

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County

Carmen T. Mullen, Circuit Court Judge

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Nov 04 2020

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TONY ORLANDA SINGLETON,

APPELLANT

APPELLATE CASE NO. 2019-001391

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT #3 (PHOTOGRAPH).

1 In the Court of General Sessions for the
2 State of South Carolina, County of Hampton

3

4 Case No.: 2016-GS-25-00137

5 State of South Carolina,

6 Plaintiff(s),

7 vs.

Transcript of Record

8 Tony O. Singleton,

9 Defendant(s).

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15 August 5, 2019 - August 7, 2019

16 Hampton, South Carolina

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21 BEFORE: The Honorable Carmen T. Mullen

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1 In I think the facts of this case, I think that it's
2 clear that the child was pregnant. So, it's not --
3 that aspect of it. So, I would withdraw number three.

4 THE COURT: Okay.

5 MS. CAMPBELL: And allow the State, you know, to
6 refer to, to her however they deem appropriate, child,
7 victim, however.

8 THE COURT: Okay.

9 MS. CAMPBELL: But on that same topic, there's a
10 photograph that the State wants to introduce of this
11 child at the age of ten when she became pregnant, and
12 we are objecting to that on the Rules of Evidence, 401,
13 402, and then 403.

14 THE COURT: All right. And what photograph did
15 you intend on introducing?

16 MS. SWANSON: And, Your Honor, it is simply a
17 photograph of **Minor** at age ten, which I will
18 introduce through her simply of her face, and I can put
19 an exhibit number on it.

20 THE COURT: Go ahead. You showed me that one and
21 another one in chambers. I know you withdrew,
22 Ms. Swanson, the other one. It generally had a picture
23 of the child with a birthday hat on, and I just thought
24 it didn't look appropriate. That one was adequate. I
25 thought this one was, by far, the best. So, I'm gonna

1 allow that one. I think it's appropriate.

2 MS. SWANSON: Thank you, Your Honor.

3 THE COURT: Ms. Campbell.

4 MS. CAMPBELL: As to number four, it's my
5 understanding that the State do not intend to
6 introduce any videotaped evidence of forensic
7 interviews.

8 MS. SWANSON: That is correct.

9 MS. CAMPBELL: And I don't think, five, we could
10 really take that up until it, it would---

11 THE COURT: Okay. That's not appropriate.

12 MS. CAMPBELL: ---be, be an issue. And then it's
13 my understanding they do not intend -- the State does
14 not intend to introduce evidence of Child Sexual
15 Assault Syndrome or anything of that nature?

16 MS. SWANSON: That's correct. We don't have any
17 -- we are not calling anyone from Hopeful Horizons.

18 MS. CAMPBELL: And then seven, which is our final
19 motion, really is gonna depend on, you know, the chain
20 that the State lays.

21 THE COURT: And I think that we have to---

22 MS. CAMPBELL: Yeah.

23 THE COURT: ---do that when we reach that.

24 MS. CAMPBELL: So, we'll just have to do deal with
25 this when we see where, where we are at the close of

1 8-6-2019 PROCEEDINGS

2 THE COURT: Good morning, everyone. It is my
3 understanding we do have all of our jurors now. Ladies
4 and gentlemen, those of you sitting out in the gallery,
5 I just need to caution everyone before we begin today,
6 I don't want to see any type of head movement, head
7 bobbing, smiling, anything along those lines.

8 Ladies and gentlemen, if you do do something along
9 those lines, I am going to have to ask you to leave.
10 And chances are if that occurs we will have to ask
11 everybody to leave that is here, other than specific
12 people who are permitted by law to stay.

13 I'll also tell you that there are cameras in this
14 entire courtroom. The only way they don't face is the
15 jury. So, I will be be able to pull it up and see what
16 you are doing if you do anything. Sometimes people
17 have a tendency when they listen to the lawyers talk
18 about their side they will head bob or they will move
19 their head around, anything along those lines. Again,
20 do not do that. It would not be appropriate.

21 Also, I need to tell you I know I see a few of you
22 back there are a little bit cold and I understand,
23 sitting bundled up. But I also want to make sure that
24 you understand that everyone stays seated up in their
25 seats and not slumped over. So, I just want to make

1 sure everyone understands what the ground rules are.
2 All right?

3 So, with that said, do we need to put anything on
4 the record, Ms. Campbell, this morning before we begin
5 with the jury?

6 MS. CAMPBELL: I don't believe so.

7 THE COURT: Ms. Swanson, you?

8 MS. SWANSON: Nothing from the State.

9 THE COURT: Okay. Also, ladies and gentlemen, I
10 will tell those in the gallery as well, when the
11 lawyers are giving those opening statements and as well
12 when a witness is on the stand, I don't want you
13 leaving the courtroom. If you could just wait if you
14 need to refresh yourself or take a break, just wait
15 until a witness breaks or the lawyers are done with
16 opening. All right? Just out of courtesy.

17 Do you want to swear them in?

18 THE CLERK: Yes, ma'am.

19 (The jury enters the courtroom.)

20 THE COURT: Good morning, ladies and gentlemen.
21 At this time what we're gonna to do is swear you in as
22 the jury for the trial in the case. I'll make a few
23 opening comments, and then each of the attorneys is
24 going to make what's called an opening statement. And
25 then, after that, the State will then begin presenting

1 their testimony and evidence.

2 All right. So, ladies and gentlemen, if you all
3 will please rise. Raise your right-hand. Ms. Nettles
4 is going to administer the oath, and when you accept
5 it, please say I do and take a seat.

6 (Whereupon, the jurors were sworn.)

7 THE COURT: Ladies and gentlemen, what I'm now
8 going to say to you is intended to serve as an
9 introduction to the trial of the case. These remarks
10 are not a charge on the law. I'm gonna instruct you on
11 the law that's applicable to this case at the end of
12 the trial.

13 Ladies and gentlemen, this is merely an
14 explanation of the procedure that we're gonna follow so
15 you can better understand what's happening.

16 Now, ladies and gentlemen, the defendant in this
17 case, Mr. Singleton, is charged by an indictment filed
18 in this court with the offense of criminal sexual
19 conduct with a minor under the age of 11, the elements
20 of which I'll explain to you at the end of the trial.

21 Now, ladies and gentlemen, an indictment is simply
22 the charge by which a case is brought into the court,
23 and it is not, in any sense, evidence of any of the
24 allegations that it contains. Now, in this case, the
25 defendant, Mr. Singleton, has pled not guilty to the

1 indictment. The State, therefore, has the burden of
2 proving each of the elements of the indictment beyond a
3 reasonable doubt, and it's your duty, ladies and
4 gentlemen of the jury, to determine whether the State
5 has met that burden.

6 Now, your purpose as jurors is to find and
7 determine the facts. You, the jury, are the sole judge
8 of all facts in this case. If, at any time, I make any
9 comments regarding the facts of this case, you must
10 disregard it, and you are to only determine the facts
11 from the testimony that you hear from the witness
12 stand, as well as any other evidence that is admitted
13 into the case.

14 Please understand, ladies and gentlemen, it is
15 especially important that you perform your duty of
16 determining the facts diligently and conscientiously
17 because, ordinarily, there is no way to correct an
18 errant determination of the facts by a jury. On the
19 other hand, and with equal emphasis, the same law that
20 makes you, the jury, the judge of the facts, makes me
21 the judge of the law. The law, as given by the Court,
22 is the only law which you may consider. You must
23 accept and follow it even though you may disagree with
24 that. I cannot tell you what the facts of this case
25 are, and you cannot disagree with me about what the law

1 is or what you think the law ought to be.

2 Your job, and the end of this trial, is to take
3 the law as I give it to you, and apply it to the facts
4 as you find them. And, from there, render a verdict.

5 Now, until I advise you to begin your
6 deliberations, you must not discuss this case with
7 anyone, and includes your fellow jurors, friends,
8 family members, or anyone involved in this case.
9 Again, I told that the attorneys and parties and
10 witnesses in this case have been instructed that they
11 are not to talk to you in any way in coming and going
12 from the courthouse, either before or after, ladies and
13 gentlemen.

14 So, I remind you again, if you happen to pass any
15 of these people in the hallway or in the elevator and
16 they don't even say hello, I remind you they are not
17 being unfriendly. They're simply following my orders.

18 Additionally, ladies and gentlemen, during the
19 trial of this case, you are not to read, listen to, or
20 watch any news reports about this case, and that
21 includes anything that could be in the newspaper, on
22 the news, on the Internet, or the radio. You are not
23 to consider anything that you may have heard outside of
24 this courtroom, whether before or during the trial.

25 Please understand that it is especially important

1 that you keep an open mind and not decide any issue in
2 this case until you've heard all the evidence, the
3 parties have made their closing argument, and I've
4 instructed you on the law that's applicable to this
5 case. Please understand that your verdict must be
6 based solely on the evidence that is presented to you
7 in trial, and on the law as I instruct you during the
8 close of this trial.

9 Now, in just a moment, the solicitor is gonna make
10 what's called an opening statement in which she's going
11 to explain to you the issues in this case or, at least,
12 what she believes the issues are in this case. And
13 also, the defense attorney for the -- is also gonna
14 make what's called an opening statement, although she
15 is not required to do so.

16 Please understand that what these lawyers tell you
17 in their opening statements is not evidence in this
18 case. Again, it is only their contention as to what
19 the issues are. I remind you again, the evidence comes
20 from the witness stand as well as any other evidence
21 introduced into evidence.

22 Now, ladies and gentlemen, from time to time, you
23 may hear something like the lawyers will say Your
24 Honor, we have a matter of law we need to take up or I
25 may motion them up to talk to me or we may have a side

1 bar. I want you to understand something, we're not
2 hiding anything from you. Oftentimes, when I have to
3 rule as a matter of law whether or not certain
4 testimony is admitted, I may make a comment on the
5 facts of this case. And because I would never want
6 anything I do to influence you in your determination of
7 the facts, out of an abundance of caution, we just do
8 that outside of your presence.

9 Now, in determining what the true facts are in
10 this case, you must decide whether or not the testimony
11 of the witness is believable. It's my responsibility
12 to rule, as a matter of law, whether or not certain
13 testimony's admitted. But once the testimony is
14 admitted, whether or not you believe it is solely for
15 you to determine.

16 Now, in deciding whether to believe a witness, you
17 have the right to consider the interest of any witness,
18 the bias of any witness, the prejudice of any witness,
19 and you can look at the opportunity that witness had to
20 see the matters and things about which the witness may
21 testify, and you can also look at the way the witness
22 acts on the witness stand. You have the right to
23 consider anything that is in the record that will help
24 you evaluate the testimony of the witness.

25 That means, ladies and gentlemen, it is your duty

1 to pay close attention to the witnesses, to observe
2 them, to listen to them, so that at the very end of the
3 case, ladies and gentlemen, you can accurately remember
4 the testimony that was given.

5 Now, in order to preserve everyone's rights, I'm
6 gonna give the parties an opportunity to object to
7 anything I've said. If not, ladies and gentlemen, we
8 will go ahead and begin with the opening arguments in
9 this case.

10 All right. Anything exceptions or additions from
11 the State?

12 MS. SWANSON: Nothing from the State.

13 THE COURT: From the defense?

14 MS. CAMPBELL: No, Your Honor.

15 THE COURT: Thank you. Ladies and gentlemen,
16 we'll go head and begin the trial.

17 Whenever you're ready, Ms. Swanson.

18 MS. SWANSON: Thank you, Your Honor.

19 May it please the Court?

20 THE COURT: Yes, ma'am.

21 MS. SWANSON: **Minor** was just ten years old
22 when she was raped and impregnated by who she had come
23 to know as her stepfather, Tony Singleton. This
24 happened in her room as she watched cartoons. She was
25 a child.

1 Now, Tony and Minor's mother, Hylania, had been
2 dating for quite a while. Tony had known Minor since
3 she was a toddler. Minor and Minor's -- Tony and
4 Minor's mother had three biological children
5 together. They lived in the same apartment in Estill
6 for a long period of time. She had come to know him as
7 a father figure, and instead of protecting her, he
8 preyed on her.

9 Rather than doing the things that a normal
10 ten-year-old should be doing, playing with dolls,
11 drawing pictures, braiding hair, Minor was watching
12 her body change with a growing fear inside of her, and
13 a growing child inside of her.

14 Now, the family didn't see what they didn't want
15 to see. Meanwhile, Minor's gaining weight, but who
16 thinks that their ten-year-old is pregnant, and
17 carrying a child. Once it became undeniable, and
18 Minor's grandmother saw her changing, she confronted
19 her. Minor, not wanting to have been the one to
20 break up the family, had not told anyone.

21 Now, once the pregnancy was concerned, the family
22 rallied against -- rallied around her, took her down to
23 Florida, and the pregnancy was terminated. The
24 biological evidence from that pregnancy was collected,
25 turned over to law enforcement, and it confirmed that

1 Tony Singleton was the father of that unborn child.

2 When **Minor** was questioned by forensic
3 interviewers, she did tell them that there were two
4 other boys, boys, not the man that's sitting in the
5 courtroom today, who had touched her. I don't want
6 that to confuse you because the evidence here, although
7 scientific, is very straightforward, and all you need
8 is to maintain your common sense to understand it.

9 Now, the State bears the burden of proof in this
10 case, and that means that I must prove to you, beyond a
11 reasonable doubt, that Tony Singleton is guilty of
12 criminal sexual conduct in the first degree. Bluntly
13 said, that is child rape. That is rape of a child
14 under 11 years old.

15 Beyond a reasonable doubt means that you must be
16 firmly convinced of his guilt, so convinced that you
17 would hesitate to act or that you would not hesitate to
18 act in the most important of your affairs. The judge
19 is going to charge you on that law at the end of the
20 case because, until then, you're going to be listening
21 to testimony from witnesses that I put on the stand,
22 and that will be the evidence that you consider to
23 determine the facts from. You get to decide what
24 really happened, and what the truth is, where
25 everything lies, who to believe, who not to believe,

1 and then you apply those facts to the law that the
2 judge charges.

3 Okay. You're gonna hear from **Minor**'s family.
4 You're gonna hear from **Minor**. You're gonna hear from
5 law enforcement. You're gonna hear from medical
6 personnel. And, lastly, you will hear from a DNA, a
7 DNA analyst. The most important thing I can ask of you
8 is to pay attention, and to treat this case with the
9 level of importance that is necessary.

10 It will not be a long case. I do not think that
11 you will find it overly complex, but it's so important
12 nonetheless because Tony Singleton is the worst kind of
13 predator. He is the one that was trusted. He is the
14 one that lurked inside the home, and he is the one that
15 changed the fabric of **Minor**' young life
16 forever.

17 And so, at the end of the case, I will be asking
18 you to return a guilty verdict.

19 Thank you.

20 MS. CAMPBELL: May we approach, Your Honor?

21 THE COURT: Yes.

22 (Off-the-record discussion held.)

23 MS. CAMPBELL: Good morning.

24 When the solicitor says two other boys touched
25 her, well, that's not true. Two other teens, Tony's

1 son, his biological son, and a neighborhood kid both
2 had sexual intercourse with [Minor] It's horrid.
3 There were three accusations from [Minor] as to who the
4 father of her child could be.

5 That's why the State obtained evidence. You'll
6 hear testimony that, you know, you take a little
7 swab -- it's like paternity testing. You take a little
8 swab out of your cheek, box it up, send it in.

9 So when SLED, South Carolina Law Enforcement
10 Division, gets the samples, they're essentially doing a
11 paternity test, and with three candidates. And it's
12 not a question if you -- it's not like did it happen.
13 Of course, it happened. The child horridly was
14 pregnant at ten years old.

15 The question that you will have to answer was who
16 was the father, and the evidence and the testimony that
17 you will hear should be 22 weeks was the pregnancy when
18 it was discovered. Twenty-four weeks along was the
19 pregnancy when it was terminated. It's pretty simple
20 math to count backwards.

21 Tony Singleton was not living in that home with
22 access to [Minor] during the time of conception. Who,
23 who was living there? Tony's teenage son, his
24 biological son, and the neighborhood boy down the
25 street with access to [Minor] So what I would say to

1 you is, it is a whodunit. And you're gonna have to
2 listen to the testimony, and you're gonna have to make
3 that decision.

4 When we talk about this courtroom and your
5 service, it's a little bit -- I think there's a
6 character in -- is it The Incredibles maybe? Something
7 where she creates this shield. She can do something,
8 and the shield comes over.

9 Well, pull down the shades, create the shield
10 because this is it. Every single wall in this
11 courtroom has emblazoned on it the word innocent.
12 Freeing your mind of the preconceived or, oh, my God,
13 right?

14 That's terrible. It is terrible what happened to
15 Minor but Tony didn't do it. Tony's not the father.
16 And so the -- Her Honor will tell you the cloak, the
17 robe, the cocoon of innocence has to be right, at this
18 moment, in your -- you have to be able to look at Tony
19 as an innocent man. That's what you swore to do, and
20 there's no point in this case that you can look at him
21 any differently. Not -- no matter what evidence stacks
22 up here, no matter what testimony you hear, the only
23 time that you can start raising the shades and
24 stripping away the word innocent that surrounds all of
25 us is back in that jury room when the 12 of you,

1 ultimately, will get together, and you'll say, well,
2 what do you think? Well, this is what I think. And
3 what about that testimony? Well, what about, you know,
4 22 weeks?

5 Discussing the evidence, and even then, even then,
6 Her Honor will tell you, during all of that talk, he's
7 still innocent in your mind. Not until there is some
8 point that it comes to you as 12 agreeing that the
9 State has met their burden of proof, and -- well --
10 well, you say, well, what is that, and Judge Mullen
11 will tell you.

12 We don't have to wander about it. It's proof that
13 leaves you without reason or question to doubt what you
14 have decided. And I believe, when you get to that
15 point, you will see that alibi, that the fact that he
16 wasn't even living there, that the fact that the timing
17 is not right. You know, pregnancy's really easy to
18 calculate. Doctors can take 22 weeks, count backwards.

19 I believe you should hear from **Minor** as well
20 that the accusation against the three potential fathers
21 was that it was sexual intercourse and that it was one
22 time. That's what she told law enforcement.

23 Now, again, I don't know. We'll all see what she
24 has to say today. We'll all see what the other
25 witnesses have to say today, and we'll kind of go

1 through this together, but not a single one of us will
2 go through this today and tomorrow. I think we should
3 finish up by maybe lunch time tomorrow.

4 THE COURT: You may go ahead.

5 MS. CAMPBELL: I'll finish. We will not proceed.
6 We will not move one step forward without the
7 foundation that you depend on, that I depend on, that
8 your children depend on, which is the foundation of
9 law, which is innocence, which is reasonable doubt,
10 which is the proof that's necessary to take away what
11 the State wants to take away from Tony Singleton.

12 Thank you.

13 THE COURT: Thank you, Ms. Campbell.

14 Ladies and gentlemen, we are gonna go ahead and
15 take a brief recess before we begin our testimony. I
16 remind you, do not discuss this case. It wouldn't be
17 appropriate to do so. Go get a cup of coffee, ladies
18 and gentlemen. I'm gonna bring you right back out in
19 just two minutes.

20 All right. Thank you.

21 (OUT OF PRESENCE OF JURY.)

22 THE COURT: All right. Ms. Campbell, let's go
23 ahead and put your first objection on the record
24 please.

25 MS. CAMPBELL: May it please the Court, Your

1 Honor.

2 At the close of the State's opening statement, I
3 approached the bench to let the Court know that I was
4 objecting contemporaneously to the prosecutor calling
5 Mr. Singleton a predator, and I am placing on the
6 record my motion for a mistrial on that ground at this
7 time. It is improper and never correct for the State
8 of South Carolina to hurl names at a defendant during a
9 trial.

10 I think some of the cases -- case law has been
11 pretty clear with the, the derogatory and the negative
12 connotation. I want to say some, some of the specifics
13 were the -- were, were terms that were more in the line
14 of racial, but I will say it's improper. The State did
15 it. You can't unring the bell. There's no curative
16 instruction that would correct what the State has done.
17 And if -- I'll be glad to take up the next motion or we
18 can do them one at a time.

19 THE COURT: You want to respond to that,
20 Ms. Swanson?

21 MS. SWANSON: Just briefly. I, I did use the word
22 predator. I think it's a fair characterization based
23 on the State's view of the facts. It was used once.
24 It was not overused. It was not -- and I think the
25 case law is clear. If it's overused of, of the names

1 or things of that nature that rise to the level of a
2 mistrial.

3 Thank you.

4 THE COURT: All right. Well, respectfully, you're
5 not gonna call him a predator again. I'm also going to
6 caution the State to be careful in their
7 characterization and how they say, and what they say,
8 certainly, in presenting witnesses, and
9 cross-examination, and in closing statements.

10 I am a bit reminded of The State versus Susan
11 Tappeiner case that was reversed because of the then
12 solicitors, and not you, Ms. Swanson, of course, but
13 overzealous closing argument. I can tell you that over
14 the next break, I'm gonna go ahead and read that appeal
15 just so I can remind myself. I was actually the trial
16 judge. So we will caution that.

17 At this time, I am not going to grant a mistrial
18 because it was only used once. But, again, I am
19 warning the State they don't need to overstep their
20 boundaries.

21 All right. Secondly, Ms. Campbell.

22 MS. CAMPBELL: Your Honor, at this time, I would
23 make a motion for a mistrial on behalf of
24 Mr. Singleton. During my opening statement to the
25 jury, if I'm correct, when I turned around, it appeared

1 that **Minor** had begun to cry.

2 THE COURT: Is that who that was?

3 MS. CAMPBELL: Yes.

4 THE COURT: Okay.

5 MS. CAMPBELL: The, the victim, the child in this
6 case to the point, again, that it created a
7 disturbance. It was audible. I could hear it and then
8 I could see it when I turned around and she was, you
9 know, carted off out of the courtroom by two
10 individuals in order, I suppose, to gain her composure.

11 Your Honor had cautioned previously to, to the
12 gallery that you were not going to tolerate any
13 emotional outbursts or behaviors in the courtroom
14 during the trial of this case, and that you, you would
15 deem such an action a, a, a -- an offense that would
16 warrant a mistrial.

17 The, the level of emotion that was just
18 demonstrated, again, after being told not to do so by
19 the Court, cannot remove in any way, even, even if you
20 were to try to give a curative instruction to this
21 jury, what has just happened to Mr. Singleton and his
22 right to a fair trial.

23 Thank you, Judge.

24 THE COURT: Any response?

25 MS. SWANSON: I believe the Court cautioned

1 against head shaking, you know, things of that nature.
2 I believe it's unfair to expect a 13-year-old rape
3 victim to always be able to keep her emotions in check.
4 She was led out of the courtroom as soon as it got out
5 of control, and so I'd just say obviously it's
6 emotionally charged situation.

7 THE COURT: Obviously, it is an emotionally
8 charged case, and I will say that she didn't do
9 anything that maybe she wouldn't have occurred if she
10 was on the stand testifying. However, I will say this,
11 and this is where the caution comes in.

12 I think the State has responsibility to know who
13 their victims are, and be able to know if they can sit
14 through testimony. Particularly when her outburst came
15 when the defense was making their case. It's not
16 unusual for victims, child victims, to only be brought
17 in during their testimony and that is all.

18 Obviously, they have a right to be here, but we
19 also have to remember that they are children still, and
20 I think someone needs to make a conscious decision
21 every time they bring a child into courtroom, if they
22 are a victim, if it's appropriate for them to sit and
23 listen to. Particularly when they're gonna hear the
24 opposite side.

25 So I think that's something that the State will

1 need to be careful of from here on out.

2 MS. SWANSON: And if I may address that, Your
3 Honor.

4 THE COURT: Yes, ma'am.

5 MS. SWANSON: I did have the conversation whether
6 or not **Minor** wanted to be present in the courtroom,
7 and I believe she has that right to decide that. I was
8 not going to ban her from the courtroom, but she is a
9 strong girl. She is doing really well now, and she's
10 13 years old. Should she feel like she cannot remain
11 in the courtroom, April Winston will be sure to make,
12 make sure she's comfortable.

