with him

1 through every stage of the trial. It continues with
2 him after you retire to the jury room to deliberate,
3 and continues to exist so the defendant is presumed
4 innocent unless and until you, the jury, determine
5 that the State has proved the guilt of the defendant
6 beyond a reasonable doubt.

7 A defendant is not required to prove his
8 innocence. He is not required to prove anything.
9 The burden is upon the State to prove the guilt of
10 the defendant beyond a reasonable doubt, and it is
11 required that every essential element of an offense
12 charged be proven by the State beyond a reasonable
13 doubt.

14 The State is not required to prove the guilt of
15 the defendant beyond all doubt or beyond every
16 doubt, however. The appropriate standard is proof
17 beyond a reasonable doubt.

18 Now, the State has the burden of proving the
19 defendant guilty beyond a reasonable doubt. Some of
20 you may have served as jurors in civil cases where
21 you were told that it is only necessary to prove
22 that a fact is more likely true than not true, such
23 as by the greater weight or preponderance of the
24 evidence. In criminal cases, the State's proof must
25 be more powerful than that. It must be beyond a

1 reasonable doubt as to each element of each offense
2 charged.

3 Proof beyond a reasonable doubt is proof that
4 leaves you firmly convinced of the defendant's
5 guilt. There are very few things in this world that
6 we know to be absolutely certain. And in criminal
7 cases, the law does not require proof that overcomes
8 every possible doubt.

9 If, based on your consideration of the
10 evidence, you are firmly convinced the defendant is
11 guilty of the crime charged, you must find the
12 defendant guilty; if, on the other hand, you think
13 there's a real possibility the defendant is not
14 guilty, you must give the defendant the benefit of
15 the doubt and find him not guilty.

16 Now, I remind you that the fact the defendant
17 elected not to testify is not a factor to be
18 considered by you in any way in your deliberations
19 and in consideration on the question of whether the
20 defendant is guilty or not guilty. It must not be
21 considered in any manner whatsoever against him.

22 An accused has a constitutional right to remain
23 silent, and the assertion of that right cannot be
24 considered by you in your deliberations. Under your
25 oath, you are to reach no inference or draw no

1 conclusion whatsoever from the fact that the
2 defendant elected not to testify. His decision not
3 to testify should not even be discussed in the jury
4 room. It is not to enter your minds in making your
5 decision. The State has the entire burden of proof,
6 and the accused has no burden to prove anything at
7 all.

8 The indictments in this case allege several
9 different offenses against the defendant. I remind
10 you that the indictments themselves are not
11 evidence. The charges are two counts of first
12 degree criminal sexual conduct with a minor, eight
13 counts of first degree sexual exploitation of a
14 minor, and one count of disseminating harmful
15 material to a minor -- disseminating harmful
16 material to a minor.

17 Each indictment charges a separate and distinct
18 offense. You must decide each indictment separately
19 on the evidence and the law applicable to it,
20 uninfluenced by your decision as to any other
21 indictment. The defendant may be convicted or
22 acquitted on any or all of the offenses charged.
23 You will be asked to write a separate verdict of
24 guilty or not guilty for each indictment.

25 In order to establish criminal liability,

1 criminal intent is required. For example, the
2 mental state required to be proven by the State for
3 a particular crime might be purpose, intent,
4 knowledge, recklessness, or criminal negligence.
5 The dictionary defines intent as the state of a
6 person's mind that directs his or her actions
7 towards specific objects.

8 Criminal intent must be proven by the State
9 beyond a reasonable doubt. Criminal intent is
10 always a matter that must be determined by the jury
11 from the circumstances surrounding the situation.

12 There is no way to prove intent to a
13 mathematical certainty. There's no way medical
14 science can dissect a person's brain and determine
15 what the person had in mind. So the law says that
16 criminal intent may be inferred from the
17 circumstances shown to have existed. This is how
18 you make a determination of whether or not the
19 element requiring intent was present.

20 It is not necessary to establish intent by
21 direct and positive evidence. But intent may be
22 established by inference in the same way as any
23 other fact, by taking into consideration the acts of
24 the parties and all the facts and circumstances of
25 the case.

1 Criminal intent is a mental state, a conscious
2 wrongdoing. It is up to you to determine what the
3 defendant intended to do based on the circumstances
4 shown to have existed. Criminal intent can arise
5 from action or failure to act. It may arise from
6 negligence, recklessness, or indifference to duty or
7 to consequences that are considered by the law to be
8 an equivalent of criminal intent.

9 I'm now going to explain to you the law that
10 applies to the charges against the defendant. First
11 degree criminal sexual conduct with a minor. The
12 defendant in the case is charged with first degree
13 criminal sexual conduct with a minor. The charge
14 pending against the defendant is a statutory charge.
15 It is contained in the code of laws of this state as
16 passed by the General Assembly of South Carolina.

17 Section 16-3-655(a) of the South Carolina Code
18 of Laws sets forth the statutory provision of first
19 degree criminal sexual conduct with a minor as
20 follows: A person is guilty of criminal sexual
21 conduct with a minor in the first degree if the
22 actor engages in sexual battery with a victim who is
23 less than 11 years of age.

24 Section 16-3-651(a) defines actor as a person
25 accused of criminal sexual conduct. Section

1 16-3-651(i) provides victim means the person
2 alleging to have been subjected to criminal sexual
3 conduct. The first element the State must prove
4 beyond a reasonable doubt is that the defendant
5 engaged in sexual battery with the victim.

6 What is sexual battery? Section 16-3-651(h) of
7 the South Carolina Code of Laws defines sexual
8 battery as sexual intercourse, cunnilingus,
9 fellatio, anal intercourse, or any intrusion,
10 however slight, in any part of a person's body or
11 any object into the genital and anal opening of
12 another person's body, except when such intrusion is
13 accomplished for medically recognized treatment or
14 diagnostic purposes.

15 If you find the State has not proven beyond a
16 reasonable doubt that sexual battery occurred, you
17 must stop deliberating and find the defendant not
18 guilty of this charge. If you find that the sexual
19 battery did occur, you must then decide whether the
20 State has proven, beyond a reasonable doubt, that
21 the victim was less than 11 years of age at the time
22 of the sexual battery.

