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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOHN THOMAS BASILE,

APPELLANT.

APPELLATE CASE NO. 2021-000731

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE’S EXHIBIT NO. 1 (DVD - CHILDRENS’ FORENSIC INTERVIEW) AND
STATE’S EXHIBIT NO. (DVD- INTERVIEW OF DEFENDANT).**

STATE v. JOHN T. BASILE - 2019-GS-07-01383, VOLUME I

1 STATE OF SOUTH CAROLINA IN THE GENERAL SESSIONS COURT
2 COUNTY OF BEAUFORT 14th JUDICIAL CIRCUIT

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STATE OF SOUTH CAROLINA,

vs.

CASE NO.: 2019-GS-07-01383, -384
2019-GS-07-01969, -70
2021-GS-07-00459, -60

JOHN T. BASILE,

Defendant.

TRANSCRIPT OF JURY TRIAL
VOLUME I
(PAGES 1 - 151)

TRIAL BEFORE:

THE HONORABLE R. FERRELL COTHRAN

DATE:

JUNE 21 - 22, 2021

REPORTED BY:

KYMBERLEE M. WILLIAMS, CSR/RPR

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STATE v. JOHN T. BASILE - 2019-GS-07-01383, VOLUME I

PROCEEDINGS

MONDAY, JUNE 21, 2021

BEAUFORT, SOUTH CAROLINA

* * *

(The following proceedings were held in open court.

The defendant was present along with his attorney,
as well as the attorney for the State.)

JURY SELECTION

* * *

THE COURT: Good morning, ladies and gentlemen. I am
Ferrell Cothran. I am from Clarendon County. I have been
assigned by the Chief Justice to hold Court this week in
Beaufort. I can tell by the looks on your faces that you all
are glad to be here too. I'm sure there is somewhere else you
would rather be, and I appreciate you being here even though
you didn't have much choice in it.

I need to ask you a few questions to determine
whether you are qualified. It's important that you answer
these questions correctly. If we find out that one of the
jurors is not qualified, the worse thing that can happen is you
can go home.

Is any member of the jury panel not a citizen of
the United States? If so, please stand.

(No indication.)

Is there any member of the jury panel not a

STATE v. JOHN T. BASILE - 2019-GS-07-01383, VOLUME I

1 resident of Beaufort County? If so, please stand.

2 (No indication.)

3 THE COURT: Is there any member of the jury panel who
4 cannot read, write, speak, or understand the English language?
5 I know that is a dumb question. If you don't understand
6 English, you have no clue what I just asked you.

7 (No indication.)

8 THE COURT: Is there any member of the jury panel
9 with less than a sixth grade education or its equivalent? If
10 so, please stand.

11 (No indication.)

12 THE COURT: Is there any member of the jury panel who
13 has a medical condition that would prevent you from serving on
14 a jury this week?

15 Do you want to tell me about it here or tell me
16 from there?

17 THE POTENTIAL JUROR: I am comfortable telling you
18 from here.

19 I don't know. I have kidney disease. Sometimes I
20 have to use the rest room up to 30 minutes at a time. Some
21 days are good; some days are bad.

22 THE COURT: You know better than I do. I tell any
23 of my jurors that I try to break every hour, hour-and-a-half.

24 Anybody else?

25 POTENTIAL JUROR: 151. I have had a migraine for

1 several months.

2 THE COURT: Do you have it now?

3 POTENTIAL JUROR: I do have it now. I had I an MRI
4 A few weeks ago.

5 THE COURT: You can be excused.

6 POTENTIAL JUROR: Juror Number 138. Severe
7 sciatica.

8 THE COURT: All right. You are excused too.

9 THE COURT: When you are in that kind of pain, it's
10 hard to pay attention.

11 POTENTIAL JUROR: I am Number 28. The only thing I
12 have going on -- I have to have stitches taken out of this
13 finger tomorrow morning at 9:15.

14 THE COURT: All right. I will excuse you.

15 POTENTIAL JUROR: 123. I had a heart attack about
16 a year-and-a-half ago. I have a follow-up appointment with the
17 cardiologist tomorrow to discuss medications that I am on.

18 THE COURT: You are excused. It's really hard to
19 get a doctor's appointment these days.

20 POTENTIAL JUROR: 307

21 THE COURT: Tell me.

22 POTENTIAL JUROR: Lower back pain, sciatica,
23 rotator cuff. It's painful.

24 THE COURT: You are excused. Thank you.

25 Anybody else?

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1 POTENTIAL JUROR: Juror Number 41. I am currently
2 on medication that makes me drowsy.

3 THE COURT: So are you going to fall asleep on me?

4 POTENTIAL JUROR: I will do my best to stay awake.

5 THE COURT: I have had trials where lawyers put
6 people to sleep. I don't know if this is it or not.

7 I will excuse you if you don't think you can do it

8 POTENTIAL JUROR: Juror Number 305. Severe pain.
9 It makes it difficult for me to sit for very long. As long as
10 I get breaks in between. I am not sure if I can sit for an
11 hour-a-half.

12 THE COURT: If you need one, we can take a break
13 and you can stand up.

14 POTENTIAL JUROR: 55. I don't have a medical
15 problem. I don't have a babysitter for more than three or four
16 hours.

17 THE COURT: You have a child under seven?

18 POTENTIAL JUROR: He is two.

19 THE COURT: Do you stay home and take care of them?

20 POTENTIAL JUROR: I work, just for four or five
21 hours.

22 THE COURT: I will excuse you. What is your
23 number?

24 POTENTIAL JUROR: 75.

25 POTENTIAL JUROR: 296. I have been having the last

1 two weeks sciatica issues.

2 THE COURT: So you have been out of work?

3 POTENTIAL JUROR: I have had to work for the last
4 two weeks.

5 THE COURT: Do you want me to excuse you?

6 POTENTIAL JUROR: If you don't mind.

7 THE COURT: Anyone else?

8 Has any member of the jury panel been convicted or
9 pled guilty in any state or federal court for any crime that
10 you could have received more than one year in prison and your
11 rights haven't been restored by pardon or amnesty? If you
12 could have gotten more than one year, I need to know about
13 that.

14 THE COURT: 201.

15 POTENTIAL JUROR: Your Honor, potentially. It's an
16 out-of-state conviction.

17 THE COURT: You could have gotten more than one
18 year? What state?

19 POTENTIAL JUROR: Ohio.

20 THE COURT: We will check that.

21 Is there any member of the jury panel who is a
22 clerk, deputy clerk of court, constable, probate judge, a
23 county commissioner, a magistrate, or any other county officer
24 or anyone employed within the walls of any courthouse?

25 If so, please stand.

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1 THE COURT: Anybody serving jury duty in this
2 calendar year, 2021?

3 (No indication.)

4 THE COURT: Has anyone served on the grand jury in
5 the last two calendar years? If so, please stand.

6 (No indication.)

7 THE COURT: Is any member of the jury panel 65
8 years or older and would like to be excused? We would like to
9 have you.

10 POTENTIAL JUROR: Juror 204.

11 THE COURT: You want to be excused?

12 POTENTIAL JUROR: I do.

13 THE COURT: You are over 65?

14 POTENTIAL JUROR: As of April.

15 THE COURT:

16 Any member of the jury panel have the care or
17 custody of a child or children under the age of seven and you
18 do not work outside of the home and stay at home and take care
19 of that child or children and would like to be excused.

20 POTENTIAL JUROR: I do. 27.

21 I actually have three. They are all under the age
22 of three.

23 THE COURT: Are you sure you don't want to get away
24 from home and get a break?

25 POTENTIAL JUROR: I would rather b home with them.

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1 THE COURT: I will excuse you.

2 Any member of the jury panel who takes care of an
3 elderly person or severely disabled stay-at-home person and
4 takes care of that person and you would like to be excused?

5 (No indication.)

6 THE COURT: Any member of the jury panel who is in
7 school as a teacher or student who would like me to transfer
8 you to sometime when school is not in session? I don't know if
9 we have school going on or not.

10 Yes, ma'am.

11 POTENTIAL JUROR: I teach summer school.

12 THE COURT: Is that going on this week?

13 POTENTIAL JUROR: We are in school this week.

14 THE COURT: Do you want me to transfer you to some
15 other time later this year?

16 POTENTIAL JUROR: Yes, sir.

17 THE COURT: We will transfer you.

18 Is there any member of the jury panel who is
19 employed with the Department of Corrections and would like to
20 exercise your exemption?