13 Thank you.

14 THE COURT: I understand, but, again, you have to
15 remember that you're not a psychiatrist, and she's a
16 13-year-old child, and that is where my concern lies,
17 to make sure she can handle, particularly when this is
18 an adversarial process. Ms. Campbell's doing her job,
19 and I understand that, and we appreciate that. But
20 this is an adversarial process, and I hope it's been
21 explained to her that that's what it is, and that she
22 doesn't feel like this is a personal attack on her.
23 That's where my concern lies. That's why I say that.

24 So with that said, respectfully, I'm gonna deny
25 your motion as well. I think we all need to tread

1 lightly.

2 Let's bring the jury back out, and let's keep
3 going.

4 All right.

5 (Jury enters the courtroom.)

6 THE COURT: All right. Welcome back, ladies and
7 gentlemen. At this time, we'll go on and continue with
8 the State's case.

9 Call your first witness, Solicitor.

10 MS. SWANSON: Thank you, Your Honor.

11 State calls Pat James.

12 Thereupon,

13 PATRICIA JAMES

14 was called as a witness, having been first duly sworn,
15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. SWANSON:

18 Q Good morning, Ms. James. If you can please state
19 your full name and spell it for the court reporter.

20 A Patricia Ann James.

21 Q Okay. And where do you live, Ms. James?

22 A In Scotia.

23 Q And are you related to Minor [REDACTED]?

24 A That's my granddaughter.

25 Q Okay. Have you spent a lot of time with Minor [REDACTED]

DIRECT EXAMINATION OF PATRICIA JAMES BY MS. SWANSON

1 over the years?

2 A Yes, I have. And one time we spent a lot of time.
3 Sometime we won't see them. She'll say, no, they're on
4 their -- they were bad in school. They can't come. They on
5 a punishment.

6 Q Okay. Now, backing up, when you say they --

7 A Okay.

8 Q -- who was **Minor** living with?

9 A Her mother.

10 Q Anybody else?

11 A Yes.

12 Q Who, who was **Minor** living with besides her
13 mother?

14 A Her, her brother and sisters in a friend house,
15 her boyfriend.

16 Q Her boyfriend?

17 A Uh-huh. (Indicating affirmatively.)

18 Q Who is her boyfriend?

19 A Tony.

20 Q All right.

21 A Tony Singleton.

22 Q Do you see Tony Singleton in the courtroom today?

23 A Yes.

24 Q Can you point him out for me?

25 A (Witness pointing.)

DIRECT EXAMINATION OF PATRICIA JAMES BY MS. SWANSON

1 Q Okay. And can you pull that microphone a little
2 bit closer to you?

3 Where were Tony and Hylania living?

4 A In the apartment in Estill.

5 Q All right. And do you know -- well, let me ask
6 you this. Did Tony and Hylania have children together?

7 A Yes.

8 Q Were there a lot of children in the residence?

9 A It was most like when I -- if I'm gonna -- if I go
10 by, it'll be like **Minor**, **Minor**, they'll come out, and
11 the -- and their other three -- the kids. The three -- his
12 kids come out.

13 Q Okay. The biological children --

14 A Yes.

15 Q -- that they had together?

16 A Yes, they'd come out, and the other one come out.

17 Q And so who did you spend the most time with?

18 A **Minor** and Jaquan.

19 Q And Jaquan James. Okay. And so were those
20 Hylania, Hylania's children with Winfred James?

21 A Yes, ma'am.

22 Q Okay. And that is your son?

23 A Yes, ma'am.

24 Q Okay. So your two grandchildren -- and how often
25 did you see them?

DIRECT EXAMINATION OF PATRICIA JAMES BY MS. SWANSON

1 A Not too often.

2 Q Okay.

3 A But only on special -- like, on week -- the
4 weekends. Sometimes they'll come on weekends. So sometimes
5 they will not come over on weekends, cause most the time I
6 be working.

7 Q All right. Where do you work?

8 A I work on Hilton Head Island at Life Care Center.

9 Q Do you recall seeing **Minor** in late 2015 when she
10 was ten years old?

11 A Yes, I seen **Minor** It was like December when
12 she came to the house, but I was at work. Someone comes to
13 me and says your kids -- your two grandkids is to the house.
14 I said for real. **Minor** -- I said okay. And when they
15 call and they told me that, I say okay. Well, I'll talk
16 with them. Let me get back to work. When I get home, I'll
17 talk to y'all when I get home.

18 Q Okay.

19 A And so that's what -- when I got home, I seen
20 **Minor** first.

21 Q Okay. And now we're talking about December. So,
22 was there a period of time that you did not see **Minor** very
23 much?

24 A Hu huh. (Indicating negatively.) It was a while.
25 It tooks a long -- it was a while before I get to see them.

DIRECT EXAMINATION OF PATRICIA JAMES BY MS. SWANSON

1 It tooks a, a while because they was mostly like -- I will
2 not go and pick them up. My brother or somebody go and
3 check on them, and say well, let me get the kids, and
4 they'll say well, they on a punishment. We call for them.
5 They're on a punishment cause they did something in school
6 or they been bad in school or they been disrespectful.

7 Q Okay. So, you, you felt like --

8 MS. CAMPBELL: Objection.

9 Q How did you feel?

10 THE COURT: Hold on a second.

11 MS. CAMPBELL: Yes, she's leading the witness.

12 Thank you.

13 THE COURT: Okay. She corrected it.

14 BY MS. SWANSON

15 Q How did you feel, Ms. James?

16 A After they -- she -- after they stated that they
17 was being disrespectful in school, they was acting up, I
18 could understand for them to be on a punishment, right,
19 cause I would do the same thing. But at -- if it -- after
20 it keep on going, it got to me for a while. But I said,
21 well, I'll just let the Lord handle it.

22 Q Okay. So how long did this go on?

23 A Ooh. Ooh. A long time. I can't recall, but it
24 was a long time.

25 Q Okay.

DIRECT EXAMINATION OF PATRICIA JAMES BY MS. SWANSON

1 A Uh-huh. (Indicating affirmatively.)

2 Q Do you recall seeing Minor around April or
3 Easter of 2016?

4 A Not that I recall.

5 Q When was the last time -- what -- do you recall
6 anything unusual going on with Minor?

7 A Well, the only time that I recall when Niyah came
8 to me -- Minor came to me, it was -- it had to be in --
9 when she came to the house that day when I got home from
10 work, and she was to the house and everything, and I got
11 home, and my daughter told -- I went in the room. And I
12 said, Well I'm tired, I'm gonna wash up. I said, Niyah,
13 come on, let's go. I'm gonna let you wash up first. I'm
14 combing my hair, brushing my teeth. I said, You go first,
15 you need plenty of water, and I was -- and wash. And I
16 look, and I looked, I said, I said, Okay, Niyah, I'll be
17 right back.

18 Q What did you see?

19 A Her stomach.

20 Q And what did it appear to you?

21 A Pregnant.

22 Q Okay. How old was she at the time?

23 A Minor. Minor was about ten.

24 Q Okay. Did you say anything to Minor or do
25 anything after you noticed her stomach?

DIRECT EXAMINATION OF PATRICIA JAMES BY MS. SWANSON

1 A Only thing I did, I said, Okay, you go ahead and
2 wash up. I'll be back in the room with you.

3 Q Uh-huh. (Indicating affirmatively.)

4 A So I walk out of the room, and I close the door
5 cause it was just me and her, and that's all that was there.
6 So I went and got on the phone. I said, Well, let---

7 Q Can you pull the -- can you speak a little louder
8 please just for us? Thank you.

9 A Okay. I walked out the room, and when I, then I
10 told her, I will be right back, and I shut the door. And I
11 said well, let me call Hylania. And so, we call her,
12 Hylania. And I said, Hylania, I said what's going on with
13 Niyah.

14 Q And without saying what she said, what did you
15 tell her?

16 A I said -- she said, What you mean, she's all
17 right. I said, What's going on with Niyah? And she said --
18 I said -- she said, Patricia, why? I said, Niyah is
19 pregnant.

20 Q Okay. Did you talk to Niyah after you called her
21 mother?

22 A I just asked her was she all right, if she wanted
23 to eat or anything.

24 Q Okay. Did you ask her who did this to her?

25 A Not right then.

DIRECT EXAMINATION OF PATRICIA JAMES BY MS. SWANSON

1 Q Okay. Did you later ask her that question?

2 A Later on, when I got the call that I was -- it was
3 the truth about Minor, that she was pregnant, I was at
4 work and they call me and say this was the truth. So I left
5 my job.

6 Q Okay. So this is -- just to be clear, was this
7 after she went to the doctor?

8 A This is about the next day. She must have took
9 her to the doctor, yes.

10 Q Okay. And then you asked her -- you had a
11 conversation with her, is that right?

12 A Yes, after I, I got from work. I left work.
13 After that, I left work, and I came on to Estill, and I came
14 where they was at, and I asked her, Well, did I talk to her?
15 I said, Well, it's between me and you. Everybody else out
16 of it. Me and you.

17 Q Was this conversation in person?

18 A Yes, me and Minor.

19 Q Right. And what did you ask her?

20 A I said, Minor, I said, between me and you, tell
21 me who did this to you.

22 Q Without saying who, did she tell you who did it to
23 her?

24 A Yes, ma'am.

25 Q How many names did she give you?

DIRECT EXAMINATION OF PATRICIA JAMES BY MS. SWANSON

1 A One.

2 Q Okay. Was she emotional when she was talking to
3 you?

4 A She -- at that time, she wasn't emotional, but she
5 was getting there.

6 Q Okay. Were you emotional?

7 A Yes.

8 Q Okay. And once she told you who did this to her,
9 did you relay that information to anyone else?

10 A No, ma'am.

11 Q You didn't have a conversation with her father or
12 anything like that later?

13 A Yes, later on that -- later on -- I felt like I
14 should not have called him, and then I said no, I better
15 call and talk to him and let him know. I told him, I
16 said---

17 Q Oh, okay. Well, without saying what she said --

18 A Uh-huh. (Indicating affirmatively.)

19 Q So you did talk to your son about this --

20 A Yes.

21 Q -- situation?

22 A Yes, uh-huh. (Indicating affirmatively.)

23 Q Okay. Thank you. I have no further question at
24 this time. Please answer any questions that Ms. Campbell
25 might have.

DIRECT EXAMINATION OF PATRICIA JAMES BY MS. SWANSON

1 A I sure will.

2 Q Thank you.

3 A Thank you.

4 MS. CAMPBELL: I don't have any questions. Thank
5 you.

6 THE COURT: Thank you.

7 Any objection to this witness being excused from
8 anyone?

9 MS. SWANSON: No, Your Honor.

10 THE COURT: Ms. Campbell.

11 MS. CAMPBELL: (Nods in the negative.)

12 THE COURT: You may be excused, ma'am.

13 MS. SWANSON: State calls Hylania Orr.

14 Thereupon,

15 HYLANIA ORR

16 was called as a witness, having been first duly sworn,
17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. SWANSON:

20 Q Ms. Orr, if you could please spell your name and
21 state it for the record for the court reporter?

22 A Hylania Orr. H-Y-L-A-N-I-A. O-R-R.

23 Q Let's talk about 2015/2016. Who were you living
24 with and where?

25 A We were living in Estill projects, my six kids and

DIRECT EXAMINATION OF HYLANIA ORR BY MS. SWANSON

1 with Tony Singleton.

2 Q Okay. Do you recall the address of those
3 apartments?

4 A Uh-huh. (Indicating affirmatively.)

5 Q What is it?

6 A It's [REDACTED] Grayson Street.

7 Q [REDACTED] Grayson Street?

8 A [REDACTED] Grayson Street, Apartment [REDACTED].

9 Q Okay. So in the Town of Estill?

10 A Yes, ma'am.

11 Q All right. And how long did you live there?

12 A Total, I lived there in that apartment four years.

13 Q And you stated that you lived with six children
14 and who else?

15 A Tony Singleton.

16 Q Okay. What was -- were you in a relationship with
17 Tony Singleton?

18 A Yes, ma'am.

19 Q For how long?

20 A In total, it was eight and a half years.

21 Q How long did he live with you in that apartment?

22 A About three years.

23 Q Okay. Were you working when y'all were living in
24 that apartment?

25 A Yes, ma'am.

DIRECT EXAMINATION OF HYLANIA ORR BY MS. SWANSON

1 Q Where were you working?

2 A McDonald's in Ridgeland, South Carolina.

3 Q Okay. And what were your hours like?

4 A 4:00 in the morning till 2:00 or 3:00 in the
5 afternoon.

6 Q All right. Was Tony working?

7 A No, not at that time.

8 Q Do you see Tony in the courtroom today?

9 A Yes, ma'am.

10 Q Can you identify him?

11 A (Pointing at defendant.)

12 Q Okay. Do you know if Tony has an identical twin
13 brother?

14 A No, ma'am.

15 Q All right. And how many biological children do
16 y'all have?

17 A Three.

18 Q Does he have any sons?

19 A Yes.

20 Q Who are his sons?

21 A He have one son from me, Tony Singleton, Junior,
22 and he have one from a current relationship, Malik S.
23 [REDACTED].

24 Q Okay. So Malik S. [REDACTED] was his son, but not
25 your child?

DIRECT EXAMINATION OF HYLANIA ORR BY MS. SWANSON

1 A Yes, ma'am.

2 Q Did he live in the apartment with you all?

3 A He didn't live with us. He came and go. The
4 girls came more than he did.

5 Q Okay. His girls that he didn't have with you?

6 A Yes, ma'am.

7 Q All right. So where was **Malik S.** living?

8 A With his aunt.

9 Q Okay. And was that in Estill or somewhere else?

10 A It was in New Ray, South Carolina.

11 Q All right. Your relationship with Tony was a long
12 term one. How old would you say **Minor** was when Tony met
13 her?

14 A She was two and a half about to be three.

15 Q Okay. When did Tony move out of that apartment
16 for good?

17 A He moved out for good probably, I'd say, a month
18 before all this started going down with **Minor**.

19 Q All right. And so when you say when it started
20 going down, do you mean when she got pregnant, when the
21 pregnancy was confirmed or --

22 A When he moved out. We didn't know until after,
23 after he had moved out. He was living with his sister.

24 Q Okay. Would that have been after Christmas 2015,
25 Spring of 20 --

DIRECT EXAMINATION OF HYLANIA ORR BY MS. SWANSON

1 A After.

2 MS. CAMPBELL: Objection, Your Honor. She's
3 leading the witness.

4 THE COURT: Okay. I think -- I'm going to allow
5 you to finish. I think you were asking more than that.
6 So go ahead and finish your question for me.

7 MS. SWANSON: Okay. Just to provide some context,
8 we are talking about three years ago, right?

9 A Yes, ma'am.

10 Q Okay. And so, did he -- was he living with you
11 around Christmas of 2015?

12 A Yes, ma'am, we celebrated Christmas together with
13 all of the kids, all six of the kids that year.

14 Q Okay. Do you recall if you celebrated
15 Thanksgiving of 2015 together?

16 A I think we went our separate ways, but I did cook
17 at my house, but we went -- well, I went to my family house
18 also.

19 Q Were you together after Christmas?

20 A Yes, ma'am.

21 Q And then he was living in the house for how many
22 more months after Christmas of 2015?

23 A A couple months on and off.

24 Q Okay. When you say on and off, had he ever moved
25 out for a period of time before?

DIRECT EXAMINATION OF HYLANIA ORR BY MS. SWANSON

1 A Not long. Not as long as the last time. But it
2 always -- moving out and taking back a week or two later.

3 Q Okay.

4 A It was never permanent until the last time.

5 Q Okay. So he had moved out for a week or two prior
6 to moving out for good?

7 A Yes.

8 Q Okay. How big was the apartment that you guys
9 were staying in?

10 A It's four bedroom.

11 Q And did **Minor** have her own bedroom?

12 A Yes, ma'am.

13 Q Was there a TV in that bedroom?

14 A Yes, ma'am.

15 Q And how old was she in October, November of 2015?

16 A She was ten in October. She was turning -- excuse
17 me, nine. She was turning ten in November.

18 Q When was -- when did you suspect that **Minor**
19 might be pregnant?

20 A I never suspected till my grandmother called. The
21 reason why I never inspected, for one, she never had her
22 cycle. She was ten years old. She was playing basketball
23 for community. She was going to after school programs. So
24 it's -- I never suspected.

25 Q Okay. And once, once her grandmother called, what

DIRECT EXAMINATION OF HYLANIA ORR BY MS. SWANSON

1 did you do after that?

2 A Once her grandmother called, I got Minor cause
3 she was, she was in the processes of getting her hair done.
4 So I waited until she got her hair done, and I asked her
5 about it, and she told me---

6 Q Without saying what she told you, you asked her
7 what?

8 A I asked her, I said, So, Minor, what this that
9 your grandma saying that you're pregnant? You know, is it
10 something that you want to tell me?

11 Q Okay. And did you end up taking her to the doctor
12 at some point?

13 A Yes, ma'am.

14 Q Okay. Did you take her to her pediatrician's
15 office?

16 A Yes, ma'am.

17 Q All right. And once it was confirmed that she was
18 pregnant, where did you take her after that?

19 A I took her home. I had to take her home because
20 the pediatrician told me, you know, I will need to go home
21 because DSS will be coming to my house. So we went straight
22 home after we left there.

23 Q Okay. Did you all make the decision to take her
24 to Florida to terminate the pregnancy?

25 A We did, along with the doctors. Everything that I

DIRECT EXAMINATION OF HYLANIA ORR BY MS. SWANSON

1 did, I explained to her. I never kept a secret from her
2 about what's going on and what's about to happen.
3 Everything we did, I told her.

4 Q Okay. And so who all went down to Florida with
5 you and **Minor**?

6 A My mom, my dad, and my stepmom.

7 Q All right. And how long did you guys have to stay
8 there?

9 A Almost a week.

10 Q Okay. And, meanwhile, you said you had contact
11 with DSS?

12 A Yes, ma'am.

13 Q Okay. And as a result, did you lose your kids for
14 a little while?

15 A Yes, ma'am, I did.

16 Q All right. And how long did you lose your
17 children?

18 A I would say about two and a half, three months.

19 Q All right. And then did -- were the children
20 given back to you?

21 A Yes, ma'am, after I took all of the necessary
22 things that I had to take in order to get, get them back to
23 prove that I was stable, and I didn't have anything to do
24 with what happened.

25 Q Okay. And do your children remain with you now?

DIRECT EXAMINATION OF HYLANIA ORR BY MS. SWANSON

1 A Yes, ma'am.

2 Q And do you have a close relationship with Minor ?

3 A Yes, ma'am.

4 Q Have you always had a close relationship with
5 Minor ?

6 MS. CAMPBELL: Objection. She's leading again.

7 THE COURT: Overruled.

8 You can ask it.

9 A Yes, ma'am.

10 Q Okay. All right. Thank you, Ms. Orr. That,
11 that's all I have at this point. Please answer any question
12 that Ms. Campbell may have for you.

13 THE COURT: Ms. Campbell.

14 MS. CAMPBELL: May it please the Court?

15 THE COURT: Yes, ma'am.

16 CROSS EXAMINATION

17 BY MS. CAMPBELL:

18 Q Ms. Orr, Tony's son, I think you called him Malik S.?

19 A Malik S., yes, ma'am.

20 Q Yeah. His full name is Malik S.

21 right?

22 A Yes, ma'am.

23 Q And who is -- who is this Ja'Maris M. ?

24 A That's a friend of my daughter and Malik S.

25 Q And let's say, back in the Fall of 2015, I think

CROSS EXAMINATION OF HYLANIA ORR BY MS. CAMPBELL

1 the State asked you, and we understand that **Minor** was ten
2 years old, right?

3 A Yes, ma'am.

4 Q Tony's son, **Malik S.** how old is he?

5 A **Malik S.** probably was, I would say, about 12, 13.

6 Q And Ja'Maris?

7 A He's, he's the same age as my daughter.

8 Q And so **Ja'Maris M.** didn't live in the home with you,
9 right?

10 A No, ma'am.

11 Q Just in the neighborhood?

12 A Yes, ma'am.

13 Q And, and **Malik S.** you, you told the
14 jury he, he, he was -- well, he didn't live with you, but---

15 A No, ma'am.

16 Q ---he, he did spend the night in your home, right?

17 A Yes, ma'am.

18 Q Okay. And he would spend the night in your home
19 with all of the other kids that were there, correct?

20 A Yes, ma'am.

21 Q And, again, tell me, tell me if I'm wrong, but
22 that would include **Minor**, right?

23 A Yes, ma'am, six of my kids and his kids.

24 Q Yeah, it was a big house. A lot of kids, right?

25 A Yes, ma'am.

CROSS EXAMINATION OF HYLANIA ORR BY MS. CAMPBELL

1 Q And, and neighborhood kids would come over as
2 well, right?

3 A Yes, ma'am.

4 Q And Ja'Maris M. was one of the kids, correct?

5 A He technically didn't -- he didn't come to my
6 house. They came out -- they played football together.

7 Q Okay.

8 A They all played together.

9 Q Now, do you remember -- okay. Well, so, the
10 solicitor asked you about Christmas and Thanksgiving. So,
11 there're times of the year that we remember some better than
12 others, like Christmas and Thanksgiving, right?

13 A Uh-huh. (Indicating affirmatively.)

14 Q Okay. And, and another time of the year we
15 remember, especially if we have kids, is Halloween, right?

16 A Uh-huh. (Indicating affirmatively.)

17 Q Everybody gets dressed up. We go
18 trick-or-treating. So you could remember Halloween of 2015,
19 right?

20 A Uh-huh. (Indicating affirmatively.)

21 Q Okay. So, so, good. So, with Halloween,
22 obviously, the end of October. Thanksgiving, you know,
23 third, fourth -- so, towards the end of November, right?
24 And then Christmas towards the end of December, right?

25 A Right.

CROSS EXAMINATION OF HYLANIA ORR BY MS. CAMPBELL

1 Q Okay. So, do you -- do -- are you familiar with
2 Chief, at the time, Mark Collins of the Estill Police
3 Department?

4 A Yes.

5 Q Okay. Do you recall the chief coming over,
6 sometime in mid-October before Halloween, when Tony was
7 moving out of the home into Ms. Bryant's, his sister's?

8 A The first time. He, he done moved out more than
9 once.

10 Q Okay.

11 A The last time was just permanently.

12 Q Okay. So I, I want to be clear cause it sounded
13 like, when the solicitor was asking you, that, that he moved
14 out in December 2015. So, just to be clear, he moved out
15 some time before Halloween?

16 A I wouldn't say moved out because it was only like
17 a day or two. It was never long term.

18 Q Okay. And, and I appreciate that and I -- and,
19 again, if the solicitor wants to talk about him moving back
20 in -- I just want to make sure that the jury's clear, from
21 your testimony, that there was a moving out?

22 A I wouldn't call it a moving out.

23 Q Okay. He left then. How about that?

24 A His things were still at my house.

25 Q Okay.

CROSS EXAMINATION OF HYLANIA ORR BY MS. CAMPBELL

1 A I wouldn't call it a moving out.

2 Q And he left and Chief Mark Collins was there
3 assisting with the move, correct?

4 A Correct.

5 Q Supervising whatever was going on, right?

6 A Right.

7 Q And Brittany Palmer was there, correct?

8 A I don't never recall her being there.

9 Q How about Tony's sister, Ms. Bryant, she was
10 there, right?

11 A She would, she would always be there. It was
12 either her and the other -- her other daughter, Cashmere.

13 Q And, and, unfortunately, Ms. Bryant has passed
14 away, right?

15 A Yes, ma'am.

16 Q Okay. Since October, 2015, she's, she's not with
17 us anymore, right?

18 A Yes, ma'am.

19 Q Okay. When Tony left, whether he came back or, or
20 not, when he left, did he not go live with his sister,
21 Ms. Bryant?

22 A That's the only place that he had to live. Every
23 time that I'd -- I would kick him out, he would go to his
24 sister house.