23 The defendant is accused of having committed
24 the crime of criminal sexual conduct with a minor
25 first degree in violation of 16-3-655 on or about a

1 period of time between January 1st, 2020 and July
2 5th, 2020.

3 In order to find the defendant guilty of
4 criminal sexual conduct with a minor in the first
5 degree, it is necessary for the prosecution to
6 prove, beyond a reasonable doubt, the commissions of
7 the acts constituting the crime of criminal sexual
8 conduct with a minor first degree within the period
9 alleged.

10 And, in order to find the defendant guilty, you
11 must unanimously agree upon the commission of the
12 same specific act or acts constituting the crime
13 within the period alleged. It's not necessary the
14 particular act or acts committed or agreed upon be
15 stated in the verdict.

16 First degree sexual exploitation of a minor.
17 The defendant in this case is charged with first
18 degree sexual exploitation of a minor. The charge
19 pending against the defendant is a statutory charge.
20 It is contained in the code of laws of this state,
21 passed by the General Assembly of South Carolina.

22 Section 16-15-395 of South Carolina Code of
23 Laws sets forth the statutory provision of first
24 degree sexual exploitation of a minor as follows:
25 An individual commits the offense of first degree

1 sexual exploitation of a minor if knowing the
2 character or content of the material or performance
3 uses, employs, induces, coerces, encourages, or
4 facilitates a minor to engage or assist others to
5 engage in sexual activity, or appear in a state of
6 sexually explicit nudity when a reasonable person
7 would infer the purpose of sexual stimulation for a
8 live performance or for the purpose of producing
9 material that contains a visual representation
10 depicting this activity or a state of sexually
11 explicit nudity when a reasonable person would infer
12 the purpose to be sexual stimulation.

13 In the prosecution pursuant to this section,
14 you may infer that a participant in sexual activity
15 or a state of sexually explicit nudity depicted in
16 materials as a minor through its title, text, visual
17 representations, or otherwise is a minor. Mistake
18 of age is not a defense to prosecution pursuant to
19 this section.

20 Section 16-15-375(2) of the South Carolina Code
21 of Laws defines material as pictures, drawings,
22 video recordings, films, digital electronic files,
23 or other visual depiction and representations, but
24 not material consisting entirely of written words.

25 Section 16-15-375 of the South Carolina Code of

1 Laws defines minor as an individual who is less than
2 18 years old.

3 Under Section 16-15-375(5) of the South
4 Carolina Code of Laws, sexual activity includes any
5 of the following acts or simulations thereof:
6 Touching in an act of apparent sexual stimulation or
7 sexual abuse of the clothed or unclothed genitals,
8 pubic area, or buttocks of another person or the
9 clothed or unclothed breasts of a human female; the
10 insertion of any part of a person's body, other than
11 the male sexual organ, or any object into another
12 person's anus or vagina, except when done as part of
13 a recognized medical procedure.

14 Section 16-15-375(6) of the South Carolina Code
15 of Laws defines sexually explicit nudity as the
16 showing of uncovered or less than opaquely covered
17 human genitals, pubic area, or buttocks, or the
18 nipple or any portion of the areola of the human
19 female breast.

20 Third charge: Disseminating harmful material
21 to a minor. The defendant in this case is charged
22 with disseminating harmful material to a minor. The
23 charge pending against the defendant is a statutory
24 charge. It is contained in the code of laws in this
25 state passed by the General Assembly of South

1 Carolina.

2 Section 16-15-385 of the South Carolina Code of
3 Laws sets forth the statutory provision for
4 disseminating harmful material to minors as follows:
5 A person commits the offense of disseminating
6 harmful material to minors if, knowing the character
7 or content of the material, he sells, furnishes,
8 presents, or distributes to a minor material that is
9 harmful to minors, or allows a minor to review or
10 peruse material that is harmful to minors.

11 Section 16-15-375(1) of the South Carolina Code
12 of Laws defines harmful to minors as the quality of
13 any material or performance that depicts sexually
14 explicit nudity or sexual activity and that, taken
15 as a whole, has the following characteristics: The
16 average adult person applying contemporary community
17 standards would find the material or performance has
18 a predominant tendency to appeal to a prurient
19 interest of minors in sex and the average adult
20 person, applying the contemporary community, would
21 find the depiction of sexually explicit nudity or
22 sexual activity of the material or performance is
23 patently offensive to prevailing standards of the
24 adult community concerning what is suitable for
25 minors and, to a reasonable person, the material or

1 performance taken as a whole lacks serious literacy,
2 artistic, political, or scientific value to minors.

3 Section 16-15-375(2) of the South Carolina Code
4 of Laws defines material as pictures, drawings,
5 video recordings, films, digital electronic files,
6 or other visual depictions and representations, but
7 not material consisting entirely of written words.

8 16 -- Section 16-15-375(3) of the South
9 Carolina Code defines minor as an individual who is
10 less than 18 years old.

11 Under Section 16-15-375 of the South Carolina
12 Code of Laws, sexual activity includes any of the
13 following acts or simulations thereof: Vaginal,
14 anal, or oral intercourse; touching in an act of
15 apparent stimulation or sexual abuse of the clothed
16 or unclothed genitals, pubic area, or buttocks of
17 another person, the clothed or unclothed breasts of
18 a human female; the insertion in any part of a
19 person's body, other than the male sexual organ,
20 with any object into another person's anus or
21 vagina, except when done as part of a recognized
22 medical procedure.

23 Section 16-15-375(6) of the South Carolina Code
24 defines sexually explicit nudity as a showing of
25 uncovered or less than opaquely covered human

1 genitals, pubic area, or buttocks, or the nipple or
2 portion of the areola of the human female breast.

3 Now, ladies and gentlemen, let me say something
4 about your deliberations. Deliberation is defined
5 as careful consideration weighing up with a view to
6 decision. The genius of our jury system is it
7 allows 12 good men and women from 12 different
8 backgrounds, life experiences, and perspectives to
9 consider the evidence, talk about it and,
10 ultimately, reach a verdict.