21 (No indication.)

22 THE COURT: Anyone who feels like this is the worst
23 week in your life to bring you in. Personal reasons, business
24 reasons, and you want me to transfer you to another week? If
25 that applies to you, stand up.

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1 Okay. I want everybody to stand up.

2 Yes, ma'am.

3 POTENTIAL JUROR: 323. I have a plane flight on
4 Wednesday morning with my family for vacation.

5 THE COURT: You are excused.

6 THE COURT: Yes, sir.

7 POTENTIAL JUROR: 175. I need to travel to New
8 York Friday to see my mother who doesn't have much time left.

9 THE COURT: What time on Friday?

10 POTENTIAL JUROR: Six o'clock.

11 THE COURT: We have short trials. You should be
12 fine. Anyone else?

13 (No indication.)

14 THE COURT: I find you are all qualified.

15 Now, are we ready to start the first case?

16 MS. KEENEY: Yes, Your Honor.

17 THE COURT: Are you ready?

18 THE COURT REPORTER: Yes, sir.

19 MS. KEENEY: Would you like me to call the case?

20 THE COURT: Yes, ma'am.

21 MS. KEENEY: This is the case of the State of South
22 Carolina v. John Thomas Basile. He is charged under Indictment
23 2019-GS-07-01383. He is charged with criminal sexual conduct
24 with a minor in the First Degree. -01970, criminal sexual
25 conduct with a minor, first degree. -09169, criminal sexual

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1 conduct with a minor, first degree. -00460, criminal sexual
2 conduct with a minor, third degree. -01384, criminal sexual
3 conduct with a minor, first degree. -00459, criminal sexual
4 conduct with a minor, third degree.

5 THE COURT: Ladies and gentlemen, we are about to
6 start the trial of the State v. John Thomas Basile.

7 I will read out a list of potential witnesses in
8 this case. I need to know whether you are connected by blood
9 or marriage, close personal friend, or social relationship to
10 any of these witnesses.

11 Sergeant Laura Albertin; MINOR 1; MINOR 2
12 MINOR 2 BROTHER; Brook Bentley; Michaela Bibbers; Eric
13 Calendine; Andrew Calore; Christopher Capps; Angela Crumpton;
14 Zechariah Bushman; Kristin Dalton; Amber Ready; Kansas Holler;
15 Kimberly Hannibal; LaDonna Holmes; Natynka; Jeffrey Merrill;
16 Derek Nelson; Seth Reynolds; Rich Williamson.

17 Any member of the jury panel connected by blood or
18 marriage or have a close personal or business relationship with
19 any of those potential witnesses.

20 Yes, sir.

21 POTENTIAL JUROR: 154. I work alongside a couple
22 of the witnesses, Brooke AND Kansas. Same organization.

23 With that affect your ability to be fair and
24 impartial?

25 POTENTIAL JUROR: I don't believe so.

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1 THE COURT: Do you know anything about this case?

2 POTENTIAL JUROR: No. Not at all.

3 THE COURT: Thank you, sir.

4 POTENTIAL JUROR: 267. Two of the witnesses are
5 co-workers. I don't think it would affect my ability to be
6 fair. I don't know anything about this trial.

7 THE COURT: Okay.

8 Madam Solicitor. Stand up and introduce yourself.
9 My name is Julie Keeney. I am an assistant solicitor of the
10 14th circuit. Our circuit consists of Beaufort County, Jasper
11 County, Colleton, Allendale, and Hampton. This is Rachel
12 Janowski. She will be helping me try the case as well. The
13 lead investigator is Officer William Weich. He will also be
14 with me today.

15 MR. STEPHENS: I am Jeff Stephens. I am an
16 attorney with the Quinlan Law Firm in Beaufort. I am hired in
17 this case on behalf of the Public Defender's Office for the
18 defendant. I may be assisted in the case with Patrick Carr
19 with my office.

20 THE COURT: Is anyone connected by blood, marriage,
21 close personal relationship or friendship with any of the
22 attorneys in this case or have you been represented by them?
23 If so, please stand.

24 POTENTIAL JUROR: 68. My daughter and my husband
25 have had work relationships with Mr. Stephens.

1 THE COURT: Would that affect your ability to be
2 fair and impartial?

3 POTENTIAL JUROR: No.

4 THE COURT: Is he currently representing you?

5 POTENTIAL JUROR: No. I really do not know him.
6 My daughter does.

7 THE COURT: Is he currently representing her?

8 POTENTIAL JUROR: No.

9 THE COURT: Anyone else?

10 (No indication.)

11 THE COURT: Any member of the jury panel formed or
12 expressed an opinion about any of the matters involved in this
13 case? If so, please stand.

14 (No indication.)

15 THE COURT: If you know anything about this case at
16 all, please stand.

17 (No indication.)

18 THE COURT: Any member of the jury panel or a
19 member of your immediate family ever been prosecuted by the
20 14th circuit solicitor's office? If so, please stand.

21 (No indication.)

22 THE COURT: Any member of the jury panel aware of
23 any bias or prejudice toward the State of South Carolina or the
24 Defendant?

25 (No indication.)

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1 THE COURT: Any member of the jury panel served on
2 the grand jury that indicted this case?

3 If so, please stand.

4 (No indication.)

5 THE COURT: Any member of the jury panel a member
6 or a financial contributor to any victim's organization, such
7 as MADD, SADD, any of those organizations? If so, please
8 stand.

9 (No indication.)

10 THE COURT: Any member of the jury panel who thinks
11 they cannot serve due to religious or moral judgment of your
12 fellow man? If so, please stand.

13 (No indication.)

14 THE COURT: Can any member of the jury panel trial
15 think of any reason whatsoever that they can't give the State
16 of South Carolina or the defendant a fair and impartial trial?

17 If so, please stand.

18 (No indication.)

19 THE COURT: Any further questions from the State?

20 MS. KEENEY: No, Your Honor.

21 THE COURT: From the defense?

22 MR. STEPHENS: No, Your Honor.

23 THE COURT: Has any member of the jury panel or a
24 member of your immediate family ever been the victim of a
25 sexual assault, if so, please stand.

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1 Yes, ma'am. What is your number?

2 POTENTIAL JUROR: 39.

3 THE COURT: The fact that the allegation in this
4 case deals with possible sexual assault, would that affect your
5 ability to be fair and impartial?

6 POTENTIAL JUROR: Yes, sir, it would.

7 THE COURT: I will excuse you.

8 Yes, ma'am

9 POTENTIAL JUROR: 85. I am happy to stay for one
10 of the other cases.

11 THE COURT: Are you in the same situation, the fact
12 that this case may involve allegations of sexual assault, that
13 would affect your ability to be fair and impartial?

14 POTENTIAL JUROR: I think I can be fair.

15 THE COURT: Thank you.

16 Anybody else? Yes.

17 POTENTIAL JUROR: Sexual assault, victim about 20
18 years ago.

19 THE COURT: Would that affect your ability to be
20 fair and impartial in this case?

21 POTENTIAL JUROR: I don't think so.

22 THE COURT: What is your number?

23 POTENTIAL JUROR: 399.

24 THE COURT: Thank you. Anyone else?

25 (No indication.)

STATE v. JOHN T. BASILE - 2019-GS-07-01383, VOLUME I

1 THE COURT: Any further questions from either side?

2 MR. STEPHENS: Not from the defense, Your Honor.

3 MS. KEENEY: Thank you.

4 THE COURT: Ladies and gentlemen, we will now
5 randomly select the jury panel. When your number is called,
6 please stand and face the attorneys. Then we will ask you to
7 take a seat or be excused from this trial.