25 Q Okay. So kick him out is your term, correct?

CROSS EXAMINATION OF HYLANIA ORR BY MS. CAMPBELL

1 A Yes, ma'am.

2 Q I think, you know, you talked about getting your
3 kids back from DSS, right?

4 A Yes, ma'am.

5 Q Do you recall that in the DSS proceedings that you
6 never expressed any concern that Tony was abusive or --

7 A No, I told them --

8 Q -- hurtful?

9 A No, I told them everything. How the relationship
10 was, was with me and him. I told them everything.

11 Q I'm not talking about your relationship with him.
12 I'm talking about with the children.

13 A No, not as I know.

14 Q Okay. And do you recall that -- saying that you
15 never noticed any kind of abuse toward the children at all?

16 A Right.

17 Q Okay. You and Tony might have argued, right?

18 A All the time.

19 Q But he was fine with the kids, right?

20 A He -- yeah.

21 Q Okay. That's all I'd have.

22 THE COURT: Anything further, Ms. Swanson?

23 MS. SWANSON: Nothing further.

24 THE COURT: Any objection to Ms. Orr being excused
25 from either one of you?

CROSS EXAMINATION OF HYLANIA ORR BY MS. CAMPBELL

1 MS. SWANSON: None from the State, Your Honor.

2 MS. CAMPBELL: No, Your Honor.

3 THE COURT: Okay. You are excused. Thank you.

4 The State may call its next witness.

5 MS. SWANSON: The State calls Pamela Moore.

6 Thereupon,

7 PAMELA MOORE

8 was called as a witness, having been first duly sworn,

9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MS. SWANSON:

12 Q Good morning, Ms. Moore.

13 A Morning.

14 Q If you can please state your name and spell it for
15 the court reporter?

16 A Pamela Moore. P-A-M-E-L-A. M-O-O-R-E.

17 Q And where do you work, Ms. Moore?

18 A At Harrison Peoples Healthcare Center.

19 Q Okay. And what do you do there?

20 A I am a pediatric nurse practitioner.

21 Q Okay. And did you have the opportunity to treat

22 **Minor** ?

23 A I did.

24 Q Was she a regular patient of yours?

25 A I wouldn't say pretty regular. Not one I would

CROSS EXAMINATION OF HYLANIA ORR BY MS. CAMPBELL

1 recall just flying in there all the time. But I saw her for
2 regular things.

3 Q Okay. If you can pull that microphone a little
4 closer to you.

5 A (Witness complies.)

6 Q Perfect. Okay.

7 MS. SWANSON: And if I may approach the witness,
8 Your Honor?

9 Q Ms. Moore, I was going to give you a copy of a, of
10 your report so that you can refer to it if it helps with
11 your testimony today. Did you see Minor in April of
12 2016?

13 A April the 11th, according to my notes.

14 Q Okay. And how old was Minor at the time?

15 A Ten and a half, or close to ten and a half.

16 Q What do you recall about the appointment with
17 Minor?

18 A Her chief complaint I think was that she,
19 according to the notes, was that she came in for a swollen
20 belly button or a swollen abdomen, excuse me, and they said
21 that that had been going on for a couple weeks, and that she
22 was not having any throwing up or any other symptoms.

23 Q Okay. And what were your observations once you
24 went to examine Minor?

25 A As I examined her, she -- very obviously had an

CROSS EXAMINATION OF HYLANIA ORR BY MS. CAMPBELL

1 enlarged abdomen with very palpable fundus, which is a
2 pregnancy.

3 Q And so what sort of testing did you do on Minor
4 at that time?

5 A I did a UA on her because she had been diagnosed
6 previously with a urinary tract infection. So I did that,
7 and a uterus pregnancy test.

8 Q And what was the result?

9 A The pregnancy test was positive. The urine was
10 culture -- the urine was --.

11 Q Okay. And did you notify DSS at that point?

12 A I did.

13 Q Okay. And are, are you a mandatory reporter?

14 A Yes, ma'am.

15 Q Okay. Is that why you notified DSS?

16 A Yes, ma'am.

17 Q Okay. And did you refer her to any other doctors?

18 A We ordered an ultrasound on her because she had
19 never had a cycle. So I could not determine how far she
20 was. But, like I said, she was very obviously pregnant.
21 And so we sent her over for an ultrasound, and I think it
22 was scheduled a couple days after my visit with her.

23 MS. SWANSON: Okay. Thank you. That's -- those
24 are all the questions I have at this time.

25 MS. CAMPBELL: May it please the Court?

CROSS EXAMINATION OF HYLANIA ORR BY MS. CAMPBELL

1 THE COURT: Yes, ma'am.

2 CROSS EXAMINATION

3 BY MS. CAMPBELL:

4 Q And you have a, a copy. I just wanted to make
5 sure I have the same copy as you.

6 A Okay.

7 Q Yeah. Okay. So when you're gathering
8 information, you, you indicate that you received information
9 that there were no older men that were around **Minor** at
10 home, right?

11 A Yes, ma'am. I -- when I found out, I just asked
12 who was -- actually, before I did the pregnancy test when I
13 examined her, and --

14 Q Well --

15 A -- while I was suspicious, obviously, before the
16 test, I asked her if she had ever been touched by anybody at
17 that time and she denied it. And then I asked if there was
18 anybody that she was around that she was alone with and was
19 told no.

20 Q Right. And your report says no older males
21 around, and that, ultimately, she said yes, someone has
22 touched me, and it was someone my age?

23 A Right, but just to clarify. As we were talking
24 and I was asking her, she had no clue what I was asking,
25 honestly. I asked her if anybody had touched her. She

CROSS EXAMINATION OF PAMELA MOORE BY MS. CAMPBELL

1 would say no, and then I told her somebody had to, and she
2 was very shy, and would only shake her head basically, and,
3 finally, she admitted somebody touched her with it. And, at
4 that point, I kind, kind of stopped and notified DSS.

5 Q Okay. And to be clear, you know, again, your
6 records are accurate. I mean, it's years later. You want
7 to make absolutely sure that what you put in your records is
8 exactly what happened --

9 A Right.

10 Q -- right?

11 A Yes, ma'am.

12 Q Okay. And so, in your records, in response to
13 your question, someone who's my age touched me, correct?

14 A Yes.

15 Q And that information that her mother gave you was
16 that there were no older men in the home around her child --

17 A Yes, ma'am.

18 Q -- who could have impregnated her, correct?

19 A That's what she was reporting to me, yes.

20 MS. CAMPBELL: That's all that I have. Thank you.

21 THE COURT: Anything further?

22 MS. SWANSON: I have nothing further at this time
23 for, for this witness. I'm sorry.

24 THE COURT: All right. Any objection to Ms. Moore
25 being excused?

CROSS EXAMINATION OF PAMELA MOORE BY MS. CAMPBELL

1 MS. SWANSON: No, Your Honor.

2 THE COURT: You are excused. Thank you.

3 MS. SWANSON: The State calls Dr. Edward Bo
4 Warren.

5 Thereupon,

6 EDWARD WARREN

7 was called as a witness, having been first duly sworn,
8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. SWANSON:

11 Q Dr. Warren, could you please spell your name for
12 the court reporter?

13 A E-D-W-A-R-D. W-A-R-R-E-N.

14 Q Okay. And you're retired now, right, sir?

15 A Yes.

16 Q Okay. But back in April of 2016, where were you
17 working and in what capacity?

18 A I was a radiologist at Hampton Regional Hospital.

19 Q Okay. And did you review an ultrasound that was
20 taken of **Minor**?

21 A I did.

22 Q Okay. And do you recall or referring to your
23 report, can you tell us what date that took place on?

24 A Yes, that took place on April the 14th, 2016.

25 Q All right. Were you able to tell about how far

CROSS EXAMINATION OF PAMELA MOORE BY MS. CAMPBELL

1 along she was?

2 A Yes, according to the measurements that we made,
3 she was 22 weeks plus or minus about 13 days --

4 Q Okay.

5 A -- pregnant.

6 Q And what do you look at to determine age of a
7 fetus?

8 A We look for signs of bone growth, head
9 circumference, abdominal circumference, things like that.

10 Q Okay. Did you come up with an estimated due date?

11 A Yes, we had an estimated due date of August the
12 15th, 2016.

13 Q Okay. And so backing up nine months from there,
14 would that place possible conception around the end of
15 November?

16 A I don't have that here.

17 Q Okay. I'm gonna show you what's been marked as
18 State's Exhibit 1 and State's Exhibit 2. If you can
19 identify what's in these images?

20 A Yes. The first image shows a wave form that's
21 repetitive and consistent, and that is the fetal heart --

22 Q Okay.

23 A -- beating. And then the second image we have is
24 the fetal head circumference in diameter. That gives us
25 some ability to tell the dates as well.

CROSS EXAMINATION OF PAMELA MOORE BY MS. CAMPBELL

1 Q And, Dr. Warren, are those images from the
2 ultrasound --

3 A Yes.

4 Q -- from Minor [REDACTED] ?

5 A Yes, they are.

6 Q Okay. And those are fair and accurate depictions?

7 A Yes.

8 MS. SWANSON: Okay. Thank you. The State would
9 move 1 and 2 into evidence at this time.

10 MS. CAMPBELL: No objection.

11 THE COURT: Without objection, they're admitted.

12 MS. SWANSON: Thank you.

13 *(Whereupon, State's Exhibit No(s). 1-2 marked for*
14 *identification and received in evidence.)*

15 MS. SWANSON: I have nothing further for
16 Dr. Warren at this time.

17 MS. CAMPBELL: No questions.

18 THE COURT: Any objection to Dr. Warren being
19 excused from anyone?

20 MS. SWANSON: No. Thank you, Your Honor.

21 MS. CAMPBELL: No.

22 THE COURT: You are excused, doctor.

23 MS. SWANSON: The State calls Minor [REDACTED]

24 Thereupon,

25 Minor [REDACTED]

CROSS EXAMINATION OF PAMELA MOORE BY MS. CAMPBELL

1 was called as a witness, having been first duly sworn,
2 was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. SWANSON:

5 Q Okay. And, Minor can I have you spell your
6 name for the court reporter, please?

7 A Minor

8 Q Okay. And just make sure you talk directly in the
9 microphones so that the jury and I can hear you. Okay? All
10 right. How old are you now, Minor?

11 A Thirteen.

12 Q And where do you live?

13 A Highland.

14 Q Who do you live with now?

15 A My mom.

16 Q Okay. And yeah, you can scoot back just a little.
17 I'm sorry. I know. It's hard to get, hard to get it just
18 right so that we're not creating some interference.

19 At one point, were you living with your mother in Estill?

20 A Yes.

21 Q Okay. And who all was living in the house, in the
22 apartment in Estill on Grayson Street?

23 A Me, my siblings, and my stepdad.

24 Q All right. And who is your stepdad?

25 A Tony Singleton.

CROSS EXAMINATION OF PAMELA MOORE BY MS. CAMPBELL

1 Q Okay. Is he sitting in the courtroom today?

2 A Yes, ma'am.

3 Q All right. Can you point him out for me?

4 A (Witness pointing.)

5 Q Okay. Can you please tell the jury what happened
6 around November of 2015?

7 A I was raped.

8 Q Okay. If you can speak up a little? Do you
9 remember talking to counselors at Hope Haven about what
10 happened to you?

11 A Yes.

12 Q All right. And what did you tell them happened?

13 A I told them that he had stick his pee pee in my
14 boo.

15 Q All right. And what -- that was when you were
16 ten?

17 A Yes.

18 Q And so what do those words mean to you now?

19 A Male private and female private.

20 Q Okay. So he had stuck his male private into your
21 female private?

22 A Yes.

23 Q And, Minor, did you tell them that anybody else
24 had done that to you?

25 A Yes.

CROSS EXAMINATION OF PAMELA MOORE BY MS. CAMPBELL

1 Q And who was that?

2 A His oldest son and somebody from around where we
3 live at, where we used to live.

4 Q Okay. Do you remember when all this was
5 happening? Like what, what -- when, in time, was it
6 happening?

7 A No.

8 Q Okay. Do you remember where you were when Tony
9 had sexual intercourse with you?

10 A Yes.

11 Q Where were you?

12 A In my bedroom.

13 Q What were you doing?

14 A Watching TV.

15 Q What were you watching on TV?

16 A Sponge Bob.

17 Q Do you remember any details about the assaults
18 with **Malik S.** or Ja'Maris?

19 A Huh-uh.

20 Q Did it happen before or after the assault from
21 Tony?

22 A Before.

23 Q Did you ever tell your mom that Tony had raped
24 you?

25 A No.

CROSS EXAMINATION OF PAMELA MOORE BY MS. CAMPBELL

1 Q Why not?

2 A Because I was scared that it was going to break
3 them up.

4 Q All right. And did your mom and Tony have kids
5 together?

6 A Yes.

7 Q And those are your little brother and sisters?

8 A Yes.

9 Q I'm gonna show you a picture that's been marked as
10 State's Exhibit 3, and ask you what this is a picture of.

11 A That's when I had got my hair -- the first day I
12 got my hair done that day.

13 Q So this is you in the picture?

14 A Yes, ma'am.

15 Q How old were you in the picture?

16 A Ten.

17 MS. SWANSON: Okay. State would move 3 into
18 evidence at this time.

19 THE COURT: Subject to my prior objections.

20 MS. CAMPBELL: Subject to your prior objection, it
21 is in evidence.

22 *(Whereupon, State's Exhibit No(s). 3 marked for*
23 *identification and received in evidence.)*

24 BY MS. SWANSON

25 Q Okay. And you were ten years old when this

CROSS EXAMINATION OF PAMELA MOORE BY MS. CAMPBELL

1 picture was taken, and you had just gotten your hair done?

2 A Yes.

3 Q Do you remember about when this was?

4 A Almost the first day of school.

5 Q Okay. And so that was in the Fall of 2015; is
6 that right?

7 A I think so.

8 Q Or August of 20 -- when, when school first started
9 or --

10 A Yes.

11 Q -- do you mean like the second semester?

12 A August, the second semester.

13 Q Okay. So, in January or August?

14 A In January probably.

15 Q Okay. Nonetheless, were you in fourth grade?

16 A Yes.

17 Q Okay.

18 A I was in fourth grade.

19 Q Because what grade are you about to go into?

20 A Eighth.

21 Q All right.

22 MS. SWANSON: Thank you, Minor Please answer
23 any questions that Ms. Campbell may have.

24 CROSS EXAMINATION

25

CROSS EXAMINATION OF **Minor** BY MS. CAMPBELL

1 BY MS. CAMPBELL:

2 Q **Minor**, I just want to make sure I understood a
3 couple of things that the solicitor asked you about. It is
4 very important that we get it right. Okay? There was --
5 you, you told the, the solicitor that you remember talking
6 to the people at Hope Haven, right?

7 A Yes.

8 Q Okay. Good. And you remember telling them, just
9 like you told this jury, that Tony, excuse me, **Malik S.**
10 **_____** put his pee pee in your coo coo, right?

11 A Yes.

12 Q Okay. And that **Malik S. _____** is Tony
13 Singleton's son, right?

14 A Yes.

15 Q Okay. And do you remember if he was around 12, 13
16 years old back then?

17 A Huh-uh.

18 Q Maybe a couple -- he's a couple of years older
19 than you, right? Is that fair?

20 A Uh-huh. (Indicating affirmatively.)

21 Q So, if you're 13 now, he'd be about, what, 16 or
22 17, right?

23 A Yes.

24 Q Okay. And **Ja'Maris M. _____** that was a, a, a boy
25 about your age who --

CROSS EXAMINATION OF Minor BY MS. CAMPBELL

1 A Yes.

2 Q -- who lived in the neighborhood, right?

3 A Yes.

4 Q Okay. And you told the people at Hope Haven that
5 Tony Singleton put his pee pee in your coo coo one time,
6 right?

7 A Yes.

8 Q Okay. And you -- you -- you've said that the, I
9 guess the, the, the watching the, the Sponge Bob is what
10 you, you told them, right?

11 A Yes.

12 Q And then do you remember talking about when Malik S.
13 put his pee pee in, in your coo coo? Do you
14 remember that?

15 A I remember. I don't remember what I said.

16 Q Okay. Can you tell us what you remember today?

17 A I just remember that he did it.

18 Q That he did it?

19 A Uh-huh. (Indicating affirmatively.)

20 Q And do you remember where you were when he did it?

21 A Uh-huh. (Indicating affirmatively.)

22 Q Where was that?

23 A In the house that we were staying in.

24 Q In Estill?

25 A Uh-huh. (Indicating affirmatively.)

CROSS EXAMINATION OF **Minor** BY MS. CAMPBELL

1 Q And were, were you in your bedroom?

2 A Yes.

3 Q Okay. And can you tell the jury anything else you
4 remember about that?

5 A It was like close to -- it was like at the end of
6 December.

7 Q So, at the end of December, sometime in your
8 bedroom, **Malik S.** put his pee pee in your coo
9 coo; is that right?

10 A Yes.

11 Q **Malik S.** would spend the night at your
12 home, would -- wouldn't he?

13 A I think he only came on Christmas.

14 Q Just the one time?

15 A Yes.

16 Q Okay. Do you know a fellow by the name of the
17 Malcomb Orr?

18 A Yes, my uncle.

19 Q Okay. And Malcomb Orr would come to your house,
20 wouldn't he?

21 A Yes.

22 Q And, and Malcomb Orr -- has, has, has Malcomb Orr
23 spent time alone with you in your room?

24 A No.

25 MS. CAMPBELL: That's all I have.

CROSS EXAMINATION OF Minor BY MS. CAMPBELL

1 MS. SWANSON: Thank you. Nothing further.

2 THE COURT: Any objection to her being excused
3 from anyone?

4 (No response.)

5 THE COURT: You may step down.

6 MS. SWANSON: The State calls Robin Hathaway.

7 Thereupon,

8 ROBIN HATHAWAY

9 was called as a witness, having been first duly sworn,
10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. SWANSON:

13 Q Good morning. Can you please spell your name for
14 the court reporter?

15 A Robin, R-O-B-I-N. Hathaway, H-A-T-H-A-W-A-Y.

16 Q Thank you for being here. Ms. Hathaway, what is
17 it that you do?

18 A I'm a nurse.

19 Q All right. And how long have you been a nurse?

20 A About 37 years.

21 Q Okay. Where -- what, what practice do you work
22 with?

23 A I work for Michael Benjamin, MD.

24 Q Where is he located?

25 A In Tamarac, Florida.

CROSS EXAMINATION OF **Minor** BY MS. CAMPBELL

1 Q Okay. And do you have a copy of your report in
2 front of you?

3 A Yes, I do.

4 Q Thank you. As part of your duties, do you assist
5 with abortions?

6 A Yes, I do.

7 Q Okay. And did you have an occasion to assist and
8 treat **Minor**?

9 A Yes, I did.

10 Q When did that treatment begin, and, and how long
11 was she a patient at the practice?

12 A The course of time was about a week.

13 Q Okay. And what time of year was that?

14 A In April.

15 Q Of what year?

16 A 2016.

17 Q Okay. And so she was pregnant?

18 A Yes, she was.

19 Q All right. The pregnancy was terminated?

20 A Yes.

21 Q Were you all able to gauge the age of the fetus?

22 A Twenty-four weeks.

23 Q And so, at 24 weeks in April of 2016, when would
24 the possible or probable conception date have been?

25 A Probably the end of November of 2015.

CROSS EXAMINATION OF Minor BY MS. CAMPBELL

1 Q Okay. Now, had you ever received any request from
2 law enforcement for biological evidence in an alleged sexual
3 assault case before?

4 A Yes, we have.

5 Q Okay. And do you have a procedure to take that
6 evidence and preserve it, and turn it over to law
7 enforcement?

8 A Yes, we have a protocol.

9 Q Did you receive a request for evidence in this
10 case?

11 A Yes, we did.

12 Q Who did you receive that request from?

13 A Investigator Thomas, I believe.

14 Q Okay. And so, you were in the room when the
15 procedure was done, right?

16 A Yes.

17 Q And were you the one that took the biological
18 evidence and sealed it?

19 A Yes, I was.

20 Q And so what happened between the sealing of the
21 evidence and getting it to Investigator Thomas?

22 A It is kept in a freezer during that time.

23 Q Okay. Did anybody unseal it prior to sending it
24 to Investigator---

25 A No.

CROSS EXAMINATION OF Minor BY MS. CAMPBELL

1 Q Okay. And do you always wear gloves during this
2 procedure?

3 A Yes.

4 Q Okay. I'm gonna show you what's been marked as
5 State's Exhibit 4.

6 MS. CAMPBELL: Uh-huh. (Indicating
7 affirmatively.)

8 BY MS. SWANSON:

9 Q And ask if you recognize what's contained in this
10 picture. Do you recognize---

11 A Yes, it is a FedEx. I, I actually personally
12 wrote it.

13 Q Okay. Is the label for the FedEx package?

14 A Yes.

15 Q Okay. And you were the one to package the
16 material?

17 A Yes, I packaged everything.

18 Q Okay. And how -- you sent it via FedEx. Was it
19 overnight?

20 A It was sent overnight, yes.

21 Q Were you able to confirm receipt?

22 A Yes, I called the next day to confirm.

23 Q Okay.

24 MS. SWANSON: Thank you, Ms. Hathaway. Actually
25 at this time, the State would move Exhibit 4 into

CROSS EXAMINATION OF Minor BY MS. CAMPBELL

1 evidence.

2 MS. CAMPBELL: No objection.

3 THE COURT: Without objection.

4 *(Whereupon, State's Exhibit No(s). 4 marked for*
5 *identification and received in evidence.)*

6 MS. SWANSON: And I have nothing further at this
7 time for Ms. Hathaway.

8 MS. CAMPBELL: No questions.

9 THE COURT: All right. Any objection to this
10 witness being excused from anyone?

11 MS. SWANSON: No, Your Honor.

12 THE COURT: Ms. Campbell.

13 MS. CAMPBELL: No objection.

14 THE COURT: You are excused, ma'am.

15 Solicitor, is now a good time to take a break or

16 --

17 MS. SWANSON: Yes, Your Honor.

18 THE COURT: All right. Ladies and gentlemen of
19 the jury, we're gonna go ahead and take a brief recess.
20 Do not discuss this case. It would not be appropriate
21 to do so. Go refresh yourselves. We'll get you right
22 back in.

23 Okay. Thank you.

24 *(Jury exits the courtroom.)*

25 THE COURT: Solicitor, do we have witnesses who

CROSS EXAMINATION OF Minor BY MS. CAMPBELL

1 MS. CAMPBELL: Yes, ma'am.

2 THE COURT: Thank you. Let's bring the jury in.

3 (The jury enters the courtroom at 12:00 p.m.)

4 THE COURT: The State will call their next
5 witness.

6 MS. SWANSON: Thank you. State calls Michael
7 Thomas.

8 Thereupon,

9 MICHAEL THOMAS

10 was called as a witness, having been first duly sworn,
11 was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. SWANSON:

14 Q Investigator Thomas, can you please spell your
15 name for the court reporter?

16 A Michael M-I-C-H-A-E-L. Thomas T-H-O-M-A-S.

17 Q Did you used to work for Estill PD?

18 A Yes, ma'am.

19 Q In what capacity?

20 A Lead investigator.

21 Q All right. And for how long?

22 A Four years.

23 Q Were you involved in the investigation into the
24 sexual assault of Minor?

25 A Yes, I was.

DIRECT EXAMINATION OF MICHAEL THOMAS BY MS. SWANSON

1 Q All right. And so, were you the lead investigator
2 of that?

3 A Yes, ma'am.

4 Q Okay. How did that case come to you?

5 A If I can recall, I believe the victim's father
6 came in to file a report.

7 Q Okay. And who all did you interview in
8 conjunction with the investigation?

9 A A DSS worker, the victim's father and, later on,
10 the victim's mother.

11 Q Okay. How many names of suspects came to light as
12 a result of the interviews that were conducted?

13 A That would be three.

14 Q Okay. And was -- who was the interview of **Minor**
15 **██████████** conducted by? Was it Hope Haven?

16 A Yes, the child forensic services, yes.

17 Q Okay. And is, is that routine that you don't
18 interview a child?

19 A Yes.

20 Q Okay. Who were the three suspects that we were
21 just talking about?

22 A There were two male juvenile suspects and
23 Mr. Singleton.

24 Q Okay. Was one of them **Ja'Maris M. ██████████**?

25 A Yes, ma'am.

DIRECT EXAMINATION OF MICHAEL THOMAS BY MS. SWANSON

1 Q Okay. And did you talk to Ja'Maris M. ?

2 A Yes, I did.

3 Q You interviewed him?

4 A Yes.

5 Q Did you interview his mom?

6 A Yes.

7 Q Obtain permission from her?

8 A To do a buccal swab, yes.

9 Q Okay. And tell us what a buccal swab is?

10 A It is simply, in layman's terms, a Q-tip where
11 they look for genetic or DNA substance between the cheek and
12 the jaw.

