VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Horry County

Honorable Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KEVIN J. MCKINNON,

APPELLANT.

APPELLATE CASE NO. 2020-001378

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

DEFENDANT'S EX. NOS. 6 – 17 (PHOTOS), DEFENDANT'S EX. NO. 26 (FLASH DRIVE, PORTION OF FORENSIC INTERVIEW), AND STATE'S EX. NO. 2 (FORENSIC INTERVIEW, REDACTED).

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY) 2016-GS-26-02822 AND 2823

STATE OF SOUTH CAROLINA,)
)
Plaintiff,) **Transcript of Record**
)
vs.)
) March 2-3, 2020
KEVIN J. MCKINNON,)
)
Defendant.)

B E F O R E:

Honorable Steven H. John
Horry County Courthouse
Conway, South Carolina

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Attorney for Plaintiff

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Attorney for Defendant

Kay H. Richardson
Circuit Court Reporter

indictment once the case is called for trial as long as it does not change the nature of the offense, and I would allege that this does not change the nature of that offense.

THE COURT: Well, I don't know. Okay? I'm just gonna think about it.

The indictment says on or about January 1, 2013 and July 20th, 2015. I'll think about it.

MS. ANDREW: Thank you, Your Honor.

THE COURT: Okay. All right.

MOTION TO ADMIT EVIDENCE OF VICTIM'S BEHAVIOR AFTER ALLEGATIONS:

THE COURT: You moved, Mr. Brown, to admit evidence of victim's behavior after allegations. What is that?

MR. BROWN: Your Honor, the child went to go visit family and the family banned her from the computer because she was caught on illicit websites.

THE COURT: Okay. What's the state's position?

MS. WALTER: Court's indulgence.

MS. ANDREW: Court's indulgence, Your Honor.

Your Honor, the state has no objection to that coming into evidence.

THE COURT: All right. Very good.

MOTION FOR ADMISSION OF OUT-OF-COURT STATEMENT OF THE CHILD:

THE COURT: The next one is motion for admission of out-of-court statement of the child -- now, this is the statement

of Cousin is that correct, Mr. Brown?

MR. BROWN: Yes, Your Honor.

THE COURT: All right. Now, it's a statement that was given where she brought allegations against someone else other than this defendant?

MR. BROWN: Yes, Your Honor.

THE COURT: Okay. So, exactly what are the statements that you want to have admitted into evidence? How do they relate to the testimony we've heard of the victim, Complainant in this case?

MR. BROWN: Your Honor, in that interview, and there's only a few minutes of it, but that the child says that Complainant came up with this, and that she asked me -- what does the child say -- she asked me to draw pictures of what we've been doing, and then says -- it's the interviewer that just testified today, Ms. Nordeen -- that also these pictures show want me and Dan had been doing. Dan is the individual who ---

THE COURT: Well, that's Cousin and Dan; that has nothing to do with this case.

MR. BROWN: But it talks about Complainant told her to do this. Complainant said I want you to draw pictures of what we've been doing which shows that she has knowledge of these acts from other than my client, and that they are the same acts she's alleging because they're not different, which shows that she would have knowledge of sexual acts from outside my client and

that they are the same acts that she alleged my client to do. So, that's ---

THE COURT: So, you intend, and you want to introduce this as evidence in your defense?

MR. BROWN: Yes, Your Honor. It is a -- because the child in her interview says this never happened before, which means that's a prior inconsistent statement, it comes in, and there's pictures of it. And not only that, that show -- the child wrote -- the two children wrote together, let's make up this game. Let's say grandpa touched us. Okay. We won't tell anybody. And they wrote it, and it's into different color ink or two different color markers, and it was found by the family. We turned that over to the state months ago. So, there are specific allegations that the child talks about in her interview corroborated by their victim's -- the only one they're bringing -- own statement against her, and it relates to specific sexual acts. And so, it goes under *State v.* -- it comes in under the *Weaving* -- *Weavering* (spelled phonetically) case, Your Honor. It's behavioral evidence. It's relevant because the evidence simply explains the prior effect and that they talked about it. She discusses it. She mentions Dan, she talks about this case. And in that writing, she says -- Complainant says is Dan in jail for the thing? And Cousin says yeah. And then she says, well, let's say -- I know what that feels like. And Cousin says huh. And Complainant says let's say

someone touches. And Cousin says okay. And Complainant says let's say grandpa touches. And Cousin says okay, let's not tell anybody. And then later the -- it's three days later, they write, well -- Cousin says, well, listen, Complainant I told. Complainant says why. And Cousin says it slipped. Complainant says are we in trouble. And Cousin says I think so. These writings detail the fact that they together made it up. Cousin says it in her interview. They knew about it and didn't question Complainant about it, and we have a right to cross-examine Complainant who is gonna testify on prior inconsistent ---

THE COURT: So, you want to use it on cross-examination. You want it -- my question was, were you gonna use it in direct presentation of your defense, direct evidence.

MR. BROWN: I was gonna do both.

THE COURT: So, you want to use it as cross-examination of Complainant

MR. BROWN: Yes. And put it in evidence that being the family found it and Cousin admitted to it that, yeah, we made this game up which would exonerate my client completely.

THE COURT: You intend to try and proffer Cousin as a witness?

MR. BROWN: Absolutely. She's willing -- she's here and she's willing to testify that they made that -- Complainant came up with this game, had a dream, let's make it up, let's say someone did it, and let's say grandpa did it, and they wrote

it down, and she admits to it.

THE COURT: What's the state's position?

MS. ANDREW: I suppose the state is a little confused, Your Honor. It sounds to me like all the statements he talked -- he is talking about are Complainant statements against a different defendant in a different case.

THE COURT: Well, ---

MS. ANDREW: I'm sorry. Cousin -- I apologize.

THE COURT: There's nothing gonna be placed in evidence in this case that has anything to do with Cousin case against that other defendant. We're not talking about that case.

MS. ANDREW: I think that is what he's talking about.

THE COURT: Okay. Well, that's not what I understand.

Mr. Brown, tell me again. What is it that you expect -- not talking about Cousin and Dan -- what you expect through the testimony of Cousin and the playing of her statement, out-of-court statement?

MR. BROWN: It's because these two girls were very similar in age, they lived together almost. They're almost siblings, they're cousins. They are in the same class, same grade, they went to the same summer camp. They talked about everything. Complainant knows what Cousin and Dan did because she asks is Dan in jail for the thing. So, Complainant knows what happened to Cousin because I -- we can assume they talked

about it to her. So, Cousin was molested or sexualized by Dan. Cousin and Complainant act out sexually and it's the same allegations that Cousin says with Dan ---

THE COURT: When is it that Cousin indicates that she and Complainant acted out together?

MR. BROWN: Just months before.

THE COURT: Months before when? Tell me when.

MR. BROWN: In 2014.

MS. ANDREW: In the case against Daniel Shaub is what he's referring to.

MR. BROWN: In 2014, that's when that case -- that's when her allegations were. A few months later, this allegation game and Ms. Nordeen interviewed Complainant as she did with Cousin Ms. Nordeen interviewed both Cousin and Complainant So, Cousin says Complainant knows about it, Complainant admits it because she wrote it down, and that -- they drew pictures of it how they're having sex with each other. And, it was in the interview that she drew pictures of it. I don't want to bring in the whole interview. I just want to be able to say, look, Cousin and Complainant talked about it. Complainant knew about Dan, knew about the allegations. It's the same allegations that Cousin and Dan had, I mean, almost exact the same. And then, Complainant uses that to create this game -- they wrote it down, and then they said let's blame grandpa, and it's the same. So, the ---

THE COURT: All right. All right.

MS. ANDREW: I think I can clarify this, Your Honor.

THE COURT: Okay. Go ahead.

MS. ANDREW: The interview he's referring to done by Ms. Nordeen, Ms. Nordeen interviewed Cousin a total of one time, and she interviewed her in relation to the case against Daniel Shaub, not the defendant in this case. A different interviewer interviewed her for this case. If Mr. Brown is asking the Court to play the interview that Cousin gave for this case against the defendant, the state is happy to do that. He is also referring to -- we are, we're happy to do that.

MR. BROWN: And I'm ---

THE COURT: Just ---

MR. BROWN: Sorry, sorry.

MS. ANDREW: He's also referring to these writings that he gave me, which he alleges are Cousin and Complainant saying that they made this stuff up. I'm happy for him to cross-examine Complainant with these writings and ask her if she wrote this stuff.

THE COURT: Okay. All right.

MS. ANDREW: These things, but ---

THE COURT: All right. So ---

MS. ANDREW: But, playing the interview for Daniel Shaub, the state would oppose that.

THE COURT: No, okay ---

MR. BROWN: I don't want the whole interview ---

THE COURT: Okay. And I appreciate that.

MR. BROWN: Okay.

THE COURT: All right. During the state's presentation of its case and after the testimony of the minor, Complainant you can cross-examine her as to those writings, whether those are her writings, whether she did that, whether she made up a game with Cousin to blame grandpa for what they were doing. Okay?

MR. BROWN: Yes, sir.

THE COURT: That's all you can ask. We're not playing any videos, we're not talking about Cousin and Dan. It's gonna be solely about this case on cross-examination. Now, in the presentation of your defense -- and we'd have to do this outside the presence of the jury first -- if you're gonna proffer first the testimony of the minor, Cousin I may allow testimony in that same vein, that they got together, were acting out, and they're gonna blame grandpa for it. Whether it goes any further about -- I'd have to -- you'd have to center it down on the video and be able to play it to me beforehand so I can look at it and see if I would allow it. But I may allow the testimony of Cousin along the same veins and same questions you would ask of Complainant on cross-examination. Okay? But we're not bringing up, we're not talking about the prosecution of another case. Okay?

MR. BROWN: Your Honor, and I did not want to talk about the prosecution of it.

THE COURT: Okay. And, and her allegations against somebody else.

MR. BROWN: And this is related to the subpoena that the defense sent to the state to get the notes from the interviewer and all we have is the audio, so we don't have the video of that, which I ---

MS. ANDREW: I can't play the -- it's just because it's old; I can't play it either.

MR. BROWN: And so the only -- the relevancy ---

THE COURT: Okay. They gave you what they gave you.

MS. ANDREW: Yes.

MR. BROWN: The relevance that the state -- the defense argues is that these two girls were so close, they talked all the time, the allegations that Cousin says or what Complainant now says ---

THE COURT: I don't have a problem with you asking her did they talk about it. Did they act out? Did they draw pictures? Did they decide they're gonna blame grandpa about it? Don't have a problem with that. You're not talking about Cousin allegations against Dan. Okay? So, that's where we are. Okay?

All right. So, that basically is the same thing as your motion to admit specific conduct of the victim?

MR. BROWN: Yes, yes.

THE COURT: All right. So, that's the same thing. So,

it's -- that's what I'm telling you you can do on cross-examination and direct. If you want to try and use in evidence in the defense of your case, portions of a video by Cousin you need to pull it out, and we'll play that, and I'll look at it before, obviously, you'd attempt to give it to the jury. But I'm gonna leave it to you to find exactly what it is you want to use and bring it to the Court's attention, and then we'll look and see. I don't know what I'll do until I actually view it and see it and see exactly what it is you want to use. Okay? But that's separate from you proffering the testimony of Cousin Okay?

MR. BROWN: I understand, Your Honor. And I have the timestamps for that and it's only three minutes.

THE COURT: All right. So, please make sure that you share that with the state so they know exactly what it is that you will be asking the Court to do.

MR. BROWN: Yes, sir.

MS. ANDREW: And, Your Honor ---

THE COURT: Yes, ma'am.

MS. ANDREW: If he puts Cousin on the stand and wants to play portions of her statement related to this case about the allegations of this defendant, the state certainly feels like that would open the door for us to play the entire statement to impeach her, and if ---

THE COURT: Well, that's another -- that's another issue

and y'all can talk about that. Okay?

MR. BROWN: Okay.

THE COURT: You just bring it to the attention what it is you want to use, and then we'll go from there.

So, I'm gonna do some research and look at your issue about the indictment and see what the -- what the Court's ruling is gonna be and I'll tell you that tomorrow morning. Okay?

MS. ANDREW: Thank you, Your Honor.

THE COURT: Thank you very much.

MR. BROWN: You ---

THE COURT: I went through all the motions you gave me. Are there other motions?

MR. BROWN: There was a prior motion I just want to put on the record, Your Honor, is the motion for continuance, and it was ---

THE COURT: Well, I'll -- I'll hear you about that ---

MR. BROWN: It's already been heard, actually, Your Honor.

THE COURT: You, you've kind of ---

MR. BROWN: I think we used it in the other one.

THE COURT: You have, and you've also now put it in through the -- your motion for the -- quashing the indictment, so ---

MR. BROWN: Yes.

THE COURT: So, I'll -- my ruling on that will grant it or not, one way or another on the motion to quash the indictment.

MR. BROWN: I understand.

THE COURT: Okay?

MR. BROWN: Okay.

THE COURT: All right.

MR. BROWN: Thank you, Your Honor.

THE COURT: Thank you very much.

MS. ANDREW: Thank you, Your Honor.

MR. BROWN: Your Honor ---

THE COURT: Yes, sir.

MR. BROWN: What time in the morning would you like us ---

THE COURT: We're gonna start at 9:30, so y'all need to be here by 9:15. And please have communicated with the defendant's bonding company about staying on the bond.

MR. BROWN: Yes, sir.

THE COURT: All right. Thank you very much.

MS. ANDREW: Thank you.

RECESS - 5:20 P.M.

********OFF THE RECORD*******

MARCH 3, 2020

ON THE RECORD - 9:49 A.M.

RULING OF THE COURT:

THE COURT: We are now resuming the matter of the State of South Carolina vs. Kevin J. McKinnon. And this is on the defendant's motion to quash the indictments. More specifically, the indictment set forth in 2016-GS-26-02822, whereby the defendant is -- was indicted for criminal sexual conduct with a minor in the first degree. The issues raised by counsel do not affect 2015-GS-26-02823, the indictment for disseminating obscene material to a minor 12 years of age or younger. That indictment is not subject to a challenge based upon the matters set forth in the motion to quash the indictment.

The Court has examined the issues. I've looked at the wording of both indictments, I've looked at the arrest warrants. Obviously, yesterday in an unrelated matter, pursuant to 17-23-175, I looked at the video of the minor involved in this matter. I have looked at the case law and a number of cases.

An indictment is a notice document. It places the defendant on notice as to the nature of the charges and what he is to defend, and obviously it must put the Court on notice what -- enough information to allow the Court to impose a proper sentence if called upon. While it is correct that exact time is not a material element of criminal sexual conduct with a minor first degree, the indictment must, if it sets forth a time period, and which it should, it must

properly set forth that time period. It is clear from the language set forth in the arrest warrants, clear from the victim's statement on the video, clear from the indictment for disseminating obscene material to a minor, 12 years of age or younger, that the timeframe alleged is basically from January 1st, 2013 through July 20th of 2015.

Unfortunately, the language in the arrest warrant wasn't carried forward to the indictment, and the indictment by a plain reading clearly sets forth two dates, January 1st, 2013 and July 20th, 2015, on which the alleged conduct took place. Clearly, that's not the facts of this case, but defense counsel has filed a motion to quash the indictment and has answered the Court's question directly stating that they came into court prepared to defend only those two days, and I took that answer from Mr. Brown as an Officer of the Court.

Based upon that, the Court has no choice but to quash the indictment because it is improper. The state intends to try the defendant for the time period between January 1st, 2013 and July 20th, 2015, inclusive, that total time period.

Obviously, what will happen now is the state will present this matter to the grand jury again, reindict the defendant and the matter will be placed on a trial docket in the future.

Based upon the fact that there is no proper challenge to the indictment in 2016-GS-26-2823, I am continuing that matter until the state re-indicts the defendant for criminal sexual

conduct with a minor in the first degree upon proper language.

MR. BROWN: Thank you, Your Honor.

MS. ANDREW: Thank you, Your Honor.

THE COURT: For your understanding, I will excuse the jury. Thank you very much.

ADJOURNED - 9:54 A.M.

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF GENERAL SESSIONS**
COUNTY OF HORRY	)	**2020-GS-26-01366**
STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	**Transcript of Record**
	)	
vs.	)	
	)	September 29, 2020 to
KEVIN J. MCKINNON,	)	October 2, 2020
	)	
Defendant.	)	

B E F O R E:

Honorable Steven H. John
Horry County Courthouse
Conway, South Carolina

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

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Attorney for State of South Carolina

Casey M. Brown, Esquire
Attorney for Defendant

Kay H. Richardson
Circuit Court Reporter

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D11	1 Photo	485	524
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D21	1 Photo (Not ID or E)		
D22	1 Photo (Not ID or E)		
D23	1 Photo (Not ID or E)		
D24	1 Photo (Not ID or E)		
D25	1 Photo (Not ID or E)		
D26	Flash drive (Portion of Forensic Interview)		540
C1	DVD CRC Interview		
C2	Sealed Counseling Records		
C3	Note from Jury		

SEPTEMBER 29, 2020 - DAY 1 OF 4

ON THE RECORD - 10:20 A.M.

(REPORTER'S NOTE: JURY VENIRE PRESENT IN COURTROOM.)

THE COURT: Counsel, come up here and talk to me for one second, please.

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury. Counsel reviews indictments.)

JURY VOIR DIRE:

THE COURT: Thank you. All right. Ladies and gentlemen, we are going to commence the case of 2016-GS-26-2823, that is State of South Carolina v. Kevin J. McKinnon and 2020-GS-26-1359. Now, and that's also obviously, State of South Carolina v. Kevin J. McKinnon.

All right. Ladies and gentlemen, regarding these two cases, what I'm going to do first is read to you some information contained in the indictment and then we'll go to the four-question questionnaire that y'all filled out. Before I read to you some information in the indictment, I want you to be clear that the indictment is merely the charging document; the document which brings the matter to court. It is not evidence and cannot be considered by anyone as evidence in the case. The only reason I'm reading the charging document to you is to see if you have any knowledge about this case or any information you need to bring to the

Court's attention.

So in 2020-GS-26-1359, State of South Carolina has charged the defendant with criminal sexual conduct with a minor, third degree. The state alleges that Kevin J. McKinnon, having a date of birth of [redacted]/61, did in Horry County, on or about or between the dates of January 1, 2013 and July 20, 2015, willfully and lewdly committed or attempted to commit a lewd or lascivious act upon or with the body or its parts of a child less than 16 years of age, with the intent of arousing, appealing to, gratifying the lust or passions or sexual desires of the defendant or of the victim in violation of the Code of Laws, State of South Carolina, 1976, as amended.

The state has also charged in 2016-GS-26-2823 that Kevin J. McKinnon, an individual 18 years of age or older, did in Horry County, on or about or between January 1, 2013 and July 20, 2015, knowingly disseminate to a minor, 12 years of age or younger, to wit: Complainant date of birth [redacted]/07, material which he knew or reasonably should have known was obscene within the meaning of the Code of Laws for the State of South Carolina, 1976, as amended.

MS. WALTER: Your Honor, may we approach briefly?

THE COURT: Yes, ma'am.

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

THE COURT: Ladies and gentlemen, I have a matter that I need to hear outside your attention. I need all of the jurors to exit the courtroom.

Thank you very much.

(REPORTER'S NOTE: Jury Venire exits courtroom @ 10:26 a.m. The following takes place outside the presence of the jury venire.)

THE COURT: All right. Mr. Brown, let me hear from you.

MOTION FOR MISTRIAL:

MR. BROWN: Your Honor, my client had a number of indictments against him. A motion was made earlier this month to quash the two CSC indictments that the state was bringing forward of the five total indictments. Judge Culbertson granted the quash motion against CSC with a minor, third degree earlier this month. Obviously, I know where we are in this case in this trial, and obviously we have witnesses from out of state, and I think that for my client, I have to make a motion for mistrial based on the fact that the jury was read the charging document by the Court that has been quashed by the Court, Your Honor. So unfortunately, I had to bring this motion.

THE COURT: All right. Well, you're doing what you're supposed to be doing. I want the record to reflect, I handed all the indictments to the state and the defense ahead of time.

MR. BROWN: Yes, Your Honor.

THE COURT: And asked them to look at them and asked them, are these correct indictments. And I was handed back two indictments that were supposedly the correct indictments. Obviously, one was not.

All right, Solicitor, let me hear from you.

MS. WALTER: Your Honor, I was going to make the same point that you just made, that the defense certainly had the opportunity to view the indictment as well. I certainly take responsibility for the fact that I was looking -- I was focusing on the Grand Jury date, because I knew that the state had to re-indict on the charges in 2020. So I was focusing on that; I did not believe that a quashed indictment would still be part of the record, and but that is absolutely my fault. I should've looked more carefully, but I do believe that it is something that can be cured. The trial has not begun. I certainly think if the Court indicates that it read the wrong indictment, for whatever reason, that that is fine. It's not as if a more serious charge was read and now we're moving forward on a less serious charge, which I think would be more a problem.

THE COURT: All right. Now, the -- so let's be clear. The indictment that was quashed that I read to the jury was 2020-GS-26-1359 and criminal sexual conduct with a minor third degree. The body of that indictment uses the same dates as

the indictment that I did publish that is 2016-GS-26-2823. It does not and did not -- the 2020-1359 did not say the name of any individual. It did say that Kevin McKinnon, having a birthday of [redacted]/61, on or about between the dates of January 1, 2013 and July 20, 2015, willfully and lewdly committed or attempt to commit a lewd or lascivious act upon or with the body or its parts of a child, less than 16 years of age, with the intent of arousing, appealing to, gratifying the lust or passions of sexual desires of the defendant or the victim, in violation of the Code of Laws for the State South Carolina, 1976, as amended. I did not say the code section.

The indictment that should've been read says Kevin J. McKinnon did, in Horry County, on or about January 1, 2013 -- on or about and between, I'm sorry -- on or about and between January 1, 2013 and July 20, 2015, willfully and unlawfully committed the crime of criminal sexual conduct with a minor, first degree, by engaging in a sexual battery with a minor who is less than 11 years of age, to wit: Complainant whose birthday is [redacted], 2007, in violation of the Code of Laws of the State of South Carolina, 1976, as amended.
As far as the name and the birthday, that's the same birthday that I read -- and I said January 6th; it's January 16; I'm sorry -- it was changed from 15 to 16 previously. But, anyway, it's the same date, same name that's in the disseminating obscene material to a minor 12 years of age or

younger, that's indictment 2016-2823. I don't see, and clearly, criminal sexual conduct with a minor, third degree, is a lessor included offense of criminal sexual conduct with a minor, first degree. So I appreciate the ---

MR. BROWN: Your Honor, do they have the same dates? I thought one was a different date.

THE COURT: No, they have the same dates. Just so that we're clear, 2020-GS-26-1359; that's the one I read that I shouldn't have. And the one that I should've been reading, 2020-GS-26-1366. Okay? Looking at both of them; I'll be glad for y'all to look at them.

MR. BROWN: May I see them, Your Honor?

THE COURT: Sure. It says Kevin J. McKinnon, did in Horry County -- did in Horry County, on or about and between the dates of January 1, 2013 and July 20, 2015...so the dates are the same. I'll be glad for you to look at both of them.

(REPORTER'S NOTE: Counsel reviews indictments.)

So obviously, this came before me and I remember some time ago, and I allowed the state to amend and between and change 15 to 16.

MR. BROWN: Okay.

THE COURT: All right. And again, the name as in -- I'm sorry -- in this one is the same one that's in the obscene and the birthday is the same in that one.

MR. BROWN: We only read two, right, third degree, and

dissemination is not the first degree?

THE COURT: This is the one I did not read.

MR. BROWN: Okay.

THE COURT: Okay. The CSC, first.

MR. BROWN: Okay.

THE COURT: These are the two I read; this is the one I should not have, because it was quashed, which is a lessor included offense of the one that I should have read.

MR. BROWN: All right.

THE COURT: All right. Thank you.

MR. BROWN: Thank you.

THE COURT: All right. Based upon then the motion of the defense to quash the indictment, I respectfully decline to grant that motion. I do not find that there is any -- I'm not quashing the indictment, and I'm sorry -- for a mistrial. Regarding the reading of the quashed indictment, I do not find that there is any manifest necessity to grant a mistrial. What the Court read obviously was in error, but it is a lessor included offense. It did not include any information that is not contained in the superior or greater offense. Obviously, it talks about a sexual act with a minor, and I just do not find that there is any prejudice to the defendant that -- and if there is any, that cannot be properly explained to the jury that the Court made a mistake and read the -- gave them some wrong information to consider, that the charge actually is

criminal sexual conduct with a minor in the first degree, and I'll read that to them and that they'll please excuse that and disregard anything that the Court said.

Yes, sir?

MR. BROWN: Are we going to offer a curative instruction or just bring them back in and sort of ---

THE COURT: And I'm going to tell them that, that I made a mistake.

MR. BROWN: All right.

THE COURT: And I read it to them some incorrect information.

MR. BROWN: Okay.

THE COURT: I'm not gonna say a quashed indictment or anything. I'm just going to say I made a mistake, I read to them some incorrect information; what I should've read to you was -- and then I'll just read this.

MR. BROWN: All right. Thank you, Your Honor.

THE COURT: All right. And to please disregard what I said before.

So -- all right. So Madam Clerk, please mark 2020-GS-26-1359 as a quashed indictment. It is no longer valid, please.

All right. Ask the jury panel to come back in, please.

(REPORTER'S NOTE: Jury enters courtroom @ 10:39 a.m.)

JURY VOIR DIRE:

THE COURT: All right. Ladies and gentlemen, I apologize

for the delay and inconvenience. I read to you some incorrect information. So we're gonna start over again. We'll disregard what I read to you and I'm gonna read to you these indictments again. These are the charging documents, the documents which bring the matter to court. They are not evidence; they cannot be considered by anyone as evidence in the case. Again, the only reason I'm reading it to you is to see if you know anything about the case or you need to bring something to the Court's attention.

The state has charged the defendant, Kevin J. McKinnon, in 2016-GS-26-2823, with the crime of disseminating obscene material to a minor, 12 years of age or younger. The state alleges that Kevin J. McKinnon, an individual 18 years of age or older, did in Horry County, on or about or between January 1, 2013 and July 20, 2015, knowingly disseminate to a minor, 12 years of age or younger, to wit: Complainant date of birth, [redacted]/07, material which he knew or reasonably should've known was obscene within the meanings of the Code of Laws of the State of South Carolina, 1976, as amended.

The state has also alleged in -- all right -- 2020-GS-26-1366, State of South Carolina versus Kevin J. McKinnon. The state charges the defendant with criminal sexual conduct with a minor, first degree. The state alleges that Kevin J. McKinnon, did in Horry County, South Carolina, on or about or between the dates of January 1, 2013 and June 20 -- I'm sorry

-- July 20th, 2015, willfully and unlawfully commit the crime of criminal sexual conduct with a minor, first degree, by engaging in a sexual battery on a minor, who is less than 11 years of age, to wit: Complainant whose date of birth is [redacted], 2007, in violation of the Code of Laws for the State of South Carolina, 1976, as amended.

All right. Is there any member of the jury panel that knows anything about this particular case, has any information about this particular case, knows anything that they need to bring to the Court's attention at this time? If so, please stand.

(REPORTER'S NOTE: No response.)

THE COURT: All right. Very good.

All right. We're gonna go now to the questionnaires that were filled out, and what I'm going to do is, if you answered yes to any of the questions or indicated some other response, other than no, I'm gonna call you up one at a time individually and speak to you about that particular matter.

So we'll start with Juror Number 23, Barber, Ms. Barber, come forward, please.

Counsel, if you want to come around?

(REPORTER'S NOTE: Bench conference is held on the record in the presence of but outside the hearing of the jury venire.)

THE COURT: Okay. All right. Just kind of remember, regarding your voice, I don't know if you have a loud voice or

THE COURT: All right. Well, Judge Culbertson made the decision; I can't change the decision of another Circuit Judge that's already been made, and obviously that avenue is available for appeal on the decision of Judge Culbertson, but I do not have the authority to change another Circuit Judge's decision.

All right. Anything else from the defense?

MR. BROWN: Just the motion that the state brought up about the jury strike, would you like it put on the record now, just for the record?

THE COURT: Okay. I'm sorry, what is the motion, I'm sorry?

MR. BROWN: The motion to strike the jury for the fact that it's -- would you like to do this now, or ---

THE COURT: I'm glad to hear from you, I don't know what the motion is. I don't have a copy of it, so I don't know what it is.

MS. WALTER: I think Your Honor already did that. That is what prompted the state to request on the record that the defendant agreed to the layout of the jury. Mr. Brown filed six pretrial motions yesterday at 11:05 a.m. after he finished the first round of jury qualification.

THE COURT: Okay. None of which have been supplied to the Court. So I have no idea what you're talking about. I'm assuming when y'all file motions, you would want the Court to

know about them, but so I don't know about any of them.

MR. BROWN: Your Honor, may I hand it up?

THE COURT: Yes, sir.

MR. BROWN: Okay.

THE COURT: I would like for you to if we're gonna argue it. All right, sir. Give me a minute so I can read it and see what it is.

All right. So the issue about the -- how the courtroom is set up and the tables are in a straight line across from the jury, that issue is already resolved.

MR. BROWN: Yes, Your Honor.

THE COURT: To the defense's satisfaction, correct?

MR. BROWN: Yes, Your Honor.

THE COURT: All right. So the only other issue that's in the motion then is to strike the jury pool; is that correct?

MR. BROWN: Yes, Your Honor.

THE COURT: All right. So let me hear from you on that.

MR. BROWN: It's based on the Federal Courts have continued all jury matters because of the global pandemic. We are not getting a broad spectrum of community members as we normally would. We asked people if they have these health concerns; we sent out a questionnaire beforehand. So it's reduced my client's ability to -- to have a broader spectrum gained in the jury pool for a trial of his peers, Your Honor. We're not testing the jury pool for coronavirus putting court

staff and members, witnesses, and the other tables at risk, Your Honor. So for those reasons, we don't feel that it's proper to move forward at this time.

THE COURT: All right. I'll hear from the state in a second, but I understand that there is no medical testing being done, but certainly, everyone who comes into the courtroom is under certain restrictions; having their temperature taken, answering the COVID questionnaire, that goes for the jurors and the witnesses. So that certainly is being done. We have social distanced, I think to a great extent, as best as possible in this courtroom. Again, it's the biggest courtroom we have. We have spaced everybody out in the jury box. We've spaced them out in the downstairs. We called them in twice. We had plenty of space downstairs. We spaced them out in here, so we're certainly doing that. And obviously, all of them were wearing masks at the time. The state wish to have any argument about the issue of spectrum of the jurors?

MS. WALTER: No, Your Honor.

THE COURT: All right. Regarding the jurors being summoned, the Clerk of Court has summoned, I think, this time at least 200 more jurors, at the very least, than we normally would. It's done in the same fashion that is authorized through -- through the statute and rule and -- in the same fashion, but we are actually including more people in the

initial summons than we ever have. People are excused for the same reasons that they have been excused in the past; age, all of the standard questions that we ask the panel, and those have been handled by the Clerk of Court's Office. Some jurors have been excused for COVID reasons, but that's a health and safety matter to make sure that those people, who have been in contact with or have COVID, don't come in contact with court personnel, the parties in this case, and to protect everyone's wellbeing. Those persons have been excluded because they are at risk of spreading the contagion to the participants in this trial. And therefore, that's a health and safety matter that the Court finds to be proper to exclude them. I do not find, based on the matters presented to me in this motion, the information presented to me in this motion, I don't have any information about -- included in the motion that would give me any indication that we are reducing the spectrum of jurors or we are reducing the available pool of jurors in any way. There's been no information provided to me to indicate that, other than the assertion set forth in the motion without substantiation. Therefore, the Court respectfully declines to grant your motion to strike the jury pool.

Thank you very much.

MR. BROWN: Thank you, Your Honor.

THE COURT: All right. Can you check and find out who the foreperson is, please, ma'am?

So 12:45, do y'all want to do opening statements, do you want to break for lunch; what do you want to do, State?

MS. WALTER: Your Honor, the state is fine doing opening statements. The question is just the other five defense motions?

THE COURT: Okay. Again, I -- I dealt with the one that was given to me.

MR. BROWN: Yes, Your Honor.

THE COURT: I don't know of any other motions. So if you've got them, how about give them to me. I'm unaware of any other motions.

MR. BROWN: Yes, Your Honor. I filed these motions. I gave a copy to the state.

THE COURT: Okay. Well, hand them to me if you want to rule on them and read them, give them to me.

MR. BROWN: Some of them require testimony.

THE COURT: All right. Well, let me see what they are.

All right. Motion for production of counseling records for [redacted] M. All right. Motion for continuance, motion to redact the CRC file of [redacted] motion to exclude records and motion to redact the forensic interview of [redacted] M. All right. We're going to obviously have to hear these. I do take note of the fact that this case has been set for trial for months. I understand that we suspended jury trials, but before jury trials were suspended, this case was set for

trial. Okay? There has been more than sufficient time to have filed these motions. They are late. They are extremely late. They should have been filed months ago. There is no reason why they should have been filed yesterday at 11:05, no reason at all. There has been more than sufficient court time, numerous weeks of non-jury criminal court that these motions could have been heard. And, I can only surmise that the reason for these motions is to -- for the purposes of delay and for no other purpose. But I will hear them and rule on them specifically, but, filing them at the eleventh hour, there's just no excuse for that. But, I will hear them. I will decide each of them separately. And, based upon the information provided to me on the motions, I will make a decision not because they're late. I'm just putting that in the record that there's no reason that we should've waited until now to file these.

Who is the foreperson?

THE DEPUTY: Mary Kelsey, Number 275.

THE COURT: 275?

THE DEPUTY: Yes, sir.

THE COURT: All right. Very good.

So counsel, y'all know who the foreperson is.

All right. So with that, excuse the jury panel till 3 o'clock. Excuse the jury panel until 3 o'clock. Tell them to be back in their jury room at 3:00 p.m. please, ma'am.

All right, Mr. Brown, motion for production of counseling records, let me hear you?

MR. BROWN: Your Honor, it's -- it's our belief that Complainant M. did go to counseling in this -- in relation to this matter. We believe she went for a short period of time, but those records could be useful to the state and the defense in this case. It's perhaps that she found -- that she disclosed or changed her story or denied; don't know. But, those are part of the record in this case or should be part of the record in this case that the child went to counseling. She has talked to this counselor. And, they're not difficult to get; certainly they could just be faxed. Perhaps they'd be used; perhaps they want. So that's the reason for that motion, Your Honor, is that the child went to counseling. There could be statements that could be beneficial to the -- to the defendant, Your Honor.

THE COURT: All right. Two things, first from the state, did the child go to counseling?

MS. WALTER: She did briefly go to counseling. I have asked whether or not she ever named another perpetrator; she did not.

THE COURT: Okay. But she did go?

MS. WALTER: She did go, yes.

THE COURT: All right. Mr. Brown, how long have you known this?

MR. BROWN: We found out that she possibly went to counseling for a brief period of time this summer, I believe.

THE COURT: All right. So for a number of months, you have known about this issue, correct?

MR. BROWN: We believed it; we didn't know for sure.

THE COURT: All right. But you had information that caused you to question whether or not she had gone to counseling, correct?

MR. BROWN: Yes, Your Honor.

THE COURT: All right. And again, the motion was filed yesterday at 11:05 in the morning, correct?

MR. BROWN: Yes, Your Honor.

THE COURT: What's the state's position?

MS. WALTER: Your Honor, this is the definition of a fishing expedition. There may be information in there; there may be not be. It may be useful to the defense; it may not be. Maybe she said something; maybe she didn't. There is absolutely no showing that these records are even remotely relevant, nor does this follow even the proper procedure, because he's asking for production. It really if -- if this were a valid request, if there was a logical basis for this request, the records would go to Your Honor to decide. But here it doesn't even allege that she has any type of issue that would go to her truth telling, her ability to remember facts; this is a fishing expedition as Your Honor noted, he --

the case has been pending for five years. So at any time, he could've made this request. This is simply a delay tactic and we would ask that you deny the motion.

MR. BROWN: I'm not asking for a delay. I think they can be faxed and that they -- she said that she didn't go very long, it wouldn't be very much records. I could briefly read them. She said -- the state says that she did mention or says that there was talk of guilt or innocence or who ---

THE COURT: All right. How can the state get ahold of these records?

MR. BROWN: I think they can just call ---

THE COURT: Sir, I'm not asking you the question.

MR. BROWN: I'm sorry.

MS. WALTER: Your Honor, I would also note, however, that the rules require that, when personal information regarding a victim is being requested, the victim needs to be served, so that they have a time to respond. My understanding is that some of the counseling is out of state. I certainly would have no power to get that or no authority, I should say. I can try to determine who has those records and see if I can get them.

THE COURT: All right. I'm gonna ask the state to do their best and try and secure the records, but that is not going to delay the trial.

MR. BROWN: Okay.

THE COURT: The -- the -- the timeliness of this motion argues against the Court granting it, but I'm going to ask the state to see if they can secure the records for the Court to review.

MS. WALTER: Thank you.

THE COURT: Not to be turned over to anyone else, but for the Court to review to see if there happens to be, in the Court's determination, any relevant information. What I'll ask that you do, Solicitor, is to inquire and see if you can locate the records. And, if you can, to see if you can get a copy of them. And, I'll just hear from you as to your ability to do so.

All right. So let's go to the motion to redact the CRC file of Complainant M.

MR. BROWN: Yes, Your Honor. The plaintiff, Complainant gave a statement or -- went to CRC for a forensic interview and, in the prior call of the Court, that interview was redacted. That motion to quash was granted. We have a copy of the redacted interview. However, I don't believe the Court has heard the new -- the newly redacted interview and the defense believes that there are statements in there that are inadmissible.

THE COURT: All right. Okay. Have you identified what those statements are and where they are in the record?

MR. BROWN: Yes, Your Honor.

THE COURT: All right.

MR. BROWN: The difficulty with the defense is that the medium in which that the forensic interview is transferred, is not the same as the defense's and that was the issue last time. So I've got the markings -- it's not a very lengthy interview and there aren't many statements that the defense is seeking to redact.

THE COURT: So have you supplied a copy of that to the state?

MR. BROWN: I have not, Your Honor.

THE COURT: All right. How about do that.

MR. BROWN: Okay.

THE COURT: How about tell them exactly what it is you want to redact? Okay?

MR. BROWN: Yes, Your Honor.

THE COURT: And then the state can look at it and see if they agree or disagree. If they disagree, then I'll make a decision, but there's no need for the Court to make a decision unless y'all disagree. So immediately or as soon as you can, give them a copy of it.

MR. BROWN: Yes, Your Honor.

THE COURT: All right. And then I'll hear from the state once you've had a chance to look at it.

MR. BROWN: Yes, Your Honor.

THE COURT: Again, we're not gonna stop the trial to do

that.

MR. BROWN: No, Judge.

THE COURT: All right. Your motion to exclude records.

MR. BROWN: Yes, Your Honor. We have still been receiving -- this is all -- a lot of these motions are regarding *Brady* and Rule 5, the state's continual duty to disclose this information. We actually received discovery yesterday in the mail at the office. We've received more mail on the -- in the U.S. mail. We received some yesterday; we received some mail on the 22nd; we also received two emails this month on the 15th and the 22nd. The -- what came in the U.S. mail was an email that the state had since August of 2019. This email from the complainant's biological mother states that the child, the complainant, is changing her story drastically. We received -- and that was in the mail and we received what was called the complete CRC file on the 15th of this month. However, about a week later, on the 22nd, we received more of that file. The -- it's unknown if the state intends to introduce this evidence. A lot of it is checking in -- so some of it we did have. I believe I counted 85 pages -- an 85-page document in an email. We did not have about 50 pages of that; I've got that document here. The yellow is what we did not have. However, we did have some of it. Some of it's the officer of the court. So we would ask to exclude it, but in the alternative, at the minimum, redact it. Some

of it has -- and the defense being inadmissible, documentation from investigators, interviewers, doctors, that would amount to bolstering, competent -- credibility issues, things like that. And again, we just received it, and I think the Court ordered that that be turned over in March when this case was first called to trial. However, again, we received it very recently, Your Honor. So a lot of these motions I'm making regarding -- have to do with the state's continual duty to disclose under *Brady*. We got a large document that purports to be medical -- medical information from the child and then another piece of the complete CRC file about a week later on the 22nd, Your Honor. So defense has been estopped from preparing on witnesses to rebut this information. I don't think that it's fair for the state to be able to use that large packet of documents that we were just sent.

THE COURT: All right, Solicitor.

MR. BROWN: In the first trial, when the case was called, the CRC interviewer brought and gave two anatomical drawings to the defense. That was -- I think that was all she had. My paralegal is here, she's the one that grabbed the documents from the interviewer, and those are included -- and again, we did receive some of it, but the large amount of new medical documents, information and evidence, we don't believe should be allowed; and if it is allowed, in the alternative, at least redact it.

MS. WALTER: The state has absolutely no intention of trying to get that admitted. It was turned over in an abundance of caution, and if we can just sort of deal with these motions one by one rather than lumping them all together.

THE COURT: Well, that's what we're doing.

MS. WALTER: Well ---

THE COURT: It's a motion to exclude the records of the CRC file.

MS. WALTER: Well, I thought Your Honor had originally called motion to redact the CRC file of Complainant and then we ended up talking about motion to redact the forensic interview. So if Your Honor would like me to address ---

THE COURT: Okay. I'll -- we're dealing with the motion to exclude records ---

MS. WALTER: Okay.

THE COURT: --- for the Child's Recovery Center, the CRC file of Complainant that's what we're dealing with. Okay?

MS. WALTER: Okay. So the state has no intention of using anything with the potential exception of the anatomical drawings. And if Your Honor recalls, when this matter was called to trial in March, while Ms. Nordeen was on the stand, the defense said, oh, wait, she's looking at something that we don't have. Well, Ms. Andrew continued to present the case. We were at a pretrial hearing, and Your Honor may have seen me

and may remember, I took the file, walked out, walked into our records area, photocopied what I was told to photocopy, walked back in and handed it to the defense. In an abundance of caution, because we did not have a signed discovery receipt, the state re-disclosed the CRC file. Other than the anatomical drawings, which are referenced and you can -- you don't get a clear picture of them, but you can certainly tell what Ms. Nordeen was showing to [redacted] in the interview. We would not seek to introduce any other part of the CRC file.

THE COURT: All right. Well, then -- then clearly the defense knew about the anatomical drawings; those were previously disclosed. That's been -- defense has had plenty of time to review those, and so if you're not using anything else other than the -- than those, I don't see the issue. Okay? I mean, Mr. Brown, what's the issue?

MR. BROWN: We didn't know if they were gonna try and introduce it, Your Honor.

THE COURT: Well, they just said they're not going to.

MR. BROWN: Yes, Your Honor.

THE COURT: Obviously, if you ask a question, you know, that elicits a response, that calls for something, then you'll just have to deal with that as it comes. But so as to that motion, I find it's been resolved because the state is not gonna produce anything other than the anatomical drawings, which the defense has had more than sufficient time to review

and use. All right?

So the next one is motion to redact forensic interview of [redacted] M.

All right, Mr. Brown?

MR. BROWN: I believe that's what we talked about, we'll get with the state and share our redactions. There's not many. I don't believe it's gonna take very long.

THE COURT: Okay. So that's ---

MS. WALTER: That's the one -- that's what I was saying, Your Honor. You had originally called motion to redact the CRC file, and Mr. Brown addressed the motion to redact the forensic interview. So the motion to redact the CRC file deals specifically with a photo that has absolutely no relevance to this case, and we don't intend to admit it.

THE COURT: All right. So all right. So the production of the counseling records, okay, the state is gonna make a good faith effort to try and locate those and give them to the Court.

MS. WALTER: Yes.

THE COURT: All right. The motion to redact the CRC file, regarding the -- okay. So you got a motion to exclude records, CRC file, and a motion to redact the CRC file; there are two separate motions.

MR. BROWN: It's ---

THE COURT: Are they the same thing?

MR. BROWN: Sort of. If they were not going to be excluded, then we would they be redacted.

THE COURT: All right.

MR. BROWN: So kind of ---

THE COURT: So all right. So the Court's ruling that the state has acknowledged they're not gonna use it, except for the anatomical drawings, that ruling suffices for both of those motions, correct?

MR. BROWN: Your Honor, we would object to the anatomical drawings, because they're not just outlines, they're actually -- they had faces, pigtails, bows on their hair; so it's bias and prejudiced to use that drawing. It's not -- it's not just an outline; it's not like ---

THE COURT: Well, I appreciate that, but that is the drawing that the child made at the time of the interview, correct?

MR. BROWN: No, Your Honor. It's what she was shown and asked to identify the body parts. So this is what the CRC person held up to her and she said what do you call this. But the drawing has a child's face, it has pigtails, it has bowties on those, and I think it plays on the emotions of the jury for the jury to see that. And the boy's photo also has, you know, they have genitalias, and it has a face and has hair, haircut, the hair is parted. I don't think that the ---

THE COURT: What's the state's response to that?

MS. WALTER: Are we supposed to use stick figures? I mean, the pictures have -- anatomical drawings have to have enough detail so that if the child is pointing to the chest area of the female, that she knows: (a), that she's looking at a girl; (b), that she knows what part of the body she's trying to identify. It's absolutely ridiculous to say that they shouldn't have genitalia, when that's exactly the purpose of them.

THE COURT: All right. I appreciate that, Mr. Brown ---

MR. BROWN: In most cases they use a outline of a gingerbread man.

THE COURT: Well, I appreciate that, but I don't find that to be prejudicial to the defendant in any way. I think it's helpful to the jury to understand the testimony of the minor child, and I'm going to allow those anatomical drawings.

MR. BROWN: Okay.

THE COURT: All right. So all right. So what's the issue with the forensic interview?

MR. BROWN: Oh, there's just -- we've covered that. I'm gonna get with the state and just share my ---

THE COURT: Okay.

MR. BROWN: --- share those ---

THE COURT: All right. Very good.

MS. WALTER: Your Honor, if I may just make one note on that though, the whole basis of his motion to redact, Your

Honor, has already heard a motion to redact back in March. The basis for this motion is that the original CSC with a minor first indictment was quashed, if Your Honor recalls, because it had on the two dates not on and/or between those two dates.

THE COURT: Yes, ma'am.

MS. WALTER: So there was -- that does not affect the content of the CRC interview. Your Honor has already ruled on what redaction should be made. The state -- this was back in March, Your Honor.

THE COURT: I understand that. This -- the motion here doesn't say anything that has to do with the indictment; it just says that they received a video with prior redactions. And upon reviewing the video with the redactions, they have now another motion on the redacted interview to say that they want certain things taken from the redacted interview.

All right. So Mr. Brown, you need to identify that to the state.

MR. BROWN: Yes, Your Honor.

THE COURT: And tell them what it is that you exactly want removed.

MR. BROWN: Yes, Your Honor.

THE COURT: Then the state will have the ability to understand what it is that you want, and also the Court, and then I can hear from the state as to their position. But

until you identify to the state what it is exactly that you want out, it's impossible to rule on the motion. Okay?

MR. BROWN: Yes, sir.

THE COURT: So when we break, just -- Solicitor, let him tell you what it is that he wants out. Then you'll know what it is, and then you can answer the Court's questions as to do you agree or not. And if you don't agree, you tell me why and then I can make an informed ruling as to this particular motion.

MS. WALTER: Absolutely, Your Honor. My -- what I was trying to say is that, as Mr. Brown said, his timestamps are different from the state's. So if he can, rather than just saying I want from this time to that time, if he can include the language that he's seeking ---

THE COURT: Well, you're gonna have to be specific as to ---

MR. BROWN: Yeah.

THE COURT: --- the statement. Okay? So that the state knows what it is that you want out. So since the timestamps are different, we got to go by the actual words or the statements. Okay?

MR. BROWN: Yes, Your Honor; no problem.

THE COURT: All right. Very good. Okay. All right. So the last motion that is outstanding then is a motion for continuance.

MR. BROWN: Your Honor, there's two motions. The motion for continuance is -- and I understand where we are in this case, what's been done, who's coming from out of state. So I think that I have to put this motion on the record. The motion is based on receiving these documents and information when I did. I know the state has a continual duty to disclose under *Brady*, but the email that was put in the U.S. mail, not sent over fax or emailed, it changes the complainant's -- it changes her, her allegations completely as to my client.

THE COURT: Okay. All right. I don't have a copy of that email attached to your motion.

MR. BROWN: Yes, Your Honor. I didn't ---

THE COURT: So I have no idea what it is you're talking about.

MR. BROWN: I didn't attach that to the file because I didn't want to put it in the public record ---

THE COURT: Well, do you have a copy of it now?

MR. BROWN: I do, Your Honor.

THE COURT: All right. Well, let me see it so I know what you're talking about.

MR. BROWN: Well, I wrote on it, Your Honor.

THE COURT: Okay.

MS. WALTER: Would Your Honor like to see the state's copy?

MR. BROWN: Please.

THE COURT: If it doesn't have anything on it, yeah, please.

MS. WALTER: It has the email used to transmit it, Your Honor.

THE COURT: All right. Great. All right. So let me look and see what it is we're talking about.

All right. So I'm looking at the email. All right? And we're gonna need to make a copy of this, Solicitor, and we're gonna have to -- since it's part of the motion, it's got to be part of the record.

Now, so just so that we're clear, the email that I'm looking at is from Crystal McKinnon sent August 4th, Sunday, 2019, 6:12 P.M; is that right?

MR. BROWN: Yes, Your Honor.

THE COURT: To Stephanie Dietzel; is that right?

MR. BROWN: Yes, Your Honor.

THE COURT: All right. So what is it in this motion that causes you concern or problems?

MR. BROWN: My issue is that the state has had this for over a year and the case has already been called to trial back in March of 2020. They had this email. They just sent it in the U.S. mail to my office a week ago on the 22nd and it completely changes what their complainant is now saying. It's the opposite of what she said in the forensic interview. So my defense or the strategy of the defense may have to change

drastically, and not just drastically, 180 degrees.

THE COURT: All right. So there's -- now let's see ---

MS. WALTER: Your Honor, I have a clean ---

THE COURT: There's 10 points, okay, in this email. Okay? All right. Start with the first one. He showed her pornography. Is that the first time you knew about this?

MR. BROWN: No, she says that in the forensic interview.

THE COURT: All right. Second one, turned on a webcam and had her stand in front of it naked while another guy on a webcam watched and touched himself. Did you -- you didn't know about that?

MR. BROWN: No, Your Honor, she was asked that question in the forensic interview and denied it. So then ---

THE COURT: All right. So how about, (3), touched her private parts; you didn't know about that?

MR. BROWN: She said that he did do that in the forensic interview.

THE COURT: All right. Next one. Put his mouth on her private parts; did you know about that?

MR. BROWN: He said that -- she said that in the forensic interview.

THE COURT: All right. Next one. Made her touch him until he ejaculated. Her word was sperm. Did you know about that?

MR. BROWN: She completely denied that in the forensic

interview, Your Honor, did not know about that.

THE COURT: All right. Rubbed her with his private part; did you know about that?

MR. BROWN: She did not say that in the forensic interview; we don't have that.

THE COURT: All right, sir. Put his private part in her mouth and see how far it will go before she choked; did you know about that?

MR. BROWN: I did not have that; completely opposite from the forensic interview.

THE COURT: All right. Whispered in her ear that she was his sexy little girl; did you know about that?

MR. BROWN: Did not have that and completely denied it in the forensic interview.

THE COURT: All right. Take pictures of her in her bathing suit; did you know about that?

MR. BROWN: Did not have and completely denied that in the forensic interview.

THE COURT: All right. And watched her when she showered at their house?

MR. BROWN: Did not have that, completely denied it in the forensic interview.

THE COURT: All right. She did say that he did not penetrate her with his private part; did you know about that?

MR. BROWN: Yes, she said that in the forensic interview.

THE COURT: All right. All right. So what you have now is -- so I can understand this -- Solicitor, I'm assuming that the minor child, you anticipate that she will testify in accordance with the email; is that right or not?

MS. WALTER: Your Honor, and let me just first make clear that this is a summary by the victim's mother of a conversation that she had with the victim.

THE COURT: All right.

MS. WALTER: So I would expect, yes, that she would testify that he rubbed his private part; yes, that he put his private part in her mouth. As to whispering into her ear that he was his sexy little girl, I have not questioned her about that. It's not in my questioning for her.

THE COURT: Okay.

MS. WALTER: Taking pictures of her in a bathing suit, I have not questioned her about that. It is not in my planned questions of her. Nor is watching her when she showered at their house.

THE COURT: Okay. So what you do expect to ask her about is, looking at this email, he showed her pornography; is that right?

MS. WALTER: Yes.

THE COURT: How about turned on a webcam and had her stand in front of it naked while another guy on a webcam watched and touched himself?

MS. WALTER: I do not intend to ask her that.
THE COURT: All right. Very good.
All right. The next one, touched her private parts?
MS. WALTER: Yes.
THE COURT: Put his mouth on her private parts?
MS. WALTER: Yes.
THE COURT: Made her touch him until he ejaculated. It says here her word was sperm?
MS. WALTER: Yes, and to be clear, in the interview, he does say that he made her touch his private part and she gives a motion that would be consistent with manual copulation.
THE COURT: All right. So rubbed her with his private part?
MS. WALTER: Yes.
THE COURT: Put his private part in her mouth and see how far it will go before she choked?
MS. WALTER: I actually wasn't sure the jury needed to know that it was in until she choked; I was going to elicit that he put it in her mouth.
THE COURT: All right. Very good. All right. And the last three you said you were not -- you weren't gonna be asking?
MS. WALTER: Correct.
THE COURT: All right. So the situation is, obviously, that the minor child will testify. Her interview will be

played for the jury, also. If the defense wants to use the email to question the victim, the minor child, about it, and you want that email in front of the jury, I'm gonna let you do it. Okay? So if you think you can use that in your cross-examination and you want to ask her questions about, you know, that and you want that email in front of the jury, I'm gonna let you do it. Okay? But, you know, I don't know how you're gonna redact it. The state's not gonna ask certain questions, so I'm not sure why you want those issues in front of the jury, but I'll leave that to you. But, you know, you have the information. You can use it in cross-examination as you see fit, understanding that, once you start using the email, the whole thing is then exposed to the jury for their consideration. All right? Now, you certainly are welcome to ask her questions about what the state says or what the state's, you know, the answers that she gives to the state; what's in her interview if there's contradictions in there. If she is now saying something from the witness stand that's not in her interview, you certainly are -- can bring that to the jury's attention to say, you know, for whatever purpose you find on cross-examination. But I'm just saying to you, if you start using the email and that gets information, that gets the email, it gets exposed to the jury, then I'm gonna allow the state to explore the whole thing. Okay? So I'm just letting -- letting you know. I'm not stopping you from cross

examining her on questions you want and, you know, if you think, you know, for your purposes, that's something you need to do, then I'm gonna let you do it, but then I'm gonna let the state go into any matters you didn't cover.

MR. BROWN: Two questions on that.

THE COURT: Yes, sir.

MR. BROWN: If I don't use the email, but start the line of questioning that now she's changed her story, is that ---

THE COURT: Well, then you would have -- then you would have to connect it to -- you're gonna have these items. You're gonna have her testimony in court; you're gonna have her interview that she did before. So certainly you're gonna be able to bring up if there's differences between her testimony now and her -- what she said in her interview.

MR. BROWN: Sure.

THE COURT: Certainly, you're gonna be able to bring that up.

MR. BROWN: Does that open the door for this email?

THE COURT: No, because that's tied to those two things.

MR. BROWN: Okay.

THE COURT: What she said in the interview and what she's saying now. Okay?

