

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

DAVID ALEXANDER
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

AMBREE M. MULLER
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803) 734-3372

ATTORNEY FOR APPELLANT

JIMMY A. RICHARDSON, II
Solicitor, Fifteenth Judicial Circuit
PO Box 1276
Conway, SC 29526
(843) 915-5460

ATTORNEYS FOR RESPONDENT

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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).

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1 Q: So near the mall and the airport?

2 A: Right.

3 Q: Okay. Is that also where the warehouse is?

4 A: Yes, correct.

5 Q: So if you need something and you're at the office, you
6 got to go to the warehouse, how do you get to the warehouse;
7 do you walk, do you take a golf cart, do you drive?

8 A: It's a -- it would be like -- the front of the office
9 would be like right here and you would walk to the back of the
10 office. It's all on the same property.

11 Q: Okay.

12 A: Yeah, the warehouse is connected in the back. We have a
13 counter area where customers can walk in and you just have to
14 walk to the back, you know, pull stuff, and the pipe yard is
15 connected to all that, too. It's all on one location.

16 Q: Okay. If you have to pull something, you have to get up
17 go find it, pull it out and get it?

18 A: For the customer, give it to the customer, and then you
19 go back to your desk or whatever you're doing.

20 Q: The customers actually came in?

21 A: We do have customers come in. We also deliver to
22 customers. So it depends. It's anything that would service
23 water, so you have a line break or something like that, the
24 customer will come up there and get, you know, whatever they
25 need to repair it.

1 Q: And if they didn't come in, you had a driver, you would
2 load in the truck and would deliver it, too?

3 A: Correct. Yes, sir.

4 Q: Okay. With the -- with this type business, do you ever
5 have a opportunity to go to any conferences out of town?

6 A: We have meetings like once a year.

7 Q: Out of state?

8 A: Typically.

9 Q: Do you know what city and state? New York, Charlotte?

10 A: It depends. Sometimes you can go to New York; I've been
11 to New York a couple of times. Sometimes you have a meeting
12 in Florida. It's like a manager's meeting type thing.

13 Q: Do you know of those last a week, a weekend?

14 A: Three days usually.

15 Q: Okay.

16 A: Usually, it starts at the beginning of the week and they
17 try to get you back before the end of the week, and it's only
18 like once a year, probably.

19 Q: Okay.

20 A: I would say.

21 Q: Do you know if he -- Kevin, ever went to one?

22 A: I've seen him at one, yes. When I -- when I was
23 operations manager for Florence and he was operations manager
24 in Myrtle Beach, I've seen him at one of the functions, yes.

25 Q: And do you remember where that conference was you saw

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1 him? Was it in the State of South Carolina?

2 A: I think it was in Florida.

3 Q: Okay.

4 A: But I don't know that a hundred percent, but I think --
5 I'm pretty sure it was.

6 Q: And as operations manager, which is what Mr. McKinnon did
7 and you did ---

8 A: Uh-huh, (affirmative response).

9 Q: You did it in Florence, and he was here in Myrtle Beach?

10 A: Yes.

11 Q: Is the job pretty much the same, Florence and Myrtle
12 Beach, as far as you know?

13 A: It depends, I guess. I mean, the duties would be the
14 same ---

15 Q: Yeah.

16 A: --- and the responsibilities would be the same.

17 Q: Yeah.

18 A: But, you know, you're dealing with different customers
19 and all that, so you -- it changes day to day. It's kind of
20 fluid, I guess you would say.

21 Q: So you're taking calls?

22 A: Right.

23 Q: Customers coming in and you're dealing with face to face
24 with the customers?

25 A: Yeah, and you're managing, you know, your inventory and

1 that kind of thing.

2 Q: And then sometimes you have to go get it and give to
3 them?

4 A: Right.

5 Q: It's all over the place at the business?

6 A: Right. Yeah.

7 Q: Okay. A lot of different things?

8 A: Yes, sir.

9 Q: Okay.

10 A: A lot of different hats, I would say.

11 Q: And handling pretty much, as you said, the day-to-day
12 operations of the whole business for that branch?

13 A: Correct.

14 Q: Okay. You mentioned the supervisor, and that you said --
15 did you say you don't have one or you do now?

16 A: I have a supervisor, yes, but my -- my supervisor is like
17 a district manager, so I don't, you know, I don't see him
18 every day.

19 Q: Sure.

20 A: And especially with the COVID I don't see him that much
21 right now.

22 Q: Go ahead?

23 A: No, I was just -- it's a lot of questions.

24 Q: Is he over -- is he over the Myrtle Beach and Florence
25 stores, your district manager?

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1 A: No -- yes, but he's over more than that. It's not just
2 that.

3 Q: Okay. You mentioned when we first started talking that
4 Kevin was not operations manager at first, right? He worked
5 under you?

6 A: Correct. Correct. When I was there, I was operations
7 manager, and he was -- I want to say he was like either
8 counter or warehouse manager, I'm not sure. To be honest with
9 you, I don't remember. He might've been a driver because I
10 think he drove some, too.

11 Q: What would a counter warehouse manager have to do?

12 A: Pull orders, you know, you deliver material; if you were
13 driving, you'd deliver materials, wait on customers, accounts,
14 anything related to inventory and that kind of thing.

15 Q: Do you remember when -- when you left the Myrtle Beach
16 store, is that when he became the operations manager; do you
17 know?

18 A: Correct.

19 Q: Okay.

20 A: I think so, yes. I wasn't there, so I -- they would
21 probably want you talking to our HR ---

22 Q: Sure.

23 A: --- about that kind of thing, but I wasn't there, but I
24 would think that would be about the time, yes.

25 Q: At one branch, about how many employees do you have?

1 A: It depends. Some of our branches might have 15 or 20,
2 even more than that. My branch in Florence has, I think,
3 seven; and I think in Myrtle Beach we have three. It just
4 depends on the business.

5 Q: Sure. Okay.

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

7 THE COURT: Yes, sir.

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

9 THE COURT: Cross-examination?

10 MS. WALTER: Thank you, Your Honor.

11 CROSS-EXAMINATION OF MICHAEL CHANTZ HUGGINS BY MS. WALTER:

12 Q: Good afternoon. How are you?

13 A: Good, how are you doing?

14 Q: I'm doing well. Thank you.

15 So it seems like, I think you said you were able to
16 pretty much set your own schedule when you would need to go in
17 and when you would need to come home?

18 A: Yeah, I am, yeah, and I would -- yeah, I would think that
19 would be the same.

20 Q: Okay. But the job was basically a Monday to Friday job?

21 A: Correct.

22 Q: Were you given sick days?

23 A: Yes.

24 Q: Were you given vacation days?

25 A: Yes.

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1 Q: And did you -- since your start and end time were
2 flexible, did you have to punch a clock or anything or it was
3 just sort of the honor system?

4 A: I don't, no.

5 Q: You don't punch a clock?

6 A: Yeah, I don't. I can really only speak of myself, but
7 yeah, I don't. And we got, yeah, sick time, vacation time,
8 personal time, yes.

9 Q: And, so what you just said is you can really only speak
10 to your experience with the business, not with the
11 defendant's?

12 A: Right. I mean, you would have to talk to him, I would
13 think, on that.

14 Q: Or the HR, right?

15 A: Yeah.

16 Q: HR may have some of these answers?

17 A: Yeah, HR would give you the specific job duties and all
18 that kind of stuff.

19 Q: But you didn't bring any HR information with you, right,
20 you weren't asked to?

21 A: I was not, no.

22 Q: Okay. Now, I think Mr. Brown asked you from 2010 to
23 2015, you were in Florence? I think you said I think so, but
24 does that sound about right?

25 A: I think in 20 -- let's see -- hang on, I'm trying to --

1 it's years there. Yes, correct; that is correct.

2 Q: Okay. And so -- and during that time, the defendant was
3 at the Myrtle Beach location?

4 A: Correct.

5 Q: So you would not be in a position to see him every day?

6 A: Correct.

7 Q: You would not be a position to know whether he took sick
8 time?

9 A: Yeah; I wouldn't know that.

10 Q: And you wouldn't know whether he took vacation time?

11 A: No, ma'am.

12 Q: You wouldn't know, quite frankly, if he just didn't
13 bother to show up to work?

14 A: Right.

15 Q: You wouldn't know if he showed up to work and then left
16 for a couple of hours?

17 A: Correct.

18 MS. WALTER: Nothing further.

19 THE COURT: Redirect?

20 MR. BROWN: No, Your Honor.

21 THE COURT: You may step down.

22 Do you want the witness to be excused?

23 MR. BROWN: Yes, Your Honor.

24 THE COURT: Any objection?

25 MS. WALTER: No, Your Honor.

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RAYMOND KANNIARD - DIRECT BY BROWN

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1 THE COURT: All right, sir, you're released from your
2 subpoena, you may go back to your regular duties. Thank you.

3 Who's your next witness?

4 MR. BROWN: Raymond Kanniard.

5 Your Honor?

6 THE COURT: Yes, sir.

7 MR. BROWN: The defense calls Raymond Kanniard.

8 THE COURT: All right, sir. Come around right over here
9 and meet the clerk's representative right up here.

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

12 RAYMOND KANNIARD, HAVING BEEN DULY
13 SWORN, TESTIFIES AS FOLLOWS:

14 THE CLERK: Thank you. Please be seated and state your
15 full name for the court. And you may take your mask off if
16 you'd like.

17 THE COURT: Go ahead, sir.

18 DIRECT EXAMINATION OF RAYMOND KANNIARD BY MR. BROWN:

19 Q: Mr. Kanniard, how are you?

20 A: Good.

21 Q: Thank you for being here. I know you're a busy man, I
22 also won't keep much of your time. I want to ask you about
23 your job. Okay? Where do you work?

24 A: Core & Main.

25 Q: Now, what is your job title there?

1 A: Driver.

2 Q: Driver. How long have you been there?

3 A: About 12 years.

4 Q: Has it always been called Core & Main?

5 A: No.

6 Q: What was it used -- what did it used to be called?

7 A: HD Supply.

8 Q: Do you know about when it changed to that name, to the

9 Core & Main name?

10 A: About three years ago.

11 Q: Have you always held the position of driver?

12 A: No.

13 Q: What did you used to do?

14 A: I was inside sales, also.

15 Q: Where were you in inside sales; were you a manager,

16 inside sales manager, warehouse manager?

17 A: No, just inside sales representative.

18 Q: And what branch were you at?

19 A: Myrtle Beach branch.

20 Q: Okay. About what years were you the inside salesman?

21 A: I'm bad on dates. 12 years ago, when I started, that's

22 what I started as, and it was about 2009.

23 Q: Okay. And then how long have you been a driver?

24 A: Then I was in that position for a couple of years. So

25 about 2011, I guess, I was a driver.

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RAYMOND KANNIARD - DIRECT BY BROWN

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- 1 Q: And you've been a driver since?
- 2 A: Actually, I went back inside.
- 3 Q: Do you know about when, the year?
- 4 A: Maybe 2015, '16.
- 5 Q: Okay. Did you know Kevin McKinnon?
- 6 A: Yes, sir.
- 7 Q: Did he work there?
- 8 A: Yes, sir.
- 9 Q: Do you know what his job title was when he worked there?
- 10 A: Operations manager.
- 11 Q: Y'all work there at the same time?
- 12 A: Yes, sir.
- 13 Q: Do you know how long he worked there?
- 14 A: No, I don't.
- 15 Q: Would you say it was a short time or a long time?
- 16 A: I'd say probably a long time.
- 17 Q: Okay. And what -- what was Myrtle Beach's specific
- 18 branches business hours; what time did people have to be at
- 19 work?
- 20 A: We opened at 7:00, which is when people got there.
- 21 Q: 7:00 a.m.?
- 22 A: Yes.
- 23 Q: And about how many employees worked there at that branch?
- 24 A: At that time?
- 25 Q: Yes, sir.

- 1 A: We had at the most six.
- 2 Q: Okay. And how late would you have to stay?
- 3 A: We closed at 5:00.
- 4 Q: You left at 5:00 p.m.?
- 5 A: Yes, 4:00 to 5:00, whenever.
- 6 Q: And that's Monday through Friday?
- 7 A: Yes, sir.
- 8 Q: Did you ever have to come in on Saturdays?
- 9 A: Here and there, very seldom.
- 10 Q: Go ahead?
- 11 A: If someone needed something on a Saturday, which we were
12 closed, I would come in, deliver it, and then leave.
- 13 Q: Saturday wasn't a full day?
- 14 A: No.
- 15 Q: Like Monday through Friday. Okay. Do you know if Kevin
16 came in on Saturdays?
- 17 A: No, I don't.
- 18 Q: Do you know about when he -- did he work there until '15,
19 2015, later, or do you know?
- 20 A: Yeah, I -- I'm not a hundred percent when he started.
- 21 Q: Okay. And he was the operations manager?
- 22 A: Yes.
- 23 Q: Did you see him at work?
- 24 A: Yes, sir.
- 25 Q: And your understanding of operations manager, was he

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RAYMOND KANNIARD - DIRECT BY BROWN

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1 always pretty much at the business, the building?

2 A: Yes, sir.

3 Q: Okay. Do you know if he did anything else, other jobs at
4 the -- at that business?

5 A: No, sir.

6 Q: Okay. Were you a driver when he worked there?

7 A: Yes, sir.

8 Q: Now, tell us how, as a driver, you interacted with the
9 operations manager?

10 A: Well, it would mean he was my boss. So anything I had to
11 do, he would tell me what to do, deliveries, he would help out
12 sometimes pulling deliveries.

13 Q: And that -- what is pulling deliveries; what does that
14 mean?

15 A: Pulling the order, getting the order together, putting it
16 on a pallet, shrink wrapping it, putting it on the truck,
17 delivering it.

18 Q: How does it get put on the pallet?

19 A: By my hands.

20 Q: Okay. Some of these things heavy?

21 A: Yes.

22 Q: Pipes and metal?

23 A: Yes, anything heavier I'd use a forklift.

24 Q: You use a what?

25 A: A forklift.

1 Q: Okay. Did he ever -- did you ever see him driving the
2 forklift?

3 A: Yes, sir.

4 Q: Okay. And then he -- you would load into your delivery
5 vehicle?

6 A: Yes, sir; it was a flatbed.

7 Q: Okay. And he would tell you where to take it?

8 A: Yes, sir.

9 Q: Okay. Did -- at any time, do you know if any customers
10 came in and wanted an order and they had their own flatbed?

11 A: Yes, sir.

12 Q: Okay. And then y'all would load it into their vehicle?

13 A: Yes, sir.

14 Q: Okay. Did you ever go to any out-of-town conferences in
15 regards to this business?

16 A: Oh, yes, sir.

17 Q: Where did you go?

18 A: St Louis, Missouri.

19 Q: Do you know if Kevin went to out of town conferences?

20 A: I think he did, a couple.

21 Q: Okay. These aren't just out of town, they're out of
22 state?

23 A: I think so.

24 Q: Okay. Do you know if Kevin had other jobs other than
25 operations manager?

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RAYMOND KANNIARD - CROSS BY WALTER

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1 A: At that business?

2 Q: Yes, sir.

3 A: I've only known him as the operations manager. Before
4 that, I don't know if held any other positions.

5 Q: Okay.

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

7 THE COURT: Yes, sir.

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

9 THE COURT: Cross-examination?

10 MS. WALTER: Thank you, Your Honor.

11 CROSS-EXAMINATION OF RAYMOND KANNIARD BY MS. WALTER:

12 Q: So the entire -- between 2011 say and 2015, you were a
13 driver, correct?

14 A: I was inside sales for a couple of years and then a
15 driver.

16 Q: Right, and maybe I got it wrong. I thought you said you
17 started as inside sales in 2009, there a couple of years, and
18 then 2011 you became a driver, and then you went back inside
19 2015 to 2016, somewhere in there?

20 A: Yeah.

21 Q: Okay.

22 A: Yes, ma'am.

23 Q: So 2011 to sometime maybe 2015 or 2016, you were a
24 driver?

25 A: Yes, ma'am.

- 1 Q: And as a driver, sounds simplistic, you made deliveries?
- 2 A: Correct.
- 3 Q: How -- what radius, geographic radius would you be making
4 deliveries to?
- 5 A: Mostly in Horry County and Georgetown County, but I would
6 go into Brunswick County and sometimes into Marion.
- 7 Q: Would you make deliveries mostly every day?
- 8 A: Yes, ma'am.
- 9 Q: When you -- and just for efficiency sake, if you had a
10 bunch of deliveries to do, would you load them all -- and they
11 were shrink-wrapped, would you just load them all onto the
12 truck and then, I'm going to stop here, then I'm going to stop
13 there, and I'm going to stop there?
- 14 A: Yes, ma'am.
- 15 Q: So when you were out making deliveries most days, you
16 weren't at the Myrtle Beach facility all day?
- 17 A: Correct. I was only there to load the truck and take it.
- 18 Q: And then presumably to bring it back?
- 19 A: Correct.
- 20 Q: Okay. So for that whole middle of the day, you have no
21 idea who was at the facility?
- 22 A: Correct.
- 23 Q: And even as a driver, I assume that you got sick time and
24 paid time off or vacation time?
- 25 A: Yes, ma'am.

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RAYMOND KANNIARD - CROSS BY WALTER

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1 Q: And do you have any idea or any records as to whether the
2 defendant took sick days or vacation days?

3 A: Yes. Yes, ma'am.

4 Q: I'll break that -- that was my fault; I'm sorry. I asked
5 you two questions in one. Do you know, did the defendant ever
6 take a sick day?

7 A: Yes, ma'am.

8 Q: And -- and did he ever take vacation days?

9 A: Yes, ma'am.

10 Q: So and it's safe to say that if he was taking a sick day
11 or a vacation day, you have no idea what he was doing on those
12 days, correct?

13 A: No, ma'am.

14 Q: And then you were asked about conferences. Do you know
15 -- any idea when those conferences were?

16 A: I couldn't tell you dates, no.

17 Q: Okay. And ---

18 MS. WALTER: Court's indulgence?

19 BY MS. WALTER:

20 Q: You said that the defendant would sometimes help pull
21 deliveries and that some of the things are heavy, so he was
22 helping you do some of the sort of grunt work?

23 A: Yes, ma'am.

24 Q: And you said that the work was primarily Monday through
25 Friday. You would come in some Saturdays if someone needed

1 something delivered?

2 A: Yes, ma'am.

3 Q: But you have no idea if the defendant ever came in on a
4 Saturday?

5 A: No, ma'am.

6 Q: And you don't know what he was doing after work hours?

7 A: No, ma'am.

8 Q: Thank you. Nothing further.

9 THE COURT: Redirect?

10 MR. BROWN: Yes, Your Honor.

11 REDIRECT EXAMINATION OF RAYMOND KANNIARD BY MR. BROWN:

12 Q: Mr. Kanniard, you mentioned, you were asked about
13 materials and you said some of the stuff was heavy, some of it
14 really heavy; you got to have a forklift you said?

15 A: Yes, sir.

16 Q: About how heavy is this material we're talking about?

17 A: We have stuff on there probably could be 8-900 pounds.
18 We have stuff 5-600 pounds.

19 Q: And this is -- this is in the warehouse?

20 A: Most of that stuff was kept out in the yard?

21 Q: Okay. So you have to go get it, but it's on site?

22 A: Correct.

23 Q: Okay. Approximately, what kind of size of equipment are
24 we talking about?

25 A: Equipment?

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1 Q: Yeah, the materials that you have to lift?

2 A: The materials, it could vary. We've got pipe from 6 inch
3 to 12 inch, 20 foot long; metal pipe, PVC pipe, we have iron
4 valves from 2 inch up to 12 inch; up to 6 inch you can pick up
5 yourself; anything higher than that, it's better to get a
6 machine to do it.

7 Q: Okay. But you do have to lift -- if you don't use a
8 machine, you're picking it up yourself?

9 A: Correct.

10 Q: Do you have to use a weight belt?

11 A: I never wore one, no.

12 Q: Does anybody?

13 A: I've never seen anyone.

14 Q: You bend with your knees, right?

15 A: Yes, sir.

16 Q: Okay. If you're out doing a delivery and a customer
17 wants to come into the store; does that happen?

18 A: I'm sure there were customers coming in when I was on
19 deliveries, yes.

20 Q: If you're not there because you're out doing a delivery
21 and a customer would come in, and no one else is there, the
22 business isn't running, right?

23 A: Correct.

24 Q: I gotcha. So somebody would need to be there?

25 A: Correct.

1 Q: Okay. And back then, I know it's a long time ago,
2 because it's changed names and what not, but did it -- did
3 people -- did Kevin come in on Saturdays, half Saturdays that
4 you know of?

5 A: No. I don't know if he came in on Saturday or Sunday.

6 Q: Okay.

7 A: I only knew if someone needed something, they'd call me,
8 Kevin, or the salesmen, and would say can you go in and load
9 this and take it to them.

10 Q: Kevin would call you sometimes?

11 A: Sometimes.

12 Q: Okay.

13 A: Or ---

14 Q: Usually not on Sunday?

15 A: I have made deliveries on Sundays.

16 Q: Okay. But somebody from the business would have to call
17 you?

18 A: Yes, and most of the time it was a salesman.

19 Q: Okay.

20 A: Because he dealt directly with the customers.

21 Q: Customers didn't call you?

22 A: No, sir.

23 Q: Okay. So is it right that you were -- let me get this
24 straight. Inside salesman, then driver, then back inside
25 salesman?

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1 A: Yes, sir.

2 Q: Okay. Thank you.

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

4 THE COURT: Anything on those questions just asked?

5 MS. WALTER: No, thank you.

6 THE COURT: All right. You wish the witness to be
7 excused?

8 MR. BROWN: Yes, Your Honor.

9 THE COURT: Any objection?

10 MS. WALTER: No, Your Honor.

11 THE COURT: All right, sir. You're released from your
12 subpoena, you may go back to your regular duties. Thank you
13 very much.

14 All right. Who is your next witness?

15 MR. BROWN: Your Honor, the defense would call Edna
16 McKinnon.

17 THE COURT: All right.

18 MR. BROWN: Give me one second, Your Honor, please?

19 THE COURT: Yes, sir. All right, ma'am, come around, all
20 the way around up front, please.

21 MR. BROWN: The defense calls Edna McKinnon.

22 THE COURT: Thank you.

23 MR. BROWN: Your Honor, could someone help her with the
24 step at the witness stand? Thank you.

25 THE COURT: The deputy will take care of that, ma'am.

1 Thank you. I appreciate it.

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

4 MS. EDNA MCKINNON: Right hand?

5 THE CLERK: You had it right. Put this hand ---

6 MS. EDNA MCKINNON: Oh.

7 THE CLERK: --- and then raise that one.

8 THE COURT: Can you do that?

9 THE CLERK: Can you do that?

10 MS. EDNA MCKINNON: Can I do what?

11 THE CLERK: Can you raise this hand?

12 MS. EDNA MCKINNON: Oh, yes.

13 EDNA MCKINNON, HAVING BEEN DULY

14 SWORN, TESTIFIES AS FOLLOWS:

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

17 THE COURT: All right, ma'am, you can take your mask off
18 if you want to. All right. Go ahead.

19 MR. BROWN: Thank you, Your Honor.

20 DIRECT EXAMINATION OF EDNA MCKINNON BY MR. BROWN:

21 Q: Ms. McKinnon, can you hear me okay?

22 A: Yes.

23 Q: How are you?

24 A: I'm fine; thank you.

25 Q: And can you say your name for the record again?

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- 1 A: Edna Lorraine McKinnon.
- 2 Q: Okay. And how old are you?
- 3 A: I'm ---
- 4 Q: And I know I'm not supposed to ---
- 5 A: Seventy-nine.
- 6 Q: Thank you. I'm sorry. Ms. McKinnon, are you related to
7 Kevin McKinnon?
- 8 A: He's my son.
- 9 Q: Okay. And where -- where are you from?
- 10 A: I'm from South Paris, Maine.
- 11 Q: Okay. Were you married?
- 12 A: Yes.
- 13 Q: Okay. Is your husband still alive?
- 14 A: No. He passed away.
- 15 Q: Okay.
- 16 A: July 12th of 2014.
- 17 Q: 2014, okay.
- 18 A: Yes.
- 19 Q: Did you -- did y'all have a business in Maine?
- 20 A: We did for a while, yes.
- 21 Q: Okay. Can you tell us about that business, what it was?
- 22 A: It was -- we sold antiques and things like that.
- 23 Q: Okay. When your husband passed away in 2014, did you
24 move from Maine?
- 25 A: I came down here. Kevin came to the funeral and he

1 brought me back with him after the funeral services were done
2 and I stayed here for two, about two-and-a-half years.

3 Q: Fair to say 2016?

4 A: Yes.

5 Q: Okay. Did you live with Kevin?

6 A: I did.

7 Q: Who else lived in the home?

8 A: His wife, my daughter-in-law, Susan.

9 Q: Susan McKinnon?

10 A: Yes.

11 Q: Did anyone else live in the home?

12 A: Pardon?

13 Q: Did anyone else live there?

14 A: I don't remember that there was.

15 Q: Okay. So you, Kevin, and Susan is what you're saying?

16 A: Yes.

17 Q: Okay.

18 MR. BROWN: Permission to approach, Your Honor?

19 THE COURT: Yes, sir.

20 BY MR. BROWN:

21 Q: I'm gonna hand you some documents, do you have any gloves
22 up there?

23 A: I don't.

24 COURT REPORTER: They're in the little box right there in
25 front of you.

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1 A: Oh, I didn't see those. I'm sorry.

2 BY MR. BROWN:

3 Q: Can you put those on, and I'll hand you some documents?

4 A: Sure, if I can get them out of there. It must be a new
5 box. Thank you.

6 Q: Thank you very much. All right. I'm gonna show you
7 State's 13. Will you just take a look at this?

8 A: Uh-huh, (affirmative response).

9 Q: Do you recognize that place?

10 A: Yes, I do.

11 Q: Can you tell us ---

12 A: That's where I lived when I was down in South Carolina
13 with Kevin and Susan.

14 Q: Okay. Did you live anywhere else?

15 A: Pardon?

16 Q: Did you live anywhere else?

17 A: No.

18 Q: Okay. You lived in that house?

19 A: Yeah, right here.

20 Q: Okay. Thank you. When you moved in, did you bring your
21 clothes and you moved in completely? You weren't back and
22 forth?