8 THE CLERK: Number 237.

9 What says the State?

10 MS. KEENEY: Please present this juror.

11 THE CLERK: What says the defense?

12 MR. STEPHENS: Please seat the juror.

13 THE CLERK: Number 264.

14 What says the State?

15 MS. KEENEY: Please present this juror.

16 THE CLERK: What says the defense?

17 MR. STEPHENS: Please excuse the juror.

18 THE CLERK: Number 45.

19 What says the State?

20 MS. KEENEY: Please present this juror.

21 THE CLERK: What says the defense?

22 MR. STEPHENS: Please seat the juror.

23 THE CLERK: Number 133.

24 What says the State?

25 MS. KEENEY: Please present this juror.

1 THE CLERK: What says the defense?
2 MR. STEPHENS: Please excuse the juror.
3 THE CLERK: Number 85.
4 What says the State?
5 MS. KEENEY: Please present this juror.
6 THE CLERK: What says the defense?
7 MR. STEPHENS: Please excuse the juror.
8 THE CLERK: Number 305.
9 What says the State?
10 MS. KEENEY: Please present this juror.
11 THE CLERK: What says the defense?
12 MR. STEPHENS: Please excuse the juror.
13 THE CLERK: Number 20.
14 What says the State?
15 MS. KEENEY: Please excuse this juror.
16 THE CLERK: Number 178.
17 What says the State?
18 MS. KEENEY: Please present this juror.
19 THE CLERK: What says the defense?
20 MR. STEPHENS: Please seat the juror.
21 THE CLERK: Number 62.
22 What says the State?
23 MS. KEENEY: Please present this juror.
24 THE CLERK: What says the defense?
25 MR. STEPHENS: Please seat the juror.

STATE v. JOHN T. BASILE - 2019-GS-07-01383, VOLUME I

1 THE CLERK: Number 259.
2 What says the State?
3 MS. KEENEY: Please present this juror.
4 THE CLERK: What says the defense?
5 MR. STEPHENS: Please seat the juror.
6 THE CLERK: Number 310.
7 What says the State?
8 MS. KEENEY: Please present this juror.
9 THE CLERK: What says the defense?
10 MR. STEPHENS: Please excuse the juror.
11 THE CLERK: Number 175.
12 What says the State?
13 MS. KEENEY: Please present this juror.
14 THE CLERK: What says the defense?
15 MR. STEPHENS: Please seat the juror.
16 THE CLERK: Number 273.
17 What says the State?
18 MS. KEENEY: Please present this juror.
19 THE CLERK: What says the defense?
20 MR. STEPHENS: Please excuse the juror.
21 THE CLERK: Number 336.
22 What says the State?
23 MS. KEENEY: Please present this juror.
24 THE CLERK: What says the defense?
25 MR. STEPHENS: Please seat the juror.

1 THE CLERK: Number 237.
2 What says the State?
3 MS. KEENEY: Please present this juror.
4 THE CLERK: What says the defense?
5 MR. STEPHENS: Please seat the juror.
6 THE CLERK: Number 38.
7 What says the State?
8 MS. KEENEY: Please present this juror.
9 THE CLERK: What says the defense?
10 MR. STEPHENS: Please seat the juror.
11 THE CLERK: Number 349.
12 What says the State?
13 MS. KEENEY: Please present this juror.
14 THE CLERK: What says the defense?
15 MR. STEPHENS: Please seat the juror.
16 THE CLERK: Number 379.
17 What says the State?
18 MS. KEENEY: Please present this juror.
19 THE CLERK: What says the defense?
20 MR. STEPHENS: Please excuse the juror.
21 THE CLERK: Number 81.
22 What says the State?
23 MS. KEENEY: Please present this juror.
24 THE CLERK: What says the defense?
25 MR. STEPHENS: Please seat the juror.

STATE v. JOHN T. BASILE - 2019-GS-07-01383, VOLUME I

1 THE CLERK: Number 401.
2 What says the State?
3 MS. KEENEY: Please present this juror.
4 THE CLERK: What says the defense?
5 MR. STEPHENS: Please excuse the juror.
6 THE CLERK: Number 324.
7 What says the State?
8 MS. KEENEY: Please present this juror.
9 THE CLERK: What says the defense?
10 MR. STEPHENS: Please seat the juror.
11 THE CLERK: Number 31.
12 What says the State?
13 MS. KEENEY: Please present this juror.
14 THE CLERK: What says the defense?
15 MR. STEPHENS: Please seat the juror.
16 THE CLERK: Alternates. Number 268.
17 What says the State?
18 MS. KEENEY: Please present this juror.
19 THE CLERK: What says the defense?
20 MR. STEPHENS: Please seat the juror.
21 THE CLERK: Number 341.
22 What says the State?
23 MS. KEENEY: Please present this juror.
24 THE CLERK: What says the defense?
25 MR. STEPHENS: Please seat the juror.

STATE v. JOHN T. BASILE - 2019-GS-07-01383, VOLUME I

1 THE COURT: Are there any matters of law pertaining
2 to jury selection on behalf of the State?

3 MS. KEENEY: No, Your Honor.

4 THE COURT: On behalf of the defense?

5 MR. STEPHENS: No, Your Honor. Thank you.

6 THE COURT: Ladies and gentlemen, I am fixing to
7 leave and Judge Mullen is fixing to come in and draw another
8 jury. If you will stay put. My jury needs to go to the jury
9 room.

10 (Jury exits courtroom.)

11 (Recess.)

12 * * *

13 PRETRIAL MOTIONS

14 MS. KEENEY: May it please the Court

15 THE COURT: Yes, ma'am.

16 MS. KEENEY: Your Honor, are we back on the record
17 with State V. John about a Basile. It's the State's intention
18 to introduce a video recording of Mr. Basile's interview to law
19 enforcement to the Beaufort County Sheriff's Office
20 investigators. It took place in the Bluffton Police
21 Department. At this time we are ready to proceed with the
22 Jackson v. Denno hearing.

23 State calls William Weich.

24 * * *

25 WILLIAM WEICH,

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1 being first duly sworn testified as follows:

2 * * *

3 VOIR DIRE EXAMINATION BY MS. KEENEY

4 BY MS. KEENEY:

5 Q. State and spell your first and last name for the
6 court reporter.

7 A. William Weich, W-i-l-l-i-a-m W-e-i-c-h.

8 Q. Investigator Weich, where do you work?

9 A. Beaufort County Sheriff's Office.

10 Q. What is your position there?

11 A. Investigator with the Southern Investigations Unit.

12 Q. I will take you back to July 3, 2019. Can you tell
13 me how you got involved in this case?

14 A. I was requested to respond to the Coastal Carolina
15 Hospital in reference to a report of two possible sexual
16 assaults.

17 Q. After you got involved on July 9, 2019 -- July 10,
18 2019, did you have any interactions with the defendant?

19 A. Yes, ma'am. I was involved in conducting a traffic
20 stop on his vehicle. As he left for work, after we were
21 conducting the surveillance, I assisted in taking him into
22 custody. He was transported to the Bluffton Police Department
23 where he was interviewed.

24 Q. When you pulled him over in that traffic stop, were
25 you in an investigator car or a road patrol car?

1 A. At the time in the staff sergeant's unmarked
2 Investigations SUV.

3 Q. Eric Calendine?

4 A. Yes, ma'am.

5 Q. Does that car have in-camera or audio equipment to
6 it?

7 A. No, ma'am. It's not equipped with any recording
8 devices.

9 Q. When you did the traffic stop, what was the basis
10 of your stop?

11 A. I had arrest warrants in my possession for his
12 arrest.

13 Q. You had signed arrest warrants for the defendant,
14 John Basile?

15 A. Yes, ma'am.

16 Q. When you pulled him over, what happened next?

17 A. He was removed from the vehicle. We were able to
18 positively identify him. He was placed into handcuffs, at
19 which point Sergeant Murphy -- I was present while Sergeant
20 Murphy read him his Miranda Rights.

21 Q. William Murphy with the sheriff's office?

22 A. Yes, ma'am.

23 Q. He read the Miranda Rights?

24 A. Yes, he did.

25 Q. At that time did the defendant wish to waive those

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1 rights?

2 A. He did.

3 Q. In a minute we will go over the Miranda form.

4 Did you have any audio or video recordings at that
5 time during the initial stop?

6 A. During the initial stop? No, ma'am.

7 Q. Did you have a digital recorder?

8 A. I did. It was inside the vehicle. Once he was
9 safely in custody and being detained, we advised him that he
10 was under arrest and Mirandized. I turned on my digital
11 recorder at that moment.

12 Q. So the first set of Miranda warnings is not
13 captured on any audio or video recording?

14 A. No, ma'am.

15 Q. You transferred him to the Bluffton Police
16 Department.

17 Why did you go to the Bluffton Police Department?

18 A. It was closer to the incident where we stepped him
19 at. It was Simmonsville and 278. It was closer to go to the
20 Bluffton Police Department as opposed to Hilton Head or here in
21 Beaufort.