MR. BROWN: Okay.

THE COURT: I'm just saying, if you start making references to the email, then the whole thing is explorable

with the jury. But, if you're staying with and you don't make reference to the email, if you stay with the interview and her testimony, then that's proper for the jury to evaluate.

MR. BROWN: And the second question is this is the mother sending the email, so -- and I don't know if the state intends to put the mother up, but I don't believe that the mother will be able to testify under 17-23-175 as a post inconsistent statement, because this was not in line of the investigative interview.

THE COURT: Do you -- do you intend -- does the state intend to try and use the email with Crystal McKinnon?

MS. WALTER: No, and we are well familiar with the rule that as outcry vic -- outcry witness, excuse me, she is able to say when it happened -- when Complainant said it happened and where Complainant said it happened. She will not name anyone. At most, she would say she was sexually abused during this period at this place.

THE COURT: Okay. All right. So that should solve the issue and you understand, you know, how the state would respond if you decided to use the email on the defense's part. Okay? The state is not going to use it, but if you want to use it, then you can't pick and choose; the whole thing then gets explored. Okay?

MR. BROWN: But my question from that is, is the mother saying this now or are we going back before we came into

contact with the solicitor's office, that's my question, because this email ---

THE COURT: Well, I guess she'll, you know, that will become clear as -- from her testimony as to when the child disclosed two things that she can talk about. Okay? So that would have to be in her testimony that, you know, on such and such a date, you know, at our house, Complainant disclosed these two things to me. So you'll know from her testimony, you know, the two things she can talk about, she'll necessarily have to say when that took place.

MR. BROWN: Sure.

THE COURT: Okay? So you'll know that.

MR. BROWN: Okay.

THE COURT: All right?

All right. So with that, I understand your reasoning for a motion for a continuance, but I do not believe that based on the Court's rulings on all of the motions that you have filed, that a continuance is proper. The issues, the majority of the issues are not being explored by the state, number one. And, if there is an issue on the redaction, I'll deal with that. Okay? But as far as continuance, I do not find that there are any proper grounds for a continuance. The evidence that the state is proceeding on from my understanding and from hearing these motions is evidence that has been known by the defense for an extended, a long period of time, and the defense has

known about this trial, again, for many, many months, and therefore, I'm going to respectfully decline to grant your motion for a continuance.

MR. BROWN: Yes, Your Honor.

THE COURT: All right. Very good.

MR. BROWN: Your Honor, there's one last motion.

THE COURT: What's that?

MR. BROWN: This is the motion that I believe requires an in-camera hearing that I filed ---

MS. WALTER: This is a clean copy.

THE COURT: Okay.

MS. WALTER: If I get mine back.

THE COURT: Yeah, you need to get that back.

MS. WALTER: So that way, you can mark that as a Court exhibit if you'd like.

THE COURT: The exhibit ---

MS. WALTER: The discovery.

MR. BROWN: The discovery.

THE COURT: And then that way, that can be marked ---

THE COURT: Kay, you can mark this one as a Court's Exhibit and not to go to the jury. Okay?

And, I'm sorry, so what motion are we talking about now?

MR. BROWN: Your Honor, under --

THE COURT: Tell me the caption because I thought I dealt with all of them.

MR. BROWN: This one was filed within ten -- ten-days' notice, because it has to under the rules. This is the motion to admit evidence of the complainant's specific prior experience. That being that the two complainants acted out sexually with each other. It -- its' -- the defense says that we brought a notice in time as according to the statute of the state and under *Grovenstein* case that the intent to introduce as evidence the specific instances of the two complainants acting out sexually, it's their prior experience, to show that the defendant is not necessarily the source of the complainant's ability to testify about sexual conduct.

THE COURT: So what questions do you expect to ask Complainant M.? What is it -- just in general, not every questions, but tell me?

MR. BROWN: If the Court would like me to hand this up, it's got the documents because I have to show -- to make a showing of proof and everything.

THE COURT: Okay. Well, let me see? All right. I know I'm gonna have more questions for the defense and the state, but let me hear briefly from the state as to this motion to admit evidence of victim's specific prior sexual instances. And again, for the record, this was filed September 18th, 2020, at 4:29 p.m.

MS. WALTER: So obviously, the state would also note the late filing again. This case has pending for five years. I

take some issue with the defense continuing to refer to two complainants given that, one, we are only proceeding on one victim. The other victim has recanted. But, so if we take what the proposals are, evidence in the forms of testimony by Cousin and Shelby McKinnon as to child-on-child abuse, while if Cousin is going to testify then that's fine, but she's subjecting herself to cross-examination and prior inconsistent statements. It would be the state's position that we potentially could play her entire CRC interview from this case. And, abuse by Daniel Shaub on Cousin that has absolutely nothing to do with Complainant Certainly, that should not be allowed. And I believe that Your Honor has already ruled that Cousin CRC interview, due to the abuse by Daniel Shaub, is inadmissible. I think that the logic there carries forward that there should be no testimony as to in Complainant case of abuse perpetrated by a different defendant on a child who does not claim to be a victim. Evident in the form of drawings by Cousin well, if the defense is calling Cousin I suppose that they can say, did you draw sexual pictures? How that is relevant to Complainant case is not clear and I suppose he can ask in cross-examination, whether or not Complainant wrote the exhibits that are attached, but then he's stuck with her answer.

THE COURT: Okay. So let's ---

MS. WALTER: And then, I'm sorry, the last thing, Your

Honor, I didn't mean to interrupt. But then the last sentence, evidence in the form of sentencing sheet and indictments, that has nothing to do with Complainant it's completely irrelevant.

THE COURT: All right. So let's deal with these one at a time.

MS. WALTER: Right, I was trying to ---

THE COURT: Okay. So all right. The defense intends to introduce evidence of child's prior sexual experience to demonstrate defendant is not the source of Complainant ability to testify about alleged sexual conduct. Evidence in the form of testimony by the alleged victim, Cousin says Aunt Shelby McKinnon, as to child abuse by Daniel Shaub on the victim, Cousin

I'm not gonna allow you to talk about Daniel Shaub. Now, if you are calling Cousin and she wants to say that she and Complainant you know, exchanged drawings or talked about things, or they made up stories, or they had things that they talked about between themselves that involve her discussions with the victim in this case, Complainant I'm gonna allow you to call her and talk about those things that deal with Complainant Okay? So that it would indicate that because Cousin told her X, Y, and Z, this is why Complainant knows it, but not -- we're not talking about some other defendant. We're not talking about somebody else. Daniel Shaub's name is not

coming up in this trial in any shape, manner, or form. Is that clear?

MR. BROWN: Your Honor, may I say for the record?

THE COURT: Yes, sir.

MR. BROWN: That the jury is gonna know these two girls were complainants at the onset. The jury is gonna want to know where this came from, if not the defendant. Daniel Shaub pled guilty to molesting and abusing Cousin [redacted] then took that, told Complainant everything about Daniel. Complainant asked about Daniel, knows about Daniel, they acted out sexually in the same manner that Daniel molested Cousin via -- and then Daniel molested Complainant via Cousin So the same things that this guy did with Cousin told Complainant everything; she showed her everything that he did to her. He coerced her and she coerced Complainant in the same manner that Daniel did to her. It's all the same thing and that's the defense's entire case, is that this guy molested both ---

THE COURT: His name is not coming up. Okay? You can question her about what she told him without his name coming up. He's not on trial.

MR. BROWN: So just an unnamed -- Okay. All right. May I proffer ---

THE COURT: His name is not coming up; he's not on trial.

MR. BROWN: May I proffer. And I'm not saying ---

THE COURT: You're gonna have to proffer at the time that

witness is called, not now. If there are questions that you want asked, then you can proffer them at that time.

MR. BROWN: Okay. So I just can't mention Daniel?

THE COURT: No, sir.

MR. BROWN: Okay.

THE COURT: No, sir.

MR. BROWN: Okay.

THE COURT: All right. Now, you can talk about and you call Cousin to the stand and she wants to talk about these things and be available to a full and complete cross-examination by the state, then including any past statements she's made that would contradict what she's saying on the stand; that's available to the state. Okay? So if there's anything out there that would -- just like with Complainant if there's anything out there, you know, as opposed to her testimony now and the CRC interview, if there is a difference, you can bring that up. Well, Cousin testifies and she's saying X now and she said Y before, and she says that man did it in the interview, the jury is gonna hear it. Okay? Because, that's credibility. Okay? So good for one side and good for the other. So you know, you just have to understand that, but we're not trying somebody else.

MR. BROWN: Yes, Your Honor.

THE COURT: Okay. So but, you know, if you're saying Cousin gave her this knowledge because she told her, you

know, you can do this with somebody, you can do this with somebody, you can do this with somebody, so that -- that might be information, and I believe it's information that would be proper for the jury to hear. But we're not talking about somebody else abusing anybody. Okay? We're just not doing that.

Yes, Solicitor?

MS. WALTER: And this is -- I've been trying to wrap my head around this. First of all, the state was not intending to ask [redacted] about [redacted] victimization by the defendant, even though it occurred sometimes at the same time as [redacted] because [redacted] has recanted. There was no indictment that names [redacted] as a victim that is in front of the jury. If Mr. Brown intends to bring that up, the state's concern is that it will look as though either [redacted] or the state was holding something back.

THE COURT: No, I don't -- I don't -- well, I don't see that. Okay?

MS. WALTER: Okay.

THE COURT: I don't see that. If -- if -- you know, I mean, he is being charged with a crime or two crimes against a particular person.

MS. WALTER: Right.

THE COURT: That's all he's on trial for, but if the defense wants to ask questions that allows the state to

explore other allegations or to show that, you know, Cousin is now saying X -- well, she clearly said Y before; I'm gonna allow you to do that. All right?

MS. WALTER: Okay. Yes.

THE COURT: But I just want to be clear about the Daniel Shaub matter. Okay? We're not trying Daniel Shaub. We're not -- he's not on trial; we're not talking about him. Cousin can say, you know, I told Complainant you can do these kind of things. Okay? Whatever. Okay? If, you know, she wants to expose herself to that, that's fine. Okay? So we'll -- because that -- that's clearly information that would be -- that the minor victim here could have that knowledge some other way other than being abused by that defendant. Okay?

MR. BROWN: Okay.

THE COURT: All right. So all right, what else?

MR. BROWN: Your Honor, that -- that does ring a bell that there -- in Complainant forensic interview, she is asked to write a list of names. She writes a list of names and I believe she says -- it's a list of names of people that can be protectors. I believe she says Grandpa, but I never got the list of names. So I don't know if the state has that?

THE COURT: Is that a document, you think?

MR. BROWN: She wrote it out. And, in the recording, the forensic interviewer leaves the room and she writes, and she says Grandpa, I think, but I don't know if she wrote it down;

I don't have the list of names.

THE COURT: All right. Well, let's see if we can't find that document. Okay, Solicitor?

MS. WALTER: Well, I'll ask although, as we've already litigated, we turned over the entire CRC file.

THE COURT: Okay.

MS. WALTER: I will ask again, but typically it is ---

THE COURT: I mean, in your review of the file, do you remember any such document? I mean, obviously, you've looked at the file I know in preparation; do you remember any such document?

MS. WALTER: Your Honor, I don't remember a specific document, but I know that in the CRC interview, Complainant reads who she says, and it -- my mom, my dad, my stepmom, my grandma, my great-grandma, Stephanie, Dan, Mr. Pavilack (spelled phonetically), Ms. something, my brother, and that's all. So it's in the original un-redacted interview ---

THE COURT: Okay.

MS. WALTER: --- that was given to Mr. Brown ---

THE COURT: Okay. All right.

MS. WALTER: Whether or not there's a particular document, I can certainly ask.

THE COURT: Check your file and see and ask the -- the interviewer if they recall any such thing. Okay? Just to be ---

MS. WALTER: Yes, I will.
THE COURT: --- just to be safe.
MS. WALTER: Just to be safe, I will be ---
THE COURT: All right?
MS. WALTER: I will certainly do that.
THE COURT: All right. Good deal.
All right. So the jury is coming back in at 3 o'clock. All right? So we'll start with opening statements on both sides. Who would be the first witness by the state?
MS. WALTER: Our hope is to call Complainant first.
THE COURT: Okay.
MS. WALTER: And then I have one juvenile witness, who needs to testify today.
THE COURT: Okay.
MS. WALTER: Everyone else, I'm hoping I can -- Dr. Rahter originally was scheduled for this afternoon, but if we're running out of time, she can come in at 9:30 tomorrow morning. I'm trying to juggle because I ---
THE COURT: Yeah, I mean, if we start at 3 o'clock, because that's when the jury is coming back ---
MS. WALTER: Correct.
THE COURT: --- and we do opening statements and we start with the victim in this matter, that's gonna take an extended period of time, I would think.
MS. WALTER: Then I'll ---

THE COURT: Don't you believe, I mean for examination and cross-examination; I would think that that would cover an extended period of time, so ---

MS. WALTER: Then I'll put up the juvenile witness.

THE COURT: Yeah, other than, you know, potentially getting the -- the -- the next witness, the juvenile witness, do you anticipate the length of that; what do you anticipate as to that?

MS. WALTER: From the state, probably about 20 minutes. Your Honor, this juvenile witness is a fellow camper who overheard a conversation between [redacted] and [redacted] about sexual abuse and -- so she was sort of the initial outcry witness.

THE COURT: Okay.

MR. BROWN: Obviously, the defense would object as hearsay, and they're not talking about time and place, which is all they're allowed in prior inconsistent statements.

THE COURT: All right. Well, we'll deal with that when we may have to hear what that witness has to say outside the jury's presence.

MR. BROWN: Thank you, Your Honor.

THE COURT: Okay. All right. So I'll see y'all at 3 o'clock then.

MR. BROWN: Thank you, Your Honor.

THE COURT: Thank you.

don't have to. Remember, some people are better note takers than others. Just because somebody puts something down on a piece of paper, doesn't make it gospel. Everybody is entitled to their opinion and your collective judgment and wisdom. All right?

Solicitor?

MR. MARTIN: May it please the Court, Judge?

THE COURT: Yes, sir.

OPENING BY MARTIN:

MR. MARTIN: Grandfathers are very special. For those of us who have been fortunate enough to experience this and witness this and to see the impacts that they make on the lives of others, we understand it. We know just how special that they are. From the moment that your granddaddy holds you in his hands, it's an instant unconditional love and a special bond like no other. And perhaps, you know, no greater example of this exists than the relationship between a grandfather and his granddaughter. As she grows, she realizes that her granddaddy isn't just somebody who spoils her relentlessly, even though that's exactly what he's supposed to do. Your grandfather is your role model, he's your friend, he's your companion, he's your protector. Granddaughters should know that their granddaddy is always there for them.

Unfortunately, that's not always the case and that sad reality is why we're here today. This week you guys are gonna

meet a special young girl, Complainant She's 13 years old and currently lives in Michigan with her mom and her stepdad and her brother and her stepbrother. She's in the eighth grade and, like most girls her age, she gets up every morning, goes to school, even with Coronavirus. She does her homework, she plays sports. Like other little girls her age, she reads, she's even got pets, three dogs and a cat, and the list goes on and on. And in many ways, she is just that, a typical young girl. This week Complainant is gonna have to do something that very few children and few adults ever have to do. It's not something she particularly wants to do; it's certainly not something that she asked to do. Quite frankly, she's probably embarrassed to do it. But, Complainant is gonna get up from the pew and hopefully still have a mask on and walk up here, go up to the witness stand, get behind the plexiglass there, take her mask off, and look at a group, a room full of strangers, that she doesn't know and talk to them about the worst thing in graphic, very graphic detail, the worst thing that's ever happened to her in her short life. And the man responsible for that is the defendant, Kevin McKinnon, her grandfather.

You see, before Complainant lived in Michigan, up until she was about eight years old, she lived in South Carolina. She went to school here in Horry County. She lived part of the time with her dad, Eric, and part of the time with her mom, Crystal. They've been divorced since she was small, but both

are very actively involved in her life, and she spent time at both places. And in addition to that, she spent time with her grandparents; they lived here in Horry County, too. And you'll hear this week that by all accounts, she was granddaddy's little girl. She frequently went to their house. A couple of nights every month she had sleepovers. They played games, maybe go shopping, maybe get ice cream; they were your typical family. Everybody thought everything was okay.

Well, in about July of 2015, all of this came crashing down, because Complainant was on her summer break and attending a summer camp offered by the county parks and rec, and one of her friends there named Minor 2 became worried about Complainant And she did the right thing, and she went to her mother, and they went to the camp director and a camp leader there named Teresa Callihan and made a report and the police got involved. And what everyone found out was that since about sometime in 2013, when Complainant was only about six years old, when she would go over to her grandparents' house, her grandfather started touching her inappropriately. And from about 2013 until about 2015, for almost around two years, almost every time she'd go over to their house, her grandfather would touch her naked six, seven, and eight-year-old body with his hands, with his fingers, his mouth, his tongue, his penis. He'd touch his granddaughter's undeveloped breasts, touching her vagina,

penetrating her labia. He'd make her touch him, and he introduced his tiny granddaughter to pornography on the computer. And because of Kevin McKinnon's actions, his decisions, he's been charged with criminal sexual conduct with a minor in the first degree and disseminating obscene material to a child 12 years of age or younger, and that's why we're here today.

Ladies and gentlemen, as we kind of said earlier, I'm George Henry Martin, along with Mary Ellen Walter, we are prosecutors here in Horry County. We work for the Horry County Solicitor's Office prosecuting cases for the Fifteenth Judicial Circuit, Horry and Georgetown counties, and it's our burden this week to bring this case to you. And what I normally tell juries at this point in the trial with these opening remarks, these opening statements, this is the attorneys' opportunity to sort of speak with you guys, to give a rough, very tentative outline or roadmap of where we see things sort of playing out with this trial.

We'll start with a brief recitation of the facts, which I've already done and sort of talk about the things we expect for you to see and hear from that witness stand and maybe who you'll hear them from. But, trials are no different than really anything else in life; they're unpredictable and we have to be flexible. And certainly, these times now with the Coronavirus pandemic, it certainly don't make things

necessarily clearer for us. We've all experienced it; you're experiencing it right now. You're distant. Everyone has to keep their masks on unless, you know, I'm distant from you guys in talking; witnesses have to sit behind plexiglass; we have to wipe down the stations when they're done. These things take time and as you've already experienced this week, it's not going to be necessarily always a rapid process. We like to call it organized chaos. But, so when I speak with you, understand that the order in which we think we may call witnesses, may change and just because I name a few people, doesn't mean you won't hear from other people. It's a very flexible thing.

So who are you gonna hear from? Well, you're gonna hear from Complainant parents, Eric and Crystal. They're gonna talk with you guys about the family dynamic. Sort of what the relationships were like pre-2015, and sort of what it's like now after 2015, what relationships may no longer exist or what they're like. They're gonna talk with you about their daughter. They're gonna talk with you about some of the things they experienced and she experienced. Obviously, you're going to hear from Minor 2 who I mentioned. Minor 2 is gonna talk to you about what went on that summer with the summer camp. Theresa Callahan, she was a rec leader there at the camp. Dr. Carol Rahter, who conducted the forensic medical examination of Complainant when she was eight years old.

Dr. Rahter deals on a regular basis with children. She deals in the evaluation and treatment of children who have been subjected to mental, sexual, physical, emotional abuse. She'll talk with you about how, even though her evaluation of Complainant her physical examination, didn't result in any physical -- she didn't find any physical findings of physical injury with Complainant But, that doesn't mean that sexual abuse didn't occur, and that based off of Dr. Rahter's training and experience with what she does, that's sometimes to be expected, especially in cases like these, which we call delayed disclosure. And, she's gonna go into that with you. And what that means is with child victims of sexual abuse, we often have what's called delayed disclosure. Here it's ongoing abuse for a period of about two years, and how that happens, and when things aren't found out until further down the road, sometimes we don't have physical injury, but that doesn't mean that sexual abuse didn't occur.

You're going to hear from Dianne Nordeen. She works with Children's Recovery Center. She is a forensic interviewer. She actually interviewed Complainant when she was eight years old. That interview was video recorded and you're gonna be able to watch that. And Dianne is gonna talk with you about what she does when she speaks with these children, how she conducts an interview, and based off of her training and experience, what happens.

You're gonna hear from Marcus Rhodes. He is the director at J. Reuben Long Detention Center, but when this case was ongoing, he worked in the Criminal Investigations Unit with the Horry County Police, and he was a detective and investigator for them, and he's gonna talk with you about his training and experience and why he made the decisions that he made and what he found out through the course of his investigation.

And among others, perhaps most importantly, you're gonna hear from Complainant herself. And I'm not gonna go into detail about what I think she will say or what she may not say, because, quite frankly, it not my story to tell but hers.

But I want sort of set the record straight here and sort of let everybody know what's going on. What we've got here is an eight-year-old child in a recorded interview and 13-year-old child in person. An eight and 13-year-old child talking about some very adult things. It's very difficult for people to talk about intimate, sexual details of their life. It's very difficult for people to talk about those things in a group -- a room full of strangers that they don't know. It's hard for them much less to talk about it with family or a close personal friend. And it's even harder for a child to talk about those things. Perhaps a 13-year-old may go into more detail than an eight-year-old. Perhaps a 13-year-old may use different vocabulary than an 8-year-old, and certainly

different vocabulary than a 21-year-old or a 50-year-old. These things are to be expected.

At the conclusion of the evidentiary portion of the trial, we're gonna come back and regroup in what's called the closing and the attorneys will have another opportunity to speak with you guys about sort of what's taken place. And the Judge is going to speak with you about the law and he's already done that a little bit. So understand that if -- if I say anything through this process that is different from what the Judge says, in addition to Mary-Ellen probably bopping me over the head, I want you guys to understand that what the Judge says about the law is what rules, not what I say or the defense or whoever. But I still got to be able to talk to you guys about it. The Judge is gonna tell you that the defendant is innocent until proven guilty. It's the state's burden to prove him guilty and we have to do that beyond a reasonable doubt. He's gonna talk to you about the law as it pertains to charges that he's charged with. He's gonna tell you that to find somebody guilty of criminal sexual conduct with a minor in the 1st degree, you have to find that a sexual battery occurred with a child who is under the age of 11. The Judge is gonna tell you that a sexual battery is the penetration of that child's private parts, no matter how slight, and that includes fellatio and cunnilingus. So a man who places his fingers slightly penetrating the labia is guilty of sexual

battery. If a man licks the vagina of a child, he's guilty of sexual battery. If a man were to place his penis inside of that child's mouth, he's guilty of sexual battery; penetration, no matter how slight.

The second charge is disseminating obscene material to a child who is the age of 12 or younger. Disseminating, the Judge will tell you is distributing, showing some sort of obscene pornographic material to a child and that that person should've known that that pornography was obscene or had reason to know that it was obscene. And, Complainant herself will tell you this week that her grandfather showed her pornographic images on the computer.

The last point I want to make. When the dust settles this week, our works are over and the case is done. Complainant really only wants two things; to be believed and justice. And she can get that with one very simple yet very powerful word; guilty.

THE COURT: All right. Mr. Brown?

MR. BROWN: Thank you, Your Honor. Thank you, Your Honor, may it please the Court?

THE COURT: Yes, sir.

OPENING BY BROWN:

MR. BROWN: Thank you. Folks, a story born of fears nurtured by tears, that's what brought us here together today. Ladies and gentlemen, that's what this case is about, criminal

sexual conduct. These are some of the worst, horrific cases you're gonna hear about in any courtroom. It's some of the worst cases you can be a part of. We're gonna have to talk about things that, frankly, I didn't want to hear about; I don't want to talk to you about. I don't want to ask anyone else about them, but we have to.

In these kinds of cases, there is about three different options for the defense. One, it didn't happen; two, it happened, but it wasn't this person; and three, it did happen and it was this person, but he's got a reasonable justification like defensive age or something. In this case, we are firmly in number two; it did happen, but it was not Kevin McKinnon.

Kevin McKinnon's a grandfather, he's a husband, father, grandfather. There's two -- he's got two granddaughters. We've got both of them in this case here, Complainant and Cousin Cousin is the older of the two granddaughters. So it wasn't Kevin. Cases like these, you want to know why, what's going on here. Well, we try to tell our children, there's no monster in the closet; there's no monster hiding under your bed. But cases like these prove that there are. So there are monsters in the closet in some children's lives. Monsters is what they are. I've got a few other strong adjectives for them that are not suitable for this courtroom, and, sadly, there's a monster in this case. Now, I'm not gonna try the

whole case right here in front of you, but I'll tell you that Kevin is not a monster. He did not harm his granddaughters.

I'm sure you're thinking, now, Mr. Brown, you're his attorney, of course you're gonna say he didn't do it; you have to, right? No, I don't. A lot of times there is justification or reason. Again, that's not our case, but Kevin McKinnon is innocent. He did not harm any children. He didn't harm Cousin he didn't harm Complainant They were harmed though, just not by Kevin.

Folks, that's why I chose you as my jury. I want my jury to say, wait a minute, what's going on here. If he didn't do it, what's going on. I want my jury to ask those questions. I want them to ask beyond the facts that they're being told, and I'm going to try to give you all the facts that I can. Now, the state didn't tell you the whole story. They didn't tell you two granddaughters; they didn't tell you there's two complainants; they didn't tell you that they had both made accusations at the beginning; they didn't tell you that. But, here we are and I want to tell everything. So you are gonna hear from Complainant but you're also going to hear from Cousin Cousin is gonna tell you, look, I made it up. Sorry.

Folks, as the jury, I don't want my jury to leave their life experiences at home. I don't want you to check your logic at the door. Use it, bring it with you in here. Again, ask yourselves, why is this person saying that; what else are

they not telling? So at the end of what I present, you will see that Kevin is not the monster; Kevin didn't do this. Kevin didn't harm anyone. I will tell you that abuse fosters abuse, that I will present you all the facts that I can, you'll see that Kevin is not guilty. And I'm not going to give you all the lawyerisms about well, beyond a reasonable doubt and, well, if the sky is blue, what color blue is it? I'm not gonna do that. But they do tell you something in law school and that's don't promise the jury anything. Folks, I'm gonna break that rule; I am gonna promise you something. I'm gonna promise to prove to you that Kevin didn't do it.

The state has a story that they want to tell you, they want to sell this story to you, and that's the state's case, what he was just saying. They're gonna have a lot of people say what the kids said. They're gonna have Complainant tell you what she's saying; they're gonna have an officer tell you what he heard her say; they're gonna have a counselor tell you what she was told. They're gonna have a lot of people regurgitate the same story to you. If I came in here and I said, this pen is red, and then the state brings ten people in here to say, yeah, he told me it was red; it doesn't make the pen red. It's just the same story over and over again by different people saying what one person is saying.

You're not gonna hear from professionals, doctors, scientists saying there's medical evidence, specimens,

anything from a laboratory; you're not gonna hear from that, because there isn't -- there isn't any.

Now, why isn't there any? Because it didn't happen. It didn't happen, Kevin didn't do this. The state can't drop charges like it should; they've become too invested in the story they need to tell you. They've gone too far down the rabbit's hole, like other individuals in this case. What about our case? I mean, the Judge told you we don't have to say a word; we don't have to show up. That might be the law, but that's not reality.

So what are you gonna hear from us? You're gonna hear from our family, the folks that lived in the house, the folks that were with Kevin all the time, his wife, his mother lived there, his son. You're gonna hear from all these folks. You're gonna hear from Cousin who was molested, who acted out sexually with Complainant who also accused him at the beginning with Complainant when they got caught. They were afraid. What do we do, let's make it up, blame someone else but us; they didn't want to get in trouble. Was that fair to Kevin? No, but that's what kids do. So they did and they went along with it until it was found out what was really going on. That's when Cousin the older of the two cousins, came clean and said, look, we made it up. She was charged -- he was charged with her -- with her allegations too. The state is not bringing those. Why? Because she is admitting the truth that

they didn't -- they didn't tell the truth in the beginning; they made it up, but they can't drop this one. They can't see the truth.

Folks, Kevin is a father, he's a husband, his wife, his mother is here, his son, granddaughter. You're gonna hear from his coworkers telling you about how he was the safety director for Myrtle Beach Speedway, the former Myrtle Beach Speedway for 20 years here. He's a volunteer fireman. He also built a shop for his mother and his wife in Surfside Beach, an antique shop. He's always working. They live in a mobile home, very small, confined house, with multiple people living there. You're gonna hear from them. You're gonna hear from his coworkers, to say, well, this is his work schedule; he's always worked, building cars, racing cars, working at this store. He worked hard for his family.

Ladies and gentlemen, Kevin is not guilty. He's not. They're gonna tell you we made it up; I'm sorry, we lied. We were scared, we got caught. They were abused. They were abused by someone else, not by Kevin. Abuse fosters abuse, folks, and Kevin didn't do it, and now they want to send him to prison for something he didn't do.

At the end of this trial, I'm confident that you're gonna know that Kevin McKinnon is innocent. He is not guilty. And at the end of this, I'm gonna ask you to tell the state what we already know; tell the state he's not guilty. Tell the

state, how dare you do this to these girls. Tell the state why drag them through this lie and relive their abuse. Tell them not to do this again. Forcing children to relive abuse is wrong and they're guilty of it. The state, the government is doing this to children in our state. Is it comfortable to talk about? No, I don't want to have to be here, but this is what they're forcing us to do. This is what they're forcing these kids to go through right here on this stand in front of you. How dare you.

Folks, Kevin is not guilty. There was a monster in their closet, he is gone, the kids are safe. The kids lied; the kids made it up. One of them, the older one, the mature one, has the courage to tell the truth. Sadly, she has to admit what she's been through.

Folks, we will finally end this nightmare for these two complainants, for Kevin, for the state, for their family. At the end of this trial, you'll know he is wrongfully accused, he didn't do it, he's not guilty. He's innocent.

I thank you for your time.

BY THE COURT:

THE COURT: All right. The clerk's representative is going to hand out a notepad and a pen to you. If you would put your name on the notepad and that will remain yours during the course of the trial. And when you come and go, you just leave it in your seat; don't take it with you. They're going

to give you a pen in just a second. He's just handing out the pads first. He'll give you pens in just a minute. Make sure you put your name on it, please.

All right. Very good.

All right, Solicitor, your first witness, please?

MS. WALTER: Your Honor, may we approach briefly before I call my first witness?

THE COURT: Sure.

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

MS. WALTER: Your Honor, the state calls Minor 2

THE COURT: All right. Please come around right up here next to the clerk's representative.

THE CLERK: Please raise your right hand, put your left hand on the Bible.

Minor 2 JOHNSON, HAVING BEEN DULY SWORN, TESTIFIES AS FOLLOWS:

THE CLERK: Please step up. State your name and spell your name for the Court.

Minor 2 My real name or the name I go by?

MS. WALTER: You can take your mask off now.

THE COURT: You can take your mask off, ma'am, and state your full name?

Minor 2 My name is Minor 2 Minor 2 Minor 2

THE COURT: All right. And, Solicitor, if you would, just cover Minor 2 date of birth, and then I'll speak some to the jury and then you may question her.

MS. WALTER: Absolutely.

DIRECT EXAMINATION OF Minor 2 Minor 2 BY MS. WALTER:

Q: Minor 2 what is your date of birth?

A: [redacted] of 2006.

THE COURT: And so that makes you how old right now?

A: Fourteen years.

THE COURT: All right. Thank you, ma'am.

COURT TO JURY:

THE COURT: All right. Ladies and gentlemen of the jury, you are going to hear testimony of a child or a minor. And, when a minor or a child testifies, it becomes you, the jury's job to determine, as with any other witness, whether that testimony is credible or believable. Now, you can consider that when you're speaking or having a child or a minor testify, the age of the child, the child's ability to observe and remember facts, the child's ability to understand and answer questions, because in some cases, some minors or children may not fully understand the court proceedings. It's up to you to decide whether or not the minor child understands the seriousness of appearing as a witness in a criminal trial, whether the minor child understood the questions, whether they have a good memory, whether the child understands the

difference between lying and telling the truth. In addition, there's the potential that minors may be influenced by the way questions are asked by either side. It's up to you to decide whether a minor child understands the questions asked of the child, and then answered those questions truthfully.

You may proceed, Solicitor.

MS. WALTER: Thank you, Your Honor.

BY MS. WALTER:

Q: Good afternoon, Minor 2

A: Good afternoon.

Q: Thank you for coming in. One of the things you just heard the judge say is the jury needs to know that you know the difference between the truth and a lie. If I told you -- and that's Judge John sitting up there. If I told you that Judge John is wearing a red robe, would that be the truth or a lie?

A: That would be a lie.

Q: And if I told you that I was wearing a black suit; would that be the truth or a lie?

A: That would be a lie.

Q: Okay. So you told the state you are 14. What grade are you in?

A: I'm in the ninth grade.

Q: And what types of subjects do you study at school?

A: Math, reading, AP government, and biology.

Q: What's your favorite subject?
A: Probably math.
Q: And since that's one of your favorite subjects, and I heard the other courses you're taking, what do you think you want to be when you are older?
A: I think I want to be an orthopedic surgeon.
Q: Okay. Now, have you been -- have you grown up in Horry County?
A: Yes, ma'am.
Q: And I want you to think back to the summer of 2015; were you living in Horry County at that point?
A: Yes, ma'am.
Q: Were you -- did you go to a day camp run by Horry County Parks and Rec?
A: Uh-huh, yes, ma'am.

MR. BROWN: Your Honor, we have a matter of law we'd like to take up at this time.

THE COURT: Come over here and talk to me first, please.

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

THE COURT: Go ahead, Solicitor.

BY MS. WALTER:

Q: Okay. So I'm sorry, you -- I had just asked did you attend a day camp that was run by Horry County Parks and Rec that summer?

A: Yes, ma'am.
Q: And did you know or did you meet that summer, Complainant McKinnon?
A: Yes, ma'am.
Q: Were you at the same camp?
A: Yes, ma'am.
Q: When -- do you know when, in relation to the end of the school year, when did that camp start?
A: A couple of weeks after school ended.
Q: How long did it go that summer?
A: About two weeks, I think, before school started.
Q: So basically, June and July of 2015?
A: Yes, ma'am.
Q: Okay. Had you attended that camp before?
A: Yes, ma'am.
Q: That you know of, had Complainant attended that camp before?
A: Not that I know of.
Q: So that was the first year you knew of Complainant at that camp?
A: Yes, ma'am.
Q: Were you friendly with her?
A: Yes, ma'am.
Q: Do you remember if there was a young girl named Cousin McKinnon at that camp as well?
A: Yes, ma'am.

Q: Do you -- so there was a Hannah McKinnon there?
A: Yes, ma'am.
Q: Do you know if Cousin had ever attended that camp before?
A: I'm pretty sure she had.
Q: And what types of things would you -- well, strike that. How close in age were you to Complainant
A: I think we were the same age.
Q: And what about how close in age were you to Cousin
A: I think we were all around the same age.
Q: Around the same age. So what types would you guys do at summer camp?
A: We went to the pool and the waterpark and movies.
Q: So thinking back to the middle of July in 2015, at some point, were some of you girls together and did the topic of sexual abuse come up?
A: Yes, ma'am.
Q: Was Cousin involved in that conversation?
A: Yes, ma'am.
Q: Do you know who, if anyone else, was around you for that conversation?
A: Yes, ma'am. Cousin was there and a few other girls around our age, maybe a year older or so at the summer camp were around us, too.
Q: Okay. Do you know how the conversation started?

A: I'm not sure how it started.
Q: Did Cousin at some point, tell you whether or not she was being sexually abused?
MR. BROWN: Objection, hearsay.
THE COURT: I'm gonna allow the question.
BY MS. WALTER:
Q: I'll repeat it if you need. Did Cousin at some point tell you whether or not she was being sexually abused?
A: Yes, ma'am.
Q: Did she tell you when she had been sexually abused?
A: She didn't specify when, but I felt like it was continuing to happen.
Q: Okay.
MR. BROWN: Objection.
THE COURT: All right. I'm gonna sustain the objection and strike the answer.
MS. WALTER: Okay.
BY MS. WALTER:
Q: When Cousin spoke of the sexual abuse, did she use the present tense or the past tense, if you recall?
A: I don't recall.
Q: Okay. At some point during this conversation with Cousin about sexual abuse, was Complainant name mentioned?
A: Yes, ma'am.

Q: Who mentioned Complainant name?
A: Cousin did.
Q: Was Complainant in that area when her name came up?
A: I think so.
Q: At some point, did -- were you able to see whether or not Complainant had a reaction to this conversation?
A: Later on, the conversation continued and Complainant started crying, so...
Q: So the conversation continued still about sexual abuse?
A: Uh-huh, (affirmative response).
Q: You just have to say yes or no. I'm sorry.
A: Yes.
Q: Okay. When Complainant got upset, did she stay there or did she leave?
A: She stayed with me, and we just kind of left Cousin alone.
Q: Eventually, that day, did you leave the camp and go home?
A: I did.
Q: Did you tell anyone about that conversation?
A: Yes, ma'am; I told my mother.
Q: All right. And did you go back to camp the next day?
A: I did.
Q: Did anyone from the camp talk to you about what you had told your mother?
A: Yes, they did.

Q: Did you ever talk to Complainant about that conversation again?
A: I don't believe so.
Q: Did you stay friends with Complainant
A: Up until she moved, I did, yes.
Q: Do you know when she moved in relation to this conversation?
A: I know she moved after we discussed it.
Q: Okay.

MS. WALTER: Court's indulgence?

Nothing further at this time for the witness, Your Honor.

THE COURT: Cross-examination?

MR. BROWN: Thank you, Your Honor.

CROSS-EXAMINATION OF Minor 2 BY MR. BROWN:

Q: Hey, Minor 2
A: Hi.
Q: My name is Casey. I'm a lawyer. Do you know what lawyers do?
A: I do.
Q: Okay. They talk about that in school?
A: I wanted to be a lawyer a couple of years ago.
Q: Well, it's not a bad job; you should reconsider.

Minor 2 what's your mom's name?

A: Amanda.
Q: Amanda Johnson?
A: Yes, sir.

Q: Okay. What's your grandmother's name?
A: Lucille.
Q: Lucille Johnson?
A: No, her name is Gladys Lucille Rogers now, I think.
Q: Did she get married recently?
A: No, she's been married for a while. We just don't talk about her name.
Q: Okay. Minor 2 you said this was a conversation with a bunch of girls; how many girls would you say?
A: I'm not sure.
Q: Was it a big group or a small group; do you remember?
A: It was a medium-sized group, maybe like five or six.
Q: Okay. Were y'all outside?
A: Yes, it was after we had gone to the pool. It was like a lunch break.
Q: You said after lunch?
A: After we went to the pool, it was like lunch break.
Q: Okay. Was it near the pool?
A: Yes, it was right across the street.
Q: Okay. Were you in like a park, like a field?
A: It was like a park, but it was like a shelter.
Q: Was it raining that day?
A: I don't think so but I don't recall.
Q: You don't remember? I know it was like a long time ago, right? Do you remember what you were wearing?

A: A bathing suit.
Q: Okay. Were -- was everybody wearing one?
A: I don't know; I guess so.
Q: Okay. Were you friends with Cousin
A: Not really.
Q: How come?
A: Cousin was always just different from us. I mean, we were friends a little bit. I mean, she taught me a song and I like the song.
Q: Okay. Do you remember the song?
A: Yeah; it was Roar by Katie Perry.
Q: It's a good song. Did y'all practice the song, like was there a dance routine?
A: No, she just taught me the song.
Q: Sounds like y'all were good friends?
A: I'm sorry; can you repeat that?
Q: It sounds like y'all were friends?
A: We weren't close, but I guess you could say we were friends.
Q: How many people went to this camp?
A: It was a limited number, and it was split up into three groups. I don't know, maybe a hundred, a little more.
Q: Did you know everybody?
A: No, sir.
Q: Okay. When is the last time you talked to Complainant

A: Not before she moved.
Q: You haven't talked to her since?
A: Yes.
Q: When is the last time you talked to her?
A: I don't know. When she moved, I said goodbye.
Q: Oh, so since then you haven't talked to her?
A: Right.
Q: You haven't talked to her today or this week?
A: No.
Q: Have you ever talked to Mary-Ellen?
A: Yes, sir.
Q: When did you talk to her?
A: They brought me in last week and just went over the court procedures and stuff.
Q: Is that the first time you ever met her?
A: No.
Q: You met her before?
A: Yes, sir.
Q: When was that?
A: We met when the trial was gonna happen the first time, and then it got delayed.
Q: So you've met her before?
A: Yes, sir.
Q: And then you talked with her last week?
A: Maybe not last week; it was -- it wasn't that long ago.

Q: Okay. Have you talked to her some today?
A: Just briefly.
Q: Did you talk to her over the weekend?
A: I haven't.
Q: Do you know if anyone else has?
MS. WALTER: Objection.
MR. BROWN: I'm not asking her what they said.
THE COURT: Unless she knows from her own knowledge.
A: I'm sorry; can you repeat the question?
BY MR. BROWN:
Q: Do you know if she talked to anybody else that you know of?
A: Not that I know of.
Q: Okay. So you've met her before a couple of times and talked to her? Okay, right?
A: Right.
Q: Okay. And this summer camp was over five years ago?
A: Yes.
Q: Okay.
MR. BROWN: Court's indulgence, Your Honor?
THE COURT: Yes, sir.
BY MR. BROWN:
Q: Did you ever go back to the camp, this camp that we're talking about five years ago?
A: I did.

Q: Did you go every year?
A: Pretty much.
Q: Do you get good friends from there?
A: I'm sorry; I couldn't hear you.
Q: Did you get -- did you make good friends there?
A: I think so.
Q: When's the last time you went? What age group is the end of it?
A: It goes until you're 12 and it starts when you're like five, but I didn't -- I stopped going when I was like -- ten was the last year I went, I think.
Q: And you're 14 now?
A: Right.
Q: So maybe you went one year after 2015?
A: Right.
Q: Okay.

MR. BROWN: That's my questions, Your Honor. Thank you.

THE COURT: Any redirect?

MS. WALTER: Just very briefly.

REDIRECT OF Minor 2 BY MS. WALTER:

Q: Minor 2 when we've met, other than, I brought you to the courtroom, right, just to show you sort of what to expect?
A: Right.
Q: And we discussed what you remember -- did we discuss what you remembered?

A: Yes, we did.
Q: Did I explain some legal rules about things you would be allowed to say or would not be allowed to say?
A: Just very briefly.
Q: Did I ever tell you, this is what you need to say?
A: No, ma'am.
Q: What did I tell you to say?
A: You told me to tell the truth and that, if I didn't know, just say I didn't know.
Q: Thank you. Thank you for coming in today.
A: You're welcome.

THE COURT: Anything on those questions, Mr. Brown?

MR. BROWN: No, Your Honor.

THE COURT: All right. Thank you, you are now excused.

All right. Somebody that's ---

MS. WALTER: Her mom is here.

THE COURT: Okay.

All right. Your next witness, please?

MS. WALTER: The next witness will be Complainant Your Honor.

THE COURT: All right.

Hold on one second, let him finish, please.

Thank you.

THE CLERK: Please raise your right hand and put your left hand on the Bible.

Complainant [redacted] HAVING BEEN DULY SWORN, TESTIFIES AS FOLLOWS:

MS. WALTER: Your Honor, may I just approach the witness?

THE COURT: Yes, ma'am. When you sit down, ma'am, you can remove your mask.

Go ahead, Solicitor.

MR. BROWN: Your Honor ---

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

THE COURT: All right. Ladies and gentlemen, Madam Forelady, y'all go to your jury room to take a short break, please, if you don't mind. Thank you.

Just leave your pads and pens in your seat.

(REPORTER'S NOTE: Jury exits courtroom @ 4:13 p.m.)

THE COURT: All right. We'll take a short break, about five or ten minutes. Thank you.

Ms. Complainant you may step down and walk around, you just can't talk to anybody right now. Okay?

RECESSS - 4:15 P.M.

*******OFF THE RECORD*******

ON THE RECORD - 4:20 P.M.

THE COURT: All right. Ms. Complainant if you would come back to the witness stand, please, ma'am.

And ask the jury to come back in, please.

MR. BROWN: Your Honor?

THE COURT: Yes, sir.

MR. BROWN: We did submit our redactions for the forensic interview of this witness to the state.

THE COURT: Was there a problem?

MS. WALTER: Well, number one, the interview doesn't come in through this witness. Number two, he did that towards the end of the lunch break.

THE COURT: Okay. So -- okay. The -- well, that's true. The -- that's not gonna come in in this witness, so you look at it, and tomorrow you let me know if there's any issues.

MS. WALTER: Thank you, Your Honor.

THE COURT: All right. Thank you.

MR. BROWN: Thank you, Your Honor.

THE COURT: And again, with this witness, Ms. Walter, if we just start off with getting date of birth and her age and then I'll ---

MS. WALTER: Absolutely.

THE COURT: --- tell the jury the instructions again.

MR. BROWN: Your Honor, is the Court's instructions that if we hand anything to a witness, we wear gloves; is that right?

THE COURT: Yes, sir.

MR. BROWN: Okay.

THE COURT: You have to and they have to be -- have gloves on, both of them.

MR. BROWN: Yes. Thank you, Your Honor.

(REPORTER'S NOTE: Jury enters courtroom @ 4:23 p.m.)

THE COURT: All right, Solicitor, you may proceed.

MS. WALTER: Thank you, Your Honor.

MR. BROWN: Your Honor, may we approach briefly?

THE COURT: Yes, sir.

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

THE COURT: Go ahead, Solicitor.

MS. WALTER: Thank you, Your Honor.

DIRECT EXAMINATION OF Complainant BY MS. WALTER:

Q: Complainant how old are you?

A: I'm 13 years old.

Q: Okay. Just make sure you speak right into that microphone, because I know you're a little soft-spoken. What's your date of birth; when were you born?

A: I was born [redacted], 2007.

Q: Okay.

THE COURT: All right. Thank you, ma'am.

COURT TO JURY:

THE COURT: Ladies and gentlemen, and this won't be the last time that I tell you these same instructions, but again, we have a child who is a minor. Again, it is your job, duty and responsibility to determine, as with, again, with any witness their credibility or believability. Now, in deciding

that, you can consider that what the age of the child or the minor testifying in front of you; again, their ability to observe and remember facts; their ability to understand and answer questions. Sometimes minor children may not fully understand court proceedings, so again, it is up to you collectively to decide whether or not the child or the minor understood the seriousness of appearing as a witness in a criminal trial; whether the minor understood the questions; they have a good memory; whether they understand the difference between lying and telling the truth. In addition, sometimes minor children may be influenced by the way questions are asked by either side. Again, it's up to you to decide whether or not the minor child understands the questions fully and also answered those questions truthfully. Thank you.

Go ahead.

MS. WALTER: Thank you, Your Honor.

BY MS. WALTER:

Q: Complainant do you know what state you were born in?

A: I was born in South Carolina.

Q: Do you still live in South Carolina?

A: No.

Q: What state do you live in?

A: I live in Michigan.

Q: And who do you live with in Michigan?

A: I live with my mother, my stepdad, my brother, and my stepbrother.
Q: What's your brother's name?
A: My brother's name is Brother
Q: And what's your stepbrother's name?
A: My stepbrother's name is Stepbrother.
Q: Okay. Do you guys have any pets?
A: We have three dogs and a cat.
Q: What kind of dogs do you have?
A: My dogs are all toy Australian Shepherds.
Q: What are their names?
A: Their names are Princess Leah, Chewbacca, and Obi-Wan Kenobi.
Q: I guess we know what movie you like. What about the cat; what's your cat's name?
A: My cat's name is Jazzy.
Q: Okay. Do you go to school in Michigan?
A: Yes.
Q: What grade are you in?
A: I'm in eighth grade.
Q: And so with everything that's going on, are you actually going into the school or are you doing online learning?
A: I'm doing in-person.
Q: What types of subjects are you studying?
A: I study English, Algebra, Language Arts, STEM, History,

Science, and Spanish II.

Q: Is your school having any sports?

A: Yes.

Q: And are you -- did you sign up for any sports?

A: Yes.

Q: What did you sign up for?

A: I am currently running cross country.

Q: Okay. Do you like to read?

A: Yes.

Q: What types of things do you like to read?

A: I mainly like to read fiction and non-fiction.

Q: Did you read the Harry Potter series?

A: Yes.

Q: Did you like it?

A: Yeah.

Q: Okay. So do you know the difference between the truth and a lie?

A: Yes.

Q: So if I told you that this is February of 2020, would that be the truth or a lie?

A: A lie.

Q: If I told you that we are in Florida right now, would that be the truth or a lie?

A: A Lie.

Q: Okay. So I want to go back in time to when you lived in

South Carolina. Who did you live with when you were living in South Carolina?

A: We would split time with my mom and my dad. So I would go to my dad's or go to my mom's, half and half.

Q: Okay. When you were with your mom, who else lived there?

A: It was me; my mom; my brother; Matt, her boyfriend; and a stepbrother, Stepbrother 2.

Q: Okay. Now, what about when you stayed with your dad?

A: It was me, my brother, my dad, and my stepmom.

Q: Okay. What's your stepmom's name?

A: Jeanna.

Q: Okay. Did you have any other family living in the area?

A: Yes.

Q: Who else -- what other family lived in the area?

A: My grandparents.

Q: Do you know your grandparents' names?

A: Kevin and Susan McKinnon.

Q: And did you ever go to your grandparents' house while you lived here?

A: Yes.

Q: How often do you think you would go to their house?

A: A couple of times a month.

Q: Did you ever stay overnight at their house?

A: Yes.

Q: All right. And when you would go to their house, let's

deal specifically with between the ages of when you were six and when you were eight. If you remember, who lived at your grandparents' house?

A: It was my grandfather and my grandmother; maybe a little bit, my great grandmother; but I can't recall anyone else.

Q: Okay. So your great grandmother might have lived there on and off?

A: Yes.

Q: Okay. Do you remember what the house looked like?

A: Kind of.

Q: Okay. How about can you tell us what the inside looked like, just briefly?

A: When you walk in, there's the living room, and then off the living room is the dining room, and then off of that is another room, like a bedroom, and then the bathroom. And then off the living room, there's another dining room area, and off the two dining rooms, there's a kitchen. And then off the dining room area, there is a room with like a computer, and then there's their bedroom after that, and then the bathroom.

Q: Okay. So and when you say their bedroom, whose bedroom do you mean?

A: My grandparents' bedroom.

Q: Okay. So you go from a dining area to a room with a computer to their bedroom?

A: Yes.

Q: Was there a door that separated -- I'm going to call it the computer room. Was there a door that separated the computer room from the dining area?
A: Yes.
Q: And then what about from the computer room to their bedroom; was there a door?
A: There was a gate separating.
Q: What kind of gate, like an iron gate or a pet gate or a child gate?
A: It was like a pet or a child gate.
Q: Okay. So when you would go over to your grandparents' house, would you go alone, would you go with Brother or a little bit of both?
A: A little bit of both.
Q: So what types of things would you guys do when you were there?
A: We would watch T.V., go outside, sometimes we would go shopping.
Q: Before you turned six, how would you describe your relationship with your grandfather?
A: Pretty well. I would always want to help him with whatever he was working on and just be around him.
Q: Okay. And then once you turned six, did something happen with your grandfather that made you uncomfortable?
A: Yes.

Q: Okay. Can you tell us what happened?
A: He started touching me in places that he shouldn't touch me and...
Q: Okay. And I'm sorry we have to go through this. Where would this happen?
A: It would happen in their house when I went over there.
Q: Would it happen in -- did it happen once or more than once?
A: It happened more than once.
Q: Would it happen every time you went over?
A: Almost every time.
Q: Okay. Where in the house would it happen?
A: Sometimes, if no one else was there, he would do it in the living room, but it was mainly in the computer room and his bedroom.
Q: Okay. How -- how long would you -- when did it start; how old were you when it started.
A: I was about five or six years old, almost six, if not six.
Q: How long did it go on before it stopped?
A: It went on for about two years, until I was eight years old.
Q: Okay. When the defendant would abuse you -- and let me just back up for a second. Do you see your grandfather in court today? Do you still call him your grandfather; let's

put it that way?
A: I don't call him my grandfather anymore.
Q: Okay. Do you see the person who used to be your grandfather in court today?
A: I believe so but I don't want to look over there, so...
Q: I'm sorry; say that again?
A: I believe he is, but I don't want to look over in that direction.
Q: Okay. That's fine. That's understandable. So you said that the defendant would touch you in places where he shouldn't. Can you tell me -- let's start with, where did he touch you?
A: He would touch my private parts.
Q: Okay. And when you say private parts, what parts of your body do you mean?
A: It would touch my boobs, my vagina, and my butt.
Q: When he would touch these parts of you, was it over your clothes, under your clothes, or something else?
A: Over and under.
Q: So I'm going to just -- we're gonna take it private part by private part. And if you ever need a break, just let us know and we'll ask the judge. Okay? And remember that when you answer a question, you just have to say yes or no so that this nice lady can take down everything that you're saying. Okay? Yes?

A: Yes.
Q: So you said that the defendant would touch your boobs. What would he touch your boobs with?
A: He would touch my boobs with his hands, his mouth, and his penis.
Q: Okay. When he would touch your boobs with his mouth, what did he do?
A: He would lick them.
Q: What about when he touched your boobs with his hands, what would he do?
A: He would squeeze my boobs.
Q: And this was both under and over your clothing?
A: Yes.
Q: And when he touched your boobs with his penis, what did he do?
A: He would rub his penis on my boobs.
Q: Were you able to see his penis when he did this?
A: Yes.
Q: Can you tell us if anything happened to his penis as he was rubbing it on your boobs?
A: His penis was getting harder.
Q: Did anything ever come out of his penis when it was rubbing on your boobs?
A: No.
Q: And now, you're using the word penis today. Do you know

if that's the same word you used back when you were eight years old or have you learned different terminology now?
A: I did not use that word when I was eight.
Q: Okay. Do you remember what word you used?
A: No.
Q: Okay. So you also said that the defendant touched your butt. Was this over your clothes, under your clothes, or something else?
A: It was both.
Q: Both over and under your clothes?
A: Yes.
Q: What would he touch your butt with?
A: With his hands.
Q: Did this happen once or more than once?
A: More than once.
Q: When he touched your butt with his hands, what did he do?
A: He would squeeze my butt?
Q: When he did this, was he dressed, undressed, or something else?
A: Both.
Q: Both?
A: Yes.
Q: Okay. Now, you also said that he touched your vagina; is that the same you were using when you were eight?
A: No.

Q: Do you remember what you called it back then?
A: Probably pee-pee.
Q: Okay. And now that you're 13, are you a little bit more familiar with the different parts of a vagina?
A: A bit more, yes.
Q: Okay. So are there different parts to a vagina?
A: Yes.
Q: What are they that -- as you know them?
A: I know the lips are called the labia.
Q: And is there a hole part of it?
A: Yes.
Q: Okay. So when the defendant touched your vagina, was this over your clothes, under your clothes, or something else?
A: Under and over.
Q: Did this happen once or more than once?
A: More than once.
Q: When he touched your vagina, what part of his body did he use?
A: He used his mouth, his hands, and his penis.
Q: When he touched your vagina with his hands, what did he do?
A: He would rub it.
Q: And what about when he touched your vagina with his mouth; what did he do?
A: He would lick it.

Q: What part of your vagina did his -- I assume he was licking it with his tongue?
A: Yes.
Q: What part of your vagina would his tongue touch?
A: Inside the labia.
Q: Did his tongue ever go inside the hole part of your vagina?
A: No.
Q: So just in between the lips?
A: Yes.
Q: When he touched your vagina with his penis, what did he do?
A: He would rub his penis on my vagina.
Q: Was he clothed or unclothed?
A: Unclothed.
Q: When he rubbed his penis on your vagina, were you able to see his penis?
A: Yes.
Q: Did his penis change in any way?
A: Yes.
Q: What happened to it?
A: His penis got harder.
Q: Okay. Did you ever see anything come out of his penis when -- after he rubbed it on your vagina?
A: No.