23 A: As much as I could, yes.

24 Q: Okay. And I want to show you State's 16; do you
25 recognize this photo?

1 A: Oh, yes.

2 Q: Tell us about it?

3 A: Let see ---

4 Q: Let me hold ---

5 A: Huh?

6 Q: Let me hold it just in front of you; just look at it?

7 A: Oh, okay.

8 Q: What is that?

9 A: That's their living room.

10 Q: Okay.

11 A: That was their living room, rather.

12 Q: Okay. Is that where you slept?

13 A: Yes.

14 Q: Tell us why you slept in there?

15 A: I -- My husband and I, about seven years before he passed

16 away, we were in a rear-ended accident that a truck from

17 behind us rammed into the back of us while we were sitting at

18 a stop sign waiting for a train to go by, and I got -- my back

19 got badly injured, and it's still not better after all this

20 time, but I can walk and talk and move around. So I'm

21 thankful for that, but ---

22 Q: Was that the only accident y'all were in?

23 A: There was another one about a month later. We were at

24 another stop sign and the same thing happened, only we didn't

25 get injured at that one, but it kind of aggravated my back by

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1 that -- you know, from the first time.

2 Q: So you were injured in a motor vehicle accident or
3 accidents, right?

4 A: Yes.

5 Q: You got hurt. So when you moved into your son's house,
6 where did you sleep?

7 A: I slept on this long couch.

8 Q: Okay.

9 A: On the -- let's see, on the left-hand side.

10 Q: Let me get you a picture. State's 17. Was it that you
11 slept laying down or you slept upright?

12 A: No, it was one of those couches, it had like a recliner
13 on each end with a little box thing in the middle.

14 Q: Okay.

15 A: And I slept on the recliner part.

16 Q: This is State's 17. Do you see the couches and recliners
17 in that picture?

18 A: Oh, wait a minute now. This is the couch that I was
19 sleeping in, cause I was near a window right here.

20 Q: Okay.

21 A: Yeah, I'm sorry.

22 Q: That's all right. Now, you didn't sleep laying out on a
23 couch ---

24 A: No.

25 Q: --- you slept sitting up, but ---

1 A: My hands would go to sleep.

2 Q: And again, you slept on that because it helped your back?

3 A: Yes.

4 Q: Okay.

5 A: Yes, I could sleep the whole night long without any
6 problem, because I was kind of sitting up partially.

7 Q: Okay. How did you go to bed? Did you watch T.V., did
8 you read a book?

9 A: Sometime, I -- I was -- I'm an avid reader; I used to
10 read a lot after the children -- I mean, when the children
11 were there. After Kevin and Susan went to bed, I'd read for a
12 while, and then just put the book down and go to sleep.

13 Q: Did you have a lamp next to you?

14 A: Yep. There's a lamp right to the left.

15 Q: So you'd just read, fall asleep, turn the light off?

16 A: Did I read what?

17 Q: You would read and go to sleep; is that what you're
18 saying?

19 A: Yes.

20 Q: In that -- in the living room?

21 A: Pardon?

22 Q: In the living room?

23 A: Yes, in the living room.

24 Q: When -- when you lived at that house, Kevin's house, did
25 you sleep in any other room than the living room?

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- 1 A: No, no.
- 2 Q: You always slept right there in the living room?
- 3 A: Right.
- 4 Q: Okay. And when it's time to get up, did you -- were you
5 the first one to wake up? Are you an early ---
- 6 A: Not necessarily.
- 7 Q: Okay. You didn't ---
- 8 A: Sometimes.
- 9 Q: Did you have a car at Kevin's house?
- 10 A: No.
- 11 Q: But you had a driver's license?
- 12 A: Pardon?
- 13 Q: Did you have a driver's license?
- 14 A: I do. I did then, too.
- 15 Q: So you didn't have a car to go get in and go anywhere you
16 wanted?
- 17 A: No.
- 18 Q: There was no extra car that they owned that you could
19 take somewhere?
- 20 A: No.
- 21 Q: Okay. So if you wanted to go somewhere ---
- 22 A: They took me.
- 23 Q: Okay.
- 24 A: Yes.
- 25 Q: So was someone always there; were you -- were you there

1 by yourself? How did it go?

2 A: I was there by myself when they went to work, you know.

3 Q: And when would Kevin go to work during the week, Monday
4 through Friday?

5 A: Monday through Friday, that's a long time ago. He wasn't
6 home much, because he had other things that he did when he
7 wasn't working.

8 Q: Okay. Well, let's talk about -- we'll talk about those,
9 a lot of those other things he had to do. But, do you
10 remember him going to work in the mornings?

11 A: Yes.

12 Q: And then would he come home for lunch?

13 A: I don't believe so.

14 Q: But he would come home after work?

15 A: Yes.

16 Q: Okay. Did he get home early in the afternoon, late in
17 the evening; do you remember?

18 A: I don't know, between 5:00 and 6 o'clock, maybe.

19 Q: Okay. And that's Monday through Friday?

20 A: Yes, that's what I think, now, I ---

21 Q: It's been a while.

22 A: I know, yeah, he -- yes.

23 Q: Okay. And then do you remember if he went to work on
24 Saturdays?

25 A: Oh, yes. He worked at the racetrack. Whenever they had

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1 races, he was always there.

2 Q: Did they go to the racetrack a lot?

3 A: Did they what, go to the racetrack what?

4 Q: Often?

5 A: Oh, yeah, about, you know, whenever they're like every
6 weekend or every week, whenever there was a race.

7 Q: Did you go to the racetrack?

8 A: Oh, yeah.

9 Q: Well, you weren't one of his racecar drivers, were you?

10 A: Not there. We had another racecar at another racetrack,
11 I drove a car once.

12 Q: Did you? Okay. Do you -- do you remember your -- do you
13 know your great grandchildren?

14 A: Oh, yes.

15 Q: And can you tell us what their names are?

16 A: Let's see, there was **Brother** and **Complainant** and -- oh, good Lord
17 -- I have these moments of -- **Cousin**

18 Q: Uh-huh, (affirmative response).

19 A: Let's see, Eric, Michael.

20 Q: We're talking about your great grandchildren?

21 A: Oh.

22 Q: Okay. So you've got **Brother** **Cousin** and **Complainant** I get
23 them mixed up?

24 A: Yes.

25 Q: Okay. So do you remember the great grandchildren coming

1 over?

2 A: Yeah, **Minor 1**

3 Q: Well, **Minor 1** is the baby?

4 A: Yes.

5 Q: Okay. Let's talk about **Brother** **Cousin** and **Complainant**

6 A: Okay.

7 Q: Okay. Do you remember them coming over to the house that
8 you lived at?

9 A: Yes. Yeah, like on the weekend.

10 Q: Okay. Do you remember if they came over a lot, or a
11 little bit, or just at random?

12 A: On weekends, I mean, we used to see them on the weekends
13 every now and then. I can't tell you if it was a lot ---

14 Q: Okay.

15 A: --- or yeah, but they did come over, definitely.

16 Q: Were these family gatherings?

17 A: Yes.

18 Q: Okay.

19 A: Yes.

20 Q: Would the -- would the kids play with each other, games,
21 things like that?

22 A: Uh-huh, (affirmative response). Yeah.

23 Q: Regular kids' stuff?

24 A: Regular kids.

25 Q: Did you watch them?

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1 A: They loved to be outdoors, because it was a lot of ground
2 for them to play in.

3 Q: Did you watch them; were you in charge of them?

4 A: I did when I needed to. If I was needed, I was always
5 there to help out with anything.

6 Q: Did you -- did you and Susan, Kevin's wife, have a store,
7 a business?

8 A: Yes.

9 Q: Tell us about that?

10 A: It was an antique store, and we started out on one side
11 of a long bunch of little stores and we were -- it became too
12 small, so we found that another one on the other side of this
13 section had another empty store, so we took that one on the
14 end.

15 Q: Okay. Do you remember ---

16 A: It was a lot of things that had to be made in that -- the
17 second store, like shelving units, and tables, and things like
18 that, but between Kevin and Eric, they did a lot of -- they
19 did all the work to get the shelves and all of that ready.

20 Q: So it started on one end of a shopping mall?

21 A: Right.

22 Q: But it moved across the parking lot to the other end of
23 that, the whole structure?

24 A: Yes.

25 Q: Okay. So there was a bunch of little tiny shops in ---

1 A: Little ones in between, yes.

2 Q: Okay. And then it grew and you had to expand into the
3 next unit that's next to it; is that what you had to do?

4 A: Well, no, the first one was too -- the first one was too
5 small, and we grew that one.

6 Q: Uh-huh, (affirmative response).

7 A: But that became too small, also. So when the bigger one
8 over here opened up, that's -- we moved everything from there
9 over to this in there.

10 Q: How did you get your inventory from the first store
11 across the parking lot to the next store?

12 A: Well, the men moved it all over for me.

13 Q: Okay.

14 A: For us.

15 Q: Was it a lot of work?

16 A: I would imagine. There was a lot of stuff there,

17 Q: What kind of stuff did you have?

18 A: Oh, a little bit of everything, like antique stuff, like
19 a lot of glassware, a lot of the small furniture, books, we
20 had galore -- books galore, pictures. You name it, we had it
21 probably. Plus, we rented to a few people, little small
22 spaces there.

23 Q: Okay. Was it similar to the store -- to the business you
24 and your late husband ran in Maine?

25 A: It was, yes.

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1 Q: Okay. So pretty much the same thing?

2 A: Yes.

3 Q: Okay. Did you have some of your inventory at Kevin and
4 Susan's house, where you lived? Did you keep some things
5 there?

6 A: I did. I used to buy things at lawn sales, and I'd bring
7 them into the house and had to wash them and clean them and
8 price them and -- that's where I did the pricing before I
9 brought it to the store.

10 Q: So at the store, what had to be built or what had to be
11 made that you were referring to, the lumber that the guys did?

12 A: I'm sorry. Would you repeat that, please?

13 Q: At the store, what had to be built or made?

14 A: Well, there was a wall about half the size of the wall in
15 here. It needed bookcases the whole length, so that we could
16 put stuff on the walls and those -- those were built, and then
17 there where all the books were, they came down this way, and
18 all those shelving units had to be built, also.

19 Q: It sounds like it was a lot of work?

20 A: Yes.

21 Q: I'm gonna show you some pictures now.

22 A: And then there was other walls. There was other
23 bookcases and the shelves on this side, too.

24 Q: And these are all shelves and bookcases that had to be
25 built?

1 A: Yes.

2 Q: They weren't already in the store?

3 A: They weren't on the walls, no. And the end tables also
4 needed to be built. We needed tables for the -- because we
5 didn't have quite enough from the other store, they built some
6 more to put -- fill up the second store.

7 Q: How did you get the lumber or the materials to the store?

8 A: Oh, I don't remember that. That wasn't my ---

9 Q: That wasn't you?

10 A: Kevin took care of that.

11 Q: Okay.

12 MR. BROWN: For the record, Defense Exhibit 15, 16, and
13 17?

14 THE COURT: All right.

15 BY MR. BROWN:

16 Q: Will you take a look at these pictures?

17 A: Yeah, these are pictures of some of the walls. Oh, yeah,
18 there's one of those ---

19 Q: Do you recognize what's in those pictures?

20 A: Oh, yes.

21 Q: Where is that?

22 A: That's the second store.

23 Q: Okay. And ---

24 A: These pictures of the shelving units.

25 Q: Is that how it looked ---

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1 A: Yes.

2 Q: --- while it was being built?

3 A: While it was being built, yes. I'm not sure what I'm
4 look -- I don't know what I'm looking at here.

5 MS. WALTER: Your Honor, there's no objection to them
6 being admitted.

7 MR. BROWN: Okay. Your Honor, I would move to admit
8 these?

9 THE COURT: All right. So 15, 16, and 17?

10 MR. BROWN: Yes, Your Honor.

11 THE COURT: All right. Into evidence without objection.

12 DEFENDANT'S EXHIBIT NUMBER 15, 16, AND 17

13 ADMITTED INTO EVIDENCE

14 MR. BROWN: May I publish to the jury?

15 THE COURT: Yes, sir.

16 BY MR. BROWN:

17 Q: So these are pictures of the store being built?

18 A: Right.

19 Q: Okay. Who was building this; who is that here?

20 A: Pardon?

21 Q: Who is this building it?

22 A: Kevin and Eric.

23 Q: Okay. Now, it looks like a lot of lumber and work.

24 A: Well, there was a lot more than what you're looking at
25 right there.

1 Q: Sure. But this is kind of a sample of it?

2 A: Yes.

3 Q: And they're tearing down walls, constructing these
4 shelves ---

5 A: Right.

6 Q: --- and ---

7 A: Plus, there were tables in between the area.

8 Q: So that -- that shelving went all the way around the
9 inside; is that what you're saying?

10 A: Except for the front windows. There was a double
11 doorway; you could come in either on the right or the left.

12 Q: Okay.

13 A: And other than that, there was windows in the front, so
14 the front didn't have hardly any shelving units except for a
15 few small ones under the -- under the windows.

16 Q: Okay. And then you had to build tables, too?

17 A: The what?

18 Q: You built tables?

19 A: Yes, we had to have tables.

20 Q: Okay. About how long ---

21 A: Well, we took some of the tables from the other store,
22 but we didn't have enough, so we had to have some extras
23 because we had the people that we were renting; we wanted them
24 to have a table in their space, also.

25 Q: Were those tables that you built, also?

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1 A: Yes.

2 Q: Okay.

3 A: Yeah.

4 Q: Who built all this stuff?

5 A: Who built them? Kevin and Eric, yeah.

6 Q: Okay. Let's go back to the house that you lived at.

7 Were there pets there?

8 A: I'm sorry?

9 Q: I'm sorry. I'm over here and I've got a Southern accent.

10 Were there dogs?

11 A: Oh, yes.

12 Q: How many dogs?

13 A: Two. Yeah, two.

14 Q: What kind of dogs were they?

15 A: Pugs.

16 Q: Can you describe them?

17 A: Let's see, Milo and Otis. Well, they were just regular

18 pugs. They weren't black ones; they were the normal like

19 brown and the lighter colored ones.

20 Q: Sure. Did they have toys?

21 A: Oh, yes. Yeah, they had toys.

22 Q: What kind of toys did they have?

23 A: Oh, I don't know. I think one of them had a teddy bear,

24 and they always had a few things in a box that they'd grab out

25 and throw around and stuff like that. Yes, they played with a

1 lot of their toys.

2 Q: I'm going to show you State's 7. Does that -- does that
3 look like one of the dog toys?

4 A: I can't quite make out what it is, but it looks like it
5 would be a toy, yes.

6 Q: Okay. State's 11. And can you take a look at this
7 picture?

8 A: Oh, yeah. Yeah. That teddy bear -- one of the dogs used
9 to like that, yeah. Whenever they'd play with their toys,
10 they'd -- every once in a while, they'd bring them over so I
11 could play with them, too.

12 Q: And that's a brown teddy bear on the bed that you're
13 talking about?

14 A: Yeah.

15 Q: And that's a dog toy?

16 A: I think, I believe so.

17 Q: Yeah. All right. State's 14. Do you see this picture?

18 A: I do.

19 Q: Tell us what we're looking at here.

20 A: This is the end of the trailer. This is the small
21 section is what Kevin added on for their bedroom, and the door
22 so that if they were -- when they had the grandchildren over
23 to stay overnight, they'd be right near a door so that if
24 there was a fire, they'd be able to grab the children and go
25 right out the door.

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1 Q: Okay. And did you -- do you remember if the kids stayed
2 there when you were living there?

3 A: Do I remember -- could you repeat that again, please?

4 Q: When you were living there, did the kids stay over, the
5 grandkids?

6 A: Oh, yes, every now and then.

7 Q: And where would they sleep?

8 A: There was -- Kevin and Susan had it set up in their
9 bedroom so they could have them near the door with the fire --
10 in case there was a fire.

11 Q: Okay.

12 A: I don't remember exactly how it was, because I -- I
13 didn't go in there much when, you know -- I always had things
14 to do when the children were around. So ---

15 Q: Okay.

16 A: But, I know they slept in there most of the time.

17 Q: The kids didn't sleep on the other end of the house in
18 those rooms?

19 A: Oh, no. No, no, no.

20 Q: And that was for fear of a fire?

21 A: The house what ---

22 Q: And that was because of fear of a fire?

23 A: Fear of a fire, yes.

24 Q: Okay. And you said you lived there for about two years?

25 A: About two. I moved in July and left the end of October,

1 so it would be two-and-a-half years or something like that.

2 Q: A little over two years?

3 A: A little over two years, yes.

4 Q: Now, you slept in the living room?

5 A: Exactly.

6 Q: But did you have your clothes and everything in the

7 living room?

8 A: Oh, no.

9 Q: Where did you put your stuff?

10 A: I had -- Susan gave me some closets and bureaus to put

11 them in. If I was sitting on the couch, there was a little

12 dining room straight ahead, and there was some drawers down

13 under that, and I used to put my clothes in there.

14 Q: Okay. Let me show you State's 16. Is this what you're

15 talking about?

16 A: This is where I used to put my clothes, right in here.

17 Q: Okay.

18 A: This looks smaller than it actually was, but there was a

19 bunch of good-sized drawers that I could put my clothes in.

20 Q: Like a dresser or bureau?

21 A: Yes, a dresser.

22 Q: Okay.

23 A: Yeah.

24 Q: And it was in where that little table is?

25 A: Right there, yeah, in that room. It was like a dining

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1 room.

2 Q: And there's no door right here, right?

3 A: Oh, yes; a wide one.

4 Q: Okay. And this is another wide?

5 A: Oh, yeah, you can see all over the place there.

6 Q: Okay. This is a rug, right?

7 A: Yes, it is.

8 Q: But this is what wood parquet?

9 A: It was wood. I don't know what parquet is.

10 Q: But it wasn't carpet?

11 A: No.

12 Q: Okay.

13 A: No.

14 Q: Could you hear other people in the house?

15 A: Oh, definitely, because it was practically wide open.

16 Q: Was Pickles the bird there when you were there; do you

17 remember him?

18 A: Oh, yes, Pickles.

19 Q: Is this -- State's 17 -- is this another view of the

20 living room into the kitchen?

21 A: Exactly, yeah. That went out onto a small porch that

22 faced the backyard, and there was a pool there.

23 Q: And is this a fireplace?

24 A: There's a fireplace right there, yes.

25 Q: This is all open?

1 A: Open, no wall at all there at all, no.

2 Q: And there's a -- there's a pool table and you had other
3 things in here?

4 A: Further over this way, yes.

5 Q: Storage?

6 A: Yeah.

7 Q: Okay. And is that your storage for the antique store?

8 A: Yes, yes.

9 Q: Ms. McKinnon, did your son, Kevin, did he work a lot?
10 Did he work a lot?

11 A: Oh, yes, yes.

12 Q: He had a regular job?

13 A: I can't quite hear you.

14 Q: He had a regular job?

15 A: He had a regular job, yes.

16 Q: And then he went to the racetrack a lot?

17 A: Oh, yes. Yeah.

18 Q: Tell us about the racetrack. How often did he work on
19 vehicles, cars?

20 A: At home, you said?

21 Q: Yes.

22 A: Oh jeez, whenever he wasn't at the racetrack, and if he
23 didn't have anything to do in the house, he was in the garage
24 making -- fixing his two stock cars.

25 Q: Would you say he's in the -- and that's in the garage at

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- 1 the house?
- 2 A: Yes.
- 3 Q: Was he out there a lot?
- 4 A: Oh, yes.
- 5 Q: All right. Did anybody help him?
- 6 A: Yeah, his son, Michael.
- 7 Q: Okay. Michael was one of his racecar drivers, right?
- 8 A: Yes.
- 9 Q: Okay.
- 10 A: Yeah.
- 11 Q: So he worked on the cars, he had a regular job. And
- 12 then, when did y'all have this antique shop?
- 13 A: When?
- 14 Q: Yes.
- 15 A: I can't remember exactly when we started it.
- 16 Q: Well, it was when you lived here, right?
- 17 A: Right, yeah.
- 18 Q: And you lived here from 2016 or '14 to '16, something
- 19 like ---
- 20 A: Yes, it might've been like two or three, maybe a couple
- 21 of months after I got there, because I had to buy all this
- 22 stuff from lawn sales and different things to put in the
- 23 store.
- 24 Q: Okay. Sounds like he's busy; is that right?
- 25 A: Yep.

1 MR. BROWN: Court's indulgence?

2 THE COURT: Yes, sir.

3 BY MR. BROWN:

4 Q: When the great grandkids came over, **Brother** specifically,
5 do you know where he slept when he stayed over?

6 A: See, I -- whenever they were getting ready for bed, I
7 always stayed in the other room rather than get involved with,
8 you know, what was happening. So I really can't answer that.

9 Q: Okay. Okay.

10 A: I know they slept within that further room, so that they
11 were close to the door to go out if there was a fire, but
12 other than that, I don't know.

13 Q: There wasn't ever another bed in the dining room,
14 computer room?

15 A: No.

16 Q: Okay. Okay. Did the kids -- did the kids stay over
17 often?

18 A: Fairly often, I don't think it was real often 'cause they
19 both worked.

20 Q: You mean the parents?

21 A: Yeah, the parents.

22 Q: Okay. Not every single weekend?

23 A: I don't believe so, no.

24 Q: Okay. Ms. McKinnon, when you were going to sleep, again
25 you're on the -- it's not a couch; it's a ---

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- 1 A: I'm not sure what they call it.
- 2 Q: But you slept sitting up, right, kind of in an up -- you
3 didn't lay flat like on a couch?
- 4 A: Not flat, no. I sat back on the couch, and if you put
5 your feet up, there would be a thing that you could put your
6 feet on ---
- 7 Q: Uh-huh, (affirmative response).
- 8 A: --- that would rise up with you that -- and I could lean
9 back that way to a certain point.
- 10 Q: Is that how you would read?
- 11 A: Most of the time, but I'd have to sit up a little further
12 so that I could be where the light was and see better.
- 13 Q: Okay. Did you have trouble sleeping; is that why you
14 would read, or you just liked to read?
- 15 A: Did I what?
- 16 Q: Did you have trouble sleeping?
- 17 A: Sometimes, but not too often, but I liked to read, so I'd
18 read at nighttime.
- 19 Q: Okay. Did that help you get to sleep, to read?
- 20 A: Yes, it did.
- 21 Q: Okay. And you had a light. Did you turn it off or leave
22 it on?
- 23 A: I'd turn it off.
- 24 Q: And go to bed?
- 25 A: Uh-huh, (affirmative response).

1 Q: Okay. Now, did you go to bed first or did everyone else
2 go to bed and you stayed up reading?

3 A: I think most of the time they went to bed and I stayed up
4 reading for a little while, not too long, but some time.

5 Q: Okay. All right.

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

7 THE COURT: Cross-examination?

8 MS. WALTER: Thank you, Your Honor.

9 CROSS-EXAMINATION OF EDNA MCKINNON BY MS. WALTER:

10 Q: Good afternoon, Ms. McKinnon?

11 A: Hello.

12 Q: And I see that you may have a little bit of trouble
13 hearing, so I'm going to ---

14 A: I do at times, yes.

15 Q: So I'm gonna try and talk into the microphone and that
16 way if you have trouble, you just let me know. Okay?

17 A: Okay.

18 Q: Great. Thank you. And I wanted to tell you that I'm
19 very sorry about your husband.

20 A: Oh, thank you.

21 Q: That must have been very difficult for you. How -- had
22 you and your husband spent your whole married life in Maine?

23 A: Yes.

24 Q: And how long were you married?

25 A: Seventy-four years.

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1 Q: Wow, that's wonderful.

2 A: I know.

3 Q: Seventy-four ---

4 A: I'm sorry, 54 years.

5 Q: Fifty-four years. Still very nice. Okay. Did you have
6 a home in Maine, a house?

7 A: We did at one time.

8 Q: When he passed, where were you?

9 A: When he passed, we were living in an apartment in a
10 building that we had a store in.

11 Q: Oh, okay. Good. And you said that he passed July 12th
12 of 2014. How -- how much longer until the funeral services
13 were -- how long ---

14 A: I'd have to have you repeat that. I don't know what you
15 said.

16 Q: You said that he passed July 12th of 2014?

17 A: Yes.

18 Q: And that you moved right after the funeral services. So
19 how -- how long until the funeral services; just a couple
20 days, a couple of months?

21 A: How long before I moved down here?

22 Q: Yes.

23 A: Within a week.

24 Q: Okay.

25 A: Because Kevin came up for the funeral, and we came back

1 together. We flew back together.

2 Q: When your husband passed, did you still have the store in
3 that building?

4 A: The store was still there, but I gave it to my other son,
5 Keith.

6 Q: Okay.

7 A: Because I knew I wouldn't be able to take care of it.

8 Q: Your son, Keith, he stayed in Maine?

9 A: Yes.

10 Q: Did he have any children?

11 A: Did he have any what?

12 Q: Children?

13 A: Yes.

14 Q: So while you were here for approximately two or two-and-
15 a-half years, did you ever go back to Maine?

16 A: I did. I went back twice for about eight to ten days,
17 and then came back down here.

18 Q: And, so you were down here, you didn't have a car. So
19 you went to these yard sales, were they yard sales right
20 around your son's home or did you have to get a ride to them?

21 A: We went wherever the yard sales were that weren't too far
22 away. We weren't right inside that particular area, but we'd
23 go a little around, you know, wherever the yard sales were.

24 Q: Was that mostly you and Susan, since you owned the store
25 together?

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1 A: Myself and Susan, yes. She used to drive me around to
2 the lawn sales.

3 Q: And you said that the lawn sales are how you stocked your
4 antique store. So you must have been going to a lot of lawn
5 sales at first?

6 A: Please repeat that again.

7 Q: You said that you went to the lawn sales to stock your
8 store?

9 A: Right.

10 Q: I bet you had to go to a lot of lawn sales?

11 A: We went -- there was a lot of them on the weekends, and
12 we took advantage of whatever was available, if the price was
13 right.