22 Q. Who was present when you interview him?

23 A. Investigator Sergeant Seth Reynolds.

24 Q. During the transport from the traffic stop location
25 to the Bluffton Police Department, did you all talk about the

1 allegations or the actual case during that transport?

2 A. No, ma'am.

3 Q. It was small-talk?

4 A. I believe we talked about the weather and his work.

5 Q. You were at the Bluffton Police Department on July
6 10, 2019 with Investigator Reynolds.

7 I am going to show you what has been marked as
8 Court's Exhibit Number 4. Do you recognize that exhibit?

9 A. Yes, I do.

10 Q. What is that?

11 A. It's the Miranda warning form that was completed by
12 the Beaufort County Sheriff's Office. It explains the person
13 who we are speaking to each of their rights and a few other
14 qualifying questions.

15 Q. Is that the Miranda -- is that a copy of the
16 Miranda form that you presented to Mr. Basile in this case?

17 A. Yes, it is.

18 Q. Fair and accurate reflection of that Miranda form?

19 A. Yes, it is.

20 MS. KEENEY: At this time the State moves to admit
21 this as Court's Exhibit 4.

22 (State's Exhibit 4 was marked and accepted into
23 evidence.)

24 Your Honor, would you like him to go through each
25 of the warnings for the record?

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1 THE COURT: I can read.

2 MR. STEPHENS: No objection to State's Court's 4.

3 BY MS. KEENEY:

4 Q. So did Mr. Basile initial that he understood all of
5 those rights?

6 A. Yes, he did.

7 Q. Did he -- having these rights in mind, do you wish
8 to talk to us now, what did he say?

9 A. He put his initials next to the yes section.

10 Q. He indicated that he did want to speak to you?

11 A. That's correct.

12 Q. Did he ask for a lawyer?

13 A. No, ma'am.

14 Q. He didn't ask for a lawyer. He wanted to speak
15 with you. I assume you proceeded with the interview, correct?

16 A. That's correct.

17 Q. Was that interview recorded in any way?

18 A. I had my digital recorder still going from the time
19 he was placed under arrest throughout the entire interview, and
20 the Bluff Police Department interview room is equipped with
21 audio and video recording devices.

22 Q. I will show you what has been marked as Court's
23 Exhibit Number 1. Do you recognize this item?

24 A. Yes, I do.

25 Q. What is that?

1 A. A CD that is said to contain the recordings, audio
2 and video recordings from the Bluffton Police Department
3 interview room.

4 Q. That is the video version of the interview?

5 A. Correct. Audio and video.

6 Q. Did you review that interview?

7 A. Yes, I did.

8 Q. Did you initial that you reviewed it?

9 A. Yes, I did.

10 Q. Is that a fair and accurate depiction of the video
11 version of the interview that you did with Mr. Basile?

12 A. Yes, it is.

13 Q. MS. KEENEY: State moves to admit Court's Exhibits
14 1 and 2.

15 THE COURT: Any objection?

16 MR. STEPHENS: No objection, Your Honor.

17 THE COURT: Entered without objection.

18 (Court's Exhibits 1 was marked and accepted
19 into evidence.)

20 BY MS. KEENEY:

21 Q. Showing you Court's Exhibit Number 2. Do you
22 recognize that?

23 A. Yes, I do.

24 Q. What is that?

25 A. It's a compact disk containing the audio recording

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1 from my digital recorder.

2 Q. Is that a fair and accurate depiction of the audio
3 recording that you did from your digital recording that day?

4 A. Yes, it is.

5 Q. You reviewed that?

6 A. Yes, I did.

7 MS. KEENEY: At this time, State moves to admit
8 Court's Exhibit Number 2.

9 THE COURT: Any objection?

10 MR. STEPHENS: No. Not for the defense.

11 (Court's Exhibit 2 was marked and admitted into
12 evidence.)

13 MS. KEENEY: For the record purposes, I sent both
14 of these exhibits to Your Honor last week for review. There is
15 no need for me to publish them now.

16 THE COURT: No.

17 BY MS. KEENEY:

18 Q. Do you recall the defendant's date of birth.

19 A. [REDACTED]. Yes. [REDACTED]

20 Q. That makes him about 63 years old at the time of
21 the interview, is that correct?

22 A. Yes.

23 Q. Investigator Reynolds was present during this
24 interview, correct?

25 A. Yes, he was.

1 Q. Did you or Investigator Reynolds threaten Mr.
2 Basile in any way?

3 A. No, ma'am.

4 Q. Did you promise him anything in exchange for his
5 statement.

6 A. No, ma'am.

7 Q. Did Investigator Reynolds promise him anything?

8 A. No, ma'am.?

9 Q. During the car ride between the traffic stop and to
10 the Bluffton Police Department, any threats or promises made?

11 A. No, ma'am.

12 Q. At some point in the interview, did the defendant
13 acknowledge that he had not been threatened in any way?

14 A. Yes, he did.

15 Q. How would you describe the overall demeanor of this
16 interview? Yelling at him? Doing anything hostile?

17 A. No. Investigator Reynolds and I were very matter
18 of factual. It was very casual. There was no pounding of
19 hands or screaming or yelling or jumping up out of the chair,
20 or anything like that.

21 Q. Do you recall the defendant making a comment
22 saying, so far you all have been good to me?

23 A. I do.

24 Q. Did the defendant appear to be under the influence
25 of any alcohol or drugs during the time of the interview?

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1 A. No, ma'am.

2 Q. Did he appear to have any physical or mental
3 disabilities to the extent where he would not understand what
4 was going on?

5 A. No, ma'am.

6 Q. Did you all deny him access to the bathroom or
7 telephone?

8 A. No.

9 Q. If he wanted water, would you have given him some
10 water?

11 A. I believe we did get him some water about 20
12 minutes into the interview.

13 Q. If he said, I am kind of tired of talking right
14 now, what would you have done?

15 A. Investigator Reynells and I would have stepped out
16 of the interview room.

17 Q. About how long was the total interaction with the
18 defendant from maybe the start of the traffic stop until the
19 conclusion of the interview?

20 A. From the time of the traffic stop to the
21 conclusion, I would estimate to be around four hours.

22 Q. In the Bluffton Police Department interview room,
23 do you remember the layout of the room? What did it look like?

24 A. I just want to make sure I am straight. The camera
25 angle was reversed. When you enter the room, there was four

1 chairs in different corners of the room and a long table along
2 the one side of the room.

3 Q. A typical interview room?

4 A. Yes.

5 Q. Did the defendant, to your knowledge, read and
6 write?

7 A. Definitely appeared to be that way. He did review
8 each of his rights on the Miranda form as I went them with him.
9 He legibly placed his initials next to each one his signature.
10 Appeared to be a pretty good signature. I know that he was
11 employed and had a driver's license.

12 Q. He didn't express to you any difficulty being able
13 read or write?

14 A. No, ma'am.

15 Q. You read the rights to him as well?

16 A. Correct.

17 Q. Did he appear to understand what was going on?

18 A. Yes, he did.

19 Q. At the conclusion of the interview, what happened
20 to the defendant? Where did he go transported?

21 A. He was transported to the Beaufort County Detention
22 Center here in Beaufort.

23 Q. You don't have to testify about everything he said,
24 but generally speaking he denied at first all the allegations,
25 is that correct?

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1 A. Yes, it is.

2 Q. Later on he made some admissions during the course
3 of the interview?

4 A. Multiple, yes.

5 MS. KEENEY: Thank you. No further questions for
6 this witness.

7 * * *

8 CROSS-EXAMINATION

9 BY MR. STEPHENS:

10 Q. Hi. I am Jeff Stephens, Officer Weich. I have a
11 few questions for you. You said when you picked Mr. Basile up,
12 he was not Mirandized right there prior to getting him to the
13 Bluffton Police Department; is that correct?

14 A. No. He was Mirandized by the side of the road by
15 Sergeant Murphy.

16 Q. On the way to the Bluffton Police Department, he
17 talked to you a little bit about his job?

18 A. I believe he worked for an upholstery or carpet
19 cleaning business, yes.

20 Q. Do you recall if he made any statement about
21 concerns to get back to his job or anything like that?

22 A. I don't recall.

23 Q. Do you recall if he made a statement that he wanted
24 to leave and was told that he was under arrest and he would be
25 going to jail and couldn't leave?

1 A. At which point, sir?

2 Q. Unfortunately, I don't have the actual time. To
3 the best of your recollection, do you remember a time where he
4 said he wanted to leave?