11 We call them deliberations for a reason.
12 You're to consider the evidence in this case
13 carefully and deliberately and discuss it in a calm,
14 thorough, and courteous manner. Listen to the views
15 of all your fellow jurors, consider other people's
16 points of view, and talk through and discuss the
17 evidence.

18 And, remember, if you're doing something
19 deliberately, you are not in a big hurry. And you
20 should not be in a big hurry here. This case is
21 very important to all parties, and this trial is
22 their only day in court.

23 When you retire to the jury room, you should
24 discuss the case with your fellow jurors and to
25 reach an agreement, if you can do so. Your verdict

1 must be unanimous. Each of you must decide the case
2 for yourself. And you should do so only after you
3 have impartially considered all the evidence,
4 discussed it fully with other jurors, and listened
5 to the views of your fellow jurors.

6 Do not be afraid to change your position if the
7 discussion persuades you that you should. But do
8 not come to a decision simply because other jurors
9 think it is right.

10 It is important that you attempt to reach a
11 unanimous verdict, but, of course, only if each of
12 you can do so after having made your own decision.
13 Do not change an honest belief about the weight and
14 effect of evidence simply to reach a verdict. In
15 other words, do not change your opinion solely for
16 the sake of reaching a unanimous verdict.

17 I will give you a copy of these instructions in
18 written form. During your deliberations, you may
19 refer to the instructions to guide your
20 decision-making. You must consider the instructions
21 as a whole and not follow some and ignore others.
22 Please return these instructions to the Court at the
23 time your verdict is rendered.

24 There are two possible verdicts you may find in
25 this case: Guilty or not guilty. There is no

1 significance whatsoever in the order in which I
2 state the possible verdicts. It is simply that one
3 must be stated first.

4 Ladies and gentlemen, your verdict must be a
5 unanimous one. Mr. Foreman, when the jury agrees on
6 the verdict, you will write the verdict on the
7 verdict form, then knock on the jury room door and
8 inform the bailiff that you've reached a verdict.
9 At that time, we will receive you back into the
10 courtroom.

11 I ask that you now return to your jury room,
12 but do not begin your deliberations until you're
13 told by the clerk or by the bailiff to do so. There
14 are some matters which must be discussed with the
15 attorneys before you begin your deliberations.

16 On a side note, I believe your lunch should be
17 waiting for you in the jury room. But, at this
18 time, please get up, and we'll send you back to the
19 jury room. Do not discuss the case until you're
20 told to do so by the bailiff. Thank you very much.

21 (The jury exits the courtroom at 1:10 PM.)

22 THE COURT: Any issue with the charge?

23 MR. MAULDIN: Just my prior objection to the
24 circumstantial evidence.

25 THE COURT: So noted.

1 Madam Solicitor?

2 MS. MAYES: Your Honor, I did just want to put
3 on the record that, previously, as defense counsel
4 and the State and Your Honor discussed the charge
5 off the record, the defense did request the change
6 of wording on page 9 regarding failure of the
7 defendant to testify to the word decision. And
8 then --

9 THE COURT: Oh, yes.

10 MS. MAYES: And then, subsequently, both the
11 State and the defense consented not to charge the
12 full definition set forth in 16-15-375 because there
13 were only certain portions of those definitions of
14 sexual activity and sexually explicit nudity that
15 were applicable to the allegations of facts or
16 inference to be made from the record in this case.
17 So it was by consent that only the potentially
18 applicable definitions were charged.

19 THE COURT: And, if you noticed, while I was
20 reading, when I got to page 9, we still had obscene
21 material in the charge. I changed it on the fly,
22 but I want to change it in writing before I send it
23 to the jury, so that way it says harmful material
24 and not obscene.

25 MS. MAYES: Yes, sir, Your Honor. The word

1 obscene, you changed to harmful material to a minor.
2 And then you did not charge the 12 years of age or
3 younger since that wasn't applicable.

4 THE COURT: Hence, changed it on the fly.

5 But I want to put it in writing to reflect what
6 I said anyway.

7 There was one point in the charge where we had
8 Minor 1 . I said Minor 1 , but I'm going
9 to change the Minor 1 also.

10 Okay. At this time, I'm going to go ahead and
11 get the alternates up here before I forget.
12 Anything else before I bring up the alternates?

13 MS. MAYES: Nothing from the State, Your Honor.

14 MR. MAULDIN: No, Your Honor.

15 THE COURT: That would be Juror 67 and Juror
16 101.

17 (Alternates enter the courtroom.)

18 THE COURT: Juror No. 101, Mr. Coon; and 67,
19 Mr. Guinea, we've reached the end of the case.
20 You're our remaining alternates. Looks like we
21 won't need to use you as an alternate. I want to
22 thank you for your service this week. Obviously,
23 this was a tough trial. But we still have the other
24 12 remaining, so you're free to go. If you have
25 lunch down there, by all means, pick it up. But

1 thank you for your service. You're free to stay.
2 But if you go to the jury room to get anything,
3 please don't discuss the case. Thank you again.

4 (Jury begins deliberations at 1:20 PM.)

5 THE COURT: All right. I'm informed we have a
6 verdict. Anything for the record we need to take up
7 before the jury comes up?

8 MS. MAULDIN: Nothing from us, Judge.

9 MS. WELLMAN: No, Your Honor.

10 MS. MAYES: Nothing from the State, Your Honor.

11 THE COURT: All right. Bring them up.

12 (The jury enters the courtroom at 2:41 PM.)

13 THE COURT: Ladies and gentlemen of the jury,
14 welcome back.

15 Mr. Foreman, I understand you've reached a
16 verdict. Is that correct?

17 THE FOREMAN: We have, Your Honor.

18 THE COURT: Is your verdict unanimous?

19 THE FOREMAN: It is, Your Honor.

20 THE COURT: Please hand it to the bailiff.

21 Madam Clerk, please publish the verdict.

22 THE CLERK: 2021-GS-32-00786, State versus
23 Michael Thomas Dyer, as to the indictment allegation
24 of penile penetration of the genital opening for the
25 charge of criminal sexual conduct with a minor first

1 degree, we, the jury, unanimously find the defendant
2 guilty of criminal sexual conduct with a minor in
3 the first degree.

