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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Derham Cole, Circuit Court Judge

*[Handwritten notes and stamps]*

THE STATE,

RESPONDENT,

V.

THOMAS STEPHEN ACKER,

APPELLANT

APPELLATE CASE NO 2016-002368

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	
COUNTY OF SPARTANBURG	)	IN THE COURT OF GENERAL SESSIONS
The State,	)	
-vs-	)	TRANSCRIPT OF RECORD
Thomas Stephen Acker,	)	2016-GS-42-2201;2202
Defendant.	)	November 16 - 18, 2016
	)	Spartanburg, South Carolina

**B E F O R E :**

HONORABLE J. DERHAM COLE, JUDGE; and a jury

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No exhibits entered into evidence.

1 your opinions as to what you think the ultimate decision  
2 ought to be until all of the evidence has been received,  
3 until I have instructed you on the law and until you've  
4 been asked to begin your deliberations.

5 It's also important that you give every witness the  
6 same degree of attention as they testify. That doesn't  
7 mean you're going to have to give every witness' testimony  
8 the same degree of weight.

9 As I told you, you are the judges of the credibility  
10 and the believability of witnesses and their testimony.  
11 But in order to be in a proper position to fairly evaluate  
12 and assess that credibility it's important that you give  
13 every witness the same degree of attention while they're  
14 testifying so that when you do go back and do begin your  
15 deliberations you'll be in a proper position to be able to  
16 fairly judge a witness' credibility in light of not just  
17 that witness' testimony but in light of all of the  
18 testimony and all of the evidence received during the  
19 trial.

20 So I do want to thank you in advance for your  
21 participation, as well as for your careful attention. I  
22 would ask that you please give the lawyers your attention  
23 now as they give you their opening statements.

24 Ms. Miles.

25 MS. MILES: May it please the Court and members of the

## Opening statements

1 jury.

2 THE COURT: Yes, ma'am.

3 MS. MILES: In the fall of 2004, five-year-old Minor  
4 ██████ began kindergarten. She'd go to a half day of  
5 school where she'd learn about the world, about shapes,  
6 colors, letters, the alphabet, numbers.

7 And some days after kindergarten she would go over to  
8 her grandmother's house while her mother went and led a  
9 Bible study. Her grandmother's house -- who the  
10 grandmother shared with the defendant, Thomas Acker -- it  
11 was there that she learned things that no five-year-old  
12 should ever have to know.

13 She learned of a different world, a dark world, the  
14 world that Thomas Acker lived in. She learned what it felt  
15 like to have a grown man put his fingers inside of her,  
16 learned what it was like to see a grown man masturbate,  
17 learned what happened when a grown man ejaculated, learned  
18 what obscene things could be on a computer. She learned of  
19 these things from the defendant as he sexually abused her.

20 She also learned of fear as the defendant told her  
21 that if he told -- she told anyone he would kill her nanny.  
22 So she stayed silent -- silent during the times she was  
23 being abused, silent during the years after, silent when  
24 her grandmother and the defendant divorced, silent until  
25 she became a teenager and the flashbacks came back to her

## Opening statements

1 and shook her so much that she began cutting herself.

2 Her parents noticed that she began cutting herself and  
3 took her to a therapist, and there she decided she couldn't  
4 be silent any more. She decided that she had to tell about  
5 the things that she'd endured at the hands of Thomas Acker.

6 Those are the things that you will learn about during  
7 this trial. I'm confident when you learn about the things  
8 that five-year-old Minor went through in the fall  
9 of 2004 to the spring of 2005 that you will evaluate the  
10 evidence and that you will come back with a verdict of  
11 guilty for one count of criminal sexual conduct with a  
12 minor in the first degree and one count of dissemination of  
13 obscene material to a person under the age of 12. Thank  
14 you.

15 MR. POOLE: May it please the Court, Ms. Miles.

16 THE COURT: Mr. Poole.

17 MR. POOLE: Good afternoon, madam forelady and ladies  
18 and gentlemen of the jury.

19 I was going to open up on a whole different note, but  
20 I'm going to have to change gears for -- here for just a  
21 minute, because everything Ms. Miles told you is nothing  
22 more than what's written in the indictments.

23 Judge Cole just got through telling you that what she  
24 says or what I say are not evidence. And it's important  
25 maybe for you to hear what we've got to say, but what is

7  
Opening statements

1 more important is what is elicited from this witness stand.

2 Let's don't get off on the note of emotional concern  
3 in this case right off the bat because these are serious  
4 allegations being made against this man. Let's don't get  
5 off on the wrong foot here.

6 Reason works here in this courtroom and every other  
7 courtroom where somebody is placed on trial. Mr. Acker is  
8 guilty until proven innocent [sic], and you are the  
9 fact-finders, and it's y'all's job to do that at the end of  
10 the day and not get swayed all of a sudden by remarks made  
11 by lawyers.

12 Having said that, I'm going to say this. Some of you  
13 are veterans, recent veterans, a case. I know that. And  
14 it's been a long week for you already. And you've already  
15 served your civic duty. So maybe it's like Veterans Day  
16 from last week extending all the way through this week. So  
17 thank you for sitting on this jury.

18 I know you're maybe tired and/but you've already  
19 proven your metal. You've already proven the fact that you  
20 can hang in there and you can deliver a -- a fair verdict.

21 And you know what I'm talking about. I'm talking  
22 about the case that Mr. Neely tried. Mr. Nelly and I work  
23 closely with one another. He's young and I'm old. And I  
24 need every help I can get to keep me straight or making  
25 sure that I follow the right procedure, you know, dot the

## Opening statements

1 t's and cross the i's. And, anyway, I know I got it wrong.  
2 But I'm asking you to give Mr. Acker a fair trial.

3 You know, there he is right there. Look at him. This  
4 man is 75 years old. He is charged with having started to  
5 do this reprehensible behavior in 2004 -- 12 years ago, 12  
6 years ago when George W. Bush was president, 12 years ago  
7 when we were at war in Iraq, three years after 9-1-1.

8 She came forward -- that is Minor came forward -- and  
9 mentioned that this happened to her in 2014, ten years  
10 later.

11 Now, two years later after that we're here in trial  
12 where this man is being accused of these reprehensible  
13 acts. And how does one defend himself against charges so  
14 old? I don't know.

15 The things that I mentioned about what were happening  
16 around 2004 are about the only things I remember except  
17 what was in my personal life.

18 I have two young boys. They were in school and --  
19 happily married. Still am. They're still in school but in  
20 college now. But that's about all I remember. I know  
21 where I was living and all of that bit.

22 But how does a man come forward, you know, at this  
23 date and time, at this late hour, and put forth an  
24 affirmative defense?

25 Now, again, he's 75 years old. And if you go back

Lisa Mathis  
Direct examination by Ms. Miles

1 that far you have a defendant that's about my age sitting  
2 there if he were tried back close to that time.

3 So you don't -- there's going to be a certain amount  
4 of repetition for a lot of you veterans who -- who've heard  
5 the -- the legal jargon before -- but it's important  
6 stuff -- proof beyond a reasonable doubt. That all means  
7 that, you know, don't -- don't render a judgment if it  
8 causes you to hesitate to act. You've heard that before,  
9 and that a man's proven -- is -- proven -- is assumed  
10 innocent, presumed innocent, until proven guilty.

11 All of those are important things, but the most  
12 important thing that you people bring to this courtroom is  
13 your common sense -- your common sense and your  
14 rationality. Keep those two things first and forefront,  
15 and don't be emotionally driven in this case, because  
16 that's not where we're supposed to be. Thank you all for  
17 being here.

18 MS. MILES: May it please the Court. The state calls  
19 Lisa Mathis to the stand please.

20 LISA MATHIS, having been first  
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION BY MS. MILES

23 Q Will you please state your full name for the record?

24 A Lisa Mathis.

25 Q And, Lisa, how old are you?

Lisa Mathis  
Direct examination by Ms. Miles

1 A I'm 50.

2 Q Okay. And where do you work?

3 A I work at Family Physicians of Spartanburg.

4 Q And what do you do there?

5 A I'm a nurse practitioner.

6 Q And how long have you been there?

7 A I've been there about two years.

8 Q Okay. Tell me about your family, Lisa.

9 A Mitchell and I have been married for almost 30 years.  
10 we have four children ranging in age from 27 to Minor who  
11 is 17.

12 Q Okay. Tell me about your children.

13 A Megan is married and living in Anderson; McKenzie is  
14 married living in Washington, D.C.; my son Michael is still  
15 here in Spartanburg in college; and then Minor still lives  
16 at home with us.

17 Q Okay. Tell me about the rest of your family --  
18 brothers, sisters.

19 A I have a brother who lives in Alaska. My parents  
20 divorced when I was in high school. My dad lives somewhere  
21 in South Carolina and my mother lives here in Spartanburg.

22 Q Okay. Lisa, how do you know the defendant, Thomas  
23 Acker?

24 A He was married to my mother for a short number of  
25 years.

11

Lisa Mathis  
Direct examination by Ms. Miles

1 Q Okay. When do you remember meeting him?

2 A It was in the summer in the early 2000s. She brought  
3 him to meet us after they had been seeing each other for a  
4 while.

5 Q Okay. And when would you see him?

6 A Just on birthdays, family occasions, holidays,  
7 occasionally when I would go over to my mom's house after  
8 they married. He was there of course.

9 Q Okay. And what about the rest of your family? When  
10 would they see him?

11 A Probably less often, just more holidays and birthdays  
12 and things.

13 Q Okay. What about your children?

14 A The older girls were in high school -- middle school  
15 and high school -- so they were in school all day. But I  
16 would sometimes have Michael and Minor with me when we  
17 would go over there in the daytime. I didn't work at that  
18 time. I worked at home.

19 Q Okay. And what about Minor? When would she go over  
20 there?

21 A During her kindergarten year I taught the Bible study  
22 that you spoke about. And sometimes I would have to --  
23 most of the time I got out while she -- when she got out of  
24 kindergarten, which was before lunchtime. But sometimes I  
25 would have to stay later to do some administrative duties,

Lisa Mathis  
Direct examination by Ms. Miles

1 and my mom would pick her up from kindergarten, and she  
2 would go over there. My mother worked at home. So I put  
3 her in her care.

4 Q Okay. And when did Minor begin kindergarten?

5 A In the fall of 2004.

6 Q Okay. What was your impression regarding who would be  
7 caring for your child at that time?

8 A My mother worked at home, so she would pick her up and  
9 take her. I entrusted her with her care.

10 Q Okay. When was the last time you've had contact with  
11 the defendant?

12 A It was right before they separated, and I just saw him  
13 briefly. My mother had a catering job, and he was there.

14 Q Okay. When was that?

15 A I think it was 2007 -- 2006 or 2007. I can't remember  
16 specifically.

17 Q Okay. And what was your relationship like with  
18 Mr. Acker?

19 A I mean, it was casual and not close.

20 Q Okay. Without going into specifically what anyone  
21 said, was there a period of time where you learned that  
22 something inappropriate may have happened to Minor?

23 A Yes.

24 Q Okay. When did you learn this?

25 A In the summer of 2014 Minor, who hadn't never been

Lisa Mathis  
Direct examination by Ms. Miles

1 rebellious or emotional or anything, we noticed she cut her  
2 arms. And so we sent her to counseling.

3 And at some point during that, those counseling  
4 sessions, a couple of months in -- and she went every  
5 week -- she disclosed to the counselor who then called us  
6 as a family to have a counseling session. And Minor had  
7 disclosed this inappropriate behavior to the counselor.  
8 And she told us.

9 Q Okay. And what about Minor herself? Did she  
10 disclose anything to you?

11 A After that family session she and I spent that  
12 afternoon together, just the two of us, and she told me  
13 some more.

14 MR. POOLE: Objection, Your Honor. I think we're  
15 limited to time and place.

16 Q And nothing specific.

17 A Okay.

18 MR. POOLE: Nothing other than that.

19 Q Nothing specific that Minor told you.

20 A Yes.

21 Q Just you did have a conversation.

22 A We did have a conversation.

23 Q Okay. Thank you.

24 what location did she tell you that something happened?

25 A At my mother's home on [REDACTED] Drive.

Lisa Mathis  
Cross-examination by Mr. Poole

1 Q Okay. And when did she tell you that the abuse took  
2 place?

3 A When my mother would pick her up from school during  
4 her kindergarten year.

5 Q Okay. Lisa, what's your relationship currently like  
6 with your mother?

7 A I haven't spoken to her since Mr. Acker's arrest.

8 Q And why is that?

9 MR. POOLE: Objection. Irrelevant, Your Honor.

10 THE COURT: Sustained.

11 MS. MILES: Beg the Court's indulgence.

12 (Pause.)

13 MS. MILES: I believe that's all the questions the  
14 state has for this witness.

15 Q Please answer any questions the defense may have.

16 Okay. Thank you.

17 CROSS-EXAMINATION

18 BY MR. POOLE

19 Q Good afternoon, Ms. Mathis.

20 A Good afternoon.

21 Q Just a couple of questions. I won't be long.

22 Okay. So you have two grown children now?

23 A Yes, sir.

24 Q Two grown. And Minor is 17?

25 A That's correct.

Lisa Mathis  
Cross-examination by Mr. Poole

- 1 Q And she lives with y'all at this time?
- 2 A That's correct.
- 3 Q Okay. And, you know, during the -- you understand  
4 during the course of a case that the defense is provided  
5 with certain information about the case such as what's  
6 called the discovery. I get information about the case  
7 which contains a lot of medical records, and some medical  
8 records, and that, that sort of thing. Do you understand  
9 that?
- 10 A I understand.
- 11 Q Okay. I believe your children have -- unfortunately,  
12 they suffer from a particular malady or disease.
- 13 A They have a genetic disorder that makes their joints  
14 loose, yes. I am not sure of the relevance of that.
- 15 Q Okay. Well, could you tell me what the name of that  
16 is?
- 17 A It's called Ehlers-Danlos syndrome.
- 18 Q Okay. And are they doing okay with that?
- 19 A Yes, sir.
- 20 Q Okay. Are they having to see a doctor regular --  
21 regular basis?
- 22 A As need arises.
- 23 Q Okay. Is this a congenital thing in the past,  
24 throughout their entire life?
- 25 A Yes.

Lisa Mathis  
Cross-examination by Mr. Poole

- 1 Q Okay. You stated that your mother worked at home.  
2 A She did.  
3 Q What kind of work did she do?  
4 A She did billing for a speech therapist in Atlanta.  
5 Q Medical billing, sort of?  
6 A It was insurance billing for a speech therapist.  
7 Q Okay. And she did this work at [REDACTED] Drive?  
8 A She did.  
9 Q And she would be the one to go pick up Minor at  
10 kindergarten?  
11 A That's correct.  
12 Q But most of the time you were able to take her to your  
13 home?  
14 A After kindergarten, yes.  
15 Q Because you were involved in -- I'm just asking you  
16 these questions to understand. You conducted a Bible study  
17 at Oakbrook.  
18 A No. At Bethel United Methodist Church. And I taught  
19 the Bible study. On certain occasions I would have to stay  
20 there a little bit after 11:30 when Minor got out of  
21 school, and my mother would pick her up for me.  
22 Q Okay. But most of the time you were able to pick her  
23 up?  
24 A The majority of the time.  
25 Q Okay. And Minor was going to Covenant?

Lisa Mathis  
Cross-examination by Mr. Poole

- 1 A She was going to Oakbrook Preparatory School that had  
2 a kindergarten campus at the Covenant church.
- 3 Q Okay. And that's on the west side of town.
- 4 A It's midtown actually.
- 5 Q Okay. It's not as far as Westgate Mall.
- 6 A No, sir.
- 7 Q And of course Bethel is right over here nearby, isn't  
8 it?
- 9 A Correct.
- 10 Q Okay. And so your mother would go by and pick her up  
11 sometimes.
- 12 A Correct.
- 13 Q And go to [REDACTED] Drive where she had her own  
14 office?
- 15 A That's correct.
- 16 Q Okay. Do you know how many times she did that?
- 17 A I can't quantify that. I wasn't counting.
- 18 Q I know that but --
- 19 A Yeah. Once -- once, three times a month, four times a  
20 month, once a week maybe.
- 21 Q Okay. You just don't really know, do you?
- 22 A I know it was several times a month, yes.
- 23 Q Okay. Thank you.
- 24 MS. MILES: I don't believe I have any redirect, Your  
25 Honor.

Mitchell Lee Mathis  
Direct examination by Ms. Miles

1 THE COURT: You may step down.

2 MS. MILES: The state calls Mitchell Mathis to the  
3 stand.

4 MITCHELL LEE MATHIS, having  
5 been first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MS. MILES

7 Q Good afternoon, Mr. Mathis. would you please state  
8 your full name for the record?

9 A Mitchell Lee Mathis.

10 Q Mr. Mathis, how old are you?

11 A Fifty.

12 Q Fifty. where do you currently work?

13 A At Carey Moving, the Allied Van Lines.

14 Q And how do you know the defendant, Thomas Acker?

15 A He was married to my wife's mother.

16 Q Okay. That's your mother-in-law?

17 A Yes. Married to my mother-in-law.

18 Q And when did you first meet him to your recollection?

19 A It's going to have to be the dates that she said  
20 probably, or after. I'm assuming that was -- I don't know  
21 when they were married or -- but it was, I guess, shortly  
22 before that.

23 Q Okay. So what timeframe do you remember them being  
24 married? Maybe that's probably an easier question for you.

25 A In the early 2000s.

Mitchell Lee Mathis  
Direct examination by Ms. Miles

- 1 Q Okay. When would you see him?
- 2 A I only saw him like at Christmas or Thanksgiving or  
3 Easter, birthdays, just family functions.
- 4 Q Holidays?
- 5 A Right.
- 6 Q Okay. And what about the rest of your family? When  
7 would they see him?
- 8 A During -- during those times and any additional times,  
9 I guess, that my wife would go see her mother that maybe I  
10 was working and some...
- 11 Q Okay. And what about your children?
- 12 A When would they see him?
- 13 Q Yes.
- 14 A At the same, you know, the same family functions and  
15 whenever my wife would go visit her mother.
- 16 Q Okay. Without going into what anyone specifically  
17 said, was there a period of time where you learned  
18 something inappropriate may have happened to Minor?
- 19 A It was -- when we found out was when my wife  
20 mentioned.
- 21 Q Okay. When? When was that?
- 22 A If you can give me just a moment.
- 23 Q I'm sorry.
- 24 (Pause.)
- 25 THE WITNESS: I'm sorry, Your Honor.

Mitchell Lee Mathis  
Direct examination by Ms. Miles

1 THE COURT: That's all right.

2 A It was when the counselor and therapist we had --

3 MR. POOLE: Your Honor, again, I must interrupt and  
4 say that we're limited to the testimony of the time and  
5 place of the alleged incident.

6 THE COURT: I think the question she asked is really  
7 requiring right now a yes or no answer.

8 MS. MILES: And really I'm asking when did he find out  
9 something -- when.

10 A Okay.

11 Q what date did you find out something had happened to  
12 your child?

13 A Okay. It was October two years ago.

14 Q October of 2014.

15 A Uh-huh.

16 Q That's when you learned something had happened.

17 A Uh-huh, yes.

18 Q Okay.

19 A I'm sorry.

20 Q That's okay.

21 Okay. And without anything specific as to what they  
22 said, who did you learn that from?

23 A It would have been Kym, her therapist, that told Lisa  
24 and I, along with Minor .

25 Q Okay. And you mentioned the therapist. why was your

Mitchell Lee Mathis  
Direct examination by Ms. Miles

1 child in therapy?

2 A Because in July my wife was working at the hospital at  
3 the time. And it was after church on Sunday. We were at  
4 my mother's eating dinner, and Minor and I were leaving my  
5 mom's. And my oldest daughter came over to say bye to her,  
6 leaned in the car. And this was in July, and she had long  
7 sleeves on. And my oldest daughter was patting her on the  
8 arm, and she kinda pulled her arm away, and she saw some  
9 scratches around her wrist. And then she pulled her sleeve  
10 up, and she had on both arms hundreds of -- of cuts that  
11 were deep cuts.

12 Q And she began therapy after that?

13 A And that's immediately when we started taking her to  
14 find out what was wrong --

15 Q Okay. Beg the Court's in --

16 A -- and why.

17 Q I'm sorry.

18 A And why she was doing that.

19 Q Okay. Thank you.

20 MS. MILES: Beg the Court's indulgence.

21 (Pause.)

22 Q I believe that's all the questions the state has for  
23 you. Please answer any questions the defense may have.

24 Okay?

25 A Yes, ma'am.

Dana Lynn Dillard  
Direct examination by Ms. Miles

1 Q Thank you.

2 MR. POOLE: No questions of Mr. Mathis.

3 THE COURT: All right. You may step down.

4 MS. MILES: Beg the Court's indulgence.

5 (Pause.)

6 MS. MILES: The state calls Investigator Dana Dillard.

7 DANA LYNN DILLARD, having been  
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MS. MILES

10 Q Investigator Dillard, will you please state your full  
11 name for the record?

12 A Dana Lynn Dillard.

13 Q And tell me a little bit about yourself. Where do you  
14 work?

15 A I work at the Spartanburg City Police Department.

16 Q Okay. How long have you been there?

17 A Almost eight years. Seven and a half years.

18 Q Okay. Can you tell a little bit about your background  
19 in law enforcement?

20 A I started February of 2009. Two years on patrol, and  
21 then I went directly into the criminal investigations  
22 division. And I've been working child crimes and any crime  
23 dealing with children since five years, for the whole five  
24 years.

25 Q Okay. Were you working in that role when this case

Dana Lynn Dillard  
Direct examination by Ms. Miles

1 began?

2 A I was.

3 Q And how did you become involved in this case?

4 A Actually Mr. and Mrs. Mathis came into the police  
5 department to file a report.

6 Q Okay. And that's who made the report?

7 A Yes. It was on November 7th of 2014.

8 Q Okay. And after receiving that report, what did you  
9 do?

10 A I spoke with them. I always get a statement from  
11 whoever the child disclosed to or whoever heard the  
12 disclosure. And then from the point I file -- made the  
13 report. And then I made a referral to the Children's  
14 Advocacy Center.

15 Q Okay. Did you speak with the Minor?

16 A No.

17 Q And why not?

18 A Because I'm not a licensed forensic interviewer, and  
19 we always had the licensed forensic interviewer handle all  
20 of the interviews for the children or minors.

21 Q Okay. Thank you, Investigator Dillard. Please answer  
22 any questions the defense may have.

23

24

25

Dana Lynn Dillard  
Cross-examination by Mr. Poole

1 CROSS-EXAMINATION

2 BY MR. POOLE

3 Q What's your rank, Ms. Dillard?

4 A I'm a senior patrol officer.

5 Q Okay. Officer Dillard, when was the report filed in  
6 this case?

7 A On November 7th of 2014.

8 Q November 7, 2014. Thank you, ma'am.

9 A Yes.

10 THE COURT: You may step down.

11 MS. MILES: Your Honor, may we approach briefly?

12 THE COURT: Yes, ma'am.

13 MS. MILES: Thank you.

14 (Bench conference held off the record in the presence  
15 of the jury but out of the hearing of the jury.)

16 THE COURT: Ladies and gentlemen, we're going to  
17 recess for the afternoon.

18 Let me caution you that now and during the trial and  
19 until deliberations begin you're not permitted to discuss  
20 the case with anybody. That includes your fellow jurors.  
21 You can't talk about it when you go home tonight with your  
22 family and friends. You can't discuss it with your fellow  
23 jurors when you come back tomorrow. You can't talk about  
24 the case unless and until you're involved in jury  
25 deliberations.

1           Also, you cannot conduct any research of any kind.  
2           You can't do your own investigation into any issue. You  
3           can't search the internet, can't read the newspaper.

4           You have to base your decision upon what you see and  
5           hear during the trial. You can't supplement that knowledge  
6           by conducting outside research or doing your own  
7           investigation or talking to other people about the case.

8           So with that caution and instruction in mind, do have  
9           a good evening. Please report directly to your jury room  
10          in the morning at 9:30, 9:30 in the morning. Have a good  
11          evening.

12          (The following takes place outside the presence of the  
13          jury.)

14          THE COURT: Court is in recess until 9:30 in the  
15          morning.

16          END OF PROCEEDINGS NOVEMBER 16, 2016

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Minor  
Direct examination by Ms. Miles

1 (Proceedings November 17, 2016)

2 (The following takes place outside the presence of the  
3 jury.)

4 THE COURT: Any matters that need to be addressed  
5 before the jury is brought in?

6 MS. MILES: Nothing from the state, Your Honor.

7 MR. POOLE: No, sir.

8 THE COURT: All right. Bring them in, please.

9 (The following takes place in the presence of the  
10 jury.)

11 THE COURT: Good morning, ladies and gentlemen.

12 As you know, when we recessed yesterday the state had  
13 begun with the presentation of their case. So we're going  
14 to continue with that presentation this morning.

15 Ms. Miles.

16 MS. MILES: May it please the Court, Your Honor. The  
17 state calls Minor to the stand.

18 Minor, having been  
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MS. MILES

21 Q Minor, will you please state your full name for the  
22 record?

23 A Minor

24 Q And if you'll just make sure, if you tilt the  
25 microphone in a little bit. Make sure we can hear you.

Minor  
Direct examination by Ms. Miles

- 1 Minor , how old are you?
- 2 A I'm 17.
- 3 Q When's your date of birth?
- 4 A [REDACTED].
- 5 Q Okay. What grade are you in?
- 6 THE COURT: You're going to have to bring your voice
- 7 up a little louder.
- 8 Q What grade are you in, Minor ?
- 9 A I'm a senior in high school.
- 10 Q A senior. Okay. What do you want to do when you
- 11 graduate?
- 12 A I want to be a technical theater designer.
- 13 Q Okay. What does that mean?
- 14 A You do all the behind-the-stage stuff for theater
- 15 productions.
- 16 Q Okay. Minor , tell me about your medical conditions.
- 17 A I have Ehlers-Danlos syndrome where my connective
- 18 tissues don't hold together.
- 19 THE COURT: Excuse me just a minute.
- 20 You're going to have to get closer to that microphone.
- 21 Apparently, you have a very low voice. But you have to
- 22 speak up because everybody's got to hear you.
- 23 THE WITNESS: Yes, sir.
- 24 Q If you would repeat what you just said.
- 25 A I have Ehlers-Danlos syndrome, so my connective

Minor

Direct examination by Ms. Miles

1 tissues do not hold together. Causes a lot of problems  
2 with my joints and my vertebrae.

3 Q Okay. And when were you diagnosed with this medical  
4 condition?

5 A I believe I was ten years old.

6 Q Okay. And have you had surgeries and things for that?

7 A I have, yes, ma'am.

8 Q When were those surgeries?

9 A My first one was in 2010 and the last one I had was in  
10 2014.

11 Q Okay. Minor, what are some things that you like to  
12 do in your free time?

13 A I like to do anything with animals or hang out with my  
14 siblings.

15 Q Okay. And what about work?

16 A I work at a pizza delivery place.

17 Q Okay. How do you like that?

18 A I like it a lot.

19 Q You mentioned your family. Tell me about your family.

20 A I have two older siblings or three older siblings. I  
21 have two older sisters and one older brother.

22 Q Okay. How old are they?

23 A My oldest sister is ten years older than me. She's

24 27. And then my middle sister is 25, and my brother is 20.