5 A. I don't.

6 Q. Do you recall if there was a time that he was told
7 that he couldn't leave because he was going to be going to jail
8 because he was under arrest?

9 A. I don't remember that exact verbiage. I know he
10 was advised that he was under arrest and not free to leave.

11 Q. He understood that he was not free to leave because
12 he was under arrest?

13 A. That's correct.

14 Q. Do you recall if you explained to him or
15 Investigator Reynells explained to him that even though he
16 couldn't leave, he could still end the interview whenever he
17 wanted? I understand that is in the rights advisement, but did
18 he make any distinction between being able to leave and ending
19 the interview?

20 A. I honestly don't recall.

21 Q. Fair to say that you don't recall any time that he
22 made any ambiguous requests to end the interview. Is that
23 fair?

24 A. Rephrase that.

25 Q. To the best of your recollection, there was no time

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1 he said, I want to stop talking. I don't want to do this
2 anymore, anything like that?

3 A. Not that I recall.

4 MR. STEPHENS: Thank you. I don't believe I have
5 any further questions for this witness.

6 MS. KEENEY: No further questions for this witness.

7 THE COURT: Do you have any other witnesses?

8 MS. KEENEY: I do. State calls Investigator Seth
9 Reynells.

10 SETH REYNELLS,

11 being first duly sworn testified as follows:

12 * * *

13 VOIR DIRE EXAMINATION

14 BY MS. KEENEY:

15 Q. Investigator Reynells, where do you work?

16 A. Beaufort County Sheriff's Office. Sergeant in the
17 southern investigations section.

18 Q. I will take you back to July 10, 2019. Can you
19 tell me about how you got involved in this case?

20 A. Yes. I belong with a number of other investigators
21 who were planning to conduct a search warrant in reference to
22 some of the arrest warrants that were obtained for Mr. Basile.
23 During the course of that process, contact was made with Mr.
24 Basile. I responded to the scene along with a number of other
25 people. I ended up transporting Mr. Basile to the Bluffton

1 Police Department where we conducted an interview with him.

2 Q. He was in custody at that time, correct?

3 A. Correct.

4 Q. When you go to the Bluffton Police Department, what
5 happened when you got there? What did you all do?

6 A. We put Mr. Basile in one of the interview rooms.
7 We went through his Miranda Rights form and conducted an
8 interview.

9 Q. I will show you what has been entered as Court's
10 Exhibit Number 4. Do you recognize that document?

11 A. Yes, I do.

12 Q. That is the document that you all presented Mr.
13 Basile with?

14 A. Correct.

15 Q. Did he appear to understand his rights, Miranda
16 Rights?

17 A. He did.

18 Q. Did he indicate that he wished to waive those
19 rights?

20 A. He did.

21 Q. Did he ever ask for an attorney?

22 A. At no point.

23 Q. Did he ever ask to stop the interview?

24 A. No.

25 Q. I forgot to ask Investigator Weich this. Are you

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1 aware of the audio/video issue with the Bluffton Police
2 Department video?

3 A. Yes I am.

4 Q. Briefly describe what is going on with it.

5 A. In layman's terms, the audio and video -- there is
6 a discord between the audio and video. Let's say, for example,
7 four minutes. The movements that my mouth is making currently
8 having this conversation with you right now will not arrive in
9 the audio until four minutes from now.

10 When we are reviewing the Miranda form with him,
11 for example on video, you are not watching us do that. You are
12 hearing us do that, but you are watching us do something else
13 all together.

14 Q. Some type of delay?

15 A. There is a delay somehow in their technology
16 between the live feed and when you get the playback.

17 Q. You have. Before, haven't you?

18 A. Yes. In fact, that is why we all take our own
19 digital audio recorder in Something goes haywire and they
20 don't match up.

21 Q. It's a common problem with the Bluffton Police
22 Department. It's not just a problem that happened in this
23 case?

24 A. Correct.

25 Q. Back to the interview with Mr. Basile on July 10,

1 2019. You and Mr. Weich were present with Mr. Basile?

2 A. Yes.

3 Q. Did you or Investigator Weich ever threaten Mr.
4 Basile to make a statement?

5 A. Not at all.

6 Q. Did you promise him anything?

7 A. No.

8 Q. Do you recall a part where the defendant said, you
9 have all have been pretty good to me so far?

10 A. I do.

11 Q. Do you remember acknowledging that you all hadn't
12 threatened him in any way?

13 A. I do.

14 Q. Did you make him any promises?

15 A. I did not, no.

16 Q. Did he appear to be under the influence of any
17 alcohol or drugs?

18 A. No.

19 Q. Did he appear to have any mental or physical
20 disabilities to the extent he would not understand what was
21 going on?

22 A. No.

23 Q. If he needed to use the bathroom or the telephone,
24 would you have let him?

25 A. Yes.

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1 Q. What was the overall demeanor of the interview?
2 Were you yelling at him?

3 A. We never raised our voices. It was more of a
4 conversation than anything else. The content excluded, it was
5 just talking to him the way I am talking to you right now.

6 Q. At some point did the defendant ask for water?

7 A. He did.

8 Q. Did you all provide him water?

9 A. We did.

10 Q. If he wanted a break or he needed to go to the
11 bathroom or take a breather, would you have given him that
12 opportunity?

13 A. Absolutely.

14 Q. From the time he was taken into custody until the
15 end of that Bluffton Police Department interview, about how
16 long was that interaction with Mr. Basile?

17 A. Roughly four hours.

18 Q. Did he appear to be able to read and write?

19 A. He did.

20 Q. Did he appear to understand what is going on?

21 When you asked him a question, did his response
22 make sense? Were they proper responses?

23 A. Yes.

24 Q. One last thing I forgot to address, the Miranda
25 form. So we have it on the record.

1 Court's Exhibit 4. Did Investigator Weich just
2 sign at the wrong place at the bottom?

3 A. He did. So there is the person's signature line
4 and then we will witness it below.

5 Q. So Investigator Weich accidentally signed in the
6 signature place where Mr. Basile is supposed to sign, and Mr.
7 Basile signed in the witness thing?

8 A. Correct.

9 Q. They were just reversed?

10 A. Correct.

11 Q. That is Mr. Basile's signature?

12 A. Yes.

13 MS. KEENEY: Thank you. No further questions.

14 * * *

15 CROSS-EXAMINATION

16 BY MR. STEPHENS:

17 Q. Investigator Reynells, I just have a few questions
18 for you. You understood that Mr. Basile had been placed under
19 arrest when he was stopped on his way to work, correct?

20 A. Yes.

21 Q. To the best of your knowledge, is it true that you
22 he was not free to leave the custody of law enforcement
23 officers while he was being interviewed?

24 A. To the best of my knowledge, yes.

25 Q. He initially -- when he was being interviewed, he

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1 denied the allegations that were in the arrest warrants?

2 A. Uh-huh. That's correct.

3 Q. Do you recall if you or Investigator Weich ever
4 told Mr. Basile that he was lying or he needed to answer those
5 questions again after he initially denied the allegations?

6 A. I don't recall those words specifically. It's
7 just -- those allegations are very serious allegations. It's
8 not unusual for somebody to deny at first.

9 Q. When he initially denied those allegations, did
10 anyone say anything about that he was free to end the
11 interview? That was in his initial rights advisement, but
12 after he made a statement and denied this, was there any other
13 discussion about it?

14 A. Not that I remember, no.

15 Q. Fair to say you are not required to tell him after
16 his initial rights advisement?

17 A. Correct.

18 MR. STEPHENS: I don't think I have any further
19 questions for you. Thank you

20 * * *

21 VOIR DIRE EXAMINATION

22 BY MS. KEENEY:

23 Q. Just one question. Investigator Reynells, when he
24 denied the allegations, do you recall repeatedly saying, we
25 just want the truth?

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1 A. I do remember that, yes.

2 MS. KEENEY: Thank you. No further questions.

3 THE COURT: Anything further?

4 MS. KEENEY: Not for the Denno hearing.

5 THE COURT: Do you have a copy of the arrest
6 warrant?

7 MS. KEENEY: I do.

8 THE COURT: Okay. Anything for the defendant?

9 MR. STEPHENS: Nothing for this witness, Your
10 Honor.

11 THE COURT: You don't have any further witnesses
12 you want to call?

13 MR. STEPHENS: No, Your Honor. The defendant has
14 no witnesses to call. We are not calling Mr. Basile for the
15 limited purpose of this motion, your Honor. I just want to
16 preserve the issue on the record that I don't have much
17 argument to offer. We are prepared to argue at the appropriate
18 time.