4 Indictment 2021-GS-32-02382, State versus
5 Michael Thomas Dyer, as to the allegation of digital
6 penetration of the genital opening for charge for
7 criminal sexual conduct with a minor first degree,
8 we, the jury, unanimously find the defendant guilty
9 of criminal sexual conduct with a minor first
10 degree.

11 Indictment 2021-GS-32-00856A, State versus
12 Michael Dyer, for the charge of sexual exploitation
13 of a minor, as to the indictment for the charge of
14 sexual exploitation of a minor first degree, we, the
15 jury, unanimously find the defendant guilty.

16 As to indictment 2021-GS-32-00815, for the
17 charge of sexual exploitation of a minor first
18 degree, we, the jury, unanimously find the defendant
19 guilty of sexual exploitation of a minor first
20 degree.

21 As to the indictment 2021-GS-32-00825 for the
22 charge of sexual exploitation of a minor first
23 degree, we, the jury, unanimously find the defendant
24 guilty of sexual exploitation of a minor first
25 degree.

1 As to Indictment 2021-GS-32-00820 for the
2 charge of sexual exploitation of a minor first
3 degree, we, the jury, unanimously find the defendant
4 guilty of sexual exploitation of a minor first
5 degree.

6 As to Indictment 2021-GS-32-00821, for the
7 charge of sexual exploitation of a minor first
8 degree, we, the jury, unanimously find the defendant
9 guilty of sexual exploitation of a minor first
10 degree.

11 As to Indictment 2021-GS-32-00822 for the
12 charge of sexual exploitation of a minor first
13 degree, we, the jury, unanimously find the defendant
14 guilty of sexual exploitation of a minor first
15 degree.

16 As to Indictment 2021-GS-32-00823 for the
17 charge of sexual exploitation of a minor first
18 degree, we, the jury, unanimously find the defendant
19 guilty of sexual exploitation of a minor first
20 degree.

21 As to Indictment 2021-GS-32-00824 for the
22 charge of sexual exploitation of a minor first
23 degree, we, the jury, unanimously find the defendant
24 guilty of sexual exploitation of a minor first
25 degree.

1 As to Indictment 2021-GS-32-00812 for the
2 charge of dissemination of harmful material to a
3 minor, we, the jury, unanimously find the defendant
4 guilty of dissemination of harmful material to a
5 minor.

6 All are so signed by the foreperson, Melvyn
7 Adkerson, May 27th, 2021.

8 Mr. Foreman, ladies and gentlemen of the jury,
9 if these are your verdicts, please indicate, each of
10 you, by raising your right hand.

11 All hands raised, Your Honor.

12 THE COURT: Ms. Mauldin.

13 MS. MAULDIN: Your Honor, we'd ask that the
14 jury be polled.

15 THE CLERK: Ladies and gentlemen, as I call
16 your juror number, if you'll hold up your hand where
17 I can recognize you, and I will ask you the
18 question: As to the verdicts, were these your
19 verdicts and are they still your verdicts? At that
20 time, please respond.

21 Number 162, as to the verdicts, were these your
22 verdicts and are they still your verdicts?

23 THE JUROR: Yes.

24 THE CLERK: Number 9, as to the verdicts, were
25 these your verdicts and are they still your

1 verdicts?

2 THE JUROR: Yes, ma'am.

3 THE CLERK: Number 119, as to the verdicts,
4 were these your verdicts and are they still your
5 verdicts?

6 THE JUROR: They are.

7 THE CLERK: 178, as to the verdicts, were these
8 your verdicts and are they still your verdicts?

9 THE JUROR: Yes, ma'am.

10 THE CLERK: Number 187, as to the verdicts,
11 were these your verdicts and are they still your
12 verdicts?

13 THE JUROR: Yes.

14 THE CLERK: 100, as to the verdicts, were these
15 your verdicts and are they still your verdicts?

16 THE JUROR: Yes, ma'am.

17 THE CLERK: 183, as to the verdicts, were these
18 your verdicts and are they still your verdicts?

19 THE JUROR: Yes, ma'am.

20 THE CLERK: 214, as to the verdicts, were these
21 your verdicts and are they still your verdicts?

22 THE JUROR: Yes, ma'am.

23 THE CLERK: 27, as to the verdicts, were these
24 your verdicts and are they still your verdicts?

25 THE JUROR: Yes.

1 THE CLERK: Number 2, as to the verdicts, were
2 these your verdicts and are they still your
3 verdicts?

4 THE JUROR: Yes, ma'am.

5 THE CLERK: 209, as to the verdicts, were these
6 your verdicts and are they still your verdicts?

7 THE JUROR: Yes, ma'am.

8 THE CLERK: All jurors polled.

9 THE COURT: Very well.

10 Anything else before I dismiss the jury?

11 MS. MAYES: Nothing from the State, Your Honor.

12 MS. MAULDIN: No, Your Honor.

13 THE COURT: Ladies and gentlemen, this
14 concludes your jury service. On behalf of all of us
15 at the courthouse, I want to thank you for the work
16 you did this week, for your time and your attention.
17 Obviously, this was an extremely tough case. It's a
18 sensitive subject. You all maintained focus
19 throughout the trial and, for that, we are very
20 thankful.

21 At this point, you're free to go. You can
22 discuss the case after you leave the courtroom. We
23 will -- you're free to leave the courthouse if you
24 like. We will go into a sentencing phase later on
25 today. You're welcome to stay, but you certainly

1 have no obligation to be there if you don't want to.

2 Again, on behalf of all of us, thank you for
3 your hard work this week. You're free to go.

4 THE CLERK: Your Honor, Mr. Adkerson, I need
5 him to sign my indictments.

6 THE COURT: Keep him behind?

7 THE CLERK: Yes, sir.

8 THE COURT: Okay. Mr. Foreman, I apologize.
9 We'll stand in recess before sentencing.

10 Mr. Adkerson, we have some documents for you to
11 sign.

12 (Brief recess.)