13 Q Okay. How, how do you do one? Do you use gloves
14 when you do it?

15 A Absolutely.

16 Q Okay. And you just swab the cheek?

17 A A few times between the cheek and the jaw, yes.

18 Q And does South Carolina Law Enforcement Division,
19 Division give you special kits to do that with?

20 A Yes, they do issue them.

21 Q Okay. I'm going to show you State's Exhibit 6,
22 and ask if this is the buccal swab that you took from
23 Ja'Maris M. ?

24 A Yes, it is.

25 Q Okay. And so when you took that buccal swab from

DIRECT EXAMINATION OF MICHAEL THOMAS BY MS. SWANSON

1 Ja'Maris M. [REDACTED], did you then seal it?

2 A Yes, we seal it, sign it, and date it, and place
3 it into our evidence locker so it can be taken to SLED for
4 analyst.

5 Q Okay. So nobody else opened it until it got to
6 SLED?

7 A Yes, ma'am.

8 Q Six was for identification purposes at this time.
9 And you requested that DNA analysis be done on it?

10 A Yes.

11 Q Did you also talk to someone named Malik S.
12 [REDACTED]?

13 A Yes, ma'am.

14 Q All right. Was he one of the other suspects?

15 A Yes, ma'am, he was.

16 Q Did you meet with him and his mother?

17 A Yes, ma'am, I did.

18 Q Did you obtain consent to get a buccal swab from
19 Malik S. [REDACTED]?

20 A Yes, I did.

21 Q Okay. I'm gonna show you what's been marked as
22 State's 7, and ask if this is the DNA sample that got from
23 Malik S. [REDACTED]?

24 A Yes, it is.

25 Q All right. Did you use gloves?

DIRECT EXAMINATION OF MICHAEL THOMAS BY MS. SWANSON

1 A Yes.

2 Q Did you follow procedure, SLED procedure, when you
3 took that buccal swab?

4 A Yes, ma'am.

5 Q And did you request that DNA analysis be done on
6 it?

7 A Yes, I did.

8 Q All right. And it was sealed when it went to
9 SLED?

10 A Yes, it was.

11 Q Okay. Thank you. Number 7 is for identification
12 purposes at this time. Did you request that a DNA sample be
13 taken from the victim in this case?

14 A Yes, ma'am, I did.

15 Q All right. And who did you request do so?

16 A An officer who worked in the North Charleston
17 Police Department.

18 Q Okay. Why was **Minor** over in North Charleston?

19 A I don't recall.

20 Q Was she in foster care at this time?

21 A Yes, she was.

22 Q Okay. And how did you end up getting that DNA
23 sample from North Charleston?

24 A I requested that the officer who was dealing with
25 her at the time to take that sample for me.

DIRECT EXAMINATION OF MICHAEL THOMAS BY MS. SWANSON

1 Q Okay. And did that go off to SLED for analysis?

2 A Yes, it did. North Charleston sent it off.

3 Q Okay. Did they send it back to you first?

4 A I don't recall. I believe they sent it directly
5 from them to SLED.

6 Q Okay. All right. And were you in touch with Dr.
7 Benjamin's office down in Tamarac, Florida?

8 A Yes, ma'am, I was.

9 Q All right. And what did you request from them?

10 A I requested the fetus from the terminated
11 pregnancy.

12 Q Okay. I'm gonna show you what's been entered as
13 State's 4, and ask if this is a picture of the label of the
14 package that you received from Tamarac, Florida?

15 A Yes, ma'am, it is.

16 Q All right. And did you take that picture?

17 A Yes.

18 Q Did you open this package at all?

19 A No, I did not.

20 Q What happened to this package?

21 A Upon receiving that package from FedEx, once I
22 signed for it, I placed it into our evidence cooling
23 refrigerator, signed it into evidence, and the next day, I
24 hand carried it to the SLED myself.

25 Q Okay. And it was not opened? It remained sealed

DIRECT EXAMINATION OF MICHAEL THOMAS BY MS. SWANSON

1 the whole time?

2 A Yes, ma'am.

3 Q Prior to getting to SLED?

4 A Yes.

5 Q Okay. That's all I have at this time.

6 MS. CAMPBELL: No questions.

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

8 Call your next witness.

9 MS. SWANSON: Kimberly Still.

10 Thereupon,

11 KIMBERLY STILL

12 was called as a witness, having been first duly sworn,

13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. SWANSON:

16 Q If you can please spell your name for the court
17 reporter?

18 A Kimberly Still. K-I-M-B-E-R-L-Y. S-T-I-L-L.

19 Q And if I may approach the witness? I would just
20 like to --

21 THE COURT: Yes, ma'am.

22 Q -- provide you, Ms. Still, with the report from
23 the event that we're talking about in case you need to refer
24 to it. Where do you work?

25 A Hampton Regional Medical Center.

DIRECT EXAMINATION OF KIMBERLY STILL BY MS. SWANSON

1 Q Okay. And what do you do there?

2 A I am an ER nurse.

3 Q Did you ever have the occasion to come into
4 contact with Tony Singleton?

5 A Yes, ma'am.

6 Q All right. And tell us what you did?

7 A I did a buccal swab.

8 Q All right. I'm gonna show you what has been
9 marked as State's Exhibit 5, and ask if this is the buccal
10 swab that you took from Mr. Singleton?

11 A Yes, ma'am.

12 Q Okay. And how do you know that?

13 A Those are my initials on the package.

14 Q All right. So you were the one to actually take
15 this swab and then seal it?

16 A Yes, ma'am.

17 Q And you were wearing gloves at the time?

18 A Absolutely.

19 Q And who did you hand this sealed package to?

20 A To the officer.

21 Q And were you provided with this evidence
22 collection kit?

23 A Yes, ma'am.

24 Q Was the officer from Estill in your presence the
25 entire time?

DIRECT EXAMINATION OF KIMBERLY STILL BY MS. SWANSON

1 A Yes, ma'am.

2 MS. SWANSON: All right. State's 5 is for
3 identification at this time. I have no further
4 questions.

5 MS. CAMPBELL: No questions.

6 THE COURT: All right. No further questions. You
7 may be excused.

8 MS. SWANSON: Thank you, Your Honor.

9 THE COURT: All right. Ladies and gentlemen,
10 we're gonna take lunch just a bit early today. By of
11 the clock in the back of the courtroom, it is 12:10.
12 I'm gonna ask you be back in your jury room at 12:00,
13 I'm sorry, 1:20. We'll go ahead and continue with the
14 trial of this case.

15 Ladies and gentlemen, I need to caution you over
16 the lunch hour. Do not discuss this case with anyone
17 including each other. Don't do any independent
18 research. We will get back to you, ladies and
19 gentlemen. I'll see you back around 1:20. If you're
20 running a tiny bit late, don't worry. I want you to go
21 grab a bite to eat and come on back. Okay. Thank you.

22 (The jury exits the courtroom at 12:10 p.m.)

23 THE COURT: All right. Anything we need to put on
24 the record, Ms. Campbell, or Ms. Swanson?

25 MS. SWANSON: Nothing from the State.

DIRECT EXAMINATION OF KIMBERLY STILL BY MS. SWANSON

1 Elmer.

2 Thereupon,

3 ANGELA ELMER

4 was called as a witness, having been first duly sworn,
5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. SWANSON:

8 Q Thank you. Officer Elmer, can you please state
9 and spell your name for the record.

10 A Angela Elmer. A-N-G-E-L-A E-L-M-E-R.

11 Q Who were you working for in 2016?

12 A City of the North Charleston Police Department.

13 Q Okay. I'm gonna hand you what has been marked as
14 State's Exhibit 8, and ask if this was a buccal swab that
15 you took at the request of Estill PD?

16 A Yes, ma'am, it is.

17 Q Okay. And who did you take that from?

18 A I took this from the victim, Ms. James.

19 Q Okay. Minor

20 A Yes, ma'am.

21 Q All right. And were you wearing gloves at the
22 time that you took it?

23 A Yes, ma'am.

24 Q Okay. And did you seal that with evidence tape?

25 A Yes, ma'am.

DIRECT EXAMINATION OF ANGELA ELMER BY MS. SWANSON

1 Q Okay. And, to your knowledge, what did -- what
2 did you -- did you turn that into evidence at North
3 Charleston PD at that time?

4 A Yes, ma'am, it was dropped immediately.

5 MS. SWANSON: Okay. Thank you. Those are all the
6 questions I have for you.

7 THE COURT: Anything, Ms. Campbell?

8 MS. CAMPBELL: No, ma'am.

9 THE COURT: All right. Any objection to this
10 witness being excused?

11 MS. SWANSON: No, thank you.

12 THE COURT: You are excused.

13 MS. SWANSON: State calls Alysha Breland.

14 **Thereupon,**

15 ALYSHA BRELAND

16 was called as a witness, having been first duly sworn,
17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. SWANSON:

20 Q Agent, can you please state and spell your name
21 for the record please?

22 A Alysha Breland. My first name, A-L-Y-S-H-A.
23 Last name B-R-E-L-A-N-D.

24 Q And were you formerly Alysha Andrews?

25 A Correct. Andrews is my maiden name.

DIRECT EXAMINATION OF ALYSHA BRELAND BY MS. SWANSON

1 Q Okay. Thank you. Tell us who you work for.

2 A I'm currently employed by the South Carolina Law
3 Enforcement Division, commonly referred to as SLED.

4 Q And how long have you been there?

5 A I've been there just over four years.

6 Q And what department do you work in?

7 A I am a forensic scientist in the DNA Casework
8 Department.

9 Q All right. Tell us about the -- your training
10 and the education that led you to that position.

11 A Okay. So, prior to working at SLED, I earned my
12 Bachelor's in Science in biomedical science at Quinnipiac
13 University in Connecticut. I then obtained a Master's of
14 Science in Forensic Science from Arcadia University just
15 outside out -- just outside of Philadelphia. Prior to being
16 hired at SLED, I entered an in-house training program with a
17 court-qualified analyst that lasted, approximately, one year
18 and two months.

19 Q All right. What does a forensic analyst do in
20 the DNA department?

21 A In DNA Casework Department, I generate DNA
22 profiles from items of the evidence in crimes that occur in
23 South Carolina that are brought to us by local law
24 enforcement agencies, and I will compare those DNA profiles
25 to DNA referenced profiles from known individuals.

DIRECT EXAMINATION OF ALYSHA BRELAND BY MS. SWANSON

1 Q Okay. Have you testified in court before?

2 A I have.

3 Q As a forensic analyst in DNA?

4 A I was qualified in forensic biology, yes.

5 Q Okay. How many times?

6 A Four.

7 Q All right. And have you been declared an expert
8 each of those times?

9 A Yes, I have.

10 MS. SWANSON: Your Honor, at this point I would
11 offer Agent Breland as an expert in DNA analysis,
12 forensic biology.

13 THE COURT: Ms. Campbell, any voir dire?

14 MS. CAMPBELL: I have no voir dire and no
15 objection.

16 THE COURT: Thank you. Ladies and gentlemen, this
17 case -- this witness is being qualified as an expert
18 witness in the area of DNA analysis and forensic
19 biology. That allows her to give her opinion and the
20 reasons for her opinion. And that's for you to use as
21 you deem appropriate and as compared to the other
22 evidence in this case.

23 BY MS. SWANSON:

24 Q Okay. Agent Breland, let's start out as simply as
25 we can. What is DNA?

DIRECT EXAMINATION OF ALYSHA BRELAND BY MS. SWANSON

1 A So, DNA stands for deoxyribonucleic acid. It's a
2 chemical that's found in all cells of your body with the
3 exception of red blood cells. It's responsible for how your
4 body functions as well as looks. Half of your DNA is
5 inherited from your father, and half of your DNA is
6 inherited from your mother. And with the exceptions of
7 identical twins, or triplets, that sort of thing, each
8 individual has a unique DNA profile.

9 Q Okay. So, is DNA used as a way to identify
10 someone?

11 A Yes.

12 Q Okay. Is it -- would you, in your expert
13 opinion, would it be better than a fingerprint?

14 A What we consider fingerprints and DNA is
15 individualistic characteristics that we, we can pinpoint a
16 specific person during the test.

17 Q Okay. With DNA, do you have to worry about the
18 quality of the loci that you are analyzing?

19 A Yes. So what she's referring to is loci, that's
20 just a phrase used for a specific location that we test in
21 DNA, and quality is certainly an issue that we have to
22 consider when testing DNA.

23 Q Okay. And so things like touch DNA versus a swab
24 of saliva taken from someone's mouth, do you have an opinion
25 about what might have a better quality?

DIRECT EXAMINATION OF ALYSHA BRELAND BY MS. SWANSON

1 A Generally your body fluids such as saliva, semen,
2 and blood are gonna have more ample amounts of DNA in them
3 as opposed to items that were handled or touched by
4 somebody.

5 Q Okay. Do you guys test items that were touched
6 by somebody?

7 A We do.

8 Q All right. Let me ask you about the evidence
9 that you tested in the case involving **Minor** and Tony
10 Singleton. I'm gonna hand you a number of items, and ask if
11 these were items that you tested, and then we'll talk about
12 some other items that you tested.

13 A Sure.

14 Q Let's see. Okay. I'm gonna hand you what's
15 already been identified as State's Exhibit 5, and this is
16 listed as Tony Singleton. State's Exhibit 5. Is this a
17 buccal swab that you analyzed?

18 A Yes.

19 Q Okay. And how do you know that?

20 A Well, I wrote on the back -- anytime evidence is
21 submitted to SLED DNA or SLED in general, we put it in these
22 heat-sealed pouches, which are sealed at the time that it is
23 dropped off by the local agency. And with this particular
24 item of evidence, I can see that I have my initials with the
25 date of when I opened, and then resealed these items.

DIRECT EXAMINATION OF ALYSHA BRELAND BY MS. SWANSON

1 Q Okay. So, you were the first person to open that
2 item?

3 A That's correct.

4 Q MS. SWANSON: Okay. State would move 5 into
5 evidence at this time.

6 MS. CAMPBELL: I have no objection.

7 THE COURT: Without objection.

8 *(Whereupon, State's Exhibit No(s). 5 marked for*
9 *identification and received in evidence.)*

10 BY MS. SWANSON:

11 Q Were you able to get a DNA profile of the buccal
12 swab labeled Tony Singleton?

13 A I was.

14 Q Okay. I'm handing you what's been identified as
15 State's Exhibit 6 labeled Ja'Maris M. [REDACTED], and I'm gonna ask
16 if that's a buccal swab that you analyzed?

17 A That is correct.

18 Q All right. And, again, were you the first person
19 to unseal that?

20 A Yes, when it -- once it was delivered at SLED,
21 that's correct.

22 MS. SWANSON: Okay. At this time I would offer
23 State's 6 into evidence.

24 MS. CAMPBELL: No objection.

25 THE COURT: Without objection.

DIRECT EXAMINATION OF ALYSHA BRELAND BY MS. SWANSON

1 *(Whereupon, State's Exhibit No(s). 6 marked for*
2 *identification and received in evidence.)*

3 BY MS. SWANSON:

4 Q And were you able to get a DNA profile from the
5 swab labeled Ja'Maris M. [REDACTED] ?

6 A Yes.

7 Q Handing you State's Exhibit 7 labeled Malik S.
8 [REDACTED]. Is this a buccal swab that you analyzed in
9 conjunction with this case?

10 A Yes, it is.

11 Q And it came sealed and you were the one to unseal
12 it?

13 A That's right.

14 MS. SWANSON: State would offer 7 into evidence at
15 this time.

16 MS. CAMPBELL: No objection.

17 THE COURT: Without objection.

18 *(Whereupon, State's Exhibit No(s). 7 marked for*
19 *identification and received in evidence.)*

20 BY MS. SWANSON:

21 Q And were you able to get a DNA profile off of
22 Malik S. [REDACTED] buccal swab?

23 A Yes.

24 Q Finally, I'm handing you State's 8, which is a
25 swab labeled Minor [REDACTED] Was this is a swab that you

DIRECT EXAMINATION OF ALYSHA BRELAND BY MS. SWANSON

1 analyzed in conjunction with this case?

2 A Yes.

3 Q Were you the first person to unseal it?

4 A I was.

5 Q And were you able to get a DNA profile?

6 A I was.

7 MS. SWANSON: State would offer 8 into evidence at
8 this time.

9 THE COURT: Any objection?

10 MS. CAMPBELL: No objection.

11 THE COURT: Without objection.

12 MS. SWANSON: Thank you.

13 *(Whereupon, State's Exhibit No(s). 8 marked for*
14 *identification and received in evidence.)*

15 BY MS. SWANSON:

16 Q All right. In addition to these swabs, Agent
17 Breland, did you analyze other evidence that came to you?

18 A Yes, I did.

19 Q Can you describe what that evidence was?

20 A So, item one was labeled as tissue from fetus.
21 Because of the nature of tissue, we have to keep those types
22 of items of evidence frozen. So, as soon as I retrieved it
23 from the evidence control, it's put into the freezer until
24 I'm ready to analyze it. And then once I'm ready to analyze
25 an item, I will take it out of the freezer into my custody.

DIRECT EXAMINATION OF ALYSHA BRELAND BY MS. SWANSON

1 And upon opening the item, I saw that there were two test
2 tubes in there filled with tissue that was used.

3 Q Okay. And so the two test tubes that were
4 contained in the item labeled fetus, were those tested by
5 you?

6 A They were.

7 Q Okay. And is it SLED's policy not to transport
8 that biological evidence?

9 A Correct. Basically we need to preserve evidence
10 as best that we can, and in terms of DNA evidence, regarding
11 any kind of body tissue, that can easily degrade in heat.
12 So, there's no way for us to transport that item safely and
13 keep it in tact to court.

14 Q Okay. But, Agent Breland, can you testify to the
15 jury, were you the first person that unsealed that box
16 labeled fetus?

17 A I was.

18 Q Okay. Does SLED take opened biological evidence?

19 A We typically do not. If there's any evidence of
20 tampering with any of the items of evidence, we usually make
21 a note of it in our documentation, and then we will halt
22 analysis at that point.

23 Q And did you have any notes to that point?

24 A I didn't identify any evidence tampering with
25 item one.

DIRECT EXAMINATION OF ALYSHA BRELAND BY MS. SWANSON

1 Q Okay. Tell us -- so, there were, there were two
2 tubes that you tested, and tell us what your results were.
3 What did you do, what did you look at, who did you compare
4 them with?

5 A So, when the fetus tissue came to me in those two
6 tubes, just because with how it -- the process is, it's also
7 possible to get some of the mother's DNA with fetal tissue,
8 so what I did was I sub-itemized item one into 1.1 and 1.2.
9 That just corresponded with the two tubes, and I did test
10 both in case I would get a potential mixture of the fetal
11 tissue and the mother's DNA. But I also developed the DNA
12 profile from the buccal swabs from the victim as well as the
13 subject standards.

14 Q Okay. And did you have a mixture in either one
15 of those tubes with the fetal tissue?

16 A I did not.

17 Q All right. So, it's simply the unborn child's
18 tissue?

19 A Correct.

20 Q Okay. And how do you determine paternity?

21 A Like I mentioned earlier, DNA is inherited
22 through your mother and your father. Based on that science
23 alone, that's how we're able to determine if somebody is an
24 alleged father of a child or, in this case, a product of
25 conception just based on comparing the DNA profile as well.

DIRECT EXAMINATION OF ALYSHA BRELAND BY MS. SWANSON

1 Q All right. And were you able to determine who
2 the father of this child was?

3 A In this case, I did have a, a match.

4 Q Okay. And who was that?

5 A Is it okay if I refer to my notes?

6 Q Yes. Yes, please.

7 A Just reading from my report, the DNA profile from
8 the ultimate items 1.1 and 1.2 is consistent with DNA
9 biological offspring of Minor [REDACTED] and Tony Singleton.

10 Q Okay. What was your result when you compared the
11 fetal tissue to Malik S. [REDACTED]?

12 A He was excluded as the alleged father.

13 Q All right. What about Ja'Maris M. [REDACTED]

14 A He was also excluded as the biological father.

15 Q Okay. And did you assign a percentage or a match
16 statistic?

17 A Any time we do any type of match or paternity
18 statistics any time we make a, a determination, we have to
19 have a statistic included with that match, and, in this
20 case, I did have a statistic.

21 Q Okay. And can you tell the jury what that
22 statistic was?

23 A Yes. Again, reading from my report, it's
24 approximately 1.3 billion times more likely to see these
25 genetic results if the alleged father is the true biological

DIRECT EXAMINATION OF ALYSHA BRELAND BY MS. SWANSON

1 father than a random man is the father. Given the genetic
2 evidence, greater than 99.99 percent of randomly tested men
3 would be excluded as the biological father.

4 Q Okay. All right. Thank you, Agent Breland.
5 Please answer any questions that Ms. Campbell might have for
6 you.

7 MS. CAMPBELL: May it please the Court?

8 THE COURT: Yes.

9 CROSS EXAMINATION

10 BY MS. CAMPBELL:

11 Q I'm gonna need to set up the tripod over here, if
12 I could.

13 THE COURT: Okay. Would you help her?

14 THE BAILIFF: Is that good?

15 MS. CAMPBELL: I'll adjust it from there. Thank
16 you. I was told you--, you're the man that needs to
17 set it up. So, there we go. Thank you.

18 THE COURT: All right.

19 BY MS. CAMPBELL:

20 Q Okay. I'm gonna come around here, and, and put
21 just a little bit more that way so that you can see it as
22 well. Okay. If you want to slide it around for me. All
23 right. So, I guess my first question needs to focus on your
24 results page.

25 A Okay.

CROSS EXAMINATION OF ALYSHA BRELAND BY MS. CAMPBELL

1 Q You have your report?

2 A Yes.

3 Q Cause we're gonna go over that in detail. I'd
4 like for you to show me where it says on the results page
5 the word match?

6 A In this case, because it's not a -- considered a
7 random match probability or not matching item of evidence of
8 a single source to a particular person --

9 Q Uh-huh. (Indicating affirmatively.)

10 A -- the word match would not be on my report.

11 Q So, all of that stuff the solicitor went through
12 with you about the word match does not appear in your
13 results pages, correct?

14 A The word match is not there.

15 Q In fact, the word that you used is consistent, is
16 that correct?

17 A Yes, the wording is consistent.

18 Q Okay. All right. Let me drop this right here
19 for a second. All right. So, let's go to your diagram
20 page, I guess. All right. Let's start there. So, we're
21 gonna look at--first, we're gonna look at Tony.

22 A Okay.

23 Q You got that? And then the second one would
24 be -- we'll call it **Malik S.**, who is Tony's son.

25 A Okay.

CROSS EXAMINATION OF ALYSHA BRELAND BY MS. CAMPBELL

1 Q And then we're gonna look at the fetus, and then
2 we're gonna look at the victim, which is Jamarina (sic),
3 correct?

4 A Correct.

5 Q All right. So, I'm gonna put up here the 15
6 locations, right---

7 A Yes.

8 Q ---that you checked?

9 A Yes.

10 Q All right. So, let's explain that to the jury a
11 little bit. So, our DNA -- I mean, hundreds of thousands
12 of, of DNA markers, right?

13 A Yes.

14 Q In our body?

15 A Yes.

16 Q On the chain, right?

17 A Yes.

18 Q Okay. Great. And, and so, when you look at
19 someone's DNA as a scientist, as the expert, you pick the 15
20 markers that you're gonna look at based on the science of
21 it, right? You know which 15 you're gonna look at?

22 A Yes, in this case, the kit that I used does look
23 at 15 locations within the DNA, and those regions have what
24 we call short tandem repeats or STRs.