19 THE COURT: I find that this was the result of
20 in-custodial interrogation. The defendant was interviewed. He
21 was advised of his Miranda warnings prior to being interviewed.
22 Based on the officer's testimony and the paperwork, he appeared
23 to understand his rights. He voluntarily gave a statement to
24 the police. This statement was freely and voluntarily given.
25 It was not under duress or coercion or promise of anything.

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1 I think it is admissible. It was the result of a
2 lawful arrest.

3 (Court's Exhibits 3 and 4 were marked and admitted
4 into evidence.)

5 MS. KEENEY: Thank you, Your Honor.

6 MS. KEENEY: Your Honor, the only other pretrial
7 matter is I sent Your Honor my motion to admit the forensic
8 interview. I can make that motion a Court's Exhibit. It
9 outlines the South Carolina Code Section 1723.175 regarding
10 whether or not a forensic interview is admissible. It goes
11 through the requirements of that.

12 Number 1, statements were given in response to
13 questioning conducted during the investigation, South Carolina
14 code section 1723.175.

15 Number 2, an audio video recording of the
16 statements have been preserved by electronic means.

17 Number 3, the children are expected to testify at
18 trial and subject to cross-examination on the elements of the
19 offense and making the out-of-court statements.

20 There are also other factors to consider. The
21 totality of the circumstances, 1723.195 outlines those factors.
22 Obviously, we do have the two girls that are going to testify.
23 My plan is to have them testify tomorrow.

24 We are seeking to introduce those forensic
25 interviews. They were five years old and eight years old at

1 the time. We have them preserved by digital recording. I
2 don't know if Your Honor wants to rule on that matter.

3 I email Brooke Bentley, who is the Hopeful Horizons
4 forensic interviewer. I emailed her resume that talks about
5 her training and experience, which is one of the factors to
6 consider under the totality of the circumstances.

7 THE COURT: Okay. What says the defense?

8 MR. STEPHENS: The defense has copies of a lot of
9 cases that say this sort of thing is not bolstering. We have
10 no objection to the admissibility of the video interviews,
11 subject to the availability of the children to testify.

12 THE COURT: Okay. As far as the expert, I assume
13 you are going to call a blind expert too.

14 MS. KEENEY: Brookes Bentley, her counselor from
15 Hopeful Horizons will be here first. She is being called to
16 authenticate the videos, say where she works. The blind expert
17 is from D. Norton, a child advocacy center in Dorchester
18 County. She will be here on Wednesday. If Your Honor wishes,
19 we can proffer her testimony before she testifies.

20 THE COURT: You don't have any objection to Brookes
21 Bentley's testimony?

22 MR. STEPHENS: No, Your Honor. Again, if she is
23 only being called as a foundation witness to enter the videos,
24 we don't have any objection to the videos themselves if the
25 children are going to be called to testify.

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1 THE COURT: I assume she will be on the call for
2 the foundation. I will rule on it if something changes, but
3 under the law it's pretty clear that is all she can do.

4 MS. KEENEY: I would say she would be a quick and
5 easy witness. She has to sit while the interview is being
6 played, but the words coming out of her mouth will be quick.

7 I am marking my motion for the admission of the
8 out-of-court statements as Court's Exhibit 5 for identification
9 purposes.

10 (Court's Exhibit 5 was marked and entered into
11 evidence.)

12 That is all the pretrial matters that the State
13 has.

14 MR. STEPHENS: The only other matter we have for
15 the defense is the defendant's desire to plead to the two
16 criminal sexual conduct with a minor third degree offenses. I
17 think we would need sentencing sheets from the State to go
18 forward on that. We are happy to do that tomorrow, if that is
19 going to take some. Obviously, we don't want to delay the
20 jury.

21 MS. KEENAN: We can do it today. Give me five
22 minutes. I was working on those video redactions. I need
23 sentencing sheets for the two counts of criminal sexual conduct
24 with a minor, third degree, one for each girl.

25 MS. KEENEY: I did forget to put on the record that

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1 I marked the forensic interviews for both girls, MINOR 1 and
2 MINOR 2 as Court's Exhibit Number 3. That was the video
3 link that I sent Your Honor last week for review.

4 THE COURT: Thank you.

5 MS. KEENEY: You have the copies of the
6 indictments.

7 THE COURT: I do. I have the original ones too.

8 MS. KEENEY: The indictments that he is pleading
9 to --

10 THE COURT: are 459 and 460.

11 MS. KEENEY: Yes, sir.

12 THE COURT: Okay.

13 MR. STEPHENS: How would you like him -- since Mr.
14 Basile is in a wheelchair --

15 THE COURT: He can stay right there. As long as
16 the court reporter can hear your responses to me, that's fine.
17 I can hear him.

18 JOHN THOMAS BASILE,

19 being first duly sworn testified as follows:

20 * * *

21 EXAMINATION BY THE COURT

22

23 THE COURT: Mr. Basile, they have given me two plea
24 sheets for Criminal sexual conduct in the third degree.

25 Do you want to plead guilty to these?

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1 THE DEFENDANT: Yes, sir.

2 THE COURT: Have you had enough time to talk to
3 your lawyer about this your decision?

4 THE DEFENDANT: Yes, sir. I have.

5 THE COURT: Are you satisfied with his
6 representation?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Has anybody promised you anything or
9 threatened you in any way to get you to plead guilty?

10 THE DEFENDANT: No, sir.

11 THE COURT: You understand each one of these
12 carries up to 15 years in prison?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Are you under the influence of alcohol
15 or drugs today?

16 THE DEFENDANT: No, sir. I am not.

17 THE COURT: Do you have any mental diseases that
18 would prevent you from understanding what you are doing here
19 today?

20 THE DEFENDANT: No, sir.

21 THE COURT: By pleading guilty to these charges,
22 you have given up certain Constitutional rights. You have a
23 Constitutional right under the Fifth Amendment to remain
24 silent. When you plead guilty, you give that up?

25 Do you understand that?

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1 THE DEFENDANT: I understand that.

2 THE COURT: You also have a Constitutional Right to
3 a jury trial on these charges. We are fixing to go through a
4 jury trial now on some of your other indictments.

5 In that jury trial, the State has to prove you
6 guilty of these charges beyond a reasonable doubt, all 12
7 jurors. You will be able to sit in the courtroom and confront
8 each witness that would testify against you in that.

9 You can cross-examine the State's witnesses. You
10 can subpoena witnesses to testify on your behalf. You can put
11 up any defenses you have to this crime. When you plead guilty,
12 you give all of that up.

13 Do you understand?

14 THE DEFENDANT: Yes, sir. I do.

15 THE COURT: You will give up any appeals that could
16 come out of this trial by pleading guilty. Do you understand?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: If you want to appeal this guilty plea
19 today, you and your lawyer must file that with the Clerk of
20 Court within ten days of today's date. You give up that right
21 as well. Do you understand that?

22 THE DEFENDANT: I understand.

23 THE COURT: Do you have any questions that you want
24 to ask me concerning your rights?

25 THE DEFENDANT: No, sir. Thank you.

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1 THE COURT: The solicitor will give me some facts
2 to support these indictments. Then I will come back and talk
3 to you about it

4 MS. KEENEY: Thank you, Your Honor. With respect
5 to Indictment Number 2021-GS-07-00459, criminal sexual conduct
6 with a minor Third Degree. That indictment is in reference to
7 MINOR 1. She was between the ages of 7 and 8 years old
8 at the time of the offenses, between January 1, 2018 through
9 July 1, 2019. This offense occurred here in Beaufort County at
10 Lane, Bluffton, South Carolina.

11 The defendant is MINOR 1's paternal grandfather.
12 MINOR 1 and her sister, MINOR 2 and brother BROTHER were
13 living the at the residence with Mr. Basile along with
14 MINOR 1's and MINOR 2's biological mother, Kimberly and
15 Kimberly's biological parents.

16 Kimberly, the mother of these children, would work
17 nights as a security guard at Sea Pines, a neighborhood on
18 Hilton Head. The two girls along with BROTHER would spend a
19 lot of time with what they call Papa John, who has been
20 identified as the defendant's, room. They would sleep in
21 there. There was a bed in there and also a mattress on the
22 ground.