Q: Did the defendant ever make you touch a part of his body?
A: Yes.
Q: What part of his body did he make you touch?
A: He would make me touch his penis.
Q: What part of your body did he make you touch his penis with?
A: With my hands and my mouth.
Q: When the defendant made you touch his penis with your mouth, what did he do?
A: He would make me just put my mouth over it and go up and down and...
Q: Where was his penis; inside your mouth, outside your mouth, or something else?
A: Inside.
Q: And when you said he made you go up and down; what do you mean?
A: Like move my mouth on it.
Q: All right. Thank you. Do you know if anything every came out of his penis when he either -- I'll break it down. Did anything ever come out of his penis when it was in your mouth?
A: No.
Q: Did anything ever come out of his penis after he took it out of your mouth?
A: No.

Q: When the defendant made you touch his penis with your hands, what did he do?
A: He would make me rub his penis.
Q: And was he clothed, unclothed, or something else?
A: Unclothed.
Q: When you say he made you touch it with his hands, what did he make you do?
A: He had me rub it.
Q: When you say rub it, can you show us what you had to do?
A: This (indicating).
Q: So indicating for the record that her hand is, I guess, in a circle and she's moving it in an up and down motion.
Did anything ever come out of his penis when you had to touch it with your hands?
A: Yes.
Q: What -- what could you see come out of his penis?
A: It was white and gooey.
Q: White and gooey?
A: Yes.
Q: Where did it go after it came out of his penis?
A: Sometimes on my hand; other times on the floor.
Q: Did the defendant ever say anything to you about telling anyone what was going on?
A: Yes.
Q: What did he say to you?

A: He would tell me not to tell anybody.
Q: Did he ever tell you what would happen if you told someone?
A: Sometimes he said that they wouldn't believe me if I told anyone.
Q: Did he say anything else?
A: No.
Q: Did you believe him when he said that no one would believe you?
A: I kind of did, yeah.
Q: Okay. And so is that -- why didn't you tell anyone what was happening?
A: I was scared to, and, also, I feared that nobody would believe me.
Q: Okay. Now, I want you to think back to the summer of 2015, so you would've been eight; is that right?
A: About eight, yeah.
Q: Okay. Did you go to summer camp that year?
A: Yes.
Q: And was that a summer camp run by Horry County Parks and Rec?
A: Yes.
Q: Did you remember a girl named Minor 2 who just testified?
A: Yes.
Q: Okay. And were you friends with her?

A: I would say so, yeah.
Q: Okay. Did your cousin, Cousin go to that camp as well?
A: Yes.
Q: And I want to back -- well, okay. Do you remember a conversation happening during that day camp about sexual abuse?
A: Yes.
Q: Who was involved in that conversation?
A: I remember it was me, Cousin and Minor 2 kind of, she was sort of there, but I don't really remember anyone else.
Q: Okay. And now I don't want you to tell us who Cousin talked about, but did Cousin talk about being sexually abused?
A: Yes.
Q: Did she talk about when it happened?
A: Not necessarily, no.
Q: Did she talk about where it happened?
A: Kind of.
Q: Did she name any locations of where it happened?
A: Yeah.
Q: Where did she say it happened?
A: At my grandparents' house.
Q: Did she talk about you being abused at all?
A: Yes.
Q: What did she say about that?

MR. BROWN: Objection, hearsay.

THE COURT: I'm gonna allow it. Go ahead.

BY MS. WALTER:

Q: What did Cousin say about you being abused?

A: She just mentioned what was happening and just tried talking to me about it.

Q: How did that make you feel?

A: Upset.

Q: Did you want to talk about it?

A: No.

Q: Now, I want to back up a little bit. When the defendant would touch your privates with his mouth, his hands and his penis, was anyone else ever with the two of you?

A: In the house, sometimes, yes.

Q: Okay. And who would be in the house?

A: My grandmother and my brother, sometimes.

Q: Where would they be -- where would they be in the house?

A: They would be in a different room.

Q: Was the door to the computer room open or closed at that point?

A: Closed.

Q: Okay. Was Cousin ever with you when the defendant was abusing you?

A: Yes.

Q: What, if anything, was the defendant doing to Cousin

when she was with the two of you as you were being abused?
A: The same thing.
Q: The defendant was doing the same thing to Cousin
A: Yes.
Q: Did the defendant ever make you and Cousin do anything to each other?
A: Yes.
Q: What did he make you do?
A: He would make us touch our vaginas.
Q: Did you and Cousin -- strike that. Did Cousin ever do this to you when the defendant was not around?
A: Yes.
Q: Can you tell us what happened then?
A: She would just like start touching me and forcing me to do stuff to her and to me.
Q: Did you want to do that?
A: No.
Q: So now let's go back to this conversation at day camp. Did you talk to anyone about that conversation and your being upset about that conversation that day?
A: No.
Q: Did you talk to your parents when you got home?
A: After they found out and started talking to me about it, yes.
Q: Okay. But when you first went home that day from day

camp, did you talk to your -- were you staying with your father at that point and Jeanna?
A: Yes.
Q: Did you talk to your father and Jeanna about it that night?
A: No.
Q: At some point, did someone from the camp talk to you just sort of about general things?
A: Yes, they contacted my parents about it.
Q: Okay. Do you -- did you ever talk to the police about it, also?
A: I talked to Detective Rhodes about it.
Q: Detective Rhodes right here?
A: Yes.
Q: Okay. And do you remember going to a little pink house to be interviewed?
A: Yes.
Q: Have you had an opportunity to -- or chance to watch that interview this past year?
A: Yes.
Q: Have you -- did -- based on what you saw, have you remembered more things than you've told about back then?
A: Yes.
Q: Do you feel differently about being able to give more details now than when you were eight?

A: Yes.
Q: Do you feel more safe or less safe now?
A: A bit more safe now.
Q: And we went over this a little bit, but are you using the same words now to describe that you used back then?
A: No.
Q: Okay. Now, you and I have met a couple of times, correct?
A: Yes.
Q: And we've discussed -- again, I showed you the courtroom, so you'd know what to expect, and we went over your testimony a little bit?
A: Yes.
Q: Did I ever tell you, this is what you need to say?
A: No.
Q: What have I told you about how to testify?
A: You told me to tell the truth and if I don't understand something or don't remember something, then say that.
Q: So has anyone said to you, this is what you need to say when you get to court.
A: No.
Q: When was the last time that the defendant abused you before this all came out, if you remember?
A: I don't remember
Q: Okay. Would you say it was close in time or far in time

from when your parents and the police found out.
A: A bit in between.
Q: Okay. Once your parents found out, have you had any contact with your -- the defendant and his wife?
A: Occasionally, his wife, because she would want to talk to us, but not him.
Q: So you haven't spoken to the defendant since July of 2015?
A: No.
Q: And when his wife would want to talk to him, did you want to talk to her?
A: Kind of. Sometimes I did; sometimes I didn't.
Q: Did you miss the way things were before you were six?
A: Yes.
Q: Have you talked to Cousin recently?
A: No.
Q: So what would you say your relationship with Cousin is at this point?
A: Probably none at all.
Q: Okay.
MS. WALTER: One second, please, Your Honor?
That's I always check with my colleague here.
BY MS. WALTER:
Q: When your grandfather was abusing you, did he ever make you watch anything?

A: Yes.
Q: Let's start with where -- what did you have to watch it on?
A: His computer.
Q: What did the computer look like?
A: It wasn't a laptop; it was kind of like a box on a stand and then It has a monitor next to it.
Q: Okay. Do you know what color it was?
A: Gray.
Q: And what did you have to watch on the computer?
A: You made me watch pornography.
Q: Did you know it was called pornography back when you were six, seven and eight years old?
A: No.
Q: So can you tell us what you actually saw without using that term pornography.
A: Naked people touching each other.
Q: Okay. The naked people, were they adults or were they children?
A: Adults.
Q: Do you remember any specifics about that they were doing?
A: Touching each other inappropriately.
Q: Okay. But that's about all?
A: Yes.
Q: How often would you say your grandfather made you watch

pornography?
A: Not very often.
Q: Would he do anything when he was making you watch pornography?
A: Yes.
Q: What would he do?
A: He would touch me and touch himself.
Q: When you say he would touch himself, where would he touch himself?
A: His penis.
Q: Okay. When you say he would touch you, where did he touch you?
A: My vagina.
Q: And was that above your clothes, beneath your clothes, or something else?
A: Above and beneath.
Q: Above and beneath. Okay. Is there anything I'm forgetting to ask you, anything else you remember?
A: Not really, no; I don't think so.
Q: All right. Thank you, Complainant
MS. WALTER: I'm sorry. Court's indulgence again.
Nothing further at this time, Your Honor.
THE COURT: Cross-examination?
MR. BROWN: Thank you, Your Honor.

CROSS-EXAMINATION OF Complainant BY MR. BROWN:

Q: Complainant
A: Yes.
Q: My name is Casey. I represent your grandfather; I'm his lawyer. Do you know what lawyers do?
A: Yes.
Q: Okay. I've got to ask you some questions; is that okay?
A: Yeah.
Q: Okay. Complainant where do you live now?
A: I live in Michigan.
Q: And what grade are you in?
A: Fifth grade.
Q: Are you back in school now?
A: Yes.
Q: Do you go to school or are you on the homeschool schedule?
A: I go to school.
Q: Okay. Do you go every day?
A: Yes.
Q: What's the name of your school?
MS. WALTER: Objection, Your Honor.
THE COURT: Sustained.
MR. BROWN: Sorry.
BY MR. BROWN:
Q: You go every single day of the week?
A: Monday through Friday.

Q: Okay. Do you have homework?
A: Yes.
Q: Do you do your homework?
A: Yes.
Q: Who do you live with right now?
A: I live with my mom, my stepdad, my brother, and my stepbrother.
Q: And what's your brother's name?
A: Brother
Q: How old is he?
A: He's 15.
Q: Does he go to school?
A: Yes.
Q: Does he have homework?
A: Yes.
Q: Do y'all do homework at the same time?
A: I don't know.
Q: Do you always do your homework?
A: Yes.
Q: What happens if you don't do your homework?
A: I fail the homework and I get in trouble for not doing homework.
Q: You get in trouble if you don't do your homework?
A: Yes.
Q: Who gets upset if you don't do your homework?

A: My mom.
Q: Your mom gets upset?
A: Yes.
Q: Does anybody else get upset?
A: My stepdad.
Q: And what's his name?
A: Jeremy.
Q: Jeremy. Complainant when did you move to Michigan?
A: 2015.
Q: Do you remember the month?
A: No.
Q: Did you move a lot before you went to Michigan?
A: No.
Q: Did you live with your mom and a guy named Matt?
A: Yes.
Q: And he had a son named Josh; is that right?
A: Yes.
Q: And that was here in Myrtle Beach area?
A: Yes.
Q: Okay. Did you also live with your dad here in the Myrtle Beach area?
A: Yes.
Q: Now, who lived there?
A: My dad, my stepmom, and me and my brother would go visit them.

Q: I'm sorry, you and your brother and who?
A: Me and my brother would go visit them.
Q: Go visit who?
A: My dad and my stepmom.
Q: Did you live with your dad and your stepmom here?
A: We split time.
Q: Back and forth?
A: Yes.
Q: Did you have your own room at both houses?
A: Yes.
Q: So when you went back and forth you didn't have to take all your stuff from one place to the next place and then go -- and then take all your stuff back to the next place; is that right?
A: Yes; I did not have to do that.
Q: Okay. So you had clothes at both houses?
A: Yes.
Q: Okay. How far apart were those two houses, your dad's house and your mom's house?
A: I don't remember.
Q: Do you know how you would get from your mom's house back to your dad's house?
A: They would drive us back or pick us up.
Q: Was it always the same parent taking to and from or sometimes dad came and picked me up, sometimes mom came and

picked me up; how did that go?
A: Sometimes he would drop -- or my dad would drop us off at my mom's house, or sometimes my mom would come pick us up or the opposite way around if I was at my mom's.
Q: Did anyone else live at your dad's house and your stepmom's house?
A: No.
Q: Was there anyone named -- like an Uncle Kevin that lived there?
A: No.
Q: You don't know of an Uncle Kevin?
A: No.
Q: Okay. Who's your -- what's your stepmom's name?
A: Jeanna.
Q: And she doesn't have a relative named Kevin?
A: Yes.
Q: She does?
A: Yes.
Q: Did he live with y'all?
A: For a little while, yes.
Q: Okay. Did you not remember?
A: No, I did not.
Q: That's okay. It's been a long time. Do you remember now when he might have lived with y'all at your dad and stepmom Jeanna's house?

A: Maybe for a couple of months.
Q: Have you seen him in a while?
A: I haven't seen him in a while.
Q: Okay. Would it be fair to say that you went back and forth between your mom's house and your dad's house a lot?
A: Yes.
Q: Okay. When you -- when you went back and forth between your mom and your dad's house, did your brother, Brother go with you every single time; did he stay at one parent's house; how did that go?
A: He went with me every time.
Q: Okay. Were you and your brother pretty close, you and Brother
A: Yes.
Q: Okay. Were you and Cousin pretty close?
A: Kind of.
Q: She was -- she's your cousin, but y'all spent a lot of time together?
A: Not really.
Q: Did y'all only see each other at Grandpa's or did you go to your uncle's house, her parents' house, Cousin parents' house?
A: Occasionally, like once every couple of months or something.
Q: Okay. And do you know Cousin parents' names; your

uncle and your aunt?
A: Michael and Shelby.
Q: I'm sorry, what was your uncle's name?
A: Michael.
Q: Michael and Shelby?
A: Yes.
Q: Okay. And Shelby is Cousin stepmom, right?
A: Yes, I believe so.
Q: Have you ever met Cousin real mom?
A: No.
Q: Okay. Did you ever go to the Myrtle Beach racetrack?
A: Yes.
Q: And your grandfather worked there?
A: Yes.
Q: And your dad was a racecar driver?
A: Yes.
Q: And your uncle was a racecar driver?
A: Yes.
Q: Your Uncle Michael?
A: Yes.
Q: And Cousin would go to the racetrack, too, with y'all?
A: Occasionally.
Q: And basically, your whole family went to the racetrack, right?
A: I would say so, yeah.

Q: Okay. Do you remember your grandma -- what's your grandma's name?
A: Susan.
Q: Did you call her Grandma?
A: Yes.
Q: Okay. Grandma would go to the racetrack, too?
A: Yes.
Q: And y'all would stay there late at night, right?
A: Yes.
Q: Okay. Did you -- was the only time that you hung out with Cousin other than Grandpa's house, the racetrack and at Uncle Michael and Aunt Shelby's house?
A: She came over to my dad's house once, but she -- that's pretty much all, yeah.
Q: Was she not allowed to come over anymore?
A: No; they didn't want her over.
Q: Did you not want her over?
A: I wanted to see her, yes.
Q: Okay. It sounds like y'all had a lot of conversations and time together, right?
A: Not necessarily.
Q: Okay. But when you were together, do you remember those times?
A: Kind of.
Q: Do you remember dancing, dance -- making up dances,

watching dances with Cousin and making them up or practicing the dances and showing them to everybody?

A: Not really; I don't remember that.

Q: Okay. When you went to your grandfather's house, it's a mobile home, right?

A: I don't know.

Q: Do you remember the house at all?

A: I remember what the inside looks like.

Q: Okay. You talked about when you walked in there was a living room, right?

A: Yes.

Q: And there was some furniture in there?

A: Yes.

Q: And you kind of remember your great grandma living there?

A: For a little bit, yes.

Q: And you remember that she slept on the couch in the living room?

A: I don't think so.

Q: Okay. Do you remember her having a room then?

A: I don't really remember where she stayed in the house.

Q: Okay. Would you -- would you say it was a huge house, a big mansion?

A: No.

Q: Would you say it was a medium house?

A: Medium, small.

Q: Okay. Not a lot of rooms?
A: Yeah.
Q: Okay. And if you're in the living room, you could see into the kitchen, right?
A: Not really.
Q: Okay. If you saw pictures would that help you remember?
A: I think I remember it quite well, but ---
Q: But -- I'm sorry?
A: I don't know if it would help or not.
Q: Okay. Well, can I show you some pictures of the inside of the house?
A: Sure.
Q: Okay.

MR. BROWN: Your Honor, permission to approach?

THE COURT: Yes, sir. Now, I don't suppose anybody has explained to the minor child they have to put gloves on, right?

MR. BROWN: No, Your Honor.

MS. WALTER: I have not, but I can ---

THE COURT: All right. How about do that, please?

MS. WALTER: Certainly. I've just been holding things up. If you have to touch anything to give to him, you just put those gloves on.

THE COURT: See if you can put them on and if you have any problems let us know.

Were you able to put them on?

A: Yes.

THE COURT: Okay, great. Thank you.

MS. WALTER: Court's indulgence?

THE COURT: Yes, ma'am.

THE COURT: Have they been marked?

MR. BROWN: Yes, Your Honor.

THE COURT: Mark them separately.

COURT REPORTER: Yes, sir. Defendant's 1 through 4.

MR. BROWN: Thank you.

DEFENDANT'S EXHIBITS NUMBER 1-4

MARKED FOR IDENTIFICATION

THE COURT: So identify them each time you show her one.

MR. BROWN: Yes, Your Honor.

THE COURT: Go ahead.

MR. BROWN: Your Honor, do I -- with the new procedure, do I ---

THE COURT: You're just going to have to hand it around.

MR. BROWN: Okay.

BY MR. BROWN:

Q: Complainant I'm gonna hand you what's been marked as Defense Exhibit 1. Do you recognize that room?

A: Yes.

Q: Can you tell us what would that -- if that looks like -- what room that looks like?

A: The living room.
Q: I'm sorry?
A: The living room.
Q: And is that your grandparents' living room?
A: Yes.
Q: Okay. And can you see into the kitchen?
A: No.
Q: Okay. You can see the front -- you can see the front door?
A: Yes.
Q: And there's some furniture in there?
A: Yes.
Q: Okay. Do you remember the living room now?
A: I remember the same...
Q: Okay. Can you see this area?
A: Yes.
Q: Do you remember if that goes to the kitchen area?
A: That is a bedroom area and a bathroom.
Q: Okay. What I mean is behind this couch, is that the kitchen.
A: That is a dining room area.
Q: Okay. And then the kitchen would be back here?
A: Yes.
Q: And you see this couch?
A: Yes.

Q: And ---

THE COURT: You have to speak up, Mr. Brown, because I'm sure the court reporter isn't ---

MR. BROWN: I'm sorry.

BY MR. BROWN:

Q: Do you see this couch here?

A: Yes.

Q: And it's kind of an L, this couch that's facing us?

A: Yes.

Q: And this couch is over here?

A: Uh-huh, (affirmative response).

Q: And this couch is in -- is that an archway?

A: Kind of.

Q: It's not a doorway, right?

A: Yeah, it's like an opening.

Q: Okay. A big opening. So if you're in the living room, you could see through here, right?

A: Yes.

Q: Okay. And then the kitchen would be back this way, right?

A: Off the side of the -- yeah.

Q: And behind this would be the computer room?

A: That would be like another dining room area and then the computer room, yes.

Q: Okay. So big open area here, right?

A: Yes.
Q: Okay. And that's the living room?
A: Yes.
Q: All right. And then you can see into the dining room and the kitchen if you're over here, right?
A: Kind of the kitchen, yeah.
Q: Okay.
MS. WALTER: Your Honor, may we approach for a moment?
THE COURT: Yes, ma'am.
(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)
BY MR. BROWN:
Q: I'm gonna show you what's been marked as Defense Exhibit 3. If you will hold that. Okay. So is that the dining room that would have been behind this in that last picture?
A: Yes.
Q: Okay. And a big open area, right? It's got a table in it?
A: Yeah.
Q: And on the right side of it is another big open archway, right?
A: Yes.
Q: And that went into the kitchen?
A: Yes.
Q: Okay. And then there's a doorway just to the left of

that, right?
A: Yes.
Q: And that goes into the computer room?
A: Yes.
Q: And that doorway has a door?
A: Yes.
Q: A regular-sized door?
A: Yes.
Q: Okay. And that's pretty much the only door in the house other than the front door, right?
A: And bathroom doors.
Q: Right. Okay. I'll have that picture back. Thank you.
MR. BROWN: And I'm gonna show her what's been marked as Defense Exhibit 2.
THE COURT: Okay.
BY MR. BROWN:
Q: If you'll hold that. Okay. So this is the computer room, right?
A: Yes.
Q: And that's the room through that -- the doorway, and that's the only door in the house, right?
MS. WALTER: Objection, Your Honor, that's not what she testified to.
BY MR. BROWN:
Q: Other than the bathroom doors, that's the only door in

the house, the computer room door, right?
A: Yes.
Q: Okay. So this is the computer room, correct?
A: Yes.
Q: And the computer was in there, right?
A: Yes.
Q: And it was a -- what color did you say it was?
A: Gray.
Q: Gray computer. And you see that, there's another big open area, right?
A: Yes.
Q: And that's -- that's not a door; there's no door there, right?
A: Yes.
Q: And that goes into the bedroom?
A: Yes.
Q: And there was no door there, right?
A: Correct.
Q: But that's where the -- the gate was, right?
A: Yes.
Q: And that was a dog gate, right?
A: Yes.
Q: And it only came up to maybe two feet off the ground, would you say?
A: About, I think.

Q: But you could see through it, like it was a like a chain link -- it's not a chain, it's a dog gate; it's mesh, right?
A: Yes.
Q: Okay. Was the dog gate up all the time or was it up sometimes?
A: Pretty much all the time.
Q: Because they had dogs, right?
A: Yes.
Q: How many dogs did they have?
A: Three.
Q: Were they big dogs, little dogs?
A: Average.
Q: Average. Make that size with your hand how big they were? About that big? Little fast little dogs, right?
A: Yeah.
Q: Is that a yeah?
A: Yeah.
Q: Did they bark a lot?
A: Not really.
Q: Did you have to have a gate because they were running around the house?
A: Yes.
Q: Okay. But again, that looks from the computer into the bedroom, and that's the grandparents' bedroom, Susan and Kevin, right?

A: Yes.
Q: And it's a big archway; there's no door there?
A: Yes.
Q: A regular door would be too small, right?
A: Yes.
Q: Okay. I'm gonna show you Defense Exhibit 4, if you'll hold it. And through that big archway, was their bedroom, correct, your grandparents' bedroom?
A: Yes.
Q: And is that a picture of the bedroom?
A: Yes.
Q: Okay. And they've got a bed in there, right?
A: Yes.
Q: And would you say that's a dresser?
A: Vanity.
Q: Vanity. And it's got a big mirror on it, right?
A: Yes.
Q: And that faces the computer room, right?
A: It faces the wall.
Q: The computer room is over here, isn't it?
A: This way.
Q: Yeah.
A: So no, it would face the wall.
Q: Okay. And they've got a mirror in there, right?
A: Yes.

Q: Okay. So that's pretty much that -- I mean, you walk in the front door and you go left, that's where this is in the house?
A: Yes.
Q: Okay. Thank you.
COURT REPORTER: Mr. Brown, I need to keep those up here.
MR. BROWN: I'm sorry.
BY MR. BROWN:
Q: So there were two other -- there were two other rooms in the house, right; there was a pool table?
A: Yes.
Q: But it had a bunch of stuff on it; you didn't get to play pool, did you?
A: No.
Q: And then there was another room that had a bunch of boxes in it, and nobody slept in that room either, right?
A: At one point, there was a bed and stuff in there, but, no.
Q: But it had boxes on top of the bed, right?
A: Yes.
Q: Nobody would ever -- you weren't allowed to go in there and play?
A: No.
Q: Okay. Did you know or do you know if that was great grandma's stuff when she moved in?

A: I don't know.
Q: Okay. So that's the house; pretty small, right?
A: Yes.
Q: Okay. A mobile home, you can hear everybody walking around, right?
A: If they were in the dining room or kitchen, yes.
Q: Okay. Do you remember going over there on Sundays for cookouts, watching races and football games?
A: Sometimes.
Q: Do you remember going over there with other family members?
A: Yes.
Q: And you can hear people talking no matter where you were in the house, right?
A: Pretty much.
Q: And when you walked in, there was a bathroom right -- right there to the right, correct; remember that?
A: Yes.
Q: And then there was one other bathroom in the house towards the back bedroom?
A: Yes.
Q: That's the only bathrooms in the house?
A: Yes.
Q: Okay. And in the backyard there's a bunch of cars, right? You remember racecars?

A: Yes.
Q: And there was a big garage in the backyard, do you remember that?
A: Yes.
Q: And Grandpa worked on racecars, right?
A: Yes.
Q: Do you remember him working on them?
A: Kind of.
Q: Do you remember your dad and your Uncle Michael working on cars out there in the -- in the big garage?
A: Yes.
Q: Because he was their safety captain and they were his racecar drivers, right?
A: Yes.
Q: Did they talk about cars a lot?
A: Yes.
Q: When you went over to your grandparents' house and they had these cookouts, do you remember who was working the grill?
A: Probably my grandfather.
Q: Okay. When you went to your grandma and grandpa's house, you said you were never alone there, right, you always went with Brother or Cousin was there; do you remember that?
A: No, I was -- I went by myself sometimes.
Q: Do you remember how you got there?
A: I was dropped off.

Q: By who?
A: My parents.
Q: Okay. When you went with your brother, Brother -- he's older, right, he's your older brother?
A: Yes.
Q: What was he doing a lot of the time?
A: Hanging out with our grandmother.
Q: Did he play on the computer a lot?
A: Occasionally.
Q: He play racing games?
A: I don't know.
Q: Were you close with your brother?
A: Yes.
Q: Do you remember him being on the computer late at night?
A: One time, yes.
Q: How late would you say?
A: I don't recall how late.
Q: Very late; not too late?
A: Probably middle of the night-ish.
Q: Okay. When you went and stayed at your grandparents' house, do you remember where you would sleep? Did you sleep on the bed, sleep on the couch, sleeping bag, where?
A: On the couch and in their bedroom on the floor sometimes.
Q: Was there like a small cot, like a small little foldout bed that you'd sleep on?

A: We would bring blankets and pillows and put them on them on the floor.

Q: Okay. Complainant when you went to your grandparents' house, did you ever do arts and crafts with your grandma?

A: Yes.

Q: Where would you do those at?

A: Probably mainly in the dining room area.

Q: At the table?

A: Yes.

Q: What kind of arts and crafts did y'all do?

A: Like you get the things from the store where you just make the animals and stuff.

Q: Did you ever draw pictures?

A: Yes.

Q: Color pictures?

A: Yes.

Q: And you said that before you were six years old, you had a good relationship with your grandparents, right?

A: Yes.

MR. BROWN: That is Defense 5.

MS. WALTER: Can you show that to me, please?

MR. BROWN: May I approach, Your Honor?

THE COURT: Yes, sir.

DEFENDANT'S EXHIBIT NUMBER 5

MARKED FOR IDENTIFICATION

BY MR. BROWN:

Q: Can you take a look at that? Do you remember drawing that?

A: No.

Q: You don't?

A: No.

Q: Can you turn it over? You don't remember drawing that and writing that during that date?

A: No.

Q: Okay. If someone said that they saw you drawing that, would they be incorrect?

A: I don't know.

THE COURT: Mr. Brown, you're asking this witness to talk about truthfulness of another witness; you can't do that.

MR. BROWN: Yes, Your Honor.

THE COURT: And for the record, what document was that?

MR. BROWN: I'm sorry. That was Defense 5.

THE COURT: Which -- 5?

MR. BROWN: 5, Your Honor.

THE COURT: All right. Thank you.

BY MR. BROWN:

Q: Complainant ---

A: Yes.

Q: Do you remember when you were with Cousin drawing pictures?

A: I do not.
Q: I'm sorry?
A: I do not.
Q: Okay. When you were with Cousin do you remember writing notes back and forth in a black and purple notebook or diary or journal?
A: No.
Q: Okay. Did you ever ask Cousin to draw pictures of you and her?
A: No.
Q: Okay. Do you remember having a conversation with Cousin about someone that abused her, not Grandpa?
A: No.
Q: Okay. The prosecutor, Ms. Mary-Ellen, she asked you about going to a pink house; do you remember that?
A: Yes.
Q: Okay. And you remember talking to a woman there?
A: Yes.
Q: Okay. When you were there, who took you there?
A: My father.
Q: Okay. Did you feel safe when you were there?
A: Yes.
Q: Okay. Did you feel rushed, like you had to get out of there quick, or did you have enough time?
A: I didn't necessarily feel rushed, no.

Q: Okay. Did you get to tell her everything you wanted to?
A: At that point, yes.
Q: Okay. You told us that your grandfather showed you things on the computer?
A: Yes.
Q: Do you remember the website?
A: No.
Q: Okay. Do you remember what you told the woman in the pink house it was?
A: Naked people touching each other.
Q: Do you remember the website you told her?
A: I didn't name a website.
Q: I'm sorry?
A: I did not say a website.
Q: Okay. Are you sure of everything you've told us today?
A: Yes.
Q: Do you want to tell us anything that's different now that you've talked a little bit about it?
A: I don't think there's anything.
Q: Nothing different; you wouldn't change anything?
A: No.

MR. BROWN: Court's indulgence, Your Honor?

THE COURT: Yes, sir.

BY MR. BROWN:

Q: Complainant when you went to your grandparents' house, you

said sometimes you slept on the couch, right, and sometimes you slept in their room on the floor?
A: Yes.
Q: Sometimes your brother went over there with you, Brother do you remember that?
A: Yes.
Q: Where did he sleep; didn't he sleep in a chair at the -- in that big entrance way from the computer room into their bedroom?
A: Sometimes, yes.
Q: And your grandma would drag that big chair over there for him to sleep in?
A: Yes.
Q: Okay. Do you remember when Cousin spent the night over there and you spent the night?
A: I don't recall.
Q: Okay. You don't remember?
A: Yeah, I don't remember.
Q: Okay. Do you remember if the dogs -- you said they had those three dogs about this big (indicating). Do you remember if they slept in the bed with Grandma and Grandpa?
A: No, they were not allowed in their room.
Q: Okay. Do you remember if the dogs have -- had chew toys, like if they chewed on stuffed animals, little bears?
A: I don't remember.

Q: Okay. Complainant are you saying the same thing now that you said back then?
A: Yes.
Q: It's true that you -- your -- you said different things back then, correct?
MS. WALTER: Objection to the form of the question.
THE COURT: Rephrase your question.
BY MR. BROWN:
Q: Complainant you've changed your story, correct?
A: No.
Q: Okay. You're -- what you're saying today is that you saw your grandfather's penis?
A: Yes
Q: And it became hard?
A: Yes.
Q: And that these are the same things you said to the woman in the pink house back then?
A: Yes.
Q: Okay.
MR. BROWN: Your Honor, that's my questions.
THE COURT: All right.
Redirect?
MS. WALTER: Very briefly, Your Honor.
REDIRECT EXAMINATION OF Complainant BY MS. WALTER:
Q: Complainant are you having fun here today?

A: No.
Q: Are you enjoying this?
A: No.
Q: Do you want to be here?
A: No.
MS. WALTER: Your Honor, may I approach the witness?
THE COURT: Yes, ma'am.
MS. WALTER: And I am approaching with what's been marked as State's Exhibit 7.
THE COURT: All right.
BY MS. WALTER:
Q: Let's not show the jury quite yet. Do you recognize where that is?
A: Yes.
Q: And is that a picture of your grandparents' house from back in 2015?
A: Yes.
Q: Does that look the same as it looked back in 2015?
A: Pretty much, yes.
MS. WALTER: Your Honor, I would ask that State's Exhibit 7 be admitted?
THE COURT: Any objection?
MR. BROWN: No, Your Honor.
THE COURT: It's into evidence without objection.
STATE'S EXHIBIT NUMBER 7

ADMITTED INTO EVIDENCE

MS. WALTER: And, Your Honor, if I may hold it up. I won't hand it to the jury, but I'm going to hold it.

THE COURT: Yes, ma'am.

BY MS. WALTER:

Q: So looking ---

MR. BROWN: Your Honor?

THE COURT: Yes, sir.

MR. BROWN: May I move over?

THE COURT: Sure, absolutely.

BY MS. WALTER:

Q: So if we're looking at this, in the center of the photo is that a dog gate or child gate?

A: Yes.

Q: Beyond that gate, what room is that?

A: Their bedroom.

Q: And then what room is kind of occupying most of the picture?

A: The computer room.

Q: And what is this sort of on either side of the picture?

A: The doorway to the dining room.

Q: Okay. And, so there's a doorway blocking a computer room from the rest of the house, but not blocking the bedroom to the computer room?

A: Yes.

Q: And you said that there were other doors in the house. What other rooms had doors?
A: The bathroom on the other side of the house, and then the other room next to the bathroom on the side of the house.
Q: The other sort of bedroom-like door?
A: Yes.
Q: And you were asked whether Brother would play the computer. Was Brother ever playing on the computer while your grandfather was abusing you in the computer room?
A: No.
Q: Was Brother playing on the computer when your grandfather was abusing you in the bedroom?
A: No.
Q: There were questions about how much you could hear in the house. When the defendant was abusing you, was he making a lot of noise?
A: No.
Q: Were you making a lot of noise?
A: No.
Q: Were you scared?
A: Yes.
Q: There was also some talk of a picture you might've drawn for your grandfather, the defendant. At some point, before all of this happened, and even maybe a little bit after, did you love your grandfather?

A: Yes.
Q: You also said that you felt safe at the little pink house, which is the Children's Recovery Center, where you got interviewed?
A: Yes.
Q: Was that the first time you had ever met that woman?
A: Yes.
Q: So did you have any sort of long-lasting relationship with her before you spoke with her?
A: No.
Q: Was that the first time that you ever really had to talk in detail about what happened?
A: Yes.
Q: Now, you also said -- Mr. Brown asked you, did you tell her everything you wanted, and you said, at that point, yes. What did you mean by that?
A: What I felt comfortable with sharing with her.
Q: Have you learned to be more comfortable sharing the details of what you had to go through?
A: Yes.
Q: Have you been able to share more details here today at 13 years old than you were at eight years old?
A: Yes.
Q: Nothing further.
THE COURT: Anything on those questions?

MR. BROWN: Yes, Your Honor, briefly.

RECROSS-EXAMINATION OF Complainant BY MR. BROWN:

Q: Complainant the state just asked you about the other doors in the house and you said the bathrooms, right?

A: Yes.

Q: And then you said those other two rooms, and those other two rooms were the ones we talked about with the pool table that had a bunch of boxes on it, right?

A: No. The pool table does not have a door.

Q: Okay. But then the other room next to it has -- has the storage in the boxes, right?

A: Yes.

Q: That room has a door?

A: Yes.

Q: Okay. And y'all weren't allowed to go in those rooms; you didn't go in those rooms?

A: We did not go in that room.

Q: Okay. So other than the bathrooms, the only door that's there is the computer room door, right?

A: Yes.

Q: And those two rooms with the pool table and all the boxes in the other room, the storage room, I guess, those were on the far end of the house over there, right?

A: Yes.

Q: And y'all didn't go in those, right?

A: We did go in the pool table room sometimes.
Q: Wasn't there a bunch of boxes on top of the pool table?
A: Yes, but there was other things, like other toys and stuff in there.
Q: So you and Cousin and Brother went in there?
A: Yes.
Q: Okay. Did your grandpa go in there with you?
A: Not necessarily, no.
Q: Okay. And you were asked about noise. Did you ask -- did you ever say that I would ask him to stop and he would stop?
A: Yes, I did.
Q: Okay. So you said that to him?
A: I never really told him to stop, because I was scared.
Q: Did you ever tell anyone that you did tell him to stop and he would; was that your statement?
A: Yes, I told him a couple of times, but sometimes I didn't.
Q: Okay. So you did tell him to stop?
A: Yes.
Q: Okay. And the state just asked you if you learned to be comfortable in talking about things. How did you learn to be comfortable; did you go to counseling?
A: Yes.
MS. WALTER: Objection, Your Honor.

THE COURT: I'll allow that question.

BY MR. BROWN:

Q: You didn't go to counseling very long?

MS. WALTER: Objection.

THE COURT: Sustained.

BY MR. BROWN:

Q: When the state asked you about the woman in the pink house, you said that was the first time you met her, right?

A: Yes.

Q: Had you ever -- did you go back and talk to her a bunch of times or was that just it?

A: I think that was pretty much one of the only times.

Q: Okay.

MR. BROWN: Thank you, Your Honor.

THE COURT: All right. You wish the witness to stand down at this time?

MS. WALTER: Yes, please, Your Honor.

THE COURT: All right. Please step down and put your mask back on, please, ma'am. Thank you.

BY THE COURT:

THE COURT: All right, ladies and gentlemen, we are going to stop for the evening. I'm going to have you come back; I do want you back in your jury room by 9:15. The clerk of court's office will have something for you there in the jury room.

MS. WALTER: And, Dr. Rahter, once you are seated, you can take your mask off behind the plexiglass.

DR. RAHTER: Carol Ann Rahter.

DIRECT EXAMINATION OF DR. CAROL ANN RAHTER BY MS. WALTER:

Q: And how do you spell your last name?

A: R-A-H-T-E-R.

Q: And, Dr. Rahter, where do you work?

A: I was an emergency physician, but I retired in December.

Q: Congratulations.

A: And I am the medical director of the Children's Recovery Center.

Q: All right. So let's start with what is the Children's Recovery Center?

A: Okay. The Children's Recovery Center has been open for about 25, 26 years. It's a child advocacy center, where we perform forensic interviews and forensic medical exams on children that have been abused.

Q: As the medical director, what are your duties?

A: I perform the medical, forensic medical exams on all the children that we see.

Q: How long have you worked at the Children's Recovery Center?

A: Twenty-six years.

Q: Okay. So since it started?

A: Right.

Q: Okay. Great. And can you give the jury your educational background, please?
A: Sure. I went to college at St. Louis University, graduated with a BS in Biology. I then went to medical school in Kansas City Missouri. I then did a one-year rotating internship in Dallas, Texas, followed by a two-year emergency medicine residency in Pontiac, Michigan. And then I moved to Conway in 1990 and started working in Conway Hospital. And I became board certified in emergency medicine in 1993.
Q: In addition to that education, do you have any specialized training?
A: Yes. So I started performing these medical exams 26 years ago, and I went and did -- I do continuing specialty training in the area of child abuse, usually by APSAC, which is a national organization that provides 40 hours of training. I try to do that at least once a year, sometimes I get two twice a year. So about between 40 and 80 hours of extra training a year.
Q: What does that training consist of; what are they teaching you?
A: All different aspects of providing medical exams to children, as well as forensic interviews of children, legal aspects of child abuse, it's kind of a multi-disciplinary conference. So you can jump into each different class the way you want. So I try do most of the medical, but I do do some

of the therapy and the forensic interviewing part.
Q: So let's just focus on the 26 years, your 26-year career at the Children's Recovery Center. And we call that the CRC, right, for short?
A: Correct.
Q: Okay. So looking just at your 26 years at the CRC, can you give us a rough estimate of how many children you have examined? I know that might be hard.
A: I would say greater than 5,000; probably closer to 6,000.
Q: Okay. And have you ever testified in court regarding those exams?
A: Yes, I have.
Q: Have you ever been qualified as an expert in the evaluation and treatment of child physical, sexual, and emotional abuse?
A: Yes, I have.
Q: Can you give us estimate of how many times you've been qualified as an expert?
A: I'd say around 60.
Q: Have any of those times ever been in General Sessions or Criminal Court?
A: Yes, Federal Court for the FBI, Criminal Court, and Family Court.
MS. WALTER: Your Honor, at this time, I would proffer Dr. Rahter as an expert. And I can state it again, if ---

THE COURT: And, I'm sorry, in the field of?

MS. WALTER: I was going to state it again, Your Honor. Evaluation and treatment of child physical, sexual, and emotional abuse.

THE COURT: All right. Mr. Brown, do you wish to voir dire the witness or challenge her qualifications?

MR. BROWN: What was the -- was it physical, sexual, and emotional?

THE COURT: Would you repeat it one more time, please?

MS. WALTER: Absolutely. The evaluation and treatment of child physical, sexual, and emotional abuse.

MR. BROWN: Yes, Your Honor.

THE COURT: All right. Go ahead.

VOIR DIRE OF DR. CAROL ANN RAHTER BY MR. BROWN:

Q: Dr. Rahter, can you tell us what research you've done lately?

A: I don't do the research. There's researchers out there. I go to conferences and read their research, but I don't perform research.

Q: Have you been published?

A: No.

Q: And you said you -- you said you had board certification?

A: Yes, sir.

Q: How long have you had that?

A: Since 1993.

Q: And what are you certified in?
A: I'm board certified in emergency medicine.
Q: Emergency medicine?
A: Yes.
Q: Because you're an ER doctor?
A: Yes, I did a residency in emergency medicine.
Q: You are the medical director at CRC?
A: I am.
Q: How long have you been there?
A: Twenty-six years.
Q: Do you have any licenses in that area?
A: I have a license to practice medicine in the state of South Carolina.
Q: That's your license?
A: That's my license. Your board certification is not a license; it's a board certification.
Q: Yes. And you said you've done 5 to 6,000 medical exams or interviews?
A: Medical exams. And, when we first started 26 years ago, I also did the interviews.
Q: Okay.
A: But we see -- last year we saw 383 children, so fortunately, I have three forensic interviewers now, so I just do the medical exams now.
Q: Has your work been peer-reviewed?

A: Yes, actually we -- there's an organization in South Carolina called SCCAMRS and it's all the medical providers in the state of South Carolina that work at child advocacy centers. Some are nurse practitioners; the most of them are physicians. And we meet -- actually I'm supposed to be on a zoom meeting with them right now -- but we meet three times a year and do peer review on cases. And, we also have a secure server where, if we have questions about an exam we've done, we can upload pictures of that exam and have our other peers peer review that. If there's any abnormalities found on exam, those have to be sent to another peer within SCARMS to have them confirm those abnormalities.

Q: So how many times would you say you have been peer-reviewed?

A: Any time there's a positive finding, it is sent to a peer to review.

Q: And did you report -- what are your -- what are your quality assurance measures?

A: I'm not quite sure what you mean by that.

Q: Well, what are your quality control aspects; how do you control for quality assurances in your exams other than peer reviews?

A: All of my exams are videoed and secured and if -- so if anybody wants to review those, another medical doctor, they can come and review that exam.

Q: Does that happen often?
A: Every single exam is videoed.
Q: Is it reviewed?
A: I think probably three times I've had a medical -- defense attorney's medical expert come and review the findings. Most of the time when something is reviewed, it's because it's a positive finding, and we send it to -- my peer reviewer is Dr. Melville in Charleston at the Medical University of South Carolina. So if I have a positive finding, it's sent to him for him to either agree or not agree with my findings.
Q: What principles and methods do you rely on in your reviewing -- in your examinations?
A: That I review other people's or that they review mine?
Q: Do you review others?
A: I do not review others, because -- he is a child abuse pediatrician, so he reviews mine for this area. We all, when we go to SCCAMRS meetings -- wee, we used to go; now, we do them via zoom -- but we each present cases, unusual cases or cases that are troubling, and then they are peer-reviewed by everybody and there's like 19 providers, and that happens three times a year.
Q: What qualifications do you have dealing with emotions and psychology?
A: Children that are victims of child abuse, whether it's

physical, sexual, or emotional, oftentimes neglect, exhibit lots of different psychological findings. I've seen many, many children, so I can certainly explain what those findings are. In my training, also when you go to APSAC and go to these conferences, they talk about the new therapeutic approaches to counseling these children, different behaviors that they have when they're sexually abused, physically abused, neglected. So there's training -- it's an all-encompassing training; it's not just the medical part of it.

Q: Do you have any specific training in psychology?

A: Well, psychology in college, and then when you're in an emergency medicine residency, you have lots of psychiatric patients, and so you get training on that, too.

Q: Do psychologists review your work?

A: No; medical doctors review my work.

Q: Thank you.

MR. BROWN: That's my questions, Your Honor.

THE COURT: Mr. Brown, do you challenge the offer of the state?

MR. BROWN: Your Honor, only on the emotional abuse aspect of evaluation and treatment. She's not researched. She's not published.

THE COURT: All right. So you do challenge that?

MR. BROWN: Yes, Your Honor.

THE COURT: All right. Very good.

I find the doctor to be qualified to give her opinion in all the fields that were set forth by the state; that is the evaluation and treatment of physical, sexual, and emotional abuse.

You may proceed,

MS. WALTER: Thank you, Your Honor.

CONTINUATION OF DIRECT EXAMINATION OF DR. CAROL RAHTER BY MS. WALTER:

Q: Dr. Rahter, in your capacity as the medical director of the CRC, did you have the opportunity to conduct a physical or forensic medical examination of [redacted]

A: I did.

Q: Oh, I'm sorry. Go ahead.

A: Yes, I did.

Q: Do you know what date that was?

A: Yes. It was July 30th of 2015.

Q: Can you tell the jury what that physical exam consists of; what do you actually do?

A: So in this case, she had a forensic interview eight days before. So I review the findings of the forensic interview. Then, I evaluate the child, basically from head to toe. They're in a gown. I use a colposcope, which is like a microscope hooked to a T.V., so the child can see every part of the exam that I'm doing. So we look at their fingerprints and any scars they have on their arms and legs and that kind

of thing. The genital exam is the last part of the exam, and I use the colposcope to see if there's any abnormalities there. So that's what I do with every child that comes into the Children's Recovery Center, and that's what I did with Complainant

Q: And when you say you use the colposcope to see if there are any physical injuries, is that akin to what a pelvic exam that an adult female would go through normally?

A: Different in the sense that adult female exams have, you know, they examine the inside of them. With children you just do protraction of the outside the labia, which exposes the hymen and the other structures. So you don't put anything inside the child; you just do some traction and then you look to see if there is any abnormalities.

Q: And now you mentioned labia, can you -- are you familiar with the term, labial penetration?

A: Yes, I am.

Q: Can you explain that to the jury?

A: Yes. I should've brought a doll. But, what happens frequently when people molest children, they don't actually put their penis inside the vagina; they do either gluteal or labial penetration. In other words, there's the lips on the outside of the vagina that are like this, and so instead of putting the penis into the vagina, they're going this way between the labia. Same thing with the buttocks. Instead of

putting the penis inside the anus, they rub it in between the butt cheeks. So that's called labial or gluteal penetration.

Q: Thank you. And you said that Complainant had had her forensic interview eight days before. When you review that, does that help guide your later medical examination so that you know what to look for?

A: Yes, well, I mean, I do the same exam on all kids. But, I mean, it was pretty clear in her forensic interview that this was -- she was describing fondling, exposure to pornography, and what appeared to be labial touching.

Q: Thank you. Now, during Complainant exam, did you note any injuries or scarring?

A: No.

Q: Was -- is that a common or uncommon finding in cases of child sexual assault?

A: So most of the time, children have a delayed disclosure and the area down there that we're examining it's kind of like the inside of your cheek.

MR. BROWN: Your Honor, I would object to this. She's not qualified in the field of that form. She's only qualified in physical, sexual, and emotional abuse.

THE COURT: I find her to be qualified.

You may proceed.

MS. WALTER: Thank you.

BY MS. WALTER:

Q: You can continue, Dr. Rahter.
A: Let me see where I was.
Q: You were just comparing it to the inside of the mouth?
A: Inside of your cheek, you know we've all done that where you bit it and you get like a ridge that hurts really bad. By the next day the ridge is gone, and by the third day, you can't see anything or you can't feel anything. Well, that tissue down there that we examine is very similar to that. So if a child is seen 12 hours after there is a penetrating injury, you might see some bruising, you might see some tearing and so forth, but almost all injury down there heals within 72 hours. Ninety-nine percent of the children we see have a delayed disclosure. Therefore, they have a delayed medical exam. So it's extremely common to have a totally normal exam, even if you've been a victim of sexual abuse.
Q: Are there any other factors other than a delayed disclosure that might affect whether or not injuries are present?
A: Yes. Delayed disclosure, whether or not there's lubricant used, whether or not there's actually a penetrating injury to the hymen, or whether there's just labial penetration or gluteal penetration. Yeah, that's what -- all I can think of.
Q: Okay. That's fine. Thank you.
And so essentially, a normal exam neither supports or

contradicts Complainant disclosure of sexual assault?
A: Correct. We make a diagnosis of sexual abuse by abnormal physical findings; a disclosure that's, you know, inconsistent with the knowledge a child should have at that age; or sometimes I've made it with a normal exam and no disclosure. We had videotaped evidence of the abuse. So those are the three ways you could make a diagnosis of sexual abuse in a child.
Q: Okay. I don't have anything further at this time.
Thank you.
THE COURT: Cross-examination?
MR. BROWN: Thank you, Your Honor.

CROSS-EXAMINATION OF DR. CAROL RAHTER BY MR. BROWN:

Q: Dr. Rahter?
A: Yes.
Q: Basically, what we're saying is there's no -- there are no injuries, right; there is no abnormalities?
A: There were no abnormalities on her exam.
Q: And that doesn't say that there was sexual abuse, correct?
A: That does not rule in or rule out sexual abuse, having a normal physical exam. Most children do.
Q: So it doesn't say there was sexual abuse, but it doesn't say there wasn't?
A: Right. That's why we rely on the forensic interview and

what the child disclosed.
Q: I understand. And if the -- if there is child-on-child abuse, it might also not reveal or reveal anything; it might reveal something or it might not reveal anything, right?
A: What does that mean?
Q: If the two children acted out sexually, it might reveal something or it might not reveal anything?
A: Oh, you mean would they have a normal physical exam?
Q: It's possible?
A: The majority of children have normal physical exams that are sexually abused, whether they're sexually abused by an adult or whether it's child-on-child. They almost extremely frequently have a normal exam.
Q: So again, it doesn't say that it did happen; it doesn't say it didn't happen?
A: Correct.
Q: Okay. Thank you.
THE COURT: Any redirect?
MS. WALTER: No, Your Honor, and I would ask that Dr. Rahter be released from her subpoena so she can get to her ---
THE COURT: Any objection to the witness being excused?
MR. BROWN: No, Your Honor.
THE COURT: All right, ma'am, you're released from your subpoena; you may go back to your regular duties. Thank you.
DR. RAHTER: Thank you.

THE COURT: All right. Who's your next witness, please?

MR. MARTIN: Judge, the state will call Theresa Callahan. I also have her COVID questionnaire.

THE COURT: All right. Very good. Thank you.

MR. MARTIN: May I approach?

THE COURT: Yes. Thank you.

MR. MARTIN: Thank you. Just come around here.

THE COURT: Stop right there at the rail, please, ma'am.

THE CLERK: Please raise your right hand and place your left hand on the Bible.

THERESA CALLAHAN, HAVING BEEN DULY SWORN, TESTIFIES AS FOLLOWS:

THE CLERK: Thank you. Please be seated and state your full name for the Court.

MS. CALLAHAN: Is it okay if I take the mask off?

THE COURT: Yes, ma'am, you can now. Thank you.

MS. CALLAHAN: My full name is Theresa Gail Callahan.

DIRECT EXAMINATION OF THERESA GAIL CALLAHAN BY MR. MARTIN:

Q: Ms. Callahan, could you spell your last name for the court reporter, please?

A: Yeah. It's C-A-L-L-A-H-A-N.

COURT REPORTER: And your middle name too, please?

A: Uh-huh, (affirmative response). It's G-A-I-L.

COURT REPORTER: Thank you.

BY MR. MARTIN:

Q: Ms. Callahan, where do you work?
A: Currently, I work at Conway Elementary School.
Q: How long have you worked at Conway Elementary School?
A: For about three years.
Q: And what do you do at Conway Elementary School?
A: I'm their data quality clerk.
Q: Now, bringing your attention to the summer of 2015, where were you employed then?
A: I was employed with Horry County Parks and Recreation.
Q: And how long were you with the Parks and Recreation Department?
A: At that time, in 2015, I was there for two years.

MR. BROWN: Your Honor, I have a matter of law I would like to take up.

THE COURT: All right. Madam Forelady, ladies and gentlemen of the jury, I need for you to go to your jury room, please. Thank you.

(REPORTER'S NOTE: Jury exits courtroom @ 10:00 a.m. The following takes place outside the presence of the jury.)

THE COURT: All right, Mr. Brown. Let me hear you.

MR. BROWN: Your Honor, it's my belief that this witness might get into hearsay and out-of-court children's statements under 17-23-175. I would ask for an in-camera hearing to determine if her statements are going to be admissible.

THE COURT: Well, let's ask the state. What's the

intention of the state regarding this witness?

MR. MARTIN: Judge, the state, at this time, certainly hasn't gone down that road. We're not -- the purpose of this witness is not to ask her to talk about something that -- specifics about maybe what she's heard or what she found out; we're asking her her role as a leader at the camp of the Parks and Recreation Department, what she did there as a leader. And, as a mandatory reporter, how she handles things when they are brought to her attention at the kids' summer camp. Our intention is not to ask her specifically what the victim may or may not have told her. Certainly, we may ask if there was some sort of disclosure and whether an investigation was conducted, but that's -- and yes, Judge, that's correct too. She didn't question the -- my understanding is, she didn't question the victims as to specific sexual acts either, Your Honor.

THE COURT: All right. So what's the hearsay?

MR. BROWN: Well, then it would be irrelevant and bolstering if they're gonna talk about what she's -- well, she did question them, the ---

THE COURT: Well, if she didn't question them, there's no bolstering, there's no hearsay. So what's the objection?

MR. BROWN: The objection is that it's irrelevant and it's bolstering to the case that she did pull them in privately and discuss what was going on after allegations were

made.

THE COURT: All right. I do not find that it's bolstering.

Bring the jury back in.

MR. BROWN: Thank you, Your Honor.

THE COURT: And I would appreciate it, Mr. Brown, if you would wait until objectionable questions are asked to raise the objection, so I know exactly what it is that you're objecting to.

Thank you very much.

MR. BROWN: Yes, Your Honor.

(REPORTER'S NOTE: Jury enters courtroom @ 10:04 a.m.)

THE COURT: All right, Solicitor. You may continue.

MR. MARTIN: Thank you, Your Honor.

BY MR. MARTIN:

Q: Ms. Callahan, I believe my last question to you was regarding the summer of 2015. Would you tell the jury again where you were working during the summer of 2015?

A: During the summer of 2015, I was working for Horry County Parks and Recreation.

Q: What was your position there?

A: I was team leader for Carolina Forest Recreation Center.

Q: And is that a summer day camp?

A: At that time, yes, we were running a summer adventure camp.

Q: Is it for children?
A: It is. It's for children.
Q: What were the age groups there; do you remember?
A: They ranged between five and 12 years old.
Q: And as a camp leader, what were your duties?
A: My responsibilities varied. I was there to insure that the camp ran smoothly. If we had any discipline problems, they were brought to my attention. Any concerns that parents had at that time were brought to my attention And, then I was also there to fill in any time that one of our camp counselors were out to make sure that the program ran smoothly.
Q: You mentioned concerns brought to your attention. During that summer, did someone make a report about anything that caused you concern?
A: They did. I wrote an incident report about it. It was five years ago. Is it okay if I refer to my incident report for what was brought to my attention?
Q: Sure, once I get there, but yes, that is appropriate as long the Court will allow it.
THE COURT: All right. Now, ma'am, if you have to refer to a document, you can -- to answer a question, you can refer to the document, look at it, then you have to put it down. You can't read from the document; you can't then answer your question by looking at the document.
A: Okay.