25 Q Right. So, the STRs. And on each STR, let's

CROSS EXAMINATION OF ALYSHA BRELAND BY MS. CAMPBELL

1 look. So, so, we have the location?

2 A Uh-huh. (Indicating affirmatively.)

3 Q Right? And on that location, on the chain, are
4 -- fancy science word again -- are alleles, right?

5 A Correct.

6 Q Two typically, right?

7 A Yes, typically, at one location, an individual
8 has two alleles.

9 Q All right. So, let's, let's map out then what we
10 have in this situation. All right. So, on -- and I'm gonna
11 call it out, and if we'll just go from the beginning to the
12 end on your 15 locations. So, let's do Tony first. If
13 you'll call them out to me, I'll write them up here.

14 A All right. The first location would be at 14/15.

15 Q Okay.

16 A Second location, 28/30.

17 Q Hold on. All right.

18 A Third location, eight.

19 Q All right.

20 A Fourth, 7/10.

21 Q All right.

22 A Fifth, 16/17.

23 Q Uh-huh. (Indicating affirmatively.)

24 A Next one, 7/8, 12, 12, and then 19/20, 12/13,
25 13/16, 9/17, 9/13, and 19/20.

CROSS EXAMINATION OF ALYSHA BRELAND BY MS. CAMPBELL

1 Q All right. All right. So, each one of these
2 locations has a, has a, a -- like a scientific name for it,
3 right?

4 A Yes.

5 Q So, just to give this jury an example, what
6 would--, while I'm putting the numbers up here, what would
7 the scientific name be for location one?

8 A Location one is actually called, DAS 1-1-7-5.

9 Q All right. Now, have you ever used kits,
10 particularly in paternity testing, that check more than 15
11 locations?

12 A Since 2016, we've moved on to kits that test 24
13 locations.

14 Q Okay. So, in 2016, SLED changed to a 24-location
15 test?

16 A The testing in this case was 2016. In 2017---

17 Q Oh.

18 A ---is when we moved to the 24 locations.

19 Q My apologies.

20 A It was--

21 Q So, prior to the change, you tested 15 locations.
22 Now, you're testing 24, right?

23 A That's correct.

24 Q All right. Let's do this for Malik S. Same
25 thing.

CROSS EXAMINATION OF ALYSHA BRELAND BY MS. CAMPBELL

1 A All right. We have 13/14, 30/32, 8, 7, 16/17,
2 7/8, 12, 12, 20/23, 12/13, 16/19, 9/11, 16/17, 12/13.

3 Q Wait a minute. All right.

4 A And 19/22.

5 Q All right. So, while we are here, let's explain
6 to the jury what's happening when we only have one number
7 at -- one allele at a location. I'll get out of your way.

8 A So, when we have one number, there's still two
9 alleles there, but they just happen to be the same number of
10 the repeats. So, that means that the mother and the father
11 both have the one -- an eight to that--

12 Q Okay.

13 A -- location in that.

14 Q So, could we think of it as being 8/8?

15 A Correct.

16 Q Okay. Perfect. So, just in a sense, I'm just
17 gonna put this here. There's another eight here, right?

18 A Uh-huh. (Indicating affirmatively.)

19 Q There is another seven, right? And this will be
20 a 12, and a 12, 12, 12 -- where we at? This would be a
21 nine, and that would be a 17.

22 A Correct.

23 Q All right. Perfect. And so the fetus, let's do
24 same thing.

25 A All right. We have 13/14.

CROSS EXAMINATION OF ALYSHA BRELAND BY MS. CAMPBELL

- 1 Q Uh-huh. (Indicating affirmatively.)
- 2 A 30/32.2.
- 3 Q 32.2?
- 4 A Correct.
- 5 Q Go.
- 6 A Eight, 7/10, 16, 7/8, 12/13, 12, 16/20, 12/14.2,
- 7 13/15, 9/11, 15/17, 13, 21/24.
- 8 Q Okay. I'm sorry. It was just, just 13, right?
- 9 A Thirteen. That's the second to the last one.
- 10 Q Sorry. Okay.
- 11 A And then the last one is 21/24.
- 12 Q All right. And so keeping with our same what
- 13 we've have learned, that needs to be an eight?
- 14 A Correct.
- 15 Q And that needs to be a 16, and that needs to be a
- 16 12, and that needs to be a 13, correct?
- 17 A Correct.
- 18 Q All right. Now, in your expert opinion, looking
- 19 at what we have so far, would you be able to tell us, by
- 20 looking at Tony and at Malik S. your thoughts on father
- 21 and son there biologically?
- 22 A Yes. You can see that there's overlapping
- 23 numbers between Tony and Malik S.
- 24 Q Uh-huh. (Indicating affirmatively.)
- 25 A ---which is consistent with Tony being the

CROSS EXAMINATION OF ALYSHA BRELAND BY MS. CAMPBELL

1 biological father of **Malik S.**

2 Q Of **Malik S.** Okay. All right. And so, to finish,
3 let's do **Minor** 's --

4 A Uh-huh. (Indicating affirmatively.)

5 Q -- locations. So, we'll start. Number one is
6 10/13?

7 A Yes.

8 Q All right. Carry on.

9 A 28/32.2, 8/11, 10/12, 16, 6/7, 13/14, 11/12,
10 16/22.

11 Q Sorry.

12 A 11/14.2, 15/17, 9/11, 15, 12/13, 21/22.

13 Q Twenty-two?

14 A Twenty-two, correct.

15 Q Okay. So, again, using the same expert opinion
16 again, would you say then that the fetus is consistent with
17 being the child of **Minor** --

18 A That's correct.

19 Q -- based upon your numbers?

20 A Yes.

21 Q Because of the overlapping numbers?

22 A Yes.

23 Q Okay. All right. So, when you look at -- we'll
24 come back to that.

25 A Okay.

CROSS EXAMINATION OF ALYSHA BRELAND BY MS. CAMPBELL

1 Q When you look at your -- all right. So, are you
2 familiar then with the problem that it presents in paternity
3 testing when the candidates are biologically father and son?
4 Can you tell us a little bit about that?

5 A Since two of the suspects are father and son, all
6 that tells me is that they are gonna have some degree of
7 overlap between their two DNA profiles.

8 Q And the overlap between their two DNA profiles,
9 would that not require you to consider perhaps testing more
10 locations on the DNA chain?

11 A In this case, even with the degree of overlap
12 between Tony and **Malik S.** I was still able to exclude **Malik S.** as
13 the biological father of the fetus based on the 15 locations
14 that I did test.

15 Q Okay. So, the exclusion, as you, as you say, for
16 **Malik S.** the marker that excludes him, which marker is that?

17 A I believe there were two.

18 Q Okay.

19 A One of them would be the very last marker, which
20 is referred to as MGA, but on the chart here would be number
21 15.

22 Q So, you look at number 15, and that is your
23 exclusion location for, for **Malik S.**

24 A That was one of them.

25 Q Excuse me. **Malik S.** Okay. And, and were you

CROSS EXAMINATION OF ALYSHA BRELAND BY MS. CAMPBELL

1 able to use any other location?

2 A I believe I was. The, the other location would
3 have been DWA, which, on this chart, would be number 11.

4 Q Okay. And when -- so, so, two locations for
5 **Malik S.** correct?

6 A At those two locations, I was able to exclude
7 him.

8 Q And, and is, and it's one marker on each of those
9 locations, correct? One allele is off?

10 A In terms of comparing --

11 Q Uh-huh. (Indicating affirmatively.)

12 A -- it to the fetus --

13 Q Yes.

14 A -- the number that would have needed to be
15 inherited from **Malik S.** to the fetus was not present.

16 Q Okay. So, when I look at -- and, again, I
17 don't -- I want to be clear. So, when I look at 12, and you
18 say that it's 9/9, and the fetus is 9/11, that, that is
19 reconciled because, because there's just a nine on, on the
20 fetus?

21 A With -- in terms of that location itself --

22 Q Uh-huh. (Indicating affirmatively.)

23 A -- with the victim also having 9/11, I could not
24 tell you whether it was the nine or the 11 that would have
25 came from the father because of the amount of overlap that

CROSS EXAMINATION OF ALYSHA BRELAND BY MS. CAMPBELL

1 is also seen in the victim herself.

2 Q Exactly. So, what I'm looking at is overlap,
3 particularly at this location --

4 A Uh-huh. (Indicating affirmatively.)

5 Q -- and what we know about Tony Singleton is that
6 he does not have an 11. He's a 9/9.

7 A Correct.

8 Q Okay. Now, do you know what the -- well, I guess
9 that -- you've already testified. So, in 2017, the minimum
10 testing went to 24, and is that through the AABB? Who, who
11 accredits that to now it moved to 24 locations?

12 A So, SLED, we moved onto a larger kit because it
13 was something that the FBI was pushing in terms of their
14 CODIS national database.

15 Q So, accreditation wise, you could not continue
16 using just these 15 locations and keep your accreditation?

17 A That's not correct.

18 Q Okay. So, if you said, no, not -- we're gonna
19 move forward and use 24, you would still keep your
20 accreditation?

21 A We would still be an accredited lab. However, we
22 would have lost access to using the CODIS database that the
23 FBI regulates.

24 Q Okay. When you look at the overlap on all of
25 these different alleles in all these different locations,

CROSS EXAMINATION OF ALYSHA BRELAND BY MS. CAMPBELL

1 you're, you're saying that it's consistent to Tony based on
2 two single numbers on that, that page? Is that, is that
3 fair?

4 A No.

5 Q Okay.

6 A What I'm saying is that at the locations --

7 Q Uh-huh. (Indicating affirmatively.)

8 A -- Tony fits and it would be consistent with
9 being the biological father of the fetus --

10 Q Uh-huh. (Indicating affirmatively.)

11 A -- whereas **Malik S.** has two locations that are
12 inconsistent with the fetus. Therefore, I can exclude him
13 as the father.

14 Q Okay. And so the, the, the parts where you're
15 not sure, like number 12, number 12 where you're not sure
16 where that come -- where that's coming from, that you're
17 saying it's still consistent with it -- with Tony being the
18 biological father? Is that right?

19 A Correct. Because, in this case, the mother of
20 the fetus at location 12, is a 9/11 herself. So, that means
21 that she could've passed on the nine or the 11 to the fetus.
22 And because I can't differentiate which one she gave, I
23 would not be able to determine which one the biological
24 father gave. However, with Tony Singleton being only a
25 nine, he can only give a nine to any potential offspring.

CROSS EXAMINATION OF ALYSHA BRELAND BY MS. CAMPBELL

1 So, I can infer actually that the victim would have passed
2 on her 11 allele to the child.

3 Q Okay. And, and, lastly, in the paternity testing
4 that, that, that we're doing today, 2019, do you not have to
5 have four locations in order to exclude someone from, from
6 being the biological parent?

7 A That's not a rule that I'm familiar with.

8 Q Okay.

9 MS. CAMPBELL: That's all I have. Thank you.

10 THE COURT: Anything further?

11 MS. SWANSON: Just briefly.

12 REDIRECT EXAMINATION

13 BY MS. SWANSON:

14 Q Agent Breland, the -- all these numbers that Ms.
15 Campbell put up on this easel, these are all numbers that
16 came from the chart in your report, right?

17 A Correct.

18 Q Okay. And being that Malik S. is Tony
19 Singleton's biological son, does that mean that he has half
20 of Tony's DNA or that he gets---

21 A Malik S., Malik S. inherited half of his DNA from his
22 mother and his father. So, Tony would have passed on half
23 of his DNA to Malik S.

24 Q Right. So, would you expect to see some overlap
25 in Tony's DNA profile and Malik S.'s DNA profile?

REDIRECT EXAMINATION OF ALYSHA BRELAND BY MS.
SWANSON

1 A That's correct.

2 Q However, since you had both, were you better able
3 to tell who the -- who the father was of the unborn child?

4 A By having anyone's DNA profile, I'll be able to
5 include or exclude them as long as the profile is deemed
6 comparable.

7 Q Okay. DNA has been around for how long?

8 A As long as there's been something living on the
9 planet.

10 Q Well, I'm, I'm sorry. DNA testing. I'm sorry.

11 A DNA testing was started in the '80s with blood
12 typing. So they would only be using, you know, you're A, B
13 and O blood groups to determine if somebody's DNA was
14 present there or not. But the testing that we know started
15 coming into the scene in the '90s.

16 Q So like late '90s, early 2000s---

17 A Correct.

18 Q -- around that time? And have there been
19 improvements in DNA?

20 A In terms of our testing, our kits have gotten
21 more sensitive so we can detect even at smaller levels. And
22 like I previously stated, the number of locations that we
23 type in the DNA is, is larger now.

24 Q Okay. Ms. Campbell asked you about this larger
25 kit that contains 24 markers that you looked at. Had you

REDIRECT EXAMINATION OF ALYSHA BRELAND BY MS.
SWANSON

1 used the larger kit, would that have changed your opinion or
2 changed your statistics?

3 A My results still stand today just as valid as
4 they were back in 2016. The only thing that the bigger kit
5 could have done was to have more differentiation between the
6 alleged father and any other male that was also tested.

7 Q Okay. And although the word match does not
8 appear in your report, that simply is because you're not
9 comparing -- this isn't a paternity test, right?

10 A Correct.

11 Q Okay.

12 A In paternitys, you don't use the word match.
13 It's basically -- it's the -- inconsistent with wording,
14 which can also be referred to as not excluding them. Just
15 has -- it's just how we have to report our results.

16 Q Report it out?

17 A Yeah.

18 Q But the fact that you stated that you did find a
19 match to the father on the stand doesn't change that, right?

20 A No. Match is just kind of like the verbiage that
21 we would use in the lab especially when they give a
22 comparison of the numbers against the DNA profiles.

23 Q All right. And this sort of DNA testing, is, is
24 that routinely used to establish paternity?

25 A Yes, it is.

REDIRECT EXAMINATION OF ALYSHA BRELAND BY MS.
SWANSON

1 MS. SWANSON: Okay. Thank you.

2 THE COURT: Anything further, Ms. Campbell?

3 MS. CAMPBELL: No, thank you.

4 THE COURT: All right. Any objection to this
5 witness being excused from anyone?

6 MS. SWANSON: None from the State.

7 THE COURT: You may step down.

8 THE WITNESS: Thank you. (Witness exit stand)

9 THE COURT: Anything else from the State?

10 MS. SWANSON: Thank you, Your Honor. At this time
11 the State rests their case.

12 THE COURT: Ladies and gentlemen, at this time the
13 State rests their case. There is a matter of law I
14 need to take up with the attorneys. I'm gonna send you
15 back to your room. Do not begin discussing this case.
16 It wouldn't be appropriate to do so. I'll bring you
17 back shortly and let you know what we're going to do
18 from here. Okay. Thank you.

19 (Jury exited the courtroom, after which following
20 proceedings were had:)

21 THE COURT: Any motions, Ms. Campbell?

22 MS. CAMPBELL: May it please the Court. At this
23 time, on behalf of my client, I make a motion for
24 directed verdict at the close of the State's case
25 stating for the record that the evidence thus far

MOTIONS

1 MS. CAMPBELL: Your Honor, at this time the
2 defense calls Chief of Police Mark Collins from the
3 Estill Police Department.

4 THE COURT: Thank you.

5 Thereupon,

6 MARK COLLINS

7 was called as a witness, having been first duly sworn,
8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. CAMPBELL:

11 Q Good afternoon.

12 A Good afternoon.

13 Q Chief Collins, can you tell the jury what it is
14 you do on a daily basis?

15 A I am the chief of police, Estill Police
16 Department, Estill, South Carolina. I am the department
17 head.

18 Q In that role, do you know about this case and
19 Mr. Singleton and Ms. Orr?

20 A Yes, I do.

21 Q Okay. And did you have an opportunity to speak
22 to one of my investigators a, a couple of months ago about
23 this case?

24 A I did.

25 Q All right. And would you let the jury know what

DIRECT EXAMINATION OF MARK COLLINS BY MS. CAMPBELL

1 your recollection is of events in October of 2015?

2 A I believe it was mid morning. I happened to be
3 riding around. Dispatch dispatched a call to a 1082, which
4 is a domestic disturbance.

5 Q Uh-huh. (Indicating affirmatively.)

6 A The Sparrow Wood Apartments. I was right down
7 the street. So, I assisted Officer James. We drove up, got
8 out of the car, walked down the sidewalk to the apartment.
9 Me being the, the legend, I was on the sidewalk. Ms. Orr
10 was sitting in her car in the parking lot. It was an
11 off-green Mercury Mountaineer SUV. She had her phone in her
12 hand. I'm not sure if she was on the phone. Mr. Singleton
13 had his vehicle. It was backed to the apartment. He was
14 putting things in it. And we approached closer, he started
15 walking towards us. As he got pretty much to us, she got
16 out of the car. She was in her McDonald's uniform, but she
17 had no shoes on. Upon her stepping on the sidewalk,
18 introductions were made. I asked what the situation was,
19 and what we could help them with. His response was: I
20 didn't call the police. Ask her. I asked her. She says:
21 you need to ask him. And I said, well, there doesn't seem
22 to be anything going on. So, when you figure out what is
23 going on, please, by all means, call us back, and we'll help
24 you. And, as far as to my knowledge, I left that day at
25 four o'clock. I know I didn't go back.

DIRECT EXAMINATION OF MARK COLLINS BY MS. CAMPBELL

1 Q Right. Thank you. So, your recollection of,
2 let's say, the weather outside or, or anything that, that
3 helps you understand what time of year we're talking about?

4 A It was, it was cool. It wasn't hot. It wasn't
5 cold, but it felt like it was still mid morning because
6 it -- you really didn't have the, the real heat of the
7 summer. So, I would sit there and say -- and when I say mid
8 morning, I, I know it wasn't 11:00, but it could've been
9 somewhere in the 9:00ish, 10:00ish area.

10 Q And some of your details I'm very appreciative
11 of. There's -- but there's no written report or dispatch
12 log or anything that you're aware of that goes with this --

13 A No.

14 Q -- Mr. Singleton moving out?

15 A No, ma'am. A report would have been done, but me
16 looking at all the factors that we had going on, she was in
17 the car in a parking lot. He was across the parking lot at
18 the apartment. If anything had transgressed, they weren't
19 breathing heavily. There were no injuries. Their clothes
20 weren't disheveled like they had been in any kind of
21 struggle or anything. Usually, in situations like that, if
22 anything is fresh or heated, by the time the police show up
23 and the police are, quote unquote, the referees in the
24 middle, then people take potshots to say things, but that
25 didn't happen. He made his own statement. She made her one

DIRECT EXAMINATION OF MARK COLLINS BY MS. CAMPBELL

1 statement. And that was it.

2 Q And other than your recollection of, of it being
3 October'ish, is there anything else that you can add to, to,
4 to this jury about what you saw that day with Mr. Singleton
5 moving out?

6 A Nothing else to my recollection.

7 MS. CAMPBELL: That's all I have. Thank you,
8 Judge.

9 MS. SWANSON: Thank you.

10 CROSS EXAMINATION

11 BY MS. SWANSON:

12 Q How are you, Chief Collins?

13 A Fine. Thank you.

14 Q Good. Now, because there's no report, you don't
15 know exactly when this domestic call came out, right?

16 A No, I do not.

17 Q And you don't know whether or not Tony Singleton
18 was moving anything out, do you?

19 A No, I do not.

20 Q Okay. And even if he did move some clothing out
21 or something like that, you don't know whether or not he
22 returned to that residence a few days later, right?

23 A No, I do not.

24 Q Okay. And you certainly don't know whether or
25 not he raped Minor right?

CROSS EXAMINATION OF MARK COLLINS BY MS. SWANSON

1 A No, I do not.

2 Q Okay. Thank you.

3 THE COURT: Any objection to the Chief being
4 excused?

5 MS. SWANSON: No objection.

6 MS. CAMPBELL: And no and, obviously, he's
7 released from any subpoena or any---

8 THE COURT: Thank you, Chief Collins. You're
9 excused.

10 THE WITNESS: Thank you.

11 THE COURT: Ms. Campbell, you can call your next
12 witness. (The witness exited the stand)

13 MS. CAMPBELL: Thank you, Judge. The defense
14 would call Brittany Palmer.

15 THE COURT: Come forward, ma'am.

16 Thereupon,

17 BRITTANY PALMER

18 was called as a witness, having been first duly sworn,
19 was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MS. CAMPBELL:

22 Q Good afternoon.

23 A Good afternoon.

24 Q Could you state your name for the record so that
25 the court reporter can take it down?

DIRECT EXAMINATION OF BRITTANY PALMER BY MS.
CAMPBELL

1 A My name is Brittany Magna Palmer.

2 Q Ms. Palmer, how do you know Tony Singleton?

3 A That is the father of my four kids.

4 Q Okay. And the four children that you have with
5 Tony, what, what are their names?

6 A My oldest is Malik S. The next is

7 Brianna S. We have Daniyah S., and Ziell S.

8 .

9 Q Now, do you know Ms., Ms. Orr?

10 A Yes, I do.

11 Q Okay. And how do you know Ms. Orr?

12 A Well, me and Ms. Orr did attend the same high
13 school a little while, but then she also has kids by my
14 kid's father, and they were dating.

15 Q Okay. So, Ms. Orr has children with
16 Mr. Singleton as well, is that right?

17 A Yes.

18 Q Okay. Do you know how many children she has with
19 Mr. Singleton?

20 A From what she said, three.

21 Q Three. Okay. And do you remember back in the
22 fall of 2015 where Tony was living with Ms. Orr? Do you
23 remember the city or, or ---

24 A They was living in Estill.

25 Q Okay. And do you remember -- did it -- did there

DIRECT EXAMINATION OF BRITTANY PALMER BY MS.
CAMPBELL

1 come a time when Mr. Singleton moved out?

2 A Yes, he did.

3 Q Okay. And can you tell the jury about him moving
4 out and how you remember that?

5 A Well, it was around holiday time --

6 Q Uh-huh. (Indicating affirmatively.)

7 A -- and he called me. I don't know the day it is,
8 but I know it was still in October.

9 Q Uh-huh. (Indicating affirmatively.)

10 A And he called me and he asked me to come help
11 him, he needed me, and I was like: what's wrong, and he said
12 that him and Hylania--- (sic)

13 Q You don't need to tell us, you know, the
14 conversation.

15 A Yes, but they, they got in whatever, altercation
16 or whatever, but he---

17 Q So, did you show up at that time at the house?

18 A Yes, I did. I showed up because that's my kids'
19 father.

20 Q All right. And, and do you know where Tony
21 moved?

22 A Yes, I do.

23 Q Okay. And, and tell the jury where he moved to?

24 A He moved to Luray --

25 Q Okay.

DIRECT EXAMINATION OF BRITTANY PALMER BY MS.
CAMPBELL

1 A -- to his sister's house, Diane Bryant, who has
2 passed cause that's where he was at. And I know this for a
3 fact because we all helped him move his stuff there.

4 Q Okay. And so, did -- was, was his sister,
5 Ms. Bryant, there as well helping him move?

6 A Yes, she was.

7 Q Okay. And just so I'm understanding, I want to
8 make sure I understand, Ms. Bryant has passed away?

9 A Yes, she has.

10 Q To the best of your knowledge, at the end of
11 November, at the end of December, throughout the rest of
12 2015, where was Tony living? Who was he living with?

13 A Living with Diane Bryant in Luray, South
14 Carolina.

15 MS. CAMPBELL: Thank you. That's all I have,
16 Judge.

17 MS. SWANSON: Thank you, Your Honor.

18 CROSS EXAMINATION

19 BY MS. SWANSON:

20 Q Ms. Palmer, you have one boy with Mr. Singleton,
21 is that right?

22 A Yes, ma'am.

23 Q And that's **Malik S.** right?

24 A Yes, ma'am.

25 Q And you actually took **Malik S.** down to the Estill

CROSS EXAMINATION OF BRITTANY PALMER BY MS. SWANSON

1 Police Department and spoke with Investigator Michael
2 Thomas, right?

3 A Actually I was threatened to come here.

4 Q Okay. Well, so you went to the Estill Police?

5 A Because I was threatened.

6 Q Okay. But did you go to the Estill Police
7 Department?

8 A Yes, I did.

9 Q Okay. And, and so, Investigator Thomas wanted a
10 buccal swab from your son to eliminate him as the father of
11 **Minor** child, right?