23 In July of 2019, the defendant's daughter, Amber
24 Ready, was watching the girls. She would watch them a good
25 bit, especially during the summertime. Kimberly didn't have

1 child care. Amber had the girls at her house along with the
2 little boy, **BROTHER**. The girls were just acting a little
3 weird. She started talking to them about good touch; bad
4 touch. That is when **MINOR 2**, she was five at the time,
5 said Papa John has been doing some bad things to me.

6 **MINOR 1** did not disclose that night; however, the
7 next day she did. Amber took both girls to Coastal Carolina
8 Hospital. That is just what her immediate reaction was. Take
9 them to the hospital to see if they are okay.

10 Law enforcement was notified from there. The
11 investigation happened, and the girls did a forensic interview
12 at Hopeful Horizons, which is our child advocacy center here in
13 Beaufort County.

14 With respect to Indictment Number 459, **MINOR 1**
15 disclosed numerous sexual acts that the defendant did to her
16 during that time period. A lot of it -- I know in one part he
17 denies pretty adamantly the interview -- she called it a
18 squirrelle. She described it like a pen. She does her fingers
19 like this, that vibrates. To anybody who is an adult, it
20 sounds like she is talking about a vibrator. He would swirl it
21 around on her vaginal area. She calls it her private part.
22 She wasn't sure if it went inside or not. So that is one basis
23 for the CSC with the minor lewd act indictment. I couldn't 100
24 percent prove penetration with that charge.

25 She also disclosed that he would kiss her bottom,

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1 referring to her buttocks area. He would use her his hands to
2 spread her private parts apart. He would show her pictures of
3 adult women who were spreading their own private parts apart.

4 She also disclosed some things -- one of the things
5 I am going for at trial is the oral sex component. That is one
6 of the sexual batteries that we will be going forward to trial
7 with. He licked her on the inside and the outside of her
8 vaginal area.

9 She describes with the dolls that they have at
10 Hopeful Horizons, basically she puts the girl doll at the guy
11 private part. The guy's mouth at her private part. He was
12 trying to make her perform oral sex on him.

13 Some people would call it like the 69 position.
14 She obviously didn't use those words; however, she said she did
15 not touch his private part with her mouth. She just tried to
16 get away from it.

17 That is for MINOR 1. Obviously, we will be going
18 forward with the oral sex component, cunnilingus at trial.

19 With respect to Indictment 2021-GS-07-00460,
20 criminal sexual conduct with a minor, third degree with MINOR 2
21 MINOR 2 She would have been between the ages of 3 to 5 years
22 old from January 1, 2018 to July 1, 2019. That also occurred
23 at [REDACTED] Lane in Bluffton here in Beaufort County.

24 The basis for those charges -- we are going forward
25 with the digital penetration charge, penile penetration charge,

1 and cunnilingus at trial. The criminal sexual conduct with a
2 minor third degree was basically touching her butt area using
3 his private near the butt area. She also described him
4 ejaculating and it ended up on her face, and it made her feel
5 sad.

6 There is overall touching of the privates. Any of
7 those could be the basis for criminal sexual conduct with a
8 minor third degree. He does make various admission throughout
9 his interview. We didn't talk about all the admissions during
10 the Jackson v. Denno hearing. He in that interview admits to
11 licking **MINOR 1** and **MINOR 2**'s private areas. He says he does
12 not remember if his tongue went inside or not.

13 He admitted to using his fingers in their vaginal
14 area. He ultimately does admit that part of his finger went
15 in. That is what we are going forward to trial with, the
16 penetration charges. He does admit to touching the girls in
17 their private areas, which would be a lewd act.

18 THE COURT: Mr. Basile, the facts that she gave me,
19 is that correct?

20 MR. STEPHENS: Some of it is, sir. Yes

21 THE COURT: You are pleading guilty to lewd acts,
22 criminal sexual conduct in the third degree. You admit that
23 you did that portion of this?

24 MR. STEPHENS: Some of it. Yes, sir.

25 THE COURT: I find there is a factual basis for

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1 your plea. It was freely and voluntarily entered into. You
2 have had the advice of competent counsel with whom you tell me
3 you are satisfied. I will accept the plea.

4 Now, I would like to defer sentencing until the
5 trial is over.

6 MR. STEPHENS: That is what we discussed. We
7 understand, Your Honor.

8 THE COURT: I will accept his plea. When the trial
9 is over with, I will sentence him.

10 MS. KEENEY: Thank you, Your Honor.

11 THE COURT: Okay.

12 MR. STEPHENS: Nothing further from the defense,
13 Your Honor.

14 THE COURT: Anything further from the State?

15 MS. KEENEY: Nothing further from the State.

16 THE COURT: You want me back at 9:30 in the
17 morning? I will be here before that.

18 (At 4:16 p.m. the proceedings were continued until
19 the following day without interruption.)

20 * * *

21 END OF VOLUME I

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PROCEEDINGS

TUESDAY, JUNE 22, 2021

BEAUFORT, SOUTH CAROLINA

* * *

THE COURT: There is a matter I need to deal with with Juror 349, Mr. Smith. He has told the bailiff that he won't wear a mask. Bring him in, please.

(Juror Number 349 enters the courtroom.)

THE COURT: Mr. Smith, the bailiff tells me that you won't wear a mask; is that right?

THE JUROR: I will if I have to, I guess.

THE COURT: I didn't wear a mask when I came in the building, but the Chief Justice has set certain rules. I also understand that you had a potential problem this morning and and you said you weren't coming.

THE JUROR: That has been resolved.

THE COURT: Well, I will pull you from this jury and put in an alternate. I need you to go outside and have a seat. I will deal with appointing an alternate.

(Juror 349 exits the courtroom.)

THE COURT: I need Mr. Montgomery.

(Juror Number 268 enters the courtroom.)

THE COURT: Good morning, Mr. Montgomery.

THE JUROR: Good morning, Your Honor.

THE COURT: I got your letter. I appreciate you

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1 letting me know that. I have gone over the information in the
2 letter with both attorneys. I need to ask you on the record,
3 based on your research and what you found out about these
4 people, do think you can be fair and impartial to both sides?

5 THE JUROR: I most certainly do. I did a conflicts
6 check, which I do. I didn't read anything about the case or
7 these people whatsoever. I just wanted you to have full
8 disclosure. Those names I didn't recognize.

9 THE COURT: I appreciate that, sir. Thank you.

10 If you will go back to the jury room. I have lost
11 one juror already, so I will have the clerk draw a new
12 alternate.

13 (Juror 268 exits the courtroom.)

14 THE COURT: Do you all want the clerk to randomly
15 draw the alternate?

16 MR. STEPHENS: Based on Mr. Montgomery's responses,
17 Juror 268, I don't have any particular concerns about him
18 serving as a juror. At that point, I think we should just
19 follow the rules of procedure for random drawing.

20 MS. KEENEY: That is fine with the State.

21 THE COURT: Even though he was picked as the first
22 alternate, I understand in the criminal court you randomly draw
23 an alternate. In civil Court, it's different. So I will have
24 the clerk randomly draw an alternate and let us know and then I
25 will inform whoever is drawn when they come back in that they

1 are part of the original 12.

2 Once the clerk does that, is there anything else we
3 need to do before we bring in the jury and swear them and start
4 the case? MS. KEENEY: No, Your Honor.

5 MR. STEPHENS: Nothing from the defense, Your
6 Honor.

7 THE COURT: Madam clerk, draw me an alternate. It
8 just happens to be Mr. Montgomery.

9 MS. KEENEY: It was him?

10 THE COURT: Yes. It was him.

11 MS. KEENEY: I would have bet money that it would
12 have been him.

13 THE COURT: Bring them in. I will let him know and
14 then have the clerk swear the jury in. I will give some
15 introductory remarks and then let you all make opening
16 statements.

17 (The jury enters the courtroom.)

18 THE COURT: Mr. Montgomery, you have been selected
19 as the alternate. You can swear the jury.

20 (Jury duly sworn and empanelled)

21 THE COURT: Ladies and gentlemen, I am going to
22 briefly give you some opening remarks to explain to you your
23 duties during this trial. This is not a charge on the law. I
24 will explain to you the law that applies to this case at the
25 end of the this trial. We are about to begin the trial of the

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1 State of South Carolina versus John Thomas Basile.