25 Q Okay. Who do you live with in your house?

Minor  
Direct examination by Ms. Miles

- 1 A My mom and my dad.
- 2 Q Your older siblings live somewhere else?
- 3 A Yes.
- 4 Q Minor , how do you the defendant, Thomas Acker?
- 5 A He was married to my mom's mom.
- 6 Q okay. And when would you see Mr. Acker?
- 7 A Holidays. And I would go to their house after
- 8 kindergarten.
- 9 Q okay. When were you in kindergarten?
- 10 A 2004 and 2005.
- 11 Q okay. So when you would go over there after
- 12 kindergarten, tell me about that. well, first, where was
- 13 this house located?
- 14 A It was in Converse Heights.
- 15 Q okay. And where is that?
- 16 A That's downtown Spartanburg.
- 17 Q okay. In Spartanburg County?
- 18 A Yes.
- 19 Q okay. Tell me about going over there, Minor . why
- 20 would you go over there?
- 21 A My mom would work with the Bible study while I was in
- 22 school. And if it ran over they would pick me up from
- 23 kindergarten.
- 24 Q okay. When you say they, who is they?
- 25 A Mr. Acker and my nanny.

Minor  
Direct examination by Ms. Miles

1 Q Okay. Your nanny. And where would you go after you  
2 got picked up from school?

3 A Their house.

4 Q Their house. Okay. Where would your nanny be?

5 A She worked from home, so she would be in her office  
6 working.

7 Q Okay. And what -- where was this at?

8 A I think her office was downstairs in the basement.

9 Q Okay. And tell me about going over there in the  
10 afternoons. What would you do there?

11 A I would get there, and they had dogs, and I would play  
12 with the dogs. And I would eat, and then I would take a  
13 nap.

14 Q Okay. Tell me about nap time.

15 A I -- there was a separate bedroom that I would take a  
16 nap in. And around that same time he would take a nap too  
17 but in a separate room. And he would come in there.

18 Q Okay. When you say he, who are you referring to?

19 A Mr. Acker.

20 Q Okay. What would happen when he would come in there?

21 A He would shut the door, and he would proceed to take  
22 his pants down and touch me.

23 Q Okay. When you say "touch me", what part of his body  
24 touched you?

25 A His hands.

Minor

Direct examination by Ms. Miles

- 1 Q Okay. And what did he use his hands to touch?
- 2 A My chest and my private parts.
- 3 Q Okay. You mentioned that he took his pants down.
- 4 What about your pants, your clothes?
- 5 A My shirt would stay on, but my pants did not.
- 6 Q Okay. And you said he touched your private parts.
- 7 Tell me about that. What do you mean?
- 8 A He would use his hands to touch like inside and
- 9 outside me.
- 10 Q Okay. What did he do first?
- 11 A He would touch my chest, and he would put his hands
- 12 under my shirt, and then he would just touch everything
- 13 else.
- 14 Q Okay. What would he do before he touched you?
- 15 A He would take his pants down and expose himself.
- 16 Q Okay. And when you talk about him touching your
- 17 private, was that on the outside, inside or something
- 18 different?
- 19 A Both.
- 20 Q Okay. Did he do anything before that?
- 21 A Other than take his pants down, no, and my chest.
- 22 Q Minor, how did that feel?
- 23 A I just remember feeling like nauseated, like sick.
- 24 Q What did you say to him, if anything?
- 25 A If anything, just stop, and ouch.

Minor

Direct examination by Ms. Miles

1 Q what about him? what would he say to you?

2 A He would threaten me that if he -- if I said anything  
3 he would kill my nanny.

4 Q That's your grandma he was married to?

5 A Uh-huh. And that nobody would believe me.

6 Q Okay. what else would you hear while this was going  
7 on, if anything?

8 A Nothing, no. Just grunting and moaning.

9 Q what do you mean my grunting and moaning?

10 A Just he would moan like if --

11 THE COURT: I'm sorry. But the court reporter is  
12 having a lot of difficulty in hearing your testimony, and  
13 she has to. So please raise your voice and speak louder.

14 Q Use that microphone.

15 A Yes.

16 Q Okay. And what do you mean by groaning and moaning --  
17 and moaning?

18 A I guess he found that closure. I don't know.

19 THE COURT REPORTER: I don't know what she said.

20 Q what was going on while he was groaning and moaning?

21 THE COURT: I don't know what that answer was.

22 MS. MILES: I'm sorry.

23 A He would groan; he would moan and grunt if he found it  
24 pleasurable, I guess.

25 THE COURT REPORTER: I still don't know what she said.

Minor  
Direct examination by Ms. Miles

1 Q He found it pleasurable?

2 THE COURT: The court reporter can't hear anything  
3 she's saying.

4 THE WITNESS: I'm sorry. Okay. I'm --

5 Q All right. Minor, what was happening when he was  
6 groaning and moaning -- groaning and moaning? Sorry.

7 A He would be touching me or touching himself.

8 Q Okay. And tell me about when he would touch himself.

9 A He would just touch himself after, mainly, and he  
10 would sometimes make me touch him.

11 Q Okay. And when you say he touched himself, what --  
12 what did that look like?

13 A He was just like in front of me going like back and  
14 forth and he -- like it would get all over me.

15 Q Okay. When you say it, what do you mean?

16 A Like his -- I don't -- I don't know what to call it.

17 Q Okay. What did -- what did it look like?

18 A It was white and like sticky like I had to get it off,  
19 and it was like hard to get off.

20 Q Okay. And you said that he had tried to make you  
21 touch him. Where?

22 A His penis.

23 Q Okay. How would that end?

24 A He would just threaten me again. And he seemed always  
25 very mad at me. And he would leave and just shut the door

Minor

Direct examination by Ms. Miles

1 and give me a look like an awful look. And then he would  
2 always have a timer on in the kitchen, like nap-time timer.  
3 And it would go off after.

4 Q Okay. Minor, I want to talk about some other things  
5 that may have happened at nanny's house. Did anything else  
6 happen there that made you feel uncomfortable?

7 A He showed me pornography.

8 Q Okay. Tell me about that. What do you mean?

9 A On his computer he showed me videos of people having  
10 sex.

11 Q Okay. And where was this at?

12 A This was in the front of his house.

13 Q Okay. And where were you when he showed it to you,  
14 again?

15 A I was in an office chair, and he held me back by my  
16 neck.

17 Q Okay. Tell me what you mean by that, "held you back  
18 by your neck".

19 A Like, he put his hand like this around me so that I  
20 couldn't move.

21 Q Okay. What would he do while showing you the  
22 pornography?

23 A He would touch himself.

24 Q Okay. And what would he say to you, if anything?

25 A You need to grow up and be like that and people will

Minor  
Direct examination by Ms. Miles

- 1 I love you if you're like that.
- 2 Q Minor , did these things happen once or more than  
3 once?
- 4 A More than once.
- 5 Q when did this stop?
- 6 A The last time I think I remember was when I was like  
7 seven.
- 8 Q Okay. After your kindergarten year?
- 9 A Yeah.
- 10 Q Minor , why didn't you tell anybody then?
- 11 A I was scared that my nanny would be killed or that  
12 nobody would believe me, like he said.
- 13 Q when did you finally tell someone?
- 14 A In 2014.
- 15 Q Okay. Do you recall when in 2014?
- 16 A I believe it was in September. I went to see my  
17 counselor, and I opened up to her about it.
- 18 Q Okay. What happened that led to you eventually  
19 disclosing this?
- 20 A One day my sister saw cuts on my arm, and I had been  
21 hurting myself. And she told my family, and they decided  
22 to take me to a counselor.
- 23 Q Okay. And why were you cutting yourself?
- 24 A I was just ashamed and needed to express my pain in  
25 another way, I guess.

Minor  
Cross-examination by Mr. Poole

1 Q What were you ashamed of?

2 A Being impure, I guess.

3 Q Okay. You said you told your counselor.

4 A Uh-huh.

5 Q What happened next?

6 A She decided that it was probably -- well, we decided.

7 MR. POOLE: Objection to what the counselor decided.

8 MS. MILES: I'm asking for what happened next after  
9 she told her counselor.

10 THE COURT: You can tell what you did as a result of,  
11 for whatever reason. Just don't testify about what  
12 somebody else said.

13 Q What happened after you told your counselor?

14 A We told my parents.

15 Q And then that happened?

16 A They called law enforcement.

17 MS. MILES: I beg the Court's indulgence.

18 (Pause.)

19 Q Minor, thank you. The defense is going to ask you  
20 some questions. Okay? Please answer any they have for  
21 you. Thank you.

22 CROSS-EXAMINATION

23 BY MR. POOLE

24 Q Good morning, Minor.

25 A Good morning.

## Minor

## Cross-examination by Mr. Poole

- 1 Q We haven't talked before, have we?
- 2 A No, sir.
- 3 Q My name is Roger Poole, and I represent Mr. Acker. Do
- 4 you understand what that means?
- 5 A Yes, sir.
- 6 Q That I'm his lawyer?
- 7 A Yes, sir.
- 8 Q Have you heard about me before?
- 9 A No, sir.
- 10 Q Okay. Well, you're a senior this year, right?
- 11 A Yes, sir.
- 12 Q And where are you going to school?
- 13 A I do an on-line school.
- 14 Q Okay. And what kind of course is that like?
- 15 A Well, I have, right now I have, English; I have a P.E.
- 16 class where I have to log any activities; and then I have
- 17 economy.
- 18 Q Economics?
- 19 A Yeah, economics, yeah.
- 20 Q Okay. All right. And are you thinking about college?
- 21 A I am, yes, sir.
- 22 Q Where are you thinking about going?
- 23 A Anderson University.
- 24 Q Anderson?
- 25 A Yes.

Minor  
Cross-examination by Mr. Poole

- 1 Q Good school, don't you think?
- 2 A Yes, sir.
- 3 Q Well, did you -- were you able to go from kindergarten  
4 through elementary school, junior high school, and become a  
5 senior this year without any interruptions?
- 6 A Yes, sir.
- 7 Q You didn't fail any classes or anything?
- 8 A I have, but yes, sir.
- 9 Q But you were able to make each grade?
- 10 A Yes.
- 11 Q Congratulations. That's great.
- 12 A Thank you.
- 13 Q And you testified that you had a condition called  
14 Ehlers. And what's the last name?
- 15 A Ehlers-Danlos syndrome.
- 16 Q Could you spell that for us?
- 17 A E-H-L-E-R-S D-A-N-L-O-S.
- 18 Q I want you to understand I'm sorry that you have that  
19 condition. And I'm also sorry -- I think that maybe some  
20 of your siblings have the same condition, is that correct?
- 21 A Yes, sir, yes, sir.
- 22 Q And has to do with connective tissue --
- 23 A Uh-huh.
- 24 Q -- disorder and something that onsets when you're a  
25 child?

Minor  
Cross-examination by Mr. Poole

- 1 A It does, yes.
- 2 Q And do you have to put up with it for the rest of your  
3 life?
- 4 A Yes, sir.
- 5 Q Do you take medications for it?
- 6 A No, sir.
- 7 Q And you have to see a doctor regularly for it?
- 8 A I do.
- 9 Q Do your siblings have to do the same?
- 10 A Yes.
- 11 Q Have they had to undergo surgeries also?
- 12 A They have.
- 13 Q Okay. And how many surgeries have you had done?
- 14 A I've had eight.
- 15 Q I hope you don't mind me asking you these personal  
16 questions.
- 17 A That's okay.
- 18 Q But I hope you also understand it's part of my job.  
19 okay?
- 20 A Yes, sir.
- 21 Q what's the nature of these surgeries as it relates to  
22 the connective tissue?
- 23 A well, the first diagnosis I had was Ehlers-Danlos, and  
24 then they discovered that all of us also had Chiari  
25 malformation.

Minor

Cross-examination by Mr. Poole

1 Q Pardon me? Please speak up, please.

2 A Chiari malformation. They discovered that we also had  
3 that as well.

4 we had -- the first surgery we had was to correct  
5 that. And we had a vertebra taken out, as well as ribs  
6 taken out, to make a -- I don't know. A support for our  
7 skull.

8 Q Okay. So, in other words, it's a common procedure,  
9 but it's certainly uncommon for someone who has to undergo  
10 it.

11 A Yes.

12 Q But you had a bone taken out from your rib area and  
13 replaced the vertebra in your neck, is that correct?

14 A Well, we made -- they made a support on both sides of  
15 my neck. They took one of the vertebrae out because it was  
16 pressing against the other vertebrae.

17 Q Okay. Any more surgeries?

18 A I have had a -- an LP shunt put in my back that runs  
19 to -- from my lumbar spine around to my stomach. I've had  
20 a tethered cord surgery where they take a tendon at the  
21 bottom of your spine, and they take it out because it holds  
22 your spinal cord down. So they had to fix that.

23 Q Okay. So you have undergone some painful procedures,  
24 haven't you?

25 A Yes, sir.

Minor  
Cross-examination by Mr. Poole

- 1 Q Okay. And with some luck. And you will be able to  
2 realize all of your ambitions, don't you think?
- 3 A Yes, sir.
- 4 Q Okay. Anything? Any further surgeries in the near  
5 future, Minor ?
- 6 A No, sir.
- 7 Q You mentioned that you knew Mr. Acker beginning in  
8 2004, is that correct?
- 9 A I believe they got married in early, like, 2003, but I  
10 didn't really have much of a relationship with either of  
11 them like until my kindergarten year.
- 12 Q Okay. And how old were you when you entered  
13 kindergarten?
- 14 A I was four or five, yeah. I was five.
- 15 Q Four? Four years old?
- 16 A I was about five years old, yes.
- 17 Q Well, if you entered kindergarten in August of 2004  
18 and your -- your birthdate is in [REDACTED] --
- 19 A It is.
- 20 Q -- that would put you at five years old, wouldn't it?
- 21 A Yes.
- 22 Q Okay. And what kindergarten did you go to?
- 23 A I went to Oakbrook Preparatory School.
- 24 Q Did you like it there?
- 25 A I did.

Minor  
Cross-examination by Mr. Poole

1 Q How many years did you go there?

2 A I stopped going to Oakbrook in seventh grade.

3 Q In the seventh grade?

4 A Yes.

5 Q So in 2004 that would have been your first grade, your  
6 first year at kindergarten there?

7 A Yes.

8 Q Okay. And your mother taught the Bible school at  
9 Bethel --

10 A Yes.

11 Q -- church, United Methodist Church, here downtown, is  
12 that correct?

13 A Yes, sir.

14 Q And she was teaching from 2004 to 2005, is that  
15 correct?

16 A I believe so, yes, sir.

17 Q And did she teach after 2005, August of 2005?

18 A From what I remember, she did.

19 Q Okay. And you were continuing to go to Oakbrook, is  
20 that correct?

21 A Yes.

22 Q Okay. And so the situation from August of 2004 until  
23 May of 2005 was that your nanny would pick you up when your  
24 mother couldn't while she was teaching.

25 A Yes.

Minor  
Cross-examination by Mr. Poole

- 1 Q But after 2005 you continued to go to Oakbrook, is  
2 that correct?
- 3 A Yes, I did. I had a -- I stayed later in the day at  
4 that point, so she would pick me up.
- 5 Q Okay. And so sometimes after 2005 your nanny would  
6 pick you up also, is that correct?
- 7 A I cannot remember.
- 8 Q Okay. You can't remember whether after your first  
9 year your nanny picked you up at Oakbrook while you were  
10 still in kindergarten?
- 11 A I -- while I was in kindergarten she did, yes. But  
12 after that I think it was mainly my mom. And I would see  
13 them on the weekends or at holidays.
- 14 Q Okay. Well, my question is after 2005 -- I mean, in  
15 May of 2005 you were through with your first year, weren't  
16 you?
- 17 A Yes.
- 18 Q Okay. So you're still in kindergarten at Oakbrook.  
19 Did your nanny pick you up after your first year at  
20 Oakbrook?
- 21 A Yes.
- 22 Q Okay. How many years after that did that occur?
- 23 A I believe just kindergarten, is what I'm saying.
- 24 Q Okay. And I never did have -- I never did go to  
25 kindergarten. We were required to go straight into

Minor

Cross-examination by Mr. Poole

1 elementary school. So how long did this kindergarten last?

2 A Just a year.

3 Q Just one year?

4 A Just one year, to 2004.

5 Q Did you go to Oakbrook after that kindergarten?

6 A I did.

7 Q Okay. Okay. Now I'm with you. So you started an  
8 elementary class after your first year.

9 A I did, yes.

10 Q Okay. And then your nanny would pick you up while you  
11 were in elementary school, is that correct, sometimes?

12 A Maybe, yes, if -- if my mom couldn't or my dad  
13 couldn't, she probably would.

14 Q Sometimes she would pick you up in elementary school  
15 after kindergarten?

16 A Yes.

17 Q Is that right? Was she still married to Mr. Acker at  
18 this time?

19 A She was.

20 Q And when did -- and I know you can't remember, but  
21 just to the best of your memory, when did your nanny quit  
22 picking you up?

23 A I really do not know. I'm sorry.

24 Q That's all right. If you don't know, you just don't  
25 know. Could it have been a couple of years after that?

Minor  
Cross-examination by Mr. Poole

- 1 A Possibly, but I can't make that -- I can't make  
2 conclusion.
- 3 Q Okay. All right. And you said that your mother --  
4 your grandmother, your nanny, she worked from home.
- 5 A She did, yes.
- 6 Q At that time when you were five years old you didn't  
7 know what kind of work she did, did you?
- 8 A I didn't know, no. I know she did a lot of typing.
- 9 Q She did a lot of typing?
- 10 A They did, yes.
- 11 Q And you think that she did this downstairs at the  
12 basement of the house on [REDACTED] Drive?
- 13 A Yes, sir.
- 14 Q Okay. And did you ever have homework in kindergarten?
- 15 A I did.
- 16 Q Okay. And where would you do that homework?
- 17 A My nanny would always help me in the basement.
- 18 Q She would help you in the basement. would she often  
19 help you with your homework?
- 20 A Yes.
- 21 Q Okay. I know you've already testified to this, and I  
22 hate to ask you but feel like I need to. I'm not going  
23 walk you through the -- what happened between you and Mr.  
24 Acker. I am not going to ask you what happened at one  
25 point and then what happened at the next point.

Minor

Cross-examination by Mr. Poole

1           Could you just tell us one more time, please, what it  
2 was that you say he did to you?

3 A     He touched me inappropriately.

4 Q     Okay. And how did this start?

5 A     He started by coming in the room while I was napping  
6 and touched -- well, he took his pants down and then  
7 touched me.

8 Q     Okay. And he also -- you also stated that he showed  
9 you pornography, is that correct?

10 A    Yes, sir.

11 Q    And that was on a computer?

12 A    Yes.

13 Q    And this happened in the front of the house?

14 A    Yes.

15 Q    And the front of the house there on [REDACTED], it's  
16 a -- could you describe it for us? Do you remember what  
17 type of --

18 A    It's a brick house. It has a back yard; it has a  
19 shed; it has a gate on the side. It has two steps before  
20 you get to the front yard and then two steps on the front  
21 of the house to get into the house.

22 Q    In the front of the house, is that like a Florida  
23 room, or do you know what I mean by that?

24 A    No.

25 Q    Does it have a lot of windows?

Minor  
Cross-examination by Mr. Poole

- 1 A It does, yeah. It has one big window on the front.
- 2 Q Okay. And is this window like at the very front of
- 3 the house?
- 4 A Uh-huh, it is.
- 5 Q Facing the street?
- 6 A Yes, it is.
- 7 Q Is that -- am I right about that?
- 8 A Yes, sir, you are.
- 9 Q Okay. How big of a window is it?
- 10 A It's a very big window. I would say, like, it takes
- 11 up a good bit of the front of the house.
- 12 Q Okay. Would you say it takes up 90 percent of the
- 13 front of the house?
- 14 A No, but I would say about 40 percent.
- 15 Q Okay. And you also testified that he made you watch
- 16 the pornography, is that correct?
- 17 A Yes.
- 18 Q And you were at this time about five years old, right?
- 19 A Yes.
- 20 Q And he put you -- you demonstrated to us how he held
- 21 you down. And it was like -- do you know what a chokehold
- 22 is?
- 23 A Yes.
- 24 Q Would you describe that, the way he held you down, as
- 25 a chokehold?

Minor  
Cross-examination by Mr. Poole

1 A Yes, sir.

2 Q Okay. Would he restrict your head in any other way?

3 A No.

4 Q Okay.

5 MR. POOLE: Ask the Court's indulgence for just a  
6 moment, please.

7 (Pause.)

8 MR. POOLE: That's all the questions I've got, Your  
9 Honor.

10 MS. MILES: Beg the Court's indulgence.

11 (Pause.)

12 MS. MILES: I don't believe the state has any other  
13 questions of this witness.

14 THE COURT: Okay. You may step down.

15 MS. MILES: May she be excused, Your Honor?

16 THE COURT: She may be.

17 (Whereupon, the witness was excused.)

18 MS. MILES: May we approach briefly?

19 THE COURT: Yes, ma'am.

20 (Bench conference held off the record in the presence  
21 of the jury but out of the hearing of the jury.)

22 THE COURT: Ladies and gentlemen, I need to take a  
23 short break. It should take only a few minutes.

24 Please go to your jury room. Don't talk about the  
25 case. I'll bring you back after that break.

Heather Flassing  
Direct examination by Ms. Miles

1 (The following takes place outside the presence of the  
2 jury.)

3 THE COURT: Are y'all ready to proceed?

4 MS. MILES: I believe so, Your Honor. Thank you.

5 MR. POOLE: Yes, sir.

6 THE COURT: Okay. Bring the jury in.

7 (The following takes place in the presence of the  
8 jury.)

9 THE COURT: Okay. Jury is present. You may continue.

10 MS. MILES: The state calls Heather Flassing.

11 HEATHER FLASSING, having been  
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MS. MILES

14 Q Could you state your full name for the record?

15 A My name is Heather Flassing.

16 Q Okay. And where do you work at, ma'am?

17 A I work at the Children's Advocacy Center of  
18 Spartanburg, Union and Cherokee counties.

19 Q Okay. And what do you do there?

20 A I'm a forensic evaluator.

21 Q Okay. Can you tell us whether in the scope of that  
22 employment you conducted any interviews involved in this  
23 case?

24 A I did.

25 Q Okay. Can you tell us whether you spoke with the

Heather Flassing  
Direct examination by Ms. Miles

1 Minor

2 A I did.

3 Q How did she get referred to you?

4 A We receive referrals from law enforcement and  
5 department of social services. And I believe in this case  
6 it came from law enforcement.

7 Q Okay. When did you speak with Minor?

8 A I saw Minor on November 20th of 2014.

9 Q Okay. And during that interview can you tell us  
10 whether or not Minor provided you with a timeframe of any  
11 sexual abuse?

12 A She did.

13 Q Okay. And what was that timeframe?

14 A From when she was in kindergarten until approximately  
15 she was eight or nine years old.

16 Q Okay. And can you tell us whether or not Minor  
17 provided you a location of sexual abuse?

18 A She did.

19 Q Okay. And what was that location?

20 A She recalled it being at her nanny's -- nanny's  
21 house -- Susan.

22 Q Okay. I think that's all the questions the state has  
23 for you, Ms. Flassing. Please answer any questions the  
24 defense may have.

25 MR. POOLE: No questions, Your Honor.

Kymerly McManus  
Direct examination by Ms. Miles

1 THE COURT: You may step down.

2 MS. MILES: Your Honor, we ask that this witness be  
3 excused.

4 THE COURT: She may be.

5 (Whereupon, the witness was excused.)

6 MS. MILES: The state calls Kym McManus.

7 KYMBERLY MCMANUS, having been  
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MS. MILES

10 Q Good morning, Ms. McManus.

11 Will you please state your full name for the record?

12 A Yes. It's Kymerly McManus.

13 Q And what do you do?

14 A I am a pastoral counselor.

15 Q Where do you work?

16 A At New Day Counseling Ministries.

17 Q Okay. How long have you been doing that?

18 A Since 2011.

19 Q Okay. How do you know Minor

20 A She was a client of mine.

21 Q When did you begin meeting with her?

22 A It was July of 2014.

23 Q Okay. During your meetings with her, can you tell us  
24 whether or not she made a disclosure of abuse?

25 A She did.

Kymerly McManus  
Direct examination by Ms. Miles

1 Q When was that?

2 A September the 11th, 2014.

3 Q Okay. And during that interview can you tell us  
4 whether or not Minor provided you with a timeframe of  
5 sexual abuse?

6 A She said it began when she was five years old.

7 Q Okay. And what about a timeframe? Can you tell us  
8 whether or not -- or I'm sorry. Can you tell us about if  
9 she provided you with a location of sexual abuse?

10 A Yes. It was at her maternal grandmother's house, and  
11 that was the location.

12 Q Okay. And why was she coming to see you initially?

13 A She was doing some self-harm and was depressed.

14 MR. POOLE: Your Honor, the statute clearly reads,  
15 "Limited to time and place of the incident".

16 MS. MILES: She's not testifying to hearsay.

17 THE COURT: Overruled.

18 Q And why was that? I'm sorry.

19 A Initially, that she was cutting herself and was  
20 depressed.

21 Q And that's why she began coming to you?

22 A Uh-huh.

23 Q After her disclosure to you, what did you do next?

24 A I told her that I believed her that I believed her  
25 and --

Kymerly McManus  
Direct examination by Ms. Miles

- 1 MR. POOLE: Objection, Your Honor, and I move --
- 2 Q Don't talk about anything --
- 3 MR. POOLE: -- for the Court for a curative
- 4 instruction.
- 5 Q -- about what you said or anything.
- 6 A Okay. Okay. I'm --
- 7 Q Just what you did next.
- 8 THE COURT: Ladies and gentlemen, the question was
- 9 what did you do next. The answer was not in response to
- 10 the question.
- 11 So the jury is asked to disregard the witness'
- 12 response. You can only consider an appropriate response to
- 13 the question.
- 14 Did you understand the question? If you don't, ask
- 15 her to repeat it.
- 16 A Please repeat the question.
- 17 Q I'm sorry. What did you do next? Not what you said
- 18 or anyone else said. What did you do?
- 19 A I tried to comfort her and make her feel safe.
- 20 Q Okay. Did you make any reports of any kind?
- 21 A Yes.
- 22 Q Okay. Who was this reported to?
- 23 A Her parents.
- 24 Q Okay. I believe that's all the questions the state
- 25 has. Please answer any questions the defense may have.

Susan Caroline Jett  
Direct examination by Ms. Miles

1 MR. POOLE: No questions, Your Honor.

2 THE COURT: You may step down.

3 MS. MILES: Your Honor, I believe our next witness is  
4 in the hallway if I could just have somebody grab her.

5 THE COURT: Okay.

6 (Pause.)

7 THE COURT: Let me see y'all while they're getting  
8 her.

9 (Bench conference held off the record in the presence  
10 of the jury but out of the hearing of the jury.)

11 MS. MILES: The state calls Susan Jett.

12 SUSAN CAROLINE JETT, having  
13 been first duly sworn, testified as follows:

14 DIRECT EXAMINATION BY MS. MILES

15 Q Ms. Jett, will you please state your full name for the  
16 record?

17 A Susan Caroline Jett.

18 Q Okay. Ms. Jett, how old are you?

19 A Seventy.

20 Q And where do you work?

21 A I work for Wise Chiropractic in Spartanburg.

22 Q What do you do there?

23 A I do their insurance and billing.

24 Q Okay. Tell me about your family.

25 A I have a daughter and four grandchildren here, and I

Susan Caroline Jett  
Direct examination by Ms. Miles

- 1 have a son and two grandchildren and his wife in Alaska.
- 2 Q Okay. How do you know the Minor in this case?
- 3 A She's my granddaughter.
- 4 Q Are you currently married?
- 5 A Yes.
- 6 Q Okay. How long have you been married?
- 7 A I was married this January.
- 8 Q Okay. Ms. Jett, how do you know the defendant, Thomas
- 9 Acker?
- 10 A Tommy and I were married in 2002, I believe.
- 11 Q Okay. When did you first meet him to your
- 12 recollection?
- 13 A I met him the first part or spring of 2002.
- 14 Q When did you get married?
- 15 A We got married December 21st of 2002.
- 16 Q How long were you married?
- 17 A We separated May 13th of 2007. So that's five years,
- 18 I guess.
- 19 Q Okay. I want to talk to you about 2004. Were you
- 20 married then?
- 21 A Yes.
- 22 Q Okay. And where did you live at that time?
- 23 A On [REDACTED] Drive in Tommy's house. [REDACTED]
- 24 Drive, Spartanburg.
- 25 Q Okay. In Spartanburg County?