12 A Yes, ma'am.

13 Q Okay. And so you gave him consent to get that
14 swab from your child, right?

15 A Yes, ma'am, as long as I was there, and I was
16 told that my child was coming back home, yes, that was the
17 permission I gave him.

18 Q Okay.

19 A But that's not basically what he said when he
20 asked for that to be done. It was more so, if I didn't
21 bring my child, that he was going to be prosecuted or locked
22 up. So, you threaten me about my child -- at the time was
23 13, 14. I told him straight up: if my son not coming back
24 with me, I would not. So, when you outrun him, it was
25 because that was there. Other than that, I wasn't bringing

CROSS EXAMINATION OF BRITTANY PALMER BY MS. SWANSON

1 him.

2 Q Okay. So, I think it's fair to say that you're
3 protective of your son?

4 A Yes, I am.

5 Q Okay. And that would probably go with any family
6 member, right?

7 A Yes, all of them.

8 Q This is a consent to search. Do you remember
9 being provided with that?

10 A Yes, ma'am.

11 Q Okay. And that's your signature up top?

12 A Yes, ma'am.

13 Q All right. So, you agreed to give that buccal
14 swab to Investigator Thomas, right?

15 A Yes, ma'am.

16 Q Okay. Now, do you recall seeing Chief Collins
17 when y'all were moving all of Tony's stuff out around
18 Halloween of 2015?

19 A Well, to be honest with you, I was not focused on
20 nobody but getting help for him, to keep from getting in
21 trouble.

22 Q Okay. Yeah. So, you did not notice the two
23 officers there, right?

24 A I wasn't trying to. I was just focused on
25 getting him from there, and then he stated -- well, to be

CROSS EXAMINATION OF BRITTANY PALMER BY MS. SWANSON

1 honest, one of the officers then stated that he would be
2 locked up if he wasn't removed from the premises. One of
3 them did state that, which, from my concern what I've been
4 told, he was the one that called the officer because of her.
5 But he was the one getting ready to be locked up from what
6 she --

7 Q Okay. Okay. So, so, you're saying that Tony
8 called the police on Halloween that day?

9 A Yes, ma'am.

10 Q Okay. Are, are we talking about the same
11 domestic call?

12 A Oh, yeah, we are. We are.

13 Q Okay. Was there maybe more than one?

14 A Not---

15 Q Is it fair to describe Tony and Hylania's
16 relationship as off and on, turbulent?

17 A I wouldn't too much say that. They -- I mean, it
18 wasn't really none of my business once they, once they was
19 together until that particular incident happened. Like I
20 said, that's my kids' father. So, before I have to take my
21 kids and look at they father behind jail, yeah, I came to
22 the rescue to make sure he didn't get thrown there.

23 Q Do you work, Ms. Palmer?

24 A No, I don't.

25 Q Okay. Was Tony working at the time?

CROSS EXAMINATION OF BRITTANY PALMER BY MS. SWANSON

1 A Yes, he was.

2 Q Where was he working?

3 A Elliott Saw Mill, and I know that because I was
4 the one that help him got the job.

5 Q Okay. And so, you were with him when he was
6 going to and from work, and after work, and on weekends, and
7 you know for a fact he was always at his dead sister's house
8 in Luray?

9 A Well, I didn't say I was always with him. I said
10 I know he had a job. I know that particular night that he
11 was not there. I know he did not went back 'cause I stated
12 to him that we have four kids. You cannot be getting in
13 trouble. So, if anybody said they saw him there or he went
14 there, trust me, he didn't because she would've made it
15 known if he did.

16 Q Okay. So, it is your testimony that you know for
17 a fact he was not at the Fairwood Apartments in Estill that
18 October around Halloween, that he had been kicked out?

19 A Yes.

20 Q And that he had called police?

21 A Yes.

22 Q MS. SWANSON: Thank you. That's all I have.

23 MS. CAMPBELL: That's all. Thank you.

24 THE COURT: Thank you. You may step down. Any
25 objection to her being excused?

CROSS EXAMINATION OF BRITTANY PALMER BY MS. SWANSON

1 MS. SWANSON: No, Your Honor.

2 THE COURT: You're excused, ma'am. Do you need to
3 take a break?

4 MS. CAMPBELL: I was letting her know that she
5 could stay in the courtroom. (The witness exits.)

6 THE COURT: Oh, okay. Thank you. Should we go
7 ahead and take a break at this point?

8 All right. Ladies and gentlemen of the jury --
9 all right. Ladies and gentlemen of the jury, we'll go
10 ahead and take a quick recess. Again, I'm gonna let
11 you know what we're doing after this. Do not discuss
12 this case. It wouldn't be appropriate to do so. Send
13 you back to your jury room. Okay. Thank you.

14 (The jury exits the courtroom at 2:30 p.m.) (after
15 which the following proceedings were held)

16 THE COURT: All right. The jury's out, is that
17 correct?

18 THE BAILIFF: Yes, ma'am.

19 THE COURT: All right. Ms. Campbell, is now a
20 good time for me to speak with your client in regards
21 to his Fifth Amendment right?

22 MS. CAMPBELL: It is.

23 THE COURT: Mr. Singleton, if you would please
24 stand and raise your right-hand, sir.

25 Thereupon,

CROSS EXAMINATION OF BRITTANY PALMER BY MS. SWANSON

1 welcome back. Ms. Campbell.

2 MS. CAMPBELL: May it please the Court, Your
3 Honor. At this time, the defense calls Mr. Tony
4 Singleton.

5 THE COURT: Come on forward, sir.

6 Thereupon,

7 TONY SINGLETON

8 was called as a witness, having been first duly sworn,
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MS. CAMPBELL:

12 Q Good afternoon. Tony, what is your sister's
13 name?

14 A Diana Bryant.

15 Q Diane Bryant?

16 A Yes, ma'am.

17 Q And until a few years ago, where was your sister
18 living?

19 A At ■ Dillon Lane.

20 Q ■ Dillon Lane?

21 A Yes, ma'am.

22 Q And your sister's name is Elaine Bryant, ■
23 Dillon Lane. Is that a home where you lived? Did you ever
24 live there?

25 A You talking about ■ Dillon Lane?

DIRECT EXAMINATION OF TONY SINGLETON BY MS. CAMPBELL

1 Q Yeah. Did you ever live with your sister?

2 A No, me -- I had my own home across the track at
3 [REDACTED] Martin Avenue.

4 Q Okay. Across the, across the avenue from your
5 sister?

6 A [REDACTED] Martin Avenue. Avenue. Okay. So, when we
7 talk about you moving out of Ms. Orr's back to your
8 sister's, isn't it just back to the property where she
9 lived? Can you tell the jury what that was like?

10 A It was more peaceful because hard -- the stuff
11 that she had me going through, and I ain't have to worry
12 about getting in trouble or none of that.

13 Q Your sister was sick? Is that what you're
14 saying?

15 A Yes, ma'am, she, she was on dialysis.

16 Q Right. No -- when you moved to the area with
17 your sister, were you helping her? What were you doing
18 there?

19 A I was helping her and my kids was around, around
20 there, too.

21 Q Okay. Now, do you remember moving out of Ms.
22 Orr's house or apartment and moving back over there with --
23 towards your sister? Do you remember when that happened?

24 A Yes, ma'am.

25 Q Okay. Can you help the jury understand when you

DIRECT EXAMINATION OF TONY SINGLETON BY MS. CAMPBELL

1 moved out of Ms. Orr's apartment?

2 A I guess the day that me and my sister because I
3 (had) another sister living with me, with me at Ms. Orr's
4 house.

5 Q Okay.

6 A Me and her, we left there. First she call the
7 police. The police escort us, and my cousin stay across the
8 street from her named Nisha.

9 Q Uh-huh. (Indicating affirmatively.)

10 A Ranisha Bryant.

11 Q Right.

12 A She the one give me and my sister a ride to my
13 sister house that night.

14 Q Okay. So, around what time of year did you move
15 out of Ms. Orr's apartment and back over there with your
16 sister?

17 A Around about the -- close to end of the year.
18 Not the end of the year, but right after the summer.

19 Q Right after the summer. Okay. Was it before or
20 after Halloween?

21 A Way before Halloween.

22 Q Okay. So, when you moved back over by your
23 sister, did you ever move back in with Ms. Orr?

24 A No, ma'am.

25 Q Okay. Are you aware of your son, **Malik S.**

DIRECT EXAMINATION OF TONY SINGLETON BY MS. CAMPBELL

1 ██████████, staying in Ms. Orr's home after you moved out?

2 A Yes, when I was there, he's the baby sitter on,
3 on the weekend while both us be working.

4 Q Okay. Do you know if that practice continued
5 after you left?

6 A I couldn't tell you 'cause, I mean, I wasn't
7 there.

8 Q Do you -- where -- how -- well, where did you
9 grow up?

10 A I grow up in Estill. I used to stay on 278 on
11 Edgefield Road.

12 Q Uh-huh. (Indicating affirmatively.)

13 A My mama and daddy, they had a house right there.
14 They had it until it, till it burned down.

15 Q And, and when you moved in with Ms. Orr, y'all
16 had some children together, three children together, is that
17 right?

18 A Yes, ma'am.

19 Q Yeah. And she had some of her children living in
20 there from, from another father, right?

21 A Yes, ma'am.

22 Q Okay. Now, Tony, you've been sitting here now
23 for a day-and-a-half listening to the, to the case. When,
24 when I, when I ask you this question -- so, at any time when
25 you were living with Ms. Orr or not living there, did you

DIRECT EXAMINATION OF TONY SINGLETON BY MS. CAMPBELL

1 ever put your penis in Minor's vagina? Did you have
2 sexual intercourse with this child?

3 A No, ma'am, I act like the child was one of my
4 child myself.

5 Q And, and so it's been now what, since 2016 since
6 you were arrested, right?

7 A Yes. Yes, ma'am.

8 Q And here today, August 2019, do you have any
9 hurtful or, or negative feelings about everything that has
10 happened or that you've been put through with this
11 accusation? Are you okay?

12 A No, I'm really hurt because how everything take
13 and see -- and put me in this situation where I'm just --
14 I'm just, Man. And my sister the only person that stick by
15 me from today.

16 Q Now, you have Ms. Orr here, and you have some
17 other ladies here with you in the courtroom. That, that --
18 that's your friend and family here supporting you?

19 A Yes, my nieces and my mother -- my, my step mama.

20 Q Were you in Ms. Orr's home at the end of November
21 2015?

22 A No, ma'am.

23 Q Did you have sex with Minor?

24 A No, ma'am.

25 MS. CAMPBELL: That's all I have.

DIRECT EXAMINATION OF TONY SINGLETON BY MS. CAMPBELL

1 MS. SWANSON: Thank you, Your Honor.

2 THE COURT: Yes, ma'am.

3 CROSS EXAMINATION

4 BY MS. SWANSON:

5 Q All right. Mr. Singleton, your sister lived at
6 ■ Dillon Lane, right?

7 A Yes, ma'am.

8 Q Okay. And so, it's your testimony that you never
9 actually lived at ■ Dillon Lane. You've lived somewhere
10 called Martin Avenue, right?

11 A Yes, ma'am.

12 Q Okay. And you also testified that your sister
13 was actually in Dallas for kidney treatment, correct?

14 A Dialysis.

15 Q Oh, dialysis. Okay. So, where was dialysis?

16 A Right there in Fairfax.

17 Q Okay. In Fairfax. And you had some sort of
18 steady job at the time?

19 A Yes, ma'am, I worked in the Elliott Saw Mill.

20 Q Okay. When you say that your kids were around
21 the Martin Avenue, Avenue residence, which ones do you mean?

22 A The one by Brittany Palmer.

23 Q Okay. The one or one of the four?

24 A All four.

25 Q Which one?

CROSS EXAMINATION OF TONY SINGLETON BY MS. SWANSON

1 A All four.

2 Q I'm sorry?

3 A All four of them.

4 Q Okay. The ones by Brittany Palmer. You'd say
5 you're a pretty fertile guy, right?

6 MS. CAMPBELL: Objection, Your Honor.

7 THE COURT: If you want to recharacterize that,
8 please.

9 BY MS. SWANSON:

10 Q You have no problem impregnating women, correct?
11 You don't have any problems with your semen impregnating
12 women? You're the father of seven children, right, or is it
13 more than that?

14 A Yes, ma'am, I do have seven kids.

15 Q Okay. Is that it, seven?

16 A Yes, ma'am, seven kids.

17 Q Have you ever had any paternity tests done?

18 A From, from the two, from the two women?

19 Q Yes, on those children.

20 A Yes, my first boy, Malik S. [REDACTED], but the rest
21 of them, no, I didn't.

22 Q Okay. So, were you ever ordered to pay child
23 support on Malik S. [REDACTED]?

24 A Yes, ma'am.

25 Q Okay. From that paternity test; is that right?

CROSS EXAMINATION OF TONY SINGLETON BY MS. SWANSON

1 A No.

2 Q From the Family Court?

3 A It wasn't for that, though.

4 Q I'm sorry?

5 A It wasn't from me having a, having a test for
6 them.

7 Q Okay. I thought that's what you just testified
8 to.

9 A Excuse me. Repeat that. Can you repeat that?

10 Q Have you ever had any paternity testing done in
11 reference to these seven children that you have like through
12 the Family Court or anything like that?

13 A Yes.

14 Q Through your babies' mothers?

15 A Yes, ma'am.

16 Q Okay. On how many of the seven children?

17 A The one by Brittany. All four of them.

18 Q All four of them?

19 A Yes, ma'am.

20 Q Okay. So, you're ordered to pay child support on
21 those four children, children, is that correct?

22 A Yes.

23 Q Okay. And you were ordered to pay child support
24 on those four children because they determined that you were
25 the father through a swab, correct?

CROSS EXAMINATION OF TONY SINGLETON BY MS. SWANSON

1 A Correct.

2 MS. SWANSON: Thank you. That's all I have.

3 THE COURT: Anything further?

4 MS. CAMPBELL: No.

5 THE COURT: You may step down, sir.

6 THE WITNESS: All right.

7 MS. CAMPBELL: Your Honor, at this time the
8 defense rests.

9 THE COURT: Thank you. You may be seated.

10 (The witness exits.)

11 THE COURT: Ladies and gentlemen, at this time the
12 defense rests their case as well. Based on the hour,
13 we typically don't like to argue and charge a jury
14 after three o'clock because we end up being here longer
15 in the evening. So, what I'm gonna do, ladies and
16 gentlemen, is send you home at this point to return
17 tomorrow morning to finish up this case. When you come
18 back, you will hear the lawyers' closing arguments. I
19 will charge you on the law applicable to this case, and
20 we will send it to you.

21 MS. CAMPBELL: We'll also let you know that none
22 of you will be sitting on a second jury. So, once
23 you're finished and completed with this case, you will
24 be done for the week. I understand maybe someone was
25 asking that of the bailiffs.

CROSS EXAMINATION OF TONY SINGLETON BY MS. SWANSON

1 Ladies and gentlemen, I need to tell you that,
2 even though you have heard all the evidence in this
3 case, it would not be appropriate for you to do any
4 independent research. Go home, ladies and gentlemen.
5 Get a good night's sleep. Do not discuss this case
6 with anyone, and I look forward to seeing you-all back
7 in the jury room at 10:00 a.m. tomorrow morning. All
8 right. Thank you.

9 (The jury exits the courtroom at 3:55 p.m.)

10 THE COURT: All right. Ms. Campbell, do you want
11 to renew any motions?

12 MR. CAMPBELL: Yes, I would, Your Honor. For the
13 record, we would renew our motion for directed verdict
14 and our two motions for a mistrial at this time.

15 THE COURT: Thank you. Respectfully, based on the
16 earlier ruling, again, I think there's evidence by
17 which this jury can determine Mr. Singleton is guilty
18 of criminal sexual conduct with a minor under the age
19 of 11. I'm going to send it to a jury. You don't have
20 any rebuttal or anything else, obviously?

21 MS. SWANSON: No, Your Honor.

22 THE COURT: So, we're just gonna argue and charge
23 in the morning at 10:00 a.m. Let's just go quickly
24 through the jury charge.

25 Ms. Campbell, you gave me two specific requests to

CHARGE CONFERENCE

1 charge in this case. Let me just go through and tell
2 you what I'm going to touch or what I'm going to
3 charge, and then we can talk about the two you
4 specifically requested. I talk about the charge and
5 indictment are not evidence.

6 I talk about the presumption of innocence, the
7 robe of righteousness, reasonable doubt, which we'll
8 talk about in just a minute, Ms. Campbell, the request
9 that you, you have asked.

10 I'll charge direct and circumstantial evidence,
11 the credibility of witnesses, expert witnesses. I'm
12 going to charge criminal sexual conduct and -- with a
13 minor in the first degree. Requires the State prove,
14 beyond a reasonable doubt, that the defendant engaged
15 in a sexual battery with a victim who is less than 11
16 years of age.

17 Sexual battery is sexual intercourse, cunnilingus,
18 fellatio, anal intercourse, or any intrusion, however
19 slight, of another part of a person's body or any
20 object into the genital or anal openings of another
21 person's body.

22 And then we're gonna talk about third party
23 guilty, the request you had asked, and let's start
24 there first. Is there any objection so far to what I'm
25 charging?

CHARGE CONFERENCE

1 MS. SWANSON: None from the State.

2 THE COURT: Okay. Ms. Campbell, let's first talk
3 about your reasonable doubt charge.

4 MS. CAMPBELL: I'm grabbing it.

5 THE COURT: Obviously you've requested, and I
6 think you do this in all of your cases recently, where
7 you want simply to charge just a reasonable doubt, the
8 kind of doubt that would cause a reasonable person to
9 hesitate to act. I don't think that came out for the
10 jury to understand.

11 Your second request to charge in that portion of
12 it, I do charge that we talk about civil trials. So we
13 talk about preponderance of the evidence, clear and
14 convincing, and then, obviously, go to State must be
15 more powerful than that.

16 The portion I'm questioning on you is this -- the
17 part where you do not want -- the part where it says
18 there are very few things in this world that we know
19 about with absolute certainty, and, in criminal cases,
20 the law requires proof that overcome every possible
21 doubt. Do you have any basis for finding that, that is
22 no longer good law, Ms. Campbell?

23 MS. CAMPBELL: If I could, Your Honor, I will mark
24 my reasonable doubt request to charge for the record,
25 and, and the argument is contained within the request,

CHARGE CONFERENCE

1 but I'll recite it a little bit for the record. We, we
2 feel -- this would just be Defendant's 1.

3 THE COURT REPORTER: Or Court's, either one.

4 *(Whereupon, Court's Exhibit No(s). 8 marked for*
5 *identification and received in evidence.)*

6 MS. CAMPBELL: So, we are most concerned with the
7 language that says that, based on your consideration
8 you -- the evidence, if you are firmly convinced that
9 the defendant is guilty of the crime charged, you must
10 find the defendant guilty,. and we feel like that is
11 diminishing of the burden of proof on the State. I do
12 cite a number of different cases about lowering the
13 threshold for the State in terms of reasonable doubt,
14 and, and, and the citations are pulled in there for
15 you. Also, there's a North Carolina case that I found
16 that talks about,-- and I think it's cited in here, I
17 hope I did, the language,-- you know, that firmly
18 convinced is sort of like, you know, not quite all the
19 way there. I just -- I feel like the last time we
20 dealt with this issue Your, Your Honor altered your
21 reasonable doubt charge to, to such an extent that,
22 that you attempted to address the concerns that the
23 defendant had, and, and certainly, you know, we were
24 appreciative of that, but, you know, for the life of
25 me, I can't remember what, what you charged, but it

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1 wasn't exactly what I have.

2 THE COURT: What case was the last one that I did
3 with you that I changed it?

4 MS. CAMPBELL: Michael Wiggs, I think it was, was
5 in Beaufort.

6 THE COURT: Michael.

7 MS. CAMPBELL: Yeah, we did the Wiggs trial in
8 Beaufort.

9 THE COURT: Well, my law clerk -- I don't have a
10 law clerk today, but what I'm gonna do is this, let me
11 call Jamie --

12 MS. CAMPBELL: Uh-huh. (Indicating
13 affirmatively.)

14 THE COURT: -- and have her pull up that jury
15 charge --

16 MS. CAMPBELL: Okay.

17 THE COURT: -- that jury charge for me, and let me
18 take a look at it.

19 MS. CAMPBELL: All right. So I'll hand this then
20 to the -- and I do actually have a proposed charge
21 within, in that.

22 THE COURT: I saw it, yeah, in here. Just take
23 out that portion. So -- okay. All right. Let me, let
24 me pull the other one, and we'll be back at 9:30 in the
25 morning, and I'll tell you specifically what I'm gonna

CHARGE CONFERENCE

1 charge, and I will read it to you-all. Okay.

2 MS. CAMPBELL: Okay.

3 THE COURT: I just -- I can tell you that I tried
4 to get ahold of Jamie about 15 minutes ago and couldn't
5 find her. So, so, I know she was at the doctor's
6 office today. So, all is good. But let me hunt her
7 down so I can look at that one for the Michael Wiggs
8 case.

9 The next question I have is you also -- I received
10 your requested charge on the third-party guilt. and
11 where did you get this specific charge 'cause I know
12 that it mirrors the New Jersey charge, but I can tell
13 you, once again, I can't pull it up on the A drive
14 'cause I don't have it. The third party guilt charge
15 that is standard in the bench book. Now, you did---

16 MS. CAMPBELL: I think it---

17 THE COURT: Did this come from the Bench book, do
18 you think?

19 MS. CAMPBELL: I think either that or it's
20 fashioned from Holmes -- from the cases that were
21 cited.

22 THE COURT: But not straight from Holmes?

23 MS. CAMPBELL: No.

24 THE COURT: I can tell you that I 'cause I
25 re-read Holmes just to remember it, and there's nothing

CHARGE CONFERENCE

1 in there that gives a specific charge. I will say that
2 I did find that what you gave me was verbatim New
3 Jersey's charge that's been accepted by the court.

4 MS. CAMPBELL: Yeah, and it may be.

5 THE COURT: Really. Okay.

6 MS. CAMPBELL: It may be.

7 THE COURT: Let me do this. I had a third- party
8 guilty charge. I just need to lay my hands on it. So,
9 let me look at and compare it to this.

10 Ms. Swanson, do you have a position? I do think I
11 can tell you I absolutely, in, in re-reading Holmes,
12 evidence of third- party guilt in this case, obviously,
13 was appropriate in this case because it was alleged
14 that two other people had, had or had, had sex with the
15 child. So, I have no problem with that.

16 I probably am thinking that a third-party guilty
17 charge is appropriate. It just has to be from the
18 bench book from South Carolina that I know is
19 appropriate. So, if anyone can lay their hands on it,
20 and I can look at that, I'm gonna go get South
21 Carolina's copy of it, and then we'll talk about that
22 in the morning as well. Okay. Anything else,
23 Ms. Swanson, you're thinking that you're requesting to
24 charge or anything?

25 MS. SWANSON: I do not have any specific charges.

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1 THE COURT: Okay. And was there anything else,
2 Ms. Campbell?

3 MS. CAMPBELL: There is. I would ask, based on
4 the testimony, that the Court charge alibi. My client
5 has testified that he was not at the location. The
6 indictment is very specific, on or about November 30th,
7 2015. There's testimony in the record from Chief
8 Collins, from Ms. Palmer, and from my client that he
9 was not at the location where the crime was committed
10 at the end of November 2015, and I think anytime
11 there's evidence in the record of that nature, that the
12 Court must charge the alibi on, on behalf of the
13 defendant. Thank you, Judge.