BY MR. MARTIN:

Q: And, Ms. Callihan, if you need a moment to look at it, certainly that's fine, just make the Court aware and we'll give you a second.

A: Okay.

Q: Do you recall a camper there by the name of Minor 2 Johnson?

A: I do.

Q: Did she or -- did Minor 2 or her mother give you any information concerning another camper there?

A: The -- her mother did.

Q: Okay. What did you do with that information?

A: I went to my supervisor at the time, and to her supervisor as well with the information.

Q: What were the names of the campers that gave you concern?

A: Would it be okay if I refer to my incident report?

THE COURT: Yes, ma'am. Again, you look at the report and then answer the question without reading the report.

A: Uh-huh, (affirmative response). So the name of the campers were Cousin and Complainant

BY MR. MARTIN:

Q: Did you know either one of them personally?

A: No, I did not know them personally.

Q: What did you do as a result of you learning this information?

A: I did a couple of things as a result of me learning information concerning the campers, not only, like I said, did I go to my immediate supervisor, who at that time was a young lady by the name of Regan. I also went to her supervisor, who was a young lady by the name of Darrah. And then, Regan and myself just took a few moments to get to know our campers better.

Q: As a camp leader and an employee of the Parks and Recreation Department, are you a mandatory reporter?

A: At that time, I was, yes.

Q: What is a mandatory reporter?

A: So a mandatory reporter is that when something is brought to our attention that causes us concern for a child, we are to take it to our supervisors.

Q: As a mandatory reporter, did you receive training in that area?

A: We did, yes.

Q: And what kind of training was that?

A: So the training was -- and I do not remember because it was five years ago, I do not remember exactly the name of the organization that held our training, but we had -- we had information brought into us and there was a training held at Carolina Forest Recreation Center because we were the hub and the local point and then we were -- we were trained there, and we were given paperwork and power points on what to do.

Q: You mentioned an incident report; did you write an incident report?
A: Yes, I did.
Q: What did you do with the report, if anything?
A: With the report, I wrote it on the request of my supervisor, Darrah, and then I gave that report to her.
Q: Ms. Callahan, other than that, did you personally take any other action?
A: No, once it was in the hands of my supervisor, I let her handle it because she did have more experience than me.
Q: Going back to Cousin and Complainant you previously testified that you spoke with Cousin and Complainant When you did that, did you ask them any questions about if anything happened to them?
A: Can you be more specific when you say did anything happen to them?
MR. MARTIN: Court's indulgence?
THE COURT: Yes, sir.
BY MR. MARTIN:
Q: When you questioned them, were you checking on their general welfare?
A: Yes. I -- we were just checking on their general welfare to make sure that they were okay.
Q: Did you ask them anything other than about their general welfare?
A: Is it okay if I refer to my report?

THE COURT: Yes, ma'am.

A: For the specifics.

THE COURT: And he's asking you a yes or no question.

A: Okay. No, other than general questions, we did not ask them anything.

MR. MARTIN: Your Honor, the state doesn't have any further questions at this time.

THE COURT: Cross-examination?

MR. BROWN: Thank you, Your Honor.

CROSS-EXAMINATION OF THERESA CALLAHAN BY MR. BROWN:

Q: Ms. Callahan?

A: Uh-huh, (affirmative response).

Q: You said you talked to the kids about general welfare to see if they're okay.

A: I'm very sorry. I can barely hear you.

Q: I'm sorry. You talked to the kids about their general welfare to see if they're okay?

A: Yes.

Q: And you talked to them individually?

A: May I refer to my report just ---

Q: Absolutely.

A: I do apologize; this was five years ago.

Q: And it's been a long time. I don't know why the state waited.

A: Yes. We did talk to them individually.

Q: And nothing they said they gave you concern?
A: It was five years ago. So while I cannot tell you exactly what I was feeling at that time. I can tell you that it gave me enough concern to report it to both of my supervisors.
Q: If you were gonna report it anyway, why did you talk to the kids and ask them questions?
A: We were checking to make sure that their general welfare was okay.
Q: Are you trained in investigative reporting?
A: I was not at the time, no.
Q: But it's probably not a good idea to interrogate children, right?
MR. MARTIN: Objection, Your Honor?
THE COURT: Sustained.
MR. BROWN: That's my questions, Your Honor.
THE COURT: Any redirect?
MR. MARTIN: Judge, nothing at this time.
THE COURT: Do you wish the witness to be excused?
MR. MARTIN: We do, Your Honor.
THE COURT: Any objection?
MR. BROWN: No objection, Your Honor.
THE COURT: All right, ma'am, you're released from your subpoena and may go back to your regular duties. Thank you.
MS. CALLAHAN: Thank you.

THE COURT: Who is your next witness, please?

MS. WALTER: Your Honor, the state calls Crystal McKinnon. Just give her one minute.

THE CLERK: Please raise your right hand and place your left hand on the Bible.

CRYSTAL MCKINNON, HAVING BEEN DULY SWORN, TESTIFIES AS FOLLOWS:

THE CLERK: Please be seated and state your name for the Court.

DIRECT EXAMINATION OF CRYSTAL MCKINNON BY MS. WALTER:

Q: Just state your name for the court reporter, please?

A: Crystal McKinnon.

Q: And if you could spell your last name for the court reporter also?

A: M-C-K-I-N-N-O-N.

COURT REPORTER: Can you spell your first name, also?

A: C-R-Y-S-T-A-L.

THE COURT: Go ahead.

MS. WALTER: Thank you, Your Honor.

BY MS. WALTER:

Q: This will sound like a silly question, but do you know [redacted] Complainant

A: Yes.

Q: How do you know her?

A: She is my daughter.

Q: And when was she born?
A: [redacted], 2007.
Q: Who is her father?
A: Eric McKinnon.
Q: When Complainant was born, were you and Eric married?
A: Yes.
Q: And does Complainant have any full biological siblings?
A: Yes.
Q: Who?
A: She has an older brother, Brother
Q: How much older than Complainant is Brother
A: Two years.
Q: Do you remember when you got married to Eric?
A: Yes.
Q: When was that?
A: August 9th, 2002.
Q: Are you still married to Eric?
A: No.
Q: When did you -- so I assume you are divorced?
A: Yes.
Q: When did you divorce Eric?
A: The papers were finalized January 9th, 2009.
Q: So Complainant would've been just about two, almost two?
A: Yes.
Q: When you and Eric split up, was there a formal custody

arrangement or did you work something out on your own?
A: We shared custody. We verbally agreed to alternate weekends, and he'd have them through the week sometimes during the summer.
Q: Were you both living in Horry County at that time?
A: Yes.
Q: And did you have any family in Horry County at that time?
A: No.
Q: Did Eric have any family in Horry County?
A: Yes.
Q: What -- who of Eric's family was in Horry County?
A: His parents and his brother.
Q: What are his parents' names?
A: Susan and Kevin McKinnon.
Q: Do you see Kevin McKinnon in court with us today?
A: Yes.
Q: Can you point to him and just tell us where he's seated and what he's wearing?
A: He is sitting over there with the blue mask.
Q: Okay.
MS. WALTER: Your Honor, may the record indicate that the witness has identified the defendant, Kevin McKinnon.
BY MS. WALTER:
Q: So within Horry County, the defendant would be Complainant only grandfather?

A: Yes.
Q: And I think you said Eric's brother was also here. Where -- what was his name?
A: Michael.
Q: Do you recall where the defendant and his wife were living while you and Complainant were living in South Carolina?
A: Yes. The majority of their time was spent on Highway 814.
Q: In Horry County?
A: Yes.
Q: All right. And leading up to the time that Complainant turned about six years old, can you describe her relationship with the defendant?
A: She loved him. She would have followed him anywhere.
MR. BROWN: Objection.
THE COURT: On what grounds?
MR. BROWN: Asking for the -- someone else's state of mind.
THE COURT: I don't find that to be. I find it to be a statement of a physical nature that the defendant could have observed. You might question the defendant -- question the witness as to how she would know that. Go ahead.
MS. WALTER: Thank you, your Honor.
BY MS. WALTER:
Q: Did Complainant spend a lot of time at the defendant's home?

A: Yes.
Q: Who lived at the defendant's home?
A: Susan and Kevin, and for a few months, their mother or his mother.
Q: What's his mother's name, if you know?
A: Edna.
Q: Would Complainant go over there just during the day; would she spend the night?
A: There were times when we would spend a day over there on the weekend, and then she would spend the night, or Brother would spend the night, or they would both spend the night.
Q: Okay. So how often would you say that Complainant spent the night at the defendant's home either with or without Brother
A: Probably about two weekends out of the month.
Q: Of that two weekends per month, how often was Brother with her? If you can estimate, if not just -- if you don't know that's fine.
A: Probably 85 to 90 percent of the time.
Q: So 85 to 90 percent of the time she was by herself?
A: No; he was there.
Q: Oh, she was with Brother Okay.
Now, directing your attention to Eric's brother, Michael -- who I guess that would be Complainant uncle?
A: Uh-huh, (affirmative response).
Q: Did Michael have any children?

A: Yes.
Q: How many children did he have?
A: At the time, one.
Q: And what was that child's name?
A: Cousin
Q: Did Complainant spend a lot of time with Cousin
A: No.
Q: Did Complainant ever see Cousin
A: Yes.
Q: Okay. Where would she see Cousin
A: Usually at the grandparents' house, and later on, at her Uncle Michael's house.
Q: When you say later on, when would that be?
A: That would be after 2014, maybe, 2013.
Q: How often would she spend the night at Cousin house?
A: Not very often.
Q: When you say not very often?
A: Maybe once or twice a year.
Q: Was that Complainant choice?
A: No.
Q: Did Cousin ever stay at your house?
A: No.
Q: If you know, did Cousin ever spend the night at Eric's house?
A: Once.

Q: Who all lived at your house after you and Eric split up? And let's focus on just when Complainant was between the ages of six and eight?

A: That would be myself; my son, Brother and my boyfriend, Matt; and his stepson occasionally, STEPBROTHER 2 They had split custody as well.

Q: How old was STEPBROTHER 2 at the time?

A: Seven.

Q: Directing your attention to July of 2015, did you come to learn something had happened to Complainant

A: Yes.

Q: And that summer, had she attended a day camp in Horry County?

A: Yes.

Q: If you know, did Cousin attend that day camp as well?

A: Yes.

Q: How did you get this information that something had happened?

A: I received a phone call.

Q: Who called you?

A: Her father.

Q: Did you also -- did you eventually speak with the police?

A: I did talk to the prosecutor over the phone.

Q: At some -- where were you when you got this information state-wise; were you ---

A: I was in Michigan. We were in the process of moving, and the children were with their dad for the summer.
Q: Based on the information that you received, what did you do?
A: I cried a lot.
Q: Did you, at some point, get to see -- come back and reunite with Complainant
A: Yes, when -- it was in August when we exchanged back for them to start to school.
Q: Did you, at some point, talk to Complainant about what had happened to her?
A: Not specifics. I just let her know that I was her for her and we would do whatever we needed to do to make sure she was okay.
Q: Did she ever tell you when something happened that caused you concern?
A: She said it started when she was six.
Q: There are some tissues there, and, if you need a minute, just let us know.
A: Okay.
Q: So she said it started when she was six. Did she say when it ended?
MR. BROWN: Object to hearsay.
THE COURT: I'm gonna allow it.
A: When she was eight, before we moved.

BY MS. WALTER:

Q: Did she say where it happened?

A: At Grandma's house.

Q: Did she say whether it happened once or more than once?

A: More than once.

Q: How soon after you -- and I think you may have answered this. You said that you and Eric exchanged custody of the children in August; was that August of 2015?

A: Yes.

Q: Is that when you and Complainant moved to Michigan?

A: Yes, I moved up in May to get everything ready for them and have them spend time with their dad over the summer, since they wouldn't see him when they came up.

Q: Did you -- once Complainant turned six, did you notice any changes in her personality or her lifestyle at all?

A: Yes.

Q: Can you tell us -- tell the jury what changes you noticed in Complainant

A: I did notice that she would occasional vaginal irritation, and I just assumed it was because she didn't wipe well enough or didn't clean herself well enough, and I would clean her up and just ---

Q: Did you notice any other changes, either emotionally or activity-wise?

A: She was not the bubbly little girl she used to be, and

she was very clingy. She would cling to me a lot.
Q: Once you learned of the information in July of 2015, did you allow Complainant to have any further contact with the defendant?
A: No.
Q: Have you had any further contact with the defendant?
A: No.
Q: Have you had any contact with his wife?
A: Yes.
Q: Can you describe that contact?
A: It was in 2017, I think it was. It was Easter weekend that they all wanted to meet and discuss everything, and so we went. And, when they said that Cousin said it was lie and Complainant was lying, then that was it. I had no further contact with any of them.
Q: When you say we went, who all is we?
A: Me, and Brother and Complainant and my boyfriend.
Q: And who did you meet?
A: Susan was there, Michael was there, Shelby was there, and Cousin and their son, Minor 1 .
Q: I'm sorry, their son?
A: Minor 1 .
Q: Minor 1 . Thank you, sorry. Who is Shelby?
A: That is Michael's current wife.
Q: So since that meeting, you've had no contact with that

side of the family?

A: No.

MS. WALTER: Court's indulgence?

BY MS. WALTER:

Q: Directing your attention to a time when Complainant was about seven years old, did you ever find her watching anything that caused you concern?

A: Yes.

Q: Can you describe what happened?

A: They had a cell phone that they could use to play games on that was connected to Wi-Fi, and one day I went into her room and observed her watching porn on that cell phone. And I immediately took it away and she was not allowed to use it again.

Q: Did -- were you able to see what type of pornography it was?

A: No, I -- as soon as I grabbed the phone, I just closed it all out and spoke to her about how we should not be looking at that.

Q: And I am correct, was that she was about -- how old was she when this happened?

A: She was about seven.

Q: About seven?

A: Yeah.

MS. WALTER: Nothing further at this time, Your Honor.

THE COURT: Cross-examination?

MR. BROWN: Thank you, Your Honor.

Court's indulgence, Your Honor?

THE COURT: Yes, sir.

CROSS-EXAMINATION OF CRYSTAL MCKINNON BY MR. BROWN:

Q: Crystal, how long have you known Kevin McKinnon?

A: Since 2001.

Q: And where did you live when you meet him -- when you met him?

A: I had moved down from Maryland.

Q: Okay. Is that when you got married?

A: We got married in 2002.

Q: To his son?

A: Yes.

Q: And y'all lived here in Horry County?

A: Yes.

Q: What part of Horry County did you live in; where did you live, what area?

A: We lived in Myrtle Beach area.

Q: Okay. Was it far from where Michael and Shelby lived?

A: About 15, 20-minute drive maybe. It depends on traffic honestly.

Q: I'm sorry?

A: It depends on traffic, honestly, here.

Q: Sure, and time of year. We get a lot of traffic in the

summer. Since you lived here and since you've known Kevin, did he always live in that house on 814?

A: Yes.

Q: And you've been to that house?

A: Yes.

Q: And it's a mobile home?

A: It's a double-wide with add-ons.

Q: Trailer, right?

A: Yes.

Q: Okay. Did you take Complainant over there?

A: Yes.

Q: Did y'all have family gatherings over there?

A: Yes.

Q: Is there a garage in the back?

A: Yes.

Q: Didn't your husband, or Eric, didn't he work on -- wasn't he part of the race team?

A: Yes.

Q: And was Kevin the safety director at Myrtle Beach -- former Myrtle Beach Speedway?

A: Yes.

Q: He was on his safety team?

A: Yes.

Q: Because he was his driver?

A: Uh-huh, (affirmative response).

Q: Michael was his driver, too?
A: Uh-huh, (affirmative response).
Q: And y'all went up to the racetrack occasionally?
A: Yes, only during the summer season when they were racing.
Q: Right. And the season went from April to November?
A: I'm not sure.
Q: Okay. When would y'all have family gatherings, on weekends?
A: Yes, but I was not included in the family gatherings after his new -- Eric's new wife ---
Q: Okay.
A: --- was in the picture.
Q: I understand. Okay. Let's talk about your custody. Did -- how often did you have Complainant at your house?
A: I had her the majority of the time. She would be at my house most of the week, and, on the weekends, she would spend with her father.
Q: Okay. So was it she'd go to her dad's house, Eric's house, every other weekend; how did that work?
A: Yes. It was usually every other weekend and, depending on the weekend, we would switch out or have a weekday or -- depended on -- we were very flexible and we got along, so the kids were our priority.
Q: Was it mostly weekends that y'all switched; was it I'll take this week, you take next week; or it just varied?

A: It varied, because we worked with each other.
Q: Okay. But pretty much half the month you'd have Complainant half the month he would have Complainant is that how it went?
A: I'd say I'd have them 75 percent and he had 25.
Q: You had 75 percent and he had 25. Okay. Then -- then Complainant didn't go to her grandfather's half the month?
A: It doesn't matter who she was with; if we went over there, she would be with us.
Q: Okay. So you all went over there?
A: Yes.
Q: Okay. But you said, you testified earlier that she would spend the night half the month, two weekends out of the month?
A: Yes, because they would request it.
Q: But she's staying at your house half the month and staying Eric's house half the month?
A: Okay. Yes.
Q: Okay. And you said most times, she went over there with Brother
A: Yes.
Q: And Brother is her older brother?
A: Yes.
Q: He's two years older?
A: Uh-huh, (affirmative response).
Q: Yes?
A: Yes.

Q: Okay. And Complainant and Cousin close to the same age?
A: Yes.
Q: Okay. And went to summer camp together?
A: Yes; one summer, yes.
Q: Okay. And didn't live far apart?
A: No.
Q: And do you remember they would practice dance routines and then show to them to family at family gatherings?
A: No.
Q: You don't remember that?
A: They didn't spend a lot of time together; Cousin was a mean girl. She would bite ---
Q: This was your niece?
A: She would bite and hit my children, and their parents wouldn't do anything about them.
Q: And this is your niece?
A: Yes.
Q: And you hadn't seen your niece in how long?
A: A very long time. Since ---
Q: Five years?
A: Yeah.
Q: Okay. You learned about some concerns in -- in August or you learned about them in July?
A: I'm sorry, can you rephrase that?
Q: Let me back up, concerns with the children. Okay. You

know that Cousin had previously been abused by someone not Kevin McKinnon, right?

A: I did, yes, but my children did not.

Q: But you knew that?

A: We didn't talk about it in front of them.

Q: But you knew that?

A: Yes.

Q: Okay. And you knew the children, Cousin and Complainant were acting sexually with each other?

A: No.

Q: No one told you that?

A: I did not know that at the time.

Q: You know that now?

A: I do know that now.

Q: Okay.

A: Because it's hearsay. I did not see it.

Q: But you know that someone said, hey, look, there's an issue here, right?

A: Yes.

Q: Okay.

A: Someone said that.

Q: You found Complainant watching pornography on a cell phone when she was seven?

A: Yes.

Q: Where were you; what state?

A: South Carolina.
Q: Do you know what kind -- do you that Kevin McKinnon -- do you know where he worked?
A: At which time, 2015?
Q: Back then.
A: 2015?
Q: Yeah.
A: I do not recall.
Q: Do you know what his work schedule was like?
A: No.
Q: Do you know that his mom and his wife had an antique shop?
A: Briefly, yes.
Q: Okay. Do you know that he built the shelves for that antique shop?
A: Briefly, yes, and then she moved back to Maine.
Q: And didn't Eric help build some of those shelves with him?
A: I believe so. I was not with him at the time.
Q: And he -- and he also was the safety director from Myrtle Beach Speedway.
A: Yes.
Q: And he used to be -- was a volunteer fireman here.
A: Many, many years ago; not in 2015, or any time I've known him. He was previously a volunteer.

Q: In Massachusetts?
A: I'm not sure where.
Q: Okay. And here?
A: But he spoke about it.
Q: Okay.
A: But since I've known him, since 2001, he has not been a voluntary firefighter.
Q: Okay. But he was?
A: Yes.
Q: Okay. So he had a job, a regular job, correct, that you know of?
A: Yes.
Q: He was safety director of Myrtle Beach Speedway, and you went to the racetrack?
A: When I was married to Eric, yes.
Q: Okay. And he's building shelves at the antique shop for his mother and his wife, correct?
A: Yes.
Q: Okay. And when you went to family gatherings -- did y'all have cookouts?
A: When I was married to him, yes.
Q: Okay. And had a big garage with racecars in there?
A: Yes.
Q: Eric and he, and his other son, Michael, work on the racecars?

A: Yes.
Q: And y'all would have cookouts and he grilled out?
A: Yes.
Q: Okay.
A: There are many times some of the women would cook, too, instead.
Q: Okay. Did you ever spend the night at Susan and Kevin's house, the grandparents' house?
A: Did I spend the night?
Q: Yes, ma'am.
A: Which timeframe are we speaking of?
Q: Any time?
A: We lived there briefly when the kids were very young, but I've never spent the night on a weekend or anything like that.
Q: Okay. Okay. And you mentioned that Kevin's mother also lived at the house?
A: For a few months, yes.
Q: Okay. Do you know where she slept?
A: Not off the top of my head, because they moved those rooms around a lot.
Q: Did you know that she was in a car wreck?
A: Not that I'm aware of.
MS. WALTER: I'm sorry; I didn't hear you.
Q: Do you know if she was in a car wreck was my question?
MS. WALTER: A car?

Q: A car wreck.
A: Not that I'm aware of.
Q: Okay. Do you know about when she lived there, by the way, what year?
A: I can't recall.
Q: Okay. Is it fair to say between 2013, '14, '15, somewhere in that range, before you moved to Michigan?
A: Possibly 2013.
Q: Okay.
A: I'm not sure.
Q: When did you move to Michigan?
A: May of 2015.
Q: Okay.
A: I was not as close to that side of the family after Jeanna came along.
Q: I understand how that happens, right, I mean -- okay. So you don't talk to Jeanna?
A: I do talk to Jeanna.
Q: Okay.
A: But my relationship with the mother, obviously, was not the same, if I divorced her son and there's a new daughter-in-law.
Q: Sure. Okay.
MR. BROWN: Court's indulgence?
That's my questions, your Honor. Thank you.

THE COURT: Redirect?

MS. WALTER: Just very briefly, Your Honor.

REDIRECT EXAMINATION OF CRYSTAL MCKINNON BY MS. WALTER:

Q: I was getting a little confused there. So it seems as though you and Eric were fairly flexible in your childcare arrangements?

A: Yes.

Q: If Complainant wanted to go to the defendant's home, was it always Eric who took her or did you ever take her to the defendant's home?

A: We both would. If it was our weekend and they wanted to take the grandkids somewhere or spend time with them, we would let them, because they were their grandparents.

Q: So it didn't matter to you whether you had physical custody of the kids that time or whether or Eric did?

A: Right.

Q: And the time that we discussed when you saw Complainant watching pornography when she was seven, was that the first time that you had seen her watching pornography?

A: Yes.

MS. WALTER: Nothing further, Your Honor.

THE COURT: Anything on those questions just asked?

MR. BROWN: No, Your Honor.

THE COURT: All right, ma'am, you may step down. Thank you.

MS. WALTER: May we approach just briefly, Your Honor?

THE COURT: Yes, ma'am.

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

THE COURT: All right, ladies and gentlemen, I do think there is -- they might be using some projection equipment to show some photographs, so they need to set that up. We'll just give you a short break for about five minutes. Go back to your jury room, please. Thank you.

(REPORTER'S NOTE: Jury exits courtroom @ 10:40 a.m. The following takes place outside the presence of the jury.)

BY THE COURT:

THE COURT: Solicitor, is it your intention to show them on the projection screen here?

MS. WALTER: No, we're going to use the T.V.

THE COURT: You're going to use the T.V.? All right. Great. Just wanted to -- the clerk wanted to know. All right. So we'll take a short break for about five to ten minutes. All right.

Thank you.

RECESS - 10:41 A.M.

*******OFF THE RECORD*******

ON THE RECORD - 10:58 A.M.

(REPORTER'S NOTE: The following takes place outside the presence of the jury.)

THE COURT: All right. Mr. Brown, did you look at the photographs?

MR. BROWN: Yes, Your Honor.

THE COURT: Do you have any objections?

MR. BROWN: Yes, Your Honor.

THE COURT: Okay. And what objections do you have?

MR. BROWN: I object to the tenth exhibit, State's Number 10.

THE COURT: All right. Could I see it, please?

MS. WALTER: That's not being shown right now. But, if you want to deal with it?

THE COURT: All right. So it's not coming in through the next witness?

MS. WALTER: No, it's coming in through Detective Rhodes.

THE COURT: Okay. All right.

MS. WALTER: For the record, I would proffer that State's Exhibit 10 is a photograph showing the two bottles of lube as Detective Rhodes found them during the execution of the search warrant.

THE COURT: All right. Well, we'll -- it's not coming in now, but it appears that it may very well be proper to come in at that point in time, depending on that testimony, but we'll deal with it at that point in time.

MR. BROWN: Yes, Your Honor.

THE COURT: Thank you very much.

Ask the jury to come in, please.

MS. WALTER: And, Your Honor, what we'll do is, assuming that the photograph is put into evidence and allowed to be published, I'll work the document camera while ---

THE COURT: Who is the next witness?

MR. MARTIN: Eric McKinnon, Judge.

THE COURT: All right. Very good.

Is he in the courtroom.

MR. MARTIN: Judge, he sitting here.

THE COURT: All right. Very good.

MS. WALTER: He has been sequestered until now, Your Honor.

THE COURT: Right.

(REPORTER'S NOTE: Jury enters courtroom @ 11:00 a.m.)

THE COURT: All right, Solicitor, your next witness, please?

MR. MARTIN: Thank you, Your Honor. The state calls Eric McKinnon.

THE COURT: All right. Please come around.

THE CLERK: Please raise your right hand and place your left hand on the Bible.

ERIC MATTHEW MCKINNON, HAVING BEEN DULY SWORN, TESTIFIES AS FOLLOWS:

THE CLERK: Thank you. Please be seated and state your full name for the Court.

MR. ERIC MCKINNON: Eric Matthew McKinnon.

THE COURT: Go ahead, Solicitor.

MR. MARTIN: Thank you, Your Honor.

DIRECT EXAMINATION OF ERIC MATTHEW MCKINNON BY MR. MARTIN:

Q: Mr. McKinnon, do you know Complainant

A: Yes, sir.

Q: And how do you know her?

A: She's my daughter.

Q: Are you and Complainant mother, Crystal, currently divorced?

A: Yes.

Q: Do you remember how old Complainant was when you divorced?

A: A couple of years old.

Q: When you and Crystal split up, did you have formal custody agreement, or did you kind of work things out on your own?

A: Worked things out together.

Q: Were you living in Horry County at the time?

A: Yes, sir.

Q: You said worked things out on your own, what sort of was the agreement?

A: When we both lived in Myrtle Beach, we did half and half; the kids were at my house half the time and her house half the time.

Q: Is it fair to say 50/50?

A: Yes, 50/50.

Q: Directing your attention to the summer of 2015, was that still the agreement at that time?
A: Yes.
Q: Do you know the defendant, Kevin McKinnon?
A: Yes, I do.
Q: Do you recognize him here in the courtroom today?
A: Yes, the T.V. is in the way, but he's sitting over there.
Q: Okay. Do you remember what he was wearing to point him out to the jury?
A: He's in a black suit.
Q: Okay. But, he was seated, for the Court's information, seated at the defense table?
A: Yes, he has a blue mask on with a blue tie and a black suit.
Q: Thank you. Can you describe your relationship with Mr. McKinnon prior to 2015?
A: Regular, I guess the normal father/son.
Q: How often would you say you saw him prior to the summer of 2015?
A: Before everything happened, once a week or so. We did racing and worked at the speedway, had racecars.
Q: How often was he at the speedway?
A: Every Saturday, and, if they had special events, he might be there a few times during the week, once in a while, for like stunt shows.

Q: Did you ever live with him at some point during ---
A: I did when we first divorced, because I had nowhere else to go, so I stayed with them for a short time.
Q: What about Complainant relationship with him; how was that?
A: She was Grandpa's little girl.
Q: Did they spend a lot of time together prior to the summer of 2015?
A: Yes.
Q: What types of things would they do together?
A: Just hang out and do stuff around the house, pool. I mean, everybody was there. We'd be working on the racecars and they'd be outside playing around.
Q: How often would you say she would go over to her grandparents' house?
A: Probably at least once a week with us normally when we'd go to work on the racecars.
Q: Did she ever -- I'm sorry. Did she ever spend the night over at the grandparents' house?
A: From time to time, yes.
Q: Approximately, how many times a month would you say?
A: A couple of times a month, maybe.
Q: Does Complainant have a cousin named Cousin
A: Yes, sir.
Q: Who are Cousin parents?
A: Michael McKinnon, and her birth mother was Brittany. I'm

not sure what her last name is.
Q: What is Michael's relationship in relation to you?
A: Was my brother.
Q: Did Complainant and Cousin spend a lot of time together?
A: No.
Q: Did Cousin ever spend the night at your house?
A: One time.
Q: Do you know where the defendant was living during the time period between January 2013 and July 2015?
A: Yes.
Q: Was it in Horry County?
A: Yes.
Q: Where was the house located in Horry County?
A: Highway 814.
Q: Was anyone else living in the home with him?
A: Yes.
Q: Who was that?
A: Susan McKinnon.
Q: And who is Susan McKinnon?
A: Was my mother.
MR. MARTIN: Court's indulgence?
Your Honor, may I approach the witness?
THE COURT: Yes, you may.
BY MR. MARTIN:
Q: Mr. McKinnon, I'm gonna hand you a box of gloves, if you

don't mind, if you could place gloves on before I hand you this.

Mr. McKinnon, I'm gonna show you what's been marked as State's Exhibit 13. Could you please look at it and tell me if you recognize this?

A: I do.

Q: What does it appear to be?

A: That's their residence at that time.

Q: Whose residence?

A: Kevin McKinnon and Susan McKinnon.

Q: Does that appear to be a fair and accurate representation of the residence around 2015?

A: Yes, sir.

MR. MARTIN: Judge, at this time, I'd like to publish this to the jury.

THE COURT: What's the number again?

MR. MARTIN: It's 13, Your Honor.

THE COURT: Any objection to 13 coming into evidence?

MR. BROWN: No, Your Honor.

THE COURT: It's in evidence without objection, you may publish.

STATE'S EXHIBIT NUMBER 13

ADMITTED INTO EVIDENCE

MR. MARTIN: Your Honor, we're gonna place this on the projector.

THE COURT: All right.

MR. BROWN: Your Honor, may I move ---

THE COURT: Yes, sir.

BY MR. MARTIN:

Q: Mr. McKinnon, can you see this?

A: Yes, sir.

Q: So for the purposes of talking about this, what are we looking at here?

A: I'd say to the right, the building on the right, that's the garage, and then the tan, that's the house.

Q: So for record purposes, the building on the right, you are talking about the white building with the red roof?

A: Yes, sir; that's the garage.

Q: And then the building to the left for record purposes is a gray building; is that correct?

A: Gray, tan, yes.

Q: And what is the gray building?

A: That's the house.

Q: Okay. And what about what is in the yard, can you tell me what that is?

A: All the vehicles.

Q: And those vehicles belong to who?

A: Some were Kevin's, and then it looks like some were Michael's too, because it looks like there's a blue Dodge truck, that was Michael's truck.

Q: Okay. Thank you.

MR. MARTIN: Your Honor, may I approach the witness?

THE COURT: Yes, sir.

BY MR. MARTIN:

Q: Mr. McKinnon, I'm gonna show you what's been marked as State's 14?

A: Okay.

Q: Now, could you look at that and please tell me if you can identify that?

A: Yes, sir; I can.

Q: What does it appear to be?

A: It was the addition to the backside of the trailer for the house -- to ---

Q: Does that appear to be a fair and accurate representation of that addition around 2015?

A: Yes.

MR. MARTIN: Judge, at this time, the state would ask to publish -- to enter this into evidence and publish it to the jury.

THE COURT: Any objection?

MR. BROWN: No objection, Your Honor.

THE COURT: All right. So it's into evidence without objection. You may publish.

STATE'S EXHIBIT NUMBER 14

ADMITTED INTO EVIDENCE

BY MR. MARTIN:

Q: Mr. McKinnon, while Ms. Walter is getting that set up, based off of your recollection, what was inside the addition to the house?

A: It was their bedroom.

Q: Their bedroom being whose bedroom?

A: Kevin and Susan's.

Q: Directing your attention to the picture, could you identify what specifically we're looking at in this photograph?

A: That is the addition; that was their bedroom.

Q: Did you help at all building the addition?

A: Yes.

Q: Who else?

A: Probably, Michael.

MR. MARTIN: May I approach, Judge?

THE COURT: Yes, sir.

BY MR. MARTIN:

Q: So Mr. McKinnon, I'm showing you what's been marked as State's 15, would you again look at this and see if you recognize it?

A: I do.

Q: What does that appear to be?

A: It was a bedroom that had been opened up to turn into the pool hall.

Q: And does that appear to be a fair and accurate representation of what it looked like in 2015?
A: Yes.
MR. MARTIN: Judge, the state would move 15 to be admitted into evidence and published to the jury.
THE COURT: Any objection?
MR. BROWN: No, Your Honor.
THE COURT: All right. It's in evidence, you may publish.
MR. MARTIN: Thank you, Your Honor.

STATE'S EXHIBIT NUMBER 15
ADMITTED INTO EVIDENCE

BY MR. MARTIN:
Q: Mr. McKinnon, while she's getting this set up, what was this room used for?
A: For the pool hall and storage. It was originally a bedroom.
Q: Now, looking at the picture, can you see the picture?
A: Yes, sir, I can.
Q: Now, if you were to be walking into the bedroom, where would the entrance be located?
A: The entrance of the house?
Q: The entrance to the bedroom -- to the pool room?
A: That looks like where the wall was removed, and then there's actually a door right to the left of that, also.

MR. MARTIN: For purposes of the record, Judge, the defendant [sic} to -- this direction?

A: No, to the left.

BY MR. MARTIN:

Q: To the left, yes.

MR. MARTIN: To the left, Judge.

THE COURT: All right.

BY MR. MARTIN:

Q: So when you walk into the house, where would the room be located within the house?

A: That room?

Q: Yes.

A: Right to the right; as soon as you walk in, it's right to your right.

Q: Would that be located in the same area as the master bedroom?

A: No.

Q: Where is it in relation to the master bedroom within the home?

A: Two rooms away.

Q: Thank you.

MR. MARTIN: May I approach, Judge?

THE COURT: Yes, sir.

BY MR. MARTIN:

Q: Mr. McKinnon, I am showing you what's been marked at this

time as State's Exhibit 16, do you recognize that?
A: I do.
Q: What is it?
A: It's the living room.
Q: And does that appear to be a fair and accurate representation of the living room as it was in 2015?
A: Yes.
MR. MARTIN: Judge, at this time, the state would move to enter this into evidence and publish this as well to the jury.
THE COURT: Any objection?
MR. BROWN: No objection, Your Honor.
THE COURT: All right. So it's in evidence without objection. You may publish.

STATE'S EXHIBIT NUMBER 16

ADMITTED INTO EVIDENCE

BY MR. MARTIN:
Q: Again, Mr. McKinnon, what are we looking at here?
A: It's a living room as soon as you walk in the front door.
Q: What is beyond the living room? Can you see that in the picture?
A: Yes. Where you see the chairs, that's the dining room, and then beyond that was the computer room, and then was their bedroom, the addition.
Q: Okay. When you walked into the front door, you previously testified to that, was there anything to the right

of the living room?
A: There was another bedroom and there was a bathroom right across the hallway from where that pool hall was.
MR. MARTIN: May I approach, Your Honor?
THE COURT: Yes, sir.
BY MR. MARTIN:
Q: And then, Mr. McKinnon, finally, I'm showing you what's been marked as State's 17. Do you recognize this?
A: I do.
Q: And can you identify it?
A: Yes, sir; I can.
Q: What is it?
A: It is right, as soon as you walk in, it's the other part of the living room.
Q: Okay.
MR. MARTIN: Judge, at this time, pardon me.
BY MR. MARTIN:
Q: Is this a fair and accurate representation of how it appeared in 2015?
A: Yes, sir, it is.
MR. MARTIN: Judge, at this time, the state would move to place 17 into evidence and publish to the jury.
THE COURT: Any objection?
MR. BROWN: No, Your Honor.
THE COURT: All right. It's into evidence without

objection. You may publish.

STATE'S EXHIBIT NUMBER 17

ADMITTED INTO EVIDENCE

BY MR. MARTIN:

Q: Mr. McKinnon, can you see that?

A: Yes, I can.

Q: Could you, again, identify what room this is in the house?

A: They're standing in the living room facing into the continuation of the living room or the den right from the front door.

Q: What is beyond the living room if you were standing in the living room, what is beyond the living room?

A: To the right side or the left side?

Q: To the right side?

A: To the right side was the hallway. The left side of that hallway was the bathroom, and then straight down that hallway was another bedroom.

Q: Thank you. Mr. McKinnon, kind of backing up a little bit. You previously testified that who else was living in the home with the defendant?

A: Susan McKinnon.

Q: And Susan is?

A: Was my mother.

Q: Thank you. Back during the summer of 2015, do you

remember if your daughter, Complainant attended a day camp that summer?

A: Yes, sir; she did.

Q: Do you know if her cousin, Cousin attended that camp as well?

A: She did.

Q: At some point, after July 15th of 2015, did you learn about something that happened to Complainant

A: Yes, sir; we did.

Q: Were you living -- where were you living at that time?

A: At Carolina Forest.

Q: And where was Complainant living at that time?

A: She was with us.

Q: When Complainant came home, did she speak with you about what had happened?

A: Yes.

Q: Without naming any names, Mr. McKinnon, did Complainant tell you where she was when this happened?

A: Yes.

Q: Where was she?

A: At her grandparents.

Q: Did she tell you when it happened?

A: Told us it had happened numerous times.

Q: More than once?

A: Yes.

Q: Did she give you any approximate dates of when it happened?
A: Not exact dates, but she said it had been going on for a couple of years.
Q: What did you do after you learned this information?
A: Talked to the detectives.
Q: Can you describe your relationship with the defendant after July 2015?
A: Haven't had contact since.
Q: What about your relationship with Cousin or her father?
A: Have not had contact with them either.
Q: What about Complainant relationship with the defendant?
A: She has not talked to him.
Q: What about Complainant relationship with Cousin or Cousin father?
A: Hasn't talked to them either.
MR. MARTIN: Court's indulgence?
BY MR. MARTIN:
Q: Mr. McKinnon, I don't have any further questions for you at this time. Please answer any questions the defense may have.
THE COURT: All right.
Cross-examination?
MR. BROWN: Thank you, Your Honor.
CROSS-EXAMINATION OF ERIC MATTHEW MCKINNON BY MR. BROWN:

Q: Mr. McKinnon, Kevin, you got a brother, right, Michael?
A: Yes, sir.
Q: Okay. Is he older or younger?
A: A year younger.
Q: Okay. How old are you?
A: How old am I? Thirty-seven at this point.
Q: Thirty-seven. Michael; how old is Michael?
A: Thirty-six.
Q: And he's your only sibling?
A: Yes.
Q: Where did y'all grow up?
A: In Myrtle Beach.
Q: Myrtle Beach. Okay. And your dad, Kevin, he was on -- he was a volunteer fireman, right?
A: Yes.
Q: He was a director of safety at the former Myrtle Beach Speedway, correct?
A: Yes.
Q: You were one of his racecar drivers?
A: I drove a racecar, yes.
Q: Michael drove one?
A: Yes.
Q: Y'all worked on cars a lot?
A: I wouldn't say a lot. I mean, we'd get the racecars ready to go to race.

Q: Michael worked on it a lot more?
A: More than me, yes.
Q: Okay. And you worked on them at the home in the garage you pointed out earlier?
A: Yes.
Q: Okay. And the race season went from April to November?
A: Normally, yes.
Q: And so race season, how busy is that; pretty busy, right?
A: Not really.
Q: No? Well, you got to go ---
A: Race on ---
Q: I'm sorry.
A: Race on Saturday's, evening prep for the cars to get ready and get loaded.
Q: What time do you get there on Saturday?
A: 8:00 or 9:00 in the morning, normally.
Q: And what time to you get done?
A: Some time Sunday morning.
Q: Midnight or later?
A: Yeah.
Q: Okay. Is that the race team, you, your brother, and your dad, all of y'all get done about the same time, or do the drivers get done, and then the safety director has to stay; how does that work?
A: We all got done about the same time, because we did the

safety team, also.
Q: Okay. And your wife, mother, kids, everybody would go to the racetrack?
A: Normally, yes.
Q: Okay. Your dad also had a full-time job?
A: Yes, Monday through Friday, normal job.
Q: Your mom and your grandma also had an antique shop, right?
A: Yes.
Q: And they moved the shop -- it was in Surfside, correct?
A: Yes.
Q: And it was in a shopping mall, shopping center?
A: Yep.
Q: And it was on one end and then they moved to the other end; do you remember that?
A: Nope.
Q: Do you remember building shelves for the store?
A: I helped -- I helped with the initial setup, yes.
Q: When you helped to build the shelves, was everything in there or the antiques and boxes and furniture -- was everything in there or did you have to move it around; how did that work?
A: When we started building everything, there was nothing in it yet. We got everything set up prior to bringing it.
Q: Did Michael help?

A: Not when I was there.
Q: Did Brother help?
A: Yes.
Q: And Brother is?
A: My son.
Q: Do you remember what year you were building the shelves?
A: I do not.
Q: Okay. Did you go get the lumber or did your parents get it and bring it home -- bring it to the shop?
A: Kevin brought the lumber and stuff.
Q: And your current wife's name is Jeanna?
A: Yes, sir.
Q: And she has a brother named Kevin?
A: Yes.
Q: He lived with y'all?
A: A few times.
Q: But he didn't help build the shelves?
A: No.
Q: Okay.
A: He's only lived with us for short periods of time.
Q: Did Complainant go to the shop?
A: Yes.
Q: And Brother helped build the shelves you said?
A: Some of the remodeling, yes.
Q: Do you remember about what time of year you were building

the shelves; was it hot, was it cold, summer, winter?
A: Probably end of summer, in the spring time-ish, fall, I mean, spring to fall.
Q: It was hot?
A: Not really.
Q: Okay. Were you wearing jackets; do you remember?
A: No.
Q: You don't remember, or you weren't wearing jackets?
A: Were not wearing jackets.
Q: Okay. Do you remember you said you had helped build the spare room, the addition?
A: Yes, sir.
Q: Do you remember when you did that?
A: I do not remember when it was added, no.
Q: Okay. But you helped build that, too?
A: Yes, sir.
Q: Did Michael help build it?
A: Yes.
Q: Did y'all have cookouts at that house?
A: From time to time, yes.
Q: Did you watch races?
A: Yes.
Q: Did you watch football games?
A: They did. I'm not that big into football.
Q: When you say they, do you mean Michael ---

A: Michael and Kevin, Susan.
Q: Okay. Are they closer to the family than you back then?
A: No.
Q: Were they?
A: It was a normal family, I mean ---
Q: Okay. But, y'all did things together?
A: Oh, yeah.
Q: You had family gatherings at that house?
A: Yes.
Q: You worked on the cars in the garage with your -- with Kevin?
A: Yes.
Q: Michael did, too?
A: Yes.
Q: And everybody came over?
A: Yes.
Q: Kevin cooked on the grill?
A: Yes.
Q: Now, in the pictures or in the house, the whole house is tile or wood parquet, correct?
A: Yes.
Q: Okay. And there was that one rug in the living room?
A: Correct.
Q: But that's the only rug, everything else is hardwood or not hardwood, but not carpet?

A: Laminate or -- yes, sir.
Q: Okay. That house had a lot of open doorways, correct; is that what you call them, big doorways, like from the living room into the -- into the dining room?
A: Yeah, they were -- it was manufactured that way, yeah.
Q: Okay. There was doors on the bathrooms, though?
A: Yes, doors on the bathroom, doors going into the bedrooms, into the computer room.
Q: Okay.
A: The only thing that was open was the living room, the den, the kitchen, and the dining area. The rest of them had doors.
Q: But their bedroom didn't have a door?
A: Yes, it did.
Q: It had a big door?
A: Directly into their bedroom, no, there was no door.
Q: Okay.
A: They had a divide that they could pull across, but going into the room that led to right behind the dining room had a door.
Q: They have dogs?
A: Yes.
Q: How many dogs?
A: They had two at that time.
Q: How big were they?

A: Small, they were pugs.
Q: Did they run around the house?
A: Yes.
Q: They don't have carpet, so you can hear their nails on the floor?
A: Yeah.
Q: Okay. Do they bark, make noise?
A: Not normally; they were generally good.
Q: If somebody got up and went somewhere, did the dogs follow you?
A: Depending on who, they would.
Q: Okay. Would you say they're hyper dogs?
A: No.
Q: Okay. And there was a bird in there in the living room; did you see that?
A: I did not.
Q: You didn't see the bird cage?
A: (Indicates negatively.)
Q: Okay. You don't remember a bird being in there?
A: No, I don't remember.
Q: And you said that your, Edna, your grandma, also lived there?
A: I did not say she did.
Q: Do you remember if she lived there?
A: From time to time. She went between down here and up

there.
Q: Do you know if she moved here after her husband died in Massachusetts?
A: It wasn't Massachusetts. She's from Maine.
Q: Maine. Do you know if that's when she moved down here?
A: For a short time, yes.
Q: Okay. And do you remember about what year she lived there?
A: I do not.
Q: Okay. You're -- you're aware that Cousin had been abused by someone, not Kevin McKinnon, correct?
A: Yes.
Q: Okay. And that happened before any of this we're here for today?
A: Yeah.
Q: Okay. And you're also aware that the two girls were acting out sexually with each other?
A: Aware of what?
Q: You're also aware that Cousin and Complainant were acting out sexually with each other?
A: No, I was not.
Q: Okay. Are you now?
A: Cause you just said so.
Q: Okay. But other than that, you don't know?
A: No.

Q: Okay. You, when you were testifying, you mentioned -- you were talking about Kevin and Susan, and Edna, Michael and Shelby, you said that they -- you said was as a reference to your relationship. You don't consider the family anymore?
A: I didn't say anything about Edna or Shelby, but Michael, Kevin and Susan are not my family anymore.
Q: Okay. And that's because they believe Cousin as is this did not happen?
A: They told me my daughter is lying.
MR. BROWN: Court's indulgence, Your Honor.
THE COURT: Yes, sir.
MR. BROWN: That's my questions, Your Honor. Thank you.
THE COURT: Redirect?
MR. MARTIN: Just briefly, Judge.

REDIRECT EXAMINATION OF ERIC MATTHEW MCKINNON BY MR. MARTIN:

Q: Mr. McKinnon, you were just asked about bedrooms in the home. Do you remember about how many bedrooms were in the home?
A: Originally, there was three.
Q: Were all the original bedrooms used as bedrooms?
A: Originally, yes.
Q: Do you remember if there was carpet in the parents' room, the master bedroom?
A: Honestly, I don't remember. I think there was, but I don't remember.

Q: You also talked about -- you were asked about racing. Were there races every Saturday?
A: Most Saturdays, yes, from when the racing season would start April-ish through up to, not necessarily November, because November was a special race, but through most of the summer.
Q: Was the racing season all twelve months of the year?
A: No, sir.
Q: Did Complainant visit all twelve months of the year?
A: Before this, yes.
Q: Before, yes. How often did you work on the shop with the defendant?
A: Work on the racecars?
Q: Let me rephrase. You were talking -- you were asked about an antique shop?
A: Yes, sir.
Q: How many times did you help with the antique shop?
A: I helped with the initial build and that was it.
Q: How many shelves were built for the antique shop?
A: I don't know. We had a lot of remodeling to do. We had to redo walls, add shelving. It was a decent amount of stuff.
Q: Did the defendant work on the antique shop for months or years?
A: Months, maybe; it wasn't years.
Q: You were also asked about Jeanna's family member, Kevin?

A: Yes, sir.
Q: He lived with you guys, briefly?
A: A few times, yes.
Q: Was he ever left alone with the victim?
A: No.
MR. MARTIN: Court's indulgence, Judge?
Judge, no further questions.
THE COURT: Anything on those questions just asked?
MR. BROWN: Briefly, Your Honor.

RECROSS-EXAMINATION OF ERIC MATTHEW MCKINNON BY MR. BROWN:

Q: Mr. McKinnon, the remodel on the shop, that took about two months, May and June of 2015, correct?
A: Roughly, yes.
Q: Okay. And you said every Saturday you had race and race season again went from April to November?
A: Roughly, yes.
MR. BROWN: That's my questions, Your Honor. Thank you.
THE COURT: Do you wish the witness to be excused from his subpoena?
MR. MARTIN: Yes, Your Honor.
THE COURT: All right, sir.
Any objection?
MR. BROWN: No, Your Honor.
THE COURT: All right. You are excused from your subpoena; you may stay or go as you choose. Thank you.

All right. Who is your next witness?

MS. WALTER: Detective Marcus Rhodes.

THE COURT: All right.

THE CLERK: Please raise your right hand and place your left hand on the Bible.

MARCUS RHODES, HAVING BEEN DULY SWORN, TESTIFIES AS FOLLOWS:

THE CLERK: Please be seated and state your full name for the Court.

MR. RHODES: Marcus Rhodes.

DIRECT EXAMINATION OF MARCUS RHODES BY MS. WALTER:

Q: Can you just spell your last name for the court reporter, please.

A: R-H-O-D-E-S.

MS. WALTER: May I, Your Honor? Thank you.

BY MS. WALTER:

Q: Where do you currently work?

A: At J. Reuben Long Detention Center.

Q: And what's your position there?

A: I'm the director there.

Q: How long have you been the director of J. Reuben Long?

A: Since March of 2020.

Q: Where did you work before that?

A: I went to the sheriff's office, which my office was at the detention center in 2017. Prior to that, I worked with

the Horry County Police Department, and, prior to that, I worked with the North Myrtle Beach Department of Public Safety.

Q: How long were you with the Horry County Police Department?

A: From 2000 to 2017; 17 years.

Q: And you said you were also with the North Myrtle Beach Public Safety Department; when did you work there?

A: From 1990 until 2000.

Q: Lots of experience?

A: Thirty years.

Q: So let me focus on July of 2015. If I'm looking at your resume correctly, you would have been working with Horry County Police Department at that time?

A: Correct.

Q: What was your position in July of 2015?

A: I was a detective in the Criminal Investigations Division.

Q: What -- are there any smaller units within the Criminal Investigation Division?

A: Yes, ma'am. At that time, I was working with the Violent Crimes Unit.

Q: What does the Violent Crimes Unit investigate?

A: Violent Crimes Unit at that time investigated crimes against the person, which would include sexual assaults,

physical assaults, any crime that was violent in nature and against an individual or individuals.

Q: You said that you were a detective in the Violent Crimes Unit. What does a detective do; what types of things were your duties?

A: Detectives receive cases that need specific and individual attention and follow-up. There might be evidence that needs to be gathered; there may need to be interviews that need to be conducted; things that a patrol officer doesn't have the time to do or would be restrictive in that the patrol officer works certain numbers of days and then is off a certain number of days. Investigators take those cases and follow them through to whatever conclusion there are.

Q: So were you assigned -- excuse me. Were you assigned an investigation into allegations of child sexual assault by the defendant, Kevin McKinnon, against his granddaughters, Complainant McKinnon and Cousin

A: Yes, ma'am.

Q: Can you tell us how you came to be assigned to that case?

A: The patrol officer that worked the initial call, that supervisor was notified that we had a child sexual ---

MR. BROWN: Objection, Your Honor. I object to investigative hearsay under *State v. King*. He's talking about another individual.

THE COURT: I don't see that he was doing that. So I

don't see that he was talking about any hearsay specifically as to what he was told; just in general, what he was doing. So I'll allow the question. Go ahead.

A: I received a report from my supervisor that I needed to investigate -- adopt a case that was initiated by a patrol officer.

BY MS. WALTER:

Q: All right. Do you remember approximately when you were assigned the investigation?

A: It was on the 17th of July, 2015, and the case -- I was assigned the case around noon.

Q: Why was this case one where the responding officer did not handle it; why was it passed to you?

A: In child abuse investigation cases, there's a good bit of interviews and decisions that have to be made, and there's a good deal of follow-up that has to be done. There were also two victims, initially, in this case, which meant not only was there going to be interviews but follow-up. And then we also have a protocol, where we use -- once we get initial information, if the initial information warrants us assigning and requesting the assistance of the Children's Recovery Center, we do that in order to allow the children to be interviewed by forensic interviewers that have more training and more detail abilities to -- to interview than the patrol officer would.

BY MS. WALTER:

Q: And, now, let me just back up for one second. You said that you were assigned to the case July 17th of 2015. Do you know when the initial responding officer responded to the call; was it that same day or earlier?

A: I believe it was the same day. I'm not completely certain.

Q: Okay. After you were -- you were assigned, did you speak with Complainant parents, Crystal and Eric McKinnon?

A: I did. I spoke with -- I spoke with -- with Jeanna McKinnon, who was the mother or the stepmother, and I spoke to Eric.

Q: Okay. So you spoke with Jeanna McKinnon, who is Complainant stepmother, and Eric McKinnon, her father?

A: Correct.

Q: Did you ever speak with Complainant

A: I did.

Q: Can you describe that conversation; what phrase do you use to describe that?

A: I conducted a minimal information interview with Complainant McKinnon. Because Complainant was so young at the time, I did not -- I knew that if she told me things that would initiate an interview request for the Children's Recovery Center. I did not want to ask a lot of questions. I just wanted that basic interview to see if that as warranted. So I asked a couple of

questions in order to gain that minimal information. And then, I was actually, in fact, able to get that information that indicated that we needed to take that next step, and I requested an interview with Children's Recovery Center.

Q: Without saying any names that [redacted] mentioned, what did she say happened to her?

A: She said that she was touched in an inappropriate manner. And that the way she described that or the words she used and she used the words inappropriate manner, I recognized that she was describing a touch that made her feel uncomfortable and inappropriate, which would indicate then that I would want her interviewed by a forensic interviewer.

Q: Did you also speak with [redacted] parents; father, mother, or both?

A: I did.

Q: And di you speak with [redacted]

A: I did.

Q: Did you conduct the same minimal facts interview with [redacted]

A: I did.

Q: Without naming any names that [redacted] provided, what did [redacted] say happened to her?

A: [redacted] indicated that she had also been touched inappropriately. I believe she may have used the word, molested, I'm not completely sure, but she did indicate that

she had been touched by someone in private places.

Q: Now, let's go back to -- well, I'll finish with Cousin

Did Cousin say when the molestation happened?

A: She indicated that the most recent time was the last time that she had stayed at a location.

Q: Did she say that the molestation had happened more than once?

A: She indicated that it had.

Q: Did it always happen at the same location as the last time?

A: What she told me was, yes.

Q: And what was that location?

A: Her grandfather's house.

Q: Going back to Complainant did Complainant say when she had been touched inappropriately?

A: She didn't give me specific times, but she indicated that it had occurred and it was recent enough to remember. That was sufficient for me to forward that on to the CRC for an interview.

Q: Did you minimal facts interview of Complainant include asking her where the inappropriate touching had taken place?

A: Yes.

Q: Where did she say that it had taken place?

A: Her grandmother's house.

Q: What was Complainant demeanor when you interviewed her?

A: That's a long time ago. If I remember, Complainant demeanor was straightforward, quiet, meek, but convincing.

Q: When you asked her these questions in the minimal facts interview, were her answers responsive to your questions?

A: They were.

Q: So did it seem that she understood what you were asking?