14 Q: I'm sure you got a lot of good bargains.

15 A: Oh, yes; I did.

16 Q: Okay. And again, you would go with Susan, since you and
17 Susan owned the antique store together, right?

18 A: Yes.

19 Q: Now, did you have any employees at the antique store?

20 A: No.

21 Q: So you and Susan were in charge of everything there?

22 A: What's that again?

23 Q: You and Susan were in charge of everything there?

24 A: Yes.

25 Q: You -- if the store was open, one of you had to be there,

1 right?

2 A: Oh, yes.

3 Q: Did you often work together?

4 A: We worked together, yes, when she wasn't working.

5 Q: Was the antique store open during the day?

6 A: Pardon?

7 Q: Was the antique store open during the day?

8 A: Yes, we were closed on Sundays.

9 Q: Okay. Were you there pretty much every time the antique
10 store was open?

11 A: I was.

12 Q: So every day but Sunday, did you have regular hours at
13 the antique store?

14 A: Yes.

15 Q: What were they?

16 A: 9:00 to 5:00.

17 Q: That you know of, had there ever been a fire at your
18 son's home?

19 A: Not that I know of.

20 Q: Did -- did anyone often leave the fireplace lit at night?

21 A: No.

22 Q: Were there any exposed wires around that you saw?

23 A: Any what?

24 Q: Exposed wires?

25 A: No, not that I know of.

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1 Q: In any of those pictures, did you -- were there any
2 candles around?

3 A: Were there what?

4 Q: Candles?

5 A: Animals?

6 Q: No. Candles like wax with the wicks that you light?

7 A: Oh, candles?

8 Q: Yes.

9 A: No.

10 Q: But the door to the bedroom, your son's bedroom was there
11 because of a fear of fires?

12 A: Right.

13 Q: Now, there was a door right near -- in the room where you
14 slept, right, the front door?

15 A: Yes.

16 Q: There was a porch kind of on the other side of the
17 trailer?

18 A: Yes.

19 Q: Okay.

20 MS. WALTER: Court's indulgence?

21 BY MS. WALTER:

22 Q: Now, I think there was a little bit of confusion when Mr.
23 Brown asked you how often the kids would stay over. But let's
24 talk about **Complainant** how often would **Complainant** stay over?

25 A: How often what?

1 Q: How often would **Complainant** stay at the house?

2 A: I'm still not sure what you're saying.

3 Q: How often would **Complainant** stay at the house?

4 A: Whenever her mother brought her over. I'm not -- I ---

5 Q: Okay. Thank you very much. Nothing further.

6 THE COURT: Any redirect?

7 MR. BROWN: Yes, Your Honor, briefly.

8 REDIRECT EXAMINATION OF EDNA MCKINNON BY MR. BROWN:

9 Q: Ms. McKinnon, you were asked about yard sales?

10 A: Uh-huh, (affirmative response).

11 Q: How did you get the furniture or things you bought at the
12 yard sales to the ---

13 A: Susan brought -- Susan and I -- she had a vehicle and we
14 went and filled the vehicle most weekends, most Saturdays.

15 Q: Did Kevin ever go with you to these yard sales?

16 A: I don't think he went very often, no.

17 Q: But sometimes?

18 A: He was always at work.

19 Q: Okay.

20 A: Or at the racetrack.

21 Q: And she asked you about doors in their bedroom. That's
22 the door that leads outside?

23 A: Right.

24 Q: Okay. That's not an interior door?

25 A: No.

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1 Q: Okay.

2 MR. BROWN: Thank you, Your Honor.

3 THE COURT: All right, ma'am, you may step down.
4 Deputy, could you help?

5 You can step down, ma'am.

6 MS. EDNA MCKINNON: Oh, okay.

7 THE COURT: Just put your mask on.

8 MS. EDNA MCKINNON: Do I leave these here?

9 THE COURT: Yes, ma'am.

10 MS. EDNA MCKINNON: Or do I wear them out.

11 THE COURT: Well, if you want to keep them on, you can
12 keep them on if you want to.

13 MS. MCKINNON: I might as well. Okay.

14 THE COURT: Counsel, would you come up here and talk to
15 me?

16 MR. BROWN: Yes, Your Honor.

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

19 THE COURT: Why don't you go ahead and get your next
20 witness in the courtroom.

21 MR. BROWN: Yes, Your Honor.

22 THE COURT: All right, ma'am, come all the way around up
23 front, all the way around.

24 MR. BROWN: Your Honor, defense calls Susan McKinnon.

25 THE COURT: All right.

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

3 SUSAN MCKINNON, HAVING BEEN DULY SWORN,
4 TESTIFIES AS FOLLOWS:

5 THE CLERK: Thank you. you may be seated, state your
6 name for the Court and you can take your mask off.

7 MS. SUSAN MCKINNON: Susan McKinnon.

8 THE COURT: Go ahead, sir.

9 MR. BROWN: Thank you, Your Honor.

10 DIRECT EXAMINATION OF SUSAN MCKINNON BY MR. BROWN:

11 Q: Ms. McKinnon, how are you?

12 A: Fine.

13 Q: Are you married?

14 A: Yes.

15 Q: Who are you married to?

16 A: Kevin McKinnon.

17 Q: And where do y'all -- do you live in the State of South
18 Carolina?

19 A: Yes, we do.

20 Q: Okay. How long have y'all lived in the State of South
21 Carolina?

22 A: Since about -- I believe it's '92.

23 Q: Okay. Where are y'all from?

24 A: Maine.

25 Q: Okay. And let's talk about your family. Who is Kevin's

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1 mother?
2 A: Edna ---
3 Q: Okay.
4 A: --- McKinnon.
5 Q: And who are y'all's children?
6 A: Eric and Michael McKinnon.
7 Q: Okay. And they're married, right?
8 A: Yes.
9 Q: Who are they married to?
10 A: Michael is married to Shelby, and Eric is married to
11 Jeanna.
12 Q: And do they have children?
13 A: Yes.
14 Q: Who is your grandkids?
15 A: **Brother** **Complainant** **Cousin** and **Minor 1** .
16 Q: **Minor 1** is the newborn or four now, right?
17 A: Yeah. He'll be five in -- .
18 Q: Okay. Did you -- did you have a job -- well, do you work
19 now?
20 A: Yes.
21 Q: Where do you work?
22 A: Retail manager.
23 Q: Okay. How long have you worked in that position?
24 A: About four years.
25 Q: What did you do before that?

- 1 A: I was a cashier at a retail.
- 2 Q: Okay. And what did you do before that?
- 3 A: I worked with my mother-in-law at the antique shop.
- 4 Q: Is that Edna?
- 5 A: Yes, that's Edna.
- 6 Q: Okay. Where was the antique shop?
- 7 A: Surfside.
- 8 Q: Do you know when it started, year-wise?
- 9 A: We opened it up October 1st, 2014.
- 10 Q: Okay. Is it still open now?
- 11 A: No.
- 12 Q: When did y'all close it down?
- 13 A: I'm not sure.
- 14 Q: Okay.
- 15 A: We ran it about two years.
- 16 Q: A few years; two years?
- 17 A: Two, about two.
- 18 Q: Okay. Let's talk about -- let's talk about your home
19 that you used to live in. You don't live on Hwy 814 anymore?
- 20 A: No, we sold it.
- 21 Q: Okay. How long had you lived there?
- 22 A: Many years; I'm not sure how long.
- 23 Q: A long time?
- 24 A: Yes.
- 25 Q: When did you move from there, what year?

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- 1 A: I'm not sure what the year was.
- 2 Q: Okay. Did you live there in 2012?
- 3 A: Yes.
- 4 Q: '13?
- 5 A: Yes.
- 6 Q: '14?
- 7 A: Yes.
- 8 Q: '15?
- 9 A: I believe so.
- 10 Q: '16?
- 11 A: Yes.
- 12 Q: Did Edna, Kevin's mother, live there?
- 13 A: Yes, she did. She lived with us.
- 14 Q: Okay. How did she come to live with you?
- 15 A: My father-in-law passed and we wanted her to get away
- 16 from Maine, where he passed from.
- 17 Q: Okay.
- 18 A: So we brought her here to live with us.
- 19 Q: And she had a business there in Maine?
- 20 A: Yes, with my father-in-law.
- 21 Q: Okay. So she moved from there after he passed away?
- 22 A: Yes.
- 23 Q: Okay. So where did she move to from there, from Maine?
- 24 A: She moved to here to South Carolina with us.
- 25 Q: And who went to the funeral?

1 A: Kevin.

2 Q: Okay. Did she need -- did Edna come back with Kevin?

3 A: Yes, they flew back together.

4 Q: Around 2014?

5 A: Yes.

6 Q: Okay.

7 A: The week after the funeral.

8 Q: Let's talk about the house that you used to live in with
9 Edna and your husband. Can you describe the house?

10 A: It was open. I don't like walls; I like everything open.

11 Q: You mean floorplan-wise?

12 A: Floorplan-wise, open.

13 Q: Okay. When you walk in the front door, where were you?

14 A: In the living room.

15 Q: Okay. Do you have gloves up there; do you see any
16 gloves?

17 A: Yes, sir.

18 Q: Can you put some on; I want to hand you some pictures.

19 MR. BROWN: Permission to approach, Your Honor?

20 THE COURT: Yes, sir.

21 BY MR. BROWN:

22 Q: Susan, I'm gonna hand you some of these pictures. Do you
23 recognize the place in those pictures?

24 A: Yes, I do.

25 Q: Tell us about it, where is that?

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- 1 A: This is my living room when you first walk into it.
- 2 Q: Okay. The front door is where?
- 3 A: It's over right here.
- 4 Q: By the window?
- 5 A: Yes, right off side the window.
- 6 Q: Okay. And this you would describe as an open floorplan?
- 7 A: Yes, I would.
- 8 Q: And this is State's 16 and 17. In 16 -- in 16, this is
- 9 the living room, correct?
- 10 A: Yes, it is.
- 11 Q: And what room can you -- what room can you see into here?
- 12 A: You can see into the dining area in that picture.
- 13 Q: And what are these stuffed animal things on the floor
- 14 here?
- 15 A: Those are my dogs' animals.
- 16 Q: They chew on them?
- 17 A: Yes.
- 18 Q: What's this doorway back here?
- 19 A: That goes into my craft room.
- 20 Q: Okay.
- 21 A: And then into -- then there was another room off into my
- 22 bedroom.
- 23 Q: Okay. You're calling this a craft room?
- 24 A: Yes, sir.
- 25 Q: Was there a computer in there?

1 A: Yes, sir.

2 Q: Excuse me. Was there a doorway -- was there a doorway
3 from the dining room; did you call it a dining room?

4 A: Yes, I did.

5 Q: Was there a door from the dining room into the craft
6 room?

7 A: Yes, a small ---

8 Q: Regular door?

9 A: Yeah.

10 Q: Was it always closed?

11 A: No.

12 Q: Was always open?

13 A: It was open.

14 Q: Okay. I'm gonna hand you what's been marked as State's
15 7. Do you recognize that place?

16 A: Yes. That's my -- what I call my craft room.

17 Q: Okay. Why do you call it the craft room?

18 A: Because that's where we did the cutting out on the Cricut
19 machine and painting and drawings, and my sewing machine was
20 in there.

21 Q: Who did the -- you said we?

22 A: My grandchildren; **Brother** **Complainant** and **Cousin**

23 Q: Y'all made a lot of things in that craft room, time with
24 grandma kind of stuff?

25 A: They liked to paint.

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- 1 Q: Okay. About how old were they?
- 2 A: Probably 6, 7, and 8.
- 3 Q: Okay. And so did they all make crafts with grandma?
- 4 A: Yes.
- 5 Q: Okay. In this picture, still referring to State's 7, are
6 these more of the dogs' toys down here?
- 7 A: Yeah, those are the dogs toys, because the dogs' ball is
8 right there.
- 9 Q: And do you see a big -- this brown chair right here?
- 10 A: The recliner.
- 11 Q: That's not a computer chair, is it?
- 12 A: No, that's a recliner.
- 13 Q: Okay. And what's this right here?
- 14 A: That's the gate so the dogs wouldn't go in my bedroom and
15 pee on my bed.
- 16 Q: Is there -- do you see like a big open area here?
- 17 A: Uh-huh, (affirmative response). That's to walk into the
18 bedroom.
- 19 Q: This went into your bedroom?
- 20 A: Yes, sir.
- 21 Q: And there's no door up there?
- 22 A: No.
- 23 Q: Okay.
- 24 A: No. We did not have a door there.
- 25 Q: You don't like doors and walls?

- 1 A: No, I do not; I still don't. I don't like to be closed
2 in.
- 3 Q: When you went into your bedroom, did you always have this
4 gate up?
- 5 A: No.
- 6 Q: Okay. Was it easy to move?
- 7 A: Yes, it just unhooked and slid across.
- 8 Q: That gate is only like maybe 2 feet high?
- 9 A: Yes, you could step over it
- 10 Q: Okay. Let's talk about this chair. Did you ever move
11 this chair, the brown chair that's not in the computer room?
- 12 A: Yes, we slept -- when **Brother** slept over, we'd slide it out
13 towards the bedroom, have **Brother** sleep in that chair, and he
14 had a nightlight on. And if **Complainant** was sleeping over, she'd
15 sleep in a fold out bed. I don't know what you call them.
- 16 Q: Like a fold out cot?
- 17 A: Yeah, it's a cot; it's got springs and then you put a
18 mattress on it.
- 19 Q: But **Brother** slept in this chair, and then you would put --
20 you moved the chair over?
- 21 A: Facing the doorway.
- 22 Q: What did you call this, open area of your doorway.
- 23 A: It's an open spot.
- 24 Q: An opening?
- 25 A: Yes.

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- 1 Q: So you pulled this chair, not the computer chair ---
2 towards the opening of your bedroom?
- 3 A: Yes.
- 4 Q: And he had a nightlight?
- 5 A: Yes. He always wanted a nightlight so that if he had to
6 go potty or anything, there would be light for him.
- 7 Q: Sure. You always had the kids sleep near you?
- 8 A: Yes, sir.
- 9 Q: Never had them sleep on the -- in those rooms?
- 10 A: No, sir.
- 11 Q: Never had them sleep in the living room or anywhere else?
- 12 A: No.
- 13 Q: Okay. Why not?
- 14 A: Because I was scared of fires, or somebody breaking into
15 the house and I couldn't get to them fast enough. This way,
16 with them right there, I can get to them and get them out of
17 the house safely.
- 18 Q: Did -- was Kevin ever a volunteer fireman?
- 19 A: Yes, he was, for about 20 years.
- 20 Q: In this area?
- 21 A: Yes.
- 22 Q: Did you ever go with him on calls?
- 23 A: Yes, I did.
- 24 Q: Lights and sirens?
- 25 A: Yes.

1 Q: Okay. Was -- you think that's why you are concerned
2 about fires?

3 A: Yes, I've seen a lot of things I probably shouldn't have
4 seen with fires.

5 Q: In fires, you said?

6 A: In fires, yeah.

7 Q: Okay. And I'm gonna show you what's marked as State's
8 11. You see this picture?

9 A: Yes.

10 Q: What is it?

11 A: That's my bedroom.

12 Q: Okay. And there is a door in here; you see this door
13 right here?

14 A: Yes, that goes directly outside.

15 Q: Did you make Kevin build that ---

16 A: And that's why I had that.

17 Q: --- because of the fires?

18 A: Yes, and that's why I had the kids sleeping that close,
19 because that door gets us outside.

20 Q: What's this right here on the bed?

21 A: That's a teddy bear.

22 Q: Is that yours?

23 A: That's my dog's teddy bear that he sucks on the nose.

24 Ody did. They have passed by now, but ---

25 Q: Now, I'm sorry about your dog there. How many dogs did

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- 1 you have?
- 2 A: I had two, and then I had three at one time.
- 3 Q: Okay. So that teddy bear is the dog's teddy bear.
- 4 A: He used to suck on it when he went to bed at night.
- 5 Q: So they slept on the bed sometimes?
- 6 A: The dogs, yes, they slept on the bed all the time.
- 7 Q: Okay.
- 8 A: They slept between us, yes.
- 9 Q: Do you see this blanket on the bed?
- 10 A: Yes, sir.
- 11 Q: This is State's 4. Is this the blanket?
- 12 A: Yes, sir.
- 13 Q: This is that blanket in the picture?
- 14 A: Yes, sir.
- 15 Q: Going back to State's 11, did you -- that's the same
16 blanket?
- 17 A: Yes, it is.
- 18 Q: Did you use that blanket a lot?
- 19 A: Yes, we did. We used it on the couch if we were cold.
20 The ceiling fan was on and you used the blanket.
- 21 Q: He was hot and you were cold?
- 22 A: Yes, yes. I would sit -- the girls that would sit next
23 to me, we'd cover up with it because the ceiling fan was on
24 and I used it alone. That was my blanket.
- 25 Q: This, what is this over here?

- 1 A: That's my bureau with a mirror.
- 2 Q: The big mirror here?
- 3 A: Yes.
- 4 Q: And what's this right here?
- 5 A: That's Kevin's bureau.
- 6 Q: Okay.
- 7 A: And the other side was sliding glass mirrors for the
8 closet.
- 9 Q: Mirror on ---
- 10 A: Both sides.
- 11 Q: Okay. T.V.?
- 12 A: Yes.
- 13 Q: Not a mirror; that's a picture, right?
- 14 A: That's a picture.
- 15 Q: Okay.
- 16 A: Yes.
- 17 Q: I'm referring to State's 10. Do you see that?
- 18 A: Yes, sir.
- 19 Q: I've gotta ask.
- 20 A: That's fine.
- 21 Q: Are you familiar with those items?
- 22 A: Yes, I am.
- 23 Q: What are they?
- 24 A: They're lube.
- 25 Q: Who are they for?

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- 1 A: They're for my husband and I. I've had a hysterectomy
2 and that's the only way we can have sex now.
- 3 Q: Okay. These were located where?
- 4 A: They were in the top drawer beside my bed.
- 5 Q: Okay. In the bedroom?
- 6 A: I'm sorry?
- 7 Q: In the bedroom?
- 8 A: In the bedroom; yes, sir.
- 9 Q: Not hidden away?
- 10 A: No, no.
- 11 Q: Okay. The -- was it a nightstand next to the bed?
- 12 A: Yes. Two drawers.
- 13 Q: About how tall, 2 feet, 3 feet?
- 14 A: Maybe not even that tall, it just had two drawers in it.
- 15 Q: Okay. I'm showing you what's been marked as State's 14.
16 This is -- can you tell us what this is?
- 17 A: That's the outside of my house.
- 18 Q: And that door is the door we were just talking about
19 that's in the bedroom?
- 20 A: That's the -- yes, that's the door that goes to the
21 bedroom.
- 22 Q: Okay. So that's the fire escape sort of?
- 23 A: Yes. That's how I felt when the kids were there.
- 24 Q: Do you know who built this?
- 25 A: My husband built that.

- 1 Q: Okay. Anybody help him?
- 2 A: No. Maybe the dogs.
- 3 Q: Talking about family gatherings at that house; you have a
4 lot of them?
- 5 A: Yes, we like, on Sundays, have a family get-together and
6 talk about the races and let the kids get together and play;
7 they're cousins.
- 8 Q: What -- what -- what did you do at these family
9 gatherings; did you cook?
- 10 A: Yeah. Cook out on the barbecue, sometimes made
11 spaghetti.
- 12 Q: Who grilled out; who was on the grill?
- 13 A: Kevin usually grilled out.
- 14 Q: Okay. So he's out there on the grill. What -- did
15 everybody come over?
- 16 A: Yes.
- 17 Q: Who all came over?
- 18 A: It was usually **Brother** **Complainant** **Cousin** Eric, Jeanna,
19 Michael, Shelby.
- 20 Q: How often did you do these?
- 21 A: We tried to do them a couple of times a month, so that
22 everybody could get together.
- 23 Q: Okay. Let's talk about other schedules. Let's talk
24 about Kevin's schedule. Okay? Kevin had a job?
- 25 A: Yes, sir.

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- 1 Q: All right. How often did he go to work?
- 2 A: He worked every day, Monday through Friday.
- 3 Q: Did he work on Saturday, Sunday?
- 4 A: He worked at the racetrack on Saturday and Sunday,
5 sometimes. It depends ---
- 6 Q: Okay. And that's the race season?
- 7 A: During the race season, he worked, yes.
- 8 Q: Race season is from April to November?
- 9 A: Yes.
- 10 Q: Okay. Tell -- tell us about that, during the race
11 season, did he have anything to do after his regular job,
12 Monday-through-Friday kind of job?
- 13 A: Uh-huh, (affirmative response).
- 14 Q: Did he work on cars after that when he came home?
- 15 A: If they wrecked their car, they would sometimes work up
16 to midnight to repair them.
- 17 Q: Did they wreck their cars a lot?
- 18 A: At the beginning, yes.
- 19 Q: Did you work at the racetrack?
- 20 A: No, I did not work there. I did go sometimes.
- 21 Q: What did you do when you went?
- 22 A: I sat in the safety team, in the truck, the pickup truck.
- 23 Q: Is this the Myrtle Beach Speedway, former Myrtle Beach
24 Speedway?
- 25 A: Yes. Yes.

- 1 Q: Okay. Did you go -- did they have to go every weekend?
- 2 A: Yes. They had to go every weekend.
- 3 Q: During the race season?
- 4 A: Yes, during the race season.
- 5 Q: And that's every Saturday?
- 6 A: Yes, races were on Saturday.
- 7 Q: Okay. So Monday through Friday, he had a full-time job?
- 8 A: Yes.
- 9 Q: What time would he get up Monday through Friday?
- 10 A: He'd usually get up about between 6:00 and 6:30, so he
- 11 could take a shower and get ready for work.
- 12 Q: Okay. Then he'd come home when, during Monday through
- 13 Friday?
- 14 A: Yeah. He'd get home about 5:30, quarter of 6:00, around
- 15 there.
- 16 Q: Okay. And were you there when he left to go to work?
- 17 A: Yes.
- 18 Q: Okay. Did he come home for lunch during the day Monday
- 19 through Friday?
- 20 A: No.
- 21 Q: Okay. And were you there when he got home?
- 22 A: Sometimes, and sometimes I wasn't. I might've been at my
- 23 job.
- 24 Q: Okay. At which job?
- 25 A: At the -- either the retail or with Edna McKinnon.

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- 1 Q: Okay. The antique store?
- 2 A: Yes, yes.
- 3 Q: Okay. And that's Monday through Friday?
- 4 A: Yes.
- 5 Q: Did he ever have to go in on Saturday to his full-time
6 job?
- 7 A: Sometimes, it depends on what took place, but it wasn't
8 very often. He was at the racetrack more than anything.
- 9 Q: And it wasn't his Saturday job, not full-time, he wasn't
10 there all day?
- 11 A: No, no. It would've just been in the morning if there
12 was paperwork or something to be done.
- 13 Q: Okay. Then he would also help at the antique shop?
- 14 A: I'm sorry; what did you say?
- 15 Q: Did he work at the -- or did he help y'all with the
16 antique shop?
- 17 A: Yes. He helped build the shelves, the tables, helped us
18 put the stuff in.
- 19 Q: Do you know about when that was?
- 20 A: The second one that we moved over to?
- 21 Q: Yes.
- 22 A: Was -- no, I don't know my dates. I'm not sure. I know
23 it was hot.
- 24 Q: It was hot?
- 25 A: It was hot. It was June or July.

- 1 Q: Okay.
- 2 A: But, I don't know what date.
- 3 Q: Let me show you what's Defense's 15, 16, 17. Take a look
4 at these; what is that?
- 5 A: These are the shelves he built on the wall. It was like
6 a 6 foot wall or so. He built shelves and anchored them to
7 the wall.
- 8 Q: Will this help you tell the time?
- 9 A: Oh, 2015.
- 10 Q: Okay. So he's building the shelves in 2015?
- 11 A: Yep.
- 12 Q: Okay. And this is the second shop?
- 13 A: This is the second shop, yes.
- 14 Q: Okay. But it's all in the same shopping center?
- 15 A: Yes, it is, in Surfside.
- 16 Q: Okay. Tell us how that went. You had one, and the first
17 one ---
- 18 A: We outgrew the first one.
- 19 Q: The first one was '14, 2014; is that right -- ish?
- 20 A: Yes.
- 21 Q: Okay. And then when you outgrew it, what happened?
- 22 A: And then an opening came on the other side of it, on the
23 right of it. It was a bigger spot.
- 24 Q: Is this place like an L?
- 25 A: It's straight.

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1 Q: Okay. So you moved from one end to the other end?

2 A: Yes.

3 Q: And then how did you get the -- all your stuff,
4 inventory, from one end to the next?

5 A: We boxed it up and put some in the car and took it over,
6 and the heavy stuff, Kevin wheeled on a -- like a refrigerator
7 wheeler -- hauler.

8 Q: Basically, just through the parking lot?

9 A: Yes, yeah.

10 Q: Okay. And it was hot?

11 A: Yes.

12 Q: Okay.

13 A: Yes, it was.

14 Q: And, so this, these pictures, are the second shop after
15 you're moving in?

16 A: Yes.

17 Q: Or before you moving in?

18 A: Yeah. This is before we're moving in; we were building
19 the shelves. He's here building the shelves, and this is my
20 grandson, **Brother** helping knocking down a wall.

21 Q: So you had so much stuff you had to knock the walls down?

22 A: Yeah, and reframe in before we rent out the spots.

23 Q: Okay. How many spots did you rent out?

24 A: We probably had about ten people in there renting spots.

25 Q: And this is -- looking at Defense's 17, what time of year

1 was that?

2 A: This was in May.

3 Q: Of 2015?

4 A: 2015.

5 Q: How busy were y'all in May of 2015?

6 A: Once we opened up, we were very busy.

7 Q: Okay. And you stayed busy?

8 A: Yes.

9 Q: Okay. So in May, June, July of 2015, because that's the
10 time period we're talking about, were y'all busy?

11 A: Yes.

12 Q: Do you remember **Cousin** and **Complainant** coming over to your
13 house May, June, of 2015?

14 A: No, I wouldn't have had them over to my house because we
15 were trying to get that shop running and that was first
16 priority.

17 Q: So they get out of school, and then before July 4th, they
18 didn't come over; is that what you're saying?

19 A: They wouldn't have slept over. They probably came over
20 on a Sunday with their parents, but I wouldn't have had them
21 sleep over because there was no way we could've done that.