13 THE COURT: Okay. We heard from the jury.
14 Let's proceed to sentencing.

15 MS. MAYES: Yes, sir, Your Honor. First, on
16 behalf of the State, there's something else I would
17 like to put on the record. And that is that when
18 Ms. Wellman and I first went and met with **Minor 1**
19 earlier this spring, we were just starting back
20 after the courthouse had been reopened due to the
21 pandemic. When we first went to meet with her at
22 her home, she had her head in her hands; she was
23 turned away from us; she was in tears; she had fear
24 in her eyes. And it's the fear that only a child
25 could have lived through this would know.

1 And the child that the Court saw in this trial
2 this week is not the same child. She is not that
3 little girl anymore. She has gained the courage and
4 the bravery that has carried her to this point. And
5 we just want the Court to know that **Minor 1** 's
6 courage has inspired us all, and that the crimes
7 committed against her will never be forgotten or
8 washed away, but we trust that justice will soothe
9 her wounds.

10 And I'm going to defer to Ms. Wellman at this
11 point.

12 MS. WELLMAN: Your Honor, the State has
13 prepared sentencing sheets for all 11 indictments.
14 If I may approach?

15 THE COURT: Yes, ma'am.

16 MS. WELLMAN: Your Honor, I would echo
17 everything that Ms. Mayes said. **Minor 1** had to deal
18 with a lot. She had to see the photos and identify
19 them. And she had to sit here and sort of hear what
20 was said about her. She's still here. She is still
21 in one piece. I'm in awe.

22 Your Honor, the State, in the strongest words
23 possible, is asking for a life sentence. This trial
24 is over, but it will not be over for **Minor 1** . And I
25 think the acts speak for themselves.

1 MS. MAYES: Your Honor, victim advocate Heather
2 Clamp on behalf of the Solicitor's Office and on
3 behalf of the family. She has worked with **Minor 1**
4 throughout this ordeal.

5 THE COURT: Ms. Clamp.

6 MS. CLAMP: Yes. Your Honor, today, I would
7 like to speak on behalf of **Minor 1** 's family and
8 **Minor 1** . I want to let you know that the seats
9 might have looked bare out there during the trial,
10 but her family was here. Due to the content of the
11 case, they choose to watch from afar because, as
12 everybody has seen, this is hard. But I want you to
13 know that they've been here. They've been
14 supportive of **Minor 1** , and they're ready to see this
15 through.

16 On behalf of her family, which is her Gammy,
17 her brother, **Minor 2** , her uncle Daryl, her aunt Gail,
18 and some friends, they would like you to know that
19 even though that day that Michael Dyer left that
20 trailer, he really never left them. He will never
21 leave them. He's always with this family. His
22 actions consumed their lives and it still does on a
23 daily basis in some sort of way.

24 Their family trusted him. He came into their
25 lives knowing what **Minor 1** had been through. The

1 loss of both parents, now living with a Gammy,
2 adjusting to new places, new things, and recently
3 moving into his space and being accommodating of
4 that.

5 He may have only been in their lives for a
6 short time, but his actions will have an everlasting
7 negative impact on everyone, especially **Minor 1** .
8 It's been over a year, but, to them, it seems it's a
9 lifetime that they've been dealing with this.

10 **Minor 1** was nine years old. At nine years old,
11 she should be worrying about school drama, homework,
12 playing with friends, and what she was going to wear
13 to school the next day. But, instead, Michael Dyer
14 lived in this home, and he was grooming her through
15 gift-giving, spending alone time with her, offering
16 his iPad, anything that he knew would get her
17 attention, to be able to continue to build this
18 inappropriate relationship with her. He silenced
19 her with the threats of nobody believing her, loving
20 her, or wanting her.

21 **Minor 1** is brave beyond her years. And that
22 day in the kitchen when you, Michael Dyer, told her
23 to tell, she did. She broke from that hold. And
24 **Minor 1** 's family, they're going to continue to love,
25 support **Minor 1** , because they know it's a long road

1 for her, but they are here her.

2 Michael Dyer may have taken her innocence and
3 trust and part of her childhood, and for that
4 reason, the family says, Your Honor, on behalf of us
5 and all that love **Minor 1** , we ask for the maximum
6 sentence allowed by law.

7 Your Honor, I've had some time with **Minor 1** .
8 And right before this, the verdict came out, I sat
9 down with **Minor 1** . And I sat down with **Minor 1** and
10 I said, **Minor 1** , tell me what you would like the
11 Judge to know. And she said, you know, all of this
12 has caused me and my Gammy to fight and be mad with
13 each other a lot. I don't want to feel mad because
14 I know my Gammy feels like she should have done
15 better, but she only did what she could. Every day
16 I thought about what might happen when Mike got
17 home.

18 When she rode the bus, she put in her mind, she
19 knew that she would have only about two hours before
20 he was going to get home. During virtual school
21 time, when the pandemic shut it down, she said it
22 started happening more because "I wasn't leaving the
23 house much." She tried to be home the least amount
24 of time she could. She went with friends, did
25 karate, did what she could at night; went to her

1 Aunt Lisa's, and she would even stay or spend the
2 night with friends or her aunt Lisa.

3 And she said, well, I didn't really want to be
4 away; I didn't want to be home either because I
5 would be home with Mike. I didn't tell because I
6 didn't want to be without my Gammy and my brother,
7 **Minor 2**. In the kitchen, when he told me to tell, I
8 just had to tell. I do not want him to do this to
9 anyone else or anyone else have to be scared in a
10 courtroom. He should have to go away forever.

11 And, Your Honor, just speaking from being in
12 this courtroom with **Minor 1**, it breaks my heart that
13 a child had to experience this again in a courtroom
14 and be terrified, truly terrified, to sit in the
15 same room.