A: It did.

Q: Now, let me ask those same questions with respect to Cousin When you conducted your minimal facts, Cousin what was her demeanor?

A: It was similar to that. I don't recall anything very different. With Cousin nothing stands out, she was -- she seemed to understand what I was asking. She was responsive to the questions as you've said and convinced me that she, too, qualified for a further interview by a forensic interviewer.

Q: So did the CRC schedule interviews for both Complainant and Cousin

A: They did.

Q: Let's start first with Cousin Do you know when Cousin interview was?

A: My I refresh my notes.

THE COURT: You can refer to your notes and then answer the question without reading it from the notes.

A: Counselor, you asked about Cousin interview?

Q: Cousin first, yes, and then we'll move to Complainant

A: Yes, ma'am. Her interview was scheduled for August the 11th, 2015.

Q: Did you attend Cousin CRC interview, or did you simply review it afterwards.

A: I reviewed it afterwards.

Q: During that interview, did Cousin again disclose sexual abuse.

A: She did.

Q: Now, when was Complainant interview?

A: July the 22nd, 2015.

Q: Did you attend that interview or did you simply review the video?

A: I attended that interview.

Q: Were you in the room during the interview, or how was it that you attended the interview?

A: The Children's Recovery Center has an area remote from the interview room, where an observer, can watch the interview on a screen. In a similar situation, if there was a camera in this room and someone were watching somewhere else. A lot of churches do that now. And so I was in a separate room during the interview observing the interview occur.

Q: During Complainant interview -- and was that with Ms. Dianne Nordeen?

A: It was; yes, ma'am.

Q: During Dianne's interview of Complainant did Complainant again

disclose sexual abuse?
A: She did.
Q: Did she describe what had been done to her?
A: She did.
Q: How did her description of the way she was touched affect your charging decision?
A: Well, Complainant is under the age of 11 years old, and so that's one element of that charging decision, criminal sexual conduct in the first degree, criminal sexual conduct with a minor. So that's one indication. And then another indication for that particular charge is there has to be some type of penetration that occurred. Complainant description of the penetration convinced me that there had in fact been penetration; however slight, it was still penetration.
Q: Did Complainant indicate in that interview that she had been shown pornography?
A: She did.
Q: So based on your attendance of Complainant interview, your review of Cousin interview, were you able to identify a suspect in this case?
A: I was.
Q: Who did you identify as a suspect?
A: Mr. Kevin McKinnon.
Q: Just out of curiosity, do you have his date of birth?
A: His date of birth is [redacted], 1961.

Q: Did you, in fact, based on your investigation, obtain arrest warrants for the defendant?
A: I did.
Q: For what charges?
A: Two charges. One for each victim, both Cousin and Complainant for criminal sexual conduct with a minor in the first degree and disseminating pornography or obscene material to a minor.
Q: Do you know when you obtained those warrants?
A: May I refer to my notes?
THE COURT: Yes, sir.
A: Thank you, sir.
On August the 19th, 2015.
Q: So that was a little bit more than a month after you had been initially assigned the case?
A: Just about a month.
Q: Okay. Did you also obtain a search warrant for the defendant's home?
A: I did.
Q: What were you searching for, specifically?
A: Specifically, I was searching for a -- a computer on which I was, based on the interviews, the children had been shown pornography. I was looking for a blanket, a red and white blanket with paw prints, and I was looking for a bottle of lube. It was a described as a lube used for sexual

contact.
Q: Did you have any further description of the computer other than just a computer? A color or anything or that sort?
A: In the interview, I was looking for a gray computer.
Q: What -- what address did you have for the defendant at that time?
A: It was [redacted] Highway 814 in Myrtle Beach, which is in the Horry County section of -- or in the -- it's in the Myrtle Beach section of Horry County; my apologies.
Q: Okay. You know that we have to prove jurisdiction. So when, in case not everyone is familiar with this, when you get a search warrant, does it permit you to search the entire property?
A: It depends on the warrant. In this case, there were specific items that I was looking for, and once I located those items, I had the responsibility to stop the search going any further unless there were some over-arching or interrupting me to do so.
Q: Was that search warrant, in fact, executed on the defendant's home?
A: It was.
Q: Do you know what date that was?
A: It was on the 19th.
Q: What, if anything, did you recover during the search warrant?

A: I recovered a black Gateway computer. I recovered a white-and-red blanket with paw prints on it, and I recovered two bottles of lube, KY lube.

Q: Where was the computer recovered from?

A: There's a room -- when you walk in the house, the front door that we went into opens into the living room. Off to the left of the living room is like a -- was a room with some dining -- a dining table and chairs with a china cabinet, and there's a door just to the right of the china cabinet. Behind that door is a room that I'll refer to as the computer room. The computer was on a desk on the wall right behind the china cabinet, if that makes sense.

MS. WALTER: Court's indulgence for just one moment?

May I approach the witness, Your Honor?

THE COURT: Yes, ma'am.

MR. BROWN: Your Honor, may I ---

THE COURT: Yes.

MS. WALTER: And this has actually already been published, Your Honor, so if I may, I will just put it up on the screen?

THE COURT: Yes, ma'am.

BY MS. WALTER:

Q: So Director, I'm showing you what's been admitted as State's Exhibit 13?

A: Yes, ma'am.

Q: Do you recognize what that is a picture of?
A: I do.
Q: What is it?
A: It's a photograph of the -- of the home and the yard of the defendant, Mr. Michael McKinnon, on Highway 814. There's multiple Impalas, blue and tan Impalas; those are our vehicles And somewhere up there, I think I see a patrol car, an Horry County Patrol car.
Q: Would that be right there with the light bar across the top?
A: Yes, ma'am.
Q: Indicating the space between the two buildings?
A: Yes, ma'am.
Q: And now I'm going to show you what's been admitted as Exhibit 14. Was this also part of that home that was searched?
A: Yes, ma'am, it's the extreme other end of the home on the property, and on the other side. The -- the extension there that's off the back of the double-wide is the bedroom of -- in the home, one of the bedrooms in the home.
Q: Okay. So I want to go back just so that we can tell the layout. I'm showing you Exhibit 13 again. So there's no addition on this side, so are you saying that the addition was on the back and closer to where the woods are in the picture?
A: Yes, ma'am.

Q: Okay. And that again, that's the house that you searched?
A: Yes, ma'am.
Q: I'm now showing you what's been admitted as State's Exhibit 16. Do you recognize this area?
A: I do.
Q: What is this area?
A: Can you slide it up just a little bit so -- just a little bit more, please? There you go. Thank you. So that photograph was taken just inside the front door looking to the left, if you're facing to the front door, looking to the left. If you'll notice at the very bottom of the frame, there is a sofa that's -- you can barely see it, but just if you see the sofa between the kitchen there on the other side of the rug, right there is a sofa and then there's another sofa there that matches that, the same kind of color. There's a television there in the corner on the left. The dining table is to the room off, you know, on off to the left and the china cabinet. And then in the frame there, right beside the china cabinet, you can see the doorway. That's the doorway to the computer room. The computer desk was actually on the wall right behind the china cabinet, and then across from that room is the Mr. McKinnon and Ms. McKinnon's bedroom.
Q: Okay. And I'm going to show you what's been admitted as State's Exhibit 17; it might be a better view of the two

sofas. Let me see if I can adjust that lamp. Is that brighter or worse?

A: If you just slide it -- if you slide it over just a little bit to the right, I think that will take the glare off of the sofas. There you go. So that photograph is from the same general direction as the -- as the other living room photograph. But, looking across the double-wide to the double-doors and there's a porch behind there. The blue wall, if you go down that blue wall, is the kitchen, and if you'll notice the sofas in the foreground of that photograph, they're almost like a sectional without the sectional corner piece there. There is tables there, but it -- so they're -- they're situated more like a -- like a sectional sofa there. So the walking area then would have been on the -- on this side of that sofa that's running long ways.

Q: So on the side sort of closer to the jury?

A: Closer to the jury, closer to the door, that front door.

Q: Okay. And now, this has not been admitted or published, but I want to show you Defense Exhibit 1. Do you remember that being shown to Complainant yesterday?

A: I do.

Q: What is shown in Defense Exhibit 1?

A: What's shown in Defense Exhibit 1 is the sofa is just moved down closer to the doorway, and the walkway then in that photograph would be between the end of the sofa and the T.V.

tray that's up there in that area. So there would be a gap. If you just took that one sofa and slid it towards the front wall of the house, the walkway would be then between the -- the T.V. tray and the other wall.

Q: So what is depicted in Defense Exhibit 1 is not a fair and accurate representation of the home when you were there on August 19th of 2015?

A: Correct. The furniture has been adjusted some.

Q: And going back to State's Exhibit 16, is that positioned okay?

A: Yes, ma'am.

Q: I'm showing you what's been marked for identification as Defense Exhibit 3?

A: Yes, ma'am.

Q: Do you recognize what's depicted in Defense Exhibit 3?

A: I do.

Q: And what is it?

A: It's a similar picture as to the one that's on the screen. The difference there, though, is, do you see the dining table and there are two chairs there and then one on the end. So the dining table is oval. The picture in the other defense exhibit, it looks like maybe a leaf was taken out of the table, because it's round. And so in the defense exhibit there is a -- there is a -- there's more room in that dining room area. There are just four chairs. And, so the

table is longer in this exhibit as it was on July the 15th.
Q: And so again, the Defendant's Exhibit 3 is not a fair and accurate representation of the home when you saw it on August 19th of 2015?
A: Correct.
Q: I'm showing you what's been admitted as State's Exhibit 7. Do you recognize this area of the home?
A: I do; yes, ma'am. That's what I will call the computer room. If you see the red-and-white hat on the left-hand corner of that wall, there is -- there's like a hat stand right there. There's a little bit bright light, but there is a straw hat, that beige round thing is like a straw hat at the top. Just on -- just beyond that on that wall is the computer desk, and then there is a chair that looks like the sofa on that wall, then a table. And then there is a gate, like a pet gate in the opening that goes into the bedroom. And there's a -- in the bedroom area, it's a little bit hard to see, but there's a chest on the wall right there. And then beyond that, through that doorway, you can see the outline of the door. That's an exit door from the residence from the addition.
Q: Now, if we can go back to State's Exhibit 14, the door that's depicted in this on the addition, does that match up with the door in the previous photo?
A: It does, yes, ma'am; the door and then the one window and

the other window on the other side.
Q: Now, so this is the door to the defendant's bedroom; do you recall where the bed was when you walked in this doorway?
A: Yes, ma'am.
Q: Where was it?
A: The bed was, if you see the -- the pet gate right there, so to the right of that, that wall, yes, ma'am, right through on the other side of that wall is the bed, so you can't see the bed, but the -- the -- the, I guess the head side of the bed would be butted up against that wall. So you can't see it there, but the bed is right on other side of that white wall.
Q: I am showing you what's been marked State's Exhibit 11?
A: Yes, ma'am.
Q: Do you recognize what's depicted in this photo?
A: Yes, ma'am.
Q: What is it?
A: That is a photo of the bedroom from the -- from the doorway that's in the picture that's on the exhibit screen now.
Q: Okay. And did you actually take this photo when you were executing the search warrant?
A: I did.
Q: Is this a fair and accurate representation of what the bedroom looked like at the time you executed the search warrant?

A: It is; yes, ma'am.

MS. WALTER: Your Honor, I would ask that State's 11 be admitted and published?

THE COURT: Any objection?

MR. BROWN: No, Your Honor.

THE COURT: All right. It's into evidence without objection. You may publish.

STATE'S EXHIBIT NUMBER 11

ADMITTED INTO EVIDENCE

BY MS. WALTER:

Q: And so is this the same dresser that you were referring to in the earlier photo?

A: It is; yes, ma'am.

Q: And the you can see the door hinges, that's the door you were able to see?

A: Yes, ma'am.

Q: And now, what is pictured on the bed in the master bedroom?

A: There's a -- some bed clothes, sheets, and a blanket or such. There is some sort of stuffed animal there on the left-hand side, at the foot of the bed. And then on the right-hand side is a white blanket, white-and-red blanket with paw prints on it.

Q: Did you, in fact, seize that blanket?

A: Yes, ma'am.

Q: That was one of the items that you were looking for?
A: Correct.
Q: When you seized the blanket, what did you do with it?
A: We seized it and placed it into evidence.
Q: I'm approaching you with State's Exhibit 4?
A: Yes, ma'am.
Q: Is that a blanket that you seized that day?
A: Yes, ma'am.

MS. WALTER: Your Honor, I'd ask that this be admitted and published. I'll just hold it up, I won't show it to the ---

THE COURT: Any objection?

MR. BROWN: No, Your Honor.

THE COURT: All right. So it's in evidence and you may show it to the jury.

STATE'S EXHIBIT NUMBER 4

ADMITTED INTO EVIDENCE

BY MS. WALTER:

Q: Did you recover any other evidence from the master bedroom?
A: Yes, ma'am.

MR. BROWN: Your Honor, I would object.

THE COURT: Can I see the photograph, please?

MS. WALTER: And it's State's Exhibit 10, Your Honor.

THE COURT: All right. Just cover the background

information with the witness, but with that the Court's going to allow State's 10 into evidence.

MS. WALTER: And the actual evidence is Exhibit 3, Your Honor.

THE COURT: All right. Very good. I'll allow you to put any matters on the record that you wish to at a later time.

MR. BROWN: Yes, Your Honor.

BY MS. WALTER:

Q: Director Rhodes, I'm showing you State's Exhibit 10?

A: Yes, ma'am.

Q: Do you recognize this?

A: Yes, ma'am.

Q: What do you recognize it to be?

A: Two bottles of lube in the top drawer of an end table in the defendant's bedroom.

Q: When you say end table, was it ---

A: Well, not an end table, a nightstand beside the bed.

Q: Okay. Did you this picture?

A: I did.

Q: Is that a fair and accurate representation of how you found the lube in the nightstand drawer?

A: Yes, ma'am.

MS. WALTER: Your Honor, I would ask that State's Exhibit 10 be admitted and published.

THE COURT: Over the objection of the defense, I'm going

to allow State's 10 into evidence.

STATE'S EXHIBIT NUMBER 10

ADMITTED INTO EVIDENCE

BY MS. WALTER:

Q: Now, you can see one nightstand in the photo; was it that one or the other one?

A: It's the other one.

Q: Okay. And, so is this what you were referring to as the lube?

A: Yes, ma'am.

Q: Did you in fact recover that lube?

A: Yes, ma'am.

Q: What did you do with it once you recovered it?

A: Placed it into evidence.

Q: In a sealed plastic bag?

A: Yes, ma'am.

Q: I'm approaching with State's Exhibit 3?

A: Yes, ma'am. Can you -- thank you. Yes, ma'am.

Q: Is that the lube that you recovered that day?

A: It is.

Q: Is that in fact your name and your signature on this sealed bag?

A: It is.

MS. WALTER: Your Honor, I would ask that this be admitted and published to the jury.

THE COURT: Over the objection of the defense, I'm going to allow State's 3 into evidence.

STATE'S EXHIBIT NUMBER 3

ADMITTED INTO EVIDENCE

BY MS. WALTER:

Q: Let's -- lastly, did you recover -- moving out of the bedroom, did you recover anything form that computer room?

A: A black Gateway computer.

Q: So let me show you -- I'm approaching you with State's Exhibit 8 and 9. This is 8. And do you recognize what's depicted in Exhibit 8?

A: A computer desk with a monitor on the surface part of the desk and then a CPU unit, the actual computer, in the lower left-hand box for the computer desk.

Q: Then showing you State's Exhibit 9, is that just a close-up of the computer?

A: It is; yes, ma'am.

Q: Do these photos -- are these photos a fair and accurate representation of the computer desk and computer CPU as you found them that day?

A: They are. Also, in the top photo is the hat and the straw hat that's on the corner of the door from one of the other pictures. Sort of shows the placement of the computer desk.

Q: Okay. So you're referring to the hats that are depicted

in State's Exhibit 8?

A: Yes, ma'am.

MS. WALTER: Your Honor, I would ask that State's Exhibit 8 and 9 be admitted and published.

THE COURT: Any objection?

MR. BROWN: No, Your Honor.

THE COURT: 8 and 9 are in evidence. You may publish.

STATE'S EXHIBITS NUMBER 8 AND 9

ADMITTED INTO EVIDENCE

BY MS. WALTER:

Q: And so are these the hats that you were referring to that you could see sort of on the edge of the doorway in the other picture?

A: Correct, yes, ma'am. So on the opposite end on the other side of that wall, like you see the computer desk, they're facing the wall. On the other side would be the china cabinet in the dining room. So if you're looking at the computer, then you're looking in the direction of the living room.

Q: And away from the direction of the master bedroom?

A: Correct, away from the master bedroom.

Q: Is that the CPU down here?

A: Yes, ma'am.

Q: And then I think if you could switch to that end, it'd be better. Is that a close-up of the computer?

A: Yes, ma'am.

Q: What color is that?
A: That is black.
Q: Now, your information was actually that it was a gray computer?
A: Gray computer; yes, ma'am.
Q: Did you seize this black computer?
A: I did.
MS. WALTER: Sorry, I can't really hide this from the jury ---
THE COURT: Go ahead. You can show it to them.
MS. WALTER: Thank you.
BY MS. WALTER:
Q: Does that appear to be -- does that appear the computer that you seized?
A: It does appear to be that.
Q: What did you do once you seized it?
A: Can you turn back around? May I see the other -- flip to the other side. Thank you very much. Yes, ma'am, I placed it in evidence.
Q: Okay. Was anything of evidentiary value found on this computer?
A: Not to my knowledge.
THE COURT: What was the exhibit number on that?
COURT REPORTER: State's 5.
MS. WALTER: 3, I believe.

COURT REPORTER: The computer is State's 5.

THE COURT: 5.

MS. WALTER: Oh, 5, sorry.

THE COURT: All right. Thanks.

MR. BROWN: I have an objection to this exhibit, Your Honor.

THE COURT: Can I see it, please?

STATE'S EXHIBIT NUMBER 6

MARKED FOR IDENTIFICATION

MS. WALTER: This is State's Exhibit 6, Your Honor.

THE COURT: Okay. Thank you.

Could y'all come up here for just a second?

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

THE COURT: Since there is no objection by the defense that the items were not logged into evidence, I am not going to allow 6 into evidence then, since there's nothing been raised by the defense as to that issue.

MS. WALTER: Very well, Your Honor, thank you.

Court's indulgence?

Your Honor, I'm not sure if I asked that the computer be admitted into evidence.

THE COURT: You did not.

MS. WALTER: Okay. So if I could ask that that be admitted into evidence?

THE COURT: All right. State's 5, any objection to that?

MR. BROWN: That was?

MS. WALTER: The computer.

MR. BROWN: No, Your Honor.

THE COURT: All right. So State's 5 is in evidence without objection.

STATE'S EXHIBIT NUMBER 5

ADMITTED INTO EVIDENCE

BY MS. WALTER:

Q: And Director Rhodes, other than everything that you've detailed so far today and testifying in court, does that just about summarize your involvement in this -- this investigation? Am I forgetting anything?

A: I'm trying to remember.

May refer for a just a moment, Judge?

THE COURT: Yes, sir.

A: Thank you, sir. It does.

Q: Okay. Thank you.

MS. WALTER: I have no further questions at this time, Your Honor.

THE COURT: All right.

Cross-examination?

MR. BROWN: Thank you, Your Honor.

THE COURT: Go ahead, sir.

MR. BROWN: Thank you.

CROSS-EXAMINATION OF MARCUS RHODES BY MR. BROWN:

Q: Director Rhodes, you're telling us that five years ago, July 2015, that's when you came into contact with Complainant and Cousin correct?

A: Correct.

Q: And you talked to both of them?

A: Correct.

Q: And did you talk to them individually?

A: I spoke with Complainant and her stepmother, and I spoke Cousin and one of her parents, or -- or I don't remember exactly who, but ---

Q: You didn't talk to the two kids in the same room at the same time?

A: Correct.

Q: And you talked to them individually with their parents, right?

A: Correct.

Q: On the same day?

A: Correct.

Q: Okay. Do you remember where you were when you talked to them?

A: I do.

Q: Were you at their house?

A: I was at Complainant house, and I met with Cousin and her parent at the recreation center.

Q: And Complainant house being the home Eric or Crystal?
A: May I refer?
Q: Sure.
A: It would be the parent, Eric's home.
Q: Okay. When you met with Cousin and her parent, did they tell you that Cousin had already been molested by someone not Kevin McKinnon?
A: Not when I met with them, no. I spoke with -- with Shelby prior.
Q: That's the stepmother, right?
A: Correct.
Q: Okay. And you later learned that she had been molested by someone, not Kevin McKinnon previously?
A: I spoke with Shelby actually prior to meeting with Cousin and Shelby, and she told me that there were earlier incidents -- an earlier incident.
Q: Okay. You've learned that that person is in prison?
MS. WALTER: Objection, Your Honor?
THE COURT: Sustained.
MS. WALTER: Move to strike as well?
THE COURT: Strike; the jury will disregard.
BY MR. BROWN:
Q: You've learned that Cousin and Complainant acted out sexually together, the two girls?
A: The first I've heard of that was during testimony in this

trial.
Q: Okay. When is the last time you talked to Cousin parents, Michael and Shelby?
A: It would've been after I made the arrest of Kevin McKinnon.
Q: Roughly, the year of 2015.
A: Correct.
Q: Okay.
A: Well, I believe that -- yes, yes.
Q: Okay. Since then, you haven't talked to them?
A: Correct.
Q: Shelby and Michael?
A: Not to -- not that I recall.
Q: And since then, you haven't spoken with Cousin
A: Not that I recall.
Q: Are you aware that she is now saying this did not happen and we lied?
A: I've heard you say that.
Q: But it's because you haven't spoke with them, you haven't heard that from them?
A: I have not.
Q: Okay. Are you aware that, you mentioned Dianne Nordeen. Are you aware that she was Cousin interviewer in her previous case?
A: I do not -- I don't know that.

Q: You went to the home, correct?
A: Which home?
Q: The home that we showed the pictures of?
A: I did.
Q: And was anyone there when you got there?
A: No.
Q: Did you contact anyone to get in the home?
A: I did.
Q: Who did you contact?
A: Ms. Susan McKinnon.
Q: Did you tell her, if you're not here in ten minutes, we're kicking the door in?
A: I may have. She said she wasn't home. I told her that we had to search the home. And she had some statement, I don't recall what it was, that she wouldn't be able to get there for an extended period of time. I instructed her that we had a search warrant and that we would force entry if she could not get to the house.
Q: Did she tell you if she was at work?
A: I don't recall.
Q: Okay. Did she come to the house?
A: Indeed.
Q: And let y'all in?
A: Yes.
Q: Okay. You never witnessed the family together, Complainant

Cousin Michael, Eric, Kevin, Susan, the family together?
A: Correct.
Q: The item -- you executed a search warrant in August of 2015?
A: Yes.
Q: Were any of the items hidden?
A: Pardon me?
Q: Were any of the items hidden away; was the computer hidden?
A: No.
Q: Was the blanket hidden?
A: No.
Q: Was anything that you seized hidden?
A: No.
Q: Okay.
MR. BROWN: Court's indulgence?
THE COURT: Yes, sir.
BY MR. BROWN:
Q: Director Rhodes, this picture, did you take this picture?
A: I did.
Q: And this in the master bedroom?
A: Yes.
Q: And this is a drawer next to the bed?
A: Yes.
Q: And these are what you -- these personal lubricants are

what you seized?
A: Yes.
Q: And they were not in this sandwich bag when you pulled open the drawer, correct?
A: That's incorrect.
Q: You put them in the bag or you did not put them in the bag?
A: I don't recall. They were slippery on the outside. I remember there appearing to be some residue at that time. So I don't -- I don't recall placing them in that bag.
Q: Did you put this white band on them?
A: No.
Q: It's your testimony that you put -- you did not put them in the bag and you did not put this white band on them?
A: I don't recall doing either one of those.
Q: Are you the one that found them, or did someone -- did another officer go to the home with you?
A: Other officers went to the home with me.
Q: Would you know if someone else put them in a bag like this?
A: We have evidence bags similar to the bags that they're in at the current moment, the bag with the markings and things, and those are the bags that we actually carry in our vehicles, not sandwich bags. So I'm not aware of a detective that would put them in a standard sandwich bag.

Q: Are you the one that opened the drawer, or do you believe that you're the one that found this?
A: When we search as a team, we look together. I don't recall if I opened the drawer, or if one of the officers opened the drawer and found it and notified it. Our routine is that we -- if we see something of evidence, we leave it in place until the executor of the search warrant works through that, gets the pictures, and collects it.
Q: Okay.
MR. BROWN: That was State's 10, Your Honor.
THE COURT: All right, sir. Thank you.
BY MR. BROWN:
Q: Refer to State's 16. This is the entrance; the front door is over here, correct?
A: Correct.
Q: To the left of the picture?
A: Correct.
Q: So this picture is when you walk in the front door and turn left, correct?
A: Correct.
Q: Okay. Is there a bird here?
A: I don't know; there's a bird cage.
Q: Did you see a bird when you went there; do you remember? I know it was five years ago, but ---
A: It was five years ago. I don't remember.

Q: Okay. Do you remember dog toys?
A: Yes. They're right there in the photograph.
Q: Okay. And when you're referring to defense's exhibits, you mentioned that a couch was moved, correct?
A: I mentioned that the sofa was not in the same position as it is in this photograph when I went in in 2015.
Q: This one or the one that is down here in front?
A: The one where you're down here in front. If you slide the photograph up, you can see the very front edge of the sofa.
Q: Right here?
A: Correct.
Q: Where -- where was it, slightly moved to the left you said, right?
A: In what photograph?
Q: When you were looking at the defense exhibits, did you say it was moved?
A: The sofa was shifted down towards the door. You remember where you said the door was?
Q: Yeah, over here on the left side.
A: On the left side, so the sofa was shifted down towards the door. So the walkway at this point in time, it appears would've been closer to the doorway. And in the defense exhibit, it just would've been further up sort of where the rug is but in front of the other sofa.

Q: So people move furniture?
A: Sure they do.
Q: Okay. And you don't know when the defense exhibits were taken?
A: I do not.
Q: Okay. And are you aware if they still live there or do you know they've moved?
A: I have no idea.
Q: Okay. Do you know that at this time Kevin's mother was living at the home?
A: Kevin's mother was not at the home when I went there.
Q: She was away, but do you know that she was living there?
A: Where was she?
Q: She was living at the home, but she wasn't at the home?
A: I don't know -- she was not at the home. I have no idea where she was living.
Q: Okay. Still referring to State's 16, it was like a wood parquet, correct, around this small rug?
A: It appears to be; yes, sir.
Q: And this is the, what you call this, a dining room or breakfast room?
A: It's a room with a dining table and chairs and a china cabinet in there.
Q: Okay. And this has got a tile floor; is that right?
A: Something like that.

Q: Okay. Not carpet?
A: Not there.
Q: And then you mentioned, when you're looking at the other defense exhibit, a table that's slightly smaller; maybe a leaf has been removed ---
A: Correct.
Q: --- again, people change furniture; people move furniture, right?
A: Yes.
Q: And that's -- have you ever moved furniture at your house?
A: Certainly.
Q: You see these -- would you call these dog toys?
A: If you'll bring the photograph close enough for me to see a little better, I'll try to answer that. I can't distinguish from there.
MR. BROWN: Your Honor, may I approach?
THE COURT: Yes, sir.
BY MR. BROWN:
Q: I'm still referring to State's 16?
A: That's what they appear to be.
Q: Do you remember dogs at the home when you went there?
A: I don't recall. Certainly, if there had been dogs, we would've allowed Ms. McKinnon to put them up so they wouldn't cause -- we wouldn't cause them a lot of anxiety or us.

Q: Sure.
A: There was the pet gate up between the -- between the doors, so that would make sense.
MR. BROWN: I'm going to refer to what's marked as State's 7, Your Honor.
THE COURT: All right, sir.
BY MR. BROWN:
Q: Do you what this picture -- did you take this picture? Is this the dog gate you're referring to?
A: It is.
Q: So when you walked in -- you took the picture?
A: I did.
Q: And the dog gate was up?
A: Yes.
Q: And was that another dog toy?
A: It appears to be.
Q: Would you say that is like a stuffed animal, kind of chew toy?
A: Mr. Brown, I don't know what it is. Your assertion makes some sense, but I can't say what it is.
Q: Okay. Tennis ball down here, I know that's kind of hard to see?
A: If you want to bring it to me to evaluate a tennis ball, I'll be happy to do that, sir.
MR. BROWN: May I approach, Your Honor?

THE COURT: Yes, sir.

A: Thank you.

BY MR. BROWN:

Q: Still referring to State's 7?

A: It does appear to be a tennis ball; it's purple and green, which is not a -- not the typical tennis ball. I was a little confused there.

Q: And the orange, would you say that's a dog toy?

A: It appears to be.

Q: Okay.

A: A toy of some sort. I have one and two-year-old grandchildren, so toys are sometimes indistinguishable between a dog toy and a person toy.

Q: My dogs love these things; they chew them up all the time.

A: So do my grandkids.

Q: I'm gonna refer to State's 14. You took this picture?

A: I did.

Q: And this is the backside of the bedroom?

A: It is.

Q: And this is the door into the bedroom that also leads outside?

A: Correct.

Q: If the home was on fire, this would be a good fire escape, correct?

A: If you were on that end of the house, it would.
Q: And if the fire is over here, this bedroom is on one end of the house, correct?
A: Say that again?
Q: When you walk in the front door, the pool room and storage room are to the right?
A: Okay.
Q: And the master -- this bedroom all on the left end?
A: Correct.
Q: So if the living room is on fire, that's your escape?
A: Again, if you're on that side of the house, yes.
Q: Okay. Are you aware that he was a volunteer fireman, Mr. McKinnon was?
A: I've heard you say that a lot.
Q: Okay.
A: You enjoy that phrase, but I'm not aware, no, sir.
Q: Okay.
MR. BROWN: Court's indulgence, Your Honor?
THE COURT: Yes, sir.
BY MR. BROWN:
Q: So Director Rhodes, you know -- you know what you've been told, right? Right?
A: Did you ask me if I knew what I've been told?
Q: That's where your evidence is, is you received information, right, and you didn't witness the family

together?
A: Correct.
Q: You didn't witness anything, you just know what you've been told, and you collected evidence at the scene; is that what you're saying? You took things from the house?
A: Correct.
Q: Okay. There's no door on the bedroom, right?
A: It's ---
Q: There's a doorway?
A: There's a big opening.
Q: Okay. Was there a door handle you would open to walk in?
A: Not if there's not a door.
Q: Okay. There was a door to the computer room, right?
A: Yes.
Q: Computer room also had a crafts table in it; is that right?
A: It had a table in it. It had a couple of tables in it.
Q: Okay.
A: I don't know what the tables were used for.
Q: When you arrived at the home, did Susan McKinnon go in with you, or she was asked to stay outside?
A: She was asked to stay outside.
Q: Was the computer room door open or closed; do you remember?
A: I do not.

Q: Okay. Doors on the bathroom, but that's it, correct?
A: No, sir.
Q: Doors on the pool table room?
A: I believe there were doors on the room that a pool table in it.
Q: And a door on the storage room?
A: Remember, my search was limited in scope and so many times when we go in a home, we take lots of photographs and we're searching for things that can be very small or hidden or more than one thing. In this particular situation, once I had located the computer, the blanket, and the lube for which my search warrant was written for, and I looked in the most obvious places that those items would be found, I was forced by law to stop searching. And when I stopped searching, I also stopped documenting and looking for other doors or other things of that nature. So I really can't answer your question fairly.
Q: Well, I'm just asking if you remember from the pictures that you took. And, the pictures you took, show the pool table room, right?
A: They do.
Q: And they show a bunch of boxes and items?
A: A Office Depot box, a Dell computer box.
Q: The room next to it had storage items would you say?
A: I don't -- I don't recall that, Counselor, I'm sorry.

MR. BROWN: Okay. Your Honor -- that's my questions, Your Honor.

MS. WALTER: I think he said he's done.

MR. BROWN: Yes, I'm done.

THE COURT: You're done?

MR. BROWN: Yes. Yes, we're done.

THE COURT: All right. Redirect?

MS. WALTER: Very briefly, Your Honor, I'm aware of the time.

REDIRECT EXAMINATION OF MARCUS RHODES BY MS. WALTER:

Q: Mr. Brown was asking you about the flooring in the home and I am going to have Mr. Martin show you Exhibit 11. This is the master bedroom, I believe, you testified to?

A: Yes, ma'am.

Q: What type of floor covering is in the master bedroom?

A: It appears to be carpet.

Q: And Mr. -- thank you, George Henry. Mr. Brown also made much of the fact that you had not talked to Michael and Shelby at any point after sort of your initial investigation?

A: Correct.

Q: Did Michael and Shelby or Cousin ever contact you and say, we made a mistake, we lied; he did not do this?

A: Never.

Q: At any time since the arrest in August of 2015 to now, a day before October of 2020, has anyone approached you and said

we lied, please do something; he should not have been arrested?

A: Never.

Q: And then lastly, Mr. Brown said, well, you never witnessed anything. Do you typically witness sexual assaults? Is that something that someone invite a detective to watch?

A: I've never known of that occurring. I've never witnessed a sexual assault. And, detectives are called to cases, remember, they usually have already happened, and we have to piece things back together.

Q: See, I should never say lastly, I should know that by now. But in your experience, how many cases would you say you have either investigated or participated in the investigation of?

MR. BROWN: Objection, outside the scope?

MS. WALTER: It will get there with the next questions; I have to lay the foundation of why he can answer it.

THE COURT: All right. Let's ---

A: More than a hundred.

BY MS. WALTER:

Q: And those more than one hundred investigations, have you ever had a victim take back what they said, recant?

A: I have not.

Q: Thank you very much. Nothing further.

THE COURT: Questions on those just asked?

MR. BROWN: Yes, Your Honor.

RECROSS-EXAMINATION OF MARCUS RHODES BY MR. BROWN:

Q: Director Rhodes, when you spoke to -- when you spoke to Complainant and Cousin did you have a badge on; did you identify yourself as a detective or police officer?

A: Yes. I was wearing my badge and gun and handcuffs sort of stuff.

Q: You had a gun?

A: Yes.

Q: Was it on your hip?

A: Yes.

Q: You had handcuffs?

A: Probably.

Q: And you told them you were a detective or law enforcement agent?

A: I introduced myself as Detective Rhodes or tell them that I'm from the police department.

Q: Cops can be very scary to children, can't they?

A: I don't think I've ever been a scary cop to children. I worked in schools for 17 years. I've worked hard to not be scary.

Q: But you don't know if they felt scared?

A: They did not appear to be scared and they spoke with me.

Q: With their parents?

A: Correct. That was another reason I spoke with them in

front of their parents was to tamp down any fear or intimidation that they may have felt or to make them uncomfortable.

Q: Did you tell them, hey, look, you're not in trouble?

A: Pardon me?

Q: Did you tell them, you're not in trouble?

A: I had no reason to tell them they were not -- that they were in -- that they were not in trouble; there was no reason for them to think they were in trouble.

Q: Okay. But you didn't tell them, you're not in trouble?

A: No.

Q: Okay. And what's marked as State's Exhibit 11, this is the only room that had carpet; is that right?

A: I don't know.

Q: You don't remember seeing carpet anywhere else though?

A: Remember, I didn't look into every room and evaluate the flooring in each room.

Q: This is a mirror?

A: Yes, that's on that wall there that's facing the other opposing wall, so you see the door there on the left right there, so that's the back of the trailer, right, or back of the home. And, so that mirror and that chest, that mirror is facing the opposing wall, and then the picture is taken from the doorway of that computer room area into the master bedroom.

Q: Is this another dog toy on the bed, stuff animal?
A: Sort of a large animal; I don't know how big the dogs are or how big their toys are, but it's a rather -- it's a medium-sized stuff animal.
Q: Is this another mirror or is that a picture?
A: That appears to be a photograph, not a mirror. It may be a glare from the flash of the camera.
Q: Okay. Thank you.
A: I think in the state -- in the defense exhibit, I believe that's -- I believe that's -- do you have the defense exhibit there that I could look at and we can clarify that.
Q: If you don't know, that's fine.
A: Okay.
Q: That's my questions, Your Honor.

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

A: Thank you.

THE COURT: Could y'all come up and talk to me for just one second, please?

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

BY THE COURT:

THE COURT: All right, ladies and gentlemen, we're gonna break for lunch. There are a couple of matters that I need to go over the attorneys but -- let's see -- if you will be back,

let me see here. Let's y'all be back at 2 o'clock. Be back at 2 o'clock and we'll start and we expect that the state's case will finish today. So I'll see you back at 2 o'clock.

Remember, don't talk about the case. Don't allow anybody to talk to you about it. Leave your pads and pens.

Thank you.

(REPORTER'S NOTE: Jury exits courtroom @ 12:42 p.m. The following takes place outside the presence of the jury.)

THE COURT: All right. So let's take up the issue, I'm assuming the -- Mr. Brown told the state what redactions he wanted, so I'll be glad to hear from the state about the requests of the defense.

MS. WALTER: Thank you, Your Honor. The first basis of our objection is that Your Honor presided over a hearing on this issue of redactions back in March of 2020. The state had its requested redactions, Mr. Brown had his requested redactions, and Your Honor ruled on which redactions must be made. Ms. Andrew had those redactions made and as trial was once again approaching, mailed a copy of the redaction -- of the redacted interview to Mr. Brown simply so that he could be sure that she had redacted what Your Honor ordered redacted.

Because Your Honor made that decision after a hearing, it is the state's position, that the only way that the defense can request an additional ruling or a changed ruling, is based on changed circumstances that would somehow affect the

redactions.

Now, in his motion, if I understand it correctly, the basis of his request, it says this copy of the forensic interview comes after a hearing on March 2nd, 2020. However, the corresponding indictment was quashed. As Your Honor will recall, the original indictment for CSC with a minor first, the word or between or in between was missing. So it simply said -- and I don't -- I'm para -- I'm going from memory here, July of 2013 -- January of 2013 and July of 2015. It did not make clear that it was on or about or between those two dates. There was extensive litigation about that. Your Honor ordered Ms. Andrew to re-indict so that it would say on or about or between January of 2013 and July of 2015. That's the only change between the original 2016 indictment and the current 2020 indictment. The requested redactions have absolutely no bearing on that change of adding one word to the indictment.

Beyond that, even if Your Honor were to entertain a second motion after Your Honor has conducted a full hearing, the requested redactions are improper; there's nothing improper about the portions of the interview that he is seeking to take out.

THE COURT: All right. Mr. Brown, let me hear from you.

MR. BROWN: Thank you, Your Honor. Your Honor, we do have a new case. This is after the state produced a defective indictment that this Court quashed, that case goes up ---

THE COURT: I didn't quash the indictment. Okay? I instructed them to re-indict with information. So ---

MR. BROWN: So we've got a new indictment.

THE COURT: There was a new indictment.

MR. BROWN: Okay. And so the Court has not heard the audio in the case that the state just produced to the defense this month, and I don't believe that they've made all the redactions that Court ordered.

THE COURT: All right. So ---

MR. BROWN: And there's only a few redactions ---

THE COURT: All right. So tell me what they didn't redact? Okay?

MR. BROWN: Okay.

THE COURT: I issued my order. First, you have not filed a motion to reconsider by previous order?

MR. BROWN: No, Your Honor.

THE COURT: Okay. So that's -- needs to be done. Okay? You didn't do that. I've already issued an order. I've already heard the matter. I told the state what to do. Okay? You didn't file a motion to have the Court reconsider my previous ruling. Okay? Now, what is it that you believe the state did not do that I told them to do?

MR. BROWN: I think there's just a few matters that I emailed to the state regarding bolstering, leading, and the *Brady* issue, and we've addressed one of those. So it's just a

few as to bolstering and leading.

THE COURT: All right. So do you have it, so you can play those specific items to me?

MR. BROWN: Yes, Your Honor.

THE COURT: All right. Go ahead.

MR. BROWN: And I have the times marked up. All right. Court's indulgence, let me get my computer.

May I move this?

MS. WALTER: Sure.

THE COURT: Just so we're clear, Mr. Brown, you understand that just because I'm allowing you to say that, does not mean that I might very well rule that your matter is untimely, that you've not filed the proper motion for reconsideration. It's not done within the proper time period, and the matter is not now before the Court because the Court's prior ruling stands. You understand this?

MR. BROWN: Yes, Your Honor.

THE COURT: All right. Go ahead.

MR. BROWN: I'll just fast forward to the parts, Your Honor.

THE COURT: Yes, sir, please.

Are you using the state's exhibit?

MR. BROWN: I'm using the version that they sent me three weeks ago -- two weeks ago.

THE COURT: All right. So which one is that?

MR. BROWN: This is the redacted version. No, no, no, no, I'm asking the state. What's the exhibit number?

MS. WALTER: We've marked our exhibit as Exhibit 2.

THE COURT: 2, all right. Very good. That's for the Court Reporter's benefit.

MR. BROWN: Yes, Your Honor.

THE COURT: Go ahead.

MR. BROWN: This is not the state's exhibit, this is what they sent me on the ---

THE COURT: I understand, but what you sent him, I'm assuming, Solicitor, is an exact copy of State's 2?

MS. WALTER: Of course.

THE COURT: All right. Very good.

MR. BROWN: Okay.

(REPORTER'S NOTE: Defense's copy of State's Exhibit 2 published to the Court. Audio not transcribed herein. The following takes place outside the presence of the jury.)

THE COURT: I can't hear that at all. Do you want some time to work on it?

MR. BROWN: Yes, Your Honor.

THE COURT: So we'll come back at 2 o'clock. You can work on it and see if you can get it loud enough for the Court to hear. See y'all at 2 o'clock.

MR. BROWN: Thank you, Your Honor.

THE COURT: Thank you very much.

please.

MS. WALTER: Your Honor, the state calls Dr. Kathryn Quinones.

THE COURT: All right, ma'am, if you'd just come all the way around up front to where the clerk is, all the way up front.

THE CLERK: Please raise your right hand and place your left hand on the Bible.

KATHRYN QUINONES, HAVING BEEN DULY SWORN, TESTIFIES AS FOLLOWS:

THE CLERK: Thank you. Please be seated and spell your first and last name for the Court, please.

THE COURT: You can take your mask off now.

DR. QUINONES: Thank you.

THE COURT: Thank you, ma'am.

MR. BROWN: Your Honor, may we approach?

THE COURT: Sure.

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

THE COURT: I'm allowing the defense to put their objections on the record at a later time.

Solicitor, you may proceed.

MS. WALTER: Thank you. I'm sorry.

DIRECT EXAMINATION OF KATHRYN QUINONES BY MS. WALTER:

Q: Did you state and spell your name for the Court?

A: Not yet, no.
Q: Okay.
A: I'm Kathryn Quinones. K-A-T-H-R-Y-N, Quinones, Q-U-I-N-O-N-E-S. Am I too close to the mic? I don't know if -- was that okay?
Q: I think you're all right. If the jury thinks you're too loud, they're wave their hands.
A: Okay. I have a soft voice, I just wanted to make sure you could hear me okay.
Q: And do you go by Dr. Quinones?
A: Usually -- I work with children, so they usually call me Kathy, but you can call Dr. Quinones if you like.
Q: I'll call you Doctor. Where do you work?
A: I work at the D. Norton Child Advocacy Center.
Q: What is the D. Norton Child Advocacy Center?
A: We are a children's advocacy center, which is a national model, excuse me, a national model for responding to concerns of child abuse and neglect. So we work collaboratively with our community partners, and that includes law enforcement, child welfare, medical professionals in the schools.
Q: I am gonna ask you to slow down just a little bit?
A: Sure. I have a tendency to speak fast and low, soft. So ---
Q: No, that's okay. I just want to make sure that the jury can understand what you're saying.

A: Yeah.
Q: How long have you -- and what section of South Carolina do you cover?
A: We cover Charleston and Berkeley counties.
Q: Are there child advocacy centers throughout this state?
A: Yes, there are. In South Carolina, the children's advocacy centers are set up by judicial circuits, so we cover the 9th Judicial Circuit.
Q: So the 15th Judicial Circuit, that's a tongue twister --
A: Yeah.
Q: --- has a child advocacy center as well?
A: Correct.
Q: How long have you worked in the Dee Norton Child Advocacy Center?
A: Since December 2015.
Q: What do you do there, or what is your role at the child advocacy center?
A: So my role is Director of Grants and Program Evaluation. That doesn't really explain a lot of what I do. Okay. So my role is to -- we're nonprofit and we provide services at no charge to children and families. So we work to get grants to fund those services, and that's part of my role. But, then I am also a licensed clinical psychologist. And in that role, I see children for treatment but then also supervise our

clinical psychology doctoral intern.

Q: What does a licensed clinical psychologist do?

A: So a licensed clinical psychologist can do a range of things from clinical work to research, to grant writing, and I do a little bit of all of those things that being licensed allows me to practice under my own without -- without having to practice under somebody else.

Q: So in other words, you would be able to just open up your own therapy?

A: Correct.

Q: Okay. Can you tell the jury about your education?

A: Sure. I received my bachelor's degree in psychology at the University of Richmond, and then I got a master's degree in clinical psychology at Virginia Commonwealth University, also in Richmond Virginia, and then a PhD in clinical psychology at Virginia Commonwealth University. And then I completed -- as part of psychology programs, you complete a doctoral internship program, and I completed that with the Medical University of South Carolina, and then a two-year post-doctoral fellowship at the Medical University of South Carolina's Crime Victim's Research and Treatment Center.

Q: Did you do anything between that and starting work at Dee Norton Child Advocacy Center?

A: Yes.

Q: What did you do between?

A: I worked at a Children's Advocacy Center in Norfolk, Virginia at the Children's Hospital, The King's Daughter. I started off as a psychologist there, became clinical supervisor, and then the Director of Mental Health before I left.

Q: Can you give us -- oh, I'm sorry. Do you have any specialized training?

A: Yes. So I have national certification in trauma focused cognitive behavioral therapy or TFCBT, that's kind of the gold standard treatment for child trauma victims. And then I'm also certified in providing parent/child interaction therapy or PCIT, and that's another treatment that is for children with behavioral problems and can often be used with children who have experienced trauma.

Q: Would child sexual abuse count as a trauma?

A: Yes.

Q: Can you give us a rough estimate of how many children either you have treated or you have supervised their treatment?

A: So I have personally seen about 45 cases and supervised over 250 cases.

Q: Of that number -- and were those all children?

A: All children and adolescents, yeah.

Q: Of that number, how many were victims of sexual abuse?

A: Over half. I'm not sure exactly of a number, but I'd say

over half.

Q: Have you ever testified as an expert in child abuse dynamics?

A: Yes.

Q: How many times?

A: Five.

Q: Were they all in Charleston County?

A: Yes, all in Charleston County.

Q: All in criminal court, though?

A: Yes.

Q: Have you ever -- has a judge ever refused to recognize you as an expert in child abuse dynamics?

A: No.

MS. WALTER: Your Honor, at this time, the state would tender Dr. Quinones as an expert in child abuse dynamics?

THE COURT: All right. Mr. Brown, do you wish voir dire the witness as to her qualifications or challenge her qualifications?

MR. BROWN: Yes, Your Honor.

THE COURT: Go ahead.

MR. BROWN: Thank you, Your Honor.

VOIR DIRE EXAMINATION OF KATHRYN QUINONES BY MR. BROWN:

Q: Is it Dr. Quinones?

A: That's pretty close, yeah.

Q: Sorry.

A: That's okay.
Q: Are you licensed in the state of South Carolina?
A: Yes.
Q: And you've been licensed for how many years?
A: Well, I first got licensed in Virginia in 2013, and then I moved here and got licensed in it was 2016, because I moved here in December 2015. So I don't remember the exact month, but ---
Q: About three or four years?
A: Yes.
Q: Okay. Excuse me. You said that you've treated 45 cases?
A: Roughly. I used to have a much higher caseload, but my current role, as I mentioned, is more focused on grant writing and evaluation.
Q: When were those 45 cases?
A: Through the course of my career. So I started focusing on child trauma cases in 2010, and so since then, the past 10 years roughly.
Q: When was the last one of those 45 cases?
A: Of child trauma, I have a current client.
Q: Okay. Are those cases peer reviewed?
A: We -- for therapy, there's not the same peer review process that I think you might be referring to her forensic interviewing.
Q: Okay.

A: But when -- I did receive clinical supervision prior to obtaining my license, and I also consult with other licensed providers on cases as necessary.
Q: So your 45 cases are for therapy?
A: Yes.
Q: So they're not peer reviewed?
A: No, that's not standard for therapy.
Q: Do you have a supervisor for your cases?
A: So I -- since I'm licensed independently, I don't have to have a direct supervisor, but I do consult with our executive director, who is also a licensed clinical psychologist and trained in the same treatment modalities that I've been trained in.
Q: What is that supervisor's name?
A: Carol Swiecicki.
Q: And did you use her in this case?
A: No.
Q: Swiecicki?
A: Yeah, S-W-I-E-C-I-C-K-I, I believe.
Q: That's pretty good. How long have you been involved in this case?
A: I was requested as an expert witness, I think I got Sunday evening the request.
Q: Two days ago?
A: Well, Sunday evening, so this is Wednesday, I think. So

three days ago, three and a half.
Q: Have you reviewed anything for this case?
A: No, I have not.
Q: Do you hold any board certifications?
A: No, I do not.
Q: Other than the South Carolina and Virginia license, do you have any other licenses?
A: Professional licenses, no.
Q: Do you have any other certifications?
A: I just want to make sure before I say no -- I'm a certified treatment provider in trauma-focused behavioral therapy and parent/child interaction therapy. Those are the two certifications.
Q: Do you keep up, since you're licensed in South Carolina, do you keep up with education?
A: Yes. There's required continuing education credits annually, and I do keep up with those. They're a combination of attending conferences; you can also receive continuing education credits by publishing research articles, which I have published a few recently.
Q: Are those articles reviewed?
A: Peer reviewed, yes. They're all in peer-reviewed journals.
Q: Are those therapy-based articles?
A: They're a range. Some of them are about treatment. Many

-- most of them are focused on trauma. There's a variety.
Q: When was your last education -- educational clinic?
A: I'm sorry, can you repeat the question?
Q: When was your last education for this that you have to do for the license?
A: Oh, for continuing education?
Q: Yes, ma'am?
A: 2020 is a blur for, I think, many of us. I'm trying to think back to -- I do know that I've got a conference I'm going to be attending is in October. I have taken numerous online webinars that have counted for continuing education. I can't remember. The last in-person one was a conference I attended in 2019. But, again, there's been a number of web-based trainings that are approved for CE credits.
Q: Do you remember the name of it?
A: The in-person conference?
Q: Yes, ma'am?
A: Yes, it was the International Society for Traumatic Stress Studies.
Q: In your current job, you are director of grants and program evaluation?
A: Correct.
Q: And also a clinical psychologist?
A: Well, that -- yes. I mean, my professional role or title is a clinical psychologist.

Q: Do you devote more time in writing grants and program evaluation for the Dee Norton Advocacy Center?
A: Yes.
Q: That's your majority of your work?
A: Correct.
Q: Can you give a percentage of how much time you split?
A: Ten to 15 percent of my time is related to clinical duties including supervising our clinical psychology intern.
Q: And you have one case right now; is that what you said?
A: Uh-huh, (affirmative response).
Q: Just one or is that the only one?
A: Just one. Because of my other duties, I keep my caseload small. In terms of certification, I am also training to be a nationally certified supervisor in trauma focused cognitive behavioral therapy.
Q: Is there a test for that, an exam?
A: There's not. There's -- it's six or ten months of consultation calls with one of the national trainers.
Q: How far along are you in that?
A: I think I have one more call yet.
Q: Okay. And do you peer review others?
A: So sometimes I've been asked to peer review research articles; is that what you -- so yeah.
Q: Okay. When is the last time -- when is the last one you were a peer review for an article?

A: For an actual -- so the way that works with journals, they invite you, and I haven't done that in a while, because I'm not in the academic world anymore. So I think it was 2011, but I do have colleagues who will ask me to review their work, and I've done that within the last year.

Q: Okay.

MR. BROWN: Thank you, Your Honor.

THE COURT: All right. So do you challenge the offer of this witness by the state?

MR. BROWN: We do, Your Honor.

THE COURT: Grounds being?

MR. BROWN: Grounds being that she has not obtained the training -- she's been talking about -- she named one in-person last year that she has to do. She's not peer reviewed, and she has no board certifications, no other licenses. She's not reviewed any other cases. She has one case now, and she was just requested for this case on Sunday.

THE COURT: All right. Anything further from the state as to that issue?

MS. WALTER: As to that we just requested her on Sunday?

THE COURT: Any of the issues that were just brought up?

MS. WALTER: Well, I mean, I'm just a little confused, because I think that Dr. Quinones has stated clearly that peer review is not really appropriate in a therapeutic setting. I'm not even sure how that would be accomplished. I think

that she has certainly laid out ample qualification, education, experience, and knowledge over her, even the last ten years, where she said that she has herself treated 45 children or adolescents, and including those that she has supervised the treatment of, over 200.

THE COURT: All right. Thank you, ma'am.

MR. BROWN: Your Honor, under statements to those issues -- reliability and she does not do that because ten percent of the time ---

THE COURT: I appreciate it.

MR. BROWN: Okay.

THE COURT: Thank you very much. I find the witness to be qualified to give her opinion in the field of child abuse dynamics based upon her experience and training. I do find that she was properly substituted for a previous witness because the previous witness had contact with the personnel in this case, and the purpose of this witness is to give generalized information and, by law, cannot have contact with any of the participants in the matter.

Thank you very much.

MS. WALTER: Thank you, Your Honor.

CONTINUATION OF DIRECT EXAMINATION OF KATHRYN QUINONES BY MS. WALTER:

Q: And so the solicitor's office is paying -- well, not necessarily you, but the Child Advocacy Center, correct?

A: Correct.
Q: So will you personally get any of the money that ---
A: No.
Q: And is that payment to the center dependent in any way on what you say?
A: No.
Q: Have you -- and Judge John just covered this a little bit, but just so it's clear for the record, have you ever met the victim in this case, [redacted]
A: No.
Q: Have you ever met her cousin or treated her cousin, [redacted]
A: No.
Q: Have you read any police reports or listened to any interviews?
A: No.
Q: Were you present in the courtroom when [redacted] testified yesterday afternoon?
A: No.
Q: So are you what we call a blind expert?
A: Yes.
Q: Meaning you don't know anything about the facts of this case?
A: Correct.
Q: Okay. Are you -- so let's now get into the meat of it.

As an expert in child abuse dynamics, are you familiar with the terms accidental and purposeful disclosure?
A: Yes.
Q: Let's start with purposeful disclosure, what does that mean in a world of child -- child abuse?
A: So we consider that when a child victim -- it's when he makes a decision that they're going to tell what happened in terms of their abuse, and they've kind of ahead of time made up their mind of what they're -- who they're gonna tell and they're gonna disclose.
Q: So it's a conscious decision on the part of the victim.
A: Correct.
Q: What about accidental disclosure?
A: So accidental could be maybe the child may have shared a detail that prompted somebody else to ask more questions, basically, that they weren't intending to disclose. Sometimes it's also when somebody else discloses their own experience.
Q: But that is still some voluntary action, although maybe not pre-considered by the victim themselves?
A: Uh-huh, (affirmative response). Yes.
Q: Have you ever had a case where two children were victimized together -- or I'll give you a hypothetical. Two victims are victimized together. Victim A does not disclose, but Victim B says, well Victim A and Victim B, we have been both been abused by the same person. How would you classify

that for Victim A, who did not say anything?
A: It really wasn't disclosure for them. Yeah, I mean, it could be considered an accidental disclosure by the second party.
Q: Okay. And among child abuse professionals, what is meant by the terms delayed disclosure or delayed reporting?
A: So that's -- we consider a delayed disclosure a disclosure that happens any time kind of after a one-month period of the abuse. It really -- immediate disclosure is really one month or less from the time the abuse occurred, and delayed disclosure would be anything after that.
Q: In your experience, how common is delayed reporting upon victims of child sexual abuse?
A: Very common. It's actually more common than immediate disclosure. So the -- clinically, but then also the research tells us that about 25 to 40 percent of kids will delay the disclosure and -- I'm sorry, 20 percent -- 20 to 25 percent will tell within that month period, and then after that, they'll be delayed disclosure or no disclosure. So the research shows that about 30 to 40 percent will delay that disclosure, and then some won't even tell until adulthood and when they've been asked as part of a research study.
Q: So if I understood that correctly, 20 to 25 percent will disclose, according to the research ---
A: Uh-huh, (affirmative response).