22 Q: Okay. Before all of that, was it often that they spent
23 the night?

24 A: A couple of times a month.

25 Q: Okay.

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1 A: I loved having my grandchildren over.

2 Q: Sure. Did they stay together,; did they stay by
3 themselves; how did they come over and stay at your house?

4 A: I always tried to have two come over, either **Brother** and
5 **Complainant** or **Complainant** and **Cousin**

6 Q: Because **Brother** and **Complainant** are siblings?

7 A: Yes, they are.

8 Q: So usually they would come over together?

9 A: Right, and that would give their mom a break too by
10 taking the kids.

11 Q: What about **Cousin** Did she come over by herself or ---

12 A: No, she wouldn't come over by herself. She always wanted
13 **Complainant** to come over or **Brother** somebody she could talk to and
14 play with. She didn't want to come by herself.

15 Q: Was that typically **Brother** or **Complainant**

16 A: It was usually **Complainant**

17 Q: Okay.

18 A: Because it's a girl, somebody to talk to.

19 Q: From your observations, were **Brother** -- were **Complainant** and
20 **Cousin** close?

21 A: I believe they were.

22 Q: Okay. Close like sisters?

23 A: Yes.

24 Q: But they're cousins?

25 A: They're cousins, yes.

1 Q: Close in age?

2 A: Yes, yes. They're a year a part.

3 Q: When the kids came over, including **Brother** did **Brother** use
4 the computer?

5 A: Yes.

6 Q: Do you know what he would watch on there or do on there?

7 A: He liked to do the -- there's a video game on YouTube
8 that he played a lot. The people would talk and do it, and
9 he'd like to watch, so he could pick up -- so he could play
10 the game later and pick up ideas from it.

11 Q: Okay. What about **Complainant** and **Cousin** did they use it?

12 A: Yeah, they made -- they liked to do dancing videos.

13 Q: Okay. Tell us about that.

14 A: They would go on YouTube and -- I think it was Katy
15 Perry, "Tiger of the Eye" [sic]; that was their favorite one.

16 Q: Okay.

17 A: And they would just play the music and they would dance
18 to it.

19 Q: Did they ever come up and show the family dances that
20 they learned?

21 A: Yeah.

22 Q: Okay. And that computer room is what you call the craft
23 room?

24 A: Yes, sir. That's what I call it.

25 Q: Okay. Now, at that house, at your house, it's during

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1 this time period we're talking about, it's you and Kevin and
2 his mother?

3 A: Yes.

4 MR. BROWN: I'm showing her State's 13.

5 BY MR. BROWN:

6 Q: This is from -- well, do you recognize this?

7 A: That's my house.

8 Q: And that's from the road?

9 A: Yes. That's from the road.

10 Q: Now, I know these aren't your cars?

11 A: No, it is not.

12 Q: This -- some of these over here?

13 A: That's the garage. Yeah, those are racecars over here,
14 and that's the pickup truck. The blue pickup truck that they
15 used to haul the racecar with and the trailer is right by the
16 front door.

17 Q: What's this over here?

18 A: The garage.

19 Q: Is that where they work on the cars?

20 A: That's where the racecars would sit, and they would work
21 on them, yes.

22 Q: How often are they in there in the garage?

23 A: All the time.

24 Q: When you say they?

25 A: Michael and Kevin, or when Eric came over sometimes he

1 was in there with them. He raced, too.

2 Q: How much time of theirs, Kevin, Michael, Eric, was spent
3 towards racing?

4 A: Well, when they were at our house, every minute. I mean
5 it was either on T.V. they were watching it or they were in
6 the garage building something, you know, making sure the
7 racecars were running.

8 Q: And then the races were on Saturday?

9 A: Yes, Saturday nights, yes. They would have to go early
10 because they would practice.

11 Q: And so on Saturdays, during the race season, that's --
12 what time would they leave the house or what time would Kevin
13 leave the house to go to the racetrack?

14 A: Between 11:00 and 12:00 because he'd have to set up the
15 safety team, you know, get the truck set up for the safety.

16 Q: Okay. So he left in the morning ---

17 A: Yeah, 11:00 in the morning or by noontime.

18 Q: And then what time would he get home?

19 A: Not until at least midnight.

20 Q: Okay. So Sunday morning?

21 A: Yes.

22 Q: Was he exhausted, tired?

23 A: Yes.

24 Q: Sounds like a long race season; is that right?

25 A: It's from April to November.

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1 Q: Okay. There were two other rooms in your house on the
2 opposite side of the house than your -- than your bedroom and
3 the craft room, right?

4 A: Yes.

5 Q: When you walk in the door they're to the right; is that
6 right?

7 A: Yes.

8 Q: Okay. Let's talk about those rooms.

9 MR. BROWN: I'm showing her State's 15.

10 BY MR. BROWN:

11 Q: Is this one of the rooms?

12 A: Yes.

13 Q: Okay. So when you walk in the front door, where is this
14 room?

15 A: This room is off to the right, right when you come in the
16 doorway, this room was right to the right.

17 Q: Okay. And when you walk in the doorway, you come in and
18 then is that -- that room is to the right or is there other
19 rooms that go into right there?

20 A: You turn right into that room.

21 Q: The pool room?

22 A: The doorway was open and had a pool table in it and all
23 the kids' toys.

24 Q: There's no door on that room?

25 A: No.

- 1 Q: Okay. Is there another room next to it?
- 2 A: There's -- straight across is the bathroom, and then
3 there was another room that Edna had all her stuff from the
4 antique shop in there that we price and we have to clean it.
- 5 Q: So in the pool table room, there's a lot of stuff in
6 there?
- 7 A: Yes, kids' toys.
- 8 Q: And then some of Eric and Michael's stuff?
- 9 A: Yeah, trophies are in there.
- 10 Q: Racing trophies?
- 11 A: Racing trophies, pictures.
- 12 Q: Okay.
- 13 A: Yeah.
- 14 Q: But there's no door on this room?
- 15 A: Oh, no; no door.
- 16 Q: And then the bathroom was next to it?
- 17 A: Well, straight -- straight across from it. This would be
18 the room, and then there would be a bathroom right there
19 straight across.
- 20 Q: And then there's a storage room next to that?
- 21 A: Yes.
- 22 Q: Okay. And the storage room had a lot of stuff in it?
- 23 A: Yes, boxes and glassware and...
- 24 Q: Did the kids go through your stuff?
- 25 A: In my bedroom?

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1 Q: Anywhere in the house?

2 A: Yes, they've been through stuff in my bedroom.

3 Q: Did they take things from your house or did they say can
4 I have this?

5 A: Yeah.

6 Q: What about the antique store; do they say, can I have
7 this?

8 A: Oh, yes. Yeah, they always went shopping there.

9 Q: They went shopping?

10 A: Yeah.

11 Q: What would they do; tell us about that?

12 A: They would -- **Brother** he'd go pick up certain cars that he
13 liked from the different people. The girls would pick out
14 jewelry or jewelry boxes or stuff like that.

15 Q: So they would take things at the antique store and buy
16 them?

17 A: Well, their great grandma gave them to them.

18 Q: Okay.

19 A: But they said they were buying them, their grandma gave
20 them to them.

21 Q: I'm sorry. How did they get to the antique store, **Brother**
22 **Complainant** and **Cousin**

23 A: Right. Sometimes, if Eric was working, I would go pick
24 them up at a bus stop beside where Crystal was living, and I
25 would take them to the store, and then when Eric got out at

1 5:00, he would come and pick them up, because they didn't have
2 any, you know, in between no sitters, that's why we'd take
3 them to the store.

4 Q: Did you pick them up a lot?

5 A: Yes, I was always picking them up.

6 Q: Did Kevin ever pick them up by himself?

7 A: Not that I'm aware of. I'm the one that usually goes and
8 gets them.

9 Q: Grandma was the driver?

10 A: Uh-huh, (affirmative response); yes.

11 Q: Okay. We talked about at night when y'all are going to
12 bed, and by y'all, I mean you and Kevin?

13 A: Yes, sir.

14 Q: When y'all went to bed, did y'all go to bed collectively;
15 one would go first, one would stay up?

16 A: No, we always go to bed at the same time.

17 Q: Okay. And then when y'all got up, y'all get up at the
18 same time?

19 A: Sometimes, he'd get up a half an hour before I did.

20 THE COURT: Is there some matter, ma'am?

21 JUROR: Can I take a brief restroom break?

22 THE COURT: All right. We'll take a break. Ladies and
23 gentlemen, go to your jury room.

24 (REPORTER'S NOTE: Jury exits courtroom @ 3:34 p.m.)

25 THE COURT: Counsel, come over here and talk to me.

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KEVIN MCKINNON - BY THE COURT

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1 All right. We'll take a short break for about five or
2 ten minutes. Thank you.

3 Ma'am, you can step down, but you can't talk to anybody
4 about what's going on right now.

5 MS. SUSAN MCKINNON: Okay. All right. Thank you.

6 THE COURT: You have to put your mask back on.

7 MS. SUSAN MCKINNON: Yes.

8 THE COURT: Okay.

9 **RECESS - 3:35 P.M.**

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

11 **ON THE RECORD 3:46 P.M.**

12 (REPORTER'S NOTE: The following takes place outside the
13 presence of the jury.)

14 BY THE COURT:

15 THE COURT: All right. Before we bring the jury in, I
16 want to talk about two things. First, just so the defense is
17 prepared and deputies in accordance with my standard practice,
18 tomorrow when the jury retires to deliberate, the defendant is
19 then placed in custody with the Horry County Sheriff's Office
20 and he will be detained until the jury reaches a verdict in
21 this matter. All right?

22 Second, Mr. Brown, have you talked to your client about
23 his right to testify?

24 MR. BROWN: I have, Your Honor.

25 THE COURT: Is he prepared to answer the Court's

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KEVIN MCKINNON - BY THE COURT

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1 questions at this time?

2 MR. BROWN: One second?

3 He is, Your Honor.

4 THE COURT: Please stand up, Mr. McKinnon. Place him
5 under oath, please, ma'am.

6 THE CLERK: Please raise your right hand?

7 KEVIN MCKINNON, HAVING BEEN DULY

8 SWORN, TESTIFIES AS FOLLOWS:

9 THE CLERK: Thank you.

10 THE COURT: All right, Mr. McKinnon, at this point in
11 time, I'm going to explain to you certain of your
12 constitutional rights. If at any point in time, you do not
13 understand me, you have a question, some concern, I need for
14 you to bring that to my attention. You can raise your hand,
15 you can tell your attorney, but unless you bring it to my
16 attention, I don't know that it exists. Do you understand
17 this?

18 MR. KEVIN MCKINNON: Yes, Your Honor.

19 THE COURT: Okay. Now, we're obviously in the defense
20 part of the trial. You have the right to claim the protection
21 granted to you by the Fifth Amendment of the Constitution of
22 the United States of America. That states in part that no
23 person shall be compelled in any criminal case to be a witness
24 against themselves. That means, nobody can make you testify.
25 You can testify if you want to, but nobody can make you do

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KEVIN MCKINNON - BY THE COURT

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1 that; do you understand that?

2 MR. KEVEN MCKINNON: Yes, Your Honor.

3 THE COURT: If you decide to testify, you understand you
4 will be subject to the same rules that you have seen regarding
5 all of the witnesses. You would be examined, questioned by
6 your attorney; you would be cross examined, asked questions by
7 the defense as to any and all matters the Court deems
8 relevant. Do you understand that?

9 MR. KEVIN MCKINNON: Yes, Your Honor.

10 THE COURT: If the defendant would testify, Solicitor,
11 are there any 609 matters that you would seek to examine him
12 about?

13 MS. WALTER: There are, Your Honor. The defendant was
14 convicted on July 25th of 2019 of two counts of sexual
15 exploitation of a minor in the third degree, both of which
16 would be felonies and subject to the 609 impeachment.

17 THE COURT: All right. Do you disagree with that, Mr.
18 Brown?

19 MR. BROWN: No, Your Honor, he did plead under *North*
20 *Carolina vs. Alford*.

21 THE COURT: All right. Very good. All right. So now,
22 Mr. McKinnon, you understand that the state would be able to
23 ask you and, if it came up, I might, as I did before, restrict
24 the state to the convictions as to the felonies and as to that
25 you are a convicted felon having pled guilty to, or even a

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KEVIN MCKINNON - BY THE COURT

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1 plea under *North Carolina vs. Alford* is a -- is a finding of
2 guilt regarding offenses in Georgetown in 2019; do you
3 understand that?

4 MR. KEVIN MCKINNON: Yes, sir.

5 THE COURT: All right, sir. Now, if you decide to
6 testify, that decision on your part has to be your decision
7 freely, voluntarily made. You can consult with your attorney,
8 you can consult with a family member, but you understand it's
9 your decision?

10 MR. KEVIN MCKINNON: Yes, Your Honor.

11 THE COURT: All right, sir. And now, if you decided not
12 to testify, I would instruct the jury they cannot give that
13 fact any consideration. They can't talk about it in the jury
14 room, they can't use it to make a determination in this
15 matter; do you understand that?

16 MR. KEVIN MCKINNON: Yes, Your Honor.

17 THE COURT: Before we leave the matter of the prior
18 convictions, while I would, at this point in time, not allow
19 the state to talk about the offenses, depending upon certain
20 questions that defense counsel might ask and the defendant's
21 response, I'm not foreclosing it altogether. If there's an
22 opening of the door, then I might very well allow the state to
23 bring out what the charges are. Okay? So I want that clear.
24 It's not an absolute prohibition. It is conditional upon the
25 defense not opening the door to those matters coming up. You

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KEVIN MCKINNON - BY THE COURT

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1 understand that, Mr. Brown?

2 MR. BROWN: Yes, Your Honor.

3 THE COURT: All right. Very good. Now, before I ask
4 you, Mr. McKinnon, what you want to do in this particular
5 matter, do you want to ask your attorney any questions or a
6 family member any questions?

7 MR. KEVIN MCKINNON: No, Your Honor.

8 THE COURT: Do you wish -- well, first, have you
9 understood what we have talked about here

10 MR. KEVIN MCKINNON: Yes, Your Honor.

11 THE COURT: All right. Do you wish to testify in this
12 case?

13 MR. KEVIN MCKINNON: No, Your Honor.

14 THE COURT: Thank you very much. You may have a seat.

15 All right. So with that, then is the state ready for the
16 jury to come back in?

17 MS. WALTER: We are, Your Honor.

18 THE COURT: The defense?

19 MR. BROWN: Yes, Your Honor.

20 THE COURT: Ask the jury to come back in, please, ma'am.

21 (REPORTER'S NOTE: Jury enters courtroom @ 3:52 p.m.)

22 THE COURT: All right, Mr. Brown, you may proceed, sir.

23 MR. BROWN: Thank you, Your Honor.

24 CONTINUED DIRECT EXAMINATION OF SUSAN MCKINNON BY MR. BROWN:

25 Q: Ms. McKinnon, we were talking about your house. In your

1 house you had an open floorplan you said?

2 A: Yes, sir.

3 Q: Could you hear people talking in other parts of the
4 house?

5 A: Yes, sir.

6 Q: Could you hear people walking in other parts of the
7 house?

8 A: Yes, you could.

9 Q: You could hear people moving around?

10 A: Yes.

11 Q: Could you hear your dogs walking around?

12 A: Yes.

13 Q: Okay. Talking about Kevin, how long have y'all been
14 married?

15 A: Forty years.

16 Q: Okay. And where did y'all get married?

17 A: We got married in Maine.

18 Q: Okay. Now, obviously, after a 40-year marriage, still
19 ongoing ---

20 A: Yes, sir.

21 Q: --- you're still married, right?

22 A: Yes, we are.

23 Q: Okay. You know Kevin pretty well. Does Kevin have
24 tattoos?

25 A: No, he does not.

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SUSAN MCKINNON - DIRECT BY BROWN

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- 1 Q: Does Kevin have piercings?
- 2 A: No, he does not.
- 3 Q: I hate to get personal, but I got to ask. Kevin -- does
4 Kevin have pubic hair?
- 5 A: Yes, he does on the top and the bottom and it is gray.
- 6 Q: Gray color?
- 7 A: Gray color, yes.
- 8 Q: And does Kevin -- did Kevin have a lot of jobs throughout
9 the past ten years?
- 10 A: I don't understand what you're asking.
- 11 Q: Was he constantly doing something, working, working on
12 cars, racetrack, full-time job, all this?
- 13 A: Yes.
- 14 Q: Okay.
- 15 A: He was always busy.
- 16 Q: Always busy?
- 17 A: That way with racecars and regular work, yes.
- 18 Q: Okay. Now, when y'all go to sleep at the same time?
- 19 A: Yeah. We go to bed about 10 o'clock at night.
- 20 Q: Did you take sleeping pills?
- 21 A: Yes, I did.
- 22 Q: Every single night?
- 23 A: No. I take them when I can't sleep.
- 24 Q: Okay. Did you ever take them with the kids around?
- 25 A: No. I would not do that because I want to make sure my

1 grandchildren are always safe.

2 Q: Okay.

3 A: I love them.

4 Q: I understand. To your knowledge, was Kevin alone with
5 the kids a lot?

6 A: No.

7 Q: Ever?

8 A: Not that I'm aware of.

9 Q: Okay. Talking about the kids, though, **Cousin** and **Complainant**
10 specifically, did you ever find them, **Cousin** and **Complainant**
11 acting out sexually together?

12 A: One time.

13 Q: Where?

14 A: It was on the couch.

15 Q: Where?

16 A: They had the blanket over them.

17 Q: At whose house?

18 A: It was at my house.

19 Q: Did you separate them? What happened?

20 A: Shelby walked in and hollered at them, and it was done
21 and I still -- I just kind of found out about it then.

22 Q: You were surprised?

23 A: Yes.

24 Q: Shocked?

25 A: Yes.

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SUSAN MCKINNON - CROSS BY WALTER

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1 Q: Okay. You separated the kids?

2 A: Yes.

3 Q: Talking about **Cousin** was **Cousin** a shy kid?

4 A: No.

5 Q: Was she an attention seeker?

6 A: Yes. She always had to have attention.

7 Q: Okay. Always wanted it?

8 A: Yes.

9 Q: And you're aware that she, **Cousin** had been abused?

10 A: Yes.

11 Q: Okay. Not by Kevin McKinnon?

12 A: No.

13 Q: Never ---

14 A: No.

15 Q: --- by Kevin McKinnon?

16 MS. WALTER: Objection.

17 THE COURT: I'm gonna allow this. Now, let's move along.

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

19 THE COURT: Cross-examination?

20 MS. WALTER: Thank you, Your Honor.

21 Your Honor, may I approach?

22 THE COURT: Yes, ma'am.

23 CROSS-EXAMINATION OF SUSAN MCKINNON BY MS. WALTER:

24 Q: I'm showing you State's Exhibit 16?

25 A: Do I need to put gloves on?

1 Q: No, you don't need that.

2 A: Okay. That's my living room.

3 Q: I think Mr. Brown forgot to ask you, do you see a bird in
4 that picture?

5 A: Yes, that's Pickles.

6 Q: Right. Okay. I just wanted to make sure we covered
7 that. Now, you said that your husband was a firefighter?

8 A: Yes.

9 Q: Wasn't that over 20 years ago?

10 A: He was -- probably, yes. I don't know the date.

11 Q: When -- you said that you were working in retail and then
12 you were also working with your mother-in-law at the antique
13 shop?

14 A: Yes, ma'am.

15 Q: So what were your hours at the retail store?

16 A: I worked days and nights, but I had made -- I worked
17 Saturday night, so I could have Sundays off. And I'd work
18 truck days, so I could have Sundays off and have a family day.
19 I'd worked that out with my boss.

20 Q: You worked days and nights?

21 A: Yes.

22 Q: So who staffed the antique store?

23 A: Well, I wasn't working at the retail store when -- when
24 my mother-in-law moved in with me. I had quit, so that I
25 could open the store with her.

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1 Q: So the entire time that you had the antique store, you
2 did not work in retail?

3 A: Right.

4 Q: And you just said that you would work Saturday nights, so
5 that you could have Sundays off to spend with the family?

6 A: Yes, some Saturday nights, some Saturday during the day.

7 Q: And was this retail job all year round?

8 A: Yes.

9 Q: So you would some Saturday nights, some Saturday days all
10 year round?

11 A: Yes.

12 Q: So you did not go to the racetrack every Saturday?

13 A: No, sometimes I went to the racetrack on occasionals.
14 When I worked Saturday during the day, I'd go to the
15 racetrack.

16 Q: Right, so what I'm asking is if you worked some Saturday
17 days and some Saturday nights, you could not go to the
18 racetrack every Saturday for every race?

19 A: No. I never did go every Saturday. I went occasionally.

20 Q: The door -- so where you guys put your addition, the room
21 that you call the craft room, did that used to be your
22 bedroom?

23 A: Yes, when we first moved in.

24 MS. WALTER: I'm sorry, Your Honor, I keep forgetting my
25 mask. So if I may approach, Your Honor?

1 THE COURT: Yes, ma'am.

2 BY MS. WALTER:

3 Q: I'm approaching with State's Exhibit 7, you don't need
4 gloves, I'll just show it to you.

5 A: Okay.

6 Q: So this was be the doorway from the dining room into your
7 craft room or the computer room, right?

8 A: Yes.

9 Q: That's a doorframe?

10 A: Yes.

11 Q: That was originally the door into your master bedroom?

12 A: That's the door off the -- from the dining room.

13 Q: Right, into what used to be your bedroom?

14 A: Yeah, back in the 90s; yeah, way back.

15 Q: Right. So was it the same door, you kept that door on?

16 A: Yes. It was the original door.

17 Q: The door had a lock on it?

18 A: No.

19 Q: No lock on the bedroom door?

20 A: No. It was just me and my husband, and the kids when
21 they were younger, they never came in. They knocked on the
22 door.

23 Q: Now, from this angle, this is sort of the middle of the
24 picture. That's the doorway into your now bedroom, the
25 addition?

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SUSAN MCKINNON - CROSS BY WALTER

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1 A: Yes.

2 Q: Can you see the bed in this picture?

3 A: No.

4 Q: The bed is actually behind this wall that has that little
5 shelf on it, right?

6 A: Right.

7 Q: So if you're sitting -- and the computer desk against
8 this wall, correct, the wall to your left behind the dining
9 room?

10 A: Yeah, right here.

11 Q: So if you're sitting at the computer desk, can you see
12 around the corner onto your bed?

13 A: No.

14 Q: I'm approaching with State's Exhibit 16. So this would
15 be the view from your living room?

16 A: Yes.

17 Q: And again, sort of in the middle of picture, that's the
18 doorway into the craft or computer room?

19 A: Right.

20 Q: And you can't see into there from here, right, I mean if
21 the door were closed, you wouldn't be able to see in there,
22 right?

23 A: Well, if a door is closed, no, you can't see through a
24 door.

25 Q: Okay. And that door was working, correct?

1 A: Yes.

2 Q: Now, I know that you said that you were concerned with
3 keeping the dogs off, so that -- out of your bedroom so that
4 they wouldn't pee on your bed. Did you also have carpeting in
5 your bedroom?

6 A: Yes.

7 Q: So were you also worried about them peeing on the carpet?

8 A: Yes.

9 Q: I think you were saying that one of the reason why you
10 had the kids, when they slept over, sleep near you is because
11 you were worried about fires because of everything you had
12 seen, right?

13 A: Yes, I wanted to keep them safe.

14 Q: And your husband, as a volunteer firefighter, would be
15 familiar with kind of fire safety procedures, right?

16 A: I would say so.

17 Q: So I'm showing you State's Exhibit 11. That's the
18 bedroom -- the door in the bedroom that leads outside, right?

19 A: Yes.

20 Q: But it would actually open into the bedroom, correct?

21 A: Yes.

22 Q: So if you were in a fire and you're trying to herd your -
23 - I presume they would be scared at that point, trying to herd
24 your grandchildren out to safety, now you're actually going to
25 have to open the door and maneuver them around the door to get

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1 out?

2 A: No, it opened right, so they could just go right out.
3 They'd -- when it opens in the bedroom, it would open to the
4 right. If it went to the left, it would hit the mirrors on
5 the wall.

6 Q: Right, but you would still have to go around it? Well,
7 actually -- hold on.

8 A: Not really, it opened right up and flat right to the
9 wall.

10 MS. WALTER: I'm showing 11.

11 MR. BROWN: 11? Okay.

12 BY MS. WALTER:

13 Q: So this is State's Exhibit 11, right?

14 A: Uh-huh, (affirmative response).

15 Q: This is the corner -- what's in this corner over here by
16 the door?

17 A: Nothing, a picture. There was a picture there; there was
18 nothing there.

19 Q: Does this wall where this dresser is go straight and then
20 the wall that the door is on goes straight and they just meet
21 in the corner?

22 A: There's a -- right here by the bureau right here was
23 mirrors, it was sliding glass mirrors.

24 Q: Okay.

25 A: Right there. That door opened all the way to the wall.

- 1 Q: Okay. But so then again, if you're herding scared kids,
2 you have to go, you have to open the door and make sure that
3 it goes all the way, and then run out versus -- I have to
4 stand away so I can breathe. If it opened outward, you could
5 just push it open and run out. Doesn't it seem, with your
6 experience going to fires, doesn't it seem that that would be
7 a safer way to do it; just push it out and run.
- 8 A: My living room door opened up in.
- 9 Q: Right. I'm asking you about this door.
- 10 A: The door is safe to me.
- 11 Q: Now, we've heard a lot about the racetrack and everyone
12 would go every Saturday. Were there ever any races cancelled?
- 13 A: I'm sure because of rain.
- 14 Q: Right, because hurricane season, do you know what
15 hurricane season is in South Carolina?
- 16 A: Yes.
- 17 Q: When does it run from?
- 18 A: June to November.
- 19 Q: Right, June 1st to November 30th, right? So I would
20 imagine that between January of 2013 and July of 2015, I
21 figure that's two full hurricane seasons, forgetting regular
22 rain on a regular weekend that there would have been a lot of
23 races that were cancelled?
- 24 A: There really wasn't that many cancelled.
- 25 Q: No?