14 THE COURT: What's your position on alibi, Ms.
15 Swanson?

16 MS. SWANSON: Your Honor, I mean, I've got all
17 cases where it gives a definition of alibi. I want to
18 say State v. Baker, 411 S.C. 583. I mean, if you're
19 going to charge alibi, I would like a definition of
20 alibi to be charged, and that may be contained within a
21 bench book charge. But, I mean---

22 THE COURT: Yeah.

23 MS. SWANSON: ---to be successful, alibi must
24 cover the entire time when his presence was required
25 for accomplishment of the crime. To establish an

CHARGE CONFERENCE

1 alibi, the accused must show he was at another
2 specified place at the time the crime was committed
3 thus making it impossible for him to have been at the
4 scene of the crime. There -- I mean, he doesn't really
5 say he was in one specific place for one specific
6 period of time.

7 THE COURT: Right.

8 MS. SWANSON: I mean, I guess that's my problem. I
9 mean, that's his story, but it's not really an alibi.

10 THE COURT: And that was State v. Baker that you
11 just read from?

12 MS. SWANSON: Yes, this is Baker. Yes.

13 THE COURT: What is the cite on that?

14 MS. CAMPBELL: Your Honor?

15 THE COURT: I can look it up.

16 MS. SWANSON: Hand it up---

17 THE COURT: Let me think about that as well and
18 look at that. I'll let y'all know at 9:30.

19 MS. CAMPBELL: And I'll just mark Defendant's
20 third-party guilt charge as well as Defendant's 2 and
21 so that's for the record.

22 *(Whereupon, Defendant's Exhibit No(s). 2 marked*
23 *for identification and received in evidence.)*

24 THE COURT: Okay. Anything else that you can
25 think of?

CHARGE CONFERENCE

1 MS. CAMPBELL: No, ma'am.

2 MS. SWANSON: Nothing from the State.

3 THE COURT: Okay. Okay. All right. Anything
4 else for the evening before we break?

5 No. Okay. I'll see y'all tomorrow morning. The
6 attorneys can be here at 9:30ish.

7 MS. CAMPBELL: Yes, Your Honor.

8 THE COURT: I'll let you know what I'm charging
9 exactly, and we'll close. All right.

10 MS. SWANSON: Thank you.

11 THE COURT: I appreciate it.

12 (Thereupon, the trial was adjourned for the day.)

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CHARGE CONFERENCE

1 8-7-2019 PROCEEDINGS

2 THE COURT: Good morning, everyone. A few issues
3 that we need to take up before we do our closing
4 arguments this morning. To begin with, defense asked
5 me to charge alibi and third party guilt.

6 As to the alibi charge, obviously, in case law of
7 the state, simply mere denial at presence at that scene
8 of a crime does not constitute an alibi. However, I am
9 gonna charge the alibi charge, which says exactly that,
10 as well out of an abundance of caution. I think I've
11 already explained that to both the solicitor and
12 defense attorney back in chambers, but I need to put on
13 the record.

14 I don't think in this case it is what I would call
15 a perfect alibi because it doesn't give where
16 specifically he alleges he was at the time. But
17 because this is the type of an offense that the time
18 period is not an exact time, I think it makes it much
19 more difficult, but I think, out of an abundance of
20 caution, I am gonna charge that.

21 As far as third party guilt is concerned, I think
22 that is an evidentiary fact for the Court. I will tell
23 you that I have gone through everything. There is no
24 third party guilt charge in the bench book in South
25 Carolina.

CHARGE CONFERENCE

1 As I indicated yesterday, the one that you gave
2 me, Ms. Campbell, I found as a New Jersey charge on
3 third party guilt. Certainly, you can argue all day
4 long third party guilt in your closing, but it is not
5 appropriate to be charged by the Court. I think
6 particularly in this case because the difficulty we
7 have is that there is an allegation that there were
8 three different people. And how this case, while all
9 we're really doing is attempting to create -- or all
10 the State's attempting to do is attempting to prove the
11 elements of the case is through the DNA from the
12 defendants that helps you do that as to this defendant.
13 So, I, I don't think it's appropriate, and, obviously,
14 Ms. Campbell can argue it, but it's not appropriate for
15 a charge.

16 After that, for those of you that are in the
17 gallery, ladies and gentlemen, I know some of you are
18 just coming in for today, the lawyers are first gonna
19 do their closing arguments where they're each going to
20 be able to state their side of the case. I will tell
21 you that this is an adversarial process, a courtroom
22 and a trial, and you may not like what one of these
23 attorneys is saying in this case. But I want to make
24 sure you understand that there will be no sighing,
25 headshaking, head bobbing, smiling, or any movement in

CHARGE CONFERENCE

1 this courtroom in response to anything anyone does or
2 says here. If there is, you will be removed and you
3 will be taken into custody. I want to make sure you
4 understand that.

5 I'll also tell you that the doors of this
6 courtroom are going to be locked, which means you can't
7 come and go during these closing arguments, and during
8 my charge on the law. I want this jury focused on
9 either the attorneys making their argument, and I don't
10 want you all moving around.

11 So, please understand that if you do not want to
12 sit and hear the closing arguments or you don't want to
13 hear my charge on the law, you need to remove yourself
14 now. The door will be locked. You can't go anywhere.
15 I just want to make sure you understand that.

16 Okay. So everyone has fair warning. And, again,
17 if you believe you are gonna have any kind of emotional
18 outburst in reference to anything you hear in this
19 case, and you can't contain yourself, you need to
20 remove yourself now because, again, if there is one,
21 I'm gonna have you taken into custody.

22 Okay. All right, y'all.

23 As far as closing arguments are concerned,
24 Ms. Swanson's gonna open, Ms. Campbell's gonna respond,
25 and then you're gonna do a brief rebuttal because the

CHARGE CONFERENCE

1 defense did put in evidence in this case. But, at this
2 time, we're gonna go ahead and begin closing arguments.

3 Anything else we need to put on the record on
4 behalf of the State?

5 MS. SWANSON: Nothing from the state.

6 THE COURT: On behalf of the defense?

7 MS. CAMPBELL: Just briefly, Your Honor. As to
8 Defendant's 1, which was our, our requested reasonable
9 doubt charge, it's my understanding that the Court is
10 gonna charge as is currently in the, the bench book --

11 THE COURT: Yes.

12 MS. CAMPBELL: -- that is, is the law currently in
13 South Carolina. And we, for the record, I did go ahead
14 and mark Defendant's 3 as the proposed alibi charge,
15 which is directly from the bench book.

16 *(Whereupon, Defendant's Exhibit No(s). 3 marked*
17 *for identification and received in evidence.)*

18 THE COURT: And that's what I'm charging.

19 MS. CAMPBELL: Right. And so, there -- we have
20 Defendant's 1, 2, and 3, which are part of the record.

21 THE COURT: Thank you, Ms. Campbell.

22 All right. All right. Let's go ahead and bring
23 them in.

24 *(Jury enters the courtroom.)*

25 THE COURT: Good morning, ladies and gentlemen.

CHARGE CONFERENCE

1 It's a pleasure to see you all.

2 At this time, you are going to hear the closing
3 arguments from the attorneys, and I'm gonna charge you
4 on the law that's applicable to this case. The State
5 is gonna begin by giving their closing argument, and
6 Ms. Campbell's gonna go ahead and make her closing
7 argument, and then the State has the opportunity to
8 make a brief response to what the defense has said.
9 And, at that point, I will charge you on the law that's
10 applicable to this case, and we'll send it to you.

11 All right. So if you would give your attention to
12 the attorneys. Additionally, ladies and gentlemen of
13 the jury, at this time, if anyone needs a quick break,
14 just wave your hands at me, okay, and, and we can take
15 a quick break.

16 All right. So, whenever you're ready,
17 Ms. Swanson.

18 MS. SWANSON: Thank you, Your Honor. May it
19 please the Court.

20 So what are you here to decide? You're deciding
21 whether or not Tony Singleton raped **Minor**, and
22 how do we know this? Well, DNA. It's been confirmed
23 because he impregnated her. That child is the only
24 one, out of eight that he sired, that he denies.

25 All right. And I don't want to belabor a point.

CHARGE CONFERENCE

1 I don't want to keep y'all forever because this has
2 been a short case, and I know you've been paying
3 attention. But I just want to quickly go through the
4 State's case, and what you've heard yesterday.

5 **Minor** and Hylania testified that Tony was living
6 at the house, all right, probably sometime through
7 Christmas. They celebrated Christmas together.
8 Hylania and Tony's relationship was off and on. An
9 eight-and-a-half-year relationship does not end
10 overnight, particularly when you have three biological
11 children.

12 Do you not think that sometime through the
13 holidays, when you have Hylania's testimony as well, he
14 was moving back in. They would get back together.
15 They would split up again. He may come see the kids.
16 You know, he wasn't always working at that saw mill
17 shop, and Hylania was doing the best she could with six
18 children under that roof, working at McDonald's from
19 about 4:00 in the morning till late afternoon.

20 He was there. Defense is gonna try to say he
21 moved out, and he never went back to that apartment
22 again. Well, that's simply not true.

23 All right. Even his other baby mama and his story
24 are not consistent. She says that he moved out and she
25 was there sometime in October, close to Halloween. If

CHARGE CONFERENCE

1 you recall his testimony, he said that it was way
2 before Halloween, right after summer. All right. It
3 just doesn't even make any sense, and we know that he
4 was there because he left his DNA.

5 So, beyond the DNA, let's not forgot that **Minor**
6 told you what happened, that she was in her room in the
7 apartment in Estill when he raped her. She was
8 watching Sponge Bob. Don't get clouded or confused by
9 the fact that she was also victimized by Tony's son.
10 Well, the apple doesn't fall very far from the tree
11 now, does it? That's a red herring because we're not
12 talking about what **Malik S.** did to **Minor** We're talking
13 about what Tony did to **Minor** and both are just
14 simply tragic.

15 I think it's probably a good time to talk about
16 credibility of witnesses now, and you're gonna hear
17 from the judge about the credibility of witnesses, and
18 things that you can look at to determine credibility,
19 but these are all things that are common sense.

20 Brittany, she was combative. She was defensive.
21 She didn't want to answer questions. Those are all
22 things that you can consider in whether or not she was
23 telling the truth. Does she have something to lose?
24 Does she have something to gain?

25 Well, she told you she wasn't working, and she has

CHARGE CONFERENCE

1 four children with the defendant, and she needs him to
2 have that job that she knows he has because she got it
3 for him. She needs him to have that job because she
4 needs to put food on the table for those four children.
5 She does have something to lose.

6 She also told you that she knew for a fact that
7 she moved into his sister's residence at ■ Dillon
8 Lane, but then Tony gets on the stand and contradicts
9 that. He didn't move into that residence. He moved
10 into some residence on Martin Avenue. That's his
11 story. Their stories are not consistent at all. And
12 then we have Chief Collins who did respond to some sort
13 of domestic call. Tony said he didn't call.

14 They didn't really know what was going on. He
15 could have been moving some clothing out. Chief
16 Collins doesn't know whether or not he went back there.
17 He doesn't know whether he moved out for good because
18 he left. There wasn't really a disturbance. He didn't
19 mention seeing anyone named Brittany. He didn't
20 mention seeing anyone named Nisha, who shows up in
21 Tony's rendition of this move-out scenario.

22 So, what do these defense witnesses tell you?
23 Well, it ain't the truth.

24 So, let's talk about DNA for a minute. You know,
25 Family Court's rely on paternity tests everyday.

CHARGE CONFERENCE

1 Tony's been to Family Court. He's had his mouth
2 swabbed. He's been found to be the father of four
3 children that he has to pay child support for. The
4 same testing that you heard about from Agent Breland
5 from SLED. You heard her say she found a match in Tony
6 for the father. You heard her say he is 99.99 percent
7 the father. And you heard that **Malik S.** was excluded from
8 being the father.

9 Now, Ms. Campbell made a big deal about how many
10 locations were tested. There were only 15 locations
11 tested. Now they use a test that does 24 locations.
12 Well, the point is her, her results stand today. He
13 was excluded back then, and he would still be excluded
14 now. You can't extra be excluded. He's simply not the
15 father.

16 So, the truth is, is that Tony Singleton raped a
17 child, and not just any child, a child that he knew
18 since she was a toddler, a child that trusted him and
19 loves her family, and didn't want to be the one to
20 break up that family. He got on the stand and wanted
21 to talk about how hurt he's been by this process.

22 Well, obviously, **Minor** 's the one that's hurt
23 here, and there's no question that this child's smile
24 used to be brighter.

25 Now, Ms. Campbell's gonna get a chance to come up

CHARGE CONFERENCE

1 and reply, and then I'll get a chance to come up and
2 talk to you briefly again about anything knew that
3 comes up. But, in the mean time, I just ask that you
4 maintain your common sense.

5 Thank you.

6 THE COURT: Ms. Campbell.

7 MS. CAMPBELL: May it please the Court?

8 THE COURT: Yes, ma'am.

9 MS. CAMPBELL: Good morning.

10 Tony, I guess some people would say, describe him
11 as, and you saw it, quiet, soft spoken, sort of a
12 stronger, silent kind of, of person to be around. He's
13 clear he's not a scholarly man. He's not got his book
14 learning, but you know what, he's skilled. He's a
15 skilled worker. He works at the saw mill. He makes a
16 living, and he supports his children.

17 Now, despite the aspersions that the State tries
18 to level at him about his fertility, and having all
19 those children, there's nothing criminal, there's
20 nothing wrong or dishonorable about being a parent, and
21 having a large family.

22 The nurse who testified for you told you very
23 clearly. You know, I have to ask the things that the
24 State doesn't want to put in front of you. **Minor**

25 told her, someone her age got her pregnant.

CHARGE CONFERENCE

1 Minor mother, Ms. Orr, told the nurse no,
2 we've not had any older men recently in the home to get
3 Minor pregnant.

4 When the SLED agent testified, she said to you,
5 and, and we had to go through it, but the numbers for
6 Tony Singleton and Malik S. , her words,
7 overlapped. She may have said things like -- I can't
8 take notes while I'm asking the questions, but she may
9 have said something along the lines of can't tell, not
10 sure, and, and -- okay, so, overlapping, can't tell,
11 not sure feels like you're doubting. She told you that
12 in 2016, SLED had a protocol for 15 locations on the
13 huge DNA chain that we all have, but the FBI came in
14 and said no, no, no. We've got, we've got a whole new
15 test. You've got to change things up. Now you have to
16 do 24. This is the right test, the best test we need
17 to start using, and, if you don't start doing it right,
18 if you don't use these 24 locations, then you're not
19 gonna have access, SLED, to our, our databases.

20 So, it's not a test that would be valid for access
21 to FBI databases by her own testimony today. And let's
22 not forgot, because you'll have them in the back with
23 you, these pieces of evidence that the State put in,
24 the, the Q-tip from Tony Singleton, and Malik S.
25 . .

CHARGE CONFERENCE

1 Let's not forgot how dangerously similar the
2 father and the son's names are. You just heard it a
3 second ago. Again, the twisting of testimony, the
4 twisting of evidence. When the prosecutor says, the
5 word match. You know, don't call it a match. Don't
6 lead your SLED agent to call it a match when the
7 official report that they issue uses the word
8 consistent. And, and you know, I have -- again, I, I
9 had to say, well, can you show me where on your report
10 the word match is, is found, and she had to admit,
11 well, we don't use that terminology. We, we just use
12 the word the -- consistent.

13 The judge is gonna talk to you a little bit about
14 kind of like, if you're watching CSI or crime scene
15 shows, you might have heard the phrase or the term
16 alibi used before. Basically, what it means is you
17 have evidence in this case that Tony was not at the
18 scene of the crime. Well, you say -- so, you say to
19 yourself, well, where's the scene of the crime? The
20 scene of the crime is taking place, number one, and
21 we'll get to that in a minute, but on November 30th
22 right in that very small timeframe there, and it's
23 taking place at Ms. Orr's home.

24 Now, my investigator, he had to go out. He had to
25 work this. He had to investigate this. He found Chief

CHARGE CONFERENCE

1 Collins, who had been there in October 2015, and saw
2 Tony, very calmly, clearly mthey had a dispute over
3 something, but it's not like anybody was acting crazy.
4 He was packing up his stuff, and he was moving over,
5 and, you know, forgive me, I don't -- like right
6 across -- I don't know, Ms. Bryant's home and Tony's
7 home in the same little family neighborhood where his
8 other children live, the compound, the area together.

9 So, she's very ill. You heard the testimony about
10 her being on dialysis. He's over there with her. You
11 heard the testimony about **Malik S.** who was
12 a babysitter for the children during 2015.

13 Now, I got to tell you, I don't coach witnesses.
14 I don't, I don't get up there and I don't say to
15 Brittany Palmer, you go in there, and now you smile,
16 you, you be nice. You know, I don't try to change you.
17 I come in here and tell this jury what you know, how
18 you know it, and be who you are.

19 So, yes, that's what she had. I, I was over there
20 sometime before Halloween, around the middle of
21 October. I know Tony moved out. I know he moved back
22 over by his sister, Ms. Bryant. And then Tony told
23 you, I moved out in October. I did not go back. He's
24 not a man that can easily find his words, but, when he
25 did, he was clear. I didn't go back, and I did not

CHARGE CONFERENCE

1 have sex with **Minor**

2 The doctor told you very clearly, the date of
3 conception's November 30th. Make no mistake. The
4 State has to prove that Tony Singleton had sexual
5 intercourse with **Minor** on November 30th, and
6 the evidence that you have from the chief, from
7 Brittany, from Tony, is that -- and if she were alive,
8 I'm sure, Ms. Bryant, is that Tony was living over
9 there with her during that period of time, and not back
10 at the apartment.

11 So let's talk about the computers, the machines.
12 They spit out these numbers. You know, all those
13 numbers that we put up on the board. They spit out the
14 numbers based on how human beings handle the evidence,
15 based on how they put the evidence into the machine.

16 When the solicitor asked about, oh, was it like a
17 fingerprint? No, it's not like a fingerprint. A
18 fingerprint, you know, that's an eyeball thing.
19 That -- you don't put that in a machine and it tells
20 you the answer. Experts have to look at the lines and
21 make a decision whether or not it's a match. So --
22 and, and actually they, they do use that word for
23 fingerprints.

24 So, common sense, yeah, that's what the solicitor
25 said. All machines make mistakes, and here's the

CHARGE CONFERENCE

1 thing, all people make mistakes at some time or
2 another.

3 So, consider this, all those Q-tips, Tony
4 Singleton's Q-tip, Malik S. Q-tip,
5 Ja'Maris M. s Q-tip sitting out there, the
6 biological evidence from Minor Q-tip sitting
7 out there on the table for testing.

8 Okay. So no testimony from the State about that
9 aspect of this process, and you're allowed to ask
10 yourself why, why don't I know about that. Can they be
11 misplaced? Can they be mishandled? Can they be
12 mistaken or mislabeled? Absolutely. By human error?
13 Yeah. Absolutely. I'm not saying intentionally cause,
14 again, people make mistakes. Human beings aren't
15 without the capability of putting this Q-tip over here
16 and turning around, is doing something else, and coming
17 back and saying Tony, Tony.

18 Now, two things the judge is gonna tell you about
19 that are very important, reasonable doubt, and the
20 presumption of innocence. So I've explained it this
21 way before and I think it's helpful. So if you'll bear
22 with me.

23 Reasonable doubt is like this. If you took a box
24 and -- like a cardboard box, and we'll talk about my --
25 the innocence box in a minute. But if you took a

CHARGE CONFERENCE

1 cardboard box, and you put a cat in the box, and you
2 put a mouse in the box, and you close the lid, and you
3 tied it up tight, and you walked out the room. Came
4 back 30 minutes later, and you unwrap it, open the box,
5 nothing but the cat. So you say, oh, well, the cat
6 must have eaten the mouse, right?

7 Do it again. Put the cat in, put the mouse in,
8 tie it up, leave it. Come back, open it up. It's
9 still just the cat. But you pick it up, and you looked
10 a little bit closer. You ask the questions. You try
11 to the figure out what's going on in here, and right
12 there in the very bottom is a hole just big enough for
13 the mouse to get out. So the cat didn't eat that
14 mouse. Now, that's reasonable doubt.

15 When you have, as I said at the beginning of this
16 case, the four walls of this courtroom surrounding us
17 with, with innocence, it's the law. It's been
18 explained before. I don't pretend to, to be the origin
19 of this. Some time back in the 1700s, 1800s, there's,
20 there's talk about a golden robe of innocence placed
21 upon this man, any man, woman, child, sitting at the
22 defendant's table accused. That golden robe of
23 innocence is a say shroud.

24 If the government, if the State wants to rip it
25 off of you, then they must do so completely so that

CHARGE CONFERENCE

1 there are no threats from that robe of innocence upon
2 your shoulders. If there are, that is not guilty.

3 I will say to you that, in closing, that the kind
4 of evidence, 'cause here we are, and even when you
5 begin your deliberations, and throughout your
6 deliberations, the judge will tell you, this is the law
7 and you will follow it, her instructions, I know you
8 will. You cannot tear down these walls. You cannot
9 rip apart innocence unless the weight and gravity and
10 sheer strength of the government's case busts out the
11 sides of it so that they're flattened out and nothing
12 is left. That's what's required in a criminal trial.

13 I would say to you that, in this case, with the
14 questions that you have to ask yourself, with the
15 evidence that you've received in this case, that the
16 box, that innocence remains despite what you have been
17 told in this case. And, even so, when you 12
18 individual persons, individuals selected for this case,
19 for this service, when you have the opportunity to
20 speak to one another, remember this. You each have
21 your own chair. You each have your own mind.

22 I'm confident that when you begin your
23 deliberations, and you go through the evidence in this
24 case, that each and everyone of you will give it the
25 careful consideration that is required, and the

CHARGE CONFERENCE

1 instructions that the Judge is going to give you. And
2 I thank you on behalf of my client, on behalf of his
3 family for everything that you have given us these
4 three days thus far.

5 Thank you.

6 THE COURT: Ms. Swanson.

7 CLOSING ARGUMENT BY THE STATE

8 MS. SWANSON: Thank you, Your Honor.

9 It's ridiculous to propose that just because
10 **Malik S.** middle name is the same as his father's that he
11 has somehow been mistaken as the father of the child
12 that **Minor** was carrying or that a SLED professional
13 DNA analyst would just willy nilly throw some swabs
14 around and go oh, Tony, oh gosh, no, it was **Malik S.**.
15 Well, I mean they're not even labeled that way, okay.

16 There's **Malik S.**, Tony Singleton. All of
17 these, you know, packages are sealed, initialed so that
18 Agent Breland was the only one to have touched any of
19 this, in a lab setting, as a professional, as she does
20 everyday with DNA testing. She writes her initials on
21 the seals so that she knows nothing -- nobody has
22 opened these items. They have not been adulterated.

23 Okay. There's simply nothing in the record to
24 suggest that there was anything wrong with this testing
25 or that it wasn't accurate.

CLOSING ARGUMENT BY THE STATE

1 Alibi. There is also nothing in the record to
2 suggest that it was impossible for Tony to have been at
3 the apartment raping Minor in late November on or
4 about November 30th. Nobody had eyes on him this whole
5 time. Nobody had some GPS tracker on him. He simply
6 says, unlike what Ms. Campbell told you he said, she
7 told you he said he moved out in October. Well, you
8 remember his testimony. He said he moved out way
9 before Halloween, after the summer.

10 So that brings me to another point. If there is
11 something that you can't remember, you know, something
12 that either I have told you or Ms. Campbell have told
13 you that somebody said in testimony, and you're not
14 sure what's accurate and what's not, this is a court of
15 record. You can request to re-listen to it.

16 All right. Pay attention, though, to how alibi is
17 described by Judge Mullen when she charges you on the
18 law in just a few minutes.

19 This is no case of mistaken identity or mistaken
20 DNA. The answer here is more clear than most cases,
21 and, at this point, you have the evidence. You should
22 not have any reasonable doubt that Tony Singleton is
23 the father, that he raped Minor, and I am
24 asking you to hold him guilty, hold him accountable.

25 Thank you.

CLOSING ARGUMENT BY THE STATE

1 JURY CHARGE

2 THE COURT: Madam foreperson, ladies and gentlemen
3 of the jury, you have followed very patiently and
4 listened very attentively to the presentation of the
5 evidence in this case, and I want to thank you for
6 that. It now becomes the duty of the trial judge under
7 the Constitution of this State to charge and instruct
8 you on the law that is applicable to this case. And it
9 is your duty as jurors to accept and apply the law as
10 the Court will now state it to you.