Q: --- within that first month, which would be deemed an immediate disclosure?
A: Correct.
Q: But then the other 75 to 80 percent either delayed or never?
A: Correct.
Q: Okay. What factors might play a role in delayed disclosure?
A: So there's a lot of factors than can impact somebody's disclosure and the timing of it. Age is a factor that works in various ways. Sometimes a younger child may delay their disclosure because when the abuse occurred, they may not have realized that what was happening was abuse. They may not have the words to tell. But then age also on the other end where sometimes if a teen or adolescent may be less likely to disclose or to delay the disclosure because they may feel guilt or shame about what happened and feel they had some kind of role in the abuse, so that could also impact delay. Other factors that can impact a delay are the relationship of the child and the victim. So children are to more likely to delay their disclosure when the perpetrator is someone they know, whether it's a family member, close family friend, or somebody that of that nature. They may also delay because of something the perpetrator told them, maybe threats that were made to either them or a family member, threats of harm and things of

that nature.
Q: Do children, in your experience, believe that if they disclose they will be believed no matter what?
A: No. That's actually another thing that can delay disclosure. If a child is worried about not being believed, they may struggle with actually disclosing as well.
Q: And you touched on this a little bit. So are you more or less likely to see delayed disclosure in a situation where a perpetrator is a member of the victim's family?
A: More likely.
Q: And based on your -- skip that. You've covered that. Among child abuse experts, what is meant by partial disclosure?
A: So a partial -- so we consider disclosure really more of a process than an event. So it usually happens in pieces. So a partial disclosure might just be a child sharing a portion of what happened, and partially sometimes it's to see what the reaction is from the person they're telling, and that, if they feel supportive, then they might share more details.
Q: What are some -- and so you've said that if they're -- if they find support after testing the waters, they might disclose more. Are there other reasons why you might see this process of disclosure rather than the first time the child tells they tell everything?
A: Well, there's the -- just the -- what the response is

gonna be, how they're feeling about telling it. If they tell or they then -- or steps are made to keep them safe. So if a child may test the waters, shares a little bit of information, and the response is negative, then they might not be as likely to share or disclose more. Whereas, if they are supported and they continue to receive support for safety and protection, they may disclose further.

Q: Now, staying on this topic of partial disclosure, I want to go back to when we talked about accidental disclosure, purposeful disclosure, and then sort of -- well, it's not really a disclosure, because the child didn't want to disclosed. Would the type of disclosure or nondisclosure also affect whether it was a partial disclosure or a full disclosure?

A: Most definitely. So in the hypothetical you gave where somebody else, another child, disclosed the second child's abuse, if they didn't themselves feel right to disclose, that is going to potentially impact how much they might share.

Q: Would the -- could disclosure also progress as a child gets older and more mature?

A: Yes.

Q: How would that affect disclosure?

A: Can you ask the question again, please?

Q: How would a child getting older affect the amount of disclosure that they make?

A: Well, I think it's kind of a time thing, with disclosure. So again, the more time that's passed that they may either have less shame about what happened, and if the abuse happened when they were young and they may've felt they were responsible, as they learn about appropriate and inappropriate boundaries, that might actually help them be more supported and feel more confident in disclosing what happened. They also have a better understanding of the vocabulary to disclose.

Q: Again, if the perpetrator was a family member, if contact had been cut off between the victim and a perpetrator, would that, in your experience, might that tend to make the child feel more comfortable to disclose?

A: Definitely, yes, because they're -- if they're in a safe environment where there's less risk the abuse might happen again, or that they will have negative repercussions from the perpetrator.

Q: So in your experience, do children always recall the chronological order of events?

A: With repeated abuse, often, no.

Q: Why is that?

A: It's a variety of factors, depending on the age of the child, but also, you know, when something becomes so common in your life, there's multiple episodes of it, it's hard to distinguish one time from another. And just in general, kids

are not great at time sequencing. Even as adults, we sometimes have trouble with that when, you know, day after day is the same, I think we all experienced that in 2020.

Q: And, so then that would also be a reason why children might have difficulty remembering a specific date or time?

A: Exactly.

Q: When a child has been subjected to chronic sexual abuse, what types of behaviors might you see them exhibit?

A: So we see a range of behaviors, and it's gonna vary from child to child. Also based on -- when I say child to child, I mean from, you know, small children up to 17, so children in adolescence. In younger children, you might see behavioral outbursts, regressions in behavior. Like if they were potty-trained, they may no longer be potty-trained -- you know, they may start having accidents, problems in school. And then as kids get older in adolescence, sometimes you see problems like experimentation with drugs and alcohol, risky sexual behavior, perhaps problems with the law. In addition, we see emotional problems, including anxiety, depression, and post-traumatic stress disorder. Again, that can manifest from young children all the way up to -- to teenagers.

Q: If two victims -- another hypothetical, if two victims are abused at the same time by the same perpetrator, would that make it more or less likely that they might sexually act out with each other?

A: More likely, the behavior has been normalized for them at that point.
Q: If one of those victims had been victimized previously, or even -- we'll stick with previously -- have you ever seen cases where the now repeat victim victimizes another child?
A: Yes.
Q: And is that common or uncommon?
A: Common.
Q: In your experience, are child victims of sexual abuse more or less likely to be re-victimized either by the same perpetrator or another perpetrator?
A: We know that revictimization is kind of more the norm so much so that trauma focused cognitive behavioral therapy that the gold standard treatment for trauma victims includes a component called enhancing safety, which is really designed to reduce that risk for revictimization.
Q: So it's an actual component of this gold standard treatment?
A: Uh-huh, (affirmative response). Yes.
Q: Have you, in your experience, seen a victim of child sexual abuse, who is being victimized during the same time period by two different perpetrators, whether or not they knew what was going on?
A: That does happen, yes.
Q: Are you familiar with the term recantation?

A: Yes.
Q: What does that mean in the world of child abuse?
A: So in the world abuse, that's when a child makes a disclosure of child abuse and then either takes back some or all of that disclosure.
Q: What are some reasons that that child might recant?
A: A number of reasons. One could be that they didn't feel supported. They may get pressure from family members or others to recant. Oftentimes, with child sexual abuse, if it's involved someone close to the family, there might be very significant either financial or personal repercussions for the family, and so there's pressure. Depending on a child's age, they might see that and feel responsible and take back some of the disclosure. Other times, the child may actually miss the perpetrator, because there is very complex relationships and they may have actually had a positive -- outside of the abuse incidents, may've had a positive relationship with this person, which -- and if they are now not having contact, they may take back some of that because they feel guilty.
Q: I'm going to come back to that in a minute.
A: Okay.
Q: But so if you had a family that spent, an extended family that spent a fair amount of time together and an allegation of abuse sort of caused a divide in the family, would that be a motivation perhaps to recant?

A: Perhaps, yeah.
Q: Now, you talked about that even though the perpetrator might be abusing the child, the child may still miss the perpetrator?
A: Uh-huh, (affirmative response).
Q: So have you seen cases where a child victim of sexual assault still tries to maintain a relationship with the chronic abuser?
A: Yes.
Q: Why is that?
A: As I mentioned before, there is often, you know, complex feelings involved. So typically, child abusers don't abuse a child at their first point of access to the child. There's -- so we -- there's also a term called grooming, which we use in the child abuse world, that basically, it's when a perpetrator over time gains the trust and admiration of a child, whether it's -- and that can be done by just spending time with the child, playing games with the child, making them feel good about themselves, and then as trust is built, lines are slowly crossed in terms of boundaries, physical boundaries. And so and even once these boundaries have been crossed, they're not always crossed all the time. So there is this very complex kind of dynamic that happens where the child may actually really enjoy spending time with this individual because they might get a lot of positive attention, which they may or may

not get from other individuals in their life. They may get special gifts and things like that, but then other times, they're being abused. So it just can create a lot of confusion for a child.

Q: And how does the term normalization of abuse sort of fit into that?

A: So the grooming process really kind of -- but as those small physical boundaries are crossed over time, that's how it's normalized. I mean, you got a -- you have a positive relationship with a child, trust it built, and then there's kind of this slow increase in -- in severity of boundaries being crossed into sexual abuse. So it doesn't often start off with sexual abuse; it might just be, you know, patting on the back or rubbing on the shoulder types of things that then progress.

Q: Would that, in your experience, make it more difficult for the child to recognize that they were being abused?

A: Yes. Yeah, because again when the line is crossed is not as clear. It's gradual.

Q: Okay.

MS. WALTER: I have nothing further at this time, Your Honor.

THE COURT: Cross-examination?

MR. BROWN: Thank you, Your Honor.

CROSS-EXAMINATION OF KATHRYN QUINONES BY MR. BROWN:

Q: I'll try it again, Quinones?
A: You got it. Again, pretty close.
Q: You get that a lot?
A: Yeah. I went from a very easy last name to a more complex one. So no worries.
Q: I gotcha. My last name is Brown, so it's also difficult. So let me back up here. Did the solicitor's office, when they called you on Sunday, did they give you a topic to come talk about? I mean, I know you didn't review anything specific in that this case, right?
A: Correct, I have not reviewed anything specific about the case.
Q: Did they tell you a topic?
A: I mean, generally, the topics that we -- I typically will testify on delayed disclosure, recantation, barriers, potential barriers to disclosure.
Q: Okay. So they didn't say I need you to come talk about disclosure or recantation?
A: No.
Q: They just said come up here?
A: Well, in full disclosure, Sunday night I got a text from the Charleston County Solicitor and I spoke with Mary-Ellen Walter on Monday.
Q: And she just said come up here?
A: Well, and be an expert. She inquired whether I had

provided expert testimony before in this area of child abuse dynamics and ---

Q: Just told you the area of what -- for qualification?

A: Correct.

Q: Okay. Now, we talked a lot about disclosure, right, and that's just -- that's just telling, that's just saying this is what -- this is my story, right, that's the disclosure?

A: Well, as I mentioned before, disclosure is really a process. It usually doesn't happen in one episode, but it's kind of that process of telling what happened.

Q: So disclosure is the process of telling your story?

A: Correct.

Q: Okay. And you talked about a delayed disclosure, meaning here's my story, and sometimes it comes out all at once, sometimes it comes out in pieces?

A: Well, that's more the disclosure process. The delayed is actually when -- from the time that a child first starts that disclosure process.

Q: Okay. But it's a story that they're telling?

A: Uh-huh, (affirmative response).

Q: That's their disclosure in the process?

A: Uh-huh, (affirmative response).

Q: Okay. That's what we're talking about?

A: Uh-huh, (affirmative response).

Q: Okay. And ---

THE COURT: Ma'am, if you could use yes or no.

A: I'm sorry, yes.

THE COURT: That's all right.

BY MR. BROWN:

Q: We talked a lot about ifs and scenarios. Do you have cases or have you heard cases where the child is abused and they don't say why they don't give that initial disclosure, but also they don't want to go back over to that house or be with that person, but they don't say why; have you heard of that?

A: Yes; uh-huh, (affirmative response).

Q: Okay. Have you heard cases where the child might want to protect the actual perpetrator and not name that perpetrator, maybe name somebody else?

A: That's less common for a child to misidentify a perpetrator. I mean, typically what we would see the child just not disclosing rather than disclosing an inaccurate perpetrator. And, there's actually research that's shown that, too, that something like only five percent of cases within a particular research study where there were false allegations.

Q: If they -- if a child is acting out sexually with another child, do they ever try and protect that other child?

A: You mean in -- I would imagine -- is there a specific way, protect in what way, or protect from what, I'm not sure.

Q: Not -- not name that child, say someone else, another perpetrator?
A: Again, I don't -- it's not common for somebody to just identify a perpetrator that wasn't a perpetrator. They are, as I mentioned before, disclosure is a process, so it's possible that a child may identify one person who has sexually abused them but not name all people immediately.
Q: If a child has been molested or touched, abused, is it normal or does it happen for that child to act sexually with another child?
A: Yes.
Q: Okay. And you said members of the family, it's common?
A: I'm sorry, can you repeat the question?
Q: Members of the family are common as perpetrators?
A: Correct.
Q: Okay. And if a child is abused, you would probably recommend counseling?
A: It depends on actually how that child is functioning. Some kids are really resilient and, because they may have a lot of protective factors in their life, may not need treatment. So we actually, at our center, we do a thorough mental health assessment to determine if treatment is necessary, and then which treatment would be appropriate for their symptoms. So not every child who experiences abuse will need therapy.

Q: Younger children, do they typically go?
A: Again, we assess them individually and, if they're showing symptoms that warrant treatment, we would refer.
Q: And you said -- you testified that you've seen cases where a victim is abused by two different people simul -- at the same time, not the incident at the same time, but same time of their life; is that right?
A: Yeah, that there is -- I mean, children, yes.
Q: But that's rare?
A: I'm sorry, what?
Q: But that's rare?
A: I'm not sure of the exact statistics on it, but it does occur.
Q: Okay.
A: And I think it's -- every situation is different and ---
Q: You wouldn't say it happened a lot though; it's not a -- it's not a very high probability?
A: I haven't seen it a lot, but again ---
Q: Okay.
A: I'm not sure of the statistics on that.
Q: And again, you're saying that you've seen cases where a kid doesn't disclose right away, but they don't want to be around this person anymore, but they don't say why, or they don't want to go back over to that person's house anymore and don't say why?

A: Yeah, that's particularly common, I think, with younger kids, you might see them saying they just don't want to go there, and without a specific reason why.
Q: Okay. And back to the disclosure talk. Now, when we're talking about disclosure, is it normal for the kids to say this is my story, and then completely change their story and say no, no, that didn't happen at all, even though I just said it did?
A: Can you please repeat the first part of the question again? It was a long question.
Q: If a child is in the process of disclosing ---
A: Uh-huh, (affirmative response).
Q: --- do they ever -- do they ever say this is my story and they tell their story, and then they go back and say no, no, that didn't happen at all, but it happened this way, completely different; basically, changed their story completely?
A: So that can happen for a variety of reasons. Sometimes it could be the questions that were asked of the child and that maybe that might prompt them to share something different. Sometimes, if they don't feel like they were believed the first time, this is why we have standard forensic interview protocols that are really specific. I'm not a forensic interviewer; I work with forensic interviewers, so I don't want to speak to much on that, that's not my area of

expertise. But, I do know that they are designed to be non-leading interviews, and they're the kind of best practice to reduce the likelihood that there's going to be ---

Q: So they ---

A: But, it can't eliminate it, because again, you know, as I mentioned before, with -- particularly with repeated episode traumas and abuse, it can be easy to kind of like mix up one event from the other.

Q: But you try -- they try to not have them contradict themselves?

A: I'm sorry, who tries not to ---

Q: When you're talking about -- I know you're not a forensic interviewer, but that's what you're saying, they try not to lead questions?

A: Well, the goal is not to lead questions, because you don't -- the goal is not to elicit an abuse disclosure, if there wasn't abuse that happened. I mean, you don't want to actually lead a child to saying something that didn't happen.

Q: Okay. So you don't want to lead -- have leading questions?

A: Correct.

Q: Because that could lead to false reports, false accusations?

A: Or inaccurate details.

Q: Okay.

MR. BROWN: Court's indulgence, Your Honor?

THE COURT: Yes, sir.

MR. BROWN: That's my questions, Your Honor. Thank you.

THE COURT: Redirect?

MS. WALTER: Just one question, Your Honor.

REDIRECT EXAMINATION OF KATHRYN QUINONES BY MS. WALTER:

Q: Mr. Brown was asking you, well, shouldn't every victim of child sexual abuse receive treatment.

A: Uh-huh, (affirmative response).

Q: And you talked about this idea that you evaluate the victim and, if appropriate, you refer them for treatment, correct?

A: Correct.

Q: I just want to make sure I'm summarizing your testimony correctly.

A: Uh-huh, (affirmative response).

Q: In your experience, does every victim who you refer to treatment follow it through and go to treatment?

A: No, they do not. There's a whole variety of reasons why they may not make it to treatment.

Q: So merely being referred to treatment does not mean the victim will go to treatment?

A: Correct.

MS. WALTER: Nothing further, Your Honor.

THE COURT: Anything on that question?

MR. BROWN: No, Your Honor.

THE COURT: All right. Do you wish the witness to be excused?

MS. WALTER: I do.

THE COURT: Any objection?

MR. BROWN: No, Your Honor.

THE COURT: All right, ma'am, you're released from your subpoena and may go back to your regular duties. Thank you.

DR. QUINONES: Thank you.

THE COURT: All right. Solicitor, could you come up for just one second? Mr. Brown?

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

BY THE COURT:

THE COURT: All right. Ladies and gentlemen, there is one remaining witness for the state. I anticipate probably the examination and cross-examination may take a little bit of time. So what we can do is take a short break now, rather than trying to run through the whole thing. So go back to your jury room for a short break, and we'll come back and hear the last witness for the state.

Thank you very much.

(REPORTER'S NOTE: Jury exits courtroom @ 3:00 p.m. The following takes place outside the presence of the jury.)

THE COURT: Mr. Brown, you wanted to put something on the

THE CLERK: Thank you. Please be seated and state your full name for the court, please.

MS. NORDEEN: Dianne Nordeen.

THE COURT: You can go ahead and take your mask off at this time. Thank you, ma'am.

DIRECT EXAMINATION OF DIANNE NORDEEN BY MS. WALTER:

Q: And, ma'am, if you would just spell your last name for the court reporter?

THE COURT: She probably ought to spell the first name, too, because it's not the common spelling.

MS. WALTER: You are right, Your Honor, sorry.

A: D-I-A-N-N-E, N-O-R-D-E-E-N.

MS. WALTER: May I?

THE COURT: Yes, ma'am.

MS. WALTER: Thank you, Your Honor.

BY MS. WALTER:

Q: Ms. Nordeen, where were you -- where do you work?

A: Children's Recovery Center.

Q: Where is that?

A: Children's Recovery Center is in Myrtle Beach.

Q: And what does the Children's Recovery Center do?

A: Children's Recovery Center is a child advocacy center. So we see children who are, excuse me, referred by law enforcement, or Department of Social Services, or doctor's offices, when there is an allegation of abuse.

Q: Any particular kind of abuse?
A: Well, mainly sexual abuse, but we are now also seeing children for physical abuse and other exposures to other things.
Q: And how long have you worked at -- can I call it the CRC?
A: Yes, we call it CRC.
Q: How long have you worked at the CRC?
A: I've worked there for almost 14 years.
Q: Did you -- and I'm gonna go back in time to your prior employment and then we'll come back to the CRC.
A: Okay.
Q: Where did you work before you began at the CRC 14 years ago?
A: I worked for the Department of Social Services for ten and a half years, and for the Governor's Office Continuum of Care for a year and a half.
Q: What did you at DSS?
A: I worked for a division called Managed Treatment Services. So I managed cases of children, who were determined to be severely emotionally disturbed and abused, placed out of their homes in treatment centers and hospitals and foster homes.
Q: Okay. So now -- now you're at the CRC. What do you do at the CRC?
A: My main role at Children's Recovery Center is to conduct

forensic interviews of children.
Q: What is a forensic interview?
A: It's an investigative interview, and it's used to elicit a detailed and factual statement from a child, in order to determine if abuse has occurred and if they are in immediate danger.
Q: Did you, in fact, have a chance to conduct a forensic interview on Complainant the victim in this case?
A: I did.
Q: Do you know what interview took place?
A: July 22nd, 2015.
Q: Where did the interview take place?
A: At Children's Recovery Center in the interview room.
Q: And do we -- what color is this building of the CRC?
A: It's pink. It's a pink building.
Q: So sometimes people refer to it as the little pink house?
A: It's the little pink house with the white picket fence, yes.
Q: Okay. Do you know how old Complainant was at the time of the interview?
A: She was eight years old.
Q: Who was present during the interview?
A: Just Complainant and myself.
Q: Is the interview capable -- well, is the interview recorded in any way?

A: We record -- audio and video record the interview.
Q: Are people able to monitor or watch from another location what's going on in the interview room?
A: Yes, at our center, as it is at most child advocacy centers, there is a viewing room with a monitor, so the person who -- person or agency representative who referred the child over to us, can watch the video live as it's taking place.
Q: Okay. And have you had an opportunity to review Complainant interview in this case?
A: Yes, I have.
Q: Have you had an opportunity -- and Your Honor, if I may approach with State's Exhibit 2. And I have shown it to counsel, Your Honor?
THE COURT: All right. Very good.
Q: If you want -- if you need touch it, just put a glove on.
A: Yes.
Q: And is that in fact your signature on State's Exhibit 2?
A: That is my signature.
Q: Is this a fair and accurate recording of that interview with the exception of some court ordered redactions?
A: It is.
MS. WALTER: Your Honor, I would ask that State's Exhibit 2 be admitted to evidence.
THE COURT: In accordance with the Court's prior ruling, I'm going to allow State's 2 to be played for the jury.

BY MS. WALTER:

Q: And, before I get to that, during the interview, you said that Complainant was eight during the interview. Do you use any type of tool to determine what names children use for different parts of their bodies?

A: Yes. For children up to age ten, and then children with special needs, we use anatomical drawings and that helps the child to be able to provide their own names for body parts.

Q: Did you use such an anatomical drawing in this case?

A: I did.

Q: And it'll be shown when we watch the actual video?

A: Yes.

MS. WALTER: Your Honor, if I may approach again, I've shown this to Mr. Brown.

THE COURT: Yes, ma'am. And just to be clear, I am allowing State's 2 into evidence.

MS. WALTER: Thank you.

MR. BROWN: Over -- same objection for the record.

THE COURT: Yes, sir.

MR. BROWN: Thank you.

STATE'S EXHIBIT NUMBER 2

ADMITTED INTO EVIDENCE

MS. WALTER: Your Honor, this is State's Exhibit 12 that I'm approaching with.

THE COURT: All right. Very good.

A: Yes, those are the drawings that I used during the interview.

BY MS. WALTER:

Q: So these are the drawings that you used during Complainant McKinnon's interview?

A: Yes, I did.

MS. WALTER: Your Honor, I would ask that State's Exhibit 12 be admitted and published to the jury, and I'm just doing it in this order.

THE COURT: I understand that, but I -- again, based upon the Court's prior ruling, I'm going to allow State's 12 into evidence, and I'm gonna allow it to be published to the jury.

MR. BROWN: Same objection.

THE COURT: Yes, sir; I understand that.

MR. BROWN: Thank you.

THE COURT: The Court has ruled on that.

STATE'S EXHIBIT NUMBER 12

ADMITTED INTO EVIDENCE

THE COURT: Can you see that or not?

A: No, I can't.

THE COURT: All right.

MS. WALTER: Your Honor, in the past I have moved a chair over there and just allowed her to ---

THE COURT: If you want to, you're not going to be up there for very long, if you want to get up and stand right in

front of this microphone here, right next to the court reporter.

A: Okay.

THE COURT: But you will have to put your mask back on.

A: Okay.

BY MS. WALTER:

Q: So and this is a two-page document. So this first page can you just describe what it is?

A: It's a female child anatomical drawing. These drawings were created by CornerHouse, which is considered to be the first child advocacy center in the United States, and they are used throughout the country. And what we've circled here are the parts of the body that are covered by the bathing suit and then the child names those parts. The reason the names are upside down is because the drawing would have been facing the child, and then I write the names as the child provides the names.

Q: Okay. So the writing here and the circles are yours?

A: Yes.

Q: Okay. Page two. And then again, is this the anatomical drawing that you showed to Complainant during the interview?

A: Yes. This the male child anatomical drawing and then, again, the parts of the body that are covered by the bathing suit are outlined and the names of those body parts are given by the child.

Q: You can have a seat back on the witness stand. Thank you.

Just out of curiosity, do you always use diagrams showing children or do you ever use adult anatomical drawings?

A: I'm sorry. And with older children or teenagers, we have teenage drawings that we use.

Q: So you try to use an anatomical drawing that is similar in age to the victim, regardless of the age of the perpetrator?

A: Yes, and different people may do that differently. Some prefer to, if the perpetrator is an adolescent or an adult, to use an adolescent or adult drawing, but I have found because I have interviewed almost 2,000 children, that the child anatomical drawings and adolescent and adult anatomical drawings basically are -- serve the same purpose.

Q: Thank you. And I'm sorry, you said you've interviewed approximately how many children over your career?

A: I've interviewed -- at Children's Recovery Center, I've interviewed 1,971 children; and then when I worked for the Department of Social Services, I interviewed over 200 children.

Q: Thank you.

MS. WALTER: Your Honor, may I, I want to make sure that the jury can see it ---

THE COURT: Yes, ma'am.

MS. WALTER: Can everyone on the jury see this screen?

THE COURT: If you need to move it closer, I don't have problem with you doing so.

BY MS. WALTER:

Q: What are we seeing on the screen now?

A: This is the interview room at Children's Recovery Center. You see two chairs, clipboard and crayons in the child's seat, and we have a board on the wall that we use with younger children when we're talking about family makeup. And so this is the child entering the room.

(REPORTER'S NOTE: State's Exhibit 2 published for the jury. Audio not transcribed herein.)

MS. WALTER: That's the end of it, Your Honor.

THE COURT: All right. Very good.

MS. WALTER: The state does not have any more questions for Ms. Nordeen at this time.

THE COURT: All right. Cross-examination?

MR. BROWN: Thank you, Your Honor.

CROSS-EXAMINATION OF DIANNE NORDEEN BY MR. BROWN:

Q: Ms. Nordeen?

A: Yes.

Q: That was you and Complainant right?

A: That's correct.

Q: In 2015?

A: Yes.

Q: And are you supposed to lead children in their questioning?
A: No.
Q: You're not supposed to guide them in giving different answers?
A: Multiple choice and yes or no questions are non-leading questions.
Q: Right. So you're not supposed to guide them in their story?
A: We do not guide them.
Q: You're not supposed to is my question, right?
A: No.
Q: This is general questions?
A: No.
Q: You're not supposed to lead them; you're not supposed to help guide their story, right?
A: I'm not sure I understand what you're saying, what you're asking?
Q: In general, when you're giving a forensic interview, you're not supposed to lead the children in their questioning?
A: So during the forensic interview, we ask free recall, focused recall multiple choice and yes or no questions and those are all considered non-leading questions.
Q: Right. So you're not supposed to lead them in questioning?

A: We do not lead them in questions.
Q: Right, because it could elicit false accusations?
A: That's true.
Q: Okay. And you're not supposed to help them develop their story, right?
A: That's correct.
Q: Okay. And you asked her about her boobs and putting the mouth on them, you didn't ask how and you didn't ask if her clothes were on or off, right?
A: She stated he put his mouth on her boobs.
Q: Right, but you didn't ask if the clothes were on or off?
A: Well, people can put their mouths on your boobs with your clothes on or off.
Q: True, but you didn't ask, right, that's the question?
A: So that would just be a question that was unasked.
Q: Okay. So you didn't ask?
MS. WALTER: Objection, Your Honor, asked and answered.
THE COURT: I'm going to allow it. Go ahead.
BY MR. BROWN:
Q: You didn't ask that question is my question?
A: I did not ask if her clothes were on or off at that time.
Q: Okay. Or don't know if you pulled your shirt up, or he pulled her shirt up and how that occurred?
A: Yes.
Q: Okay. And we're talking about -- in fact, you said tell

me about when he put his mouth on your boobs and she said, I don't remember; do you remember that on the tape?
A: Not offhand, but, if I look at the transcript, I can find that.
Q: Okay. Would you disagree that when you said tell me about a time he put his mouth on your boobs and she said, I don't remember; would you disagree with that?
A: I -- can you rephrase that question, please?
Q: Would you disagree with this statement that she -- you asked the question, tell me about a time -- or asked her to tell you about a time that he put his mouth on her boobs, and she said, I don't remember; do you remember that?
A: Yes.
Q: Okay. And then you said, well, what room was it in, but if she doesn't remember, you're asking her to create a story, right? I don't remember; well, tell me where it happened if you don't remember?
A: May I explain?
Q: Sure.
A: Okay. So there is a difference between asking for details and asking for locations or asking when. So eight-year-old children don't always -- aren't always able to give a lot of details, and she was very shy. She was shy before we went into the interview and throughout the interview. And, so sometimes those questions I -- those answers I don't remember,

when the child responds that is them saying I'm uncomfortable to speak about details. And, so an easier question for an eight-year-old then would be, where did it happen, who was there, was anyone there when it happen, when did it happen; things like that.

Q: But it could be that you're telling the child, I want you to give me some kind of answer not I don't know; the child could interpret that, right?

A: A child can interpret anything anyway, but that's not what my experience was with Complainant [redacted] corrected me a couple of different times during the interview. So I felt that her responses were her own responses.

Q: Okay. But it's possible?

A: I didn't find it that it -- I didn't feel that it was possible in Complainant situation, no.

Q: Okay. And then you asked about the computer room and she pointed to her private, right, about rubbing it?

A: Yes. She did a rubbing on her paper with her finger.

Q: Okay. And you said -- she said, you said where did that happen, and she said on the couch, correct?

A: Correct.

Q: And you said, okay, so he was on the couch, right?

A: I -- I don't know exactly the words. I'd have to look at the transcript to know exactly what I said at that point.

Q: The point is, there is no couch in the computer room,

right?
A: That's what she clarified afterward, yes.
Q: Okay. And she said that she was watching YouTube?
A: Yes.
Q: Funny videos?
A: Yes.
Q: Okay. You asked her if she had the name of the videos, and she said I don't remember.
A: That's correct.
Q: Or I don't know. And, she said that she doesn't remember what it looked like; the people in the videos, don't know what it looked like?
A: That's correct.
Q: And that no one -- she was not told anything about what they were doing?
A: I'm sorry. I don't understand what your question is?
Q: You asked her if she was told anything about the videos and she said, no, I wasn't told anything about what they were doing in the videos?
A: Again, I'd have to look at the transcript to see what exactly the words were that she shared.
Q: Talking about grandpa's penis, she said it didn't change, right?
A: Correct.
Q: Meaning it didn't change shape, right?

A: Whatever her meaning was regarding it didn't change. I don't ---
Q: So it did not get hard, right?
A: She described it as floppy.
Q: Droopy?
A: Droopy.
Q: Okay. And it didn't change?
A: And didn't change.
Q: Okay. And she said nothing came out?
A: Correct.
Q: And then you talked about the living room. You said, she said that her clothes were on, right, on the couch?
A: Excuse me?
Q: When you're talking about the living room, she said her clothes were on?
A: I can't hear if you're saying on or off; I'm sorry.
Q: On, she said her clothes were on?
A: Yes.
Q: Okay. And you said, well, how can that be -- how could he have done this if your clothes were on. And she said, oh, well then he pulled my shorts down. Is that right?
A: I didn't phrase it that way.
Q: That's what happened. You asked her how if your clothes were on ---
A: Right and ---

Q: --- and she said, well, he pulled my shorts down?
A: To provide details, how did that happen is an acceptable question for to allow a child to explain what happened to them.
Q: I'm not asking if it's acceptable; I'm asking if that was the question. Was that the question?
A: I would have to look at the transcript to look at the exact wording.
Q: Okay. But did she say, he pulled my shorts down?
A: Yes.
Q: And he said to the knees?
A: She indicated on her leg where he pulled her shorts down.
Q: And that would be the knees?
A: I'd have to look. It looked in the video it was above -- just an area above the knees, around the knees.
Q: But that was for, what she was saying is oral copulation on her, correct?
A: That's correct.
Q: So her waistband is at her knees?
A: I don't know what she was wearing, so whatever she was wearing would've been at her knees.
Q: Didn't she say shorts?
A: Yes.
Q: So her shorts were at her knees?
A: Yes.

Q: Okay.
A: And they could've been a buckle or a elastic band; I don't know.
Q: And she was not a large child; her waist would not have been large?
A: She -- you saw her size in the video.
Q: So small; you would say small?
A: Average for eight years old.
Q: Okay. So her waistband is at her knees; that's gonna hold her knees like this, close together?
A: I don't know, because if you're wearing shorts and they have a zipper and a buckle, you know.
Q: Have you ever seen Kevin McKinnon?
A: I have not. I mean, other than in the initial hearing that we had.
Q: Okay. He doesn't look like an athlete, does he?
A: I -- I don't know. I just seen him sitting at the table; I don't know.
Q: The point is, he would have to get to a low position, right, for this to have been accurate?
A: Sure, a person could be on their knees.
Q: Sure, he would have to do that. And then, her waistband is holding her knees together, right?
A: Yes.
Q: So you're asking a grown man's head to fit in between

knees that are held together by a waistband while he's down on the ground?
A: She didn't say his head was between her knees; she said his -- that he licked her.
Q: Right. Wouldn't it have to be that to lick someone?
A: I don't think their head would go between the legs necessarily.
Q: Okay. She did say, in talking about her grandpa's penis, that it was droopy and that, correct?
A: Yes.
Q: And that it had black hair?
A: Yes.
Q: And that there was nothing under it?
A: She didn't see anything under it or notice anything under it.
Q: You asked her if anything was under it, and she said no?
A: If she saw anything else under it, and she said no.
Q: Okay. And she said that she would tell him to stop and he would stop?
A: Yes.
Q: And she said that she would tell him to stop in the living room, right?
A: I don't recall specifically where she said that.
Q: She would also say it in the computer room?
A: I just know she said when she would tell him to stop, he

would stop.
Q: Okay. She also said that nothing went in her mouth?
A: Correct.
Q: She also said that he did not touch her with his penis on any other part of her body, correct?
A: Any other part of her body besides her hand.
Q: Right.
A: I would have to look at the transcript, but can I ---
Q: Please.
A: Okay.
Q: Did you give a copy of the transcript to the state, by the way?
A: What I did is I made a list of everything that she disclosed during her interview for my referral.
Q: Did you give a copy of that to the state?
A: I don't think so.
Q: Okay.
A: I can provide a copy if you would like.
Q: Please.
A: Okay. She just states that she had to touch his penis more than one time in the computer room and in the living room.
Q: With her hand?
A: Yes.
Q: And that no other part of her body came in contact with

his penis, correct?
A: Correct.
Q: Okay. She told you that he would show these things, videos, on the computer?
A: Yes.
Q: And she told you that no one took pictures of her?
A: Correct.
Q: While naked is what she's talking about?
A: Correct.
Q: Okay. And talking about the timing, she said this was after school got out before the 4th of July 2015?
A: Yes.
Q: Okay. So you told her that school got out in June, correct?
A: Well, we were kind of exploring when the end of school was, because I saw her on July 22nd, and we were thinking maybe it was the beginning of June that school got out.
Q: Okay. So you're generalizing sometime in June, but before the 4th of July?
A: Yes.
Q: Okay. And she said it was after school got out?
A: Yes.
Q: Okay. She told you that he's got three dogs?
A: Yes.
Q: And that's why they had to have a gate?

A: Yes.
Q: And she told you that she was in the room, the bedroom, her brother was on the computer?
A: Yes.
Q: And you asked how could this -- how could he not've seen, and she said, well, the computer would be facing this way, and she is on the bed around the wall, correct?
A: Correct.
Q: But there's no door or anything blocking it?
A: Correct.
Q: Okay. And that she would tell him to stop and he would stop?
A: She did say that.
Q: She said her brother was playing games at 4:00 a.m.?
A: I'm sorry?
Q: She said that her brother would playing a game -- or she woke up one time and he was playing games at 4 o'clock in the morning?
A: She said one time he woke up and played a game at 4:00 a.m.
Q: Okay. She said that people were in the house, but not in the room that they were in, correct?
A: Correct.
Q: She said her brother would be in another room, Grandma would be in another room?

A: Correct.
Q: But not in the room that she and Grandpa were in; that's what she's said?
A: That's what she said, yes.
Q: She also -- you also asked her about if she would take a shower or bath at their house?
A: Yes.
Q: And she said Grandma would come and ask, are you okay?
A: When she's showering, yes.
Q: Right. And she even said Grandma would say, how hot do you have it in there, right?
A: Yes.
Q: So Grandma was attentive?
A: Grandma was checking on her when she was taking a shower.
Q: Okay. And she said nobody came in when she was taking a shower or bath?
A: Correct.
Q: In talking about grandpa's penis, she said nothing came out of it?
A: Correct.
Q: You also know -- you also interviewed Cousin the year before?
A: Yes -- Cousin
Q: Yes.
A: Yes, I did.

Q: And she told you in that interview that she changed the story and said, I want to tell you about what I'm doing with my cousin, Complainant -- she told you ---

MS. WALTER: Objection, Your Honor, may we approach?

THE COURT: Yes.

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

MR. BROWN: Court's indulgence, Your Honor?

MS. WALTER: I move to strike the last question and response, Your Honor.

THE COURT: The jury will disregard the last question and answer.

MR. BROWN: Thank you, Your Honor.

THE COURT: Redirect?

MS. WALTER: Court's indulgence for one moment, please, Your Honor?

THE COURT: Yes, ma'am.

REDIRECT EXAMINATION OF DIANNE NORDEEN BY MS. WALTER:

Q: Ms. Nordeen -- excuse me -- that you know of, was this Complainant first time speaking in any sort of detail about what had happened?

A: Yes, as far as we know ---

MR. BROWN: Objection, out of scope.

THE COURT: I'm gonna allow it. Go ahead.

A: As far as I know, I was the first person to interview her

in detail about what had occurred.

BY MS. WALTER:

Q: Do you know approximately about how much time had passed between I'll say the referral to the Children's Recovery Center and the interview?

A: I think it was approximately, if you can't -- can you hang on and I'll look in the file; will that be okay?

The referral was made on July 20th, and I saw her on July 22nd.

Q: So two days later?

A: Yes.

Q: And what you were doing at the beginning is that you're trying to build a rapport with Complainant

A: Yes. So during the forensic interview, we build a rapport with the child to assess their comfort with the room and their ability to communicate. And then after we establish rapport, we discuss anatomy, body parts, so we have a common name for body parts, and we use the child's names that they feel comfortable with. And, then following anatomy identification, we do a touch inquiry.

Q: And I believe on direct you said you had interviewed approximately 2,000 children. In your experience ---

MR. BROWN: Your Honor, outside the scope; I would object to it.

THE COURT: I'm gonna allow it. Go ahead.

BY MS. WALTER:

Q: Mr. Brown asked you several times, well, she didn't say this; she didn't say that. In your experience of interviewing 2,000 children, do they all disclose every detail the first time they talk about an incident?

MR. BROWN: Your Honor, speculative.

THE COURT: No, I believe it to be proper cross-examination based on her experience as previously testified to.

You may continue.

MS. WALTER: Thank you.

BY MS. WALTER:

Q: Do you need me to repeat that?

A: No, I don't. Most children do not tell me everything. Especially when the first person they spoke with -- and generally what happens is they give me the bare minimum. It's, you know, often, that's an uncomfortable subject for most kids to talk about. Very few kids are comfortable to just come in and talk to me about things that happened to their bodies. And so after I see a child, I refer them on to a therapist, where they will more than likely give more detail than what they initially shared with me.

Q: And that's if they continue or if they actually accept that referral for therapy?

A: If they actually go to therapy.

Q: And in that 2,000 children that you have interviewed, did their ages span from young to adolescent?
A: I've interviewed children as young as two years old and up to seventeen years old.
Q: Is there a different -- in your experience, has there been a difference in the level of disclosure based on the age of the child?
A: Yes, absolutely. Of course, older children can provide a lot more detail, more specifics, and are able to say I don't feel comfortable to talk about that. Whereas, younger kids will, you know, especially if they're shy and Complainant is shy, will say something like, I don't remember or I don't know rather than I don't feel comfortable to talk about that.
Q: Thank you.

MS. WALTER: Nothing further, Your Honor.

THE COURT: Questions on those questions posed?

MR. BROWN: Yes, Your Honor.

RECROSS-EXAMINATION OF DIANNE NORDEEN BY MR. BROWN:

Q: Ms. Nordeen, you mentioned if they go to therapy?
A: Yes.
Q: Do you know if she went to therapy?
A: I do not know offhand if she did.
Q: You mentioned that they might disclose more later, because that's the first time you met Complainant right?
A: That's right.

Q: Do they change their answers and contradict themselves, though?
A: I don't know, because I conduct the forensic interview and then the children go off to other agencies for therapy, and I generally do not see a child after that first initial interview.
Q: You said most kids don't tell you everything, but some do?
A: I don't know if they tell me everything or not. Some children will say to me, I've told you everything. That's all I know, and I've had not more than 50 children tell me that.
Q: Did you -- you rush her through the interview?
A: The interview was only one hour long. I've had interviews that were two or three hours long.
Q: But did you cut her off; did you not let her tell you everything?
A: I did not.
Q: Okay. And you said most kids tell you everything, but some tell you everything, right?
A: Some say they've told me everything.
Q: Okay. Did you ask her at the end if there's anything else she wanted to tell you?
A: I asked her if there was anything else she felt like she wanted to talk about that day.
Q: Thank you.

A: Uh-huh, (affirmative response).

THE COURT: All right. As I understand it, you do not want the witness released from her subpoena; is that correct, Mr. Brown?

MR. BROWN: That's correct, Your Honor.

THE COURT: All right. So ma'am, you remain under subpoena by the Court. You are free to leave and go back to your regular activities, but if you are called back by the Court you must respond to that subpoena; do you understand me?

A: Yes, Your Honor.

THE COURT: Thank you very much.

A: Thank you.

THE COURT: All right, Solicitor, further witnesses from the state?

MS. WALTER: No, Your Honor, the state rests.

THE COURT: All right. Very good. Matters of law at this time from the defense? Mr. Brown, are there matters of law at this time from the defense?

MR. BROWN: Yes, Your Honor.

BY THE COURT:

THE COURT: All right. Very good.

All right. Ladies and gentlemen, what I want you to do at this point in time is go back to your jury room for just a few minutes. I'm gonna discuss the status of the case with the attorneys, where we are, what remains. I may call you

back in for some other matters, or I may send you home and have you come back in the morning, and we'll resume again in the morning. But so give me a couple of minutes and then I'll let you know what we're going to do. All right?

Leave your pads and pens in the seats. Thank you.

(REPORTER'S NOTE: Jury exits courtroom @4:41 p.m.)

THE COURT: All right. We're gonna take a short break for five minutes and then we'll come back in and go forward with the motions.

Thank you very much.

MR. BROWN: Thank you, Your Honor.

RECESS - 4:41 P.M.

*******OFF THE RECORD*******

ON THE RECORD - 4:50 P.M.

(REPORTER'S NOTE: The following takes place outside the presence of the jury.)

THE COURT: Before we get started on your -- any motions that the defense has, Mr. Brown, of your witnesses that you're going to call, who is available today to testify?

MR. BROWN: We've got -- I think I could call Shelby McKinnon today. She wouldn't take too long.

THE COURT: All right. Very good.

All right. Let me hear your motion.

MOTIONS:

MR. BROWN: Your Honor, first off, I would renew the

motion for mistrial that I made earlier, just for the record. Okay?

THE COURT: On what ground was that again?

MR. BROWN: Just to renew it for the record.

THE COURT: And what was the ground of the mistrial?

MR. BROWN: Oh, the -- the quashed indictment that was read to the jury pool.

THE COURT: All right. That regarding the reading of that indictment to the panel before the jury was selected, right?

MR. BROWN: Yes, Your Honor.

THE COURT: Okay. All right. The Court ruled on that matter previously. Thank you very much.

MR. BROWN: Yes, Your Honor.

Your Honor, now, next the defense would make a motion for directed verdict in this case. Defense feels that the state, specifically the dissemination of the obscene material to a minor, the state has presented evidence that a computer that says that there was no evidence on the computer of concern or evidentiary value, simply presumed to be the computer.

THE COURT: Go ahead.

MR. BROWN: So the state presented evidence that contradicts their own charges that of there not being any evidence on the computer. They said there's nothing of evidentiary value. They entered the computer into evidence,

or the hard drive rather. And that they did not -- the circumstantial evidence that they presented contradicts itself.

Also, regarding the CSC motion for a directed verdict, that the evidence of limited value contradicts itself and is circumstantial of nature, very limited, and again, with the dissemination, they've never said that the material -- that contradicted itself, because the computer didn't have anything on it that the witness identified. It doesn't say that that was shown or any -- it doesn't say that it was shown for any sexual desire of either the witness or the accused.

THE COURT: All right. Response -- I'm sorry, is that further argument on that point?

MR. BROWN: No, no; that's all.

THE COURT: All right. We're gonna deal with it them one at a time.

MR. BROWN: Okay.

THE COURT: Argument by the state?

MS. WALTER: Your Honor, as you are well familiar, a directed verdict should only be granted in your discretion, if there's been a failure of competent evidence. The competent evidence in this matter is the testimony of [redacted] herself, who testified that she was shown pictures of naked adults touching each other, and that she now describes it as pornography, now that she is a little bit older. We would certainly say that

that is competent evidence that the defendant showed her obscene material. It does not need to have been done for any sexual gratification either of the minor victim or the adult defendant.

THE COURT: All right. Thank you. All right.

All right. Disseminating obscene material to a minor, 12 years of age or younger, is prohibited to the extent that an individual 18 years of age or older may not knowingly disseminate to a minor, 12 years of age or younger, material which he knows or reasonably should know to be obscene within the meaning of 16-15-305. 16-305 states that, for the purposes of this article, any material is obscene if: 1), to the average person applying contemporary community standards, the material depicts or describes in any patently offensive way, sexual conduct specifically defined by Subsection (C) of this section. The average person applying temporary community standards relating to the depiction or description of sexual conduct would find the material taken as a whole appeals to the prurient interest in sex, to a reasonable person the material taken as a whole lacks serious literary or artistic, political, or scientific value; the material as used is not otherwise protected or privileged under the constitution of the United States or of this state. Subsection (C) as used in this article, sexual conduct means vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted,

whether between human beings, animal or a combination thereof; masturbation, excretory functions, lewd exhibition, actual or simulated of the genitals, pubic hair, anus, vulva, or female breast nipples, including the male or female genitals in a state of sexual stimulation or arousal, or covered male genitals in a discernably turgid state; (C), an act or a conduct that depicts actual or simulated bestiality, sado-masochistic abuse by or upon a person who is nude or clad in undergarments or in a costume, which reveals the pubic hair, anus, vulva, genitals, female breast, nipples in a condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed. An act or condition that depicts the actual or simulated touching, caressing, or fondling of, or other similar physical contact with the covered or exposed genitals, pubic or anal regions, or female breast nipples, whether alone or between humans, animals, or human and animal, or of the same or opposite sex in an act of or apparent sexual stimulation or gratification; an act or condition that depicts the insertion of any part of any person's body other than the male sexual organ or any other of any other object into a person's anus or vagina, except when done as part of a recognized medical procedure.

Patently offensive means obviously and clearly disagreeable, objectionable, repugnant, displeasing, distasteful, or obnoxious to contemporary standards of decency

and propriety within the community.

Prurient interest means a shameful or morbid interest in nudity, sex, or excretion as is reflected of an arousal of lewd and lascivious desires or thoughts.

Person means any individual, corporation, partnership, association, firm, club, or other legal or commercial entity.

Knowingly means having general knowledge of the content of the subject material or performance, or failing after reasonable opportunity to exercise reasonable inspection which would have disclosed the character of the material or performance.

Obscenity must be judged with reference to ordinary adults, except when it is -- when it must be judged with reference to children or other especially susceptible audiences or clearly defined deviant sexual groups if it appears from the character of the material or circumstances of its dissemination to be especially for or directed to children or such audiences or groups.

As used in this article, community standards used in determining prurient appeal and patent offensiveness are the standards of the area from which the jury is drawn.

All right. So that's the statute. Based upon the testimony as presented, the Court finds that there is sufficient evidence that has been presented in this particular matter. When ruling on a directed verdict motion, the Court

is not concerned with the weight of the evidence. All I'm concerned with is the existence; does it exist or not. The defendant is entitled to a directed verdict when the state fails to produce evidence of the offense charged. The Court should grant a directed verdict when the evidence merely raises a suspicion that the accused is guilty.

In this particular matter, the Court must view all the evidence and all reasonable inferences in the light most favorable to the non-moving party, that is to the state, in this situation. If any direct evidence or any substantial circumstantial evidence reasonably tends to prove the guilt of the accused, the case should be submitted to the jury.

All right. In this particular matter, again the Court finds from the testimony provided, especially that of the minor victim, Complainant that the state has satisfied the sufficient standard for the Court to deny the motion for a directed verdict.

Further motions?

MR. BROWN: Thank you, Your Honor.

We would make a motion for a directed verdict in regards to the criminal sexual conduct first degree charge, Your Honor. That says you got to have a victim under 11 and there's got to be a sexual battery, Your Honor. The evidence provided was that there was no penetration. I understand that they're alleging cunnilingus; however, no evidence that the

cunnilingus occurred under the clothing. There's no testimony to that and no evidence presented. So I would say they may have proven sexual abuse, but not sexual battery. They didn't discern that. Thank you. Thank you, Your Honor.

THE COURT: All right. State's response?

MS. WALTER: Your Honor, it can also include cunnilingus, fellatio, there is penetration, however slight, when there is penetration of the victim's labia. The victim also testified that the defendant placed his penis in her mouth. There is certainly competent evidence in this instance of criminal sexual conduct with a minor in the first degree.

THE COURT: All right. All right. Regarding the offense of criminal sexual conduct with a minor in the first degree, the first part is the actor engages in a sexual battery with the victim who is less than 11 years of age, that is clearly the facts of this particular case.

And then regarding the sexual battery -- hold on for just a second. Sexual battery is defined as sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when the intrusion is accomplished for medically recognized treatment or diagnostic purposes.

The testimony of the minor involved in this matter, Complainant McKinnon, more than satisfies the requirements as set forth by

this particular offense. Again, I'm not concerned with credibility or believability; that's the jury's job. Does the evidence exist? The evidence exists. Whether or not it might be contradicted in some fashion, that is of no concern to the Court. Does evidence, competent evidence, that's been properly introduced in this matter exist? It does exist. If the jury so finds that to be sufficient, based upon the Court's instructions of the law, there's more than sufficient evidence in the record already to convict the defendant of the crime of criminal sexual conduct with a minor in the first degree.

Your request for a directed verdict is denied.

Further motions?

MR. BROWN: No, Your Honor.

THE COURT: All right. You indicated you could call Shelby McKinnon. How long do you anticipate that testimony will take?

MR. BROWN: I would anticipate around 45 minutes.

THE COURT: All right. All right. The other thing I want to know, based upon the witnesses you know you're gonna call, are you going to finish tomorrow? Are you gonna be able to present all of those witnesses tomorrow so that we'd have closing arguments to the jury first thing Friday morning?

MR. BROWN: I think so.

THE COURT: All right. I need for you to -- I need for

that to be -- it is not my intention that this case go beyond Friday, however long it takes.

MR. BROWN: Some of my witnesses can't stay next week. So I have to call them in that order, so -- because some of them have to leave.

THE COURT: Okay. All right. Very good.

MR. BROWN: As they're out of state and jobs and flights and things of that nature.

THE COURT: All right. Very good. All right.

MR. BROWN: Some of them will be quick. So I think I can get through, if not Friday -- tomorrow afternoon, certainly Friday.

THE COURT: All right. And I'm gonna explain it to the jury ---

MR. BROWN: I would think before lunch.

THE COURT: All right. So I'm explaining to the jury that, you know, they may have to work late tomorrow night and Friday night. Okay? I'm gonna let them go now, but I'll explain to them when we call them back in in just a minute that they can expect to work late tomorrow, because I would like, if at all possible, to finish all of the defense witnesses tomorrow. Okay? If that's not possible, well, we'll just stay Friday until we're done. Okay?

MR. BROWN: Yes, Your Honor.

THE COURT: Ask the jury to come back in.

(REPORTER'S NOTE: Jury enters courtroom @ 5:08 p.m.)

BY THE COURT:

THE COURT: All right, ladies and gentlemen of the jury, where were are now. I told you that the state has indicated to you that they have rested their case, and we are at the stage of trial where we will go forward with the defendant's presentation.

Now, there are a number of witnesses that potentially can be called by the defense. The defense is prepared to call one witness now, which would take us to approximately 6 o'clock. Now, I'm going to leave that to you in just a minute to decide if you want to do that or you want to go home now, with the understanding that we're going to work late, most likely, tomorrow with the intention that this case, at some point in time, will be given to you for your deliberations and unanimous decision on Friday. At that point in time, you will be with us until you reach a unanimous decision. We will not be going home until you reach a unanimous decision. So if you would like to leave now, I'll be glad for you to do that or hear one witness. And again, it's gonna take us to probably at least 6 o'clock. Again, understanding most likely we're working late Thursday and potentially on Friday. So Madam Forelady, if you just want to take the jury in the hallway and discuss it with them and you tell me what they want to do. All right?

Thank you.

Bailiff, make sure nobody else is in the hallway, please.

Thank you, ma'am. I appreciate it.

(REPORTER'S NOTE: Jury exits courtroom @ 5:10 p.m.)

(REPORTER'S NOTE: Jury enters courtroom @ 5:12 p.m.)

THE COURT: All right. Madam Forelady, what's your jury's position?

JUROR 275: Your Honor, your jury has decided that they'd like to stay on.

THE COURT: All right. Very good.

Call your witness?

MR. BROWN: Your Honor, defense calls Michael McKinnon.

THE COURT: All right. Very good.

All right. Mr. McKinnon, go all the way around and come up to the clerk right up here.

THE CLERK: Please raise your right hand and place your left hand on the Bible.

MICHAEL MCKINNON, HAVING BEEN DULY SWORN, TESTIFIES AS FOLLOWS:

THE CLERK: Please be seated and state your name for the Court.

THE COURT: All right, sir, you can remove your mask at this time. Go ahead?

MR. BROWN: Thank you, Your Honor.

DIRECT EXAMINATION OF MICHAEL MCKINNON BY MR. BROWN:

Q: Can you say your name for the record?
A: Michael McKinnon.
Q: Thank you. Mr. McKinnon, are you married?
A: Yes, sir.
Q: Who are you married to?
A: Shelby McKinnon.
Q: How long have y'all been married?
A: Six years.
Q: She's not in here; don't worry. Six years?
A: Yes.
Q: And do you have a daughter?
A: Yes, I do.
Q: What's her name?
A: Cousin [redacted]
Q: How old is she?
A: She is 14.
Q: Is she Shelby's daughter?
A: No.
Q: Who is -- who is Cousin [redacted] mother?
A: Brittany Mace.
Q: Do you have any contact with her anymore?
A: Yes.
Q: Where does she live?
A: Surfside.
Q: Okay. Where was Cousin [redacted] born?