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SUSAN MCKINNON - CROSS BY WALTER

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- 1 A: No, ma'am.
- 2 Q: And I think you said that **Cousin** was an attention
3 seeker, right?
- 4 A: Yes, she liked attention.
- 5 Q: Did you also say that the defendant was never alone with
6 the kids?
- 7 A: Not that I'm aware of.
- 8 Q: Why not?
- 9 A: Because we're always together.
- 10 Q: But he was working three jobs; you were working at least
11 at the antique store, taking your mother-in-law around to all
12 of these yard sales to stock the antique store. How is it
13 that he never had any time alone with the grandchildren?
- 14 A: I'm the one that picks them up and always took home, took
15 them wherever. They were always with me.
- 16 Q: You always picked the children up to bring them to your
17 house?
- 18 A: Yeah.
- 19 Q: So Eric never dropped them off?
- 20 A: He might have; Eric might have.
- 21 Q: Crystal never dropped ---
- 22 A: Yeah, they might have.
- 23 Q: So other people ---
- 24 A: But I was there when they dropped them off.
- 25 Q: Every single time?

1 A: I'm pretty sure, yes.

2 Q: Now, you testified, I think -- how often did you say that
3 **Cousin** would spend the night at your home?

4 A: A couple of times a month, like the rest of them.

5 Q: So all of your children spent a couple of times -- a
6 couple of nights a month at your home?

7 A: Yeah, a couple, yeah.

8 Q: Did **Complainant** ever spend the night at your home without any
9 other of her cousins?

10 A: I don't recall; I usually try to have two at all the
11 time.

12 Q: Why?

13 A: Because they keep each other entertained. At the same
14 time, **Complainant** and **Brother** would like to bake; we did crafts.

15 Q: So you don't remember any time when **Complainant** was there
16 alone?

17 A: No, not offhand.

18 Q: And by your recollection, **Cousin** was over -- slept over
19 several times a month?

20 A: Yeah.

21 Q: Your testimony I also believe was that Shelby actually
22 found the girls sexually engaged in your home?

23 A: That's not what I said. I said I found them. Shelby
24 came around the corner and told them that was enough, and they
25 separated.

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SUSAN MCKINNON - REDIRECT BY BROWN

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1 Q: But Shelby was there to see this or at least learn of
2 this?

3 A: She was, yes, she was in the kitchen.

4 Q: How often do you have trouble sleeping?

5 A: All the time, off and on, when I'm stressed or...

6 Q: Well, you probably had a lot of stress; I mean, you had a
7 lot going on in your life. Your husband was always working,
8 never around, you had these bad nightmares or bad experiences
9 from going to fires with him, and you were working. So how
10 often would you take sleeping pills?

11 A: I didn't have a bad experience through fires like that,
12 not enough to not make me sleep, but...

13 Q: But just things you shouldn't have had to see?

14 A: Well, if you saw, you know, a car rollover that would
15 make you, you know, things you wouldn't want to see.

16 MS. WALTER: Court's indulgence?

17 THE COURT: Yes, ma'am.

18 MS. WALTER: Nothing further, Your Honor.

19 THE COURT: Redirect?

20 REDIRECT EXAMINATION OF SUSAN MCKINNON BY MR. BROWN:

21 Q: Ms. McKinnon, exterior doors open into the residence,
22 right; do you know; building codes?

23 A: Well, I assume that trailer was up to codes and we had to
24 get building permits.

25 Q: Kevin ever go with you to yard sales?

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1 A: Sometimes he did, because we needed somebody to carry the
2 stuff after back that we bought.

3 Q: That's my questions, Your Honor.

4 THE COURT: Anything on those questions, Solicitor?

5 MS. WALTER: No, Your Honor.

6 THE COURT: You may step down, ma'am.

7 Further witnesses by the defense?

8 MR. BROWN: No, Your Honor, the defense rests.

9 THE COURT: All right. Reply witnesses by the state?

10 MS. WALTER: None, Your Honor.

11 THE COURT: All right. Very good.

12 BY THE COURT:

13 THE COURT: All right, ladies and gentlemen, we have
14 concluded the evidentiary portion of this trial. There will
15 be no more witnesses, no more evidence produced in this
16 matter. That obviously does not end this particular matter.
17 As with at the end of the state's case, there are matters of
18 law that I have to take up with the attorneys outside your
19 presence. That will take a little bit of time. Also, I have
20 to go over with them my projected charge to you on the law.
21 So we'll do that tonight. I'm going to let y'all go and we'll
22 start tomorrow morning, and, when we resume tomorrow morning,
23 we will have the closing arguments of the attorneys. I will
24 then give you the law that you will apply to the facts and
25 evidence you have heard, and then I will submit and give the

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1 case to you for your deliberations and unanimous decision.

2 So with that, usual instructions, don't talk about the
3 case, don't allow anybody to talk to you about it. You know,
4 go home, you can talk about it at the end all you want to, but
5 not now.

6 We'll have you back tomorrow morning again at 9:15. I
7 will do my best to have us start at 9:30, and -- again, with
8 the closing arguments, charge on the law, and then submission
9 of the case to you.

10 Just so that you know, as I think I indicated yesterday,
11 when the case is given to you for your deliberations and
12 unanimous decision, it is your case until you reach a
13 unanimous decision. All right?

14 So with that, you are now excused. I'll see you back
15 tomorrow morning at 9:15. Please leave your pads and pens.

16 Thank you very much.

17 (REPORTER'S NOTE: Jury exits courtroom @ 4:14 p.m.)

18 THE COURT: All right. Mr. Brown, motions by the defense
19 at this time?

20 MOTIONS:

21 MR. BROWN: Your Honor, the defense would renew prior
22 objections and motions that we previously made for the record
23 in this case, as well as renew the directed verdict in this
24 case based on the accumulation of all the evidence in the case
25 that has been presented in this matter.

1 THE COURT: All right. As to the that initial motion for
2 mistrial, again, I'm gonna reaffirm and reiterate the Court's
3 ruling previously made.

4 Regarding your directed verdict motion, again, I'm not
5 gonna go over all of the evidence in this case. I'm relying
6 upon all of the evidence that has been stated up to this time
7 in the trial. Basically, again, the standard being that the
8 Court is concerned with the existence or non-existence of
9 evidence. I previously read into the record some basic
10 statement of the two charges against the defendant when we
11 were talking about the previous directed verdict motion, and
12 using that and what is required of the state in proving these
13 two charges. The Court does find that there is more than
14 sufficient evidence, if that evidence is believed by the jury
15 -- again, not my job to judge credibility and believability;
16 that's the jury's job. But the evidence does exist and if
17 that evidence is so believed by the jury and found to be
18 credible, there is more than sufficient evidence in the record
19 to convict the defendant of both of the charges that have been
20 brought or levied against him by the State of South Carolina.
21 So with that, I do find that there is direct evidence and a
22 combination of substantial and circumstantial evidence that
23 reasonably tends to prove the guilt of the accused or from
24 which the guilt could be fairly and logically deduced by the
25 jury, and I respectfully decline to grant your motion for a

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1 directed verdict.

2 Further motions by the defense?

3 MR. BROWN: No, Your Honor.

4 BY THE COURT:

5 THE COURT: All right. All right. Now, in this
6 particular matter ---

7 All right. So my clerk has handed to you copies of the
8 verdict form that the Court intends to use in this particular
9 matter regarding the charges of criminal sexual conduct with a
10 minor in the first degree and then the dissemination or
11 disseminating obscene material to a minor 12 years of age or
12 younger. You will note that there is a question attached to
13 the first charge, criminal sexual conduct with a minor in the
14 first degree and that is because the statute requires that
15 question to be asked of the jury, and that statute being 16-3-
16 655 in (D) (1). And the statute says in the case of a person
17 convicted at trial for a violation of subsection (A) (1),
18 (A) (1) being that the actor engages in the sexual battery with
19 a victim who is less than 11 years of age, the Judge or jury,
20 whichever is applicable, must designate as part of the
21 verdict, whether the conduct that constituted the sexual
22 battery involved sexual or anal intercourse by a person or
23 intrusion by an object. So that is why that is included,
24 because the statute, again, 16-3-655(D) (1) requires it.

25 Is there any objection to the verdict form as presented

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1 from the state?

2 MS. WALTER: I'm sorry, Your Honor, I'm just trying to
3 review the statute. If I could just have a minute?

4 THE COURT: Y'all go ahead. Y'all go ahead and look at
5 that now.

6 MS. WALTER: Your Honor, I believe there's an issue with
7 the indictment. Number -- the second indictment in the
8 caption should be a 2016; so it should be 2016-GS-26-02823.

9 THE COURT: It certainly should. My clerk will correct
10 that.

11 MS. WALTER: And I just want to read this statute, if I
12 may?

13 THE COURT: All right. Very good.

14 Again, I was looking at 16-3-655(D)(1).

15 MS. WALTER: Yes, Your Honor.

16 Your Honor, the state's concern with the, I guess it
17 would be the special verdict form, and I understand the
18 statute, but the verdict form does not seem to, I guess, jive
19 with how a sexual battery can be committed, because a sexual
20 battery can be sexual intercourse, cunnilingus, fellatio, as
21 you know, you read the instruction about that many times.

22 THE COURT: I understand that, that's how the sexual
23 battery is defined. I don't know the purpose that the
24 legislature wants to know the answer to that question, but if
25 the jury answers no, that does not mean that the defendant

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1 wasn't convicted of criminal sexual conduct with a minor in
2 the first degree.

3 MS. WALTER: Okay. I guess I just wasn't sure what the
4 purpose of that ---

5 THE COURT: I don't know what it is.

6 MS. WALTER: If you don't know, I don't know.

7 THE COURT: I'm doing what the statute says to do.

8 MS. WALTER: Okay.

9 THE COURT: Okay. It says in the case of a person
10 convicted at trial for violation of subsection (A)(1) and you
11 look at (A)(1) and that's the actor engages in a sexual
12 battery with a victim who is less than 11 years of age. It
13 says the Judge or jury, which is applicable -- it's -- you
14 know obviously if it's a jury trial or a trial by the Judge,
15 must, so it's a mandatory requirement, must designate as part
16 of the verdict whether the conduct that constituted the sexual
17 battery involved sexual or anal intercourse by a person or
18 intrusion by an object. It's a mandatory requirement imposed
19 by our state legislature. It is not explained in the statute
20 why. It does not say that that negates a conviction for
21 criminal sexual conduct with a minor in the first degree,
22 because sexual battery involves other matters, but it's
23 mandatory. So I'm taking it as such. I don't have the
24 authority to reform the statute. That's up to the legislature
25 and South Carolina Supreme Court. So I'm doing what the

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1 statute tells me to do.

2 MS. WALTER: I totally understand that. I was just
3 making sure I wasn't missing something.

4 THE COURT: I understand the question. I have the
5 question, but there is no answer provided in the statute.

6 MS. WALTER: Your Honor, then I guess I just want to
7 explore this option. Would it be possible to hold off giving
8 them this second page until after they reach a verdict on the
9 first page? And I guess my -- my concern is that it might
10 confuse them, because that language doesn't match what's
11 required to convict him of CSC.

12 THE COURT: Let's look at -- let's look at the wording of
13 the statute. Okay? So in conjunction with your argument,
14 because we have to read it in its common sense -- that's what
15 the Supreme Court says, when you look at the statute so
16 they're presumed to be valid, you look at it in their common
17 sense interpretation.

18 In a person convicted at trial, so that assumes they have
19 been convicted. So I don't have a problem with if the jury
20 comes back and they have convicted the defendant on page 1,
21 resubmitting to them, page 2, because it doesn't say during
22 deliberations, it doesn't say while deliberating or in
23 reaching a verdict, the Judge or the jury must say that. It
24 says in the case of a person convicted at trial. So that
25 assumes they were convicted. So I do not have a problem with

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1 that.

2 Mr. Brown?

3 MR. BROWN: The defense would ask for all of it to go to
4 the jury at one time. I would say that piecemealing it would
5 confuse them. Asking them to come and go, decide this, come
6 back and decide that. I think they should get it all done at
7 once. I don't think it's confusing. I think if they can read
8 -- that's one of the questions you ask -- if they can read,
9 then they will understand this, Your Honor.

10 THE COURT: All right. I appreciate that.

11 MR. BROWN: Give it to them all at once.

12 THE COURT: All right, sir. I'll -- what I'm gonna do is
13 submit pages 1 and 3, and if he is convicted of the criminal
14 sexual conduct with a minor in the first degree, I will
15 resubmit page 2 to them, and have them answer that question.

16 MS. WALTER: Thank you, Your Honor. And then I would --
17 if I may suggest just that note on the bottom of the page
18 might have to be amended, because they ---

19 THE COURT: Yes, ma'am; it would be.

20 MS. WALTER: Thank you.

21 THE COURT: All right. All right. Other objections by
22 the defense?

23 MR. BROWN: No, Your Honor.

24 CHARGE CONFERENCE:

25 THE COURT: All right. Charge to the jury, we will talk

1 to them about the things we always talk to the jury about in a
2 criminal trial. All right. So what I'm going to do is talk
3 to them about credibility and believability, sort of what
4 we've already talked to them about.

5 Direct and circumstantial evidence. Again, regarding
6 that, that while the law makes no distinction between the
7 weight or value to be given either direct or circumstantial
8 evidence, to the extent the state relies on circumstantial
9 evidence, circumstances must be consistent with each other and
10 when taken together, point conclusively to the guilt of the
11 accused beyond a reasonable doubt.

12 Presumption of innocence. As we've already briefly
13 mentioned to them, talk to them about that.

14 Reasonable doubt. The kind of doubt that would cause a
15 reasonable person to hesitate to act.

16 As to -- oh, also it would have witness qualified to give
17 their opinion or an expert witness, obviously I'll tell them
18 that we allow that because of a person's training or
19 experience in a certain area, but that doesn't give them any
20 distinction, not -- you judge them the same as you would every
21 other witness and not to be given any greater weight. I'll
22 read to them again that charge on testimony of children.
23 Obviously, we'll do that again.

24 First degree criminal sexual conduct. The state must
25 prove beyond a reasonable doubt the defendant engaged in

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1 sexual battery with the victim. Sexual battery is sexual
2 intercourse, cunnilingus, fellatio, anal intercourse, or any
3 intrusion, however slight, to any part of a person's body or
4 of any object into the genital or anal openings of another
5 person's body, except when the intrusion is for medically
6 recognized treatment or diagnostic purposes. The state must
7 prove beyond a reasonable doubt the victim was less than 11
8 years old at the time of the battery. Consent, willingness,
9 indifference or ignorance on the part of the minor, if any, as
10 to what was taking place, does not in any way affect the
11 charge of criminal sexual conduct with a minor, because a
12 minor of that age cannot legally consent to sexual
13 intercourse.

14 Regarding the offense of disseminating obscene material
15 to a minor 12 years of age or younger and state that an --
16 regarding that, the state must prove beyond a reasonable doubt
17 that the defendant was an individual 18 years of age or older,
18 who knowingly disseminated to a minor 12 years of age or
19 younger, material, which he knows or reasonably should have
20 known to be obscene. Now, regarding that, the statute also
21 has a number of portions that I will read to the jury as a
22 part of 16-15-305. So I will read (A) (1), and then (B) (1),
23 (2), (3), (4); (C) (1) (a), (b); (D); (E) (2), (3), (4), (5), and
24 (d), (e). So that is what I would charge out of 16-15-305.

25 All right?

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1 MR. BROWN: Your Honor?

2 THE COURT: Yes, sir?

3 MR. BROWN: I'm sorry. Did you say under that code
4 (C) (1) (c)?

5 THE COURT: All right. (A) (1); (B) (1), (2), (3), (4);
6 (C) (1) (a), (b), (d), (e); (2); (3); (4); (5) and (d) and (e), I'm
7 sorry.

8 MR. BROWN: Okay. Thank you.

9 THE COURT: All right?

10 MR. BROWN: Yes, sir.

11 THE COURT: All right. So those would be the portions
12 that the Court would charge.

13 Anything else that the state would request?

14 MS. WALTER: No, Your Honor.

15 THE COURT: Obviously, if y'all think about something
16 overnight and you can tell me in the morning when you come in.
17 All right?

18 From the defense, anything that you can think of right
19 now?

20 MR. BROWN: No, Your Honor.

21 THE COURT: All right. Very good. Again, if y'all look
22 at it and you think about something overnight, and just
23 please, first thing when you get here, if you have an issue,
24 please bring it to my attention. All right?

25 So the jury is coming back at 9:15. I'll see you back

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1 tomorrow morning, same time.

2 Obviously, Mr. McKinnon, it remains as we expressed to
3 you before as far as the conditions of your bond; you
4 understand that?

5 MR. KEVIN MCKINNON: Yes, Your Honor.

6 THE COURT: All right. Very good.

7 MR. BROWN: Your Honor?

8 THE COURT: Yes, sir?

9 MR. BROWN: I think we told the jury 9:30, do we expect
10 to start at 9:30?

11 THE COURT: No, I told them to be there at 9:15.

12 MR. BROWN: Okay.

13 THE COURT: Expecting to start at 9:30.

14 MR. BROWN: Got it. Thank you, Your Honor.

15 THE COURT: Okay. So I told them to come back at 9:15.

16 So I'd like y'all back by that time ---

17 MR. BROWN: Yes, sir.

18 THE COURT: --- in case you have some issue.

19 MR. BROWN: Yes, sir.

20 THE COURT: All right. Great.

21 MR. BROWN: Thank you, Your Honor.

22 THE COURT: All right. We'll see y'all tomorrow morning
23 then.

24 MS. WALTER: Thank you, Your Honor.

25 THE COURT: Okay. One thing the court reporter has

1 brought to my attention. You are going to have to, Mr. Brown,
2 the portion you played to the jury, for the record, not for
3 the jury, but to include it in the record, you're gonna have
4 to make some CD recording of the redacted portion of that you
5 played to the jury. It's got to be part of the record. The
6 court reporter is telling me it's their instructions from
7 Court Administration, that if you do that, they have to have
8 it in some kind of fashion. So I, you know, I don't know how.

9 MR. BROWN: Can I give the Court the disc that I used?

10 THE COURT: Not the whole thing, because that wasn't what
11 was played to the jury. Okay? So I don't know if you can put
12 it on a jump drive, whatever, I don't care how, you know. If
13 you can just reduce it to a jump drive, that's fine. I don't
14 care.

15 MR. BROWN: And obviously ---

16 THE COURT: It's not an exhibit -- it's not for the jury,
17 it's for purposes in the future for review.

18 MR. BROWN: I understand. And just the portions that
19 were played, so...

20 THE COURT: That's right.

21 MR. BROWN: Everything else muted and left out?

22 THE COURT: That's right. Anything left out, you do not
23 put on the ---

24 THE COURT: Like I said, don't put it on the jump drive
25 or the recording or whatever. So it's just what was played to

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1 the jury and that's it.

2 MR. BROWN: And just one copy? I just need to give it to

3 ---

4 THE COURT: That's it, give it to the court reporter.

5 MR. BROWN: May I give it to her tomorrow morning?

6 THE COURT: Yes, sir. Oh, absolutely.

7 MR. BROWN: Thank you, Your Honor.

8 THE COURT: Yeah, just sometime before we're done.

9 MR. BROWN: Yes, sir. Okay. Can do.

10 THE COURT: All right. Very good.

11 Thank you very much.

12 MS. WALTER: Thank you, Your Honor.

13 THE COURT: I'll see y'all in the morning.

14 **RECESS - 4:48 P.M. - END OF DAY 3 OF 4**

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

16 **OCTOBER 2, 2020 - DAY 4 OF 4**

17 **ON THE RECORD - 9:32 A.M.**

18 BY THE COURT:

19 THE COURT: All right. Is the state ready for the jury
20 to come in?

21 MS. WALTER: We are, Your Honor.

22 THE COURT: Defense?

23 MR. BROWN: We are, Your Honor.

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

25 (REPORTER'S NOTE: Jury enters courtroom @ 9:36 a.m.)

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1 THE COURT: All right, ladies and gentlemen, as I told
2 you yesterday, we have concluded the evidentiary portion of
3 the trial. What remains are the closing arguments and the
4 charge on the law that you will follow in your examination of
5 the facts and evidence of this case.

6 As I told you at the very beginning, the opening
7 statements, closing arguments, those are not evidence; cannot
8 be considered by you as evidence in the case. However, they
9 are important. They are each side's summation to you of what
10 they believe the evidence has shown to you during the course
11 of the trial, remembering of course, that you are the judges
12 of the facts of this particular matter.

13 MS. WALTER: May it please the Court?

14 THE COURT: Yes, ma'am.

15 CLOSING BY WALTER:

16 MS. WALTER: **Complainant** was a typical little girl.
17 She had a brother, **Brother** a mother; and father and stepmother;
18 and a cat named Brutus. Despite their divorce, Eric and
19 Crystal worked together and had flexible child custody
20 arrangements. **Brother** and **Complainant** would split their time between
21 their mother and their father's home. They would go to Eric's
22 father's house and have family gatherings. Sometimes, once or
23 twice a month, by everyone's account, **Complainant** would spend the
24 night at her grandparents' house. Sometimes **Brother** would be
25 there with her, but often she was alone. And up until she,

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1 for the first five years of her life, she was granddaddy's
2 little girl. That's how Eric described her, and that was in
3 the most idyllic sense of the phrase. He would take her
4 shopping, buy her ice cream, they'd play in the pool; just
5 what a grandfather and granddaughter should do. But when she
6 turned six, she was granddaddy's little girl in the worst
7 possible way. It became a nightmare and it's a nightmare that
8 no one should live, much less a little girl.

9 That nightmare, which started in 2013, continues to this
10 day. She has lived with it every day from the time it started
11 until now, because she has to keep retelling that story. And
12 think about it, think about a 13-year-old girl walking into a
13 courtroom full of strangers, and having to tell the horrible,
14 vile, evil things that her grandfather did to her. That
15 nightmare will continue until the defendant is convicted.

16 Now, the defendant is charged with two counts. I'm gonna
17 deal with the easier one first, disseminating obscene material
18 to a minor. And Judge John is going to give you a number of
19 instructions. His instruction on this charge will be much
20 longer and more detailed than mine. But put simply, the
21 defendant is guilty of this charge, because he showed
22 pornography, adults unclothed, touching each other, to Complainant
23 when she was six, seven and eight years old and that is
24 pornography; she was a minor. The charge is fairly
25 straightforward.

1 Now, the more serious charge, obviously, is criminal
2 sexual conduct with a minor in the first degree. That
3 involves the sexual battery of a child under the age of 11.
4 Let's start with the easy element. There is no dispute that
5 **Complainant** was under 11 when she suffered at the hands of her
6 grandfather. So then the question that remains is was she
7 subjected to a sexual battery by the defendant. What is a
8 sexual battery? The law always uses these terms that we're
9 not familiar when maybe something easier would suffice. But
10 for this crime, sexual battery means, cunnilingus, fellatio,
11 or penetration, however slight, of the genital or anal
12 openings of another person. Well, the defendant committed
13 cunnilingus when he licked the vagina of his granddaughter
14 when she was six years old, seven years old, and eight years
15 old. The defendant committed fellatio when he forced his
16 little granddaughter to put his penis in her mouth. And he
17 committed a sexual battery every time he licked or touched her
18 vagina and went between the labia. So the defendant is guilty
19 of both charges.

20 Now, the Judge will also instruct you on credibility, and
21 credibility is something that really deal with every day.
22 Every time you have a conversation with someone, you are
23 judging, whether you realize it or not, do I believe this
24 person; do they have a motive to lie or to shade the truth.
25 So let's look at both sides. The defense has a motive in this

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1 case. They want the defendant to be free, so that they can go
2 back to having family gatherings, racecars, and reminisce
3 about his storied careers as a volunteer firefighter.

4 But what motive does **Complainant** have to lie? What motive do
5 Eric and Crystal have to lie? Again, what **Complainant** gets is she
6 gets to come in and relive this horror time and time again.
7 She does a minimal facts interview with Detective Rhodes; she
8 has to talk about it at the CRC; she has to talk about it when
9 I prepare her for trial; she has to talk about it from the
10 witness stand. She gets subjected to a medical exam from the
11 top of her head to the tips of her toe, inside and out, and
12 it's a medical exam that most grown women don't look forward
13 to. So how about an eight-year-old girl being put through
14 that? She also lost two-thirds of her family, who until this
15 came out, arguably was a source of happiness and good times.
16 They have no motive to lie, and the defense has not really
17 suggested one either.

18 So let's talk about **Complainant** a brave girl, 13 years old,
19 talking about things that most of us would not want to talk
20 about. And she was able to detail for you her two-and-a-half
21 year horror at the hands of her grandfather. She talked about
22 how he would rub her vagina, and she did like little motions
23 in her CRC video. She talked about how he forced her to put
24 his penis in his [sic] mouth. She talked about how he would
25 make her and **Cousin** rub each other. And, yes, there were

1 times when she -- you know, kids don't get chronological order
2 correctly. I don't get chronological order correctly. But
3 think about the details that she was able to give. First in
4 her CRC interview, when she was eight, and now using a little
5 bit different language, but still at 13, able to give you a
6 great deal of detail.

7 So we have from the defense side, because I have to
8 counter sort of what they put up, and **Cousin** obviously is
9 from the defense's point of view, key to this case, from the
10 state, not so much. **Cousin** clearly is a troubled young girl.
11 She has lived a nightmare on at least two separate occasions.
12 And unfortunately for **Cousin** she doesn't have the support
13 system that **Complainant** has. The support system that allows **Complainant**
14 to stand before you and tell you what happened to her. But,
15 the defense wants you to believe that **Cousin** and **Complainant** made
16 this all up. Maybe they'll even argue that **Complainant** knew the
17 details that she was able to give because **Cousin** told them to
18 her. The only problem with that is that Eric and Crystal both
19 said that they shielded **Complainant** from what had happened to
20 **Cousin** earlier. Even **Cousin** herself said, we talked about
21 it, but I didn't give her any specific details. So then ask
22 yourself, how an eight-year-old knows that an adult male has
23 pubic hair? Because, she saw his pubic hair when she was
24 forced to fondle his penis; when she was forced to put his
25 penis in her mouth. How would she know, how would **Complainant** 8

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1 years old, know that a male may sometimes want to lick or
2 touch a female's vagina? Because, he did that to her. How
3 would she know that a male may want sometimes a female to put
4 his penis in her mouth? Because, he did that to her when she
5 was six years old, seven years old, and eight years old.
6 **Cousin** did not teach **Complainant** those things; the defendant taught
7 her those things.