Susan Caroline Jett  
Direct examination by Ms. Miles

1 A Yes.

2 Q Okay. what was your relationship like with your  
3 entire family then?

4 A we have had some problems, sometimes good, just like  
5 families have. Since I divorced their father there have  
6 been some resentment, I think, and...

7 Q when would you see your family members?

8 A holidays. And -- and Minor would, you know, come to  
9 the house and they'd come to the house, and-but not -- I  
10 mean, just like a family that's busy with kids and stuff.  
11 You see them on -- you know, sometimes I'd go over there.

12 Q special occasion and holidays?

13 A Yeah.

14 Q Okay. And what about your granddaughter Minor? You  
15 mentioned her.

16 A Yeah. she's -- Minor and I were very, very close. I  
17 lived up here when she was born, so she would come to the  
18 house. And sometimes I would -- she'd spend the night and  
19 we'd do things.

20 Q okay. Tell me about Minor coming to your house.  
21 when would that be?

22 A A lot of times I'd pick her up from kindergarten and  
23 she'd come back to the house, and, you know, we'd eat lunch  
24 or pick up something and come home. And then she would  
25 usually take a nap, and then I would work in my office. I

Susan Caroline Jett  
Direct examination by Ms. Miles

- 1 worked from home at that time.
- 2 Q Okay. Why would she come over?
- 3 A I think probably Lisa was working, and we just liked
- 4 to have her.
- 5 Q Okay. What time of day would she come over?
- 6 A It was after kindergarten, so it was probably around
- 7 noon.
- 8 Q Okay. And you mentioned that you worked then. Where
- 9 did you work then?
- 10 A I worked from home, actually had an office in the --
- 11 there was an apartment built on the back of this house. It
- 12 used to be his aunt's apartment. So, it was a long
- 13 L-shaped building. And my computers and stuff were in the
- 14 way back of that office in the corner.
- 15 Q A separate part of the house?
- 16 A It was connected by -- from the back bedroom by two or
- 17 three steps, and you went up into the office.
- 18 Q Okay. And that's where you would perform your work?
- 19 A Yes.
- 20 Q Okay. You mentioned that Minor -- you may would work
- 21 while Minor napped. Where would she nap?
- 22 A There was a middle bedroom, and she would nap in
- 23 there.
- 24 Q Okay. Was your office the only office in the house?
- 25 A No. His office was way in the front of the house in

Susan Caroline Jett  
Direct examination by Ms. Miles

1 like a Florida type room.

2 Q Okay. In the front of the house?

3 A Uh-huh.

4 Q Was this the only year that she came over regularly  
5 after school -- Minor ?

6 A Yeah. I think so. I don't -- maybe I would pick her  
7 up at Oakbrook or Montessori. Or I can't remember where  
8 she went. But that was probably the -- the year that she  
9 did -- the kindergarten.

10 Q Okay. So after kindergarten it was only occasionally?

11 A Yeah, yeah.

12 Q Okay. Ms. Jett, who told you about this  
13 investigation?

14 A Detective Dillard.

15 Q When was that?

16 A It was on December 2nd of 2014.

17 Q How long had you and Mr. Acker been divorced by then?

18 A Our divorce was final in July of 2008, so, six years,  
19 seven years.

20 Q Would he still contact you occasionally after the  
21 divorce?

22 A Oh, yes.

23 MR. POOLE: Objection, Your Honor. Irrelevant.

24 THE COURT: Sustained unless you can show some  
25 relevance.

Susan Caroline Jett  
Direct examination by Ms. Miles

1 MS. MILES: I can, Your Honor. Beg the Court's  
2 indulgence with that.

3 Q When he contacted you, how did he contact you?

4 A Sometime by e-mails. Sometimes he -- when we first  
5 separated I was staying with a friend, and he'd drop a  
6 letter off. He found out where I worked at the  
7 chiropractic office and he would -- he came there. He has  
8 driven up in my house -- driveway.

9 Q Okay. You mentioned letters. In those letters did he  
10 ever mention viewing pornography to you?

11 A Yes, in one of the --

12 MR. POOLE: Objection, Your Honor. Irrelevant.

13 THE COURT: Let me see y'all just a minute.

14 (Bench conference held off the record in the presence  
15 of the jury but out of the hearing of the jury.)

16 Q Ms. Jett, you were talking about the letters.

17 A Yes.

18 Q And so did he ever mention viewing pornography to you  
19 in those letters?

20 THE COURT: Excuse me just a minute.

21 The defense has an objection?

22 MR. POOLE: Yes, sir, I do have an objection.

23 THE COURT: Overrule the objection.

24 MS. MILES: Thank you, Your Honor.

25 Q what did he say about pornography?

Susan Caroline Jett  
Cross-examination by Mr. Poole

1 A He admitted to me in that letter that he had been  
2 addicted to pornography for 52 years.

3 Q Ms. Jett, when did you learn the full details of the  
4 allegations in this case?

5 A I've never learned the full allegations. The only  
6 thing I know is what was in the paper from Fox News.

7 Q Okay. I believe that's everything the state has for  
8 you. Please answer any questions the defense may have.

9 Okay.

10 CROSS-EXAMINATION

11 BY MR. POOLE

12 Q Ms. Jett, you stated that you were married to  
13 Mr. Acker in December of 2002.

14 A Yes.

15 Q Separated in 2007, is that right?

16 A Yes.

17 Q And divorced in 2008.

18 A Yes.

19 Q And y'all lived together at [REDACTED] Drive?

20 A Yes, sir.

21 Q Okay. And that you worked out of the home.

22 A Yes.

23 Q And you would work in your office.

24 A Yes.

25 Q And what was your -- what did it involve?

Susan Caroline Jett  
Cross-examination by Mr. Poole

- 1 A I was working at the time for a speech therapist out  
2 of Atlanta, and she had about six to eight therapists that  
3 worked with her. I did all of their billing, did all of  
4 their payroll, all the tax reports, all the credentialing,  
5 anything that had to do with an office other than doing the  
6 speech therapy.
- 7 Q Okay. And would you be the one that would pick her up  
8 from the kindergarten?
- 9 A As far as I remember, yes.
- 10 Q And on how many occasions did you do that?
- 11 A Sir, I don't remember how many.
- 12 Q Could you give us an estimate?
- 13 A I would -- I would guess ten times or so at least.
- 14 Q Okay. All right. Could have been more; could have  
15 been less.
- 16 A Right.
- 17 Q Okay. Ten times, more or less.
- 18 A Yes.
- 19 Q Is that a fair statement?
- 20 A Yes.
- 21 Q Okay. And then Minor would come over around noon.  
22 That would be after the kindergarten would be over with.
- 23 A Yes.
- 24 Q And would she ever do any homework?
- 25 A She was in kindergarten, so there really, I don't

Susan Caroline Jett  
Cross-examination by Mr. Poole

1 think, was a lot of homework unless we, you know, went  
2 through into some of the first grade. But most that I  
3 remember, I don't remember homework.

4 Q I don't think there's much homework in kindergarten,  
5 is there?

6 A No.

7 Q Or any at all, is there?

8 A Not that I'm aware of.

9 Q And the basement. Would she ever go down there to do  
10 any type of homework?

11 A The basement in that house, there was nothing down  
12 there but a dirty furnace. To my knowledge never went down  
13 there.

14 Q The basement is no fit place to do homework or any  
15 other type of work, am I correct?

16 A No, no. She would come back to my office and do  
17 stuff, and there were steps going up to that office.

18 Q But when you say do stuff, it would not be homework.  
19 It'd be playing or talking to you?

20 A Yes, sir. That is to my memory.

21 Q Okay. And you said that Thomas' office was in the  
22 front room.

23 A Yeah. The very -- actually, it used to be like a  
24 closed-in porch off of the living room, the very front of  
25 the house.

Susan Caroline Jett  
Cross-examination by Mr. Poole

- 1 Q But now you call it a Florida room.
- 2 A Well, it had glass and windows. It was an old porch  
3 that, I think, his mother when she owned the house closed  
4 it in.
- 5 Q Okay. And there was still plenty of glass in that  
6 Florida room, right?
- 7 A There was some glass, yes, sir.
- 8 Q And that was his office, right?
- 9 A Yes.
- 10 Q That's where his computer was, right?
- 11 A Yes.
- 12 Q Okay. And the front of the house is mostly glass,  
13 isn't it?
- 14 A That little room is, and the dining room had a lot of  
15 glass.
- 16 Q Well, we're talking about where his office is.
- 17 A Yes. There's -- there was glass windows.
- 18 Q It's fair to say that his entire office has completely  
19 glass windows on the front of the house where an office is,  
20 right?
- 21 A Well, this side doesn't have windows, I don't think.  
22 There was a door, and then there was some windows, and  
23 windows on this side, and then the living room.
- 24 Q It was well-lit.
- 25 A Yes.

Susan Caroline Jett  
Cross-examination by Mr. Poole

- 1 Q Okay. Because of -- I don't remember my orientation.  
2 sunshine could come in there, couldn't it?
- 3 A Yeah. I believe there were blinds in there though.
- 4 Q Okay. All right. But that's where his computer was.
- 5 A Yes.
- 6 Q And -- and the -- the room, it's not far from the  
7 street, is it?
- 8 A Oh, I would guess from here to those doors, I would  
9 guess.
- 10 Q Okay. Or could even be closer, couldn't it?
- 11 A It could be. I don't -- I'm not very good at yardage,  
12 but it wasn't right on the street.
- 13 Q It wasn't. I know it's not right on the street.
- 14 A Yeah.
- 15 Q But it's close, fairly close, to the street.
- 16 A Yes.
- 17 Q Okay. And that's where his computer was.
- 18 A Yes.
- 19 Q Ms. Jett, you testified also that Minor would  
20 sometime spend the night there.
- 21 A Yes.
- 22 Q would she sleep in the same room that she napped in?
- 23 A Yes.
- 24 Q Okay. Thank you.
- 25 A Uh-huh.

Susan Caroline Jett  
Redirect examination by Ms. Miles

1 MS. MILES: Just briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. MILES

4 Q You testified that on the windows in the front of the  
5 house you believed there were blinds there.

6 A Uh-huh.

7 Q Okay. And the room that you described as your office,  
8 is that where Minor would come in and play or do things  
9 while you were working?

10 A She would come in and play with me some. Sometimes  
11 she would go out into Tommy's office. And we had two dogs,  
12 and she played with the dogs while I was working, or she  
13 would come back with me.

14 Q This is a separate part of the house.

15 A Yes.

16 Q With stairs.

17 A Yeah. They were like three or four steps going up  
18 into the -- my office.

19 Q Okay. And that's what you would use as your office.

20 A Yes.

21 Q Okay.

22 MS. MILES: I don't believe the state has anything  
23 further, Your Honor.

24 THE COURT: Anything else?

25 MR. POOLE: No, sir.

1 THE COURT: You may step down.

2 MS. MILES: Your Honor, may we approach briefly?

3 THE COURT: Yes.

4 (Bench conference held off the record in the presence  
5 of the jury but out of the hearing of the jury.)

6 THE COURT: Let me ask the jury to please go to your  
7 jury room. I've got a scheduling matter to address as far  
8 as witnesses go. I'll have to work that out. Hopefully,  
9 we can resolve it. If not, we'll have to make other  
10 arrangements.

11 But right now I'll ask you to please go to your jury  
12 room while we try to make that determination, and then I'll  
13 bring you back shortly to let you know what's going on.  
14 Okay. Don't discuss the case.

15 (The following takes place outside the presence of the  
16 jury.)

17 THE COURT: All right. Mr. Poole, during the  
18 testimony of Ms. Jett you objected to a question by the  
19 prosecution as to the contents of a letter that she  
20 testified to indicating that the defendant had told her  
21 that he had had an addiction to porn for the last 50 years  
22 or so.

23 MR. POOLE: Yes, sir.

24 THE COURT: You objected at the time, and I told you  
25 that while I overruled the objection I would permit you an

1 opportunity to state your grounds for that objection if you  
2 wished to. So now is that time.

3 MR. POOLE: Thank you for that opportunity, Your  
4 Honor.

5 My objection is based on this. The testimony was that  
6 the defendant, Mr. Acker, communicated to Ms. Jett in a  
7 written form, I believe, that he had been addicted to  
8 pornography for a period of 52 years.

9 I reject -- I object based upon Rule 401, state in my  
10 belief that it is not relevant. It does not -- we're  
11 talking about a period of time that goes back all the way  
12 to when he would be a teenager, an early teenager, and the  
13 majority of his life if, in fact, that statement was true.

14 It does not even go toward how this pornography was  
15 viewed in the content of computer, television, V.C.R. or  
16 magazines or printed form.

17 There's too much room left for speculation by the jury  
18 and as to what the nature of the addiction is and to what  
19 extent and what form it could take.

20 Furthermore, if the Court finds that it is relevant  
21 because it would tend to make more probable -- to make a  
22 determination of a particular fact in this case, we would  
23 say that under Rule 403 that the -- the prejudicial effect  
24 outweighs the probative effect, value rather, because,  
25 basically, the same reason I just stated.

1           It's too long of a period of time. We don't know what  
2 form that the so-called addiction took, and it does not  
3 necessarily go toward the fact that he had a propensity for  
4 showing this as a person in his mid 60s to a young child  
5 that is five years old. It's too prejudicial.

6           Additionally, under 404 I don't see any type of  
7 exception. It's character evidence, and character  
8 evidence, of course as the Court knows, is generally  
9 inadmissible. And based on that I would respectfully  
10 submit to the Court that the testimony should not have been  
11 submitted.

12           And in following up, I would ask that the Court, if  
13 you decide to maintain your position that it is admissible,  
14 grant a mistrial because this jury cannot get over the  
15 impression that there is pornographic addiction here, and  
16 it would tend to paint this whole picture in a way that is  
17 so prejudicial against him that he cannot get a fair  
18 hearing on the issues that actually are involved in this  
19 case. And that's my position.

20           THE COURT: All right. Ms. Miles.

21           MS. MILES: Your Honor, I believe the fact that it's  
22 not just the pornography, statement, is the fact that  
23 pornography was encompassed over -- admission by the  
24 defendant was that it was over a 52-year span, which  
25 included the timeframe of the 2004 and 2005 where the

1 Minor disclosed that he showed her child pornography.

2 I think it is relevant in that, and I think it's more  
3 probative than it is prejudicial. An element of that is  
4 that there was pornography, you know, present in that home.

5 You know, I think the jury can decide whether or not  
6 he showed it to that child. Him just having the  
7 pornography is not illegal. It's him showing it to the  
8 child. So his admission that he had been addicted to it  
9 for 52 years is something relevant to the fact that he had  
10 it during that timeframe. And I think it's more probative  
11 than it is prejudicial.

12 THE COURT: All right. Well, I think it's clearly  
13 relevant to the charge of dissemination of obscene  
14 material, and I do find that the probative value is not  
15 substantially outweighed by the danger of unfair prejudice,  
16 and therefore that's why I admitted it pursuant to 401 and  
17 403.

18 All right. Now, the issue of our witness that was  
19 scheduled to be here this morning who has scheduled  
20 appointments to avoid coming to court? I'm not  
21 understanding that.

22 MS. MILES: She had some other things that she --

23 THE COURT: I know. But she knew.

24 MS. MILES: This is going to take a little longer.

25 THE COURT: She knew that she -- I mean, correct me if

1 I'm wrong, but I thought you told me Monday or yesterday  
2 that she was scheduled to be here this morning.

3 MS. MILES: We had talked about the fact that it was  
4 clearing her schedule for Thursday and Friday.

5 THE COURT: Right.

6 MS. MILES: And I talked with her late yesterday  
7 afternoon again, and she said she had a couple of things  
8 this morning and would get here as soon as she can. I  
9 asked her when that would be and --

10 THE COURT: Is she under subpoena?

11 MS. MILES: She is. And I asked her if she could get  
12 here by 11:00, which is when I --

13 THE COURT: And what does her -- what does her  
14 subpoena -- when does her subpoena require her to be here?

15 MS. MILES: I'm sure it's all week. We do all of them  
16 for all week.

17 THE COURT: Okay. Well, you can tell her she can come  
18 on over now or we can send the sheriff to get her.

19 MS. MILES: Okay. I think she's about 45 minutes away  
20 as far as --

21 THE COURT: Well, then I suggest she get on the road  
22 quickly.

23 MS. MILES: Okay. And I could -- if I may step out  
24 and try and call her.

25 THE COURT: Okay. Sure. All right. We're going to

1 take a break, and you let me know if --

2 MS. MILES: I will.

3 THE COURT: -- there's progress in getting the witness  
4 to obey the subpoena.

5 MS. MILES: I will.

6 (Whereupon, a recess was taken.)

7 THE COURT: Bring the jury in, please.

8 (The following takes place in the presence of the  
9 jury.)

10 THE COURT: Thank you for your patience, ladies and  
11 gentlemen.

12 We've got a witness scheduling issue, and I can't get  
13 it resolved right now, but I'm going to resolve it.

14 Nevertheless, we can't do anything about it now. So  
15 I'm going to excuse you now for lunch. I'll ask that you  
16 report back to the jury room at 2:00 o'clock this  
17 afternoon.

18 Keep in mind you still can't discuss the case. You  
19 can't conduct any research; don't do an investigation.

20 Have a good lunch. I'll see you back here at  
21 2:00 o'clock this afternoon.

22 (The following takes place outside the presence of the  
23 jury.)

24 THE COURT: We'll be at ease while you continue to try  
25 to find our witness.

1 MS. MILES: I have law enforcement out there with my  
2 phone.

3 THE COURT: All right. And since she doesn't use her  
4 phone and she doesn't have it on, tell her to be sure she  
5 doesn't bring it in the courtroom.

6 MS. MILES: I will.

7 THE COURT: All right. We'll be at ease.

8 MS. MILES: If we reach her, I will certainly tell her  
9 that.

10 THE COURT: Well, when she gets here if it comes in  
11 the courtroom, she's going to be sorry that she brought it  
12 since she doesn't use it except in here. But just be sure  
13 she doesn't bring it in the courtroom.

14 MS. MILES: Yes, sir, Your Honor. Thank you.

15 THE COURT: We'll be at ease until you find her, and  
16 let me know when you do.

17 MS. MILES: Thank you.

18 (Whereupon, a recess was taken.)

19 THE COURT: All right. Ms. Miles, do you have a  
20 proffer you would like to make?

21 MS. MILES: Yes, sir, Your Honor.

22 The state would call Shauna Galloway-Williams to the  
23 stand.

24 THE COURT: Welcome to circuit court, Ms.  
25 Galloway-Williams.

Shauna Galloway-Williams (In-camera)  
Direct examination by Ms. Miles

1 THE WITNESS: Thank you.

2 SHAUNA GALLOWAY-WILLIAMS,  
3 having been first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MS. MILES

5 Q Good morning, Ms. Galloway-Williams.

6 Can you state your full name for the record, please?

7 A Shauna Galloway-Williams.

8 Q Okay. And where are you currently employed?

9 A At Julie Valentine Center.

10 Q Okay. What do you do there?

11 A I'm the executive director.

12 Q What kind of services do you provide?

13 A We are the child abuse and sexual assault recovery  
14 center. So we provide services that include education and  
15 prevention, as well as intervention and treatment.

16 Q Okay. What do you do in your role?

17 A Well, in addition to being responsible for the overall  
18 administration of the agency, including physical  
19 responsibilities and overall management, I also provide  
20 clinical supervision, as well as continuing to provide  
21 interviews of children, as well as co-facilitating a  
22 caregivers group for caregivers whose children have been  
23 sexually abused.

24 Q Okay. Can you tell us a little bit about your  
25 educational background?

Shauna Galloway-Williams (In-camera)  
Direct examination by Ms. Miles

1 A I have a bachelor's degree in psychology from Winthrop  
2 University and a master's degree in community agency  
3 counseling from Clemson University.

4 Q Okay. And what areas did you study?

5 A My -- again, my bachelor's is in psychology and my  
6 master's is in community agency counseling. Most of my  
7 work since graduate school has been specifically in the  
8 area of working with children and families who've been  
9 impacted by child maltreatment.

10 Q Okay. Do you have any specialized training?

11 A I do. I have over 150 hours of skills-based training,  
12 specifically in the area of interviewing or assessing  
13 children when there are allegations of some type of child  
14 maltreatment.

15 All of my -- the vast majority of my continuing  
16 education requirements have been in the area of child abuse  
17 and/or sexual assault.

18 Q Okay. Are there any other fields that you've had  
19 training in?

20 A That's really the primary areas of specialization.

21 Q Okay. What about specific publications regarding  
22 these fields?

23 A I have not been published.

24 Q Okay. Are you familiar with publications in those  
25 areas?

Shauna Galloway-Williams (In-camera)  
Direct examination by Ms. Miles

1 A Yes.

2 Q Okay. And how are you familiar with them?

3 A Well, as part of the -- in most of the trainings that  
4 I go to there -- the training itself is based on  
5 peer-reviewed articles, information. Just as part of my  
6 general education I continue to read peer-reviewed articles  
7 and information related to the field.

8 Q Okay. Do you hold any professional licenses?

9 A I do. I'm licensed as a professional counselor in  
10 South Carolina.

11 Q How many years have you counseled children and adults  
12 involving sexual abuse?

13 A I have provided counseling for children and adults  
14 since 2001, so 15 years.

15 Q Okay. And what type of people do you counsel?

16 A Well, children and families primarily that have been  
17 impacted by some type of child maltreatments. That would  
18 be physical abuse, neglect, sexual abuse.

19 I work with caregivers of children who've been abused.  
20 I've also worked with children who've had depression,  
21 anxiety, other general mental health conditions.

22 Q Okay. Do you provide any professional training or  
23 teach others in your field?

24 A I do. I'm an adjunct faculty member at U.S.C. Upstate  
25 in their child advocacy studies program. I teach two

Shauna Galloway-Williams (In-camera)  
Cross-examination by Mr. Poole

1 courses there. One is a course called child maltreatment,  
2 specifically, a 3-hour course on that.

3 The second course that I teach is on gender-based  
4 violence in society.

5 Q Okay. Ms. Galloway-Williams, have you testified in  
6 court before?

7 A I have.

8 Q How many times?

9 A I've been qualified as an expert in circuit court 36  
10 times.

11 Q Okay. In general sessions?

12 A Yes.

13 Q Okay.

14 MS. MILES: Your Honor, at this point, this is when we  
15 would offer her as an expert in child maltreatment and  
16 child abuse dynamics.

17 THE COURT: Okay.

18 MR. POOLE: Of course that's my objection, Your Honor.  
19 I can't stipulate until I ask questions.

20 THE COURT: Well, I understand. That's why we're  
21 here. Ask her what you'd like.

22 MR. POOLE: Thank you.

23 CROSS-EXAMINATION

24 BY MR. POOLE

25 Q Is it proper to refer to you as Ms. Galloway-Williams?

Shauna Galloway-Williams (In-camera)  
Cross-examination by Mr. Poole

1 A Yes. Thank you.

2 Q Ms. Galloway-Williams, what is child sex abuse  
3 dynamics?

4 A Well, it's the specific characteristics or issues that  
5 surround child sexual abuse.

6 Child sexual abuse is not a common experience for most  
7 people, and so there are some unique dynamics around how  
8 children disclose or share information about child abuse,  
9 about the way that offenders abuse children, the reactions  
10 to children. And a lot of times their responses and  
11 reactions that we see from children and families are  
12 counterintuitive to what we would normally think someone  
13 would do in that type of situation. So it's a unique set  
14 of characteristics and information associated with that.

15 Q And what are some of the reasons that children delay  
16 disclosure for a period of time such as 12 years or more?

17 A One of the main reasons that children delay disclosure  
18 is that they're usually abused by someone that's known,  
19 loved and trusted to them, their family, the community.

20 Many times children delay disclosure out of fear.  
21 They may fear what's going to happen to them, what's going  
22 to happen to others.

23 Children may feel responsible in some way for what's  
24 happened. Children may also feel guilty or ashamed about  
25 the abuse. Depending on the age of the child, they may not

Shauna Galloway-Williams (In-camera)  
Cross-examination by Mr. Poole

1 necessarily have the words to describe what it is that's  
2 happened to them.

3       They may have been threatened. Someone may have told  
4 them that something would happen to them or someone else  
5 that they love or to their family if they do disclose. And  
6 they could be threatened directly or indirectly, meaning  
7 that they were told that something would happen, or maybe  
8 they have seen something happen to other people in  
9 situations when others have told or acted in a different  
10 way than the alleged offender may have liked.

11 Q     And you testified a moment ago that you have never  
12 been published.

13 A     No, not.

14 Q     Is that right? How long have you been in this field?

15 A     Well, I worked in the field of mental health for 20  
16 years this year. Yeah, 20 years this year.

17 Q     Twenty years?

18 A     Specifically, working with children beginning in 2001.

19 It's --

20 Q     But you are familiar with peer review materials?

21 A     I am.

22 Q     But you have not submitted anything for peer review  
23 yourself.

24 A     I don't. I'm not a researcher. I'm a clinician  
25 that -- that practices, strictly practices, rather than

Shauna Galloway-Williams (In-camera)  
Cross-examination by Mr. Poole

1 researching or writing.

2 Q The information that you have reviewed on your own in  
3 preparation for giving testimony, do you have any specific  
4 examples of studies that have looked at the evidence in  
5 those particular cases as being reliable?

6 A So my testimony will be based on my experience in the  
7 field, as well as my education and training. And in our  
8 field the research that's been done has primarily been done  
9 based on information that's gathered from actual clients,  
10 case studies.

11 So when we're talking about reliability that tends to  
12 be referring to scientific testing and being able to  
13 replicate something over and over again.

14 The type of research and testing that's done in our  
15 field is not scientific in that sense. It's soft science,  
16 meaning that we can't expose children to conditions and  
17 then test them against abuse conditions.

18 Q So the testimony you're about to render if you're  
19 allowed to is not scientific.

20 A It's soft science in the sense that it's not  
21 scientific experiments that are being conducted on children  
22 or families. It's based on longitudinal studies, case  
23 studies, actual cases and reviewing those and looking at  
24 the similarities or differences in those and based on that  
25 type of research.

Shauna Galloway-Williams (In-camera)  
Cross-examination by Mr. Poole

1 Q would you agree with me if I say that it's my  
2 impression that scientific studies depend upon a certain  
3 degree of methodology and the scientific method and  
4 empirical research, amongst other things? Do you agree  
5 with my definition of scientific studies?

6 A Can you repeat it again?

7 Q Rely upon a certain scientific methodology, empirical  
8 research and the gathering of data?

9 A Yes.

10 Q Okay. And you're saying that your field is not really  
11 engaged in any of that?

12 A That's not what I said at all. I didn't use any of  
13 the terms that you just used, no.

14 what I'm saying is that there's a difference in the  
15 type. when you're specifically talking about reliability  
16 and scientific research, what you're talking about is being  
17 able to replicate, being able to expose a particular group  
18 to a condition repeatedly and get the same result.

19 Q Okay.

20 A That's not the type of research that we're doing.  
21 Instead, we're looking at -- a study may look at a certain  
22 number of cases of children where there's known sexual  
23 abuse in those cases, and they may look at all of those  
24 cases and determine if there is a specific condition that's  
25 similar among those cases, for instance.

Shauna Galloway-williams (In-camera)  
Cross-examination by Mr. Poole

1 Q All right. I understand what you're saying. When  
2 we're talking about the scientific method, we're talking  
3 also -- another facet of that is experimentation and  
4 repeatability in the laboratory, for instance, right?