A: In Conway Hospital.
Q: Okay. And did she grow up here?
A: Yes.
Q: Okay. She have a grandfather?
A: Yes, she does.
Q: What's his name?
A: Kevin McKinnon.
Q: Is he in the courtroom?
A: Yes, he's sitting over at that far table.
Q: Who is he to you?
A: He is my father.
Q: Okay. Did you grow up -- did you grow up racing cars?
A: Yes.
Q: Is he involved in that?
A: Yes. He was the main person that helped me get them all ready every time.
Q: What did you do?
A: I drove them and built them.
Q: Okay. How did he -- how did he interact with the racing scene?
A: He assisted me in building them and doing whatever I needed help.
Q: So y'all went to the racetrack a lot?
A: Yes. We were there every weekend.
Q: During the -- every weekend of the year?

A: Every weekend usually from about April till October.
Q: Is that the race season?
A: Yes.
Q: Okay. Tell me about that; how busy was it?
A: It was pretty busy because we actually worked for the track, also.
Q: What do you mean you worked for the track; what did you do?
A: Me, him, and my brother worked for the safety team. So anytime they'd get in accidents or so we'd have to go clean it all up.
Q: Who is your brother?
A: Eric McKinnon.
Q: You still talk to him?
A: Not in about four years.
Q: Okay. You were all -- you all worked for the track and you were a racecar driver; is that what you're saying?
A: Yes.
Q: So how long -- and which racetrack is this?
A: Myrtle Beach Speedway.
Q: How many seasons did you do?
A: I raced from 2001 till -- I still race now.
Q: So you were racing and on the crew during 2013, '14, and '15?
A: Yes, sir.

Q: Okay. You a good racer?
A: Yeah, I'm pretty good.
Q: So you had to work on your car; is that right?
A: Yeah, we'd -- after every race, during the week and stuff, we'd go through stuff to make sure that everything was right before the following week.
Q: Tell us how much is involved in getting ready for the race -- I assume on the weekends, is that right?
A: Yeah, every Saturday night.
Q: So tell us how much is involved in getting the car ready for Saturday?
A: It would all depend on if we broke anything or got in a wreck the following week, but we'd go through them, might have to do some stuff for the tires and make sure everything was ready to go and organized back from the following week.
Q: Did you have to get parts, new parts, install parts?
A: Sometimes we did.
Q: Where did you most of this work?
A: Over at my father's house.
Q: In the yard?
A: No, we built a two-car garage.
Q: Do you remember when you built that garage?
A: About, I think, '03, '04, or so, because we had been racing for about a year or two before we built it.
Q: Was there also a house there?

A: Yes.
Q: Have you been inside the house?
A: Yes. I was raised in that house.
Q: Okay. Let's talk about your family. What's your dad's name?
A: Kevin McKinnon.
Q: And where is he from?
A: Maine.
Q: Okay. But you grew up here?
A: Yes, we moved here when I was eight.
Q: And who is your mother?
A: Susan McKinnon.
Q: And are you older or younger than your sibling?
A: I am younger.
Q: How much younger?
A: One year.
Q: Do you have a grandma?
A: I do.
Q: What's her name?
A: Edna McKinnon.
Q: Did she ever live at the house?
A: Yes, she did.
Q: Okay. Do you know about when?
A: She lived there for about a year or two and that was about five-and-a-half, six years ago.

Q: Let's say 2013 to 2015?
A: Yes, about that time, yeah, because we moved to Indy right after that.
Q: Indiana?
A: Yes, I live in Indianapolis now.
Q: Okay. When did you move to Indianapolis?
A: December the 19th, 2016.
Q: 2016, end of 2016?
A: Yep.
Q: Let's talk about your Grandma Edna. She used to live in Maine and she moved in with your dad; do you remember why or did someone pass away, was it a life event, somebody get married, what happened?
A: My grandfather passed away.
Q: Okay. Did they used to live together?
A: Yes.
Q: Okay. Do you know what her job was; did she have a job in Maine?
A: They owned a business.
Q: Do you know what kind of business?
A: Yes, it's a kind of a like a flea market.
Q: Okay. So your grandfather passed away, and she moves in with her son?
A: Yes.
Q: And is that the same house that you grew up in?

A: Yes, sir.
Q: And describe this house; is this a large mansion we're talking about?
A: No, it's a double-wide.
Q: Okay. Do you know if she was in a car wreck?
A: Who, my grandma?
Q: Yeah?
A: I don't know anything if she was.
Q: Okay. You said this is not a mansion; it's a double-wide, so ---
A: Yes, sir.
Q: It's a trailer?
A: Basically, yes.
Q: And the trailer had modifications?
A: Yes.
Q: Did you help build that?
A: Certain parts of it, yes.
Q: Okay. What did you help build?
A: At one point the porch area was made into a room and then it went back to a porch area after that.
Q: You worked on that?
A: Yes.
Q: All right. Anything else?
A: No, that's all I helped modify.
Q: Was there a room that was added onto it?

A: Yes. My parents added on to their bedroom on the far end, but I was not involved in that.
Q: Let's talk about your dad. What kind of job did he do?
A: He worked in selling like bathrooms and bathtubs; I don't know what kind of job you call that. He worked in a warehouse.
Q: Okay. Worked in a warehouse?
A: Yes.
Q: Do you know if that was a full-time job, part-time, seasonal?
A: No, that was full-time.
Q: Okay. Did he volunteer anywhere?
A: He was a volunteer fireman for a while.
Q: I'm sorry?
A: A volunteer firefighter for a while.
Q: Okay. Here?
A: Yes.
Q: Did you ever go on calls with him?
A: We did go on a few calls every once in a while, if we were out riding with him when they got the call.
Q: Did you race to the scene?
A: No, not with his family in there; he just arrived at the scene.
Q: I gotcha. Okay. So do you know about your mom, what did she do for work?

A: She's moved around a good bit, but she usually works in retail.
Q: Let's talk about 2013, '14, and '15. Was your mom working then?
A: Yes.
Q: Do you know about where she was working then?
A: I believe she was still working for Petco at that time.
Q: Does your mom and your grandma, did they own a business?
A: They did at one point, yes.
Q: Can you tell us about that business?
A: They opened up a antique shop down here.
Q: Do you know about when they opened that up?
A: I am not sure of the exact dates. I was not involved in -- in that.
Q: Okay. In the business?
A: In the business, yes.
Q: Did they ever have to build anything for the business, modify it?
A: Yeah, when they moved to a second store, they had to do a good bit of work on it.
Q: Did you help with that?
A: I did not help on that as I was working when they were doing it.
Q: Where were you working?
A: I worked at MAACO.

Q: Paint store?
A: Yes.
Q: Let's talk about your daughter, Cousin okay?
A: Okay.
Q: She's had some issues in the past; is that right?
A: Yes, sir.
Q: Okay. It's not pleasant to talk about, but I've got to ask you some questions, okay?
A: Okay.
Q: Are you aware of those issues?
A: Yes, sir.
Q: Can you tell us about when you became aware of those issues?
A: We became aware of it when we got custody, emergency custody of her for a couple of weeks, while he was in jail and her mother had to go try to help him.
Q: So I'll move on. Her mom had custody?
A: Yes.
Q: Okay. And that was in this area?
A: Yes, it was here.
Q: Okay. And we're not talking about Kevin McKinnon?
A: Right, no.
Q: Okay. And we're not gonna talk about that person?
A: Right.
Q: So do you know about the year you found out; when did you

get custody?
A: About -- I think it was 2012 is when I got custody, actually got the finalized custody of her.
Q: Okay. And that was -- so you have sole -- you and your wife have sole custody?
A: I have sole custody.
Q: You have sole custody, and you got that about 2012?
A: Yeah, I think is when it was finalized, yes.
Q: Okay. And that's about the time you found out about another issue?
A: Yes.
Q: Can you tell us about the topic of that issue?
A: She was molested by her mother's boyfriend.
MS. WALTER: Objection, move to strike, Your Honor.
THE COURT: I'm going to strike that at this time. Thank you.
BY MR. BROWN:
Q: Did she go to counseling?
A: Yes.
Q: Okay. Did she go to counseling for a long time?
A: Up until about a year ago.
Q: Okay. A very difficult situation?
A: Yes.
Q: Okay. Does she live with you now?
A: Yes, she does.

Q: [redacted] lives with you?
A: Yes.
Q: Who else does she live with?
A: Of course, my wife lives there and then our son also lives with us.
Q: You, your wife, Shelby?
A: Yes.
Q: And how old is your son?
A: He will be five in two weeks.
Q: It sounds like a busy household?
A: Yes.
Q: Back in 2013, '14, '15, did you visit at your father's house?
A: Yes.
Q: Can you tell us what those visits were like?
A: Usually when we were over there, we'd either be working on a racecar or something like that, or we'd just be watching T.V., football games, something like that and have dinner and everything.
Q: Was this during the week, weekend, both?
A: Both.
Q: Okay. Where did y'all do -- when you were working on cars, who was out there?
A: I was the one working on cars; it was just usually me and him out there.

Q: Okay. And would [redacted] go with you?
A: She'd come out every once in a while, but most of the time, she was inside with Grandma.
Q: Okay. Was Grandma always there?
A: Yes.
Q: Do you remember your grandmother being there, [redacted] Great-grandma Edna?
A: Yes.
Q: Okay. Did Edna have a car that you know of?
A: No, she didn't have a car. My parents drove her around if she needed to get somewhere.
Q: Okay. Was -- was it fair to say that these were large family gatherings?
A: Usually, yes.
Q: Did y'all cook out together?
A: Yes.
Q: Who did the grilling?
A: My father did the grill.
Q: Okay. He's working on cars, he's grilling, right?
A: Yes, sir.
Q: Okay. Do you remember the house itself?
A: Yes.
Q: When you walked in the front door, give us the description. You walk into what?
A: You walk into the living room, which is also opens into

the other part of the like a double living room area.
Q: Okay. What was in the other side?
A: The fireplace.
Q: Okay. And then what's immediately to your right when you walk in the front door?
A: When we finally left it, it was in a big open area where they had like a pool table and stuff, but it used to be a bedroom there.
Q: Okay. About what year did it change; do you know?
A: I don't know. That was back when the both of us moved out. So back in like '05, '06, something in that area, it changed.
Q: 2005, 2006?
A: Yeah, it was a while ago.
Q: When you say the both of us?
A: Me and my brother.
Q: Okay. Eric?
A: Yes, Eric.
Q: Okay. Did that room -- it used to be a bedroom?
A: Yes, sir.
Q: When it changed, it had a door, the door come off?
A: It had no door, it was just a big like moon, half-moon open area.
Q: Okay. Would y'all say you went over to your father's house a lot?

A: Yeah, I was there a good bit.
Q: Did you take the whole family a lot or just you?
A: It was about mid-way, it was just me when we only had to work on the racecar or, if the racecar wasn't involved, then it would be the whole family.
Q: Okay. Let's talk about your niece and nephews. What's their names?
A: Brother and Complainant
Q: And how old is Brother
A: Brother is 15.
Q: How old is Complainant
A: She's 13.
Q: Similar -- how old is Cousin
A: 14.
Q: Did they spend time together?
A: Yes.
Q: Okay. Did they come over when you and your family came over?
A: At times, yes.
Q: Okay. Tell us about that interaction?
A: All the kids usually played out back and then we'd all work on the racecars and stuff and the wives or girlfriends would be inside doing stuff.
Q: Okay. Did Cousin spend the night over there?
A: Yes, she did.

Q: A lot?
A: Not a lot, just usually on the weekends or so.
Q: What was Cousin like after you got custody and you found out about the issues?
A: It took us a while to calm her day and get her straightened back out from where she was at.
Q: Did counseling help?
A: Yes, counseling helped a lot, and that's why she finally graduated from counseling.
Q: Okay. It took a while?
A: Yes.
Q: So you're saying that in 2012, was there a difference or change; did you notice a change in your child?
A: Yeah, I mean, of course she grows up, so she's slowly learning and learned to cope with what happened with her.
Q: Well, let's talk about when you got custody, this was 2012, right?
A: Yes.
Q: Okay. Did you notice a change in her behavior, demeanor, at that time?
A: Yeah, there was -- I mean, even her school wanted to know what was going on because they realized the change, and we had to go provide paperwork to show that we were the only ones that could deal with her now.
Q: Okay. And they straight up said they saw a change in her

and wanted to know why.
Q: And this is 2012?
A: Yes, sir.
Q: Okay. When you went over to your father's house, was there ever a time that you wondered where is dad; did he ever go missing?
A: No, I always knew where he was. He was always right there with -- with me in the same room.
Q: Okay. Did you wonder where's Cousin and Kevin?
A: No, I always knew where my kid was.
Q: Okay. Your dad's working a full-time job?
A: Yes, sir.
Q: He's a volunteer fireman?
A: Yep.
Q: He worked at the speedway?
A: Yep.
Q: You were his driver?
A: Yes.
Q: He built the antique store?
A: Yes.
Q: Okay. Sounds pretty busy?
A: Yes.
Q: Let's talk about the house again. Did he have dogs?
A: Yes.
Q: Okay. Tell us about those dogs?

A: We had two pugs and ---
Q: Were they your dogs; were they his dogs?
A: They were his dogs.
Q: Did they live at his house?
A: Yes, they lived with him all the time.
Q: Did you see them playing with any kind of chew toys?
A: Sometimes, they were pretty lazy pugs.
Q: Did he have tile and hardwood floor or carpet or what was the flooring situation?
A: It was a like a laminate tile hardwood floor.
Q: Could you hear the dogs walking around?
A: Oh, yeah, definitely with their nails you could hear them walking around.
Q: Does the trailer have a foundation or is it a crawl space?
A: It's a crawl space with a brick surround all the way around it.
Q: Okay. If you're walking -- if somebody is walking in the house, can you hear them?
A: Usually, yeah.
Q: Somebody's talking in the house, can you hear them?
A: Yes.
Q: Okay. The walls aren't very thick?
A: No, just standard mobile home walls.
Q: Did his bedroom have a door?

A: Yes.
Q: It did have a door?
A: Yes, it did.
Q: Can you describe the door?
A: Just a standard white door.
Q: Did it ever change?
A: No, no lock no nothing.
Q: To the bedroom?
A: No, there was -- none of the bedrooms or anything had any locks or anything on them.
Q: Okay. Do you remember a gate, a dog gate?
A: Yeah.
Q: Was that to keep the dogs in the bedroom or out of the bedroom?
A: It all depended on where we were at and it was to keep the bedroom if they were in there and to keep them out of the bedroom if we were in the living room.
Q: When was the last time you went over to his house?
A: It's probably just before we moved.
Q: Do they still live there?
A: Yes.
Q: Did they move?
A: Yes, they have.
Q: So they don't live there now?
A: No, they don't.

Q: All right. Court's indulgence, Your Honor?

THE COURT: Yes, sir.

BY MR. BROWN:

Q: When you and -- had a large family gathering and your nephew, Brother came over?

A: Yes.

Q: Did he ever use the computer?

A: Yes, he did.

Q: Do you know what he was watching or doing on the computer?

A: Usually on YouTube.

Q: Okay. Do you know what he was watching on YouTube?

A: A variety of different stuff.

Q: Was -- what about his sister and his cousin, Cousin

A: Yeah, they'd sit in there and watch it with him, too.

Q: Did the girls ever practice a dance, learn it together and show it to everybody else?

A: Yes.

Q: Okay. Where would they show the dance that they learned together?

A: Usually in the living room.

Q: Okay. Where would they practice the dance?

A: In the bedroom where the computer was.

Q: Okay. Were the two girls, did they enjoy hanging out when they had the opportunity?

A: Oh, yes. They enjoyed doing all kind of things together.
Q: Would you say that they were close?
A: Yeah.
Q: Okay. Would you say they told each other a lot?
A: Yes.
Q: Did you ever come to know the girls acting out sexually with each other?
A: I didn't.
Q: You didn't see them?
A: No, I didn't see them myself, no.
Q: Okay. Did you ever use the computer at your father's house?
A: Yes.
Q: What did you use it for?
A: Looking up different stuff; could be parts for the racecar and stuff like that.
Q: Okay. Did y'all have to order a lot of parts?
A: Yes.
Q: Okay. About the parts for the racecars, you worked on it in the garage, you said?
A: Yes.
Q: And you built this garage?
A: Yes.
Q: Was the garage connected to the house; could you leave the house and immediately into the garage?

A: No. It was separate.
Q: Okay. In the yard?
A: Yes.
Q: About in the driveway, where was it?
A: As soon as you pull into the driveway, it was off to your right.
Q: Okay. How big was this garage?
A: A two-car garage.
Q: Okay. After you worked on the cars during the week, you had to go to the racetrack. Who went to the racetrack?
A: Most of the time it was me, my father, and brother were the three at the track.
Q: Did your wife ever go to the racetrack?
A: Yes.
Q: What did they do; did they ever work there?
A: My wife worked at the pit gate for a while.
Q: What is that?
A: It's where everybody signs in and pays for certain items and stuff before they go into the track.
Q: Okay. Did your mom go to the racetrack?
A: Yes.
Q: Did she work there?
A: No, she just went and watched.
Q: Okay. Where would she watch from?
A: In the infield, usually in the truck we rode in.

Q: And this is the former Myrtle Beach Speedway?
A: Yes.
Q: Okay.
MR. BROWN: Court's indulgence?
THE COURT: Yes, sir.
BY MR. BROWN:
Q: I want to talk some more about Cousin
A: Okay.
Q: Was she a quiet, shy, child?
A: No. She was pretty outgoing and active.
Q: Okay. Was she -- would she go through things, nosey; would you say that?
A: Yes.
Q: Okay. Did you ever catch her taking anything that maybe didn't belong to her?
A: Yes.
Q: Tell us about that?
A: She used to take things a lot of times that she just thought she needed, and it took us a while to break her of that habit.
Q: Things at Grandma and Grandpa's house?
A: Yes.
Q: Okay. In those rooms at Grandma and Grandpa's house, the pool room and then the room next to it. Okay?
A: Uh-huh, (affirmative response).

Q: What was in those rooms in the years 2013, '14, and '15?
A: What do you mean, what was in the rooms like ---
Q: Was it a -- was there antique furniture in there, were there boxes, was there nothing in there?
A: In the pool room there was shelves with, of course, our racing trophies and stuff and then all kinds of racing memorabilia and stuff in there.
Q: Would you say a lot of stuff in there, a room to run around?
A: They could run around the pool table, that was about it.
Q: Okay. Tell us about the other room, the room next to it?
A: The other bedroom that was beside that one?
Q: Yeah, what was in there?
A: That one was packed with all kinds of like antiques and my mother's crafting items and stuff like that.
Q: Was that for the antique store that your mom and grandma, for the store that they had together?
A: Yes, at that time, yeah; they had a lot of stuff stored in there.
Q: Okay. Big antiques and just a lot of different items?
A: Yes.
Q: Was it just scattered about, was it boxed up?
A: Some boxed up, some just sitting out.
Q: Did Cousin go through that stuff?
A: No, we didn't allow her in that room, usually.

Q: Okay. She wasn't allowed most of the rooms?
A: Well, she could go in the pool room, but not in the back room.
Q: Okay. Did Complainant ever spend the night at you and Shelby's house?
A: I believe she did once or twice.
Q: Okay. Did Cousin ever spend the night at Eric and Jeanna's house?
A: No.
Q: Okay. Tell us why?
A: Usually because she didn't want to.
Q: Okay.
A: So ---
Q: Was she allowed though?
A: If she really wanted to, she could have.
Q: Okay. When you lived here and Eric and Jeanna lived here, how far apart was y'all's -- was the house -- was y'all's houses?
A: In those years, they were about a mile or two down the road.
Q: When you say in those years, you mean 2013, '14, '15?
A: Yes, sir.
Q: Okay. And how far did y'all both live from Kevin's house?
A: It was about 10 or 15 miles.

Q: Okay. Farther?
A: Yes.
Q: Let's talk about this case here. When did you find out about these allegations?
A: About this same time of the year in 2012.
Q: During the summer?
A: Yes.
Q: Okay. How did you find out?
A: I was at work and -- and then my wife called me and told me that -- that someone had overheard [redacted] and [redacted] talking about it at their daycare, basically, is where they were at.
Q: Okay. Summer camp?
A: Summer camp, yes.
Q: Is it a fact -- did they both go to that together?
A: Yes.
Q: Okay. [redacted] has still been in counseling from the prior incident?
A: Yes, sir.
Q: From that incident, she's still in counseling, and are you aware if she is now saying it didn't happen?
MS. WALTER: Objection?
THE COURT: Sustained.
BY MR. BROWN:
Q: Where do y'all live now?

A: Indianapolis.
Q: Indianapolis. And that's you and Cousin your son, and your wife?
A: Yes, sir.
Q: Okay. When's the last time you had -- you haven't had any contact with your dad; is that right?
A: No.
Q: Okay. Are you anxious for this case to be over?
A: Yes.
Q: You miss your father?
A: Yes, I do.
Q: Does your family miss being together?
A: Yes, because anytime I have to see my mother, the rest of them usually can't be there.
Q: If -- if you had a choice, would you allow your daughter, Cousin to be around your father?
A: Yes, I would.
Q: Without fear or hesitation?
A: Yes.
MR. BROWN: Thank you, Your Honor. That's my questions.
THE COURT: Cross-examination?
MS. WALTER: Your Honor, may we approach briefly?
THE COURT: Sure.
(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

CROSS-EXAMINATION OF MICHAEL MCKINNON BY MS. WALTER:

Q: Hello. So let me first ask you about the safety team. You said basically the safety team cleans up after car accidents?

A: Yes, sir -- or ma'am.

Q: So -- that's okay, I don't get offended. So safety as in not an armed guard, but more racetrack safety so there are no accidents?

A: What do you mean there was no accident. No, it's still an accident on the racetrack.

Q: But you're trying to prevent other accidents based on one that has already happened?

A: No, no, no, we don't prevent the accidents. All we do is clean up, make sure the drivers are okay, and pick up the broken pieces or stuff like that from the accident.

Q: Okay. So the safety team basically cleans up after an accident?

A: Yes.

Q: And would you only do that when there were races going on?

A: We did it for multiple events, anything that went on at the track. We worked the monster truck shows, and on Wednesday's, when they had the Wheels of Destruction show, we worked that, too.

Q: Were those events during the day or at night?

A: They were all at night except the Monster Truck show is on the weekend and were all-day events.
Q: What time of year was the Monster Truck show?
A: It changed depending on when the venue wanted to show up.
Q: So was the -- the weekends that you were there racing, were you also part of the safety team when other races were going on?
A: Yes.
Q: So how -- give me an average weekend that you were at the speedway; what time would you get there and what time would you leave?
A: We'd usually get there between noon and 2:00 on Saturday and we were there until some nights 1:00, 2:00 in the morning, depending on how long the races went on.
Q: And you said that you worked on the cars in this two-car garage that you guys built. What else -- so what was in the garage?
A: It had shelves all the way around on the outside and then had -- usually had two racecars in it.
Q: Were there any couches or chairs or beds that you used in there?
A: No.
Q: It was dedicated to fixing and working on cars?
A: Yes.
Q: Were the -- were the girls allowed in there?

A: Yes, if they wanted to be in there, they could be.
Q: Were they allowed in there alone?
A: By themselves?
Q: Yes.
A: Usually, if we weren't in there, they weren't in there.
Q: All right. So the -- you would work as a member of the safety team during the week at these other events?
A: Yes.
Q: This was in addition to your job at, I think you said, MAACO?
A: Yes.
Q: All right. So your job at MAACO didn't prevent you from doing other jobs, because you worked at the speedway as well?
A: Right.
Q: But you said that the reason why you couldn't help your mom and grandmother at the antique store was because you were working at MAACO?
A: Right, because they were working on the antique store during the day while I was working at MAACO.
Q: Well, did your father help them at the antique store?
A: He worked at night when he got off work, he'd go do it.
Q: But you couldn't go there at night when your father was there?
A: No, because I had my daughter to take care of.
Q: And you were married to Shelby?

A: Yes.
Q: So Shelby couldn't take care of your daughter so that you could go and help your father?
A: No, because she worked at nights.
Q: And you couldn't bring Cousin with you, even though you took her everywhere, the speedway, your parent's house?
A: No, I didn't take her there because it was across the town; so I didn't.
Q: You're aware of the fact that your brother helped out?
A: I am aware of the fact because he worked right down from there.
Q: Okay. And he had children with him that he was caring for?
A: Yeah.
Q: You said that you got custody of Cousin in 2012?
A: I believe that's when it was finally signed, yes.
Q: When Cousin would spend the night at your grant -- at your parents' house, excuse me, did you spend the night also?
A: Sometimes I was there and sometimes it was just her.
Q: So when -- strike that. And you described your parent's dogs, the pugs, as lazy, which is appropriate for most pugs. Sorry if they're pug lovers around.
A: Yes.
Q: So they basically laid around?
A: Yeah, they'd lay around and follow us around, yes.

Q: But if no one was in an area where they were, they would just lay there; there's no one to follow around, right?
A: Right. If there was no one in the house, they were wherever they wanted to be.
Q: And they were kept out of the master bedroom?
A: Usually they could be in there on their own if they wanted to be, but if somebody was in the house, they were with the person.
Q: So they were allowed to sleep on your parents' bed?
A: Yes.
Q: You said that you used the computer at your father's house. Can you describe that computer for us?
A: It was just a basic computer, nothing special.
Q: How many computers did your father have?
A: Just the one.
Q: Did he ever get new -- different computers, not necessarily brand new, but he did ever switch the computer he was using?
A: I don't know if he ever did or not.
Q: You said that one of the issues that Cousin had was that she would take things that didn't belong to her?
A: Yes.
Q: Did you ever confront her about -- well, first of all, what types of things did she take?
A: Just small items; it could be like pens, hair clips,

personal items of somebody else's, like a plastic toy ring. I mean, anything kids like.

Q: Would you ever confront her and say, Cousin did you take such and such a thing?

A: Yes, we have.

Q: Would she tell you the truth?

A: Well, like most kids, they try to deny it until we found it in her possession.

Q: So she would lie about it?

A: Well, like most kids do ---

Q: I'm not asking about most kids; I'm asking about Cousin When you asked her a question about her stealing things, did she lie to you?

A: I can't answer that, because I don't know if she was really lying or not.

Q: Well, then how do you know that she stole things?

A: Because we found the items, but we don't know if was actually her. I mean, I can't tell you because I wasn't there to watch her steal it. So ---

Q: Do you recall testifying on direct and actually just now, that Cousin would take things that didn't belong to her?

A: Yes.

Q: But now you're saying that you don't know if she took things?

A: No, you asked me if she was lying to me and I don't know.

Q: But when you would ask her whether or not she had stolen them, she would say no?
A: She wouldn't directly say no.
Q: Does your mother take sleeping pills that you know of?
A: At times she does.
Q: They work pretty well; they help her sleep?
A: I don't know. I can't answer that one.
Q: How often would you say she takes sleeping pills?
A: I don't know.
Q: But you know that she does?
A: Yeah, I know that she's had them before.
Q: You also testified that you found out about the allegations in this case in the summer of 2012?
A: I believe that was the time. I know it was summertime and I believe the date is right.
Q: An allegation that your father was sexually abusing your daughter is something that most people might consider important?
A: Yeah.
Q: Did you consider it important at the time the allegation was made?
A: Yes.
Q: You said that Cousin is still in counseling. What type of ---
A: I did not say she's still in counseling. I said she --

she was until a year ago.

Q: Is there anything legally preventing you from seeing your father and your mother?

A: No.

Q: And in fact, at the beginning of the week, you and Cousin were sitting with your mother, your wife, in very close proximity to your father in this courtroom. Isn't that correct?

A: Yes.

MS. WALTER: Court's indulgence?

BY MS. WALTER:

Q: And I'm sorry, what did -- before this week, when was the last time you saw your father?

A: The last time I saw my father? I don't know the exact date.

Q: Has Cousin stayed in contact with your mother?

A: She talks to her on occasion.

Q: Has she ever visited her or been personally together with her?

A: Yes, my mother actually helped us move to Indiana.

Q: When was that?

A: About five years ago.

Q: Okay. So how about in more recent history, have your mother and Cousin seen each other?

A: Yes, they have.

Q: When was that?
A: They've seen each other this week.
Q: Okay. How about before this week, earlier this year, any time before this week this year, 2020, have they seen each other?
A: Yes.
Q: When?
A: July when we were down here.
Q: What were you here for in July?
A: The 4th of July.
Q: Who all got together for the 4th of July?
A: We stay at my friend's house down here and my mom came over to shoot fireworks off with all of us.
Q: What about before July, when was the time before that, that Cousin was personally in the same area as your mother?
A: The last time you had us down here for court.
Q: Well, I actually still don't have you down here for court.
A: Well, you know what I mean.
Q: No, I don't, because I've never had you down here for court.
THE COURT: All right. Let's not argue about that. It was -- the matter obviously the jury knows came up before. So the last time that there was court. Okay? Let's not argue about it.

BY MS. WALTER:

Q: So that would have been in March?

A: Yes.

Q: So the two times that we're talking about are March of this year, you were in -- Cousin and Susan would've been together, and then no other time until 4th of July, Cousin and Susan together?

A: Right.

MS. WALTER: Nothing further, Your Honor.

THE COURT: Redirect?

MR. BROWN: Briefly. Briefly, Your Honor.

REDIRECT EXAMINATION OF MICHAEL MCKINNON BY MR. BROWN:

Q: Michael?

A: Yes.

Q: I know it can be confusing. You got custody in 2012 of Cousin from her mother, right?

A: Yes.

Q: And she was asking about this case, but you didn't learn about this case in 2012; is that right; I'm talking about the first issue?

A: Yes.

Q: Okay. All right. And your dad is not allowed to see Cousin right now; is that right?

A: Right, no, he's not supposed to have any contact with her.

Q: But she can see everybody else?

A: Yeah, we can see anybody else.

Q: Thank you.

THE COURT: Anything on those questions, Solicitor?

MS. WALTER: No, Your Honor.

THE COURT: All right. Sir, you may step down.

BY THE COURT:

THE COURT: All right, ladies and gentlemen, we are going to stop for the evening. I'm going to resume tomorrow morning. Again, the clerk's office will have something different for you tomorrow morning in the, I keep saying jury room; it's a courtroom, but it's your jury room for this case and I would like you there at 9:15 to give you a little time to enjoy that, and hopefully, we will get started at 9:30 with the resumption of witnesses by the defense at that point in time.

Remember, don't talk about the case; don't allow anybody to talk to you about it. Don't do any research, don't investigate anything. You decide the case only on the facts you hear in this courtroom.

With that, I'll see you back tomorrow morning 9:15.

Thank you very much. Leave the pads and pens.

(REPORTER'S NOTE: Jury exits courtroom @ 6:02 p.m. The following takes place outside the presence of the jury.)

THE COURT: All right. Anything further from the state

THE CLERK: Please raise your right hand and place your left hand on the Bible.

SHELBY MCKINNON, HAVING BEEN DULY SWORN, TESTIFIES AS FOLLOWS:

THE CLERK: Please be seated and state your full name for the Court?

MS. SHELBY MCKINNON: My name is Shelby McKinnon.

THE COURT: Go ahead, Mr. Brown.

MR. BROWN: Thank you, Your Honor.

DIRECT EXAMINATION OF SHELBY MCKINNON BY MR. BROWN:

Q: Ms. McKinnon, where are you from?

A: Indianapolis.

Q: Okay. Do you live there now?

A: Yes.

Q: Are you married?

A: Yes.

Q: Who are you married to?

A: Michael McKinnon.

Q: How long have y'all been married?

A: Seven years.

Q: Okay. Do y'all have any children?

A: Two.

Q: Who are they?

A: Cousin which is my non-biological child, and Minor 1 is my biological.

Q: Do you consider Cousin to be your daughter?
A: Absolutely.
Q: How long have you known Cousin
A: Since 2011.
Q: Okay. I'm sorry, when did you say you got married?
A: 2012.
Q: Okay. Do you know Kevin McKinnon?
A: Yes.
Q: Do you know his wife?
A: Yes, Susan.
Q: That's your husband's mother?
A: Yes.
Q: Okay. Do you know Edna McKinnon?
A: Yes.
Q: Who is that?
A: Great grandma, Kevin's mother.
Q: Okay. Have you ever been to the mobile home on 814, Highway 814, that they used to live at?
A: Multiple times.
Q: Okay. Can you describe the home?
A: You walk in the front door, you have the living room, the pool room, there's a bedroom to the back, bathroom, fireplace area, kitchen, dining room, craft room, bedroom.
Q: Okay.
A: Bathroom off to the side.

Q: Let's talk about 2011 and '12 when you met Eric and Cousin Okay?
A: Okay.
Q: How old was Cousin at that time?
A: She was seven, six or seven.
Q: Okay. And where were y'all living?
A: Socastee.
Q: Okay. Who lived in y'all's home?
A: Just me and Michael.
Q: Okay. Where was Cousin at the time?
A: Her biological mother's.
Q: Was she living in the area or out of state?
A: In the area.
Q: Okay. And then how did she come to live with y'all?
A: There was an incident to where we received emergency custody of Cousin
Q: Okay. Well, let's back up before then.
A: Okay.
Q: Where were you working at that time?
A: At Kohl's, Steak 'n Shake, and the racetrack.
Q: You had three jobs?
A: Yes.
Q: What about Eric?
A: What about who, I'm sorry?
Q: I'm sorry. Michael?

A: He was working at the racetrack and at -- he was working at Hall's and then he switched to MAACO Body Paint shop.
Q: Okay. And you mentioned that Cousin came to live with you. When did she come to live with you, about what year?
A: 2014.
Q: Okay. And you mentioned an incident, I'm not going to ask who, but it wasn't regarding Kevin McKinnon?
A: No.
Q: Okay. Was law enforcement involved?
A: Yes.
Q: Okay. Is that when you learned about Cousin -- what was going on with Cousin
A: Yes.
Q: Okay. And again, that's what year?
A: 2014, January of 2014.
Q: Okay. Did you become concerned of law enforcement's actions?
A: Yes.
Q: Did you go and what did you do?
A: Took Cousin to the doctor and confirmed what happened to her.
Q: Well, you talked to her?
A: Yes, I talked to her. Can I take ---
COURT REPORTER: Yes, thank you.
THE COURT: I'm sorry; yes, ma'am.

A: What happened -- I had talked to her, I mentioned a couple of names, lots of names.

BY MR. BROWN:

Q: Did you ask her -- is this in relation to what law enforcement was doing with someone, not Kevin?

A: Yes.

Q: Okay. You asked her a series of names is what you're saying?

A: Yes.

Q: Okay. Can you tell us whose names you asked?

MS. WALTER: Objection, Your Honor, relevance.

THE COURT: Y'all come over here and talk to me.

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

THE COURT: For the record, the objection is sustained.

BY MR. BROWN:

Q: Shelby, based on your conversation, were you concerned with anything about Kevin McKinnon?

A: Absolutely not.

Q: Okay. Did you take your daughter to a doctor after that?

A: Yes.

Q: Okay. From there, what did you do?

A: We had to go to CRC Center and ---

MS. WALTER: Objection, Your Honor.

THE COURT: That fact is already in evidence.

BY MR. BROWN:

Q: So what year did you go there?

A: 2014.

Q: Okay. Did you go with Cousin

A: Oh, yeah.

Q: Okay. Did -- was Cousin allowed to spend the night at her grandma and grandpa's during any of these times?

A: She did, once or twice.

Q: Okay. Did Complainant ever come stay at y'all's house?

A: Yes, all the time.

Q: A lot?

A: I would say a lot.

Q: Would you say the girls were close?

A: Very.

Q: Okay. What about Brother did he come over?

A: Like birthday parties, but that was about it.

Q: Okay. Did you have a lot of family gatherings at your house?

A: No.

Q: Did you have family gatherings at anyone's house?

A: Kevin and Susan's.

Q: Okay. Can you describe those family gatherings?

A: Cookouts, the boys would work on the racecars, we would just hang around, play cards; family stuff, that's what we did.

Q: What were the kids doing during these family gatherings?
A: Usually playing outside if it was nice.
Q: Okay. If it wasn't nice, what would they do?
A: Go in the computer room and play on the computer, dancing, they would write stories.
Q: Do you remember the -- the two girls, you said they were dancing?
A: Yeah, one of their favorite songs was "What Did the Fox Say," and Katie Perry, "Eye of the Tiger."
Q: Did they practice these things and then show them to family?
A: Oh, yeah, they would do the whole routine. They had so much fun.
Q: Okay. Typical girl stuff?
A: Yes.
Q: Now, they're cousins, right?
A: Yes.
Q: Were they more like sisters, though, in your opinion?
A: Yeah, yeah; they're really, really close to one another.
Q: Was there ever a time that you wondered, where is Kevin and [redacted]
A: No.
Q: Okay. Moving forward from 2014 -- '13 and '14, did the kids go to Grandma and Grandpa's between May 2015 and July 2015?

A: No, because they were opening the new shop in Surfside.
Q: So they weren't -- they didn't go over there at all?
A: No. They were busy between working and the racetrack and the shop; they had no time.
Q: Who was busy?
A: Kevin, Susan; and then Edna, she should be at the shop.
Q: Edna is -- remind me again?
A: That's Kevin's mom.
Q: Okay. Where is she living at at this time?
A: Kevin and Susan's.
Q: She was living at their house?
A: Uh-huh, (affirmative response).
Q: So there's three adults living at the house?
A: Yes.
Q: Okay. In the mobile home?
A: Yes.
Q: Okay. Now, keep going into that year. Did the girls go to a summer camp?
A: Yes, in Carolina Forest.
Q: Okay. And then did you get contacted by the camp or law enforcement at that time?
A: Law enforcement.
Q: Okay.
A: I was at Steak 'n Shake.
Q: Okay. And you're aware of allegations?

A: Yes.
Q: Regarding Kevin?
A: Yes.
Q: Okay. So from there, what happened? Did you allow -- was the -- did you allow any more interaction between Complainant and Cousin
A: After -- after, I think it was like two or three months, yes.
Q: Okay. Was Cousin allowed to see Kevin?
A: No.
Q: Do you still live in the area?
A: I live in Indianapolis now.
Q: When did y'all move?
A: December of 2015.
Q: Okay. Before this, was Cousin in counseling before you moved?
A: Yes.
Q: When did she start counseling?
A: 2014.
Q: Okay. And why was she going to counseling?
A: For PTSD, anxiety, depression, and sexual abuse.
Q: Did anything happen -- was she going to counseling with anything related to Mr. McKinnon, Kevin McKinnon?
A: No.
Q: Okay. You said that at the grandparents' house, the kids

would be on the computer?
A: Yes.
Q: Do you know what they would watch or look at or do?
A: Usually, YouTube.
Q: Okay. Did Brother Cousin and Complainant use the computer?
A: Yes.
Q: Where was Kevin during these times?
A: Usually, out in the garage, outside, cooking, mostly in the garage working on the racecars.
Q: Okay. Was he, to your knowledge, ever alone with the kids?
A: No.
Q: Okay. Now, you also said you also worked at the racetrack?
A: Yes.
Q: And that's during the race season?
A: Yes.
Q: What did you do?
A: Worked at the pit gate signing drivers in, get all their tires, supplies, everything before they started racing.
Q: Okay. What did you do during the race?
A: Stayed in the pit gate checking in people who's coming to the infield. And then, I would go out whenever Michael raced, then go back to my pit gate.
Q: Where was Cousin during this time?

A: With me or Michael.
Q: Okay. They -- did the race -- the racers have to stay late?
A: Yes.
Q: About what time did they get done?
A: 11 o'clock sometime, sometimes 11:30.
Q: And was Michael, your husband, one of the racers?
A: Yes.
Q: Okay. Did you stay until he was done or did you leave before then.
A: I left after -- like after all the races were done, me and [redacted] would go home.
Q: You'd go to your house or you'd go to Grandpa's.
A: Our house.
Q: Okay. Where was Michael?
A: Still working cleaning up everything, unloading the safety truck, loading his car up.
Q: Okay. Let's talk about [redacted] again. Was she -- could you describe her? Was she a nice girl, mean girl, attention seeking, shy; how would you say?
A: [redacted] was a little attention seeker. She was happy go lucky, just a normal seven, eight-year-old child.
Q: Okay.
A: And that point six or seven.
Q: Okay.

MR. BROWN: Court's indulgence, Your Honor?

THE COURT: Yes, sir.

BY MR. BROWN:

Q: Ms. McKinnon, I want to show you some pictures.

A: Okay.

THE COURT: Are you gonna ask her to handle them?

MR. BROWN: I'm sorry?

THE COURT: Are you gonna ask her to handle them?

MR. BROWN: Yes, yes, Your Honor.

THE COURT: You need to put some gloves on.

A: Okay.

MS. WALTER: Can the state see them, please?

MR. BROWN: Yes. Your Honor, I'm gonna do these all at once and then I was going to use the projector, or I can use this.

THE COURT: Have they been introduced into evidence yet?

MR. BROWN: No, Your Honor.

THE COURT: Well, you got to do that.

MR. BROWN: Okay.

THE COURT: You got to get the witness to identify them.

MR. BROWN: Okay.

COURT REPORTER: Those are small, so if you can't get them on.

MR. BROWN: You need small.

COURT REPORTER: The gloves she has are small.

A: I think I've got it.

THE COURT: All right.

MR. BROWN: I've got some she can try.

THE COURT: That's all right. She's got it.

MR. BROWN: Okay.

MS. WALTER: Your Honor, may we approach, please?

THE COURT: Yes, ma'am.

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

THE COURT: So what are the numbers?

MR. BROWN: 6, 7, 8, 9, 10, 11, 12, 13, and 14.

THE COURT: All right. Show them to the witness then.

MR. BROWN: Thank you.

BY MR. BROWN:

Q: Will you take a look at these and don't show them to anybody else. Look -- what number are you looking at?

A: Number 6.

Q: Number 6. Okay. Go ahead and look through all of those. Do you recognize them?

A: Yes, I took all these pictures.

Q: Okay. And don't say what they are yet, but where -- where did you find those?

A: These were underneath Cousin bed, at the head of her bed underneath her mattress.

Q: Okay. When did you find them?

A: In between 2016 and 2000 -- no, I'm sorry -- 2014 and 2016.
Q: Where were you?
A: Here in Myrtle Beach and in Indianapolis.
Q: Okay. What did you do with those -- what did you do with them?
A: I took them out and gave them to her counselor.
Q: Okay. Did you take the pictures?
A: Yes.
Q: Okay. And when did you take those pictures?
A: 2014 through -- I mean 2014, '15, '16.
Q: Okay. Did you send any of these pictures to anyone else?
A: One of these, I did.
Q: Okay. Who did you send it to?
A: Crystal.
Q: Okay. Did you -- did you provide any to the state?
A: No -- yes, one.
Q: Don't hold it up.
A: No.
Q: Okay. Did you have contact with the state when this -- this case started?
A: Yes.
Q: Okay.
A: At the very beginning.
Q: Okay. And have you had contact with them recently?

A: Not since 2017.
Q: What happened -- why did they stop contacting you?
A: They told Stephanie D -- I can't -- Stephanie ---
Q: Someone with the solicitor's office?
A: Yeah, the solicitor, that Cousin told the truth and we heard nothing else after that.
Q: So once you relayed information, did you send documents to them?
A: I sent none of these, but another document, yes.
Q: Okay. You sent it to the solicitor's office?
A: Yes.
Q: And told them that what?
A: Cousin told the truth and that was it. They said okay.
Q: They stopped contacting you after you told them this?
A: Yeah, never received any more court papers, no phone calls, nothing.
Q: So you identified all of these pictures that I handed you?
A: Yes.
Q: Okay. And you took all these pictures?
A: Yes.
Q: Defense 6 through 14.

DEFENDANT'S EXHIBIT NUMBER 6 THROUGH 14

MARKED FOR IDENTIFICATION

Q: Did you ask Cousin about the photos you found under her

mattress?
A: Yes.
Q: Okay. Back to Kevin and the shop that he and his -- that his mom and his wife were -- that they owned. Okay?
A: Uh-huh, (affirmative response).
Q: Did you ever go to that shop?
A: Every once in a while. I was pretty busy.
Q: What kind of shop is it?
A: An antique shop.
Q: Where was it?
A: It was in Surfside Beach.
Q: Did you work at the shop?
A: No.
Q: You had enough jobs?
A: Yes.
Q: Did you help build anything at the shop?
A: I helped like one time put stuff up. I was also pregnant at the time.
Q: Okay. What did you help put up?
A: I think I did the books, if I remember correctly.
Q: Do you know if shelves were being built?
A: Yes, at the new shop, yes.
Q: And when you say new shop, was the -- where were the two shops?
A: Side by side.

Q: Okay. So same shopping center?
A: Yes.
Q: Okay. Did you know if your husband went there?
A: He went there once or twice. He was just too far away to come; he was exhausted after work.
Q: Do you know if Kevin went there?
A: Yes.
Q: He didn't work there?
A: No, he didn't. He worked there, but he had other jobs; he was busy.
Q: Okay. And again, May of 2015, July 2015, the kids didn't go over to their house?
A: No.
Q: Okay. And that's because why again?
A: Busy working. We had basically three jobs.
Q: I want to ask you about the two girls now. Did you ever catch them, walk in on them, acting out sexually with each other?
A: One time at my apartment in Carolina Forest.
Q: And that's here in Myrtle Beach?
A: Yes.
Q: Okay. What was your reaction?
A: I just stayed calm. They're kids; I can't freak out. I called her mom.
Q: You told who, Crystal?

A: Yeah.
Q: Okay. You told her about what you just saw?
A: Yeah, and we talked about it, calm, cool, and collected. We came up with a game plan.
Q: What year was this? I know it's been a long time.
A: I know. I want to say 2013, 2014.
Q: Okay. And you were here in Myrtle Beach?
A: Yes.
Q: At your house?
A: Yes, in Canterbury at Carolina Forest.
Q: Were they -- was this an afternoon, was this a sleepover, was this a morning?
A: A sleepover.
Q: Okay. Why did you go in -- why -- where were they, what room?
A: In Cousin bedroom.
Q: Okay. Was the door closed and locked? Was it wide open? Tell us.
A: Cracked.
Q: It was cracked.
A: We never let them shut the door.
Q: Why did you go in there?
A: To see what they were doing.
Q: Okay. Just mother's intuition?
A: Yeah.

Q: Okay. After that, what did you do with the two children?
A: The next time -- Crystal talked with Complainant I talked with Cousin The next time they stayed the night, Complainant slept on the couch, and Cousin slept in her bedroom.
Q: You separated them is what you're saying?
A: Yes.
Q: Did you separate them after you found them, caught them?
A: Yes.
Q: Okay. Was it tough to stay calm?
A: Yeah, but you have to, they're kids.
Q: Okay. Cousin has not been allowed to see Kevin McKinnon in years?
A: Correct.
Q: And that's because of this court order?
A: Yes.
Q: Okay. If it were up to you, would you let Cousin spend time with Kevin McKinnon?
A: Absolutely.
Q: Without fear or hesitation?
A: No fear or hesitation.
Q: Thank you. Please answer any questions.
THE COURT: Cross-examination?
MS. WALTER: Your Honor, may we approach briefly?
THE COURT: Sure.
(REPORTER'S NOTE: Bench conference is held off the record in

MS. WALTER: Yes, Your Honor.

THE COURT: With those instructions, I will allow you to do so.

MS. WALTER: Thank you, Your Honor.

THE COURT: All right. Ask the jury to come back in.

(REPORTER'S NOTE: Jury enters courtroom @ 10:14 a.m.)

THE COURT: All right, Solicitor. Cross-examination?

MS. WALTER: Thank you, Your Honor.

CROSS-EXAMINATION OF SHELBY MCKINNON BY MS. WALTER:

Q: Ms. McKinnon, prior to this week, and excluding the hearing in March, when is the last time that you saw the defendant?

A: July 4th weekend.

Q: Who -- and tell me the circumstances of when you saw him?

A: I went over to his house and just said hi.

Q: Just you and the defendant?

A: And my husband and our son.

Q: After these -- you said after these allegations came out, you -- you wouldn't let Cousin see the defendant, correct?

A: Yeah, she's not allowed.

Q: And would you and your husband still see the defendant fairly regularly?

A: Whenever we visited, and came down here for court, and 4th of July, yeah.

Q: Now, you moved to -- I'm just trying to find my notes.

You moved to Indianapolis in December of 2015?
A: Yes.
Q: Okay. So when you were in Indianapolis, how often -- did you come back often to see the defendant?
A: No, just for court.
Q: So no other activities other than court?
A: 4th of July, but it wasn't to see him, it was a party, a 4th of July party.
Q: You still have your gloves on?
A: Yes.
MS. WALTER: Your Honor, may I approach?
THE COURT: Yes, ma'am.
BY MS. WALTER:
Q: I am showing you State's Exhibit 18. Please don't show it to the jury yet.
A: That was in 2016, that was a race.
THE COURT: Solicitor.
MS. WALTER: Oh, I'm sorry, Your Honor, thank you.
STATE'S EXHIBIT NUMBER 18
MARKED FOR IDENTIFICATION
BY MS. WALTER:
Q: So I take it you recognize that exhibit?
A: Yes.
Q: What do you recognize it to be?
A: We won a race back in 2016. This is my husband, myself,

and Kevin, and a checkered flag and a racecar.
Q: Okay. And you agree that this is a picture taken on April 1st of 2016?
A: It was probably an old picture from Facebook, and he just put that as his profile picture. You can do that. That -- that car, we didn't have in 2016. We got rid of that car to get a vintage racecar.
Q: When did you get rid of that car?
A: 2015, because you couldn't race that car in Indianapolis.
Q: So what was it that made you -- this will be just for ID only at this point. What was it that made you change your Facebook profile to an old picture?
A: May I see that again?
Q: Sure.
MR. BROWN: Your Honor, what's the relevance of a her Facebook profile picture?
THE COURT: Well, there may or may not be right now, but we'll see.
A: That's definitely Kevin's profile ---
Q: You can't show it to the jury?
A: Oh, I'm sorry. That's Kevin's profile picture, not mine.
Q: Okay. So do you know why he would've changed his profile picture?
A: Because racing is our -- that is what we did; we did as a family. That's what we still do.

Q: So he hadn't won any races between 2015 and 2016?
A: Heck, yeah, he has, up at Indianapolis, not down here.
MS. WALTER: Court's indulgence for one moment?
MR. BROWN: Your Honor, may we approach?
THE COURT: Sure. Let me see that?
MS. WALTER: They haven't been marked yet, Your Honor.
THE COURT: That's all right.
(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)
MS. WALTER: May I approach the witness, Your Honor?
THE COURT: Yes, ma'am.

STATE'S EXHIBIT NUMBER 19 AND 20

MARKED FOR IDENTIFICATION

BY MS. WALTER:

Q: I'm showing you State's Exhibit 19 and 20; please don't show them to the jurors. Do you recognize the pictures in those posts?
A: Yes.
Q: And ---
A: That's Indianapolis Speedrome.
Q: And when was that race?
A: Oh, goodness. He raced there 2017, '18. That's the crossover right in the middle where you see where the figure 8 racecars go through.
Q: Okay. And did -- did Michael race in that race?

A: Not figure 8s, he raced in the factory front-wheel drives.
Q: At this event though?
A: Yes.
Q: Who all -- and where was this, where did this take place?
A: Indianapolis Speedrome in Indianapolis, Indiana.
Q: Who all attended?
A: Me, Cousin and our friend, Steve. And Steve goes live on Facebook so you can see all the comments.
Q: But you would agree with me that these are not live Facebook posts; they're still photos, correct?
A: Yeah. I mean, yeah, they're pictures.
Q: Do you recognize these posts?
A: Let me see them again. I mean, we've raced hundreds of races since then.
Q: Specifically, State's Exhibit 19 where he commented on the post.
A: These are pictures of like the videos right before they start. It says viewed 158 times, and then you see all the comments here. Same with this one. Steve Tame was live. These are videos before they're even played. And, yes, Michael was racing.
Q: Now, you talked about having contact with the solicitor's office.
A: Yes.

Q: And you mentioned Stephanie, but do you recall having a conversation with Patty Fine, who is the head of the victim advocates?
A: No, just Stephanie.
Q: So you don't recall a conversation in April of 2017 where you called to speak with my trial -- normal trial partner, I'm sorry, George Henry -- Leigh Andrew?
A: Probably to discuss Cousin
Q: Do you recall that phone call?
A: I don't.
Q: And do you recall saying to Ms. Fine, that your daughter is ---
MR. BROWN: Objection, Your Honor, she ---
THE COURT: Sustained. If she doesn't recall the phone call, I'm not gonna allow you to go into the questioning.
BY MS. WALTER:
Q: Now, you said you recall a phone call with Stephanie Dietzel, right?
A: Yes.
Q: Do you recall telling Stephanie that your daughter is known to lie?
A: Back in - yes, she's a kid; every kid lies.
Q: Well, not -- we're just dealing with your daughter. Maybe your daughter lies.
A: Okay.

Q: Do you recall saying Cousin will take something, you will ask her about it, and she will lie about what she just did?
A: That was before all of her counseling. She is a child at that point.
Q: Do you ---
MS. WALTER: Your Honor, I'm gonna ask that you instruct the witness to answer the question.
THE COURT: All right, ma'am. When you're asked a question, you need to respond to the question. You can explain it thereafter.
A: Okay.
THE COURT: But you need to listen to the question, respond to the question, and if you need to explain it, thereafter, you certainly are welcome to do so.
A: Okay.
THE COURT: Go ahead.
BY MS. WALTER:
Q: Do you recall telling Stephanie Dietzel that your daughter is known to lie?
A: Yes.
Q: Do you recall telling her, Cousin will take something, you'll ask her about it, and she will lie about what she just did?
A: Yes. Can I explain now? Would that be okay?

THE COURT: If you wish -- if you wish to explain your answer, ma'am, you are welcome to do so.

A: Yes. That was before all of her counseling. After all of her counseling, she has done a complete 360.

Q: Do you recall during the same phone conversation that you were asking for the charges to be dismissed?

A: Yes, because Cousin admitted ---

Q: You cannot say what Cousin said. Do you recall during this conversation that you asked for the charges to be dismissed?

MR. BROWN: Your Honor, I would ask that she be allowed to answer the question that the solicitor asked?

THE COURT: All right. Again, ma'am, just listen to the question. Answer the question. Again, if you need to explain the answer you may do so.

A: Okay.

THE COURT: All right? Go ahead and ask your question, Solicitor.

BY MS. WALTER:

Q: Do you recall that during this conversation, you asked Stephanie about getting the charges dismissed?

A: Yes.

Q: And that you told Stephanie you did not want to go forward with anything?

A: Yes.

Q: Now, Mr. Brown asked and you responded that the defendant was never alone with the kids. Do you remember that question and answer?
A: Yes.
Q: All right. So let's first deal with Cousin You said that Cousin would sometimes spend the night at the defendant's house?
A: Yes.
Q: Were you with her when she spent the night there?
A: Most of the time Michael was, because he lived there for -- well, when we first met. But, yes, one of us -- she only spent the night maybe one or two times.
Q: When did she spend the night, what year?
A: 2013.
Q: Never spent the night after 2013?
A: Not with everything that happened with somebody else.
Q: When Complainant would spend the night, were you there?
A: Complainant is not my kid, so no.
Q: Okay. So then you have no idea whether the defendant was ever alone with Complainant because you were not there, correct?
A: Susan and Edna was always home.
Q: Well, if you were not there, what is your basis for knowing that the defendant was never alone with Complainant
A: I don't know, because Susan and Edna was always there.
Q: But if you were not there, do you have any personal

knowledge, you seeing that the defendant was never left alone with Complainant

A: No.

Q: And when you said that between May 2015 and July 2015 the kids, plural, didn't go over?

A: No.

Q: Were you at the defendant's home 24 hours a day, seven days a week, during that time?

A: No.