16 But, **Minor 1**, at ten years old, you are strong
17 and you are amazing. Thank you.

18 THE COURT: Thank you.

19 MS. MAYES: Your Honor, on behalf of South
20 Congaree, Chief Josh Shumpert.

21 MR. SHUMPERT: Thank you, Judge. There's not a
22 whole lot I can say after hearing all that. They
23 pretty much summed up anything I could put into
24 words. It was a tough case on my department. I
25 appreciate the time they spent on this. **Minor 1** and

1 her family have been awesome, and we just ask for
2 the maximum sentence allowed by law.

3 MS. MAYES: In closing, Your Honor, we'll just
4 say, as to **Minor 1** , it's never really over; for
5 **Minor 1** , it's a life sentence. Thank you, Your
6 Honor.

7 THE COURT: Ms. Mauldin.

8 MS. MAULDIN: Thank you, Your Honor. Your
9 Honor presided over a bond hearing for Mr. Dyer not
10 long ago. I told you about his background then, but
11 I'll review.

12 Your Honor, he's 48 now. He turns 49 next
13 month. He's from Columbia. As you heard, he was
14 living in Columbia when the charges had arisen.
15 He's lived in the midlands his entire life. He's a
16 high school graduate.

17 As you heard, before he was arrested, he worked
18 for a company in Columbia, Excel Truck Group. His
19 job there was to sell truck parts. He had the same
20 job for nine and a half years. He's been in the
21 same field since 1997, aside from a small stint that
22 he worked at Wal-Mart.

23 But, before this, he was a productive member of
24 society. There was no indication of any kind of
25 behavior like this in the past. Your Honor, his

1 only record is a 2003 DUI and DUS. Your Honor,
2 there's no indication that he ever did anything like
3 this to another child. He has no convictions for
4 any crimes of violence or anything of that nature.
5 We'd ask for the Court to consider that. He's lived
6 a long life as a productive person who has stayed on
7 the right track.

8 Your Honor, he's here by himself today. He
9 doesn't have a lot of family support. I'll tell the
10 Court, his parents are both deceased. These are not
11 the kind of allegations that bring family together
12 and bring friends to rally behind a person. We'd
13 ask the Court to consider that.

14 Your Honor, if there's a silver lining here, I
15 will say that our expert looked at the phone. His
16 examination indicated that although the phone may
17 have connected by a bluetooth device at one point,
18 there is no indication that any files were ever
19 transferred.

20 So if there is a silver lining, it's that
21 **Minor 1** doesn't have to worry about these images
22 being shared with other people. There's no
23 allegation of distribution of any of these images.
24 We'd ask the Court to consider that as well. It
25 appears that this material that was created is

1 contained.

2 Your Honor, we've advised him not to address
3 the Court. I would let Your Honor know that that's
4 not because he's ambivalent about this or
5 disrespectful in any way, but we've asked him not to
6 say anything.

7 THE COURT: By the law, I must allow him the
8 opportunity.

9 MS. MAULDIN: Yes, sir, certainly. And if he's
10 changed his mind, he can address Your Honor. We
11 would just hope that Your Honor would give him the
12 same consideration in sentencing that you've given
13 us all week.

14 THE COURT: Mr. Dyer, is there anything that
15 you'd like to tell the Court today?

16 THE DEFENDANT: No, not at this time, sir.

17 THE COURT: Thank you.

18 Anything else, Ms. Mauldin?

19 MS. MAULDIN: No, Your Honor.

20 THE COURT: I have a lot of paperwork. I'm
21 going to take a few minutes and complete this, and
22 I'll come back and speak with you. Thank you.

23 (Brief recess.)

24 THE COURT: I apologize for the wait. I had to
25 fill out some paperwork. One thing I did not ask

1 before we broke: I conferred with the lawyers in
2 chambers. Ordinarily, in a situation, we also
3 discuss what the pretrial confinement was for the
4 defendant. We confirmed it was 322 days. I had to
5 note that in all the documents as well.

6 You know, we've heard so much this week.

7 For those members of the jury who are still
8 here, you heard it all as well.

9 It's difficult to put into words the amount of
10 damage that we fear for future of the victims in
11 this case.

12 I would only say to **Minor 1** , you know, you are
13 the victim in this case. But, more importantly, you
14 are the survivor, and you're going to continue going
15 on being the survivor. All right?

16 And I don't want to rehash all the evidence.
17 But I would just say that the evidence which the
18 jury convicted upon showed a series of coercive
19 conduct, threatening at times, but taking advantage
20 of the position of trust in a child. I don't need
21 to go through it bit by bit. It spoke for itself,
22 as did much of the evidence. Obviously, there was
23 testimonial evidence and we had a great deal of
24 pictures, which spoke for themselves.

25 And when we leave the courtroom today, I know

1 the family will -- I hope the family will have a
2 sense of closure. But I think all of us here
3 recognize that this will affect each of you forever.
4 There's nothing -- unfortunately, there's nothing I
5 can do, in a sense, to prevent that. I wish there
6 was.

7 The one item of evidence we haven't talked
8 about, oddly enough, we looked at the phone numerous
9 times this week and the sticker on the phone said
10 Monster. It was an advertisement for a drink, but
11 the word had some meaning because what happened
12 here, simply put, was monstrous. And we can't
13 escape that. We can't escape that. As to --

14 I should have said that at the beginning. But,
15 obviously, ladies and gentlemen, I need to get
16 through this sentencing without interruptions or
17 noise. So if you're unable to control yourself, I
18 understand, but you'll need to leave the courtroom
19 at this time.

20 As to Indictment 2021-GS-32-0812, that's a
21 conviction for disseminating harmful material to a
22 minor, you will be sentenced to the department of
23 corrections for a period of ten years.

24 On the eight convictions of sexual exploitation
25 of a minor in the first degree, each of those

1 sentences will be five years in the department of
2 corrections, to be served consecutively, so the
3 conviction under indictment 0812, dissemination of
4 harmful material.

5 The remaining charges -- excuse me, convictions
6 deal with criminal sexual conduct in the first
7 degree with a minor under the age of 11 years. The
8 evidence here this week, which the jury convicted
9 upon beyond a reasonable doubt, was evidence of both
10 penile penetration for this victim as well as
11 digital.