8 I won't spend much time on the rest of the defense,
9 because, quite frankly, I'm not sure it deserves much time.
10 But, I want to start by saying the defendant has absolutely no
11 burden. Let's get that straight. The state always carries
12 the burden of proving the defendant guilty beyond a reasonable
13 doubt. However, if the defendant puts up evidence, you are to
14 judge that evidence by the same rules, the same standard,
15 using the same common sense that you judge the state's
16 evidence.

17 So let's start, excuse me, with the coworkers, Chantz --
18 I think, Chantz Huggins and Raymond Kanniard. Those gentlemen
19 are probably as confused as the rest of us as to why they were
20 brought in. Maybe it was supposed to be an alibi; the
21 defendant worked so often, that he couldn't have possible done
22 these horrible things to his granddaughter. Well, Chantz
23 Huggins wasn't even working in the same location as the
24 defendant. He was working in Florence, maybe an hour-and-a-
25 half to two hours away. So he was not in a position to see

1 the defendant on a monthly basis, much less weekly or daily or
2 hourly. So how would he know where the defendant was at any
3 given time? Their schedule was flexible, there was no time
4 clock, they got sick time, paid time off. But also, the state
5 has never alleged that the defendant needed to sneak away from
6 work to abuse **Complainant**. So what did Chantz Huggins add to this
7 case? I guess we now know the history of the name of the
8 company.

9 Then we get to Raymond Kanniard. Well, he at least gets
10 us a step closer, because he worked in the same location as
11 the defendant. However, during the time in question, Mr.
12 Kanniard was a driver, which meant that he was gone all day
13 doing deliveries. So again, he was not in a position to be
14 able to say that the defendant was at work every day, Monday
15 through Friday, 7:00 a.m. to 4:00 or 5:00 p.m.

16 Two other points, number one, much of the year, **Complainant**
17 would have been in school. So she would not have been within
18 the defendant's control. She would've been safe at school.
19 Plus, the defendant did not need to sneak off from work and
20 get **Complainant** because he had easy access to her when she stayed
21 over at his home.

22 So what about the rest of the defense? Mostly made of --
23 actually, all made up of family. So the first family member
24 to testify was Michael McKinnon. He didn't really know much
25 about anything for certain. In the state's recollection, he

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1 wasn't even sure what his father did. He said he sold tubs
2 out of a warehouse. Close, I mean there's water involved, but
3 the business sold water and sewer pipes, valves, gaskets,
4 things of that sort. I'm sorry, he did know one thing for
5 sure, his father was a volunteer firefighter. Everyone should
6 know that now, because it was certainly mentioned enough.
7 However, it wasn't until the state asked, that we found out
8 that that was 20 years ago. And why is that important? What
9 does it matter that the defendant was a volunteer firefighter
10 20 years ago? Is the theory that because he was a volunteer
11 firefighter, he never could've done these horrible things?
12 Well, unfortunately, there is no profession that is immune
13 from having a molester in its midst. The thing about child
14 molesters, they don't walk around with molester tattooed on
15 their forehead. If they did, I would happily be out of a job.
16 Child molesters blend in. They blend into their community.
17 They blend into their profession. So I don't care what your
18 job is, if you were a molester, you are still a molester.
19 Maybe -- let's turn back to Michael again. So he -- he knew
20 that his father was a volunteer firefighter, but that's about
21 it. He didn't know what his father did for a living. He
22 didn't know when his grandmother came to live with them. He
23 didn't know that she had been in one clearly serious wreck,
24 much less two. He didn't know when his mother and grandmother
25 opened up this antique store that consumed so much of their

1 time and needed such extensive renovations. He didn't even
2 know when he got custody of his own daughter. He didn't know
3 when his own daughter accused his father of repeatedly
4 violating her. He said I got custody in 2012, and I remember
5 these allegations were made in the summer of 2012. No, they
6 weren't.

7 Let's move on to Shelby. Shelby, **Cousin** stepmother,
8 recalls we got custody of her in 2014 at the first incident.
9 These allegations came out in the summer of 2015. So Shelby
10 knew a little bit more, but she was never in a position to
11 know what was happening to **Complainant** because she never stayed
12 over at the defendant's home when **Complainant** was there being
13 subjected to this abuse. One thing that Michael and Shelby
14 agreed on was that **Cousin** stole things and lied, and that she
15 was an attention seeker. But beyond that, they add nothing to
16 this case. They do nothing to show that the defendant is not
17 guilty of what he did.

18 So then that leaves us two other witnesses, Edna, a very
19 sweet woman. We know from her that there were two pugs, a
20 bird named Pickles, and a lot of dog chew toys. What on earth
21 does any of that have to do with this case? Why did we hear
22 again and again and again about pugs, and they're lazy, and
23 there's a bird. Isn't that the cage? Do you see a bird in
24 there? What's this? Is this a chew toy? What's that? Is
25 that a chew toy? Asking Detective Rhodes is that a tennis

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1 ball? Who cares? Let's focus on the issues. Let's focus on
2 the fact that that defendant repeatedly violated his
3 granddaughter. And Edna just can't really add much to it
4 because, as she told you, she and Susan were working hard to
5 establish this antique store. They went to, I believe she
6 phrased it, quite a few lawn sales, yard sales, to stock the
7 store. Once the store was up and running, it was open Monday
8 through Saturday from 9:00 a.m. to 5:00 p.m. The only two
9 people who staffed that store were Edna and Susan. That's an
10 awful lot of time away from the house, an awful lot of time
11 away from the defendant and **Complainant** an awful lot of time to
12 allow the defendant access to his victim.

13 And, so then that leaves Susan, the defendant's devoted
14 wife. And I guess, you know, what really struck me was that
15 she kept saying, I just want to keep my grandchildren safe; I
16 want to protect them; that's why I set this house up that way,
17 because I need to protect them. I never take sleeping pills
18 with my grandchildren around, because it's my job to protect
19 them. Who is she protecting? Who did she protect? She
20 didn't protect **Complainant** Because, sometimes, she was in the next
21 room while the defendant violated **Complainant** I also found it very
22 interesting that she made a point of saying the defendant was
23 never alone with his grandchildren. Why? What conceivable
24 reason would there to be -- would there be to keep a loving
25 grandfather, if that's all he was, from his grandchildren?

1 Isn't it natural that a grandparent is going to spend time
2 alone with their grandchildren, with the family with their
3 grandchildren, but there is not going to be this adamant, he
4 was never alone with them. And plus, how is that even
5 possible? How is it possible, for three -- for two-and-a-half
6 years, there was never a time when **Complainant** and her abuser were
7 out of sight. It's just not possible.

8 Now, in his opening, Mr. Brown stood here stared down at
9 us and said, how dare you, how dare the state, the state is
10 the one that is putting the victim through this. But, the
11 state is not to blame. You know who's to blame? The blame
12 and the guilt for this lays squarely on his shoulders. The
13 guilt for this lays squarely on his mouth, which he used to
14 lick **Complainant** boobs, to lick her vagina. The guilt lies
15 squarely on his hands that he used to touch her boobs, to
16 squeeze her butt, to finger her vagina. The guilt for this
17 lies squarely on his penis that he rubbed on his little
18 granddaughter's body and put in her mouth. He is guilty of
19 both charges, and when you say those words in answer to both
20 crimes, **Complainant** will finally know that she's believed and she
21 will get the justice that she so deserves.

22 Thank you.

23 THE COURT: All right, Mr. Brown?

24 MR. BROWN: May it please the Court?

25 THE COURT: Yes, sir.

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1 CLOSING BY BROWN:

2 MR. BROWN: **Cousin** told us, she and I -- **Complainant** and I
3 were looking for attention. They wanted attention and they
4 got it by making up this story. Folks, prior to these
5 allegations and this timeline, we know that **Cousin** was being
6 molested by a family member, not Kevin McKinnon. The whole
7 family over there agrees. **Cousin** told **Complainant** about her abuse.
8 This is how they learned of sex, not from Kevin McKinnon. She
9 confessed and she apologized. You'll see it in her notes.

10 Folks, I told you abuse fosters abuse. They were abused.
11 We're not saying that they're not, but they were not abused by
12 Kevin McKinnon. Kevin McKinnon is not guilty. Sadly, it
13 happened. They learned of sex far too young, but not from
14 Kevin McKinnon.

15 Now, I told you I wanted to give you -- I wanted you to
16 know everything that we know. You deserve to know everything
17 that we know, but did the state tell you everything? Did they
18 even tell you at first about **Cousin** We told you about
19 **Cousin** Did they tell you that great grandma lived there,
20 another adult lived in that small mobile home? No. They tell
21 you that the two girls acted out sexually together? No. Did
22 they tell you that prior to these allegations and their
23 timeline, **Cousin** went to an interview and volunteered the
24 information without being asked about her and **Cousin** -- her
25 and **Complainant** No. And then a year later, the interviewer that

1 interviews **Complainant** and doesn't ask a thing? No. Did the state
2 tell you that **Cousin** and her mom did tell them the story that
3 it was made up? No. In fact, they put a witness on this
4 witness stand right here to say, what, nobody called me.
5 Excuse me, we did. We sent the state documents to say it was
6 made up, because it is made up, folks. They didn't do --
7 Kevin didn't do this. Why wouldn't the state give you all the
8 pieces of the puzzle? Because the puzzle pieces come together
9 to form a picture that they don't want you to see. They don't
10 care about truth and justice, right and wrong; they care about
11 winning an argument. They're trying to sell us a story,
12 folks. And what is their story? Who did they put in that
13 witness box? They put up a kid who overheard the story that
14 **Cousin** and **Complainant** made up. They put up a staff member, who
15 interrogated these kids, who wasn't trained to do so. They
16 put up Marcus Rhodes, who said I went to that small mobile
17 home, and I took that computer, and there was nothing on it.
18 The computer that **Complainant** said he showed me pornography on;
19 nothing on it. The state agrees that it was made up. They
20 put up Carol Rahter, who said there was no injuries. I can't
21 say it didn't happen, but I can't say it did.

22 So what else we got? Well, I still can't believe that
23 they're putting these girls through this. The kids were
24 abused. They're making them relive their abuse, but not at
25 the hands of Kevin.

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1 **Complainant** testified five years later, but we also heard her
2 interview from 2015. Look at the contradictions, the complete
3 inconsistencies. Folks, hard penis, had an erection. Droopy
4 in that, never changed shape. Something came out; nothing
5 came out. He rubbed it all over me; it just touched my hand.
6 Said things to her; didn't say anything at all. He made
7 **Cousin** and I do things; it was just me. Black pubic hair;
8 his wife told you it was gray. Nothing under the penis. Put
9 it in my mouth. Nothing went inside me. Nothing went in my
10 mouth. Inside me; nothing went inside. Touched himself;
11 didn't touch himself. No relationship with **Cousin** we know
12 that they acted out sexually together. Didn't say stop; did
13 say stop. Couch in the computer room; no couch in the
14 computer room. No one took pictures of me; he took pictures
15 of me. No one came in the bathroom when I showered; he came
16 in the bathroom when I showered. But, Grandma checked on her
17 in the shower. How hot do you have the shower?: She's an
18 attentive grandma; she's listening, she knows where her
19 granddaughter is.

20 Dianne Nordeen came and asked her, tell me about a time
21 when he put his mouth on your boobs. I don't remember.
22 Well, tell me where it happened. Didn't she just say she
23 didn't remember? She said he made me watch YouTube. YouTube
24 doesn't show pornography. And again, the state's own witness
25 said there's nothing on that computer. She said there was no

1 other devices. Folks, this is not delayed disclosure. This
2 is a complete change of story. It's just that, a story.

3 Now, I want you to think about the physical impossibility
4 also. Sat on the couch, here's what she told the interviewer,
5 and he licked me. And the interviewer said, were your clothes
6 on? Yes. And the interviewer even asked, well how could this
7 have happened if your clothes were on? He slipped my shorts
8 down to my knees. Look at the pictures, pictures that **Cousin**
9 drew of their clothes at their knees. She's talking about
10 **Cousin** and what they were doing. But, also think about the
11 physical impossibility. When you sit on a couch, gravity
12 pulls you down. We know the human anatomy. So if you're in
13 that position sitting down, your waistband at your knees, look
14 at the size of that man's skull, it's Easter Island over
15 there. He can't fit it there. It's impossible when she's
16 pulled down in the couch, waistband at her knees; it didn't
17 happen.

18 But also, he's portly fellow. He would have to get down
19 in a position in the living room that he couldn't get up from
20 quickly if someone walked in the room. And this house is
21 small, folks. Then you've got a kid that would have to
22 rearrange her clothes. Folks, it couldn't have happened; it's
23 impossible.

24 Folks, they asked her more about the video she said she
25 had seen. Did you remember the names of them? No. Did you

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1 remember what the people looked like? No. Did you remember
2 why he showed it to you? No. Did he say anything to you?
3 No. She's using what **Cousin** told happened to her to create
4 this story. It's not the kid's fault. Okay? Abuse fosters
5 abuse. And these kids were abused again, but not by Kevin
6 McKinnon. And when was the last time they said this happened?
7 She said after school got out, but before July 4th. So that's
8 May and June. And, they told you, we were working on the
9 shop. He was at the shop building the shop, building shelves,
10 building tables, after his full-time job, and the kids did not
11 spend the night. When did it happen? When we spent the
12 night. They didn't spend the night, not during that time. We
13 were too busy in June and May of 2015. The family knew that
14 there was an issue going on with **Cousin** in 2012 with some
15 other family member and **Complainant**. They knew about it before
16 these allegations, before this timeline of their allegations.
17 Folks, it did happen. These kids were abused, but not by
18 Kevin McKinnon.

19 Now, what else do we have in this family? We've got
20 Susan McKinnon, his wife, **Complainant** grandma, **Cousin** grandma,
21 Eric and Michael's mother. She came and told us about their
22 personal lives. She told us that her husband has -- does not
23 have black pubic hair. She told us that he has gray pubic
24 hair, never black, gray. No tattoos. Told us Kevin is always
25 working; he's never alone with the kids. She told us that she

1 caught the girls acting out sexually together. They lived in
2 a small mobile home, her husband, herself, his mother -- his
3 mother. He had jobs, he worked in the buildings, he built
4 things there, worked at the antique shop, racetrack,
5 racetrack, racetrack. Who else is tired of hearing about a
6 racetrack? They're always there.

7 But speaking of Edna McKinnon, great-grandma, she lived
8 at the house for over two years, lived in the living room
9 because of a back injury. She's always there; she didn't have
10 a car to go anywhere. Yeah, they went to yard sales during
11 the day. I never seen a yard sale at night. I don't know if
12 I'd go to one. So they're always home at night when the girls
13 spent the night. Think about that. They were always there.
14 Someone is always there.

15 And we did hear from **Cousin** This brave young girl, she
16 was abused. She was confused, she wanted attention; she made
17 the story up. She told us -- they wrote it down. We made the
18 story up. They wrote pictures of it. They drew pictures of
19 it. She confessed years ago. She apologized in her
20 confession, I'm sorry, gave it to the state. She had the
21 courage to come and confess and tell what happened to her to a
22 room full of strangers. She had the courage to come tell us
23 that they made it up. This is not easy for her, and shame on
24 the government for making these girls do that, to come tell
25 ruthless strangers what they had been doing, not by Kevin.

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1 **Cousin** told us they made it up. She told us why. They
2 drew pictures of it. They were acting out together. She told
3 us what she and **Complainant** were doing. She even told the
4 government years before this allegation time period that she
5 and **Complainant** were acting out sexually. A year later when the
6 interviewer asked **Complainant** some questions and she asked her about
7 that, she already knew. No, didn't ask her a thing. They
8 wrote it down, they made notes back and forth to each other.
9 That's my writing. That's **Complainant** writing. They sent it to
10 the state and the state turned their back on her, turned their
11 back on **Cousin**. They gave up on her, stopped calling her.
12 Folks, don't turn your back on **Cousin** too.

13 In a small mobile home with many adults living there, no,
14 that Kevin did not do anything wrong. What's going on in
15 their family's lives? Edna was married to her late husband;
16 they had Kevin. Kevin got married to Susan. Kevin and Susan
17 have two sons, Eric and Michael. Eric and Michael got
18 married. Eric and Michael had children. Eric and Michael got
19 divorced. Eric and Michael got remarried. They had more
20 kids, remarried, divorced, moving, pregnancies, custody
21 issues, moving, Tennessee, Michigan, Indiana, South Carolina.
22 Work, antique store, racetrack, racecars, racetrack. They
23 knew about **Cousin** abuse. Where is the attention not going?
24 It's not going to the kids. It's not going to **Cousin** it's
25 not going to **Complainant**. They made this story up. They made it up

1 to get attention. **Cousin** had the courage to come admit it.
2 She wrote it down years ago. You'll see it. They made it up
3 against the only male in the family that they didn't have to
4 go home to every single day. Close enough, but not too close.

5 Now, in a few minutes, you're gonna hear from the Judge.
6 The state's gonna try and tell you the story, but you'll hear
7 from the Judge. He's gonna tell you about reasonable doubt.
8 He's gonna tell you about hesitation to act. And so folks,
9 Kevin McKinnon is not guilty. But even if you get back there
10 and you say, gosh, I just don't know, you're done. That's it.
11 That's the hesitation to act. You have to say he's not
12 guilty. Folks, you're the most important people in this
13 courtroom. No one has told you that, but you are. Not the
14 government, not the judge, no one else, you. And, you're a
15 jury, but you're a jury individually. You have your own
16 minds. You make up your own mind. You be respectful. I know
17 you will. But, listen to other people, but once you
18 personally, individually, has made up your own mind, you're
19 done. You don't have to participate anymore.

20 Kevin McKinnon is not guilty. Do not send an innocent
21 man to prison, because Kevin McKinnon is not guilty.

22 Thank you.

23 THE COURT: All right, Solicitor, the last argument?

24 MS. WALTER: Thank you, Your Honor.

25 REPLY CLOSING BY WALTER:

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REPLY CLOSING BY WALTER

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1 MS. WALTER: Remember a moment ago, I talked to you about
2 credibility and who you should believe. I counted Mr. Brown
3 saying at least two or three times that Shelby or someone sent
4 **Cousin** letter to the state. I want you to think back, it
5 wasn't that long ago, when Shelby was on the stand. I took
6 that letter, I showed it to her, and I said specifically, did
7 you send this to the state? No. Now, it's your recollection
8 that governs, but I would think your recollection would be the
9 truth and not what Mr. Brown is saying.

10 Looking for attention. Who is the only person that at
11 least three different witnesses said was seeking attention?
12 **Cousin** And let's get this straight, because **Cousin** has
13 been convinced to say that this didn't happen to her, does not
14 mean that that's true. The expert talked about recantation
15 and some of the reasons why a child might recant. One of
16 those reasons would be if there was a sudden change in the
17 family, if they started seeing the repercussions of what they
18 had said, what they disclosed. So let's think about it. When
19 **Cousin** and **Complainant** disclosed, the family exploded. All of a
20 sudden, **Cousin** and Michael and Shelby couldn't go see the
21 defendant and Susan. Eric and Crystal and Jeanna and **Complainant**
22 and **Brother** refused to go see the defendant and his wife.
23 That's a lot of pressure on a child unless her parents are
24 supporting her. You heard the way Eric described the
25 defendant and his wife. They used to be my mother and father.

1 How, in turn, did Michael and Shelby talk about them. Well,
2 they miss them, they want to get back together again, they're
3 not allowed to see them; it's so terrible. So of course,
4 **Cousin** is going to feel the pressure to say, sorry, it didn't
5 happen. But, make no mistake, they did not send that letter
6 to the state. Shelby told you they did not send the letter to
7 the state. The state is not victimizing **Cousin** the defense
8 is.

9 Let's talk about the computer. And you can see this in
10 **Complainant** CRC interview, but I also asked her about it on the
11 stand. I said, what color was the computer? It was gray and
12 it had a wire. Here's the computer that was seized from the
13 defendant's home a month, a month after the accusations came
14 out. Plenty of time to switch the computer. That's not the
15 computer that **██████████** described. It would be wonderful if
16 eight-year-olds could sit and recall with minute detail
17 everything about an event that we asked them about.
18 Hopefully, with a sexual abuser, they don't want to remember.
19 I mean, that would be a coping mechanism, right, to try and
20 block it. And when Dianne Nordeen was asked about, well I
21 don't remember, she explained. Now, remember, **Complainant** had never
22 met Dianne before. Dianne is a wonderful, kind, woman. You
23 can see it in her demeanor, but still, eight-year-old **Complainant**
24 that was the first time she had ever met Dianne and she is
25 being forced to recall horrible, horrible things that happened

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REPLY CLOSING BY WALTER

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1 to her. And so when she said I don't remember, Dianne said,
2 that's kind of a coping mechanism; they don't want to talk
3 about it yet. That's why she goes on to an easier question.
4 Well, where did it happen; when did it happen? Because,
5 talking about a time or a place is a heck of a lot easier than
6 talking about your grandfather putting his mouth on your
7 boobs. So it's not that she didn't remember; it's that she
8 wasn't ready to tell. And you heard Dr. Quinones talk about
9 this idea that disclosure is a process. A child is not going
10 to sit down the first time and say, okay, this date they did
11 this; on this date he did this; this is what I was wearing;
12 this is what he was wearing; this is who was in the house;
13 this is what was going on. That's not how a child's mind
14 works, especially with chronic abuse. This went on for two-
15 and-a-half years. How on earth is an eight-year-old child
16 supposed to differentiate one day from the next, one episode
17 of abuse from the next. She does not have to in order for you
18 to convict the defendant.

19 Mr. Brown wants you to look at **Cousin** pictures.
20 Absolutely, because if you remember when **Cousin** testified,
21 she said I draw what I am doing, I draw what has happened. So
22 what did she draw during her CRC interview; she drew the
23 defendant putting his front private in her front private.

24 MR. BROWN: Objection. That's not in evidence.

25 THE COURT: It's in the record. The state is allowed to

1 comment on it.

2 MR. BROWN: That was the first ---

3 THE COURT: I'm sorry.

4 MR. BROWN: That's was her first.

5 MS. WALTER: I didn't say her first interview.

6 THE COURT: Y'all don't argue about it. Okay?

7 MR. BROWN: Yes, sir.

8 THE COURT: Okay. Thank you. You may continue.

9 MS. WALTER: Mr. Brown wants you to believe that **Complainant**
10 got all the details from **Cousin** Well, if **Cousin** was
11 feeding **Complainant** all these details, then why didn't **Complainant** know
12 the name of the porn site favored by the defendant. **Cousin**
13 sure did, because I asked her about it. Do you remember her
14 saying, oh it's X-Hamster or Hamster it's one of the two, but
15 I want to say it's one. If you're going to make up a story,
16 don't you try and get the details the same, because then it
17 makes it, oh yeah, okay. Or, is it more likely that **Complainant** was
18 being abused? **Cousin** was being abused although she can't
19 admit it now. Sometimes, they were abused together, but
20 different things happened to them. If **Cousin** had fed **Complainant**
21 the details, their details would match up one by one by one.
22 **Cousin** did not feed **Complainant** the details. The defendant abused
23 her and that's where **Complainant** learned what she told you about the
24 pubic hair, about being fondled, about having to have the
25 defendant's penis in her mouth. The defendant did that, not

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REPLY CLOSING BY WALTER

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1 **Cousin** certainly not the state.

2 And this talk about tattoos, again, your recollection is
3 what rules. I do not remember **Complainant** ever saying she saw
4 tattoos. She said she saw hair, but I do not recall her
5 saying that he had tattoos.

6 Acting out sexually. Well, you know what, **Complainant** told you
7 about that, and the expert also told you that that would be
8 common. That if two victims were being abused at the same
9 time by the same perpetrator, they might then do that, even if
10 the perpetrator weren't around. It's this concept, excuse me,
11 of normalization of abuse, especially with a child that young.
12 They don't always understand that that's wrong. And so they
13 may continue to act out, but also remember that **Complainant** said
14 **Cousin** forced her to do it. **Cousin** would take her hand and
15 make her rub **Cousin** privates. So it wasn't that this was
16 **Complainant** saying, oh, hey, let's have sex; it was her being abused
17 by **Cousin** yes, because **Cousin** had been abused by the
18 defendant.

19 And think of the questioning regarding **Cousin** second
20 interview at the CRC. Think of how much detail she had. Does
21 it sound like it was made up? How would she learn all of
22 that? How would she know each and every one of those details?
23 She knew it because she lived it.

24 When talking about reasonable doubt, Mr. Brown says, if
25 you have to say, uh, well that's it, you're done. That's

1 absolutely not accurate. The reason why our criminal justice
2 system has trial by a jury, 12 of your peers, is so that you
3 can have a discussion, a debate. Did you hear this? What's
4 your recollection of this? What did you think about this?
5 It's not just if you say, well, um, I'm not sure. You are to
6 act as a collective unit, discuss the facts, discuss the
7 evidence, discuss the law, and come to a unanimous verdict.
8 And, I suggest to you that the only unanimous verdict that you
9 should have is guilty.

10 Thank you.

11 THE COURT: All right, ladies and gentlemen of the jury.
12 It's important that you apply the law that I give to you. So
13 I want you to do is take a short break for five minutes and
14 we'll come back in and I will give you the law that you will
15 be using in this matter. So please leave your pads and pens.
16 I'll see you in five minutes.

17 Thank you very much.

18 (REPORTER'S NOTE: Jury exits courtroom @ 10:23 a.m.)

19 THE COURT: All right. We'll take a short break for
20 about five minute.

21 Thank you very much.

22 **OFF THE RECORD - 10:23 A.M.**

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

24 **ON THE RECORD - 10:32 A.M.**

25 THE COURT: State ready for the jury?

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1 MS. WALTER: We are, Your Honor.

2 THE COURT: The defense?

3 MR. BROWN: Yes, Your Honor.

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

5 (REPORTER'S NOTE: Jury enters courtroom @ 10:33 a.m.)