Q: So you would have no idea whether or not Complainant went over when you were not there?

A: No.

Q: You also responded to a question for Mr. Brown that you would allow your daughter to be with the defendant without fear or hesitation?

A: Yes.

Q: Is that despite the fact that in 2019 he was convicted of two different crimes?

A: Yeah, I know about the crime; and yes, I feel comfortable with Kevin.

MS. WALTER: Court's indulgence.

May I approach, Your Honor?

THE COURT: Yes, ma'am.

MS. WALTER: And I am approaching with Defense Exhibit 14.

THE COURT: All right.

BY MS. WALTER:

Q: Now, I think you testified that you did not send that or any of the other exhibits that Mr. Brown showed you to the state, correct?

A: Correct.

Q: Did you ever send that exhibit to the police?

A: No, I didn't know I had to.

Q: Thank you.

MS. WALTER: Nothing further, Your Honor.

THE COURT: All right. Any redirect?

MR. BROWN: Yes, Your Honor, briefly.

REDIRECT EXAMINATION OF SHELBY MCKINNON BY MR. BROWN:

Q: Shelby?

A: Yes.

Q: Where was -- was your contact with the solicitor's office or was it with Marcus Rhodes?

A: It was with Stephanie, the solicitor.

Q: Okay. So the cops weren't calling you every day?

A: No.

Q: Okay.

A: Never called.

Q: But the state did, the solicitor's office?

A: At the very beginning, yes.

Q: Okay.

A: And we would get physical mail.
Q: And then it stopped?
A: Completely.
Q: And it stopped after you said it didn't happen?
A: Yes.
Q: So the state turned their back on you and Cousin
A: Yes.
Q: After you told them the truth and they don't want to hear it, because it doesn't fit the narrative, right?
MS. WALTER: Objection, Your Honor.
THE COURT: Sustained. Mr. Brown?
MR. BROWN: Yes, Your Honor.
THE COURT: That's an improper question. The jury will disregard that. The -- this witness nor any of the attorneys may vouch for the truthfulness or credibility of any other witness.
Thank you very much.
MR. BROWN: Yes, sir.
THE COURT: Any other questions?
MR. BROWN: No, Your Honor, that's it.
THE COURT: All right. Anything on those questions, ma'am, that were just asked?
MS. WALTER: Just very briefly, Your Honor.

RECROSS-EXAMINATION OF SHELBY MCKINNON BY MS. WALTER:

Q: When you called Stephanie, did she explain to you that,

once you ask for charges to be dropped, that you are no longer considered a victim and are not entitled to victim's services?

A: Not that I remember.

MS. WALTER: Nothing further.

THE COURT: All right, ma'am, you may step down. Thank you very much.

All right, Mr. Brown, your next witness, please.

MR. BROWN: Your Honor, defense calls Cousin

THE COURT: All right. Very good. Mr. Brown, you will start off with date of birth and age?

MR. BROWN: Yes, Your Honor.

THE CLERK: Please raise your right hand and place your left hand on the Bible.

Cousin BROOK MCKINNON, HAVING BEEN DULY SWORN, TESTIFIES AS FOLLOWS:

THE CLERK: Please be seated and state your full name for the court.

THE COURT: Go ahead, Mr. Brown.

DIRECT EXAMINATION OF Cousin BROOK MCKINNON BY MR. BROWN:

Q: Can you tell us your full name?

A: Cousin Brook McKinnon.

Q: And what's your date of birth?

A: [redacted], 2006.

THE COURT: And her current age now?

BY MR. BROWN:

Q: And how old are you?

A: 14.

BY THE COURT:

THE COURT: All right. Ladies and gentlemen of the jury, as I explained previously when we had minor witness come before the Court, again, I'll inform you that where a witness is a child or a minor, it is up to you collectively, the jury, to determine, as with any other witness, whether that testimony is credible or believable. Now, you can consider regarding credibility and believability, the age of a child or minor, the ability of that minor to observe and remember facts, the minor's ability to understand and answer questions. It's up to you decide whether or not the minor understands the seriousness of appearing as a witness in a criminal trial, whether or not the minor understood the questions, whether they have a good memory, whether they understand the difference between lying and telling the truth. You are also to look at whether or not the minor may be influenced by the way questions are asked by either side. And again, it's up to you to decide whether the child or the minor understands the questions asked and answers the questions truthfully.

All right, Mr. Brown, you may proceed.

MR. BROWN: Thank you, Your Honor.

BY MR. BROWN:

Q: [redacted] how are you?

A: I'm good, a bit nervous, but good.
Q: Okay. Where do you live right now?
A: I live up in Indiana.
Q: Who do you live with?
A: My stepmom and dad and my brother.
Q: What's your dad's name?
A: Michael.
Q: What's your stepmom's name?
A: Shelby.
Q: Okay. Do you have grandparents?
A: Yeah.
Q: What are their names?
A: On my dad's side, it's Kevin and Susan, and then on my mom's side or my stepmom's side it's Shannon and Gary; but then on my bio-mom's side it's Christy and Richard.
Q: Okay. And do you have any great grandparents?
A: Yes.
Q: What is your great grandparents' name?
A: On my dad's side, it's Edna, and then on my mom's side it's -- I don't know my great grandpa's name, I can't remember it, and then it's Shirley for my great-grandma.
Q: Okay. So where do you live now?
A: Indiana.
Q: Okay. Did you ever live here?
A: Yes.

Q: When did you live here?
A: I lived here from the time I was born to about December of 2015, because that's when we moved to Indiana.
Q: You were born here?
A: Uh-huh, (affirmative response).
Q: Did you go to school here?
A: Yes.
Q: What grade are you in now?
A: I'm a freshman in high school; so 9th.
Q: Okay. Do you like school?
A: Yeah, it's fun.
Q: Do you play any sports?
A: If marching band -- if marching band counts, then, yes.
Q: I think it counts. You play an instrument?
A: Uh-huh, (affirmative response).
Q: What do you play?
A: I play a trumpet.
Q: Okay. And that's in Indiana, right?
A: Yes.
Q: So let's go back to when you were living here. You were born here?
A: Yes.
Q: And when did you move away?
A: We moved away December of 2015.
Q: Okay. So about five years ago?

A: Roughly, yeah.
Q: Okay. Back when you lived here, did you always live with your dad?
A: No.
Q: Who did you live with?
A: I lived with my bio-mom.
Q: Okay. In this area?
A: Somewhat. We lived off of probably like 30 minutes from here; I'm not too sure.
Q: Okay. You don't drive yet?
A: No.
Q: Okay.
A: Not yet. Soon.
Q: Okay. Let's see here. So let's go back to when you moved from your mom's here to your dad's here, right?
A: Uh-huh, (affirmative response).
Q: About what year, do you remember?
A: 2014.
Q: Okay. And when you moved to your dad's, was that your choice or was there an issue?
A: There was an issue.
Q: Okay. And the issues would have been not Kevin McKinnon, not Grandpa?
A: Yes.
Q: Okay. Do you call Kevin Grandpa, Gramps?

A: Grandpa.
Q: Okay. So something happened. I'm not going to ask you who. Okay?
A: Uh-huh, (affirmative response).
Q: But it was some type of abuse?
A: Yes.
Q: Okay. Did you go to counseling for that?
A: Yes.
Q: Okay. Did you go to see doctors about it?
A: Yes.
Q: Did you go and talk -- do you know a little pink house; did you go there?
MS. WALTER: Objection, Your Honor. May we approach?
THE COURT: Okay.
(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)
THE COURT: Go ahead, Mr. Brown.
MR. BROWN: Thank you, Your Honor.
BY MR. BROWN:
Q: I think we were talking about going to the little pink house; do you remember that?
A: Yes.
Q: Okay. And when you went there, you talked to Ms. Dianne; do you remember her?
A: Yes, I remember who you're talking about, I just didn't

remember her name.
Q: Okay. And that was what year?
A: I'm not too sure of the year.
Q: Okay. How many times did you go?
A: A few.
Q: Okay.
A: To be honest, I don't remember the exact number, but I remember I did go a few times.
Q: Okay. When you went there the first time, did you -- did you give an interview?
A: Yes.
Q: Okay. And that was not about Grandpa?
A: No.
Q: It had nothing to do with him?
A: Huh-uh, (negative response). No, sir.
Q: Do you remember that interview?
MS. WALTER: Objection, Your Honor, it's irrelevant.
THE COURT: Sustained.
BY MR. BROWN:
Q: In that time period, did you go and visit with your cousin, Complainant
A: Yes, we were often together.
Q: Okay. Did you go -- did she come stay at your house?
A: I don't know if was during that time when she came to my house, but I know we would see each other if we ever went over

to like Grandma and Grandpa's house and stuff like that.
Q: When y'all Grandma and Grandpa's house?
A: Yeah, we would see each other there if it was like if it was on Sunday's and stuff, the family would like get together, and then they'd watch football or if they were working on the racecars, stuff like that.
Q: Okay. Did you hang out; were you close with her?
A: Uh-huh, (affirmative response). Very close.
Q: Okay. Was there another child?
A: Brother
Q: And who is he?
A: He is Complainant brother; so my other cousin.
Q: And he's older than Complainant
A: Yes, he's a year older than me; so he would be 15.
Q: Okay. So there's Brother you, Complainant
A: Yes.
Q: Okay. Who did you most hang out with when you got together at family gatherings?
A: Complainant and then my parents, because I would be attached to them sometimes.
Q: What kind of stuff did you and Complainant do?
A: We would like just, we would like pull up "Just Dance" videos on like YouTube and do those or either be out in the backyard playing around.
Q: You pulled up YouTube at Grandpa's house?

A: Yes.
Q: Okay. And you said you would do what on YouTube?
A: "Just Dance" videos.
Q: So did you and her learn a dance; is that what you're saying?
A: Well, they are like the game "Just Dance," but on YouTube and we would like spread out on the floor and like pull the video up and start dancing around do it and like trying to copy their moves.
Q: Okay.
A: Act -- just act like we were playing the game, but we really weren't, because it was on YouTube.
Q: Did you show the dance to your family?
A: Yes.
Q: Okay.
A: Sometimes we would; sometimes we just be off in the room doing it ourselves.
Q: Okay. Let's talk about Grandpa's house; is this a huge house?
A: Really big.
Q: Is it two stories?
A: One story.
Q: Okay. Is it -- do you know the difference between a mobile home and a concrete house?
A: Yes.

Q: Okay. Would you say this is a mobile home?
A: Not what I would picture a mobile home.
Q: Okay. How many times did you go over there?
A: We went over there a couple of times. Like I said, that's where we would work our racecar and stuff like that.
Q: Okay. When you say we would go over there, are you talking about you and Complainant or you and your parents?
A: Me and my parents.
Q: Okay. Did you help work on the cars?
A: Sometimes.
Q: Did you like that?
A: Uh-huh, (affirmative response). It was really fun. I still do it now sometimes, but not often anymore. I like go out into the garage and see what he's doing and stuff like that.
Q: Michael?
A: Yes.
Q: So you work on cars now at home?
A: I don't really work on them. I more just like go outside and see what he's up to and stuff.
Q: Okay. When you're at Grandma and Grandpa's house, did you talk with Grandma?
A: Yes.
Q: Did she live there?
A: Yes.

Q: What about Great-Grandma Edna?
A: She lived there towards -- before, like two or three years before we moved, but she ended up living there, yes.
Q: Okay. Back when you went to -- the first time you went to that little pink house, let's move back to that. Okay?
A: Uh-huh, (affirmative response).
Q: Did you tell them about you and Complainant
A: No, I don't believe so.
Q: Well, did you and Complainant ever do things that were inappropriate with each other?
A: After, yes.
Q: Okay. Let's talk about the camp. Okay? The summer camp, do you know what I'm talking about?
A: Yes.
Q: Tell us about that; when was that?
A: It was during the day. It was like when my parents were at work and stuff, and it was just like five minutes from our house, So I wasn't home alone or anything like that. It was just like a fun little summer camp thing to go to.
Q: This topic, is it easy to talk about?
A: Some of it, yes; other of it, no.
Q: Okay.
A: Just because it's ---
Q: I don't want to make you feel uncomfortable.
A: Yes.

Q: Okay. But let's talk about did you have conversations with Complainant

A: Yes.

Q: Did you tell her about that prior, about what happened to you?

A: I did, but I never gave her like specific details, but I like told her what happened, but I never said specific details.

Q: And this has nothing to do with Grandpa?

A: No.

Q: Okay. So you talked to Complainant about -- you told her stuff?

A: Uh-huh, (affirmative response).

Q: Okay. Because y'all are close?

A: Yes.

Q: Okay. Did she know about this at the summer camp?

A: Yes.

Q: And you had already had told her about it before?

A: Yes.

Q: Okay.

MR. BROWN: Court's indulgence?

THE COURT: Yes, sir.

BY MR. BROWN:

Q: Cousin did you draw pictures, do you remember drawing pictures?

A: Yes.
Q: Okay. Did you write notes? Did you have a journal?
A: Yes. It was more of like a notebook that I was like just doodle in or like just writing stuff in, but it was like a journal-journal.
Q: Okay. Give me a second. A whole production. All right. I want to show you ---
THE COURT: Have you asked her to put the gloves on?
MR. BROWN: I'm sorry?
THE COURT: Have you asked her to put gloves on?
MR. BROWN: Will you put some gloves on. Sorry. This is all new to me, Judge.
THE COURT: If you need any help, the clerk can help you if you need any help.
A: Okay.
THE COURT: Just ask.
A: Thank you. Yeah, for sure. Thank you.
THE CLERK: You're welcome.
THE COURT: Thank you.
MR. BROWN: May I approach, Your Honor?
THE COURT: Yes, sir.
BY MR. BROWN:
Q: Cousin I want to show you what's been marked as State's Exhibit 7, okay?
THE COURT: State's?

MR. BROWN: State's Exhibit 7.

THE COURT: Okay.

BY MR. BROWN:

Q: Do you recognize that picture?

A: Yes.

Q: Where is that?

A: That's at Grandma and Grandpa's house.

Q: You have to speak up.

THE COURT: I'm sorry, I didn't hear what you said, ma'am.

A: That's at Grandma and Grandpa's house.

BY MR. BROWN:

Q: Okay. What room is that in the house?

THE COURT: You can take your mask off.

A: Okay. It looks like the craft room, because the back room ---

Q: Okay. The bathroom?

A: Yeah, because the back room looks like their bedroom.

Q: Did y'all do crafts in there?

A: It was more of like where the computer was and stuff.

Q: Did you do drawings and things in there, too?

A: Sometimes. That's where Grandma kept like all her craft stuff and everything.

Q: Okay.

A: We would like do all the crafts and actual stuff on the

kitchen table or dining room.
Q: Do they have -- do they have animals?
A: Yeah.
Q: What do they have?
A: They had a bird, his name was Pickles, and they had two pugs.
Q: The bird's name is Pickles?
A: Yes.
Q: Did he talk?
A: Sometimes, not really.
Q: Did he make noise?
A: Yeah.
Q: And then you said dogs?
A: Yes.
Q: Pugs?
A: Yes.
Q: How many pugs did they have?
A: They had two when I was there.
Q: What is -- what is this I'm pointing to?
A: The baby gate?
Q: Yeah.
A: It was to keep like the -- I'm pretty sure that was to keep the dogs out of the bedroom.
Q: Okay. Did they play with these ---
A: Yeah.

Q: Did the dogs play with those little stuffed animals?
A: Yes.
MR. BROWN: Okay. I'm gonna show the witness State's Exhibit 13?
THE COURT: All right, sir.
BY MR. BROWN:
Q: Take a look at that. Do you recognize that place?
A: Yeah. That's the outside of their house.
Q: Okay. And it's this house right here?
A: Yeah, because the -- this is the house and then that's the garage.
Q: Okay.
MR. BROWN: State's Exhibit 15.
THE COURT: All right.
BY MR. BROWN:
Q: Do you recognize this place?
A: Yes, that's their pool room that -- when you first walk in the door, it was like straight to the right.
Q: Did y'all play in there?
A: Yeah, that's -- we would play on the pool table. Like sometimes like the kids -- we didn't actually like play pool; sometimes we would just roll the balls around, but we would, if they had Legos, we would like do the Legos, and they had a chalk board in there.
Q: Okay. State's 16, take a look at this picture; do you

recognize that place?
A: Yes, that's the living room, which is straight to the left when you walk in the door.
Q: Who is this guy?
A: That's Pickles.
Q: That's Pickles the bird?
A: Yes, that's Pickles' cage.
Q: Okay.
A: Yeah.
Q: Is that a real animal or not a real animal; do you know?
A: Oh, that's not a real animal.
Q: Okay. Talking about the dog under the T.V.?
A: Yes.
Q: Okay. So y'all would hang out over at that house?
A: Yes.
Q: All right. When you went over there, did you ever spend the night?
A: Yes; it wasn't often, but yes.
Q: Where did you sleep when you spent the night?
A: When I spent the night, so in their back bedroom they would have their bed and then they would have like a pull out little bed that was straight under the T.V. that I would sleep on.
Q: Like a foldable cot sort of thing?
A: Yes, it was like a little -- it was like a small really

low to the ground bed, and you put a mattress on it.
Q: Where did the dogs sleep?
A: With Grandma and Grandpa.
Q: In the bed?
A: Uh-huh, (affirmative response).
Q: All right. Now, you said you would write in a journal or diary?
A: Yes.
Q: Okay. You drew pictures?
A: Yes.
Q: I'm gonna show you some pictures here, Defense Exhibit 11. Let me hand you this. Do you recognize this?
A: Yes.
Q: Did you draw this?
A: Yes.
Q: Did you write this?
A: Yes.
Q: When did you write it?
A: Well, the date says March 8th, 2014.
Q: There's a date on it?
A: Yes.
Q: Did you write the date?
A: Yes.
Q: Do you remember, is this a fair and accurate representation of what you drew and wrote?

A: Yes.
Q: And that's it?
A: Uh-huh, (affirmative response).
MR. BROWN: Your Honor, permission to admit the evidence?
THE COURT: Any objection?
MS. WALTER: May I see the exhibit, Your Honor?
THE COURT: Yes, ma'am.
MS. WALTER: No objection, Your Honor.
THE COURT: All right. Defendant's 11 is into evidence without objection. You may proceed.

DEFENDANT'S EXHIBIT NUMBER 11

ADMITTED INTO EVIDENCE

MR. BROWN: Your Honor, permit to publish to the jury.
THE COURT: You gonna put it on the screen or -- you can't hand it to them now.
MR. BROWN: Right. Right.
THE COURT: Okay. Or if you just want to, I mean, if you want to stand there and show it to them, I don't -- I don't care, either way.
MR. BROWN: If I could use this, I think it would be faster.
THE COURT: All right. Very good.
MR. BROWN: Can I use y'all's ---
MS. WALTER: It's not hooked up anymore.
THE COURT: So will it take a while for it to warm up and

get connected.

MS. WALTER: Your Honor, Ms. Brown, who is the one that runs that, is in Georgetown today, because we did not need her.

THE COURT: Okay. All right. I guess you're just gonna have to ---

MR. BROWN: I've got a projector, if it would -- I've just got to move it down to show it to them. I'll just -- I'll just walk over for efficiency.

THE COURT: Right. I appreciate that.

(REPORTER'S NOTE: Defendant's 11 published to the jury.)

THE COURT: The jury understands that all evidence that is introduced will be in your jury room during your deliberations. You'll have all the time to look at it at that point in time that you want to. At that point in time, you'll be able to put on gloves if you want to handle it or not. All right?

Thank you.

BY MR. BROWN:

Q: Complainant -- Cousin I'm sorry. I want to make -- I want to show you some other documents. Okay? I'm showing Defendant's 6 ---

MS. WALTER: Can we just see that, please, so I know what you're showing.

THE COURT: Show them to the state first and then have

the witness identify them.

Can you just read into the record the numbers, please?

MR. BROWN: Yes, Your Honor. Defense 6, 7, 8, 9, and 10.

THE COURT: All right. Very good.

BY MR. BROWN:

Q: Do you recognize these? Take a second to look at them.

A: Yeah, I recognize all of them.

Q: Do you recognize the -- how do you recognize them?

A: I -- well, my handwriting first, and then second, the journal, I remember having that journal.

Q: Okay. Where did you write those, those journals?

A: Up in my bedroom in Indiana.

Q: Okay. Do you remember when?

A: No, I do not remember when, but if I'd have to say, it would be 2016, the year after we moved, because that's when I remember them coming over.

Q: Was that just your writing?

A: No, that was me and Complainant writing.

Q: How do you know that was Complainant handwriting?

A: Because I remember when we wrote this.

Q: Did you see her -- you saw her write it?

A: Yes.

Q: Okay. So you wrote some; she wrote some; y'all passed this back and forth?

A: Yes.

Q: Okay. Is this a fair and accurate representation of your notes back and forth?
A: Yes.
Q: Okay.
MR. BROWN: Your Honor, permission to admit Defense 6 -- 6, 7, 8, 9, and 10?
THE COURT: Objection?
MS. WALTER: No, Your Honor.
THE COURT: All right. Defendant's 6 through 10 are in evidence without objection. You may publish if you want to.
MR. BROWN: Thank you.

DEFENDANT'S EXHIBITS NUMBER 6 THROUGH 10
ADMITTED INTO EVIDENCE

MR. BROWN: Your Honor ---
THE COURT: I understand that. You understand during this normally, we would just pass them around to you. We can't do that right now. You'll have them when it comes time to deliberate at the very end. You will have all the time y'all want to look at it exhibits, talk about the case, when you deliberate at the very end, because at that point in time, y'all can put on gloves and look at it at that point in time. We've got all these safety protocols; that's why we don't things like we normally used to. We used to just pass them all around and everybody would look at them and pass them around. We just don't do that anymore. So I appreciate

there's some inconvenience, but that's what we have to do. All right?

Thank you.

MR. BROWN: I can put them on the projector and go through them?

THE COURT: Well, you can, but I appreciate the fact that -- how long is that gonna take you to do; that's the problem.

MR. BROWN: I'll just show them to the jury, Your Honor.

THE COURT: All right. Very good.

(REPORTER'S NOTE: Defendant's 6 through 10 published to the jury.)

BY MR. BROWN:

Q: Cousin I'm going to show you these two; do you recognize those?

A: Yes.

Q: Are those your drawings?

A: Yes.

Q: Do you remember drawing those?

A: Yes.

Q: Are those a fair and accurate representation of what you drew?

A: Yes.

THE COURT: What are the numbers?

MR. BROWN: I'm sorry. Defense 12 and 13.

THE COURT: Okay.

MR. BROWN: I move to put these in evidence, Your Honor.

THE COURT: Objection to 12 and 13?

MS. WALTER: No, Your Honor.

THE COURT: All right. Into evidence without objection.

DEFENDANT'S EXHIBIT NUMBER 12 AND 13

ADMITTED INTO EVIDENCE

THE COURT: You may proceed.

MR. BROWN: May I show them to the jury?

THE COURT: Yes, sir.

(REPORTER'S NOTE: Defendant's 12 and 13 published to the jury.)

BY MR. BROWN:

Q: Will you take a look at those? Cousin do you recognize that?

A: Yes.

Q: Did you write that?

A: Yes.

Q: Do you know when you wrote it?

A: The date says January 11th, 2016.

Q: Would that be accurate?

A: Yes.

Q: Is that your handwriting?

A: Yes.

Q: Is that a fair and accurate representation of what you wrote?

A: Yes.
Q: And that's accurate?
A: Yes.
MR. BROWN: Your Honor, I'd like to admit this into evidence.
THE COURT: And what numbers are they?
MR. BROWN: I'm sorry. Defendant's 14.
THE COURT: Defendant's 14, any objection?
MS. WALTER: No, Your Honor.
THE COURT: All right. It's into evidence without objection.

DEFENDANT'S EXHIBIT NUMBER 14
ADMITTED INTO EVIDENCE

THE COURT: You may proceed.
MR. BROWN: May I publish to the jury?
THE COURT: Yes, sir.
(REPORTER'S NOTE: Defendant's 14 published to the jury.)
BY MR. BROWN:
Q: Cousin referring to Defendant's 12 and 13, are these drawings that you made of what you and your cousin, Complainant were doing?
A: Yes.
Q: Why did you draw these?
A: To be honest, I don't know.
Q: Okay.

A: I would just draw things out that I've seen and stuff like that.
Q: Is this accurately what y'all were doing?
A: Yes.
Q: Referring to Defendant's 13, what are the circles at the knees?
A: Pants.
Q: Underwear, pants, clothing?
A: Yes.
Q: And those are drawn at the knees?
A: Yes.
Q: And that's you and Complainant in the picture?
A: Yes.
Q: Okay. I'm referring to Defendant's 12. In that picture are y'all wearing -- are the drawings wearing clothes, dresses?
A: Dresses.
Q: Is that because it's a triangle?
A: Yeah, that's I had the dresses. That's how I would draw dresses, and pants or shorts would be just like the two bubbles.
Q: And hands are touching each other?
A: Yes.
Q: All right. None of this involves Grandpa, does it?
A: No.

Q: Okay. But at camp, you remember the story about Grandpa?
A: Yes.
Q: Why did you make this up about Grandpa at the beginning?
A: We were just looking for attention and ---
Q: Who wanted to get attention?
A: We both wanted to get attention.
Q: When you say both of us?
A: Me and Complainant
Q: Y'all both came up with this?
A: Yes.
Q: Is that in fact what you wrote about in Defendant's 14; is that y'all wrote about in this -- you wrote about?
A: That's me saying it wasn't true. That's me -- it wasn't true.
Q: And you said me and Complainant did make up the thing about Grandpa?
A: Yes.
Q: And you said you did it to get attention?
A: Yes.
Q: Did you get attention from the prior ---
A: We got atten ---
MS. WALTER: Objection, Your Honor.
THE COURT: Sustained.
BY MR. BROWN:
Q: Did anyone force you to write this?

A: No.
Q: Did anyone ask you to write it?
A: No.
Q: When you wrote it, who did you give it to?
A: I gave it to my stepmom.
Q: Did she read it?
A: Yes.
Q: Was your dad there?
A: I believe so. If not, she showed it to him when he did get home.
Q: So your parents have seen it?
A: Yes.
Q: So you lied, right?
A: Yes.
Q: Are you telling the truth now?
A: Yes.
Q: Are you lying about lying?
A: No.
Q: You're saying Grandpa did not harm you in any way?
A: No, he was -- never touched us, never harmed us in any way.
Q: Grandpa didn't make you and Complainant do anything together?
A: No.
Q: Grandpa did nothing?
A: No.

Q: Do you love him as your grandpa?
A: Yes.
Q: Do you remember telling Dianne about you and Complainant in 2014?
A: Yes.
Q: And Dianne is the forensic interviewer, right?
A: Yes.
Q: Okay. I'm not gonna ask you about anything else you said in that 2014 interview, which was before any of these made up allegations with Kevin, right -- Grandpa, right?
A: Yes.
Q: But in that interview, you told her ---
MS. WALTER: Objection, Your Honor.
THE COURT: Come here.
(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)
BY MR. BROWN:
Q: Cousin 2014, the first time you went there to give an interview, you told her about you and Complainant
A: No. That -- the first time I went to the pink house place was about the first incident, but then I went again for the thing with Grandpa.
Q: Okay. And you told Dianne about you and Complainant
A: Yes, when I went for -- with Grandpa's.
Q: Okay. But that interview you gave about -- the later

interview, that was a lie?
A: Yes.
Q: About Grandpa?
A: Yes.
Q: Why did you keep going with it?
A: Because I was really scared that if I said I was lying, I was going to get in a lot of trouble, and I really didn't want to get into a lot of trouble. And then, I realized how much cause this was causing the families, so then that's when I finally said it wasn't true.
Q: Were y'all scared because y'all had been caught?
MS. WALTER: Objection, as to Complainant feelings. She can testify as to whether she was scared.
THE COURT: Ask the question that pertains to the witness, please.
BY MR. BROWN:
Q: Were you afraid after being caught with what y'all were doing?
A: Yes.
Q: Okay. And again, this doesn't have anything to do with Grandpa, right?
A: No, it has nothing to do with...
Q: When you went over to Grandpa and Grandma's house, they had a lot of stuff in their house?
A: Yes.

Q: Yes?
A: Yes.
Q: Did you ever take things?
A: Not from their house, but I did because -- I'm pretty sure every kid has taken a few things.
Q: Okay. This is when you were younger?
A: Yes.
Q: Okay. You take what; little things, big things?
A: Little things, nothing like super important.
Q: Did you go through Grandma and Grandpa's stuff?
A: Things I was allowed to go through, nothing like their private stuff.
Q: Did you go through the storage room looking at their antique stuff?
A: Yeah.
Q: Okay.
A: I mean, sometimes me and Grandma would go through it together and stuff like that, because she would give me like porcelain dolls she has.
Q: Okay. You remember -- do you remember things from their house?
A: Yes.
Q: Do you remember talking about things from their house?
A: Yes.
Q: Looking at State's 4. Does this blanket -- does this

look familiar?
A: Yes.
Q: Do you remember talking about this blanket?
A: Yes.
Q: You do?
A: Yes.
Q: Where was this blanket at?
A: It was in the living room.
Q: Okay. Did anything bad happen to you with this blanket?
A: No.
Q: Did anything -- did anything bad happen to you at Grandpa's house?
A: No.
Q: Ever?
A: No.
Q: If you heard your voice on a recording, would you be able to identify it?
A: Yes.
MR. BROWN: Your Honor, I'd like to play the tape from her first interview.
MS. WALTER: May we approach, Your Honor?
THE COURT: Yes, ma'am.
(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)
MR. BROWN: Court's indulgence, Your Honor?

THE COURT: Yes, sir.

THE COURT: Y'all come up and talk to me for one second.

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

BY THE COURT:

THE COURT: How about, ladies and gentlemen, I -- I got to discuss this matter more fully in open with the attorneys, rather than trying to do it -- y'all go to your jury room, please. Thank you.

(REPORTER'S NOTE: Jury exits courtroom @ 11:22 a.m. The following takes place outside the presence of the jury.)

THE COURT: All right. So the record is clear, Mr. Brown, what is it that you want to do?

MR. BROWN: Your Honor, in her 2014 interview, she talks about what she -- she admits to the first interviewer what she and Complainant are doing out of the blue; it was not asked. And I have the dates and times of that recording that the Court forced the state to give me in this case. It's not the video; it's just the audio. She says, I can identify my own voice. I gave an interview in 2014. And then she says, I don't remember talking about Complainant in that interview, which means ---

THE COURT: No, she didn't say I don't remember; she said, she didn't.

MR. BROWN: She didn't, which means I can impeach my

witness with the prior consistent statement of her own and she can identify it.

THE COURT: All right. So ---

MR. BROWN: And the ---

THE COURT: Let's talk about that. You want to ---

MR. BROWN: It's about three minutes.

THE COURT: I understand, I'm not talking about the time here. I just want to be clear. You want to, under Rule 607, attack the credibility and the believability of your witness; that's what you want to do in this case?

MR. BROWN: She's admitted that she lied about certain things.

THE COURT: All right. So I just want to be clear. So that's what you want to do; you want to attack her credibility and believability by playing this portion of the tape. That's what you want to do?

MR. BROWN: And it might help her remember it.

THE COURT: All right.

MS. WALTER: Except she hasn't said -- that's fine.

THE COURT: All right. I'm going to allow you as long as it focuses only on conversations that -- her conversation she had about what she and Complainant engaged in. So let's -- why don't you make sure ---

MR. BROWN: I'm looking at the transcript from CRC.

THE COURT: All right.

MR. BROWN: Okay.

THE COURT: All right. Could y'all come up here and talk to me for one second about something else, please?

(REPORTER'S NOTE: Bench conference is held off the record outside the presence of the jury.)

THE COURT: All right, Mr. Brown. Go ahead.

(REPORTER'S NOTE: 2014 Audio statement of Cousin [redacted] subsequently marked for identification as Defendant's Exhibit 26, published to the Court outside the presence of the jury. Audio not transcribed herein.)

THE COURT: All right. Go ahead, Solicitor.

MS. WALTER: Well, Your Honor, I would note that within that segment that he just played, there is the mention of the former -- the other defendant.

MR. BROWN: I can mute that, so ---

THE COURT: You've got a transcript?

MR. BROWN: Yes, sir.

THE COURT: Let me look at the questions. There's a whole part in the middle that has nothing to do with this and is completely irrelevant. So ---

MR. BROWN: It starts at the very bottom.

(REPORTER'S NOTE: Bench conference is held off the record and outside the presence of the jury.)

THE COURT: All right. Very good. All right. So how about ask a couple of questions of your witness.

MR. BROWN: Okay.

BY MR. BROWN:

Q: Cousin do you remember that interview?
A: Yes.
Q: 2014?
A: Yes.
Q: Was that you?
A: Yes.
Q: That's your voice?
A: Yes, that's for sure my voice.
Q: Okay. And do you remember now talking to Ms. Dianne?
A: Yes.
Q: Okay. And in that first interview, 2014, you did mention Complainant
A: Yes.
Q: Okay. And you told her without asking that you just want to talk about another situation and that was you and Complainant
A: Yes.
Q: Okay. And that's your conversation and your statement?
A: Yes.
Q: Okay. And that's what you told her and now you do remember?
A: Yes.
Q: Okay.

THE COURT: Let's clarify, because you've been talking

about the first interview or whatever, just clarify and make sure that's the case.

BY MR. BROWN:

Q: This was not the interview in relation to Grandpa?

A: No, this was not that -- no.

THE COURT: Question, was that the first interview?

BY MR. BROWN:

Q: Was that your first interview?

A: The first interview ever at that place?

Q: Yeah.

A: I believe so, but I'm not too sure.

Q: Okay.

A: I'm pretty sure that it is the first one.

Q: Okay.

THE COURT: All right. All right, Solicitor, let me hear from you.

MS. WALTER: Well, again, I -- sorry, and I don't know the benefit of a transcript, but there certainly seemed to be portions of that, that certainly are irrelevant to this issue.

THE COURT: All those issues about therapy, any mention of any other individual, all that cannot be played for the jury. All that has to go out.

MR. BROWN: We would not seek to play it.

THE COURT: Okay.

MS. WALTER: Well, then we need a redacted version.

THE COURT: You're gonna have to be really quick on muting it or whatever. It cannot be played to the jury.

MR. BROWN: Yes, sir.

THE COURT: Okay. So whatever you have to do to assure that that does not happen, that's what you have to do.

MR. BROWN: Okay.

THE COURT: All right.

MR. BROWN: If you give me two minutes, I can ---

THE COURT: All right. What we'll do is take a short break for about five, ten minutes or so and then we'll come back.

MR. BROWN: Your Honor, can she come off the stand, the witness stand, or does she need to sit there?

THE COURT: All right. You can come down -- you'll have to put your mask back on -- but you cannot talk to anyone about what's going on right now. Okay?

A: Okay.

THE COURT: All right. Thank you. All right. We'll take a short break.

Thank you.

RECESS - 11:34

*******OFF THE RECORD*******

ON THE RECORD - 11:46 A.M.

THE COURT: All right. Ask the jury to come back in, please, ma'am.

(REPORTER'S NOTE: Jury enters courtroom @ 11:47 a.m.)

THE COURT: And, Miss Cousin you need to come back up on the witness stand, please, ma'am.

THE COURT: All right, Mr. Brown?

MR. BROWN: Thank you, Your Honor.

BY MR. BROWN:

Q: Cousin you do remember giving an interview in 2014?

A: Yes.

Q: That had nothing to do with Grandpa?

A: Yes.

MR. BROWN: Your Honor, permission to play the tape?

THE COURT: Yes, sir. With the Court's instructions.

MR. BROWN: Yes, Your Honor.

(REPORTER'S NOTE: 2014 Audio statement of Cousin subsequently marked for identification as Defendant's Exhibit 26, published to the jury. Audio not transcribed herein.)

BY MR. BROWN:

Q: Cousin that was 2014?

A: Yes.

Q: Okay. And that's when you were talking to Dianne?

A: Yes.

Q: And that interview -- you were brought there -- had nothing to do with Grandpa?

A: No, that was with the first incident.

Q: Okay. And now you're talking about what you and Complainant

were doing?
A: Yes.
Q: In that interview. And that she came up with it because she saw pictures; she saw -- you were talking about?
A: Yes.
MS. WALTER: Objection, Your Honor, all these questions are leading.
MR. BROWN: I'll rephrase.
THE COURT: Please.
BY MR. BROWN:
Q: Were you acting out with your cousin Complainant
A: Yes.
Q: Okay. Did your grandfather -- your grandpa, did he show you anything on the computer that you shouldn't see?
A: No.
Q: Did he show you anything you shouldn't see on any device?
A: No.
Q: In any way -- he didn't show you anything bad?
A: No.
Q: Okay. Pornography, he didn't show you that?
A: No.
Q: Okay. Did he make you and Complainant do anything together that you didn't want to do?
A: No.
Q: Did anybody?

A: No.
Q: Are you telling the truth?
A: In the recording?
Q: Yeah.
A: Yes.
Q: What about the next one about Grandpa, were you telling the truth then?
A: No.
Q: You were lying?
A: Yes.
Q: Okay. Are you lying about lying?
A: No.
Q: Nothing happened with Grandpa?
A: No.
Q: With you?
A: No.
Q: He didn't make you and Complainant do anything?
A: No.

MR. BROWN: Court's indulgence, Your Honor.

That's my questions, Your Honor.

THE COURT: Cross-examination?

MS. WALTER: Thank you, Your Honor.

CROSS-EXAMINATION OF Cousin BY MS. WALTER:

Q: So Mr. Brown just asked several times you lied about this or you lied about that, and you talked earlier about stealing

little things.
A: Yeah.
Q: When -- did your parents ever, your father and your stepmother did they ever ask you about those things you had stolen?
A: Yes.
Q: Did you tell the truth and say, yes, I stole them?
A: Most of the time, yes. I wouldn't ever like lie and say that I didn't steal it, but I wouldn't directly tell them that I stole it.
Q: When -- and you -- just see if I can find these exhibits, Your Honor. When Mr. Brown showed you some of the pictures that you had drawn, you said that you drew -- you draw pictures of what you are doing?
A: Yes.
Q: And, so Defense Exhibit 11 ---
MS. WALTER: I'm sorry, Your Honor, I forgot my mask.
THE COURT: That's all right. Thank you.
BY MS. WALTER:
Q: Defense Exhibit 11.
A: I drew that.
Q: You drew that, and that's because you and Complainant were having sexual activity together, right?
A: Yes.
Q: And then Defense Exhibit 12 and 13?

A: I drew those for the same reason I drew the first one.
Q: Because that's something that you and Complainant did, right?
A: Yes.
Q: Now, I'm going to show you, one second and let me get this marked.
MS. WALTER: May I approach, Your Honor?
THE COURT: Yes, ma'am.
BY MS. WALTER:
Q: And do you remember during your second interview at the little pink house?
A: Uh-huh, (affirmative response).
Q: And that was -- you just have to say yes or no?
A: Yes, I do remember it.
Q: And that was with a different interviewer, right, it wasn't Ms. Dianne; it was Haydee Sencion, does that sound familiar?
A: No. I don't remember who the second interviewer was.
Q: Do you remember that it was with a different person than the first one?
A: I -- yes.
Q: Okay. Do you remember drawing pictures during that interview as well?
A: Yes.
Q: Okay. So I'm showing you a three-page document and I will turn the pages, since you don't have a glove on?

A: Yeah, that's fine.
Q: Okay. So State's Exhibit 21, this is the first page and it says Attachment 1, Attachment 2, and Attachment 3; did you draw those?
A: Yes.
Q: And this is a fair and accurate representation of what you drew during that interview, correct?
A: Yes. That's what I drew.
Q: Okay.
MS. WALTER: Your Honor, I would ask that State's Exhibit 21 be admitted and published?
THE COURT: Any objection?
MR. BROWN: No, Your Honor.
THE COURT: All right. It's into evidence; you may publish.

STATE'S EXHIBIT NUMBER 21
ADMITTED INTO EVIDENCE

BY MS. WALTER:
Q: Now, at the beginning of actually both interviews, your first and your second, do you remember both of the women who interviewed you explaining about the room that you were in?
A: Yeah. They would tell me like, that they had the recording on, stuff like that.
Q: And they described it as the truth room?
A: Yes.

Q: And said that you were supposed to tell the truth in that room.
A: Yes.
Q: And in your first interviewer, you agreed to take the truth.
A: Yes.
Q: And in your second interview, you agreed to tell the truth?
A: Yes.
Q: Now, in your first interview, do you remember when being asked to talk about what happened, saying, like he keeps putting his private in mine?
A: Yes.
Q: And do you remember when asked who was doing this saying my grandfather?
A: Yes.
Q: Do you remember being asked to clarify which private parts you were referring to and saying his front bottom and my front bottom, I'm drawing a picture of it right now? Do you remember that?
A: Yes.
Q: And would that be this State's Exhibit 21?
A: Yes.
Q: So this is a representation of what was happening?
A: Yes.

Q: Of what was being done?
A: Yes.
Q: When asked -- do you recall being asked how many times Kevin did this and saying too many, I can't count?
A: I don't remember saying that.
Q: Okay. Do you remember saying, yeah, like almost every time we're alone?
A: No.
Q: Do you remember being asked where this happened and saying in his house?
A: Yes, I do remember that one.
Q: Do you remember and when she -- the interviewer was talking about again, the first page of State's Exhibit 21. She asked you what that line between the man and the girl is, and you said, um, like that line thing is saying that he's putting his front bottom into my front bottom; do you remember that?
A: Yes.
Q: Do you remember being asked in which room this occurred and saying in the living room?
A: Yes.
Q: Do you remember then saying, it sort of happens in the computer room, too?
A: Yes.
Q: Do you remember saying like he always goes on like this

site thing and I can't remember what it's called. It's something Hamster.com, it's rather this -- it's rather X-ham, and then you're writing the second page of State's Exhibit 21 saying, I can't -- I can't remember if it was this one or if it's just Hamster.com. I want to believe it's number one, X-Hamster, but I can't remember if it's number two.

A: Yes.

Q: Do you remember being asked if you've been with Kevin when he goes to the Hamster site and saying, yes, he puts it on every time?

A: Yes.

Q: Do you remember saying, when asked what sounds you heard when being shown pornography, saying, it sounded like noisy and stuff, and then making a moaning sound and saying it's all like moaning and groaning noises?

A: Yes.

Q: Do you remember when being asked, how the peoples' clothes were saying they didn't have any?

A: Yes.

Q: Do you remember when being asked, what Kevin would be doing when you tried to leave, you would say, like he would be touching me?

A: No.

Q: You don't remember that. What about being asked where Kevin touched you, answering, um, my private?

A: Yes.
Q: When asked to clarify which private part, do you remember saying, Front bottom?
A: Yes.
Q: Do you remember when being asked, what Kevin used to touch your front bottom saying, His finger?
A: Yes.
Q: And in fact, did you demonstrate?
A: I don't remember if I did or not.
Q: Okay. Do you remember being asked how your clothes were when Kevin touched your front bottom, and saying he would just reach?
A: No, I ---
Q: Okay. Do you remember saying that you would normally wear dresses because it was summertime and he -- and he would like stick his finger in my underwear?
A: Yes.
Q: Do you remember being asked if there was something on the computer saying, yeah, the site thing?
A: Yes.
Q: And do you remember being asked how many times that happened, meaning watching pornography, answering, more than five times, but less ten times?
A: Yes.
Q: Do you remember being asked about -- well, drawing this

third page, and so that's Attachment 3 on State's Exhibit 21?
A: Yes.
Q: Okay. And saying that in the second box, that's when Kevin is saying, take off your clothes, take off your clothes?
A: Yes.
Q: Do you remember when being asked what happened in the living room, saying, um, like when no one was around, and no one was coming, he would like -- now, if someone was like in a room or so he -- I would just like -- he would just pull the blanket over me and I would sit crisscross applesauce, sorry, I'm tired, and the -- like he would like just reach his hand and put his finger in my front bottom; do you remember that?
A: Yes, I remember talking about that.
Q: And when asked if Kevin moved his finger in any way, answering yes?
A: Yes.
Q: When asked how Kevin moved his finger saying like all -- like up, down, side to side?
A: Yes.
Q: Do you remember being asked to describe the blanket Kevin used and saying it was a red-and-white like pawed. It was like a white blanket with like red on the white and it had like white paws?
A: Yes.
Q: Do you remember being asked what happened to Kevin's body

and saying like he would like put his private in mine?
A: Yes.
Q: And, when asked to clarify where he was putting his private, saying your front bottom?
A: Yes.
Q: Do you remember being asked how that felt and answering awkward?
A: Yes.
Q: Do you remember being asked to describe what Kevin was doing when he put his front bottom in your front bottom and saying like he would move it up and down?
A: Yes.
Q: Do you remember being asked if Kevin used any lotions, creams, or gels, and answering, he used like this water liquid thing?
A: No, I do not remember being asked that.
Q: Do you remember being asked what Kevin did with the liquid and saying he would pour it everywhere?
A: No.
Q: Do you remember being asked if you remember the name of the liquid and saying I didn't see the name, all I know is that it has a pink round cap?
A: No, I don't remember.
Q: Do you remember when being asked if you ever felt differently when you went to the bathroom after Kevin put his

front bottom in your front bottom and saying it hurt?
A: Yes.
Q: And saying it felt like the toilet was on fire?
A: Yes.
Q: Do you remember being asked if someone told you not to talk about what happened and saying yes?
A: Yes.
Q: And continuing, well, like Grandpa, he like told me never to tell anybody?
A: Yes.
Q: Do you remember being asked if someone asked her to take -- asked you, excuse me, to take off your clothes and answering Grandpa?
A: Yes.
Q: He -- and continuing, he would just like say Cousin take off your clothes; he would say Cousin take off your clothes?
A: Yes.
Q: And, when asked how this happened, replying like when no one was in the house, I had to go to the bathroom, and then when I came out, he'd say go back in there and take off your clothes?
A: I remember talking about that.
Q: And do you remember saying that you would take off your clothes because he sounded furious at you?

A: Yes.
Q: Do you remember being asked if there is something that you're afraid of or something you were worried about and saying you're afraid you would never see your grandfather again?
A: Yes.
Q: And in fact, after you made these allegations, you never saw your grandfather again except when you were here for trial, correct?
A: Correct.
Q: So what were you were afraid of came true?
A: Yes.
Q: Nothing further.
THE COURT: Any redirect?
MR. BROWN: Yes, Your Honor.
THE COURT: All right, sir.

REDIRECT EXAMINATION OF Cousin BY MR. BROWN:

Q: Cousin the interview that the state was just asking you about, that was a lie?
A: Yes.
Q: It didn't happen?
A: No.
Q: Okay.
A: Well, the interview happened, but anything ---
Q: The interviewed happened?

A: --- I talked about nothing ---
Q: So she's asking you not do you remember these happening, she's asking do you remember talking about this lie?
A: I do remember talking about this like.
Q: So but this didn't happen?
A: No.
Q: Okay. And you didn't learn anything about sex stuff from Grandpa?
A: No.
Q: You learned it from the other prior family member ---
A: Yes.
Q: --- that actually did it?
A: Yes.
Q: Okay. So that's how you know about stuff?
A: Yes.
Q: But you did -- you and Complainant did make this up to get attention?
A: Yes.
Q: Okay. And you and Complainant were already acting out sexually with each other?
A: Yes.
Q: Okay. In the second interview, do you remember that being August of 2015?
A: I don't remember the exact date.
Q: Okay. Do you remember it being 2015?

A: I believe so.
Q: Okay. In that interview, do you remember saying that you saw piercings and tattoos on Kevin -- Grandpa; do you remember talking about that?
A: I don't remember talking about that.
Q: Okay. Everything you did, including those drawings, lies, not true?
A: Yes.
Q: Not Grandpa?
A: No.
Q: Okay. Never happened with Grandpa?
A: No.
Q: Any of that ever happen with Grandpa?
A: No.

MR. BROWN: Thank you, Your Honor.

THE COURT: All right. Anything else from the state on those questions just asked?

MS. WALTER: Court's indulgence for just one moment, please?

THE COURT: Yes, ma'am.

RECROSS-EXAMINATION OF Cousin [redacted] BY MS. WALTER:

Q: Do you remember being asked by the interviewer, do you remember if he has any piercings or tattoos, scars, birth marks or something else?
A: No. I don't remember being asked anything about

piercings or tattoos.

MS. WALTER: Court's indulgence?

THE COURT: Yes, ma'am.

BY MS. WALTER:

Q: But, for Mr. Brown, then was your response then that you didn't -- that you remembered being asked or that you remembered seeing something?

A: I don't remember either. I don't remember being asked or seeing any.

Q: Okay.

MS. WALTER: Nothing further, Your Honor.

THE COURT: All right. You may step down now, and just remember to put your mask back on, please.

Thank you.

Mr. Brown, Solicitor, y'all come up and talk to me for a second, please?

(REPORTER'S NOTE: Bench conference is held off the record in the presence of but outside the hearing of the jury.)

BY THE COURT:

THE COURT: All right, ladies and gentlemen. Obviously, I was going over the remaining witnesses with the defense, and as I told you yesterday, it's my intention to try and as best we can finish all the testimony today, and I believe we can accomplish that. So with that, and to accommodate the defense, we'll break for lunch now. Please come back at 1:30.

THE CLERK: Thank you. Please be seated and state your full name for the Court?

MR. HUGGINS: My name is Chantz Huggins. Marshall Chantz Huggins.

DIRECT EXAMINATION OF MARSHALL CHANTZ HUGGINS BY MR. BROWN:

Q: I'm sorry?

A: Marshall Chantz Huggins.

Q: Could you spell Chantz for the Court?

A: C-H-A-N-T-Z.

Q: Thank you, Mr. Huggins.

THE COURT: You can take your mask off, sir.

BY MR. BROWN:

Q: Thank you, Mr. Huggins. How are you today?

A: I'm good. How are you?

Q: Doing all right. I won't keep you long, I know you're a busy man.

A: Okay.

Q: But I've got a few questions to ask. Okay?

A: Sure.

Q: Mr. Huggins, where are you employed?

A: I work for Core & Main. It's a -- we distribute water and sewer materials to contractors, municipalities, that kind of thing. We're a supplier.

Q: And what's your job title there?

A: Branch Manager. I'm over Florence and Myrtle Beach.

Q: How long you been doing that?
A: I've been employed with the company 20 years, roughly. Managing probably ten or 12, I would say.
Q: And has it always been called Core & Main?
A: It's -- it's changed names several times. When I started, it was Hughes; it's been HD Supply, HD Waterworks. We're a publicly traded corporation, so it's been purchased by, you know, investors and stuff and changed around a few times.
Q: Do you remember what year it became its name we call now, Core & Main?
A: I think about three years ago would be my guess.
Q: All right.
A: But you can't -- I don't -- I don't know that for sure, I think it was about three years.
Q: And do you know Kevin McKinnon?
A: I do.
Q: Do you see him in the courtroom?
A: He's right over there.
Q: What's he wearing?
A: A coat and a blue mask.
Q: Okay. How do you know him?
A: Kevin worked under me in Myrtle Beach probably around ten years ago. No, probably more than that; probably 12 years ago. And, then I got transferred back to Florence and then

about five or six years ago, I took over Myrtle Beach and Florence. So I've kind of been around, you know, the area.
Q: I gotcha. When he worked there, what was -- do you remember what it was called; was it HD Waterworks, HD Supply?
A: I would think Waterworks, maybe, would be my guess.
Q: Definitely not Core & Main?
A: Not Core & Main, no, sir.
Q: But HD something?
A: Right, correct.
Q: And did it -- was the business essentially the same, supplying -- what would it supply, what would it do?
A: Same thing -- same thing we do now. We sell pipe, fire hydrants, gate valves, MJ fittings, anything that supplies water or sewer to cities, towns, contractors, you know, when they're building projects and so forth.
Q: Do you have the material on site, on hand?
A: Some of it; some of it goes direct to customers.
Q: So if you have it, is there -- is it in -- is it right next to you in a drawer or is there a warehouse; how does it work?
A: We have a pipe yard, basically, at the site, and we also have a warehouse with fittings and stuff, because we carry not only the -- the pipe and the larger valves, but also the services that you'd run to your house, you know, to, you know, for everybody's water to a house, plumbing and that kind of

thing.
Q: Did Kevin work with this business for a while?
A: I want to say he was there when I -- when I took over that branch, he was there, and when I left he was there.
Q: What year would you say, what kind of range are we talking about?
A: I don't know. I would think 15 years ago, maybe, if I had to guess.
Q: Okay. That's when he started?
A: When he started?
Q: Yes.
A: I have no idea when he started.
Q: Okay.
A: I don't know. When I got transferred to the beach the first time, he was already there.
Q: And do you remember about what year that was, maybe 15 years ago?
A: Yeah, I would say about 15. It's been a while.
Q: So '05, '06 range?
A: I guess.
Q: It's been a while?
A: Yes, sir, it's been a while. Now, something like that, our HR could probably get you the exact dates and everything if you need all that stuff.
Q: Okay. And do you know if he worked there up until 2015

or around that date?
A: I would think so, yes.
Q: Okay. Do you remember what his position or his title was?
A: I think he was operations manager.
Q: Is that what you do?
A: I'm a branch manager, but I've done operations, too. I've done a little bit of all of it. I worked in the warehouse and kind of worked my way up.
Q: Okay. So what time would somebody have to be at the job; what time would you have to be at the office or the warehouse?
A: It -- it's flexible. But, my -- my job, I usually -- I can speak for myself.
Q: Sure.
A: I'm there at 7:.
Q: A.m.?
A: It's a.m., yeah. And then I leave about 4:00 or 5:00. You know, some days you have to work late; some days you can get out a little early. It just depends on -- we're in the service industry, really; what our contractors need when we work, so...
Q: Sure. And do you have to work on weekends?
A: No, sir. Typically not. You may -- you may once or twice a year.

Q: On like a Saturday half-day or something like that?
A: Something like that. If you had to meet a customer at the job or something, if they need a fitting or a line.
Q: So a lot of it is Monday through Friday?
A: Most of it, yes, sir.
Q: Full-time job?
A: Yes, sir.
Q: Okay. Do you have a desk or are you always in the warehouse; how does that go?
A: Me, particularly ---
MS. WALTER: Objection, Your Honor. I'm not sure what this witness's job has to do with this case.
MR. BROWN: Let me rephrase.
BY MR. BROWN:
Q: As -- you were an operations manager?
A: Right.
Q: And, so you're saying Kevin was also an operations manager?
A: Right.
Q: So as the operations manager, what does operations manager have to do?
A: You oversee the day-to-day operations of the branch. But, when I was doing it, I didn't have a direct supervisor right over me. So you know, it's kind of -- I set how I schedule my day and what I do with my day, pretty much.

Q: Okay. When -- let's go back to 2010 to '15. Were you working at Myrtle Beach at that time or were you in Florence; where were you?
A: Florence.
Q: Okay. Do you remember where the physical location of the business was in this area, Myrtle Beach area?
A: Yeah, it's -- it's 3005 Fred Nash Boulevard now, but at the time it was something Highway 17 By-pass. They just changed the name of the road.
Q: Okay.
A: It's the same location, but they've changed the name of the road.
Q: Are you familiar with the Myrtle Beach area?
A: Fairly decent. I mean, I've been down here back and forth for a while.
Q: Was it -- back then was the business on the north end of Myrtle Beach; closer to North Myrtle Beach, was it closer to Surfside; give us some direction there, 501?
A: 501 and 17 run together right there; there's a mall right there.
Q: Yeah.
A: There's a frontage road before you get to the airport. We're located right there on that frontage road.
Q: And that's where it had been?
A: Yeah. Yeah; yes, sir.