5 A What I'm talking about is the -- the term reliability  
6 as it relates to scientific research. Or means being  
7 able -- means to be able to repeat, to expose something to  
8 a condition and get the same --

9 Q Right. Through experiments and retesting of an  
10 hypothesis, correct?

11 A Or a condition, yes.

12 Q Or repeatability.

13 A Yes.

14 Q And you say that's lacking in your -- your field, of  
15 course, of the nature of it.

16 A I'm saying the type of research that's done in my  
17 field is not setting up scientific conditions where we're  
18 looking to see if we get the same outcome if we do the same  
19 thing every time.

20 So, for instance, you know, we're looking at cases  
21 where we know that children have already been abused, and  
22 we're looking at those cases and seeing if there are  
23 similarities among those cases or not.

24 we're not applying a particular technique or a  
25 particular condition to them to see if we get a certain

Shauna Galloway-Williams (In-camera)  
Cross-examination by Mr. Poole

1 outcome.

2 Q Okay. I'm trying to understand your differentiation  
3 between what you claim to be soft science and nonscience.  
4 Could you clarify that?

5 A I'll try it one more time.

6 Soft -- the type of science or research that I'm  
7 talking about in our field is, one, it's -- it's research  
8 on people, and it's looking at particular conditions or  
9 experiences with a particular hypothesis in mind as opposed  
10 to typical scientific research where you have a hypothesis  
11 that might include a particular condition and you're  
12 testing to see if you get the same result each time you're  
13 testing that.

14 So, for instance, if we were -- it's not like I'm  
15 testing a -- a new medication where we give the -- we have  
16 a new medication. We give it to this controlled group and  
17 then we give a placebo medication to the other and then we  
18 test to see if we get the same outcome or different  
19 outcomes or different results. That's not the same kind of  
20 science.

21 Q I think I mentioned that if I may -- if you'll bear  
22 with me a moment. I think I mentioned that as part of a  
23 scientific method. And you're saying that that's not  
24 available in your area.

25 A No. That's not what I'm saying. I'm saying the type

Shauna Galloway-Williams (In-camera)  
Cross-examination by Mr. Poole

1 of research that you are speaking of in the area  
2 specifically of reliability is different than what we're  
3 talking about. And what I -- what I also would say is that  
4 the field of child maltreatment has been established as an  
5 area of specialization that does meet, that is backed up by  
6 research and study.

7 Q Okay. Okay. All right. At the Judy Valentine Center  
8 do you keep records of delayed disclosure cases that come  
9 into the office?

10 A I don't think we indicate whether they are delayed or  
11 not in our database, specifically, but in their -- in the  
12 record of a child you could certainly read the record and  
13 determine whether the child -- whether the disclosure --  
14 when the disclosure occurred. But we wouldn't -- in our  
15 database we don't have a -- a particular check box where we  
16 check off delayed disclosure.

17 Q Have you found any -- any research that's been  
18 conducted that's shown that delay disclosure has been  
19 unreliable?

20 A I'm not sure I understand what you're asking me.

21 Q Have you done any -- have you found any research  
22 that's been conducted that's shown that delayed disclosure  
23 has been unreliable in the past?

24 A So can I ask you a follow-up question to make sure I'm  
25 understanding what you're asking me?

Shauna Galloway-Williams (In-camera)  
Cross-examination by Mr. Poole

1 Q well, yes. But let me just say that you're saying  
2 that your field is reliable, right?

3 A I'm saying that applying the term reliability in a  
4 scientific way to our field is a misuse of that term or  
5 it's -- you're talking -- you're talking about two  
6 different types of information and research.

7 Q well, I don't know if I'm being binary about it,  
8 either reliable or nonreliable, but I don't know how to be  
9 else -- say it any other way.

10 A Sir, are you --

11 Q scientifically --

12 A Are you using the scientific term reliable in the  
13 sense that reliability means that there's a repeatability,  
14 that you're doing something and you're returning and saying  
15 the similar outcome?

16 Q Repeatability.

17 A Or are you using the term reliability in the general  
18 sense that I might say that this is a reliable outcome or  
19 reliable person?

20 Q well, your testimony is that it's scientific, your  
21 area is scientific, albeit soft science. I say -- I'm  
22 saying outside of the experimentation therein. Okay.

23 A Uh-huh.

24 Q Let's put that aside a minute and let's -- for the  
25 benefit of doubt -- of a doubt say that your area is soft

Shauna Galloway-Williams (In-camera)  
Cross-examination by Mr. Poole

1 science. Have you found any research that's been conducted  
2 on delayed disclosure that's shown that the delayed  
3 disclosure has been unreliable?

4 A So if I understand you correctly, I think that you're  
5 asking me if I've ever experienced a delayed disclosure  
6 that was, in fact, not a valid disclosure or a true  
7 disclosure.

8 Q Well, just go ahead and answer that question, yes.

9 A Is that what you're asking me?

10 Q I believe so.

11 A Okay. So have I ever had a child that has delayed  
12 disclosure and once we have done an interview or an  
13 investigation's been conducted we found that, in fact, no  
14 abuse had occurred? Yes.

15 Q The answer is yes to which question? Would you just  
16 repeat your answer, please?

17 A Yes. I have encountered children that have delayed  
18 disclosure and upon interview and investigation have  
19 determined that abuse did not occur.

20 Q Abuse did not occur. Thank you so much.

21 A So, basically, what I'm saying is that not every case  
22 that I have interacted with has the child's disclosure been  
23 a [sic] actual disclosure of abuse.

24 Q All right. Thank you, ma'am. I'm sorry if it seemed  
25 like I had to pull eyeteeth for that one.

Shauna Galloway-Williams (In-camera)  
Cross-examination by Mr. Poole

1           Delayed disclosure of course doesn't -- excuse me. Are  
2 you aware of any cases involving delayed disclosure that  
3 were later determined to be false based on false  
4 allegations?

5 A       So have I ever had cases in my experience -- in my  
6 experience have there ever been cases where delayed  
7 disclosure has also been a case where the child was not  
8 actually abused or we -- upon investigation? Yes.

9 Q       Yes. You have. So your answer is yes to that  
10 question.

11 A       Yes.

12 Q       Okay. Thank you.

13           Does the Julie Valentine Center or the National Child  
14 Alliance keep track of cases where the child may say  
15 disclosure, delayed disclosure, and it's later determined to  
16 be unreliability -- unreliable or false?

17 A       We wouldn't know.

18 Q       Is there a track-keeping?

19 A       We wouldn't know whether -- when we -- the way that we  
20 would track it is whether the child had made a disclosure  
21 or nondisclosure.

22 Q       So that is really not your role at the center, to  
23 determine whether a child has made a false allegation or  
24 not?

25 A       It's not our role to determine whether the child is

Shauna Galloway-Williams (In-camera)  
Cross-examination by Mr. Poole

- 1 telling the truth or not, no.
- 2 Q well, do you -- so, it's not done through the Julie  
3 Valentine Center. There's no track -- track-keeping, so to  
4 speak, or the Alliance Center, any track-keeping of false  
5 delayed disclosure and false allegation?
- 6 A So we don't -- we don't track statistics on delayed  
7 disclosure within the data that we keep in our database.  
8 In our database we would indicate whether a child had made  
9 a disclosure or not made a disclosure.
- 10 Q So, basically, you only keep statistics on when  
11 there's been disclosure and how it's turned out?
- 12 A We keep a lot of different statistics, but relate --  
13 specifically related to the child's disclosure in our data  
14 we -- in our database we indicate whether a child made a  
15 disclosure or there was no disclosure. And the lack of a  
16 disclosure doesn't necessarily imply a false allegation.  
17 And we don't track. That's not a -- a check box or an item  
18 for us to check, a false allegation.
- 19 Q But if there's no disclosure of any sort, there can't  
20 be an allegation of any sort, can there?
- 21 A well, a nondisclosure would just lead to -- I mean,  
22 there could be other circumstances or other hypotheses that  
23 might come about.
- 24 so, for instance, if maybe a child made a disclosure  
25 and the allegations were that the child had been abused by

Shauna Galloway-Williams (In-camera)  
Cross-examination by Mr. Poole

1 someone, we later determined that -- that it wasn't  
2 actually abuse, that it was a misunderstanding in the terms  
3 that the child used or the caregiving that was given.

4 Q Okay. On this particular case have you talked to law  
5 enforcement?

6 A No.

7 Q Have you talked to any of the people involved in it?

8 A I've only spoken with the prosecutor.

9 Q Have you talked to Minor [sic]?

10 A who?

11 Q The Minor in this case, the alleged Minor .

12 A I have not.

13 Q Have you talked to her parents?

14 A I have not.

15 Q Any counselors?

16 A I have not.

17 Q Thank you. Ms. Galloway-Williams.

18 MS. MILES: I'm not sure how much of her testimony I  
19 need to go into, if he's just challenging her as an expert  
20 or if he's challenging --

21 THE COURT: well, let me ask a couple of things before  
22 you go there.

23 MS. MILES: Sure.

24 THE COURT: Ms. Galloway-Williams, what in your  
25 expertise or in your field, what is the definition of a

Shauna Galloway-Williams (In-camera)

1 delayed disclosure?

2 THE WITNESS: When a child does not report abuse right  
3 after it has occurred. It could be days, weeks, years  
4 before the disclosure is made.

5 THE COURT: That's what I'm asking.

6 Is there any specific timeframe that you go from a  
7 current or a present disclosure as opposed to it being a  
8 delayed disclosure? And how much time has to pass?

9 THE WITNESS: Well, it's really not determined by time  
10 as much as it would be, you know, the first opportunity  
11 that the child could tell someone. So that's really  
12 what -- it's delayed from that point on.

13 THE COURT: Okay. So.

14 THE WITNESS: So, it could be -- it could be hours; it  
15 could be days; it could be years. We tend to think of it  
16 as being, you know, beyond the day. But there's not a  
17 specific timeframe that we're talking about.

18 THE COURT: So is the definition of a delayed  
19 disclosure one that's not made at the first opportunity  
20 that a child -- in this case or other cases -- have to make  
21 the disclosure?

22 THE WITNESS: That is correct. And that opportunity  
23 could be, you know, to another adult, to a peer, to someone  
24 else.

25 THE COURT: Okay. And how many cases would you

Shauna Galloway-Williams (In-camera)

1 estimate -- if you don't know specifically -- that you have  
2 been involved in that did involve what you will determine  
3 to be a delayed disclosure?

4 THE WITNESS: I don't know how many for sure. The  
5 vast majority of cases that I've been involved in have  
6 involved delayed disclosure. Again, whether that be days,  
7 weeks, years. Most of them have been years, maybe a year  
8 or two or so.

9 THE COURT: And -- and how many of those cases have  
10 you been involved with?

11 THE WITNESS: I've conducted interviews or assessments  
12 with over 900 children.

13 I've provided therapy and clinical support to probably  
14 1,500 -- 2,000 kids.

15 THE COURT: And that's over what period of time?

16 THE WITNESS: From 2001 to the present day.

17 THE COURT: Okay. And has your experience revealed  
18 common factors that attribute to a delayed disclosure?

19 THE WITNESS: Yes.

20 THE COURT: All right. Okay. Mr. Poole, have you got  
21 anything else you want to ask her?

22 MR. POOLE: No, sir. I don't.

23 THE COURT: All right. Ms. Miles.

24 MS. MILES: Just -- just briefly, Your Honor, I want  
25 to follow up on.

Shauna Galloway-Williams (In-camera)  
Redirect examination by Ms. Miles

1 REDIRECT EXAMINATION

2 BY MS. MILES

3 Q Mr. Poole asked you about whether or not you'd had any  
4 contact with the Minor or the families. Have you reviewed  
5 anything in this case?

6 A I have not.

7 Q Statements, disclosures, anything like that?

8 A No.

9 Q Okay. And have you had any conversations other than  
10 scheduling with me, essentially, about this case at all?

11 A I have not.

12 Q Okay. And Mr. Poole asked you about delayed  
13 disclosure and some other issues dealing with child abuse  
14 dynamics. And I just want to be clear. The different  
15 areas that you're familiar with in child abuse dynamics, we  
16 talked about delayed disclosure. I believe Your Honor just  
17 asked about risk factors.

18 Are you also familiar with, like, grooming, false  
19 allegations as he asked you about, child sexual behavior,  
20 things like that?

21 A Yes. Those would all be included in the whole of  
22 child sexual abuse dynamics.

23 Q Okay. Are there any other areas of child sexual abuse  
24 dynamics that interpret another way? I didn't cover that.

25 A I think you talked about some of the behaviors that

Shauna Galloway-Williams (In-camera)  
Redirect examination by Ms. Miles

1 children -- did you mention behaviors children might  
2 demonstrate as a result of their abuse?

3 Q Okay.

4 A Yeah. And then also some of the responses of  
5 nonoffending caregivers, because I do a lot of work with  
6 nonoffending caregivers whose children have been abused.

7 Q Okay. I think that's everything from the state except  
8 for the exact questions that we would ask her after she's  
9 been qualified as an expert.

10 THE COURT: All right. Let me ask this, Ms. Miles.

11 MS. MILES: Yes, sir.

12 THE COURT: What is to be the scope of her testimony  
13 today?

14 MS. MILES: Your Honor, we intend to have her testify  
15 regarding some risk factors, grooming, delayed disclosure  
16 and some behaviors that children may exhibit.

17 THE COURT: May exhibit who have been --

18 MS. MILES: who have been sexually abused, yes, sir.

19 THE COURT: Okay. All right.

20 MS. MILES: Yes, sir.

21 THE COURT: So, she's going to discuss behavioral  
22 aspects of children who --

23 MS. MILES: Yes, sir. We would --

24 THE COURT: -- have been subject to abuse and reasons  
25 for delays in disclosure?

1 MS. MILES: Yes, sir. We would offer her as an expert  
2 in child -- child maltreatment and child abuse dynamics and  
3 cuddle risk factors, behaviors children could exhibit,  
4 grooming, false disclosures and allegations, denials versus  
5 delayed disclosures, things like that.

6 THE COURT: Okay. All right. Mr. Poole.

7 MR. POOLE: Your Honor, I would object to her being  
8 qualified as an expert in this area and to what her  
9 testimony is going to be in this case, basically, based on  
10 four reasons.

11 Her testimony is not outside the realm of lay  
12 knowledge that's required by Rule 702 of the South Carolina  
13 Rules of Evidence.

14 She would testify that children may delay disclosure  
15 because of love of the perpetroy -- perpetrator, trust of  
16 the preparator, fear of the preparator or others, the  
17 impact it may have on the -- the victim's life or immediate  
18 family or friends, or any particular threats that have been  
19 made.

20 That's all within the realm of the domain of a common  
21 person, especially in this era of television. There are  
22 parents on the jury that know about children. They  
23 understand these things. And the era of computers,  
24 internet.

25 And what comes to my mind is the case of Jerry

1 Sandusky, Penn State, 40 indictments, delayed disclosure.  
2 It's common knowledge throughout the entire culture.

3 THE COURT: Well, now, Mr. Poole, you're not  
4 suggesting that if I read the newspaper or read something  
5 on the internet I've become an expert in the field, are  
6 you?

7 MR. POOLE: No, sir.

8 THE COURT: I didn't think so. You know, the jury  
9 panel here was voir dired, and none of them indicated any  
10 experience in victimization or in accusation about child  
11 sexual abuse or any other type of sexual abuse.

12 So -- so apparently this jury found it has no  
13 experience in that field. And there's no indication that  
14 they would know anything about why someone subjected to  
15 abuse might delay a disclosure.

16 MR. POOLE: Yes, sir. I understand that, but I'm  
17 making my argument.

18 THE COURT: Okay. All right. Good. I'm just going  
19 to address each point as you make it, see.

20 MR. POOLE: And I'm making -- I'm -- I'm just  
21 basically addressing Rule 702.

22 THE COURT: I understand.

23 MR. POOLE: And I maintain the position that it's not  
24 outside the realm of knowledge.

25 THE COURT: I understand. And that's why I'm

1 addressing it now. All right. That's your first basis.

2 MR. POOLE: All right. The probative value of her  
3 testimony is substantially outweighed by its prejudicial  
4 effect under 403. That's my second point, which speaks for  
5 itself.

6 THE COURT: All right. Well, I believe it to be  
7 relevant to the issues in this case, and I do not find that  
8 the probative value is substantially outweighed by the  
9 danger of unfair prejudice.

10 MR. POOLE: Thirdly, the sole purpose is to bolster  
11 the complainant's credibility, completely prohibited by  
12 Kromah.

13 THE COURT: She's not addressing the Minor  
14 Mitchell's -- is it Minor Mitchell?

15 MS. MILES: It's Minor .

16 THE COURT: She's not addressing Minor 's  
17 credibility. She's never met Minor 1. She  
18 couldn't possibly address her credibility.

19 She's just going to discuss from what her experience  
20 has provided her why people delay in disclosing sexual  
21 abuse.

22 She's not going to talk about Ms. Minor because she's  
23 never met her and she doesn't know her and knows nothing  
24 about her case. So she can't be bolstering her  
25 credibility. All right.

1 MR. POOLE: Lastly, the subject matter of her  
2 testimony is unreliable. And I won't go back over all of  
3 that. But I asked her several questions about the  
4 reliability, the scientific. It's the nonscientific area  
5 clearly. And I'm asking the Court to consider that last.

6 THE COURT: If it's nonscientific, then the -- your  
7 objection doesn't apply, does it?

8 MR. POOLE: well, it's not unreliable on any account.  
9 She said it was soft science, whatever it was. I think  
10 that's --

11 THE COURT: well, I think what she said was her -- her  
12 sharing of information and her opinions are based upon her  
13 own personal experience in the field.

14 MR. POOLE: Her own personal experience as opposed to  
15 literature.

16 THE COURT: well, both actually, but she's a  
17 clinician. And you can't -- you can't purposely --  
18 purposefully expose people to sex abuse in order to test  
19 the reliability of a result.

20 You have to take what's already happened. You can't  
21 create it for the future like you do with drug testing.  
22 You can't purposely put people in a circumstance of sex  
23 abuse to see what their reaction is. You're not suggesting  
24 that anybody should do that, are you?

25 MR. POOLE: No, I'm not suggesting that even honey

1 badgers or guinea pigs be exposed to any of that.

2 THE COURT: Exactly. Thank you.

3 MR. POOLE: But those are my points, Your Honor. I'm  
4 just arguing for the sake of advocating for my client.

5 THE COURT: I understand.

6 MR. POOLE: And those are my four points.

7 THE COURT: Okay. Anything else?

8 MR. POOLE: That's it.

9 THE COURT: Ms. Miles, do you need to add anything?

10 MS. MILES: I don't believe so, Your Honor. I think  
11 that, you know, the Court of Appeals has spoken on pretty  
12 all of these issues in the recent cases of the State vs.  
13 Damon Brown and State vs. Roy Jones.

14 THE COURT: Have you got copies of those cases?

15 MS. MILES: I do, Your Honor.

16 THE COURT: If you'll -- I'll rule and then I'll--

17 MR. POOLE: I've got it.

18 MS. MILES: In both of these cases, I believe,  
19 Ms. Galloway-Williams was an expert in those cases. Both  
20 of those were affirmed.

21 They addressed the bolstering argument and said that  
22 it clearly wasn't bolstering given the fact that she  
23 doesn't know any facts about the case, you know, she  
24 couldn't bolster the Minor 's testimony without even  
25 knowing anything about what it is.

1 I think also in Damon Brown, you know, that they  
2 address whether or not it was outside the realm of the  
3 jury. They said that, you know, most of these juries can  
4 -- you know, we make sure they don't know anything about  
5 sexual abuse when they get on these juries and that the  
6 things that she testifies to regarding the common  
7 behavioral characteristics, responses to sexual abuse,  
8 things like that, they do fall, you know, without the realm  
9 of something that an ordinary person would know.

10 So, I think case law is pretty clear that, you know,  
11 expert testimony in this field is -- is relevant, is  
12 appropriate in these types of cases.

13 And I think that she did provide -- you know, it's  
14 reliable for a different reason, as the scientific is,  
15 because, you know, you're correct in the sense that you  
16 can't -- you can't do those types of studies.

17 It has to be based on, you know, what you've seen in  
18 the field, what others have seen in the field, you know,  
19 how it evolves that way. But they do undertake reliability  
20 methods in those, in peer review, putting publications that  
21 she's reviewed herself, that she's been a part of, you  
22 know, throughout her career doing all of this.

23 I think that's all. Yeah. I was waiting for you.

24 MR. POOLE: Your Honor, I'm thoroughly familiar with  
25 the Jones case, and that's the reason I'm bringing these

1 points up. It is a Court of Appeals case. It may or may  
2 not be heard by the South Carolina Court of Appeals. And  
3 that's the reason I'm putting all of this into the record.

4 THE COURT: Okay. Anything else?

5 MS. MILES: I don't believe so, Your Honor. I think  
6 that's everything from the state.

7 THE COURT: Okay. You can step down from the witness  
8 stand.

9 We'll break for lunch. We'll resume at 2:00 o'clock.  
10 Is Ms. Galloway-Williams going to lunch with you?

11 MS. MILES: We have not discussed lunch.

12 THE COURT: Well, if not, then, Ms. Galloway-Williams,  
13 just be sure you're back at 2:00 o'clock. That's what time  
14 we start this afternoon.

15 THE WITNESS: Okay.

16 THE COURT: Court is in recess until 2:00 o'clock.

17 (Whereupon, a recess was taken.)

18 THE COURT: All right. I've had the opportunity to  
19 read the Brown and Jones cases which were submitted, and it  
20 reaffirms what I recalled and believed to be the case and  
21 the law in South Carolina.

22 I do find that the subject matter of the witness'  
23 testimony is beyond the ordinary knowledge of the jury and  
24 the jury would benefit from the witness' specialized  
25 knowledge, experience and skill because the subject matter

1 falls outside of the realm of ordinary lay knowledge.

2 I do also find based upon her testimony that the  
3 witness should be qualified as an expert based upon her  
4 education, training and considerable experience of the last  
5 15 years with respect to the subject matter of her  
6 testimony.

7 And I do find that the testimony is sufficiently  
8 reliable to be admitted because it is based upon the  
9 requisite education, training and experience.

10 All right. Anything else we need to address before  
11 the jury is brought in?

12 MR. POOLE: Thank you for the Court's ruling, and the  
13 defense respectfully takes exception to Your Honor's ruling  
14 in this case on this matter.

15 THE COURT: Okay.

16 MS. MILES: I think the only other thing that he had  
17 argued was bolstering, but I think you had covered that  
18 earlier.

19 THE COURT: Well, I did cover that earlier.

20 It's not bolstering because the witness is simply  
21 testifying about things within her expertise.

22 They may or may not specifically apply in this case,  
23 but the witness doesn't know anything about this case  
24 because she's not talked to anybody about it; she's not  
25 interviewed any witness; she's not interviewed the child;

1 she's not interviewed the parents; she's not interviewed  
2 the police officers; she's not interviewed the counselors;  
3 she's not interviewed the Children's Advocacy interviewer.  
4 So she knows nothing about the case, and she didn't even  
5 hear the witness' testimony.

6 So there's nothing that she could do that would --  
7 nothing she could reasonably do to bolster the witness'  
8 testimony because she doesn't even know what it is.

9 The fact that she testifies to things that might be  
10 similar to those things experienced by the witness is not  
11 considered bolstering.

12 It's simply an expert's explanation as to certain  
13 behavior perhaps. But to that extent it might be  
14 supported. But it's not improper bolstering. So I still  
15 find the testimony to be admissible.

16 MS. MILES: Thank you, Your Honor.

17 THE COURT: Okay. What else?

18 MS. MILES: I believe that's everything from the  
19 state, Your Honor. We're ready to proceed with our next  
20 witness.

21 MR. POOLE: Ready to go.

22 THE COURT: Okay. Bring the jury in.

23 (The following takes place in the presence of the  
24 jury.)

25 THE COURT: Good afternoon, ladies and gentlemen.



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1 piece of my job, is doing a lot of training and education.  
2 Prevention education specifically around child abuse and  
3 sexual assault.

4 We also provide advocacy and investigative support, as  
5 well as intervention related to individual and family  
6 therapy, as well as group therapy for survivors of childhood  
7 sexual abuse or sexual assault.

8 THE COURT: Let me ask you one thing.

9 Can you slow down a little bit? Because the court  
10 reporter is going full tilt.

11 THE WITNESS: Yes, I can.

12 THE COURT: Thank you.

13 Q And which of those services do you personally provide?

14 A I do a lot of training and education in the community.  
15 In fact, this morning I did training for the Greenville  
16 County School District on recognizing and responding to  
17 child sexual abuse in youth-serving organizations.

18 I also provide assessments or interviews with children  
19 where there may be allegations of abuse or neglect.

20 I also provide group support to nonoffending  
21 caregivers -- caregivers of children who have been sexually  
22 abused.

23 Q Okay. Ms. Galloway-Williams, can you tell some about  
24 your educational background?

25 A Yes. I have a bachelor's degree in psychology from

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1 Winthrop University and a master's in counseling from  
2 Clemson University.

3 Q When did you get those degrees?

4 A I graduated from Winthrop in 1996 and I graduated from  
5 Clemson in 2000.

6 Q Okay. What about any specialized training?

7 A Most of my training, postgraduate school training, has  
8 been directly related to child abuse and sexual assault.

9 I have over 150 skills-based hours directly related to  
10 interviewing children when there are allegations of child  
11 maltreatment.

12 I also am required by my license to receive continuing  
13 education. And on a regular basis those seminars,  
14 workshops, training that I attend are related to the field  
15 of child maltreatment and sexual assault.

16 Q Okay. What training do you have specifically in  
17 counseling sexually abused individuals?

18 A Well, like I said, I have over 150 skills-based hours  
19 in assessing and interviewing children. Those are -- when  
20 I say skills based, I mean those are trainings where you  
21 actually go and you practice what you're learning. They're  
22 not just workshops where you're in sessions listening to  
23 someone.

24 And, additionally, the other trainings that I have  
25 attended, again, have been specifically related to the

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1 areas of working with children and families that have been  
2 impacted by child abuse and neglect.

3 Q Okay. Are you familiar with publications in those  
4 fields?

5 A Yes. Most of the training that I attend is based on  
6 the trainer's experience, as well as research in the field.

7 we also -- there are peer-reviewed articles and  
8 journals that are part of the field of child maltreatment.  
9 And so during trainings I'm introduced to those, we well as  
10 keeping up with those on an annual or quarterly basis  
11 whenever articles are turned out.

12 Q And you mentioned that you attend some training to  
13 keep your license. What is your license?

14 A I have a license. I'm a licensed professional  
15 counselor in South Carolina and have been licensed since  
16 2004.

17 Q Okay. You mentioned that you do some assessing as  
18 well. How many years have you counseled children and  
19 adults involving sexual abuse?

20 A I specifically worked with children and families since  
21 2001, so 15 years.

22 Q Okay. What types of people do you counsel?

23 A Well, primarily children where there are allegations  
24 of sexual abuse, physical abuse, neglect, some type of  
25 child maltreatment.

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1           They may also have witnessed some type of crime or  
2 witnessed violence in their home. And then I work with the  
3 caregivers of those children and work with them around  
4 their own experience and how this has impacted their  
5 family.

6 Q     Okay. You talked about some of the trainings you've  
7 attended.

8           What about, do you provide any professional training or  
9 teaching in these areas?

10 A     I do. I'm an adjunct faculty member at U.S.C. Upstate  
11 in their child advocacy studies program. I teach two  
12 courses there. One is on child maltreatment. That's the  
13 name of the course. It's a 3-hour undergraduate course.  
14 And I also teach a 3-hour course on gender violence in  
15 society.