12 We heard a great deal of testimony, both from
13 the witness stand and from the forensic interviews
14 involved. It's difficult to fathom how a person
15 could do this, but, nonetheless, it happened.

16 On the convictions for criminal sexual conduct
17 with a minor in the first degree, 11 years of age or
18 younger, you will be sentenced to concurrent
19 sentences of life in prison. That is all.

20 Attorneys have ten days for posttrial motions.

21 MS. MAYES: Thank you, Your Honor.

22 MS. MAULDIN: Thank you, Your Honor.

23 THE COURT: Court's adjourned.

24 -- END OF TRANSCRIPT OF RECORD --

25

1 C E R T I F I C A T E

2

3 STATE OF SOUTH CAROLINA

4 COUNTY OF LEXINGTON

5

6 I, the undersigned, Bethanie K. Creppon, Circuit
7 Court Reporter for the Second Judicial Circuit of
8 the State of South Carolina, do hereby certify that
9 the foregoing is a true, accurate and complete
10 transcript of record of all the proceedings had and
11 the evidence introduced in the trial of the
12 captioned cause, relative to appeal in the Criminal
13 Court for Lexington County, South Carolina, on the
14 24th, 25th, 26th, and 27th of May, 2021.

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

17

18 August 22, 2021

19

20 s/Bethanie K. Creppon

21

22 Bethanie K. Creppon

23 Circuit Court Reporter

24

25

Off assigned 3/22/21
 WITNESSES *foreperson*
Deputy Clerk

South Congaree Police Department

Josh Shumpert

Law Enforcement Case #: 202000185

AEW

ARREST WARRANT NUMBER

2020A3220800117

ACTION OF GRAND JURY

J M Y 8
 Foreperson of Grand Jury
 Date: 3/22/21

VERDICT

JOE BILL

Foreperson of Petit Jury
 Date:

DOCKET NO. 2021GS3200786

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

March TERM 2021

THE STATE

vs.

Michael Thomas Dyer

CDR #: 0385

Indictment for

Criminal Sexual Conduct with a Minor -
 First Degree

§ 16-03-0655(A)(1)

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

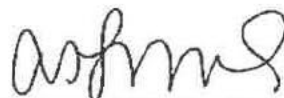
INDICTMENT FOR
 Criminal Sexual Conduct with a Minor - First
 Degree

§ 16-03-0655(A)(1)

At a Court of General Sessions, convened on March 2021, the
 Grand Jurors of Lexington County present upon their oath:

That **Michael Thomas Dyer** (date of birth [REDACTED] 1972), did in Lexington County, South Carolina between January 1, 2020 and July 5, 2020, commit the offense of Criminal Sexual Conduct with a Minor – First Degree by engaging in a sexual battery – as defined by Section 16-3-651(h) of South Carolina Code of Laws, 1976, as amended – with a minor who was less than eleven years of age, to wit: penetrating the genitals of ^{Minor 1} (date of birth [REDACTED] 2011) with his penis, in violation of Section 16-3-655(1), Code of Laws of South Carolina, 1976, as amended.

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



ASSISTANT SOLICITOR

Attest signed 3/23/2021
 WITNESSES *Hope, Fitch*
Deputy Clerk

South Congaree Police Department

Josh Shumpert

Law Enforcement Case #: 202000185

AEW

ARREST WARRANT NUMBER

2020A3220800126

ACTION OF GRAND JURY

[Signature]
 Foreperson of Grand Jury
 Date: 3/22/21

VERDICT

TRUE BILL

Foreperson of Petit Jury
 Date:

DOCKET NO. 2021GS3200812

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

March TERM 2021

THE STATE

vs.

Michael Thomas Dyer

CDR #: 3131

Indictment for

Disseminating Harmful Material to a Minor

§ 16-15-0385

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Disseminating Harmful Material to a Minor
 § 16-15-0385

At a Court of General Sessions, convened on March 2021, the
 Grand Jurors of Lexington County present upon their oath:

That **Michael Thomas Dyer** did in Lexington County, South Carolina, between
 January 1, 2020 and July 5, 2020, commit the offense of Disseminating Harmful Material
 to Minors by, while knowing the character or content of the material did sell, furnish,
 present or distribute or allow a minor to peruse or review material that is harmful to minors
 – as defined by Section 16-15-375(1), Code of Laws of South Carolina, 1976, as amended
 – to wit: the defendant did furnish, present, distribute and/or allow ^{Minor 1} (date of birth
 [REDACTED]/2011) to peruse or review pornographic material, including but not limited to
 computer internet pornographic images and/or videos, in violation of Section 16-15-685,
 Code of Laws of South Carolina, 1976 as amended.

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


 ASSISTANT SOLICITOR

At. assigned 3-23-2021

WITNESSES

South Congaree Police Department

Josh Shumpert

Law Enforcement Case #: 202000185

AEW

ARREST WARRANT NUMBER

21-STR-00011

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 3/22/21

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021GS3200815

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

March

TERM 2021

THE STATE

vs.

Michael Thomas Dyer

CDR #: 0379

Indictment for

Sexual Exploitation of a Minor - First
Degree

§ 16-15-0395(A)

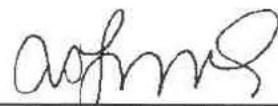
S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	Sexual Exploitation of a Minor - First Degree
COUNTY OF LEXINGTON	)	
	)	§ 16-15-0395(A)

At a Court of General Sessions, convened on March 2021,
the Grand Jurors of Lexington County present upon their oath:

That **Michael Thomas Dyer** did in Lexington County South Carolina, between January 1, 2020 and July 5, 2020 commit the offense of Sexual Exploitation of a Minor – First Degree, to wit: the defendant, knowing the content of the material, did knowingly use, employ, induce, coerce, encourage or facilitate a minor, Minor 1 (date of birth [REDACTED]/2011), to engage in or assist others to engage in sexual activity and/or appear in a state of sexually explicit nudity as defined by Section 16-15-375(5) and (6) of South Carolina Code of Laws, including, but not limited to a photograph, filename ending in 25c13d, of the victim laying on her back wearing a teal dress, with her arms behind her head and she is looking at the camera. Her dress is pushed up above her waist and she is nude from the waist down. The victim's legs are spread and her genitals are clearly visible, in violation of § 16-15-395, Code of Laws of South Carolina, 1976, as amended.