6 CHARGE TO JURY:

7 THE COURT: All right. Ladies and gentlemen, it's now my
8 duty and responsibility to give you the law that you are going
9 to apply to the facts and evidence you have heard. Now again,
10 remember, you are the judges of the facts and I told you the
11 closing arguments, that's not presentation of evidence. The
12 evidence came to you from the witness stand, witnesses under
13 oath, and any documents that may have been introduced in this
14 matter, and you'll have as much opportunity as you want to, to
15 look at those documents, talk about this matter before you
16 reach a unanimous decision in this particular matter.

17 I told you at the very beginning that I would not
18 indicate to you in any way what I believe the facts of the
19 case are, because as I've told you, that's your job and your
20 responsibility. But in that same vein, if you came into the
21 courtroom with any preconceived ideas of what the law is, what
22 it ought to be, what it should be, what you hoped it would be,
23 you'll disregard that. You will take the law as I now give it
24 to you and apply it to the facts and evidence you heard in
25 this particular matter.

1 I told you at the very beginning, one of your jobs,
2 duties, and responsibilities was to be judging the credibility
3 and the believability of the witnesses that came before you
4 and testified in this case. In doing so, you look at whether
5 or not a -- you can look at the demeanor of a witness. You
6 can look at their appearance, how do they appear when they
7 testified before you. You examine their facts. You can
8 believe all of what a witness says, a portion of what a
9 witness says, disregard it in its entirety what a witness has
10 told you if you've got a good and sound reason for doing so.
11 You look at whether or not the witnesses exhibited to you any
12 kind of interest, motive, bias, prejudice they might have in
13 giving you the testimony from the witness stand. Obviously,
14 you consider the opportunity for knowledge. How did they come
15 about that information that they gave you from the witness
16 stand.

17 Obviously, this is a mental exercise. I told you at the
18 very beginning, use your good common sense. Use your good
19 judgment that you use in conducting your own affairs in
20 looking at the facts and the evidence in this matter. You
21 don't have any friends to reward and you don't have any
22 enemies to punish.

23 They're two types of evidence produced in virtually every
24 single case that's tried. They're called direct and
25 circumstantial evidence. Direct evidence. That's testimony

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1 of a person who claims or asserts to know a certain fact; what
2 they saw, observed, what took place in their presence, what
3 they heard. There's also circumstantial evidence. That's a
4 chain of facts indicating the existence of a fact. The law
5 doesn't make any distinction between the two. A greater
6 degree of certainty of one over the other is not required. To
7 the extent that the state may rely on circumstantial evidence,
8 those circumstances must be consistent with each other and,
9 when taken together, point conclusively to the guilt of the
10 accused beyond a reasonable doubt. If circumstances merely
11 portray the defendant's behavior as suspicious, the proof has
12 failed. With everything, the state has the burden of proving
13 the defendant guilty of the crime or crimes charged beyond a
14 reasonable doubt. This burden rests on the state, regardless
15 of whether the state relies on direct evidence, circumstantial
16 evidence, or some combination of the two. After weighing all
17 the evidence, if you are not convinced of the guilt of the
18 defendant beyond a reasonable doubt of the crime or crimes
19 charged, you must find him not guilty.

20 Now, during this trial, I allowed a witness -- they're
21 sometimes called expert witnesses. Basically, what they are,
22 are witnesses that are allowed to give their opinion.
23 Normally, we don't allow people to give their opinion. I have
24 to tell you what I saw, what I heard, what took place in my
25 presence. But, some witnesses, by reason of their education,

1 experience, training, work, may be allowed to give you some
2 aspects of their opinion. Now, this doesn't give them any
3 special status. You judge all of the witnesses the same. You
4 judge everybody's credibility and believability. An expert's
5 testimony is given no greater weight just because the Court
6 qualified them to give their opinion.

7 Now, I've told you this part a couple of times.
8 Testimony of children or minors. During the trial, obviously,
9 you heard from children, minors. It's for you to determine
10 their credibility and believability as with every other
11 witness who testified before you. And obviously, you consider
12 those same things that I told you about regarding credibility
13 and believability. But, also in consideration with a child or
14 a minor, you look at the age of the child, their ability to
15 observe and remember facts, their ability to understand and
16 answer questions. Because, some children, some minors, may
17 not fully understand what's happening in court, it's up to you
18 to decide whether or not the child or the minor understood the
19 seriousness of appearing as a witness in a criminal trial.
20 Again, whether they understood the questions, have a good
21 memory, understand the difference between lying and telling
22 the truth. Sometimes, young children and minors may be
23 influenced by the way questions are asked. It's up to you to
24 determine whether or not the child understood the questions
25 and whether or not they answered those questions truthfully.

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1 I told you at the very beginning, when the indictments
2 were brought by the State of South Carolina, levied against
3 the defendant on these charges, and the defendant pled not
4 guilty to those charges, the burden of proof came on the State
5 of South Carolina to prove the defendant guilty beyond a
6 reasonable doubt. Also, the presumption of innocence came
7 upon the defendant at that time. A person charged with a
8 criminal offense is never required to prove themselves
9 innocent. It's the state's job to prove them guilty beyond a
10 reasonable doubt. And, this is an important rule of law, no
11 matter the seriousness of the crime. It's every defendant has
12 those rights, and guilt has to be proven to you by evidence
13 that satisfies you of that guilt beyond a reasonable doubt.

14 Presumption of innocence didn't end at the beginning of
15 the trial; it hasn't ended now. It does not end at any point
16 in time unless and until you believe the state has proved to
17 you the guilt of the defendant beyond a reasonable doubt.
18 We liken the presumption of innocence to a robe of
19 righteousness. It's placed on the shoulders of the defendant
20 and it stays on the shoulders of the defendant unless and
21 until the state rips that robe of righteousness from the
22 shoulders of the defendant by evidence which convinces you of
23 the guilt of the defendant beyond a reasonable doubt. This is
24 not just some legal theory or legal phrase. It's a
25 substantial right to which every defendant is entitled.

1 So what's reasonable doubt? Reasonable doubt is the kind
2 of doubt that would cause a reasonable, ordinary person to
3 hesitate to act. Proof beyond a reasonable doubt is proof
4 that leaves you firmly convinced of the defendant's guilt.

5 Now, there are a very few things we can know with
6 absolute certainty, and the law does not require the State of
7 South Carolina to give you that kind of proof. What is
8 required is, if based upon your consideration of the facts and
9 evidence, you are firmly convinced of the defendant's guilt,
10 you must find the defendant guilty.

11 On the other hand, based upon your consideration of the
12 facts and evidence, you are not firmly convinced of the
13 defendant's guilt, you must give the defendant the benefit of
14 the doubt and find him not guilty.

15 So what are the crimes that the defendant is charged with
16 and how are those defined by the State of South Carolina?
17 We'll start off with first degree criminal sexual conduct with
18 a minor. The state must prove beyond a reasonable doubt that
19 the defendant engaged in a sexual battery with the victim. A
20 sexual battery is defined as sexual intercourse, cunnilingus,
21 fellatio, anal intercourse, or any intrusion, however slight,
22 of any part of a person's body or any object into the genital
23 or anal openings of another person, with the exception being
24 if it was for some kind of medically recognized treatment.
25 The state also has to prove to you beyond a reasonable doubt

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1 that the victim was less than 11 years of age at the time of
2 the sexual battery. Consent, willingness, indifference,
3 ignorance on the part of the minor, if any, as to what was
4 taking place, does not in any way, affect the charge of
5 criminal sexual conduct with a minor first degree, because a
6 minor of that age cannot legally consent.

7 The next charge is disseminating obscene materials to a
8 minor 12 years of age or younger. The state has to prove to
9 you beyond a reasonable doubt that an individual, the
10 defendant here, was 18 years of age or older and knowingly
11 disseminated to a minor, 12 years of age or younger, material,
12 which he knew or reasonably should have known was obscene.

13 Now, the state, through the state legislature, has
14 defined certain terms regarding obscenity. The state says
15 it's unlawful to a person to knowingly disseminate obscenity.
16 A person disseminating obscenity, within the meaning of the
17 article, has happened if defendant sells, delivers, or
18 provides or offers or agrees to sell, deliver, or provide any
19 obscene writing, picture, record, digital electronic file, or
20 other representations or description of the obscene material.

21 For the purposes of this article, any material is obscene
22 if to the average person, reasonable ordinary person, applying
23 contemporary community standards, the material depicts or
24 describes in a patently offensive way sexual conduct
25 specifically defined later in the code section. Also, the

1 average person applying contemporary community standards
2 related to the description or depiction of sexual conduct
3 would find that material taken as a whole appeals to a
4 prurient interest in sex. To a reasonable person, the
5 material taken as a whole lacks serious literary, artistic,
6 political, or scientific value. The material as used is not
7 otherwise protected or privileged under the Constitutions of
8 these United States or of this state.

9 As used in the statute, sexual conduct means vaginal,
10 anal, or oral intercourse, whether actual or simulator, normal
11 or perverted, whether between human beings, animals, or a
12 combination thereof; masturbation, excretory functions, lewd
13 exhibition, actual or simulated, of the genitals, pubic hair,
14 anus, vulva, female breast nipples, including male/female
15 genitals, in a state of stimulation or arousal or covered male
16 genitals in a discernably turgid state; an act or condition
17 that depicts actual or simulated touching, caressing,
18 fondling, or other simulated physical contact with, covered or
19 exposed genitals, pubic or anal regions, female breast
20 nipples, whether alone or between humans, animals, any
21 combination thereof; any act or condition that depicts the
22 insertion of any part of a person's body, or of any object
23 into the person's anus or vagina, except when done as a part
24 of a recognized medical procedure.

25 Patently offensive means obviously and clearly

State v. McKinnon - 2020-GS-26-01366
CHARGE TO JURY

721

1 disagreeable, objectionable, repugnant, displeasing,
2 distasteful, or obnoxious to contemporary standards of decency
3 to offend the community.

4 Prurient interest means a shameful or morbid interest in
5 nudity, sex or excretion and is reflective of an arousal of
6 lewd and lascivious desires.

7 Person means any individual, corporation, partnership,
8 association, legal or commercial entity.

9 Knowingly means had general knowledge of the content of
10 the subject material or performance.

11 Obscenity must be judged with reference to ordinary
12 adults, except when it must be judged with reference to
13 children or other susceptible audiences, or clearly defined
14 sexually deviant groups if it appears from the character of
15 the material or the circumstances of the dissemination to be
16 especially directed for or directed to children or such
17 audiences.

18 As used in the statute, community standards used in
19 determining, prurient appeal and patently offenses are the
20 standards of the area in which the jury is drawn.

21 So those are legal definitions of the crimes that the
22 state has charged the defendant with, and that the state must
23 prove the defendant guilty of beyond a reasonable doubt.

24 Now, talking about the state brought two charges, two
25 separate offenses. As I just read to you, there was different

1 law for each offense. You must consider them separately.
2 Your decision on one, does not govern your decision on the
3 other. You look at them separately. You look at the facts
4 and evidence separately. You look at the law separately as to
5 those two. You make two separate decisions.

6 Now, I have had prepared for you to help in writing the
7 verdict form, a verdict form. Fairly straightforward.
8 Caption of the case, State vs. Kevin J. McKinnon. Roman
9 Numeral I, criminal sexual conduct with a minor in the first
10 degree. On the charge of criminal sexual conduct with a minor
11 in the first degree, we, the jury, by unanimous consent, find
12 the defendant -- there's two choices. If I put one before the
13 other, there's no distinction here; I've got to put one before
14 the other. Okay? So not guilty or guilty. Whatever the
15 unanimous decision is, Madam Forelady, you check the
16 appropriate block, put today's date, you sign your name.

17 Now, on the next charge, Roman Numeral II, disseminating
18 obscene material to a minor 12 years of age or younger. On
19 the charge of disseminating obscene material to a minor 12
20 years of age or younger, we, the jury, by unanimous consent,
21 find the defendant, two choices, no rhyme or reason to the
22 order, not guilty or guilty. Okay? Again, Madam Forelady,
23 your jury reaches a unanimous decision, check the appropriate
24 block, today's date, sign your name. When both verdicts have
25 been rendered, you knock on the door, let the bailiff know

State v. McKinnon - 2020-GS-26-01366
CHARGE TO JURY

723

1 that your jury has reached a unanimous verdict in this matter.

2 Now, I have said unanimous I don't know how many times.

3 It means exactly what you think it means. It means 12/0. It

4 does not mean 11/1, 10/2, any combination thereof. Whatever

5 the verdict is, it must be unanimous. Every juror must agree.

6 So when the clerk reads the verdict in open court and

7 thereafter asks the jury to raise their right hand to affirm

8 that that is their verdict, every member of the jury will be

9 able to raise their right hand and say, yes, that is my

10 verdict. So that is one of your duties and responsibilities,

11 Madam Forelady, is to make sure that when you check the

12 blocks, every member of the jury agrees that's their verdict.

13 All right. What I'm gonna ask that you do, the two

14 alternates, gentlemen, I want the two of you to stay with us.

15 Madam Forelady, I want you take the remaining members of

16 the jury to the jury room. You may take your pads and pens

17 with you at this point in time. Do not, do not begin your

18 deliberations until the bailiff hands to you the exhibits and

19 the verdict form. At that point in time, the jury may start

20 their deliberations.

21 Just so that you know, when you break, the Clerk of

22 Court's Office will be ordering lunch for you. It will take

23 probably approximately an hour for that to get here. All

24 right.

25 So Madam Forelady, take your jury to the jury room.

State v. McKinnon - 2020-GS-26-01366
BY THE COURT

724

1 Two alternates, please stay with us.

2 BAILIFF: Your Honor, can I have the two alternates come
3 and grab their stuff?

4 THE COURT: All right. Just you have to be with them and
5 make sure that there are no discussions. I want them back in
6 the courtroom once they've done that.

7 BAILIFF: I will bring them straight back.

8 THE COURT: All right, sir.

9 (REPORTER'S NOTE: Jury exits courtroom @ 10:56 a.m. The
10 following takes place outside the presence of the jury.)

11 BY THE COURT:

12 THE COURT: Exceptions, deletions, additions to the
13 charge from the state?

14 MS. WALTER: No, Your Honor.

15 THE COURT: From the defense?

16 MR. BROWN: No, Your Honor.

17 THE COURT: All right. Please -- before I tell you to do
18 that, I want to thank the state's representatives and defense
19 counsel for the way that you have tried your case. You've
20 done everything that the Court would expect of you to
21 zealously represent your respective interests. I commend both
22 of you for that. Please come forward and make sure we've got
23 all the proper exhibits going to the jury.

24 Thank you very much.

25 (REPORTER'S NOTE: Counsel review and stipulate to exhibits.)

State v. McKinnon - 2020-GS-26-01366
BY THE COURT

725

1 THE COURT: All right. Gentlemen, just have a seat for a
2 minute, please.

3 Do we have the proper exhibits?

4 All right. So we have them?

5 MS. WALTER: Yes, Your Honor.

6 THE COURT: All right. Very good. All right. As to the
7 two alternates, from the state, is there any reason why the
8 Court should not excuse the alternates at this time?

9 MS. WALTER: No, Your Honor.

10 THE COURT: From the defense?

11 MR. BROWN: No, Your Honor.

12 THE COURT: All right, gentlemen, I want to thank you for
13 your service. I appreciate everything you've done in paying
14 attention in this case. I can't tell you how many times, you
15 know, in my career, I've had to replace jurors. Somebody gets
16 sick, something happens; it happens honestly a lot more than
17 you would expect it to happen. Just so happen, it didn't
18 happen in this particular case, but I appreciate y'all's
19 willingness to serve. I appreciate it very much.

20 With that, you are now both excused. Thank you very
21 much. All right. You're free to go. Just leave your pads
22 and pens and we'll collect them. All right. Thank you.

23 JURORS 173 AND 48: Thank you.

24 THE COURT: Thank you very much.

25 (REPORTER'S NOTE: Alternate jurors excused and exit courtroom

State v. McKinnon - 2020-GS-26-01366
BY THE COURT

726

1 @ 11:14 a.m.)

2 THE COURT: All right. Ms. Kay, you want to get the
3 exhibits to the bailiff ---

4 COURT REPORTER: Yes, sir.

5 THE COURT: --- and y'all get those to the jury and just
6 tell them commence their deliberations when you deliver them,
7 sir.

8 BAILIFF: I sure will, sir.

9 THE COURT: All right. Thank you very much.

10 (REPORTER'S NOTE: Deliberations commence @ 11:15 a.m.)

11 **RECESS - 11:15 A.M.**

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

13 **ON THE RECORD - 4:07 P.M.**

14 THE COURT: As I understand it, ladies and gentlemen, the
15 jury has reached a verdict.

16 Is the state ready to receive it?

17 MS. WALTER: We are, Your Honor.

18 THE COURT: Is the defense ready to receive it?

19 MR. BROWN: Yes, Your Honor.

20 THE COURT: I'm gonna speak to everyone in the courtroom.

21 This is something I do every criminal trial. I do not know
22 what the verdict is. We will all receive the verdict at the
23 same time. That verdict will be received with respect and
24 silence. The Court will not tolerate any kind of showing of
25 emotion regarding the verdict. I'm gonna give you an

VERDICT OF THE JURY

1 opportunity to leave the courtroom if you cannot follow these
2 instructions. I will tell you that, if that occurs, you will
3 be detained by a Horry County Sheriff's Deputy. I will hold a
4 contempt of court proceeding and decide whether I should send
5 you to jail or not. Thank you.

6 Ask the jury to come in.

7 (REPORTER'S NOTE: Jury enters courtroom @ 4:10 p.m.)

8 THE COURT: While I'm thinking about, I see that some of
9 you brought your notepads and pens back in. If you did, just
10 leave them in your seats when we are finished. All right?

11 All right. Madam Forelady, has your jury reached a
12 verdict in this matter?

13 MADAM FORELADY: Yes, we have, Your Honor.

14 THE COURT: All right. Could you hand the verdict form
15 to the clerk of court's representative, please? She'll come
16 to you; stay right there.

17 THE COURT: All right, Madam Clerk, you may publish the
18 verdict.

19 VERDICT OF THE JURY:

20 THE CLERK: State of South Carolina, County of Horry, the
21 State vs. Kevin McKinnon. Indictment number 2020-GS-26-01366
22 and 2016-GS-26-2823. On the charge of criminal sexual conduct
23 with a minor in the first degree, we, the jury, by unanimous
24 consent, find the defendant guilty. Signed by foreperson,
25 Mary Kelsey, dated October 2nd, 2020.

State v. McKinnon - 2020-GS-26-01366
BY THE COURT

728

1 State of South Carolina, County of Horry, the State vs.
2 Kevin McKinnon. On the charge of disseminating obscene
3 material to a minor 12 years of age or younger -- on the
4 charge -- we, the jury, by unanimous consent, do find the
5 defendant not guilty. Signed by foreperson Mary Kelsey, dated
6 October 2nd, 2020.

7 Would you all please rise?

8 Ladies and gentlemen of the jury, if this is your
9 verdict, so signify by raising your right hand?

10 (REPORTER'S NOTE: Jury unanimously complies.)

11 Thank you. You may be seated.

12 THE COURT: Thank you very much. You can have a seat.

13 All right. The jury, having affirmed the verdict by the
14 raising of their right hand, does the state wish the jury
15 polled?

16 MS. WALTER: No, Your Honor.

17 THE COURT: Does the defense wish the jury polled?

18 MR. BROWN: No, Your Honor.

19 THE COURT: Thank you very much.

20 BY THE COURT:

21 THE COURT: Ladies and gentlemen, by statute, as part of
22 the statute that our state legislature enacted regarding the
23 criminal sexual conduct with a minor first degree, the
24 legislature requires that after a finding of guilt, that an
25 answer to a question by the jury be answered. That question

State v. McKinnon - 2020-GS-26-01366
BY THE COURT

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1 is, Having found the defendant guilty of criminal sexual with
2 a minor in the first degree, did the conduct of the defendant
3 that committed the sexual battery, that being the defendant
4 here, Kevin McKinnon, involve sexual or anal intercourse
5 either by the defendant or by an intrusion of an object by the
6 defendant. It will require the jury to answer that question
7 yes or no and, again, Madam Forelady, you'll need to sign
8 that, put today's date. That will conclude your work in this
9 particular matter.

10 Madam Clerk, could you hand this form to the forelady,
11 please?

12 So I will need for you to have your jury answer that
13 question, ma'am, and then you'll need to check yes or no, and
14 then sign your name. For ease, it would probably be best for
15 you to take the jury back to the jury room, answer that
16 question, knock on the door, give it to the bailiff. And
17 again, that will conclude your service in this particular
18 matter, but I will have to receive that from you and excuse
19 you at that point in time. All right?

20 Thank you very much.

21 (REPORTER'S NOTE: Jury exits courtroom @ 4:14 p.m.)

22 MS. WALTER: Your Honor, may I go back and print the
23 sentencing sheet?

24 THE COURT: I'm sorry, ma'am?

25 MS. WALTER: May I go back and print the sentencing

State v. McKinnon - 2020-GS-26-01366
BY THE COURT

730

1 sheet?

2 THE COURT: Yes, ma'am.

3 MS. WALTER: Thank you.

4 THE COURT: All right. Very good.

5 They ready to come in? Yes, ma'am.

6 (REPORTER'S NOTE: Jury enters courtroom @ 4:19 p.m.)

7 THE COURT: All right. The jury having answered the
8 question in the affirmative, ladies and gentlemen, I want to
9 thank you for your service in this particular matter.

10 And let me just make sure as to the jury itself. Is
11 there anything from the state as to the jury itself before I
12 excuse them?

13 MS. WALTER: No, Your Honor.

14 THE COURT: As to the jury itself, is there anything else
15 from the defense?

16 MR. BROWN: No, Your Honor.

17 THE COURT: All right. Thank you. I want to thank you
18 for your service. You did everything the Court asked you to
19 do. These are, you know, unusual circumstances as far as the
20 precautions we have to take and the extra measures that have
21 been employed. You worked through that and I appreciate it.
22 Thank you for your service. As I told the whole panel at the
23 very beginning of the week, criminal justice system in this
24 county cannot work without the active participation of the
25 citizens responding to jury summons and working on the Grand

MOTIONS

1 Jury and I want to thank you and I appreciate your service.

2 With that, you are now excused. Thank you very much.

3 (REPORTER'S NOTE: Jury exits courtroom @ 4:21 p.m.)

4 MS. WALTER: May I, Your Honor?

5 THE COURT: Yes, ma'am, please? Thank you.

6 MS. WALTER: Thank you.

7 THE COURT: All right. Mr. Brown, any matters for the
8 Court at this time?

9 MOTIONS:

10 MR. BROWN: Yes, Your Honor, the defense at this time
11 would renew all prior motions and objections in this case.

12 THE COURT: All right, sir. The Court reaffirms and
13 reiterates all of the rulings I made prior to this regarding
14 the objections and matters raised by the defense.

15 As to the defendant's, excuse me, motion for a new trial
16 in this regard, the Court obviously denied the defendant's
17 motion for a directed verdict. In that, I ruled that the
18 evidence was sufficient to submit the case to the jury for
19 their decision. I find that there is competent evidence in
20 the record to sustain the jury's verdict and, therefore, I
21 respectfully decline to grant the motion for a new trial as
22 posed by the defense.

23 Is the state ready to proceed with sentencing?

24 MR. BROWN: Your Honor?

25 THE COURT: Yes, sir.

SENTENCING

1 MR. BROWN: I would make a motion to set aside the
2 verdict based upon all the evidence the Court heard in the
3 case for the record, Your Honor.

4 THE COURT: All right. And I appreciate that. The
5 motion for a new trial is -- is the motion which you have made
6 in this matter. There is no judgment notwithstanding the
7 verdict available in criminal court. You've made your motion
8 for a new trial and the Court has respectfully declined to
9 grant that.

10 MR. BROWN: Yes, sir.

11 SENTENCING:

12 THE COURT: All right. The state ready to proceed with
13 sentencing?

14 MS. WALTER: We are, Your Honor.

15 THE COURT: Is the defense ready to proceed with
16 sentencing?

17 MR. BROWN: Yes, Your Honor.

18 THE COURT: I'll be glad to hear from the state first?

19 MS. WALTER: And, Your Honor, I have a statement written
20 by Complainant that I can read to the Court. First of all, by way
21 of private, excuse me, prior criminal record, as Your Honor
22 knows, while these charges were pending, the defendant was
23 arrested and convicted of two counts of child pornography for
24 which he was given probation and was placed on a sex offender
25 registry. Your Honor, the state certainly feels that the

SENTENCING

1 defendant deserves a life sentence for what he did. As I said
2 during my closing, I understand that **Cousin** has
3 recanted her allegations, but certainly **Complainant** was strong
4 enough to come forward. This is something that has changed
5 her life. I think it's even made worse by the fact that the
6 defendant was her biological grandfather. Not only did he
7 victimize **Complainant** but he tore apart a family. And I'll now
8 read **Complainant** statement.

9 So first of all, thank you. Thank you for realizing that
10 what he did was very wrong. I have suffered throughout these
11 years. With this, this is hopefully going to help calm these
12 things and make my life better, along with others' lives. You
13 have no idea how hard this has been and how hard we've worked
14 to be able to be here. This really means a lot. Thank you.
15 I feel that the defendant, Kevin McKinnon, deserves the time
16 for what he has done. I believe that this should've never
17 happened, and it's sad that it has. Nobody else should have
18 to go through any of this and we are putting away one more
19 hazard for other children. I believe he deserves punishment
20 and punishment he shall get.