16 Q     Okay. And you've previously been qualified as an  
17 expert in court, is that correct?

18 A     I have.

19 Q     Okay. How many times have you been qualified as an  
20 expert?

21 A     Thirty-six times.

22 Q     Okay. Were they all in general sessions?

23 A     Yes.

24 Q     Okay.

25           MS. MILES: Your Honor, at this time the state would

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1 offer as an expert Ms. Shauna Galloway-Williams, as an  
2 expert in child maltreatment and child abuse dynamics.

3 MR. POOLE: I renew my prior objections.

4 THE COURT: Overruled. Overrule your objection.

5 Q Ms. Galloway-Williams, I want to talk to you some  
6 about the circumstances surrounding your testimony. Have  
7 you ever had any contact with the Minor in this case?

8 A I have not.

9 Q Are you being paid to be here?

10 A No. I'm not.

11 Q How do you receive your funding?

12 A The Julie Valentine Center is a 501(c)(3), which means  
13 we're a nonprofit organization. About a third of our  
14 funding -- a little bit over a third of our funding --  
15 comes from federal funds, the Victims of Crime Act,  
16 Violence Against Women Act, DHEC. Another third of our  
17 funding comes from the Greenville County United Way. And  
18 the final third of our funding is made up from fundraising  
19 and development work.

20 Q Okay. Is that funding contingent on your testimony at  
21 any trials or anything?

22 A It's not.

23 Q Okay. You mentioned that you've not had any contact  
24 with the Minor. Have you spoken to the Minor at all?

25 A I haven't.

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1 Q Or seen her?

2 A No.

3 Q Or even aware of who she is?

4 A No.

5 Q Okay. What about any other parties in this case?

6 Have you viewed any statements or evidence or anything?

7 A No, I haven't.

8 Q And other than the scheduling conversations you've had  
9 with me, have you done any investigative work or interview  
10 work on this case in general?

11 A No, I haven't.

12 Q Ms. Galloway-Williams, I want to talk to you about  
13 some things about child abuse dynamics. What can you tell  
14 me about risk factors?

15 A Well, there are certain risk factors that make  
16 children, and really parents for that matter, more  
17 vulnerable to abuse. One of those risk factors is  
18 substance abuse. So if a parent -- if there's substance  
19 abuse in the home, that's a risk factor for child abuse and  
20 neglect.

21 Another risk factor for a child might be their age.  
22 Younger children are more vulnerable or more at risk for  
23 abuse. If for no other reason, because they are so much  
24 more reliant on adults for caregiving.

25 Children who have disabilities or special needs are at

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1 high risk of abuse as well, because, again, they may need  
2 more assistance from adults and may be more reliant on  
3 adults.

4 Children who have known behavior problems or maybe  
5 social or emotional problems are also at risk for abuse.  
6 They are more vulnerable to it for many reasons, one of  
7 them being that if they are troublemakers or seen as bad  
8 children and then they do make a disclosure, an outcry,  
9 sometimes they're not believed because they have a previous  
10 history of getting in trouble or making things up.

11 Q Okay. What is grooming?

12 A Grooming is a term used to refer to developing a  
13 trusting relationship and really sort of testing the waters  
14 with a child and family related to child abuse,  
15 particularly sexual abuse.

16 Grooming can involve giving a child special gifts or  
17 treats, giving them special attention. It can be as simple  
18 as giving them extra time to watch T.V. It could -- or to,  
19 you know, giving them a cell phone or buying them something  
20 to engage them.

21 It really involves developing a trusting relationship.  
22 So for some kids that's spending more time with them and  
23 giving them more attention.

24 Grooming can also refer to normalizing sexual  
25 experiences or behaviors, meaning that sexual touch may not

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1 just begin as a sexual touch. It may begin as a -- a -- a  
2 hug, a pat on the bottom, progressing to touching under  
3 clothes, progressing to something more sexualized and --  
4 and doing that in stages to test the waters and develop a  
5 trusting relationship and really to normalize that behavior  
6 with children.

7 Exposing them to sexual jokes, magazines, materials is  
8 another way of grooming because it normalizes the  
9 experience of sexual behavior for children, especially when  
10 introduced by an adult.

11 Q Okay. What do you mean by material?

12 A Magazines, movies, images, pictures, drawings,  
13 anything that is sexual in nature but not actually a  
14 behavior.

15 Q Okay. How can grooming affect a child or a child's  
16 disclosure of abuse?

17 A How can grooming affect that?

18 Q Yes, ma'am.

19 A Well, it's one of a number of things that can affect a  
20 child's disclosure.

21 Certainly, the more trusting and close relationship  
22 that a child has to an alleged offender, the harder it may  
23 be for them to tell.

24 Most of the time children are abused by someone they  
25 know, they love and they trust. And when they have been

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1 given this special affection, when that relationship has  
2 been developed with them intentionally, sometimes that can  
3 be really hard for a child to make a statement of  
4 disclosure or to say that this person has done something  
5 negative to them.

6 Q Okay. I want to talk to you about false denials and  
7 false disclosures. Can you explain to us what those are?

8 A Well, a false denial or a -- would be when there's  
9 actually knowledge or something to support that a child has  
10 actually been abused, and yet they're denying that it  
11 happened.

12 So what we see sometimes in my experience and in my  
13 training is that sometimes we do have children who we may  
14 know that there may be someone that has seen an incident  
15 occur. We may have something to support that it happened.  
16 For instance, a child may test positive for an S.T.D. or  
17 something like that. And yet children may still deny that.

18 So what we see more often than false allegations of  
19 abuse with child disclosure, we see -- tend to see more  
20 false denials, meaning that children are denying that  
21 something happened when, in fact, there may be something  
22 that did happen.

23 Q Okay. And what's a false disclosure?

24 A A false disclosure? That would be when the child has  
25 made a disclosure that didn't really happen.

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1 Q Made a false allegation of abuse.

2 A Yes, yes.

3 Q In your experience, what's more common?

4 A What's more common?

5 Q Uh-huh.

6 A A false denial or a false disclosure?

7 Q Yes.

8 A What's more common would be the false denial where  
9 we -- where a child denies that something has happened  
10 when, in fact, something did occur.

11 Q Okay. I want to talk to you about purposeful and  
12 accidental disclosures. What are those? What's a  
13 purposeful disclosure?

14 A Well, we tend to talk about disclosure or when a child  
15 talks about or tells someone what -- what has happened to  
16 them as a process or a continuum. And children sometimes  
17 purposefully disclose. That means they consciously make an  
18 effort that they're going to tell someone what happened.

19 Sometimes they accidentally disclose. That means that  
20 they may say something that causes an adult to ask them  
21 questions or causes another person to ask them questions,  
22 something concerning. Or there may be a concerning  
23 behavior that leads us to ask questions and to -- to find  
24 out more about that, and the child may disclose.

25 So sometimes children are not always disclosing

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1 purposefully. They're not making a conscious effort to do  
2 that. Most times children are delaying disclosure.  
3 They're not disclosing abuse right after it happens. And  
4 so that's part of that process as well.

5 Q Okay. What is a reason why a child may not  
6 purposefully disclose?

7 A Well, that's directly related to delaying disclosure.  
8 Many children are abused by someone that they know,  
9 they love and they trust. And, as I said before, that  
10 relationship in and of itself can pose particular  
11 challenges or risks for a child to tell about what's  
12 happened.

13 They may have -- they may fear what's going to happen  
14 to them if they tell. They may fear what's going to happen  
15 to this person if they tell. They may fear how it will  
16 impact their family.

17 Children may fear that they are not going to be  
18 believed, particularly if it's one of those children that  
19 has a known history of behavioral problems or has been  
20 called a liar or has some type of history like that  
21 previously.

22 A child may have been threatened. They may have been  
23 told that if they tell, then this will happen. And they  
24 may have been directly or indirectly threatened, meaning  
25 that they were told that something would happen, or they

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1 may have seen this person do things previously that leaves  
2 them fearful, in fear that if they tell something would  
3 happen to them.

4 Q What is the exact -- what is a definition of delayed  
5 disclosure? How would you --

6 A So delayed disclosure refers to the fact -- refers to  
7 children not disclosing abuse right after it occurs.

8 It's common, far more common, than uncommon for  
9 children to delay disclosure. That's why we have the --  
10 the term for it. And it's -- I think it's the one thing  
11 that is most confusing because we would think that if a  
12 child is being harmed or something's being done to them  
13 that they would immediately seek out support or tell  
14 someone. But in the case of sexual abuse it's different  
15 because of some of the factors that we've already talked  
16 about.

17 But also there's a lot of shame and guilt associated  
18 with sexual abuse. Children often feel responsible for  
19 what's happened. They may have been told that they're  
20 responsible for it or that they did something to cause it  
21 to happen.

22 And children are naturally egocentric, means that they  
23 think that they cause everything. And so they may think  
24 that they actually did do something to make it happen.

25 Q Okay. And I think you probably just answered this

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1 question in that, but in your experience as an expert, how  
2 common is a delayed reporting amongst victims?

3 A It's -- it's very, very common. It's far more common  
4 than uncommon.

5 Q What about partial disclosures? What's a partial  
6 disclosure?

7 A It's, again -- disclosure is a process, meaning that  
8 we don't expect that a child's going to tell every single  
9 detail about their abuse history at one time.

10 We know that they may tell a little bit at one time.  
11 They may become more comfortable over time telling more and  
12 more of it.

13 We also know that what they tell may be based on who's  
14 asking the questions. So, for instance, if -- if they're  
15 being interviewed by law enforcement, the questions that  
16 law enforcement's asking them are likely to be different  
17 than the questions that their parents might be asking them  
18 or a counselor may be asking them. And so the details that  
19 are shared may be gathered over time across multiple  
20 interviews with different people.

21 Q And how does a passage in time contribute to a child's  
22 ability to disclose?

23 A Well, for some children the -- particularly, if  
24 they're younger, as they get older some children develop  
25 more of an awareness of what's actually happened to them

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1 and have a greater vocabulary and ability to talk about  
2 what's happened to them.

3 We -- we tend to see a lot of disclosures coming out  
4 between the ages of eight and twelve, and that directly  
5 correlates with the time that children are usually getting  
6 sex abuse prevention training and education in school and  
7 sex education in school. And it's also around the time  
8 when children are learning about their bodies and  
9 sexuality.

10 And so sometimes the passage of time when they're  
11 abused makes it -- they -- they are better able to state  
12 what has happened to them because they actually have a  
13 framework to understand what's happened and understand that  
14 it was wrong and how to -- to tell someone about it.

15 Q Okay. I want to ask you about behaviors. What types  
16 of behaviors can a victim of child sexual abuse exhibit?

17 A After they've been abused?

18 Q Yeah.

19 A There's a full range of behaviors. Children may  
20 become depressed or anxious or nervous. Children may do  
21 things to hurt themselves. They may even become so  
22 depressed that they may attempt to end their own lives.

23 On the flip side of that you may see a child that's  
24 not demonstrating any behaviors on the outside that you can  
25 see. You know, the behaviors that we see from children

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1 aren't -- it -- it depends for each child. And one of the  
2 main things that we look at is a change of behavior.

3 so if you have a child that was previously very social  
4 and they become very withdrawn and are isolating, or if you  
5 have a child who previously was very happy-go-lucky and is  
6 suddenly depressed, those are the kind of things that you  
7 want to pay attention to that may be related to the abuse  
8 or trauma.

9 Q How long can children exhibit these behaviors after  
10 the abuse?

11 A You know, many of the adults that we serve at the  
12 Julie Valentine Center are coming in for treatment for many  
13 of those symptoms that they've lived with for most of their  
14 life.

15 so the symptoms and the -- the aftereffects of  
16 childhood sexual abuse can carry on into adulthood if not  
17 properly treated and addressed.

18 Q okay.

19 MS. MILES: Beg the Court's indulgence.

20 (Pause.)

21 Q Thank you, Ms. Galloway-Williams. Please answer any  
22 questions the defense may have. Okay.

23 CROSS-EXAMINATION

24 BY MR. POOLE

25 Q Ms. Galloway-Williams, have you met with Minor's

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1 parents, Minor ' parents?

2 A No, I have not.

3 Q Have you met with any law enforcement personnel --

4 A I have not.

5 Q -- in this case? Have you met with any counselors in  
6 this case?

7 A I have not.

8 Q Have you met -- have you reviewed any evidence in this  
9 case?

10 A No, I haven't.

11 Q Have you talked to Ms. Bethany Miles about this case?

12 A I talked with her about testifying today, yes.

13 Q And when did you first talk to her?

14 A I'm -- I'm not sure. Our first correspondence was  
15 through e-mail about the timing and scheduling of being  
16 here.

17 Q And about how long ago was that?

18 A I really -- I don't know. I'd have to look back at my  
19 calender to see.

20 Q well, was it two weeks ago or a month ago, six weeks  
21 ago?

22 A I really don't -- don't know.

23 Q So it could be recent and it could be --

24 A well, I did -- I spoke with her on the phone  
25 yesterday, and we have texted back and forth this week

Shauna Galloway-Williams  
Cross-examination by Mr. Poole

1 around scheduling. I -- I really -- I don't know the first  
2 time that we scheduled this. I schedule a lot of  
3 appointments, and so I'm not exactly sure when we first  
4 talked about the scheduling for this case.

5 Q Basically, what I'm hearing is a lot of generalities  
6 about your expertise in the field of children's sex  
7 dynamics. That's your field, right?

8 A So you're asking me if I am reporting general --

9 Q What's your field?

10 A My field of expertise --

11 Q Yes.

12 A -- is child maltreatment and sexual abuse.

13 Q Also known as children's sexual dynamics?

14 A Child sexual abuse dynamics.

15 Q Yes.

16 A Yes.

17 Q Okay. All right. And that's your field. And-but you  
18 haven't talked to anybody that's been involved in this  
19 case.

20 A No.

21 Q Okay. All right. And you gave a lot of responses to  
22 questions to -- about factors, behaviors, denials, etc.,  
23 etc., that are not applicable in this case. Do you know  
24 that for a fact, or not?

25 A I don't know the details of this case. I'm here to

Shauna Galloway-Williams  
Redirect examination by Ms. Miles

1 talk about the general dynamics of child sexual abuse.

2 Q And that's what you testified to, the general  
3 dynamics.

4 A Yes. The questions that I've been asked about the  
5 general dynamics of child sexual abuse.

6 Q And nothing really specific whatsoever about this  
7 particular case that's being tried today.

8 A I don't know the specifics about this particular case,  
9 so, I'm not sure.

10 Q So even you don't know what's applicable in your  
11 testimony to this case, do you?

12 A That is correct.

13 Q Okay. And you in your lengthy experience, you are  
14 aware of cases where there's been delayed reporting when no  
15 sexual abuse occurred of the child.

16 A Yes.

17 Q Is that yes?

18 A I said yes.

19 Q Okay. All right. Thank you very much.

20 A Thank you.

21 MS. MILES: Just briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MS. MILES

24 Q I believe -- I believe Mr. Poole just asked you in  
25 your experience have you had cases with delayed reporting

Shauna Galloway-Williams  
Redirect examination by Ms. Miles

1 that turned out to be a false allegation, is that correct?

2 A Well, I don't -- I wouldn't say that it was a false  
3 allegation, but there was no abuse that had been  
4 identified. There might have been some other situation  
5 that had occurred.

6 Q How common is that in delayed reporting cases that it  
7 turns out that way?

8 A The vast majority of delayed reporting cases that  
9 have -- that I have worked, there has been some type of  
10 disclosure. The majority of them.

11 Q Thank you.

12 MS. MILES: May this witness be excused, Your Honor?

13 THE COURT: She may be.

14 (Whereupon, the witness was excused.)

15 MS. MILES: Your Honor, at this time the state rests.

16 THE COURT: All right. Ladies and gentlemen, that is  
17 all of the testimony or other evidence to be offered by the  
18 state, at least in their case in chief.

19 Before we go further I've got a couple of matters I'll  
20 need to address with the lawyers. And then we'll resume  
21 with the trial.

22 So I'll ask you now to please go to your jury room.  
23 But do not yet discuss the case. I'll bring you back in  
24 just a few minutes.

25 (The following takes place outside the presence of the

1 jury.)

2 THE COURT: All right. Motions or other matters to  
3 address?

4 MR. POOLE: Judge Cole, at this time I would move for  
5 a directed verdict based on the fact that no reliable or  
6 credible evidence has been presented by the state to  
7 support a verdict of guilty against Mr. Acker.

8 THE COURT: All right. Ms. Miles, do you disagree  
9 with him?

10 MS. MILES: I'm sorry, Your Honor?

11 THE COURT: Do you disagree with him?

12 MS. MILES: I do, Your Honor.

13 I believe the Minor 's testimony, as well as other  
14 evidence presented, states that, you know, she was sexually  
15 abused under the age of 11 in Spartanburg County by the  
16 defendant placing his fingers inside of her, as well as  
17 subjecting her to watching child porno -- pornography. I'm  
18 sorry -- would satisfy the dissemination of obscene  
19 material to a person under the age of 12.

20 THE COURT: All right. Motion for a directed verdict  
21 is denied.

22 MR. POOLE: Yes, sir.

23 THE COURT: Anything else?

24 MR. POOLE: Yes, sir. I would like to renew my  
25 previous motions in their entirety, specifically with

1 reference to the testimony Ms. Susan Jett.

2 I objected about her testimony on pornography  
3 addiction by Mr. Acker, a statement that he made alluding  
4 to that, under Rule 401, 403, and inadmissible as a result  
5 of character evidence. I renew that motion.

6 I also renew my motion for a mistrial that was made at  
7 the same time that I made those motions.

8 Finally, I renew all --

9 THE COURT: Mistrial being based on Ms. Jett's  
10 testimony?

11 MR. POOLE: Pardon?

12 THE COURT: The mistrial being based upon Ms. Jett's  
13 testimony?

14 MR. POOLE: That's correct.

15 THE COURT: Okay.

16 MR. POOLE: I'll argue that briefly into the record.

17 Also, I renew my motion with regard to the expert  
18 status of the last witness. And that argument is already  
19 in the record. Those are my motions.

20 THE COURT: All right. Those are also denied.

21 Have you talked with Mr. Acker about his right to  
22 testify, or not?

23 MR. POOLE: Yes, sir.

24 THE COURT: Has he indicated to you a preference, or  
25 do you need to talk to him about it?

1 MR. POOLE: Yes, sir. He's indicated a preference.

2 THE COURT: And what is his preference?

3 MR. POOLE: His preference is to testify.

4 THE COURT: All right. Mr. Acker, you've heard what  
5 your lawyer just told us.

6 THE DEFENDANT: Sir, I want you to know that this is  
7 the most unfair thing that's ever happened to me. I have  
8 not been able to understand you, my lawyers or all of these  
9 witnesses in this case because I cannot hear them.

10 THE COURT: Well, did you tell me that until now?

11 THE DEFENDANT: I asked for something to be done in  
12 the very beginning, and nothing was done.

13 I haven't heard the first item of all of these  
14 witnesses because I can't hear.

15 THE COURT: Okay. Did you hear me ask your lawyer if  
16 you want to testify, or not?

17 THE DEFENDANT: Yes. I want to testify.

18 THE COURT: All right. Have you talked to your  
19 lawyers about that decision?

20 THE DEFENDANT: Did I talk to my lawyers about what?

21 THE COURT: About your decision to testify, or not.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And you've made a decision to testify?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And have you discussed with your lawyers

1 the advantages and disadvantages of testifying, as well as  
2 not testifying?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And you appreciate what those advantages  
5 and disadvantages are?

6 THE DEFENDANT: well, yes, sir.

7 THE COURT: And you have made the decision now to  
8 testify in this case?

9 THE DEFENDANT: I have.

10 THE COURT: Is that a decision that you reached of  
11 your own free will and accord?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are you satisfied with that decision?

14 THE DEFENDANT: I don't have a choice.

15 THE COURT: well, you've had time to reflect upon it,  
16 have you not?

17 THE DEFENDANT: I didn't understand you, sir.

18 THE COURT: Have you had time to reflect upon your  
19 decision about whether or not you will testify?

20 THE DEFENDANT: Yes.

21 THE COURT: And you tell me that you have made a  
22 decision to testify. Is that true?

23 THE DEFENDANT: That's correct.

24 THE COURT: And so you're satisfied with your decision  
25 now?

Thomas Stephen Acker  
Direct examination by Mr. Poole

1 THE DEFENDANT: Yes.

2 THE COURT: Okay. We'll take ten minutes, and then  
3 we'll continue.

4 (Whereupon, a recess was taken.)

5 THE COURT: All right. Bring the jury in, please.

6 (The following takes place in the presence of the  
7 jury.)

8 THE COURT: As you know, the state has rested in their  
9 presentation. So, we'll now proceed with any to be offered  
10 by the defense.

11 Mr. Poole.

12 MR. POOLE: Your Honor, we call Mr. Thomas Stephen  
13 Acker to the witness stand.

14 THOMAS STEPHEN ACKER, having  
15 been first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MR. POOLE

17 Q What is your name, please, sir?

18 A Thomas Stephen Acker.

19 Q Mr. Acker, can you hear me okay?

20 A I can hear you now, yes, sir.

21 Q Okay. You are hard of hearing, aren't you? Are you  
22 hard of hearing?

23 A That is correct.

24 Q Okay. If at any time you cannot hear me or need me to  
25 rephrase a question, would you please ask me to restate it?

Thomas Stephen Acker  
Direct examination by Mr. Poole

- 1 A Yes, sir.
- 2 Q Mr. Acker, how old are you?
- 3 A Seventy-five until my birthday December 21st.
- 4 Q Okay. Your birthday is December 21.
- 5 A 1940.
- 6 Q Okay. And where were you born?
- 7 A In Oconee County, Fair Play, South Carolina.
- 8 Q And how long were you in Oconee County as a child,  
9 very young child?
- 10 A I wasn't. We -- we moved to Spartanburg when I was  
11 six months old.
- 12 Q Where in Spartanburg did you move to?
- 13 A Where in Spartanburg?
- 14 Q Yes, sir.
- 15 A [REDACTED] Rutledge Avenue in Converse Heights.
- 16 Q And is that near where you live on [REDACTED]?
- 17 A Maybe 15 or 20 blocks.
- 18 Q Okay. Same neighborhood?
- 19 A Same neighborhood.
- 20 Q And, so, you were a child during World War I, is that  
21 correct?
- 22 A Correct.
- 23 Q Do you remember rationing?
- 24 A I'm sorry. I didn't know hear that.
- 25 Q Do you remember rationing during the war -- rationing?

Thomas Stephen Acker  
Direct examination by Mr. Poole

- 1 A I -- I know what rationing was, but I was too little  
2 to know much about it then.
- 3 Q Okay. All right. How long did you live at that  
4 address on Rutledge?
- 5 A Until kindergarten age.
- 6 Q Okay.
- 7 A At six to seven.
- 8 Q Where did you move to then?
- 9 A ■ Princeton Street.
- 10 Q And where was that?
- 11 A Near Duncan Park, between South Converse Street and  
12 Union Street.
- 13 Q Still here in Spartanburg County.
- 14 A Yes, sir.
- 15 Q Did you live with your mother and parent -- your  
16 mother and father? Excuse me.
- 17 A Yes.
- 18 Q Okay. When did your father pass away?
- 19 A He was only about 50. He had Lou Gehrig's disease.
- 20 Q Where were you living when he died?
- 21 A ■ Princeton Street.
- 22 Q Did you live there with your mother afterwards?
- 23 A Yes.
- 24 Q How old were you when your father died?
- 25 A My first year of Wofford College -- 19.

Thomas Stephen Acker  
Direct examination by Mr. Poole

- 1 Q Okay. And after your first -- how long did you go to  
2 Wofford College?
- 3 A Almost four years.
- 4 Q Where did you go after you attended Wofford?
- 5 A I worked for several years ending up at Milliken in  
6 the physics-electronics department of Milliken Research.  
7 And my boss man there convinced me that I should go back to  
8 college, so I -- I left and went to St. Andrews  
9 Presbyterian College for a short period of time. And then  
10 I transferred to Pembroke State College.
- 11 Q Where was St. Andrews?
- 12 A St. Andrews is in -- St. Andrews Presbyterian College  
13 is in Laurinburg, North Carolina.
- 14 Q Where did you work before you worked for Milliken?
- 15 A Smith Drug Company.
- 16 Q Where was that located?
- 17 A On Wofford Street in -- in -- pretty much in the area  
18 close to the -- this courthouse.
- 19 Q Okay. And you went to St. Andrews. And after St.  
20 Andrews, where did you go to school?
- 21 A Pembroke State College. It later became Pembroke  
22 State University.
- 23 Q Where is Pembroke?
- 24 A Pembroke, North Carolina.
- 25 Q Where is it near so we --

Thomas Stephen Acker  
Direct examination by Mr. Poole

- 1 A Twenty -- 22 miles from Laurinburg.
- 2 Q Okay. What was your degree in, Mr. Acker?
- 3 A Business administration.
- 4 Q What year did you graduate?
- 5 A I graduated at -- the -- the first person to graduate
- 6 from Pembroke State University in 1969.
- 7 Q Okay. And your degree was in business administration?
- 8 A Yes, sir.
- 9 Q How old were you when you got your degree?
- 10 A Twenty-nine.
- 11 Q Twenty-nine. Where -- what different places did you
- 12 work at until you were 29 years old?
- 13 A Smith Drug Company and the Spartanburg Herald-Journal.
- 14 Q What did you do at the Spartanburg Herald-Journal?
- 15 A I worked as a substitute for the circulation
- 16 department.
- 17 Q And what duties did that entail?
- 18 A Taking newspapers out to the news carriers.
- 19 Q Okay. Upon your graduation, where did you go?
- 20 A I got a job with Spartanburg Regional Hospital. They
- 21 moved me from Laurinburg to Spartanburg.
- 22 Q And what did you do there?
- 23 A I was hired as the business guidance person for
- 24 inhalation therapy department.
- 25 Q How long did you work there in that capacity?

Thomas Stephen Acker  
Direct examination by Mr. Poole

- 1 A About a year, and then I had several other departments  
2 that I supervised for business reasons.
- 3 Q So for several years you worked for Spartanburg  
4 Regional?
- 5 A Yes, sir. Five years.
- 6 Q And what were your duties there, sir?
- 7 A To supervise five areas that went 24 hours a day,  
8 seven days a week.
- 9 Q what did -- what did that type of work entail? what  
10 did you have to do?
- 11 A Train employees and supervise them. I had 25 people  
12 worked for me.
- 13 Q And were these healthcare givers?
- 14 A were they caregivers?
- 15 Q Yes, sir.
- 16 A Some were. Some were clerical people.
- 17 Q so the clerical and healthcare, right?
- 18 A Yes, sir.
- 19 Q All right. So after your stint at Spartanburg  
20 Regional, about how old were you at that time, Mr. Acker?
- 21 A I was 34.
- 22 Q Thirty-four when you left Spartanburg Regional?
- 23 A Yes, sir.
- 24 Q where did you go then?
- 25 A I worked for white Bag Company for a couple of years.

Thomas Stephen Acker  
Direct examination by Mr. Poole

- 1 Q Where was that located?
- 2 A On Barnwell Road.
- 3 Q Spartanburg County?
- 4 A Yes, sir.
- 5 Q So at 36 years old -- let me ask you this. Change the  
6 subject a moment. Were you married during this period of  
7 time?
- 8 A Yes, sir.
- 9 Q And to whom were you married?
- 10 A Judy Frady Acker.
- 11 Q Okay. And how long were you married to her?
- 12 A Ten years.
- 13 Q Did you have any children?
- 14 A I have one son.
- 15 Q And how old is he now?
- 16 A Forty-five.
- 17 Q What is his name?
- 18 A Brent Stephen Acker.
- 19 Q And where does Brent live?
- 20 A Brent is a high school teacher of history, and he  
21 lives in Nashville, North Carolina.
- 22 Q Nashville, North Carolina?
- 23 A Nashville, North Carolina.
- 24 Q You maintain contact with him?
- 25 A Yes.