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



ASSISTANT SOLICITOR

Def assigned 3/22/21
 WITNESSES *Deputy Clerk*
 South Congaree Police Department
 Josh Shumpert
 Law Enforcement Case #: 202000185

AEW

ARREST WARRANT NUMBER

21-STR-00013

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date

VERDICT

Foreperson of Petit Jury
 Date:

DOCKET NO. 2021GS3200820

The State of South Carolina
 County of Lexington

COURT OF GENERAL SESSIONS

March TERM 2021

THE STATE

vs.

Michael Thomas Dyer

CDR #: 0379

Indictment for

Sexual Exploitation of a Minor - First
 Degree

§ 16-15-0395(A)

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	Sexual Exploitation of a Minor - First Degree
COUNTY OF LEXINGTON	)	
	)	§ 16-15-0395(A)

At a Court of General Sessions, convened on March 2021, the Grand Jurors of Lexington County present upon their oath:

That **Michael Thomas Dyer** did in Lexington County, South Carolina between January 1, 2020 and July 5, 2020 commit the crime of Sexual Exploitation of a Minor – First Degree, to wit: the defendant, knowing the content of the material, did knowingly use, employ, induce, coerce, encourage or facilitate a minor, Minor 1 (date of birth [REDACTED]/2011), to engage in or assist others to engage in sexual activity and/or appear in a state of sexually explicit nudity as defined by Section 16-15-375(5) and (6) of South Carolina Code of Laws, including, but not limited to a photograph, filename ending in 482138, of the victim kneeling on a grey and navy striped bed spread, wearing a pair of grey underwear, pulled down to her knees. The victim's legs are spread and her buttocks are elevated, clearly exposing her genitals and rectal area, and the victim appears to be looking at an electronic device, in violation of § 16-15-395, Code of Laws of South Carolina, 1976, as amended.

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



ASSISTANT SOLICITOR

Def. assigned 3/14/21
 WITNESSES *Josh Shumpert*

South Congaree Police Department

Josh Shumpert

Law Enforcement Case #: 202000185

AEW

ARREST WARRANT NUMBER

21-STR-00014

ACTION OF GRAND JURY

Im 4/8
 Foreperson of Grand Jury
 Date: 3/22/21

VERDICT

Foreperson of Petit Jury
 Date:

DOCKET NO. 2021GS3200821

The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS

March TERM 2021

THE STATE

vs.

Michael Thomas Dyer

CDR #: 0379

Indictment for

Sexual Exploitation of a Minor - First
 Degree

§ 16-15-0395(A)

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	Sexual Exploitation of a Minor - First Degree
COUNTY OF LEXINGTON	)	
	)	§ 16-15-0395(A)

At a Court of General Sessions, convened on March 2021, the
Grand Jurors of Lexington County present upon their oath:

That **Michael Thomas Dyer** did in Lexington County, South Carolina, between January 1, 2020 and July 5, 2020 commit the crime of Sexual Exploitation of a Minor – First Degree, to wit: the defendant, knowing the content of the material, did knowingly use, employ, induce, coerce, encourage or facilitate a minor, Minor 1 (date of birth [REDACTED]/2011), to engage in or assist others to engage in sexual activity and/or appear in a state of sexually explicit nudity as defined by Section 16-15-375(5) and (6) of South Carolina Code of Laws, including, but not limited to a photograph, filename ending in 290e0e, of the victim kneeling, with her knees spread and her buttocks in the air. She is wearing purple or blue panties, pulled down to her knees and her genitals and rectal area are clearly visible. The victim appears to be wearing a red shirt or dress and she is staring back at the camera, and there is a bird cage in the background, in violation of § 16-15-395, Code of Laws of South Carolina, 1976, as amended.

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



ASSISTANT SOLICITOR

Del. assigned 3/23/21
 WITNESSES *State Clerk*
Deputy Clerk

South Congaree Police Department

Josh Shumpert

Law Enforcement Case #: 202000185

AEW

ARREST WARRANT NUMBER

21-STR-00015

ACTION OF GRAND JURY

[Signature]
 Foreperson of Grand Jury
 Date: 3/22/21

VERDICT

Foreperson of Petit Jury
 Date:

DOCKET NO. 2021GS3200822

The State of South Carolina
 County of Lexington

COURT OF GENERAL SESSIONS

March TERM 2021

THE STATE

vs.

Michael Thomas Dyer

CDR #: 0379

Indictment for

Sexual Exploitation of a Minor - First
 Degree

§ 16-15-0395(A)

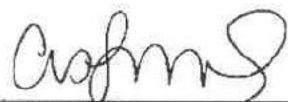
S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	Sexual Exploitation of a Minor - First Degree
COUNTY OF LEXINGTON	)	
	)	§ 16-15-0395(A)

At a Court of General Sessions, convened on March 2021, the
Grand Jurors of Lexington County present upon their oath:

That **Michael Thomas Dyer** did in Lexington County, South Carolina, between January 1, 2020 and July 5, 2020 commit the crime of Sexual Exploitation of a Minor – First Degree, to wit: the defendant, knowing the content of the material, did knowingly use, employ, induce, coerce, encourage or facilitate a minor, ^{Minor 1} (date of birth [REDACTED]/2011), to engage in or assist others to engage in sexual activity and/or appear in a state of sexually explicit nudity as defined by Section 16-15-375(5) and (6) of South Carolina Code of Laws, including, but not limited to a photograph, filename ending in e07cbc, of the victim kneeling, with her knees spread and her buttocks in the air. She is wearing purple or blue panties, pulled down to her knees and her genitals and rectal area are clearly visible. The victim appears to be wearing a red shirt or dress and she is staring back at the camera with her hand is covering her eyes and/or face, and there is a bird cage in the background, in violation of § 16-15-395, Code of Laws of South Carolina, 1976, as amended.

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



ASSISTANT SOLICITOR