11 As jurors it is your exclusive duty to decide all
12 the issues of fact in this case. You must determine the
13 effect, the value, and the weight of the evidence.
14 Both the State and the Defendant, Mr. Singleton, have
15 the right to expect that you will carefully consider
16 and evaluate the evidence and apply the law of the case
17 to the evidence. And by doing that, both the State and
18 the Mr. Singleton will receive a fair and impartial
19 trial in this case.

20 Now, the State of South Carolina, by the Bill of
21 Indictment in this case, charges the Defendant Tony
22 Orlando Singleton with criminal sexual conduct with a
23 minor in the 1st Degree.

24 Now, I remind you that the fact the Defendant was
25 arrested, charged and indicted in this case is not

JURY CHARGE

1 evidence in this case and cannot be considered by you
2 as evidence of guilt in this case, nor does it create
3 any presumption or inference of guilt.

4 An indictment is simply the formal written
5 instrument which contains the charge made against the
6 Defendant. It is the formal document by which a case
7 is brought into this courtroom.

8 Now, in this case, the Defendant Mr. Singleton has
9 pled not guilty to this indictment. And that plea puts
10 the burden on the State to prove the Defendant guilty
11 beyond a reasonable doubt. A person charged with
12 committing a criminal offense in South Carolina is
13 never required to prove himself innocent.

14 I charge you that it is an important rule of law
15 that a Defendant in a criminal trial, no matter what
16 the seriousness of the charge may be, will always be
17 presumed innocent of the crime for which an indictment
18 was issued unless guilt has been proven by evidence
19 satisfying you, the jury, of that guilt beyond a
20 reasonable doubt. This presumption of innocence does
21 not end when you begin your deliberations, but it
22 accompanies the Defendant throughout the trial until
23 you reach a verdict of guilt based on evidence
24 satisfying you of that guilt beyond a reasonable doubt.

25 Now, the presumption of innocence is like a robe

JURY CHARGE

1 of righteousness that is placed about the shoulders of
2 the Defendant and it remains with the Defendant until
3 it has been stripped away by evidence satisfying you of
4 the Defendant's guilt beyond a reasonable doubt.

5 Ladies and gentlemen, the presumption of innocence
6 is not just a mere legal theory. It is not just a
7 legal phrase we use. It is a substantial right to
8 which every Defendant is entitled unless you, the jury,
9 are satisfied from the evidence of the Defendant's
10 guilt beyond a reasonable doubt.

11 So, what is a reasonable doubt in the law? A
12 reasonable doubt is the kind of doubt that would cause
13 a reasonable person to hesitate to act in their most
14 important decisions.

15 The State has the burden of proving the Defendant
16 guilty beyond a reasonable doubt. And again, the term
17 reasonable doubt must be given its plain and ordinary
18 meaning. Again, to the extent that I may define it for
19 you, a reasonable doubt is the kind of doubt that would
20 cause a reasonable person to hesitate to act in the
21 most important of their personal decisions.

22 The Defendant is entitled to every reasonable
23 doubt arising in this case. If, upon any issue of fact
24 essential to a conviction, you have a reasonable doubt
25 as to how that issue should be resolved, you must

JURY CHARGE

1 resolve that reasonable doubt in favor of the
2 Defendant.

3 Now, some of you may have served as jurors in
4 civil cases where you were told that it was only
5 necessary to prove that a fact is more likely true than
6 not true, such as what we call the greater weight or
7 the preponderance of the evidence. And often in civil
8 cases we use the clear and convincing evidence
9 standard. In these cases, it is necessary to prove that
10 the truth of something is highly probable. Ladies and
11 gentlemen, in criminal cases the State's proof must be
12 more powerful than either one of those. It must be
13 beyond a reasonable doubt.

14 Suspicion, no matter how strong, is insufficient
15 to convict a person charged with a crime. That the
16 facts and circumstances presented may seem suspicious
17 and the Defendant's guilt may seem probable, this is
18 not sufficient in the law to convict.

19 Proof beyond a reasonable doubt is proof that
20 leaves you firmly convinced of the Defendant's guilt.
21 Now, there are very few things in this world that we
22 know with absolute certainty, and in criminal cases the
23 law does not require proof that overcomes every
24 possible doubt. If, based on your consideration of the
25 evidence, you are firmly convinced that the Defendant

JURY CHARGE

1 is guilty of the crime charged, you must find the
2 Defendant guilty. If, on the other hand, you think
3 there is a real possibility that the Defendant is not
4 guilty, you must give the Defendant the benefit of the
5 doubt and find him not guilty.

6 Now, I remind you that during this trial you and I
7 have certain duties to perform. As the judge, it is my
8 responsibility to preside over the trial of this case.
9 And I also have the duty to rule on the admissibility
10 of the evidence that is offered during the trial. You
11 are to consider only the competent evidence before you.
12 You are to consider only the testimony that has been
13 presented from the witness stand and any exhibits which
14 have been made a part of the record in this case.

15 I have the additional duty to charge you the law
16 that is applicable to this case. I am the sole judge
17 of the law, and it is your duty as jurors to accept and
18 apply the law as I will now state it to you. If you
19 have any idea as to what the law is or what the law
20 ought to be and it does not agree with what I now tell
21 you the law is, you must abandon this idea because you
22 are sworn to accept the law and apply the law exactly
23 as I state it to you.

24 Now, in every case tried in the court before a
25 jury, the jury is the sole and exclusive judge of the

JURY CHARGE

1 facts. A trial judge cannot intimate, comment on, or
2 make any Statement to a trial jury about the facts in a
3 case. And since you, the jury, are the sole judge of
4 the facts in this case, you are not to infer from what
5 I have said during the progress of this trial in ruling
6 upon the admissibility of evidence, or otherwise, or
7 anything that I say now during the course of this
8 instruction to you, that I have any opinion about the
9 facts in this case. The law does not allow me to have
10 an opinion about the facts in this case. This is a
11 matter solely for you, the jury, to determine.

12 Now, there are two types of evidence which are
13 generally presented during a trial: direct evidence and
14 circumstantial evidence. Direct evidence is the
15 testimony of a person who claims to have actual
16 knowledge of a fact, such as an eyewitness. It is
17 evidence which immediately establishes a main fact to
18 be proved. Circumstantial evidence is proof of a chain
19 of facts and circumstances indicating the existence of
20 a fact. It is evidence which immediately establishes
21 collateral facts from which the main fact may be
22 inferred. Circumstantial evidence is based on
23 inference and not on personal knowledge or observation.

24 Ladies and gentlemen, crimes may be proven by
25 circumstantial evidence. The law makes no distinction

JURY CHARGE

1 between the weight or value to be given to either
2 direct or circumstantial evidence. However, to the
3 extent the State relies on circumstantial evidence, all
4 of the circumstances must be consistent with each
5 other, and when taken together, point conclusively to
6 the guilt of the accused beyond a reasonable doubt. If
7 these circumstances merely portray the Defendant's
8 behavior as suspicious, the proof has failed.

9 The State has the burden of proving the Defendant
10 guilty beyond a reasonable doubt. And this burden
11 rests with the State regardless of whether the State
12 relies on direct evidence, circumstantial evidence, or
13 some combination of the two.

14 Now, it is your duty as the jury to determine the
15 credibility of witnesses who have testified in this
16 case. And credibility simply means believability. It
17 is your duty as jurors to analyze and to evaluate the
18 evidence and determine which evidence convinces you of
19 its truth.

20 In determining the believability of witnesses who
21 have testified in this case, you may believe one
22 witness over several witnesses or several witnesses
23 over one witness. You may believe a part of the
24 testimony of a witness and reject the remaining part of
25 the testimony of that same witness. You may believe

JURY CHARGE

1 the testimony of a witness in its entirety or reject
2 the testimony of a witness in its entirety. And you
3 may consider whether any witness has exhibited to you
4 any interest, bias, prejudice, or other motive in this
5 case. You may also consider the appearance and manner
6 of the witness on the witness stand.

7 Now, ladies and gentlemen, normally a person
8 cannot give what is called opinion testimony. Normally
9 when a person testifies they must testify as to what
10 they either saw, heard, or sensed by smell, or
11 something of that nature. However, there is an
12 exception when someone is qualified because of
13 education or experience, they are permitted to give
14 their opinion in certain areas if the Court qualifies
15 them that way. And that evidence is for you to use as
16 you see fit and for you to give it the weight and
17 credibility you believe is appropriate.

18 Now, ladies and gentlemen, in this case the
19 Defendant, Mr. Singleton, is charged with criminal
20 sexual conduct with a minor in the first degree. To
21 prove this offense the State must prove beyond a
22 reasonable doubt that the Defendant engaged in a sexual
23 battery with a victim who is less than eleven years of
24 age. Ladies and gentlemen, a sexual battery is sexual
25 intercourse, cunnilingus, fellatio, anal intercourse,

JURY CHARGE

1 or any intrusion, however slight, of any part of a
2 person's body or of any object into the genital or anal
3 openings of another person's body, except when the
4 intrusion is accomplished for medically recognized
5 treatment or diagnostic purposes.

6 Now, the Defendant has raised the defense of
7 alibi. In order to establish an alibi, it must be
8 shown the Defendant was at another specified place at
9 the time that the crime was committed, and that it was,
10 therefore, impossible for the Defendant to have been at
11 the scene of the crime. Mere denial of presence at the
12 scene of a crime does not constitute an alibi.

13 There is no burden on the Defendant to prove an
14 alibi. The burden is on the State to prove beyond a
15 reasonable doubt that the Defendant was actually
16 present at the scene of the crime, actually
17 participated in it, and was not somewhere else. In
18 other words, the State has the burden of disproving the
19 Defendant's alibi defense.

20 Madam foreperson, members of the jury, as you
21 retire to begin your deliberations in this case I wish
22 to express the hope that you are mindful of the
23 importance of your responsibility here today. You are
24 not called upon to serve as jurors very often, and the
25 proper performance of the duty requires each of you to

JURY CHARGE

1 reach the height of freeing your mind of all improper
2 influences.

3 Please do not get the idea that I am trying to
4 tell you how you should decide this case. As I have
5 already told you, under the laws of the State of South
6 Carolina, you, the Jury, are the sole judge of all of
7 the facts. And it would be highly improper for me to
8 influence you in your performance of that duty.

9 Ladies and gentlemen, but as the presiding officer
10 of this Court, I am vitally concerned that whatever
11 verdict you reach will be the result of you going back
12 into your jury room and confining your consideration to
13 the evidence and the law that you have heard here in
14 this courtroom, weighing it fairly and impartially, as
15 I have every confidence you will.

16 Ladies and gentlemen, I remind you, your verdict
17 must be unanimous. It must be the verdict of all 12
18 jurors. And to that end, my law clerk has prepared a
19 verdict form. It is simply a piece of paper with a
20 case caption. And in this case, ladies and gentlemen,
21 there is simply one question. The question is: As to
22 the charge of criminal sexual conduct in the first
23 degree, we find the Defendant, Tony Singleton -- and
24 there is two lines. One is either not guilty or
25 guilty.

JURY CHARGE

1 Ladies and gentlemen, don't infer anything from
2 the order that I put not guilty or guilty. Every trial
3 we just reverse them. Madam foreperson, under that
4 there is a line for you to sign the verdict form and
5 date it. When the jury has reached a unanimous
6 verdict, I need you to knock on the jury room door and
7 we are going to accept you back into the courtroom to
8 take your verdict.

9 Madam foreperson and ladies and gentlemen, for the
10 very last time I am going to send you back to your jury
11 room and I am going to tell you not to begin discussing
12 the case. If there is something further on the law
13 that the lawyers want me to charge you, I am going to
14 bring you back out here and I am going to charge you
15 further.

16 If not, you are going to be given the verdict form
17 and the evidence that has been presented in this
18 courtroom and introduced and that is going to be your
19 signal to begin your deliberations. Ladies and
20 gentlemen, I will also tell you that if you don't have
21 something back there that you are asking for, it is
22 because you are not entitled to have it. You are
23 entitled to have the evidence that is in this case.

24 Additionally, ladies and gentlemen, because we are
25 a court of record, my court reporter has been taking

JURY CHARGE

1 down everything that was said during the trial of this
2 case but there is not a written transcript. There is
3 what is called a back-up audio. If there is certain
4 testimony that you want played back by a witness, what
5 I can do is bring you back into the courtroom and I
6 will play that witness' testimony. I just need you to
7 know and understand that I am required to play that
8 entire witness' testimony. So, the direct examination,
9 the cross examination, and if there is a redirect and a
10 recross. But we can certainly do that. We simply just
11 have to go back and cue that, which most times it just
12 takes a couple of minutes. But we certainly have the
13 capability to do that.

14 Ladies and gentlemen, I am going to excuse you
15 back to your jury room. Again, do not begin discussing
16 this case until you receive the verdict form and the
17 evidence in this case. All right, I appreciate it.

18 (The jury exits the courtroom at 11:24.)

19 THE COURT: Any exceptions or additions to the
20 charge from the State?

21 MS. SWANSON: None from the State.

22 THE COURT: From the Defense?

23 MS. CAMPBELL: Just continuing the requests as I
24 made earlier, so, no.

25 THE COURT: Thank you. I understand, and I

COLLOQUY

1 appreciate that. All right, y'all.

2 Have you shown them the verdict form? You didn't
3 have it. Go show them. Is there any issue to the
4 verdict form, just to make sure that there is no
5 objection to the verdict form. Y'all just go ahead and
6 put the evidence together and get it sent back to them.

7 MS. CAMPBELL: It needs to say with a minor.

8 THE COURT: Thank you. And I was wondering about
9 that.

10 MS. SWANSON: Yes.

11 THE COURT: Would you mind if I just handwrite it
12 in?

13 MS. SWANSON: Sure. I have no objection.

14 MS. CAMPBELL: Would it be difficult to print it
15 right quick? I mean I'm just not sure how---

16 THE COURT: Can you print it?

17 MS. CAMPBELL: Yeah, other than that it's fine.

18 THE COURT: It should -- it just needs to say
19 criminal sexual conduct with a minor first degree.

20 (checking exhibits)

21 THE COURT: You've been through the evidence, is
22 that correct, solicitor?

23 MS. SWANSON: Yes, Your Honor.

24 THE COURT: Ms. Campbell, you've been through the
25 evidence, all right.

JURY DELIBERATING

1 I will also tell you I don't know what this jury's
2 verdict is going to be. But if you -- if it, if it
3 isn't in the newspaper tomorrow, if you want to call
4 the Clerk's Office in the morning, someone will be able
5 to tell you what it was.

6 All right. And you still have lunch coming, I
7 forgot about that. So it's supposed to be here at 12.
8 You can wait or not wait. It's completely up to you.
9 If you want to wait, you are welcome. If not, you are
10 welcome to leave. We will put you in a different place
11 so you are not in the middle of deliberations. You
12 will take care of that, Melinda? Thank you. You are
13 excused. Thank you.

14 (Jury deliberating.)

15 THE COURT: All right. Ladies and gentlemen, I
16 understand the jury has reached a verdict in this case.
17 I want to remind you-all, I, I don't know what the
18 verdict is obviously, but I want to make sure you can
19 contain yourself. If, for some reason, you can't just
20 control your emotions, regardless of what the verdict
21 is, I need you to remove yourself now. Because, again,
22 if there are any outbursts, I'm gonna have to take you
23 into custody, and I would absolutely dread having to do
24 that, but it is what I'm required to do.

25 All right. So, with that said, if anyone does

VERDICT

1 need to remove themselves, let's go ahead and bring the
2 jury in.

3 (Jury enters the courtroom.)

4 THE COURT: Madam Foreperson, I understand the
5 jury's reached a verdict.

6 THE FOREPERSON: Yes, we have.

7 THE COURT: Would you please pass it to Mr.
8 Medford?

9 If Mr. Singleton will please rise?

10 In the State of South Carolina versus Tony Orlando
11 Singleton, as to charge of criminal sexual conduct with
12 a minor in the first degree, we find the defendant,
13 Tony Singleton, guilty, and it's signed by our
14 foreperson. Go ahead and be seated please.

15 Would you like me to poll the jury, Ms. Campbell?

16 MS. CAMPBELL: Yes, ma'am.

17 THE COURT: Ladies and gentlemen, what I'm going
18 to do is I am gonna call each of your names, and I'm
19 going to ask you two questions. The first thing I'm
20 gonna ask is this your verdict. The answer is yes or
21 no. And is this still your verdict, yes or no.

22 Okay. You don't need to stand. You just need to
23 wave me down so I know who you are.

24 Okay. Mr. Henderson, sir, is this your verdict?

25 JUROR: Yes.

SENTENCING

1 MR. SWANSON: It's just an oversight.

2 THE COURT: Got it. On Indictment 2016-GS-25-0137
3 for criminal sexual conduct with a minor under the age
4 of 11 in the first degree, the sentence of this Court
5 is that you, Mr. Singleton, be committed to the
6 Department of Corrections for a period of life. Good
7 luck to you, sir.

8 MS. CAMPBELL: Your Honor, at this time, on behalf
9 of Mr. Singleton, I would make the motion for new
10 trial. The grounds for the motion will be that the
11 Court erred in failing to grant the defendant's motion
12 for a mistrial when the solicitor improperly referred
13 to Mr. Singleton as a predator in her opening
14 statement. Secondly, failing grant defendant's
15 motion for a mistrial when there was an emotional
16 outburst by the child victim in this case during
17 defendant attorney -- during my opening statement,
18 which caused the child victim to be removed from the
19 courtroom.

20 The next would be failing to grant defendant's
21 motions for directed verdict. And, lastly, failing to
22 charge defendant's request to charge the jury on
23 reasonable doubt as proposed in Defendant's Exhibit 1,
24 and Defendant's proposed third party guilt in
25 Defendant's Exhibit 3. Thank you.

SENTENCING

1 THE COURT: Thank you. Well, respectfully, I
2 based on my earlier judgments based on those decisions,
3 the only one I will make for the record as far as
4 during the defendant's opening statement, the victim
5 began crying. However, I will say I will not
6 characterize it in any way as an outburst. She just
7 began crying, and she was not removed from the
8 courtroom by me. The victim's advocate, in her wisdom,
9 just gently took her and walked her out of the
10 courtroom as she should, and did a good job doing it.
11 So, that was just the way it was handled. So, I don't
12 think it was outwardly disruptive, and I know it's one
13 of the things the Appellate Courts look at it, you
14 don't know if you weren't here exactly how it happened.
15 So, I will say it was minimal.

16 But that's -- so, respectfully, I'm denying all
17 your prior motions, and basing them on my earlier
18 decisions. Good luck to you, Mr. Singleton.

19 MS. CAMPBELL: Thank you.

20 THE COURT: Keep your seats.

21 And you can go ahead and take him. Thank you.
22 Your lunch is here and I'll come back and speak to you.
23 And I thank you. It is a very difficult case and I
24 certainly understand the difficulty that you have. But
25 I think that you have been a great jury. And I think

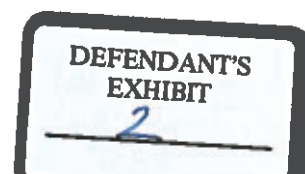
STATE OF SOUTH CAROLINA	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF HAMPTON	)	IN THE COURT OF GENERAL SESSIONS
	)	INDICTMENT NO.:
	)	2016GS2500137
STATE OF SOUTH CAROLINA,	)	
versus	)	
	)	
TONY SINGLETON,	)	DEFENDANT'S REQUEST TO CHARGE
Defendant.	)	THIRD PARTY GUILT
	)	

Now comes the Defendant, by and through his undersigned attorney, requesting that this Honorable Court instruct the jury as follows:

"The defendant contends that there is evidence before you indicating that someone other than he may have committed the crime, and that evidence raises a reasonable doubt with respect to the defendant's guilt.

In this regard, I charge you that a defendant in a criminal case has the right to rely on any evidence produced at trial that has a rational tendency to raise a reasonable doubt with respect to his own guilt.

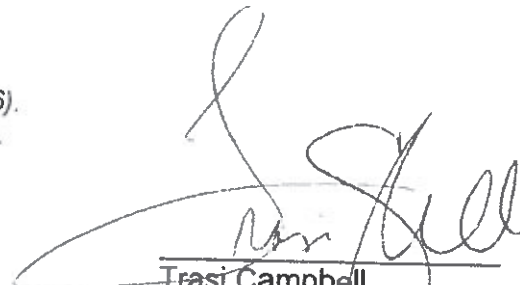
I have previously charged you with regard to the State's burden of proof, which never shifts to the defendant. The defendant does not have to produce evidence that proves the guilt of another, but may rely on evidence that creates a reasonable doubt.



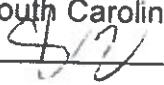
In other words, there is no requirement that this evidence proves or even raises a strong probability that someone other than the defendant committed the crime.

You must decide whether the State has proven the defendant's guilt beyond a reasonable doubt, not whether the other person or persons may have committed the crime."

Holmes v. South Carolina, 547 U.S. 319 (2006).
Chambers v. Mississippi, 410 U.S. 284 (1973).
Miller v. State of South Carolina, (2008).



Traci Campbell
14th Judicial Circuit
Chief Defender
Violent Crimes Division

Beaufort, South Carolina
 2019

WITNESSES

Michael G. Thomas - Estill Police
Department

DOCKET NO. 2016GS2500137

The State of South Carolina**County of Hampton****COURT OF GENERAL SESSIONS****February Term 2017****THE STATE**

vs.

Tony Orlanda Singleton

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

Defendant

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

Defendant

Witness:

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

ARREST WARRANT NUMBER

2016A2520200027

Indictment For

**Criminal Sexual Conduct With Minor,
1st degree**

SC Code: 16-3-655(A)(1)

CDR Code: 0385

[Signature]
Foreperson of Grand Jury
Date: FEB 06 2017

VERDICT**TRUE BILL***Guilty*

[Signature]
Foreperson of Petit Jury
Date: 8-7-19

INDICT

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

INDICTMENT
2016GS2500137

At a Court of General Sessions, convened on February 6, 2017, the Grand Jurors of Hampton County present upon their oath:

Criminal Sexual Conduct With Minor, 1st degree

That in Hampton County, South Carolina, on or about November 30, 2015, the Defendant, Tony Orlanda Singleton, did engage in sexual battery with Minor [REDACTED] who was less than eleven years of age at the time of the sexual battery, all in violation of Section 16-3-655(A)(1), et al. of the Codes of Law of South Carolina.

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



Solicitor

TRUE BILL

25 to Life

STATE OF SOUTH CAROLINA

COUNTY OF

Hampton

RECEIVED

IN THE COURT OF GENERAL SESSIONS

STATE

AUG 19 2019

INDICTMENT/CASE#: 2016-GS-25-0137

Tony O. Singleton

SC Court of Appeals

AW#: 2016A2520200027

Date of Offense: 11/30/2015

S.C. Code §: 16-3-655(A)(1)

CDR Code #: 0385

AKA:

Race: B

Sex: M

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO:

CSC 1st w/ Minor < 11

In violation of §

16-3-655(A)(1)

of the S.C. Code of Laws, bearing CDR Code #

0385

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☒ Mandatory GPS☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The pleas:

☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTORNEY:

Solicitor

#72934

X Tony Singleton

Attorney for Defendant

15149

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections☐ County Detention Center,

SC Bar #

for a determinate term of Life days/months/years or

☐ under the Youthful Offender Act not to exceed

years

and/or to pay a fine of \$

; provided that upon the service of

days/months/years and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPSObtain GED ☐

Attend Voc. Rehab. Or Job Corp.

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

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

TOTAL

\$ 128.75

Clerk of Court/Deputy Clerk

Court Reporter:

Myrlinda O'Nettles
Mona Manley

SCCA/217 (04/2018)

Presiding Judge

Judge Code:

Sentence Date

C. Muller

2142

8-7-19

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

s/Susan B. Hackett

Susan B. Hackett

Appellate Defender

RECEIVED

Nov 04 2020

SC Court of Appeals

South Carolina Commission on Indigent Defense

Division of Appellate Defense

PO Box 11589

Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 4th day of November, 2020.