Thomas Stephen Acker  
Direct examination by Mr. Poole

- 1 Q Okay. Now, after you worked at White Bag, where did  
2 you go to work?
- 3 A That's when I began my career as a numismatist. For  
4 those that --
- 5 Q Okay. Explain to all of us what a numismatist is.
- 6 A For those who don't what numismatics is, numismatics  
7 is the study of coins and paper money.
- 8 Q And when did you begin this career?
- 9 A 1978.
- 10 Q How long did you continue with this vocation?
- 11 A The first location?
- 12 Q Yeah. How long did you continue in this job?
- 13 A It's happened for the rest of my life.
- 14 Q Okay. So from -- about how old were you when you  
15 started out as a businessman numismatist?
- 16 A Thirty-eight.
- 17 Q where were you living when you were 38 years old?
- 18 A I'm sorry?
- 19 Q where were you living when you started this new  
20 career?
- 21 A I -- I went to work for a man who wrote the book on  
22 "Standing Liberty Quarters" in Dayton, Ohio, for Cline's  
23 Rare Coins.
- 24 Q You went to work for this man?
- 25 A Yes.

Thomas Stephen Acker  
Direct examination by Mr. Poole

- 1 Q where did you work for him?
- 2 A where did I work for him?
- 3 Q Yes, sir.
- 4 A In Dayton, Ohio.
- 5 Q So you moved from Spartanburg County to Dayton,
- 6 Ohio --
- 7 A Yes, sir.
- 8 Q -- to work with Mr. Cline who was an authority on what
- 9 type of currency?
- 10 A On Standing Liberty Quarters.
- 11 Q Standard Liberty Quarters? Did he write the book on
- 12 it?
- 13 A Yes, sir.
- 14 Q Okay. Is it still being published?
- 15 A There's -- the third or fourth volume of his book is
- 16 out.
- 17 Q Okay. And so how did you get interested in this job?
- 18 A I was a coin collector locally and -- and regionally,
- 19 and I met Mr. Cline at the Blue Ridge Numismatic
- 20 Association.
- 21 Q Did you become friends with him?
- 22 A I became friends with him, and he kept asking me to go
- 23 to work for him. And in 1978 was when I went to work for
- 24 him.
- 25 Q And did that entail a move to Dayton, Ohio?

Thomas Stephen Acker  
Direct examination by Mr. Poole

- 1 A Yes.
- 2 Q And how long did you work for him?
- 3 A Two years. I then went to work for -- for Royal Coins  
4 in Houston, Texas.
- 5 Q Okay. Now, what -- what kind of work does this  
6 entail? I mean, you're dealing with coins and you're  
7 selling them, is that right?
- 8 A That's right.
- 9 Q And there's a -- a group of people out there that are  
10 consumers who buy these used coins?
- 11 A Correct.
- 12 Q And there are values affixed to these particular  
13 coins?
- 14 A There -- there's some coins that -- that are minted by  
15 the United States Mint that are worth a little bit. For  
16 instance, an 1881-S dollar is worth \$25 to \$30 now. The  
17 half dollar from that same year is worth from thirty  
18 thousand to a hundred thousand.
- 19 Q Okay. Are we talking about you dealing in the sale of  
20 currency that had been in circulation in the population?
- 21 A Either -- either minted by the U.S. Mint or printed by  
22 the Bureau of Engraving in paper money.
- 23 Q And the value of this, these coins and currency, would  
24 depend upon their condition? Is that a fair statement?
- 25 A Condition and rarity.

Thomas Stephen Acker  
Direct examination by Mr. Poole

1 Q Okay. Are you an expert in that area?

2 A Well, after my work at Royal Coins I went for five  
3 years as an authenticator at the American Numismatic  
4 Association, which is the national coin collectors  
5 organization in Colorado Springs, Colorado.

6 Q And what was your title, sir? What was your title?

7 A The American Numismatic Association. That's the  
8 national coin collectors organization. And their head  
9 quarters is in Colorado Springs, Colorado.

10 Q And what was your title?

11 A Authenticator and grader.

12 Q Did that require an expert status?

13 A Yes, sir.

14 Q How long did you serve in that capacity as an  
15 authenticator and grader?

16 A Five years.

17 Q All right. Where are we now on the calendar? How --  
18 what year are we at?

19 A '87 to '92.

20 Q In 1992 where did you move to?

21 A I was a salesman for -- for Ed Hipp's Rare Coins in  
22 Dallas, Texas.

23 Q Did you live in Dallas?

24 A Yes.

25 Q How long did you live in Dallas, sir?

Thomas Stephen Acker  
Direct examination by Mr. Poole

- 1 A One year.
- 2 Q Who was Ed Hipps?
- 3 A Another professional numismatist.
- 4 Q Is it name well known in those circles?
- 5 A Yes, sir.
- 6 Q Okay. After that one year, where did you go, sir?
- 7 A Phoenix, Arizona.
- 8 Q What did you do there?
- 9 A I worked for First Federal Rare Coins.
- 10 Q What was your job capacity?
- 11 A Salesman.
- 12 Q What were your job duties?
- 13 A I'm sorry?
- 14 Q What were your job duties following 1992 at First  
15 Federal Rare Coins?
- 16 A I moved briefly back to -- to Colorado Springs and --  
17 and then went to work for David Hall who is a big name  
18 numismatist.
- 19 Q Okay. And what did you do there?
- 20 A Sold coins.
- 21 Q Okay. Basically, what you'd been doing for at least a  
22 decade by this time, right?
- 23 A Yes, sir.
- 24 Q All right. And where did you move from that location?
- 25 A My mom had a stroke and had to be put in a nursing

Thomas Stephen Acker  
Direct examination by Mr. Poole

- 1 home, so I came back to Spartanburg.
- 2 Q what year was that, sir?
- 3 A '89.
- 4 Q Are you sure it was '89 and not later?
- 5 A I'm sorry?
- 6 Q Are you sure it was 1989?
- 7 A '89 or '90.
- 8 Q Okay. All right. 1989 or '90. So when did you come  
9 back to Spartanburg?
- 10 A My mom was put in a nursing home, and I lived in her  
11 house at [REDACTED] Drive.
- 12 Q She was living at [REDACTED] Drive. And in '89 or  
13 '90 you went back to live there. Did your mother ever come  
14 back home?
- 15 A No.
- 16 Q what year did she die, sir?
- 17 A '91, I think.
- 18 Q Okay. So you've lived on [REDACTED] Drive since about  
19 1990.
- 20 A Yes, sir.
- 21 Q And that's still your address, is that right?
- 22 A Yes, sir.
- 23 Q Now, how many children did you have by this time?
- 24 A I just had one son.
- 25 Q Do you have any other children now?

Thomas Stephen Acker  
Direct examination by Mr. Poole

1 A No.

2 Q Okay. Throughout the years, the 90s and the early  
3 2000s, did you continue out of [REDACTED] Drive as a  
4 numismatist?

5 A Yes, sir. I own my own company called Acker's Rare  
6 Coins. And I worked out of my house.

7 Q Okay. And how successful was your business?

8 A Well, it was a small business but I -- I have a lots  
9 of friends and -- and colleagues and -- and some -- some  
10 customers for gold and silver coins.

11 Q And how -- how did you get your name out there? Did  
12 you have a network of friends throughout the country?

13 A Well, the coin business has -- has many, many shows  
14 during the year all across the country, and you can decide  
15 which ones you want to go to yourself. And that's what I  
16 did.

17 Q Okay.

18 A I -- I sell to the public and -- and obtain coins from  
19 -- from other coin dealers across the country.

20 Q How did you advertise?

21 A News -- newspaper, Coin world, and just through  
22 personal contacts.

23 Q Okay. All right. Do you remember -- do you remember  
24 when you first met -- I think her name is Susan. That's  
25 Minor's grandmother.

Thomas Stephen Acker  
Direct examination by Mr. Poole

1 A Yes. I met Susan at First Baptist Church North  
2 Spartanburg in the singles group.

3 Q Okay. And did y'all date?

4 A Yes. We dated for a couple of years before we got  
5 married.

6 Q And what year did you get married?

7 A I'm sorry, sir. I don't remember. But -- but we were  
8 married for five years.

9 Q Okay. And so during this entire time did she live  
10 with you at [REDACTED]?

11 A After we got married she -- she did move -- move in  
12 with -- with me on [REDACTED].

13 Q Would Minor, her granddaughter, ever come over to  
14 [REDACTED]?

15 A Minor would -- would come occasionally when -- when  
16 either Susan or I picked her up from -- from kindergarten.

17 Q Okay. Sometimes you would pick her up from  
18 kindergarten?

19 A Sometimes.

20 Q And why -- why would you or her grandmother pick her  
21 up from kindergarten?

22 A Because her -- we were trying to help her mother with  
23 her schedule.

24 Q Okay. Now, you know what you're accused of doing.  
25 Aren't you, Mr. Acker?

Thomas Stephen Acker  
Direct examination by Mr. Poole

- 1 A I'm sorry, now?
- 2 Q You know what you're on trial for, don't you?
- 3 A Well, I know what the charges are but -- but there's  
4 no truth to them.
- 5 Q All right. Did you ever sexually assault your  
6 step-granddaughter, Mr. Acker?
- 7 A I never, ever touched my granddaughter in a -- in a  
8 sexual way.
- 9 Q Are you guilty of that charge?
- 10 A I am not guilty of that charge.
- 11 Q Do you know why you're being tried today and  
12 yesterday?
- 13 A I don't understand why I have been charged for  
14 something that I did not do.
- 15 Q When Minor was picked up from kindergarten would  
16 Susan work in the house at [REDACTED]?
- 17 A Susan's office was -- was in a back apartment on my  
18 house. My office was on the front porch of my house.
- 19 Q Did you ever approach your middle bedroom and sexually  
20 assault Minor?
- 21 A I never assaulted Minor. I never touched that girl  
22 sexually.
- 23 Q The house on [REDACTED], how far away from the street  
24 is it?
- 25 A The front door to -- to my house and my office is

Thomas Stephen Acker  
Direct examination by Mr. Poole

1 about 20 feet from [REDACTED] Drive.

2 Q And your office is in the front of your house?

3 A The -- my office is like a Florida room that was  
4 closed in with windows and doors.

5 Q Is it mostly glass or mostly brick?

6 A Well, the house is brick, but the outside structure to  
7 that porch is mostly glass.

8 Q Is it fair to say that your office is mostly glass  
9 facing the street?

10 A Yes, sir.

11 Q Is it fair to say that the -- your office faces --

12 A Is it fair to say --

13 Q Which way does your office face?

14 A I'm sorry?

15 Q What direction does your office face to?

16 A I would say mostly south.

17 Q Okay. So if you're looking out the front of your  
18 office, east would be to your left?

19 A Yes, sir.

20 Q Okay. And the sun would come in the direction --

21 A Around -- around the house and -- and to the west.

22 Q So your office was always well illuminated?

23 A Yes, sir.

24 Q Both naturally and by inside lights? Is that fair to  
25 say?

Thomas Stephen Acker  
Direct examination by Mr. Poole

- 1 A Yes, sir.
- 2 Q Can your office be seen from the street?
- 3 A It can be seen from the street.
- 4 Q Did you ever -- do you have a computer in there?
- 5 A I did.
- 6 Q Did you ever show your step-granddaughter pornography
- 7 on that computer?
- 8 A I never showed her anything on my computer.
- 9 Q Okay.
- 10 A No pornography.
- 11 Q Now, I need to ask you this.
- 12 Did you tell Susan that you had an addiction to
- 13 pornography?
- 14 A I told Susan that I had had some problems, but it is
- 15 not entirely pornography.
- 16 Q Okay. Did you ever show pornography to anybody in
- 17 your house?
- 18 A No, sir.
- 19 Q Did you ever put your step-granddaughter into a
- 20 chokehold and make her watch it?
- 21 A I never held my granddaughter in the chair for any
- 22 reason.
- 23 Q What kind of chair sits in front of your computer?
- 24 A A -- a business type swivel chair.
- 25 Q And how high is that chair?

Thomas Stephen Acker  
Cross-examination by Ms. Miles

- 1 A Just -- just -- just a regular.
- 2 Q About like the chair you're sitting in?
- 3 A Almost like I'm sitting in now.
- 4 Q Okay. And was that chair there back in 2004?
- 5 A Yes, sir.
- 6 Q Okay. And, finally, are you guilty of criminal sexual  
7 conduct against your step-granddaughter?
- 8 A I am not guilty.
- 9 Q Are you guilty of showing her pornography?
- 10 A I am not guilty of showing her pornography.
- 11 Q Bear with me, sir. Okay?
- 12 (Pause.)
- 13 Q No further questions.
- 14 MS. MILES: Briefly, Your Honor.
- 15 CROSS-EXAMINATION
- 16 BY MS. MILES
- 17 Q Mr. Acker, you testified that your son lives in North  
18 Carolina, is that correct?
- 19 A I'm sorry? You -- you need to speak up, please,  
20 ma'am.
- 21 Q Okay. Your son. He lives in North Carolina?
- 22 A He lives in Nashville, North Carolina. He teaches  
23 high school history.
- 24 Q And your testimony is that you two are still close?
- 25 A You have to repeat, ma'am.

Thomas Stephen Acker  
Cross-examination by Ms. Miles

1 Q Okay. Your testimony is that you and your son are  
2 still close?

3 A I'm sorry. I didn't -- I could not understand your  
4 question.

5 THE COURT: You can bring that podium as close as you  
6 want to. You don't have to stand there necessarily since  
7 you're not in front of a microphone anyway.

8 THE WITNESS: Thank you.

9 Q Your son in North Carolina, is it your testimony that  
10 you two are still close? Are you close with your son?

11 A Not -- not like some families are but I -- I speak and  
12 write occasionally, and he speaks and writes occasionally.

13 Q Okay. Now, I want to go back through some of the  
14 things that your lawyer talked with you about.

15 You and Susan were married in the early 2000s, correct?

16 A Uh-huh.

17 Q Until around 2007 and 2008. So y'all were married  
18 during 2004.

19 A Yes.

20 Q And living together.

21 A Yes.

22 Q Okay. At the [REDACTED] house that your attorney asked  
23 you about?

24 A Yes.

25 Q Okay. And you testified that Susan worked from your

Thomas Stephen Acker  
Cross-examination by Ms. Miles

1 home.

2 A Yes.

3 Q Okay. What did she do?

4 A She did insurance charges for a -- a doctor's practice  
5 out of Atlanta.

6 Q Okay. And she did that in the back. It's like an  
7 attached part of the house?

8 A There's -- there's an apartment on the back of my  
9 house that I built for my aunt and -- and that's where  
10 Susan's office was.

11 Q So it separated from the main house.

12 A Well, it's not separated. It's adjoining.

13 Q Okay. With some stairs leading to it. Okay. And is  
14 that where Susan would work from?

15 A That's where Susan worked from.

16 Q Okay. And you worked from home as well, correct?

17 A That's correct, but I worked from the front porch.

18 Q Okay. From the opposite side of the house.

19 A Yes.

20 Q Okay. And you testified that was in a sunroom?

21 A Uh-huh.

22 Q Okay. And you testified your computer was in there,  
23 is that correct?

24 A Yes.

25 Q Okay. How was your computer facing?

Thomas Stephen Acker  
Cross-examination by Ms. Miles

- 1 A I'm sorry?
- 2 Q How was your computer facing?
- 3 A How was it stationed?
- 4 Q Facing. Were you facing looking out towards the  
5 street?
- 6 A Yes.
- 7 Q Was the computer facing out towards the street?
- 8 A There's a -- a -- a door going in -- into the room,  
9 and to the right of that is my microscope and my lighting  
10 facility to take pictures of coins, and then my computer,  
11 and then my burglar alarm system. Behind that is a desk,  
12 and it's my work area.
- 13 Q Okay. So you could see out to the street while you  
14 were looking at your computer?
- 15 A Absolutely.
- 16 Q Okay. So if a person was looking in they could see  
17 you but not your computer screen, correct?
- 18 A I'm sorry?
- 19 Q If a person was walking by looking in they could see  
20 you but not your computer screen?
- 21 A They -- they would see the back of the computer, like  
22 the back of a television set.
- 23 Q Okay. And you had blinds, correct?
- 24 A I'm sorry?
- 25 Q Did you have blinds?

Thomas Stephen Acker  
Cross-examination by Ms. Miles

1 A Yes.

2 Q Okay. On those windows in the front of your house?

3 A Yes, because -- because most of the day the sun shines  
4 directly into the windows.

5 Q Right. Okay. And you're familiar with Susan's  
6 granddaughter, Minor, correct? Are you familiar with  
7 Minor ?

8 A Yes.

9 Q Okay. You testified that on occasion you or Susan  
10 would pick her up from kindergarten.

11 A Yes. From Covenant Presbyterian Church, which is out  
12 close to the steeple on West Main Street.

13 Q Okay. So sometime during her kindergarten year she  
14 would come to your home, correct?

15 A Uh-huh.

16 Q Okay. After kindergarten?

17 A After kindergarten.

18 Q And she would nap there?

19 A There was a place for her if she desired to, yes.

20 Q Okay. A bedroom?

21 A It's a -- yes. Bedroom No. 3 to my house, I guess you  
22 might call it.

23 Q And that's while Susan was working in her office,  
24 correct?

25 A Correct.

Thomas Stephen Acker  
Cross-examination by Ms. Miles

- 1 Q Okay. I believe your attorney asked you about you  
2 telling your exwife about an addiction to pornography. You  
3 had an addiction to pornography, correct?
- 4 A I -- I had some contact with pornography from early  
5 ages.
- 6 Q Okay. I believe you stated that you had been addicted  
7 to it for over 50 years -- 52 years, is that correct?
- 8 A I can't -- I didn't hear that.
- 9 Q Okay. I believe you had told her that you had been  
10 addicted for 52 years. Does that sound correct? Okay.  
11 Including the years of 2004 and 2005?
- 12 A Yes.
- 13 Q Okay. Mr. Acker, these allegations came up in 2014,  
14 correct?
- 15 A Right.
- 16 Q Okay. Six or seven years after you had separated?
- 17 A Almost ten years after.
- 18 Q No. I'm asking you. Six or seven years after -- ten  
19 years after the assaults took place?
- 20 A No assault ever happened.
- 21 Q Okay. Six or seven years after the divorce took  
22 place, is what I'm asking you. 2014 would have been around  
23 six or seven years after you got divorced, correct?
- 24 A Yes.
- 25 Q Okay. And you hadn't had any contact with Minor

Thomas Stephen Acker  
Cross-examination by Ms. Miles

1 since 2007 or 2008, correct?

2 A I don't remember which year it was, but sometime  
3 before we were divorced was the last time I saw Minor .

4 Q So you had no contact with her any time in the years  
5 leading up to 2014.

6 A No, no contact.

7 Q Okay. Until out of the blue Minor made these  
8 allegations of sexual abuse.

9 A Out -- out of what?

10 Q Isn't it your testimony that out of the blue Minor  
11 made up these allegations of sexual abuse?

12 A I didn't hear you, ma'am.

13 Q Okay. You had testified that you had not seen Minor  
14 since 2007 or 2008. So is it your testimony that then out  
15 of the blue six or seven years later she makes up  
16 allegations of sexual abuse?

17 A It's -- it's almost ten years later, yes, ma'am.

18 Q Six or seven years when she came forward.

19 A And it's -- there's no truth to her statements of  
20 things that happened. They are all fantasy tales that she  
21 dreamed up.

22 Q Okay. Is it your testimony that you believe a teenage  
23 girl's fantasy would be --

24 A Slow down, slow down. I can't follow you.

25 Q Is it your testimony that you believe a teenage girl's

Thomas Stephen Acker  
Cross-examination by Ms. Miles

1 fantasy would be to tell people a 65-year-old man placed  
2 his fingers inside a girl at age five? Is that what your  
3 testimony is, that that would be a fantasy of hers?

4 A Ma'am, I did not understand that. Say it slowly  
5 again, please.

6 Q Okay. You stated that you believe this was a fantasy,  
7 is that correct?

8 A Well, she dreamed it up from somewhere.

9 Q Okay. So is it your testimony that you believe it  
10 would be a teenage girl's fantasy to tell people that a  
11 65-year-old man placed his fingers inside of her at the age  
12 of five?

13 A Well, she dreamed it up somewhere because she didn't  
14 get it from me. I never touched that girl.

15 Q Okay.

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

17 (Pause.)

18 MS. MILES: I believe that's everything from the  
19 state, Your Honor.

20 MR. POOLE: Nothing further, Your Honor.

21 THE COURT: You may step down.

22 MR. POOLE: The defense rests.

23 THE COURT: Any reply?

24 MS. MILES: Nothing from the state, Your Honor. Thank  
25 you.

1 THE COURT: Ladies and gentlemen, that is all of the  
2 testimony or evidence to be offered in the trial of the  
3 case.

4 what remains to be done are the lawyers' final  
5 summations, my instruction to you on the law and then your  
6 deliberations.

7 We're not going to be able to accomplish all of that  
8 this afternoon, plus I have some legal matters I have to  
9 address with the lawyers.

10 So we'll conclude with those in the morning at 9:30.

11 As you are excused for the afternoon and evening keep  
12 in mind you're still not to discuss the case with anybody.  
13 Don't conduct any research; don't do your own investigation  
14 into any issue.

15 Do have a good evening. Please report directly to  
16 your jury room at 9:30 in the morning, 9:30 in the morning.  
17 Have a good afternoon.

18 (The following takes place outside the presence of the  
19 jury.)

20 THE COURT: Motions?

21 MR. POOLE: Your Honor, I would move -- renew my  
22 motion for a directed verdict.

23 I renew all of the motions that I made at the close of  
24 the state's case. I made my motion at that point for a  
25 directed verdict. And I renew all prior motions that were

1 made at that time and at the times previous that was  
2 contemporaneous with the presentation of the state's case.

3 THE COURT: All right. That motion is denied.

4 Do y'all have instruction requests?

5 MS. MILES: I believe all the state would ask for is  
6 the definitions of the charges and then to include a  
7 definition of sexual battery and definition of what is  
8 obscene under the 16-15-305 and then just the regular  
9 direct and circumstantial evidence and everything.

10 MR. POOLE: I agree. I don't have anything that's out  
11 of the ordinary or outside of the Court's standard  
12 instructions. I don't know how different the language  
13 would be between the law as it existed in 2004 and as it  
14 exists right now.

15 MS. MILES: Yeah. I don't believe -- I believe it was  
16 really. I think it just changed the penalties of it from  
17 what I understand from Justice Waller. The language was  
18 still the same --

19 MR. POOLE: That's my recollection.

20 MS. MILES: -- of the law. I think it just changed  
21 the -- I think it took out the age -- offense and then  
22 added that it was 25 to life instead of zero to 25.

23 THE COURT: All right. Court is in recess until 9:30  
24 in the morning.

25 END OF PROCEEDINGS NOVEMBER 17, 2016

## Closing arguments

1 (Proceedings November 18, 2016)

2 (The following takes place outside the presence of the  
3 jury.)

4 THE COURT: All right. Any matters to address before  
5 the jury is brought in?

6 MS. MILES: None from the state, Your Honor.

7 MR. POOLE: None here, Your Honor.

8 THE COURT: Okay. Bring them in.

9 (The following takes place in the presence of the  
10 jury.)

11 THE COURT: All right. Good morning, ladies and  
12 gentlemen.

13 We're going to begin with the lawyers' final  
14 summations, followed by my instruction on the law, and then  
15 you'll begin with your deliberations.

16 So please give the lawyers your attention now as they  
17 give you their final summations.

18 Mr. Poole.

19 MR. POOLE: Thank you, Your Honor. May it please the  
20 Court -- Ms. Miles.

21 Madam forelady, ladies and gentlemen of the jury, good  
22 morning.

23 First of all I want to thank for you for the attention  
24 that you've shown during this case. It's been be a long  
25 week. It's been longer for some of you, and it's been

## Closing arguments

1 shorter for others.

2       However, we have been at this for -- this is the third  
3 day. And that's long enough for a case, for someone to  
4 have to sit in your position and listen to the evidence  
5 that's been presented.

6       And I want to thank for the attention that you paid  
7 during the presentation of the state's case and the  
8 presentation of our defense. You've paid attention and  
9 were aware of everything that's been said, and I thank you  
10 for that. And I thank you for the life experiences that  
11 you bring to this courtroom and that you will apply when  
12 you go back to the jury room to deliberate and make the  
13 final decision in the case of the State vs. Thomas Stephen  
14 Acker.

15       At the beginning of this trial Judge Cole stated to  
16 you that the burden of proof is on the state to prove the  
17 defendant's guilt beyond a reasonable doubt.

18       He also said something to the effect it might not be  
19 possible for Mr. Acker to prove his innocence or that he is  
20 not guilty. In other words, it could be impossible. And  
21 that's why the burden is on the state.

22       Then I said to you in opening something to the effect  
23 that how does Mr. Acker defend himself against accusations  
24 that supposedly occurred 14 years ago. I told you then I  
25 don't know. I tell you now I really don't know except we

## Closing arguments

1 just did the best we could.

2 I want to call what I'm going to say to you sort of  
3 addressing the issue of the incoherence of the state's  
4 case.

5 If this case had been reported earlier it would have  
6 been an entirely different situation. Witnesses could have  
7 been called to -- on Mr. Acker's defense. There could have  
8 been a medical examination and results of that examination  
9 submitted to you through the appropriate medical examiner  
10 and the specified dates could have been provided to you  
11 instead of a period of time covering a span of ten months,  
12 300 something days that occurred 14 years ago.

13 I wrote down as the witnesses were testifying and  
14 speaking about the incoherence of the state's case that  
15 finally when things started coming to light supposedly and  
16 Minor started telling these allegations and stated these  
17 allegations -- the mother testified first. She was the  
18 first witness. And I didn't write down when it was first  
19 disclosed to her. I'm sure she said it. But it was in  
20 2014, sometime then.

21 The father stated that it was October 20. That's to  
22 the best of my notes and recollection.

23 Law enforcement, Ms. Dillard, stated that it became --  
24 she became aware of it on November 7.

25 Heather Flassing who worked at the Children's Advocacy

## Closing arguments

1 Center stated that she became aware of it on November 20th.

2 Kym McManus stated it was disclosed to her on  
3 September 11, 2014, all years, 2014, different dates,  
4 different disclosures, different times. But that's just  
5 part of the entire incoherence of the state's case.

6 we have Minori's testimony, and she stated to you what  
7 occurred, she says occurred. And she probably believes  
8 that that's what occurred to her. And I'm not going to go  
9 into details. I don't like to talk about it. But you're  
10 going to have to talk about it, and you're going to have to  
11 think about it.

12 she didn't say anything about it until 2014, again,  
13 ten years after it supposedly occurred. And she has this  
14 young lady who is now 17, was 15 at the time she disclosed  
15 it. She was an adolescent and is an adolescent, I believe,  
16 but one of the most turbulent and hardest times of a  
17 person's life.

18 she has braved extremely painful operations for her  
19 medical condition. She has bravely stood up to her  
20 physical condition, has plans for the future. And I hope  
21 -- hopefully she will succeed in everything that she does.

22 she apparently, to everything that I can see, comes  
23 from a very loving family, and they support her, as anybody  
24 would. So she has every opportunity to fulfill all of her  
25 wishes.

## Closing arguments

1 But, again, this case is not based upon emotion. When  
2 it comes to your role you must use your intelligence,  
3 reason and common sense to arrive at your decision in  
4 deciding the state has proved its case beyond a reasonable  
5 doubt.

6 There have been -- and why this delayed disclosure,  
7 there have been two types of assault that she has  
8 described.

9 One is the sexual assault that she described occurred  
10 a few times over the course of ten months. I can't say  
11 that enough. Over the course, sometime over the course, of  
12 ten months when she was in kindergarten.