21 THE COURT: Thank you, ma'am, anything else from the
22 state?

23 MS. WALTER: No, Your Honor.

24 THE COURT: All right. Mr. Brown, I'll be glad to hear
25 from you, sir.

1 MR. BROWN: Thank you, Your Honor. Your Honor, you heard
2 the testimony in this case and the -- the accounts that were
3 presented to the Court. Mr. McKinnon is almost 60 years old.
4 He's married, lives locally, was gainfully employed, and
5 supports his family. Obviously, we have a verdict in this
6 case, Your Honor. For the past 59 years of his life, he's had
7 no record. He was accused for crimes for which we are here
8 today, and the crimes for which he pled to -- were accused
9 back in August of 2015. Subsequently, he was charged with a
10 different offense, which he has already resolved. He resolved
11 that case last summer. Not seeking to relitigate the case, it
12 was possession of pornographic material involving a minor.
13 There were six incomplete videos on that in that case, Your
14 Honor, that Your Honor heard. We weighed our options
15 carefully in that case. We had an expert prepared to testify.
16 That case was with the AG's office. We would argue that the
17 date of the conviction relates back to the date for which he
18 was arrested and charged. The AG case came after the case
19 that we are here for today, prior to the case at bar. The
20 case at bar today rainbows over the AG's case. I think that
21 if the case were considered a prior conviction, then we would
22 give the defendant a reason to delay, resolve the charges
23 depending on prior charges, and give the state a reason to
24 delay calling certain cases to Court depending on other cases.
25 I don't think the legislature considered this situation --

SENTENCING

1 scenario, which we find ourselves today, since the -- since
2 the issue enacting the law by the legislature. Most folks
3 handle -- the legislature probably considered that most
4 charges are handled chronologically -- would certainly set
5 this out. So we would ask for a sentence that reflects the
6 evidence presented in the case that -- the matter of today.
7 In the alternative, the mandatory minimum that the law sets
8 forth given the age of the defendant, which would be the
9 minimum, which will be a life sentence, Your Honor.

10 THE COURT: All right, sir.

11 MR. BROWN: Thank you.

12 THE COURT: Thank you very much. Did the defendant wish
13 to address the Court?

14 MR. BROWN: Your Honor, may I have a moment?

15 THE COURT: Yes, sir.

16 MR. BROWN: No, Your Honor.

17 THE COURT: Thank you very much.

18 The defendant will please rise at this time. 2020-GS-26-
19 1366, State of South Carolina, County of Horry vs. Kevin J.
20 McKinnon, regarding criminal sexual conduct with a minor in
21 the first degree. Our state legislature has set forth the
22 sentencing parameters, that being a minimum sentence of 25
23 years to life in prison without the possibility of parole.
24 The Court has taken into consideration all the facts and
25 circumstances presented in this trial. I take into

1 consideration the age of the victim, the age of the defendant
2 currently in imposing this sentence, the -- as well as the
3 facts as testified to in this matter.

4 The sentence of the Court is defendant is committed to
5 the State Department of Corrections for a determinate terms of
6 35 years. Defendant is given credit for any time he has
7 already served. Obviously, the defendant is placed on the
8 Central Registry of Child Abuse.

9 This matter is now concluded.

10 Thank you very much.

11 MR. BROWN: Thank you, Your Honor.

12 **ADJOURNED - 4:30 P.M.**

13

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STATE OF SOUTH CAROLINA
COUNTY OF Horry

ORDER IN A CRIMINAL CASE
WARRANT(S) 2015A2610700846, 849, 2020DI2600136

IN THE COURT OF GENERAL SESSIONS

INDICTMENT(S): 2016GS2602823, 2020GS2601359, 1366

State of South Carolina

KEVIN J MCKINNON
DEFENDANT(S)

This form order submitted by: MARY-ELLEN WALTER	Attorney for : <input checked="" type="checkbox"/> State <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE

- DECISION BY THE COURT AFTER HEARING.** This action came to a hearing before the court. The issues have been heard and a decision rendered. See below for additional information.
- DECISION BY THE COURT AFTER STATUS CONFERENCE.** This case came for a status conference before the court. The status of this case and pending issues in this case were discussed and a decision rendered. See below for additional information.
- MOTION: MOTION TO ADMIT EVIDENCE OF VICTIM'S SPECIFIC PRIOR SEXUAL INSTANCES:**
 - GRANTED DENIED CONTINUED WITHDRAWN
 - WITHDRAWN BY MOVING PARTY: _____
Signature of Moving Party
 - OTHER: _____

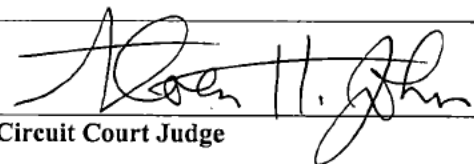
FILED
 2020 SEP 30 AM 10:57
 MARY-ELLEN WALTER
 CLERK OF COURT
 HORRY COUNTY, S.C.

IT IS ORDERED AND ADJUDGED: See Order of the Court below See attached order
 Formal Order to follow; to be prepared by: State Defendant Other: _____

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk : _____

The name Daniel Shaub shall not be mentioned in any way shape or form. If **Cousin** testifies and her testimony is inconsistent with any prior statement, the State may use any and every prior inconsistent statement to impeach her.


Circuit Court Judge

129
Judge Code

9/30/2020
Date

For Clerk of Court Office Use Only

This judgment was entered on the 30 day of September, 2020 and a copy mailed first class or placed in the appropriate attorney's box on this 30 day of September 2020 to attorneys of record or to parties (when appearing pro se) as follows:

C. Leigh Andrew
ATTORNEY(S) FOR THE STATE

M. Gregory McCollum
ATTORNEY(S) FOR THE DEFENDANT(S)
Renee N. Elvis
CLERK OF COURT

Court Reporter:

RENEE N. ELVIS
CLERK OF COURT
MORRIS COUNTY, SC

2020 SEP 30 AM 10:57

FILED

STATE OF SOUTH CAROLINA)
 COUNTY OF HORRY)
)
 State of South Carolina,)
)
 Plaintiff,)
 vs.)
)
 Kevin John McKinnon,)
)
 Defendant.)

IN THE COURT OF GENERAL SESSIONS IN
 THE FIFTEENTH JUDICIAL CIRCUIT

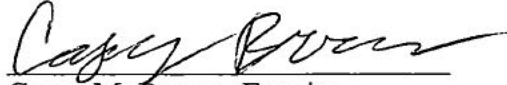
WARRANT(S): 2015A2610700846, 2020DI600136,
 2015A2610700849
 INDICTMENT(S): 2020GS2601366, 2020GS2601359,
 2016GS2602823

MOTION TO ADMIT EVIDENCE OF VICTIM'S
 SPECIFIC PRIOR SEXUAL INSTANCES

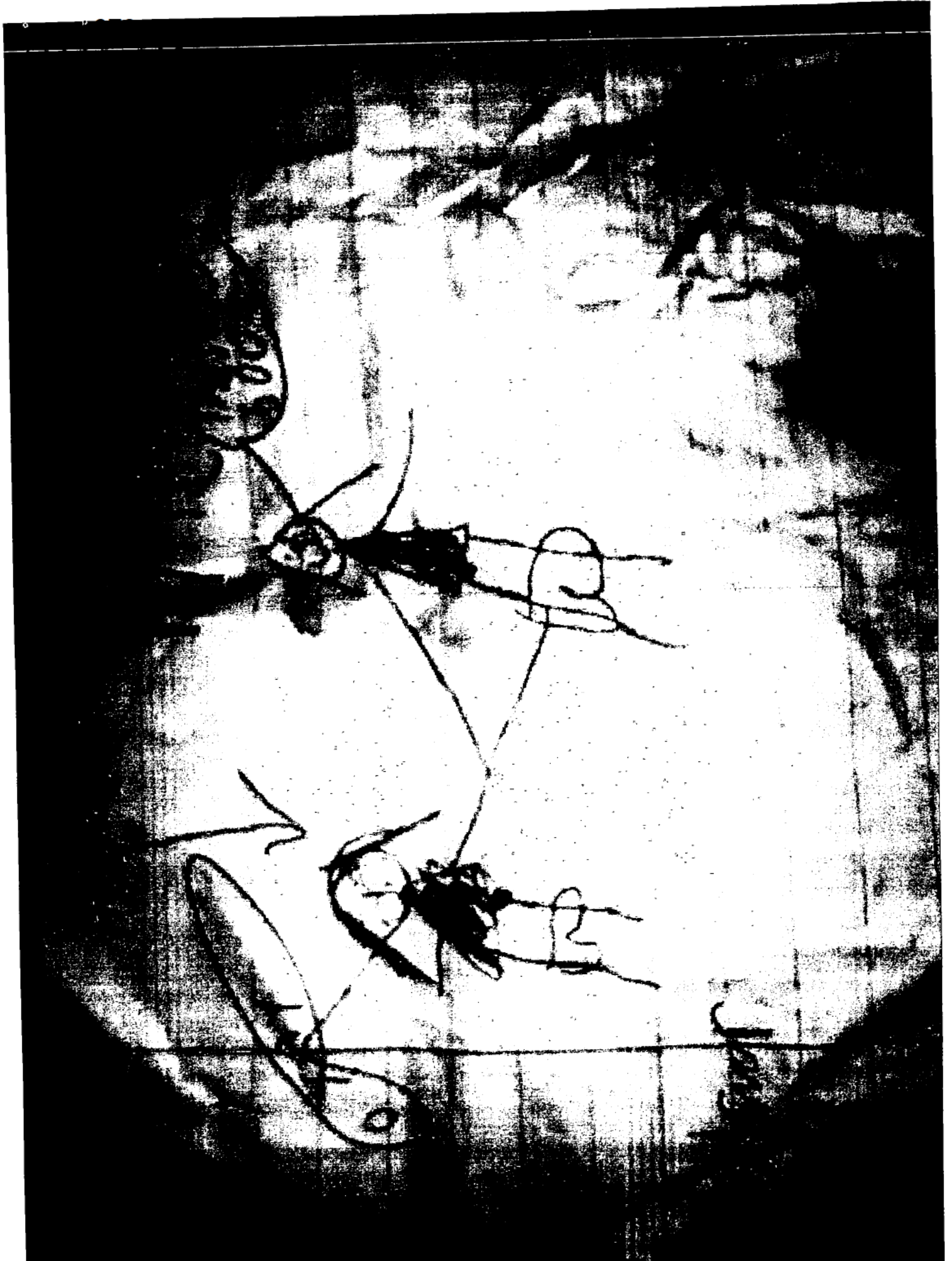
2020 SEP 18 3 59 PM
 RENEE L. BRYAN
 CLERK OF COURT
 HORRY COUNTY, SC
 FILED

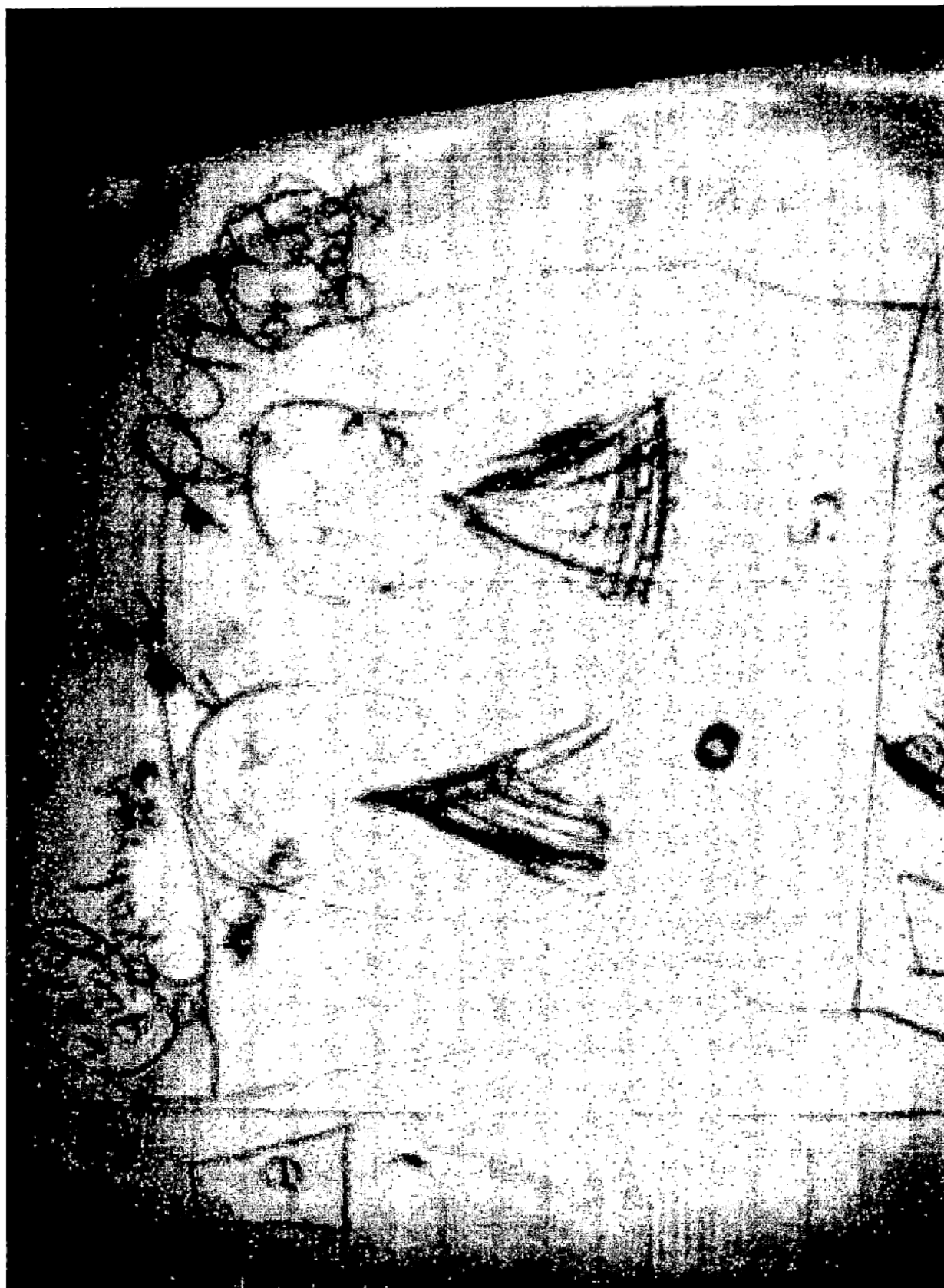
The Defense is providing notice to The State of South Carolina, pursuant to *State v. Grovenstein*, 340 S.C. 210, 530 S.E.2d 406 (App. 2000) of intent to introduce evidence of specific instances of the alleged victim's (Cousin [REDACTED] and COMPLAINANT [REDACTED]) prior sexual experience. The Defense intends to introduce evidence of child's prior sexual experience to demonstrate that Defendant is not the source of victim's (Complainant [REDACTED]) ability to testify about alleged sexual conduct. Evidence in the forms of testimony by alleged victim (Cousin [REDACTED] and Shelby McKinnon as to child on child abuse and abuse by Daniel Shaub on victim (Cousin [REDACTED]) Evidence in the form of drawings by alleged victim (Cousin [REDACTED]) Evidence in the form of writings by alleged victim (Complainant [REDACTED] and alleged victim (Cousin [REDACTED] and between the two alleged victims (Cousin [REDACTED] and Complainant [REDACTED]) Evidence in the form of sentencing sheet and indictments of Daniel Shaub. (See attached documents).

Respectfully Submitted,


 Casey M. Brown, Esquire
 Attorney for Defendant
 Complete Legal Defense Team
 1012 38th Avenue North, Suite 202
 Myrtle Beach, SC 29577
 (843) 626-5480

September 18, 2020
 Myrtle Beach, South Carolin





3-8-14 I had sex
with

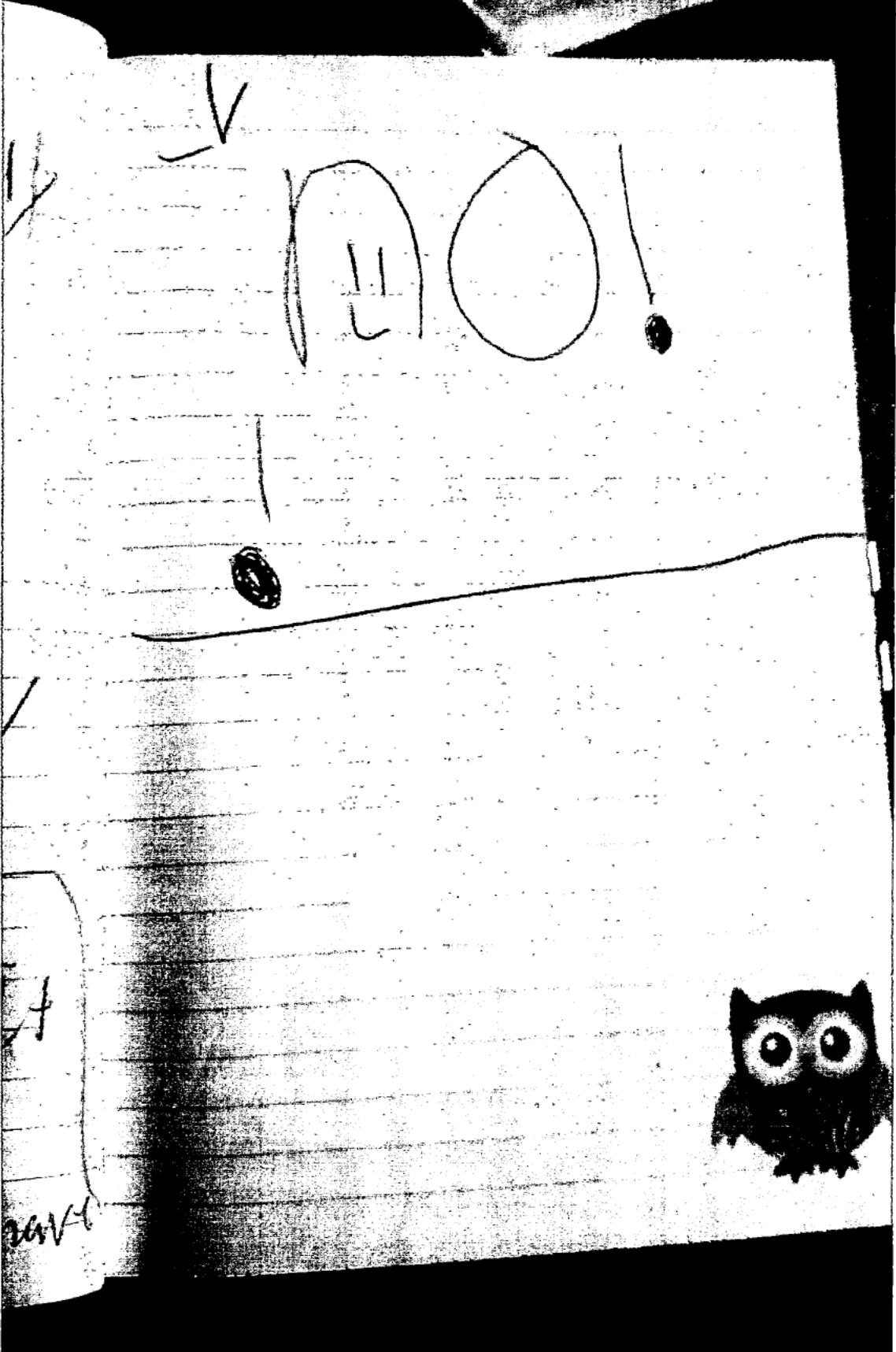
COMPLAINANT



I love sex
Diggirls

COUSIN





NO!



A

26/11

just don't

let

me

will do it

then

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~~because I want to~~

because I

want to

I mean why

don't u

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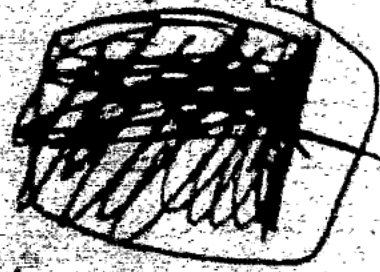
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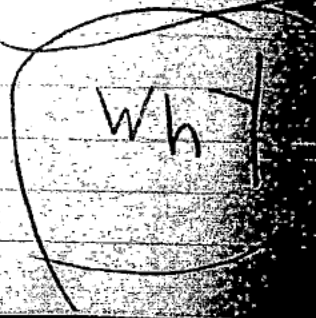
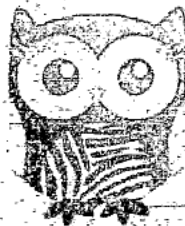
please I'll do it

to

no I don't

don't

to



Hey IS dan In jail for the thing
1
Yeah but why do you want to know

Because I was just asking OK
2

did what he did feel good um

well lets say 4

that I have felt
what its like

I don't
3 know

huh

lets say Grandpa
did it OK

but lets not
6 tell any body
lets keep it
between us

well lets
say someone
touch us
um
OK 5

lets
me
is
7

COUSIN

COMPLAINANT

~~Three days
later~~

COMPLAINANT

I &

told why it
slipped
are we in
trouble I think
so

0-10

COUNTY OF Horry
STATE VS.

Daniel D Shaub

AKA:

Race: WHITE Sex: M Age: 36

DOB: -1978 SS#: [REDACTED]

Address: Cape Landing Cir Apt C

City, State, Zip: Myrtle Beach, SC 29588-1101

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was
TO: Assault / Assault & Battery 1st degree

INDICTMENT/CASE#: 2014GS2604990

A/W#: 2014GS2604990

Date of Offense: 10/31/2013

S.C. Code § : 16-03-0600(C)(1)

CDR Code #: 3412

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. DD (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State. 10yrs

ATTEST: [Signature] SCB77061 [Signature] [Signature] 69441
Spratlin, Martin D. SC Bar# Defendant Attorney for Defendant SC Bar# No S.O.R.

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 Set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment

Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 25.00 beginning 12/12/2014
\$ _____ paid to Public Defender Fund

Other: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: [Signature]
Court Reporter: [Signature]
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 2152
Sentence Date: 11-12-14

FILED
Horry County
2014 NOV 2 PM 5:02
MELANIE HUGGINS
CLERK OF COURT

WITNESSES

Mark King-Johnson Horry County Police
Department

DOCKET NO. 2014-GS-26-04990

C
H

The State of South Carolina
County of Horry

CERTIFIED COPY

Martin D. Spratlin

14H01421

RENEE W. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

COURT OF GENERAL SESSIONS

NOVEMBER, 2014 TERM

ARREST WARRANT NUMBER

2014GS2604990

CDR: 3412 16-03-0600(C)(1)

DOA: 4/2/2014

THE STATE

vs.

ACTION OF GRAND JURY

Daniel D Shaub

W/ M

████████ Cape Landing Cir Apt C

Myrtle Beach, SC 29588-1101

DOB: 1978-████████

SSN: ██████████

ATTORNEY: Kia T. Wilson

Foreperson of Grand Jury

Date:

VERDICT

Indictment for

ASSAULT AND BATTERY, FIRST DEGREE

Jimmy A. Richardson, II, Solicitor

Foreperson of Petit Jury

Date:

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on November 13, 2014, the Grand Jurors of Horry County present upon their oath:

ASSAULT AND BATTERY FIRST DEGREE
CDR: 3412 16-03-600(C)

That Daniel D Shaub did in Horry County on or about or between the dates of November 13, 2011 and March 12, 2014 commit, offer to commit or attempt to commit an unlawful act of injury with the present ability to do so to **Cousin** M. and the act involved the nonconsensual touching of the private parts of the victim with a lewd and lascivious intent, in violation of Section 16-3-600(C), S. C. Code of Laws, 1976, as amended.

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


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

FILED
HORRY COUN:
2014 NOV 12 PM 5:02
MELANIE HUGGINS WARD
CLERK OF COURT
COURT DATE
PLED GUILTY/TRIAL

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

State of South Carolina
Office of the Solicitor
Fifteenth Judicial Circuit

RENEE M. ELVIST
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

Scott R. Hixson
Chief Deputy Solicitor

1301 2nd Avenue
P.O. Drawer 1276
Conway, SC 29528
Phone: (843) 915-5460
Fax: (843) 915-6461



JIMMY A. RICHARDSON, II
Solicitor

Alicia A. Richardson
Deputy Solicitor

401 Cleland Street
P.O. Box 1688
Georgetown, SC 29442
Phone: (843) 545-3169
Fax: (843) 545-3268

DISMISSAL/NOLLE PROSSE FORM

TO: HORRY COUNTY CLERK OF COURT
FROM: MARTIN D. SPRATLIN, ASSISTANT SOLICITOR
DATE: NOVEMBER 12, 2014
RE: STATE OF SC VS. DANIEL D SHAUB
CASE NO: 14H01421

FILED
HORRY COUNTY
14 NOV 14 PM 2:14
HOLLAND
CLERK OF COURT

PLEASE BE ADVISED THAT THE CHARGE(S) LISTED BELOW HAVE BEEN DISMISSED OR NOLLE PROSSED (PLEASE PLACE X IN APPROPRIATE COLUMN).

Warrant #	Charge	Indict #	T/B Date	D/M	N/P	DOA
2014A2610300037	CSC w/Minor 1st Degree	2014GS2602237	6/19/2014		X	4/2/2014

Assistant Solicitor

WITNESSES

Mark King-Johnson Horry County Police
Department

DOCKET NO. 2014-GS-26- 02237

The State of South Carolina

CERTIFIED COPY

County of Horry

Martin D. Spratlin

14H01421

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

AP
11/14/14

684

COURT OF GENERAL SESSIONS

JUNE, 2014 TERM

ARREST WARRANT NUMBER

2014A2610300037
CDR: 0385 16-03-0655(A)(1)
DOA: 4/2/2014

THE STATE

vs.

ACTION OF GRAND JURY

Daniel D Shaub
W/ M
Cape Landing Cir Apt C
Myrtle Beach, SC 29588-1101
DOB: 1978
SSN: [REDACTED]

Foreperson of Grand Jury
Date: JUN 19 2014

ATTORNEY: Wilson, Kia T.

VERDICT

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A MINOR,
FIRST DEGREE

Jimmy A. Richardson, II, Solicitor

ORIGINAL

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

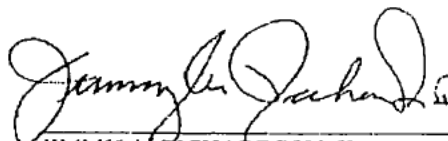
At a Court of General Sessions, convened on June 19, 2014, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE

CDR: 0385 16-03-0655(A)(1)

That Daniel D Shaub did in Horry County, State of South Carolina, on or about or between the dates of November 13, 2011 and March 12, 2014, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the First Degree by engaging in a sexual battery with a minor who is less than eleven (11) years of age, to wit: Cousin, whose date of birth is [REDACTED]/2006, in violation of Section 16-3-655(A)(1), [formerly Section 16-3-655(1)], S. C. Code of Laws, 1976, as amended.

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



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

CERTIFIED COPY

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

s/David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED

Feb 11 2022

SC Court of Appeals

This 11th day of February, 2022.