13 And it occurred, another -- the other one was an  
14 assault of a physical nature when she said that Mr. Acker  
15 forced her to watch porn on his computer in a chair about  
16 like this, an average office chair. And she described the  
17 way that Mr. Acker attacked her and forced her.

18 Mr. Acker. You saw him yesterday. He is about 6 feet  
19 tall. I'm barely pushing 5'11". He would have had to have  
20 been down so far, come up under her neck thusly. And she  
21 would be a five-year-old.

22 why would a 65-year-old man, 6'2", come down on such a  
23 child and put her in a chokehold? It doesn't make any  
24 sense. That type of hold is one of the most common holds  
25 that if you even scan the television and you come across

Closing arguments

1 any of these numerous and ever present U.F.C., fightings in  
2 cages, that's -- you see that all of the time. That's an  
3 attack hold. This doesn't make sense.

4 And if there was some reason to not report the sexual  
5 assault, what was the reason for not reporting a vicious  
6 attack, a physical attack, upon her? It seems to me that  
7 that should have and could easily have been reported, but  
8 it didn't. It wasn't anything -- nothing was said about it  
9 until ten years later.

10 The -- the situation there at the house on [REDACTED]  
11 is incoherent. She would be picked up, depending on who  
12 was testifying, by either Mr. Acker and the grandmother or  
13 the grandmother only.

14 Now, mind you, she's in kindergarten. we all know  
15 that there's no homework in kindergarten. Minor testified  
16 that she would do her homework with her grandmother down in  
17 the basement. The grandmother stated that the basement is  
18 not a suitable place to go down into, much less a suitable  
19 place to do homework.

20 Now, why do I bring up these side issues? Because  
21 it's important because this is part of the disclosure.  
22 It's part of the whole body of what Minor stated. And if  
23 it's incoherent here and it's incoherent there, then how  
24 can we believe that it actually took place?

25 Now, furthermore, Mr. Acker by profession, vocation,

## Closing arguments

1 his job, is a numismatist. I have never in my life met a  
2 defendant who was a numismatist. And he has great training  
3 in that area, and that was his profession.

4 He has to be able to look at currency and coins, study  
5 them, write them, assess them and give value to them.

6 That's his job.

7 To do that in the best way he has to have plenty of  
8 light, and his house is situated where most of the front of  
9 the house is a window. Used to be a porch. It's called a  
10 Florida room. Florida equals sunshine. It faces the  
11 Southwest.

12 And during this time of year if you're out driving,  
13 especially in the morning and especially the afternoon,  
14 there is great glares because that sun is coming up out of  
15 the Southeast and going down into the Southwest.

16 This house was 25 feet from the street, and people in  
17 the Converse Heights area walk around there, and there are  
18 cars going up and down the street. And he is supposed to  
19 have shown here the pornographic material on his computer  
20 while he had her in a chokehold when it could be visible to  
21 anybody out there.

22 Now the answer to that is, well, the blinds could have  
23 been drawn. Ladies and gentlemen, there's too much  
24 could-have-beens here. There's too much speculation that  
25 you're required to do. And it's not speculation that

## Closing arguments

1 brings conviction against a defendant in general sessions  
2 court. It's proof. It's proof.

3 And then we come to the expert. Y'all bear with me a  
4 minute. I have to use glasses and notes because of --  
5 well, you all know.

6 (Pause.)

7 MR. POOLE: The expert. Now, what about Shauna  
8 Galloway-Williams? What does she do in this case?  
9 Nothing.

10 She didn't speak to Minor; she didn't speak to  
11 Minor's parents, Mr. and Ms. Mathis; she didn't speak to  
12 law enforcement; she didn't speak to any counselors. She  
13 doesn't know anything about the allegations.

14 Why was she here? What did she bring to the table to  
15 aid y'all in making your decision?

16 If she had written a book and if it had been peer  
17 reviewed that she talked a lot about, she might as well  
18 have just sat this book that she could have, may have  
19 published, should have been peer review, put it right here,  
20 opened up and said one by one come and read this book,  
21 because all of that book would contain is what she has  
22 read.

23 She has done counseling before, but she didn't do it  
24 in this case. If she had done it in this case she could  
25 have brought something to help you make a decision.

## Closing arguments

1 I don't understand what in the world she was doing  
2 here in this courtroom. She professed to be an expert, and  
3 I don't know exactly what the area was. I couldn't  
4 understand it -- children's sexual abuse dynamics or  
5 something like that. She was qualified as an expert, and  
6 she really talked, but she talked about everything but this  
7 case.

8 She talked about risk factors. Substance abuse is a  
9 risk factor. Age is a risk factor. Disability, emotional  
10 problems are risk factor for victims.

11 Grooming. What does that have to do with this case?  
12 Nothing, nothing.

13 She talked about delayed disclosures. A little bit  
14 about that. She talked about the disclosure is made late  
15 sometimes because the perpetrator is someone that the  
16 complainant loves. The complainant may fear for themselves  
17 or others, the impact on the family, may feel threatened  
18 for themselves or for others.

19 And is that something that's outside what y'all  
20 already know? Experts are supposed to come into the  
21 courtroom and give the finders of fact information they can  
22 use to take back to the jury room because of that  
23 particular person's scientific or training or whatever to  
24 help you come to a conclusion. She hasn't said anything  
25 that I dare say every one of y'all already know. She

Closing arguments

1 hasn't added anything whatsoever to it.

2 what I heard, she talked about what she had read and  
3 claimed about its veracity as being peer reviewed. That's  
4 all that amounted to. And so take it for what it is worth,  
5 which I submit is nothing.

6 The final witness in this case was the monster. Do  
7 you remember that? Ms. Miles called Mr. Acker the monster  
8 in her opening statement, which I submit to you should have  
9 been her closing argument if she's going to call someone a  
10 monster.

11 He testified, did the best he could. He'll be 76  
12 years old next month. He told you about his life. I won't  
13 go through his whole biography, but he told you about his  
14 education. He told me he got his degree in business  
15 administration.

16 He was a supervisor at Spartanburg Regional Hospital.  
17 Used to be called that. Now it's called Spartanburg  
18 Regional Healthcare System because it's so big.

19 He was a supervisor for five years in five areas of  
20 the hospital on call 24 hours a day, seven days a week, in  
21 charge of 25 people serving in clerical and healthcare  
22 providing.

23 He left when he was 34 years of age, went to White Bag  
24 Company for two years. He got married, had a son.

25 And then at 38 he began his career as a numismatist,

## Closing arguments

1 and he told you what all of that was about. And about 1978  
2 moved to Dayton, Ohio, and worked with one Mr. Cline who  
3 was a national authority in this area.

4 He worked with him for two years and then went to  
5 Houston and worked for Royal Coins where he appraised the  
6 condition, value and authenticity of coins and currency.

7 Then Colorado Springs, a national organization for  
8 numismatism. It's hard for me to pronounce it, but I think  
9 that would be the noun for it. He was auth -- authen --  
10 authenticator and engraver for all of these years.

11 He was a salesman in Dallas for Ed Hipps. In Phoenix,  
12 Arizona. He's traveled to the Midwest. He's traveled to  
13 the West. He's worked here. He's got his college degree.

14 And if you were so moved as to become interested in  
15 this area of collection and trade, you can go now to Barnes  
16 and Noble and go to the very back on the right-hand side  
17 where they have a hobby section on books, and you'll find  
18 books and these folders that fold out where you can insert  
19 quarters and all of that sort of thing with the name of  
20 some of these very people on those books and on those  
21 folders.

22 He was at the top level. He was at the top level in  
23 this field. And he was at the top level in the trading  
24 that he was doing out of the house on [REDACTED] when he  
25 started in 1991. And he was still doing it until he was

## Closing arguments

1 charged with this reprehensible crime or reprehensible  
2 crimes.

3 And he was asked why does Minor -- why does Minor  
4 say what she said, and he doesn't know. I mean, it goes  
5 back to how -- to how do we defend him after all of this  
6 time.

7 He said perhaps it was a fantasy, and then he was  
8 pressed on the word of the use of fantasies. So the  
9 75-year-old man basically is saying there was a fantasy  
10 because it did not happen.

11 He sat right there. He looked you in the eye, and he  
12 said I did neither one of these things. He didn't have to  
13 take the witness stand, but he looked you in the eye, and  
14 he said I didn't do it.

15 Now, if you got your mind made up already that's not  
16 the proper way to be. I'm not telling you how to live your  
17 life, because we all bring prejudices, biases everywhere we  
18 go.

19 But/and there's one thing I need to back up and say  
20 about the expert. She said that she was aware that there  
21 have been cases where there has been delayed reporting and  
22 where abuse did not occur. She said that.

23 Now, that's about all I've got to say on -- as far as  
24 the record before you consists of. I think I would be  
25 needlessly repetitive if I did much more. But as a

## Closing arguments

1 personal appeal to you I say to you that due to all of  
2 these inconsistencies, the incoherence of the state's case,  
3 what's been shown to you is not enough to cause you to find  
4 this man -- 75 years old, 76 next month -- guilty beyond a  
5 reasonable doubt because you need to hesitate to act on  
6 that decision.

7 Thank you once again for listening to me. Thank you  
8 for paying attention. God bless you. Thank you.

9 THE COURT: Ms. Miles.

10 MS. MILES: May it please the Court, defense, members  
11 of the jury.

12 Dr. Martin Luther King, Jr. once said our lives begin  
13 to end the day we become silent about the things that  
14 matter.

15 The defendant wanted Minor to stay silent. He  
16 threatened to kill her nanny if she didn't. And she did  
17 stay silent for a while until it was too much for her to  
18 bear, and she finally broke that silence.

19 And when she broke that silence she told of her nanny  
20 working in her back office and how when she was in there  
21 napping at five years old, a mere kindergartener, the  
22 defendant would come in, pull his pants down, pull her  
23 pants down putting his fingers inside of her, moving them  
24 back and forth, grunting and moaning, how it made her feel  
25 sick at her stomach, how she would -- how he would try and

## Closing arguments

1 get her to touch him and would then touch himself,  
2 masturbating until he ejaculated.

3 She told how that the ejaculate felt sticky when it  
4 landed on her, how he would sit her in a computer chair and  
5 made her watch pornography on the computer telling her how  
6 she should be like that.

7 She broke that silence that she had carried with her  
8 for years, that silence that Shauna Galloway-Williams  
9 explained when she explained the dynamics of child sexual  
10 abuse, how common delayed disclosure is in child sexual  
11 abuse, how fear of what can happen to them, fear of what  
12 could happen to people that they love, to keep a child  
13 silent about the things that are happening to them even if  
14 they're horrible things.

15 She also testified about grooming, how pornography can  
16 be used to groom children to think that child sexual abuse  
17 is normal, that it's something that happens to everyone.

18 She also testified about behaviors that a child can  
19 exhibit after they have been sexually abused, how they can  
20 exhibit self-harm, hurt themselves.

21 You heard Minor when she broke her silence. And you  
22 also heard from the defendant himself. He talked a lot  
23 about his jobs, his coins, his wives. He talked about his  
24 computers in this room with all of these windows but then  
25 admitted that his computer didn't even face the windows and

## Closing arguments

1 that there were blinds covering the windows.

2 You heard him admit that he had a problem with  
3 pornography for 50 years, including the years of 2004 and  
4 2005 when Minor told you is when he would show her the  
5 pornography.

6 You heard him say that this must be some fantasy that  
7 Minor made up, a fantasy that a child made up seven years  
8 after he was completely out of her life, after he was out  
9 of her nanny's life. What does she have to gain by that?  
10 Ask yourself what is reasonable.

11 The defense has brought up reasonable doubt and how  
12 it's a doubt that causes you to hesitate to act. The judge  
13 will tell you more about reasonable doubt.

14 Proof beyond a reasonable doubt is proof that leaves  
15 you firmly convinced of the defendant's guilt. This  
16 evidence doesn't need to eliminate all possible doubt  
17 because everything in life is open to some sort of possible  
18 or imaginary doubt.

19 It doesn't mean you'll all have to agree on the  
20 evidence. You just have to agree on what the evidence  
21 means. You don't have to agree on how you reason; you  
22 don't have to agree on how much weight you give to what a  
23 particular witness said. All you have to agree on  
24 collectively is that you're firmly convinced of the  
25 defendant's guilt.

## Closing arguments

1           Mr. Poole says there's no proof. You would have to  
2 believe that a child's voice doesn't matter. But that's  
3 not the law in South Carolina. You can consider all types  
4 of evidence including what that child testified to you  
5 about what happened to her.

6           In a few minutes the judge will tell you more about  
7 the law in his jury charges. He'll tell you about criminal  
8 sexual conduct with a minor in the first degree, which  
9 occurs when a person engages in a sexual battery with a  
10 child under the age of 11.

11           He'll tell you more about sexual battery, which  
12 includes any intrusion, however slight, into the genital  
13 openings.

14           The judge will also tell you more about the crime of  
15 disseminating obscene material to a person under the age of  
16 12 which occurs when a person 18 years or older  
17 disseminates material that he knows or should know is  
18 obscene to a person under the age of 12.

19           Mr. Poole asked you not to consider this case based on  
20 emotion or common sense, and he is absolutely right. Use  
21 that common sense. Think about what is reasonable, what is  
22 reasonable to believe, what reasons are people saying the  
23 things they're saying, what reasons make sense and what  
24 reasons don't.

25           The defense brought up these actions occurred so long

## Closing arguments

1 ago, and they did. But the brain has a strange way of  
2 remembering things that are important to us. We remember  
3 wedding dates. We remember our child's birth. Some of  
4 these things are happy things. Some aren't.

5 Mr. Poole brought up the only things he can remember  
6 back then are from 9/11, the war in Iraq. Why does he  
7 remember those things? For the same reasons that all of us  
8 remember where we were when 9/11 happened. Because it was  
9 a traumatic event, for the same reason why Minor can  
10 remember after all of these years and is still haunted by  
11 the things that the defendant did to her five-year-old body  
12 for his own sexual pleasure.

13 My oldest daughter is five years old. She's obsessed  
14 with picking random things off of the ground. She'll --  
15 sometimes she calls it her treasures. And sometimes it's a  
16 random hair tie from the playground or it'll be a rock out  
17 of the flowerbed. She sticks them in her pockets. And  
18 she'll share them with her little sister. We'll walk in a  
19 parking lot and she'll just grab something off of the  
20 ground. And before I can even stop her she's already  
21 picked it up.

22 One day we were in a parking lot and she went to grab  
23 something, and I said, "Addie, don't grab that. That's  
24 trash." And, sure enough, she grabbed it anyway. She  
25 said, "Mommy, it's not trash. It's a penny." And, sure

## Closing arguments

1 enough, it was a penny. It was one -- had to be older. It  
2 had that gunk on it that pennies get. It'd probably been  
3 out there for a while. But she could see that it was a  
4 penny.

5 The defense has talked about Minor, the place where  
6 she did homework. She called it a basement, the attached  
7 apartment. But she also told you it was the place where  
8 her nanny did, being her office, where she would go in  
9 there.

10 Talked about whether -- do kindergarteners have  
11 homework. My child in pre-K occasionally will bring home  
12 homework. I don't love it because I have to help her with  
13 it, but she does occasionally have homework.

14 The defense has talked about, you know, a lot of  
15 things -- time passage, medical surgeries, Minor being a  
16 teenager, all of this gunk. But what remains under that  
17 gunk? What remains is what happened to five-year-old  
18 Minor at the hands of Thomas Acker.

19 That's the penny that no matter how much you try and  
20 gunk it up, try and tarnish it, try and cover it up and  
21 disguise it, Minor and what happened to her, that still  
22 remains.

23 Being silent about the things that matter, Minor  
24 broke that silence. She told her counselor; she told her  
25 forensic interviewer; she told her mom; and she told each

## Jury charge

1 one of you. And it matters. And now it's time for you to  
2 break your silence, for you to go back into your jury room,  
3 sort through the gunk and see what's underneath. And once  
4 you do that I'm firmly convinced that you will find Thomas  
5 Acker guilty of one count of criminal sexual conduct with a  
6 minor in the first degree and one count of dissemination of  
7 obscene material to a person under the age of 12. Thank  
8 you.

9 THE COURT: Madam forelady and ladies and gentlemen of  
10 the jury, you of course have heard and seen all of the  
11 evidence in the case.

12 You've now heard the final summations of the lawyers;  
13 and therefore it now becomes my duty and obligation to  
14 instruct you on the law that's applicable in the case. And  
15 then you'll be asked to go back and to begin with your  
16 deliberations. Through that process you'll examine all of  
17 the evidence, you'll decide the facts, you'll apply the law  
18 and arrive at a fair and just decision, whatever that  
19 decision may be.

20 It is your exclusive duty to determine what the facts  
21 are. You do that through your own common sense examination  
22 and evaluation of all of the testimony and evidence  
23 received during the course of the trial.

24 You 12 jurors alone will decide what weight, value and  
25 effect to give to any particular testimony or other

## Jury charge

1 evidence in the case. Your sole objective is to simply  
2 consider all of the evidence, apply the law and arrive at a  
3 fair and just decision, whatever that decision may be.

4 Now, in this case, as you know, the state by way of  
5 these indictments through the prosecutor has charged the  
6 defendant, Thomas Stephen Acker, with two separate and  
7 distinct offenses, although they are alleged to have arisen  
8 out of one particular event or a course of events which the  
9 state alleges occurred back between October the 1st of 2004  
10 and May the 31st of 2005. But there are two separate and  
11 distinct criminal offenses for which you will be called  
12 upon to render two separate and distinct verdicts or  
13 decisions.

14 One indictment charges Mr. Acker with criminal sexual  
15 conduct with a minor in the first degree.

16 The state alleges in that indictment during the time  
17 period as I've already stated that Mr. Acker did wilfully  
18 and knowingly commit the crime of criminal sexual conduct  
19 with a minor in the first degree in that he did engage in a  
20 sexual battery with a minor, Minor who was less  
21 than 11 years of age at the time of the commission.

22 He is also charged in a separate indictment with the  
23 dissemination of obscene material to a minor 12 years of  
24 age or younger. Again, they allege during the same  
25 timeframe that he did wilfully and knowingly commit the

## Jury charge

1 crime of dissemination of obscene material to a minor 12  
2 years of age or younger in that he did, being over the age  
3 of 18 years did, knowingly disseminate or attempt to  
4 disseminate to a minor 12 years of age or younger material  
5 which he knew or should have known to be obscene within the  
6 meaning of the law.

7 Now, as to those allegations and as to each of those  
8 charges the defendant has entered a plea of not guilty. As  
9 I told you, that plea of not guilty has placed upon the  
10 state the burden of proving the allegations that they have  
11 made by way of each of those indictments, the burden of  
12 proving each of the essential elements of the crimes  
13 alleged against the defendant; and therefore the burden is  
14 upon the state to establish the defendant's guilt to the  
15 satisfaction of you 12 jurors beyond a reasonable doubt  
16 before any verdict of guilty could be returned as to either  
17 of the separate indictments.

18 The burden is never upon a defendant or a person  
19 accused of a crime to prove that they are not guilty or to  
20 prove they are innocent because in many cases that might  
21 not be possible.

22 The burden is always upon the state because they made  
23 the accusation and they brought the charge to establish the  
24 defendant's guilt to your satisfaction beyond a reasonable  
25 doubt.

## Jury charge

1           You are instructed that it is a vital, important and  
2 cardinal rule of law that every defendant in a criminal  
3 trial, no matter how serious the offense might be for which  
4 that person stands charged, that person shall always be  
5 presumed innocent of that charge.

6           That presumption of innocence remains with any  
7 defendant, as it does with this defendant, from the time  
8 that he is placed under arrest and throughout the course of  
9 the criminal process and even throughout the actual trial  
10 in the case.

11           As I told you, that presumption of innocence will be  
12 with Mr. Acker even as you go back to begin with your  
13 deliberations in the case, and that presumption of  
14 innocence will be with him in that jury room, and it'll be  
15 with him forever unless you 12 jurors determine that he's  
16 no longer entitled to that presumption of innocence.

17           In other words, after you have carefully considered  
18 all of the evidence in the case, and from that evidence you  
19 have determined what you believe to be the facts as they  
20 relate to these allegations, and upon deciding those facts  
21 you apply the law that I will have provided you, if you 12  
22 jurors unanimously determine that his guilt as to a crime  
23 has been proven beyond a reasonable doubt, then he would no  
24 longer be entitled to that presumption of innocence as it  
25 relates to that particular charge. But it is only if,

## Jury charge

1 unless and until you are satisfied of his guilt beyond a  
2 reasonable doubt that the presumption of innocence would no  
3 longer be applicable.

4 Now, while the state does have the burden of proving a  
5 defendant's guilt beyond a reasonable doubt, that doesn't  
6 mean that the state has to prove his guilt beyond all doubt  
7 or beyond all possible doubt, but it does require the state  
8 to prove his guilt to your satisfaction beyond a reasonable  
9 doubt.

10 The term reasonable doubt should be given its plain  
11 and ordinary meaning. A reasonable doubt is the kind of  
12 doubt that would cause a reasonable person to hesitate to  
13 act upon the information provided.

14 A defendant in a criminal trial is entitled to any  
15 reasonable doubt that arises from the evidence or lack of  
16 evidence in a case. And if upon any factual issue  
17 essential to a finding of a verdict of guilty you have some  
18 reasonable doubt as to how that issue should be resolved,  
19 it would be your duty to resolve that reasonable doubt in  
20 favor of the defendant.

21 And therefore if upon your consideration of the whole  
22 case you have a reasonable doubt as to his guilt, it is  
23 your obligation and duty to return a verdict of not guilty.  
24 And, at the same time, after you consider the evidence,  
25 decide the facts and apply the law, if you have no

## Jury charge

1 reasonable doubt as to his guilt, it would also be your  
2 corresponding duty to find him guilty of any crime that you  
3 find has been proven beyond a reasonable doubt.

4 Now, because you are the sole judges of the facts in  
5 this case you are therefore necessarily the sole judges of  
6 the credibility and the believability of each witness that  
7 has testified during the course of this trial. You 12  
8 jurors alone decide what weight, value and effect to give  
9 to any particular witness' testimony or even portions of  
10 that testimony.

11 There are however a number of factors which you should  
12 consider in arriving at your assessment or your evaluation,  
13 as to a witness' credibility, and I'm going to list those  
14 factors for you.

15 You should consider the demeanor of the witness, that  
16 is how the witness appeared to you as the witness testified  
17 from that witness stand. Was the witness straightforward  
18 in responding to questions, or was the witness hesitant or  
19 evasive in responding to questions that were asked of the  
20 witness.

21 Simply put, did the witness appear to you to be  
22 telling the truth and to have knowledge of the facts to  
23 which that witness has testified.

24 You should also consider whether or not the testimony  
25 of a witness is consistent, or is it inconsistent with that

## Jury charge

1 witness' own testimony or statements, whether in court or  
2 outside of court, as well as whether or not the testimony  
3 of a witness is consistent or inconsistent with other  
4 testimony or other evidence received during the course of  
5 the trial.

6       You should also consider how the witness came to know  
7 the facts to which a witness has testified. In other  
8 words, what was particular witness' opportunity and ability  
9 to perceive the existence of those facts to which that  
10 witness has testified, and then what is that witness'  
11 ability to be able to come into court and to accurately  
12 recollect to you as to what they have previously perceived.

13       You should also consider any bias, prejudice or  
14 interest that you find a witness might have with regard to  
15 a case.

16       In other words, do you find some reason that a  
17 particular witness would come into court and would testify  
18 one way or another to help or to hurt one side or the  
19 other. And you may consider any interest that a witness  
20 might have in the outcome of the case if you determine that  
21 that witness does have an interest in the outcome and you  
22 find that that interest would bear upon that particular  
23 witness' credibility.

24       You should also consider whether or not the testimony  
25 of a witness is strengthened, or is it weakened by other

## Jury charge

1 testimony or other evidence received during the course of  
2 the trial.

3 Now, because you are the sole judges of the facts in  
4 this case and you are the judges of the credibility of each  
5 witness that has testified during the course of this trial,  
6 you are permitted to believe as much or as little of what a  
7 witness has testified to as you deem is appropriate. And  
8 therefore in your discretion you believe everything that a  
9 witness testified to. You may choose to believe none of  
10 it. You may believe some portion of a witness' testimony  
11 and reject some other portion of that same witness'  
12 testimony.

13 You may believe one witness as opposed to several, or  
14 several as opposed to one. But whatever your good judgment  
15 and common sense tells you is the most believable and  
16 credible testimony is the testimony that you should accept.  
17 And you should reject any testimony or other evidence that  
18 you find not to be credible or believable.

19 Again, your sole objective in the case is to render a  
20 fair and impartial decision based upon the evidence  
21 presented and the law that's applicable as I will have  
22 provided it to you.

23 The same law that provides that you are the judges of  
24 the facts also provides that I am the judge of the law.  
25 And that simply means that nobody's going to tell you how

## Jury charge

1 to arrive at your determination of fact in this case. You  
2 do that, as I've already stated, through the exercise of  
3 good judgment and common sense conscientiously applied to  
4 the testimony and evidence received during the course of  
5 the trial.

6 You must however under your oath as a juror accept the  
7 law as I provide it to you as being the law that you are to  
8 apply in the case. In other words, you're never to concern  
9 yourself with what you thought the law was before you came  
10 to serve as a juror this week or what you think the law  
11 ought to be.

12 You must simply under your oath accept the law as I  
13 provide it to you as being the law that you are to apply in  
14 the case, and then you take that law and you apply it to  
15 the facts as you 12 jurors determine those facts to be from  
16 your common sense examination and evaluation of the  
17 testimony and evidence received during the course of the  
18 trial.

19 Now, as you know, the defendant is charged with two  
20 separate and distinct offenses. One is criminal sexual  
21 conduct with a minor in the first degree; the other is  
22 dissemination of obscene material to a minor 12 years of  
23 age or younger.

24 I'll begin with the instruction as it relates to  
25 criminal sexual conduct with a minor in the first degree

## Jury charge

1 followed by the second charge of dissemination of obscene  
2 material.

3 Criminal sexual conduct with a minor in the first  
4 degree is a statutory offense. That just means it's  
5 included in these blue volumes of laws in the state of  
6 South Carolina.

7 The legislature meets every year from January until  
8 June. They pass a number of laws and rules and regulations  
9 that govern our conduct in a variety of ways.

10 Some of the statutes are criminal penalty statutes, and  
11 that just means that the legislature defines a crime. They  
12 prohibit us from engaging in that conduct in violation of  
13 the statute. And where we are found to have engaged in  
14 conduct in violation of that statute it subjects us to some  
15 form of punishment or penalty.

16 But please keep in mind that the jury is never to be  
17 concerned with punishment or penalty. You're not to be  
18 concerned with the consequence of your decision. Your sole  
19 obligation and duty under your oath as a juror is to  
20 determine whether or not a defendant's guilt has been  
21 proven beyond a reasonable doubt. And you do that without  
22 any regard to any potential consequence of that decision.

23 Criminal sexual conduct is set forth in Section  
24 16-3-655 of the South Carolina Code of Laws, and that  
25 particular statute provides in its relevant parts that a

## Jury charge

1 person is guilty of criminal sexual conduct with a minor in  
2 the first degree if the actor engages in sexual battery  
3 with the victim who is less than 11 years of age.

4 A separate code section provides for some definitions  
5 of terms contained in that statute.

6 Actor is defined as a person accused of criminal  
7 sexual conduct. In this case that would be the defendant,  
8 Thomas Stephen Acker. Victim is defined as a person  
9 alleged to have been subjected to criminal sexual conduct.  
10 In this case that would be Minor .

11 Sexual battery is defined as sexual intercourse,  
12 cunnilingus, fellatio, anal intercourse or any intrusion,  
13 however slight, of any part of a person's body or of any  
14 object into the genital or anal openings of another  
15 person's body except when accomplished for medically  
16 recognized treatment.

17 And therefore based upon the language of the statute  
18 there are two essential elements which must be established  
19 to your satisfaction beyond a reasonable doubt before the  
20 defendant could be found guilty of criminal sexual conduct  
21 with a minor in the first degree.

22 First, it must be proven to your satisfaction that the  
23 defendant, Thomas Stephen Acker, the person alleged to be  
24 the actor, did engage in a sexual battery, as that term has  
25 been defined for you, with Minor , the person

## Jury charge

1 alleged to be the Minor in the indictment.

2 Secondly, if you find beyond a reasonable doubt that  
3 the defendant, Thomas Stephen Acker, has been proven to  
4 have engaged in a sexual battery with Minor it must  
5 be proven that at the time of the commission of any sexual  
6 battery that Minor was less than 11 years of age.

7 If either of these two elements has not been proven to  
8 your satisfaction beyond a reasonable doubt, your verdict  
9 must be for the defendant as to that charge and he be found  
10 not guilty.

11 You are further instructed that consent is not an  
12 issue in the trial of this case or in any case involving  
13 criminal sexual conduct with a minor child -- that is a  
14 person under the age of 16 years -- because under the law a  
15 child under the age of 16 years is not legally capable of  
16 voluntarily consenting to a sexual battery committed by an  
17 adult.

18 The second criminal offense that Mr. Acker is charged  
19 with is dissemination of obscene material to a minor 12  
20 years of age or younger. That's also a statutory offense  
21 set forth in section 16-15-355 of the Code of Laws of South  
22 Carolina.

23 That statute provides in its pertinent parts an  
24 individual 18 years of age or older who knowingly  
25 disseminates to a minor 12 years of age or younger material

## Jury charge

1 which he knows or reasonably should know to be obscene is  
2 guilty of an unlawful dissemination of obscene material.

3 Now, within the meaning of the statute a person  
4 disseminates obscene material when he publishes, presents,  
5 exhibits, shows or otherwise makes available anything  
6 obscene to any other person.

7 Under the statute material is deemed to be obscene if,  
8 to the average person applying contemporary community  
9 standards, the material depicts or describes in a patently  
10 offensive way sexual conduct.

11 The average person applying contemporary community  
12 standards relating to the depiction or description of  
13 sexual conduct would find that the material taken as a  
14 whole appeals to the prurient interest in sex. To a  
15 reasonable person the material taken as a whole lacks any  
16 serious literary, artistic, political or scientific value,  
17 and the material used or exhibited is not otherwise  
18 protected or privileged under the Constitutions of the  
19 United States or this state.

20 Now, within the meaning of the dissemination of  
21 obscene material statute, sexual conduct refers to any type  
22 of sexual activity including, but not limited to, vaginal,  
23 anal, oral intercourse, whether actual or simulated.

24 Patently offensive means obviously and clearly  
25 disagreeable, objectionable, repugnant, displeasing,

## Jury charge

1 distasteful or obnoxious to community standards or decency  
2 and propriety within this community.

3 Prurient interest means a shameful or morbid interest  
4 in nudity or sex and is reflective of an arousal of lewd  
5 and lascivious desires and thoughts.

6 Knowingly means having a general knowledge of the  
7 content of the subject matter or failing after reasonable  
8 opportunity to exercise reasonable inspection which would  
9 have disclosed the character of the material itself.

10 And therefore, again, as I've stated, the statute  
11 provides that an individual 18 years of age or older who  
12 knowingly disseminates to a minor 12 years of age or  
13 younger material which he knows or reasonably should know  
14 to be obscene is guilty of the crime of unlawful  
15 dissemination of obscene material to a minor.

16 Now, ladies and gentlemen, I am not in any way  
17 concerned with what your decisions are, but you are  
18 instructed that any verdict you reach must be unanimous.  
19 All 12 of you must be in agreement.

20 Madam Forelady, as you know, you're going to be called  
21 upon to preside over the deliberations in the jury room  
22 simply to ensure that those deliberations are carried out  
23 in some orderly fashion. But all jurors are expected to  
24 participate in those deliberations because, again, as I  
25 say, the verdicts have to be unanimous. All of you must be

## Jury charge

1 in agreement.

2 Madam Forelady, you're going to have in the jury room  
3 with you these two indictments. I've told you they're not  
4 evidence. They don't prove anything. They don't establish  
5 anything. But they are going to be in the jury room  
6 because these indictments will serve as the verdict forms.

7 You will see on the back -- you can't see it from  
8 here -- but you'll see on the back of each indictment the  
9 word verdict, lower left-hand corner, folded up at the  
10 bottom. But the word verdict is there, and beneath that  
11 word you'll indicate the jury's unanimous decision as it  
12 relates to that charge, whatever that decision is.

13 As it relates to each of the separate indictments, you  
14 have two potential verdict forms. Those two potential  
15 verdict forms are guilty and not guilty. So whatever that  
16 decision is as it relates to that charge, you put it in the  
17 space provided, sign your name as the foreperson. You're  
18 the only juror that needs to sign the verdict form. And  
19 also place the appropriate date, which today is the 18th of  
20 November.

21 And the same applies for the other indictment.

22 Once you have made your decisions and once you have  
23 completed the verdict forms, Madam Forelady, if you'll  
24 knock on the door and let the bailiff know that you have  
25 arrived at your decisions, then he or she will bring you

## Jury charge

1 back into the courtroom for us to receive those verdicts.

2 You will maintain possession of the verdict forms.

3 You have them in your possession when you come into the  
4 courtroom. I'll receive them from you after the jury  
5 returns and is seated in the jury box.

6 So you'll just tell the bailiff you've reached the  
7 decision, but you don't inform them as to what it is or  
8 give them the verdict forms.

9 Now, during deliberations there may come a time where  
10 you have a question about the evidence in the case. You  
11 may even question about whether there's something else that  
12 you think will be helpful, could we bring it to you and let  
13 you have it.

14 No additional evidence may be received now that you're  
15 going back to begin deliberations. So even if there is  
16 something that you think would be helpful, if it hasn't  
17 been introduced, it can't be introduced now because the  
18 case is closed.

19 If however you need to have testimony reheard, we can  
20 bring you back into the courtroom to have that testimony  
21 replayed in its entirety or just some portion of it if  
22 that's all you need.

23 I don't have transcripts, and so I can't send the  
24 transcripts of the witnesses' testimony back with you. But  
25 if you'd like to have testimony replayed in whole or in

## Jury charge

1 part, let the bailiff know that you need to do that, and he  
2 or she will inform me and we'll bring you back to have that  
3 testimony reheard by the jury.

4 If at any time you need an addition or a  
5 reinstruction, an explanation or clarification of the law  
6 that I've already provided, I am always permitted to  
7 provide you with that additional instruction, explanation  
8 or clarification.

9 So should you need some assistance with regard to the  
10 law that you are to apply, I'm happy to provide you with  
11 that information.

12 Madam Forelady, if at any time you need to direct some  
13 comment to me, if you'll write it on a piece of paper, give  
14 it to the bailiff, the bailiff will provide that to me, and  
15 I will respond to whatever issue or question that you have.

16 I don't know if we have smokers on the jury. If we do,  
17 you can smoke during deliberations, but you can't smoke in  
18 the jury room. If you want to smoke you have to go outside.  
19 And if any juror is absent for some authorized purpose the  
20 deliberations have to stop, and they may only resume when  
21 all 12 jurors are present so that all 12 are able to  
22 participate in those deliberations.

23 As far as lunch goes, it's not quite lunchtime yet, but  
24 I don't know what time you eat lunch. So you might think it  
25 is. But it's shortly before 11:00. It usually takes an

## Jury charge

1 hour, maybe a little bit more than that, to take your lunch  
2 orders, call it in, have it delivered to the courthouse for  
3 your benefit.

4 So when you go back to begin deliberations if you get  
5 to a point where you think it's -- you should go ahead and  
6 order lunch, just let the bailiff know of that fact also,  
7 and we'll send the clerk in to take your lunch orders. But,  
8 as I say, just keep in mind it takes about an hour. So if  
9 you get to a point where you think it's appropriate, you let  
10 us know, and we'll -- we'll provide you with lunch.

11 One thing I think I did neglect to tell you was that  
12 during the course of the trial there was a witness that was  
13 qualified as an expert in a particular field. And while I  
14 have to determine whether or not a witness is qualified to  
15 testify as an expert, don't take that as any indication by  
16 me as to how you should consider the testimony.

17 You've got to consider expert testimony just like you  
18 do any other testimony. You can accept it or reject it just  
19 like you do any lay witness' testimony.

20 Experts are qualified simply because sometimes there is  
21 information that's going to be provided to a jury that  
22 requires an expert to provide the information. And so where  
23 a person has special education, training or experience with  
24 respect to a particular subject matter, where that person  
25 comes to court to testify, then they have to be qualified by

## Jury charge

1 the Court as an expert before they can render opinions or  
2 give information that is not ordinarily within the purview  
3 of a layperson.

4 So, simply put, you judge expert testimony just like  
5 you do lay testimony. You decide what's the most credible  
6 and not. Accept it or reject it in your own discretion.

7 I think that might cover everything, but if it doesn't  
8 I'm sure one of these lawyers will tell me I neglected to  
9 tell you something. And if I did and I need to bring you  
10 back, I'll do so.

11 If I don't need to bring you back, then I'll simply  
12 send word by way of the bailiff that you may begin with your  
13 deliberations. In that event the bailiff will bring to the  
14 jury room the indictments which serve as the verdict forms  
15 and will instruct you to begin your deliberations.

16 Once you've concluded, knock on the door. Let the  
17 bailiff know that you've reached that decision, and we'll  
18 bring you back to receive your verdicts.

19 The 12 primary jurors, I'll ask those 12 to please go  
20 with the bailiff to the jury room. Don't begin  
21 deliberations yet. I'll send word when to begin those  
22 deliberations.

23 The two alternate jurors, if you will, remain here in  
24 the courtroom with me, please.

25 Twelve primaries may retire to your jury room.

## Verdict

1 (whereupon, the jury retired to deliberate at  
2 10:55 a.m.)

3 (whereupon, the alternate jurors were excused.)

4 THE COURT: Are there any exceptions taken to the  
5 instruction or requests for additions to the instruction by  
6 the state?

7 MS. MILES: None from the state, Your Honor.

8 THE COURT: By the defendant?

9 MR. POOLE: No, sir.

10 THE COURT: We don't have any exhibits.

11 All right. Send the verdict forms back. Tell the  
12 jury to begin their deliberations and notify us when  
13 they've concluded.

14 we'll be at ease while the jury is deliberating.

15 (whereupon, a recess was taken.)

16 THE COURT: I am informed the jury has reached a  
17 decision. Are we ready to receive it?

18 MS. MILES: The state is, Your Honor.

19 MR. POOLE: Yes, sir.

20 THE COURT: All right. Bring them in, please.

21 (whereupon, the jury returned to the courtroom at  
22 12:28 p.m.)

23 THE COURT: Madam Forelady, have you and your fellow  
24 jurors reached unanimous decisions on each of the separate  
25 charges?

## Verdict

1 THE FOREPERSON: Yes.

2 THE COURT: Have you reflected those decisions on the  
3 back of the indictments as requested?

4 THE FOREPERSON: Yes.

5 THE COURT: Did you sign it and date it?

6 THE FOREPERSON: Yes.

7 THE COURT: If you will, please hand those up by way  
8 of the bailiff.

9 You may publish the verdicts.

10 THE CLERK: The State of South Carolina, County of  
11 Spartanburg, Indictment No. 2016-GS-42-2201, the State vs.  
12 Thomas Stephen Acker, indictment for criminal sexual  
13 conduct with a minor in the first degree, we, the jury,  
14 find the defendant guilty, foreperson, Susan Morris, this  
15 date, November 18th, 2016.

16 The State of South Carolina, County of Spartanburg,  
17 Indictment No. 2016-GS-42-2202, the State vs. Thomas  
18 Stephen Acker, indictment for disseminating obscene  
19 material to a minor 12 years of age or younger, we, the  
20 jury, find the defendant guilty, Susan Morris, this date,  
21 November 18th of 2016.

22 Ladies and gentlemen of the jury, if this is your  
23 verdict and still your verdict, please raise your right  
24 hand.

25 (Whereupon, all jurors responded in the affirmative.)

## Sentence

- 1 THE CLERK: So say you all.
- 2 THE COURT: Does the defendant wish to have the jury  
3 polled?
- 4 MR. POOLE: No, sir.
- 5 THE COURT: Are there any other matters that need to  
6 be addressed with the jury present?
- 7 MR. POOLE: No, sir.
- 8 MS. MILES: None from the state.
- 9 (Whereupon, the trial jury was excused.)
- 10 THE COURT: Any matters to address prior to the  
11 imposition of sentence?
- 12 MR. POOLE: Judge Cole, for the record, I would make a  
13 motion for a new trial, and that is based on my motion for  
14 a directed verdict that was made at the close of the  
15 state's case and at the end of all of the evidence. And  
16 for record preservation purposes, I renew all of my motions  
17 that were previously placed and argued into the record.
- 18 THE COURT: All right. That motion is denied.
- 19 MR. POOLE: And my second, renewal of all motions  
20 applies to all previously argued motions.
- 21 THE COURT: Those are also again denied.
- 22 MR. POOLE: Thank you, sir.
- 23 THE COURT: Anything else?
- 24 MR. POOLE: No, sir.
- 25 THE COURT: Do y'all have the sentencing sheet?

## Sentence

1 MS. MILES: If we could just have just a few moments  
2 to locate some blank sentencing sheets to fill them out.

3 THE COURT: Okay. We'll take ten minutes.

4 (Whereupon, a recess was taken.)

5 THE COURT: Anything further on behalf of the state?

6 MS. MILES: Just briefly, Your Honor.

7 I believe you know pretty much everything from this  
8 trial. The state would just, you know, like to remind  
9 everyone that this child was five years old at the time  
10 this was happening.

11 She's already been dealing with this for ten years,  
12 over ten years. She'll deal with it for another ten,  
13 another ten and probably at times the rest of her life.

14 I do understand that Mr. Acker is older and anything  
15 may be a life sentence, but the life sentence that he  
16 sentenced Minor to began when she was five years old.

17 We would ask you to consider a consecutive sentence in  
18 this case. And I believe the parents would like to address  
19 the Court at the appropriate time regarding their thoughts  
20 in sentencing.

21 THE COURT: Okay.

22 MITCHELL MATHIS: Your Honor, thank you.

23 I don't really have anything to say other than to the  
24 defendant, but I do want to thank some people. I want to  
25 thank Bethany. Awful hard work.

## Sentence

1 THE COURT: If you'll stand underneath that microphone  
2 right there behind you that should help us.

3 MITCHELL MATHIS: I want to thank Bethany with South  
4 Carolina Attorney General's Office. They've worked  
5 tirelessly. I don't know how they can do this.

6 I want to thank Dana with the City of Spartanburg, the  
7 police, their investigative team. They worked so hard. I  
8 just -- I didn't appreciate how hard they work or what they  
9 sacrifice to keep people in this community safe and to  
10 protect us.

11 I want to thank all of the people that are a part of  
12 the court, including you, Judge. Very impressed. Never  
13 met you before. I think I've heard your name, but  
14 certainly very impressed with you. And that's on behalf of  
15 Minor's family.

16 okay. So the only thing I don't -- and don't have  
17 anything to say to the defendant.

18 Minor : No.

19 MITCHELL MATHIS: As parents we don't have anything to  
20 say. We feel like the jury spoke for us.

21 Minor does have something to say and this -- she said  
22 it last night, and we told her to go write it down. And if  
23 the defendant can't hear, Your Honor, I would like to  
24 present this piece of paper so he can read her statement if  
25 that's fine.

## Sentence

1 THE COURT: You can read it and you can provide it or  
2 we'll provide it to Mr. Poole.

3 MITCHELL MATHIS: Okay. This is Minor s'  
4 statement.

5 "This will not define me, nor will it break me. What  
6 you meant for evil will be turned into goodness."

7 That's all, Your Honor.

8 THE COURT: All right. If you'll give that statement  
9 to Ms. Miles, she can provide that to Mr. Poole.

10 LISA MATHIS: Specific to sentencing, Your Honor, I of  
11 course speak for Minor. This started when she was in  
12 kindergarten. She's now a senior in high school.

13 Although we didn't learn about it until two years ago,  
14 she's dealt with it since she was a little girl. And she's  
15 going to reach certain milestones in her life, although we  
16 will continue to get her help into counseling and support  
17 her and love her, and she has strong faith, and I know that  
18 will continue to grow, there will be certain milestones in  
19 her life when she meets the person God has for her, when  
20 she marries, when she has a child, when her daughter's five  
21 and so on and so on that this will affect her. And  
22 although she's strong and it won't define her, she'll have  
23 to. This is part of her memory forever, a life sentence.  
24 So I would ask that you would consider the length of her  
25 sentence when you consider his. Thank you.

## Sentence

1 THE COURT: Okay. Thank you, ma'am. Anything else?

2 MS. MILES: That's everything from the state. Thank  
3 you, Your Honor.

4 THE COURT: Mr. Poole.

5 MR. POOLE: Yes, sir. Come around, Mr. Acker.

6 Briefly in response to what's been said before, I hope  
7 that Mr. and Mrs. Mathis can understand that on this side  
8 of the aisle Mr. Neely and I just have a job to do and that  
9 I hope that when I was questioning both of you and I was  
10 questioning Minor I showed the proper respect in  
11 recognizing that y'all are a very close family. And I  
12 think Minor is going to have a great success. So that's  
13 what I would like to say to you all.

14 By nature of the adversarial system, these cases, Your  
15 Honor, are the hardest. I -- we try all kinds of cases,  
16 and these are the hardest to present.

17 I've grown to know Mr. Acker over the past year and a  
18 half that I have dealt with him. You already know his  
19 biographical information. He took the witness stand and  
20 gave his life story in detail.

21 As far as I can take from what his biography is, is  
22 that he has done a lot of -- or a certain amount of good by  
23 way of working and helping. And he stands before  
24 you convicted today of these two charges.

25 He will be 77 years old in December. And also it's my

Sentence

1 understanding that the only criminal history he may have is  
2 that of traffic tickets. Nothing other.

3 I'm asking the Court to show any mercy that you  
4 possibly can on Mr. Acker for his past history and for his  
5 age. Thank you.

6 THE COURT: All right. Mr. Acker, do you have  
7 anything you'd like to add to what your lawyer has told me?

8 THE DEFENDANT: At this point I feel it unnecessary  
9 for me to try to tell or correct all of these wrongdoings  
10 that have been done to me.

11 I promise you that I never did any of this. I've been  
12 convicted, but it's because of someone else telling false  
13 stories.

14 I don't know how shocked anyone could be to have even  
15 just these charges thrown against me when I did nothing,  
16 but I guess there's not anything I can do about it.

17 Now, the trial has not been easy for me because I  
18 could not hear you or the attorney that represented the  
19 state. I could not hear what witnesses said, so it's  
20 totally an unfair trial. My hearing dif -- difficulties  
21 cannot correct what's been done to me.

22 I thank you for listening to me.

23 MR. POOLE: Judge Cole --

24 THE COURT: Sir?

25 MR. POOLE: -- by my reckoning Mr. Acker has been in

## Sentence

1 jail since the time of his arrest for 708 days.

2 THE COURT: On Indictment 2016-2201 -- that's the  
3 indictment for criminal sexual conduct with a minor in the  
4 first degree -- wherein you have been found guilty by the  
5 jury of that offense, the Sentence of the Court is you,  
6 Thomas Stephen Acker, be confined to the South Carolina  
7 Department of Corrections for a period of 20 years.

8 Give him credit for any time he's entitled to pursuant  
9 to 24-13-40.

10 Indictment 2016-2202, disseminating obscene material,  
11 five years concurrent.

12 Mr. Acker, you have a right to appeal the decision of  
13 the jury and the Sentence of the Court. You must file any  
14 notice of your intent to appeal those decisions within ten  
15 days of today's date. Mr. Poole will provide you with that  
16 information and advice.

17 END OF REQUESTED TRANSCRIPT OF RECORD

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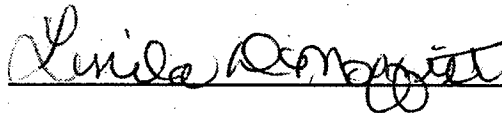
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 16th, 17th and 18th days of November 2016.

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

December 27, 2016



Linda D. Moffitt  
Circuit Court Reporter

6

DOCKET NO. 2016-GS-42-2201

The State of South Carolina  
County of Spartanburg

COURT OF GENERAL SESSIONS  
MAY 09 2016  
TERM 2016

THE STATE  
vs.  
THOMAS STEPHEN ACKER  
D.O.B. "

Indictment for  
CRIMINAL SEXUAL CONDUCT WITH A  
MINOR IN THE FIRST DEGREE

SC Code: 16-3-655 (A)(1)  
CDR Code: 0385

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

1. SENT TO CLERK  
2. REPORT INDEXED  
3. CARD PULLED  
INDEXED  
4. CHECKED WARRANTS  
5. CHECKED SIGNATURE  
6. ASSESSMENT AND FINE CARD ADDED

COMPUTER  
COMPUTER

WITNESSES  
Inv. Dana Dillard - Spartanburg City

*Christy & Mimos*

ARREST WARRANT NUMBER  
Direct Presentment

ACTION OF GRAND JURY

MAY 08 2016  
Foreperson of Grand Jury  
Date: *True Bill*

VERDICT  
*Guilty*

Foreperson of Petit Jury  
Date: *11.19.2016*

RECEIVED

NOV 28 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA )  
 )  
 )  
 COUNTY OF SPARTANBURG )

## INDICTMENT

CRIMINAL SEXUAL CONDUCT  
 WITH A MINOR IN THE FIRST DEGREE

MAY 05 2016

At a Court of General Sessions, convened on \_\_\_\_\_, 2016, the Grand Jurors of Spartanburg County present upon their oath:

That Thomas Stephen Acker, did in Spartanburg County, between the dates of August 1, 2004 and May 31, 2005, willfully and knowingly commit the crime of Criminal Sexual Conduct with a Minor in the First degree. To wit: Thomas Stephen Acker, did engage in sexual battery with a minor [REDACTED] who was less than eleven (11) years of age at the time. This is in direct violation of Section 16-3-655(A)(1) (formerly 16-3-655(1)), of the South Carolina 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.

OFFICE OF THE ATTORNEY GENERAL



ALAN WILSON (BBM)  
 ATTORNEY GENERAL

RECEIVED

NOV 28 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG  
STATE VS.

INDICTMENT/CASE#: 2016GS4202201

Thomas Stephen Acker

A/W#: 2016GS4202201

AKA:

Date of Offense: 5/31/2005

Race: W Sex: M Age: 75

S.C. Code §: 16-03-0655(A)(1); 16-03-0

DOB: SS#: [REDACTED]

CDR Code #: 0385

Address: ive

City, State, Zip: Spartanburg, SC 293022103

DL#: SID#:

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who

CONVICTED OF or  PLEADS

TO: Sex / Criminal sexual conduct with minor - victim under 11 yrs of age - First de

NOV 28 2016

SENTENCE SHEET

SC Court of Appeals

in violation of § 16-03-0655(A)(1); 16-03-0 of the S.C. Code of Laws, bearing CDR Code # 0385

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC w/minor 1st or Lewd Act)  §17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: Thomas Miller GENERAL ATTORNEY SC Bar# 78212 Thomas Acker Defendant Bryan Peole Attorney for Defendant SC Bar# 4499

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,

for a determinate term of 20 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP   days/hours Public Service Employment

Total: \$   plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.3%)		\$
§ 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 61.6 (Public Def/Probation)	\$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	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk C. Peole

Court Reporter: C. Moffitt

SCCA/217 (07/2016)

Presiding Judge [Signature]

Judge Code: 2055

Sentence Date: November 16, 2016

RECEIVED

DOCKET NO. 2016-GS-42-2202

The State of South Carolina  
County of Spartanburg

COURT OF GENERAL SESSIONS

MAY 09 2016 TERM 2016

THE STATE

vs.

THOMAS STEPHEN ACKER  
D.O.B. 1

Indictment for

DISSEMINATING OBSCENE MATERIAL  
TO MINOR TWELVE YEARS OF AGE  
OR YOUNGER

SC Code: 16-15-355  
CDR Code: 3131

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

2016 MAY 12 11:10 AM

- 1. SEARCHED
- 2. INDEXED
- 3. CARD PULLED
- INDEXED
- 4. CHECKED WARRANTS
- 5. CHECKED SIGNATURE
- 7. ASSESSMENT AND FINE CARD

COMPUTER  
COMPUTER

RECEIVED

NOV 28 2016

SC Court of Appeals

WITNESSES

Inv. Dana Dillard- Spartanburg City

*Anthony S. Monro*

ARREST WARRANT NUMBER

Direct Presentment

ACTION OF GRAND JURY

MAY 08 2016

~~True Bill~~

Foreperson of Grand Jury  
Date:

VERDICT

*Guilty*

Foreperson of Petit Jury  
Date: 11.18 2016

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

INDICTMENT

DISSEMINATING OBSCENE MATERIAL TO  
MINOR TWELVE YEARS OF AGE OR YOUNGER

MAY 6 2016

At a Court of General Sessions, convened on \_\_\_\_\_, 2016, the Grand Jurors of Spartanburg County present upon their oath:

That Thomas Stephen Acker, did in Spartanburg County, between the dates of August 1, 2004 and May 31, 2005, willfully and knowingly commit the crime of Disseminating Obscene Material to Minor Twelve Years of Age or Younger. To wit: Thomas Stephen Acker, a person eighteen years of age or older, did, while in Spartanburg County, knowingly disseminate or attempt to disseminate to a minor twelve years of age or younger, material which he knew or should have known to be obscene within the meaning of Section 16-15-305. This is in direct violation of Section 16-15-0355, of the South Carolina 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.

OFFICE OF THE ATTORNEY GENERAL

ALAN WILSON (BBM)  
ATTORNEY GENERAL

RECEIVED  
NOV 28 2016  
SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG  
STATE VS.

Thomas Stephen Acker

AKA:

Race: W Sex: M Age: 75

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: Spartanburg, SC 293022103

DL#: SID#:

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was

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

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS4202202

A/WH: 2016GS4202202

Date of Offense: 5/31/2005

S.C. Code § : 16-15-0355

CDR Code #: 3131

RECEIVED

SENTENCE SHEET

NOV 28 2016

SC Court of Appeals

CONVICTED OF or  PLEADS

In violation of § 16-15-0355 of the S.C. Code of Laws, bearing CDR Code # 3131  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC w/minor 1st or Lewd Act)  §17-25-45

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

ATTEST: Shirley Miller 78212 Thomas Stephen Acker Reggie Poole 4499  
GENERAL ATTORNEY SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,

for a determinate term of 5 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered  
Total: \$ — plus 20% fee: \$ —  
Payment Terms: —  
 Set by SCDPPPS —

Recipient: —

*Fine:		\$
§ 14-1-206 (Assessments 107.5%)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
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§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (DUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk: C. Poole  
Court Reporter: L. Mattheis  
SCCA/217 (07/2016)

PTUP — days/hours Public Service Employment

Obtain GED   
Attend Voc. Rehab. or Job Corp. —  
May serve W/E beginning —  
Substance Abuse Counseling   
Random Drug/Alcohol testing   
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ — beginning —  
\$ — paid to Public Defender Fund  
Other: —

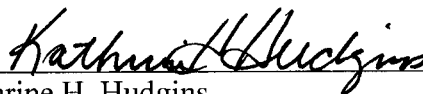
Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge: [Signature]  
Judge Code: 20573  
Sentence Date: November 18, 2016

## 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,



Kathrine H. Hudgins  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 23rd day of August, 2017.

**RECEIVED**  
AUG 23 2017  
SC Court of Appeals