2 Mr. Basile has been indicted for the crime of
3 criminal sexual conduct with a minor, First Degree, two counts.
4 I will explain to you the elements of the Criminal sexual
5 conduct in the first degree at the end of the trial.

6 To these indictments, Mr. Basile has entered a plea
7 of not guilty. Therefore, it casts the burden upon the State
8 to prove each and every of this indictment to you beyond a
9 reasonable doubt.

10 Your job is to determine the facts in this case
11 based on the evidence that comes before you. My job is to rule
12 on the admissibility of that evidence and to give you the law.
13 I am not allowed to have an opinion about the facts. That is
14 solely your responsibility. My job is to tell you what the law
15 is, and you must accept that law exactly as I give it to you,
16 whether you agree with me or not.

17 You will make your determination about the facts in
18 this case, based on the evidence that is presented before you.
19 That evidence will come to you in basically three forms. First
20 of all, through sworn testimony. Witnesses will come forward
21 on this witness stand, and they will testify to you about the
22 facts that they have knowledge of.

23 The other way you may receive evidence in this case
24 is through the evidence in documents and exhibits that under
25 our rules are admissible.

1 The third way that you may receive evidence in this
2 case is by stipulation. In some cases there is a particular
3 fact that both sides agree on. They will stipulate and tell
4 you, we agree on this particular fact. That is not in all
5 cases, but it's in some cases.

6 That is basically how you are going to receive
7 evidence in this case. I need you to pay close attention. If
8 you get it wrong, it is very hard to correct. If I make a
9 mistake at some other time or some other place, that can be
10 looked at and corrected. But if the jury makes a mistake, it's
11 very hard to correct that. So I need you to pay close
12 attention throughout this trial to the evidence that will come
13 before you.

14 I am also going to tell you that you can't discuss
15 this case until I tell you you can. When you go home tonight,
16 you can't talk about it to your family. If you are sitting
17 around the dinner table and they ask you what you did all day
18 and you start telling them about the witnesses or the evidence
19 you heard, if they are anything like my family, they will have
20 an opinion as to what you ought to do. They haven't been here.
21 It's important that you decide this totally on what you hear in
22 this courtroom.

23 You can't even talk about it among yourselves until
24 I tell you you can. I understand you go back to the jury room
25 after you have heard one or two witnesses and during a break

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1 you want to discuss what that witness said and what you think
2 about this case. I don't want you to do that. Because if you
3 do it that way, at the end of the case, you will want to defend
4 that opinion you had at the beginning of the case to your
5 fellow jurors.

6 That wouldn't be proper. I don't want you to start
7 sharing your opinion with each other until you have heard
8 everything, all the evidence in this case as well as the law
9 that I am going to give you. And then, and only then, would it
10 be proper for you to start sharing that opinion.

11 This system of justice has been tried and true for
12 a long time. It works. When everybody does their role, it
13 works. It's important.

14 You also can't do any private research. You can't
15 go home and Google anybody or do any research. Everything you
16 know about this case you will have to learn in this courtroom.

17 There was a question early on from the bailiff
18 about whether you can take notes or not. I don't want you to
19 take notes. Here is the reason why.

20 Your job is to determine the facts in this case.
21 Many times you get those facts from the credibility of
22 witnesses. When you are listening to somebody testify, whether
23 you believe them or not depends on a lot of things, not only
24 what they say, how they say it, the tone of voice they use, and
25 their body language. The body language is huge. You use it

1 every day in trying to determine whether your children are
2 telling you the truth or not or anybody else. That body
3 language is critical. When you are looking down taking notes,
4 you are not paying attention to the body language. I want you
5 to pay attention to everything that comes before you. You have
6 a tough job. All 12 of you have to agree on it.

7 Most of the time in a criminal case, I don't want
8 you to take notes. I want you to be watching and paying
9 attention to everything that comes before you. Each of you has
10 to decide this on your own. It's really important that you pay
11 attention and get it right. That is why I don't let you take
12 notes.

13 In a few minutes the lawyers will get up and make
14 opening statements. Opening statements are not evidence. Even
15 the questions that the lawyers ask is not evidence. They are
16 going to get up and explain to you what they think the case is
17 about and what the evidence is going to show.

18 At the end of the case, they will get up and argue
19 to you what they think the evidence shows or did not show.
20 That is not evidence either. It's important that you listen to
21 both of the opening statements and the closing arguments of the
22 attorneys.

23 As I said, at the end I will charge you on the law
24 to apply in this case. Then I will send you back to the jury
25 room to reach a verdict in this case.

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1 I will try to stop every hour, hour-and-a-half to
2 take a break. I try not to stop in the middle of a witness'
3 testimony. If any of you need a break in the meantime, just
4 raise your hand. I need all of you to pay close attention. If
5 you are uncomfortable for any reason, you can't pay attention.
6 Raise your hand. We will stop and take a break. We will come
7 back out and continue with the case.

8 We don't in any way want you to be uncomfortable.
9 Go to the rest room. Anything. Raise your hand, and we will
10 stop. And I need each one you to pay close attention to
11 everything that happens in this courtroom.

12 Now, having said that, the attorneys can make an
13 opening statements.

14 MS. KEENEY: Thank you, Your Honor, May it please
15 the Court.

16 THE COURT: Yes, ma'am.

17 * * *

18 OPENING STATEMENT BY MS. KEENEY

19 MS. KEENEY: The job of a grandparent parent is love
20 your grandchildren, hold them, take care of them occasionally
21 and protect them. John Basile, the defendant in this case, he
22 failed at that job. Instead of protecting a five-year-old
23 MINOR 2 and eight-year-old MINOR 1, he preyed
24 upon them. That is what we are here to see.

25 In January of 2018 to July of 2019, the girls,

1 **MINOR 1** and **MINOR 2** were living with the defendant. He
2 molested them repeatedly over that year time frame. Now, you
3 are going to hear from the girls in this case. You will hear
4 from some of the other family members. You will hear that the
5 girls' mom is named Kimberly Hannibal. She had children with a
6 guy named Shawn Basile, who is the defendant's son.

7 You will hear that Kimberly works as a security
8 guard at Sea Pines on Hilton head. She worked a lot of night
9 shift. Shawn Basile, he wasn't much of a father. He was in
10 and out of trouble, not really super involved in the girls'
11 lives. So the defendant, John Basile, he helped take care of
12 the girl. Helped get them ready for school, get ready for bed.
13 Fed them.

14 All of that came at a price. You will hear from
15 the girls in this case, **MINOR 1** and **MINOR 2**. **MINOR 2** is seven
16 now and **MINOR 1** is 10. They will get on that witness stand
17 and they will tell you exactly what they call who they call
18 Papa John did to them.

19 You will you hear from their aunt who has custody
20 of them now. Her name is Amber Eady. She is the daughter of
21 the defendant. She will tell you how this all came to light.
22 How it all came out and what she did when she found out what
23 happened.

24 She will tell you that she took the girls to
25 Coastal Carolina Hospital, and then law enforcement from the

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1 Beaufort County Sheriff's Office responded and began their
2 investigation. You will hear from those investigator. You
3 will hear the girls came into Hopeful Horizons, which is our
4 child advocacy center here in Beaufort County.

5 They girls did what we call forensic interviews.
6 They the forensic interviewer, the lady asking the questions,
7 exactly what Papa John did to them.

8 You will hear from A nurse practitioner who works
9 at Beaufort Pediatrics who specializes in sexual assault cases
10 and child abuse cases. She will you that she did a head-to-toe
11 examination of both girls. You will hear about the results of
12 those examinations.

13 You will hear what the defendant has to say for
14 himself. When law enforcement interviewed him, they recorded
15 it. You will get to watch that interview and what he admitted
16 to.

17 After you hear all the evidence and see the videos,
18 hear from the girls, the Judge is going to charge you on the
19 law in this case. He will tell you that the defendant is
20 charged with four counts of criminal sexual conduct with a
21 minor or first degree.

22 Three of those charges relate to **MINOR 2**, who was 3
23 to 5 years old during that timeframe. She is seven now.

24 One charge relates to **MINOR 1**, who was 7 to 8 hears
25 old at the time of the offense, who is now 10 years old.

1 He will tell you that a person is guilty of criminal
2 sexual conduct with a minor, first degree, what is called a
3 sexual battery of a child under the age of 11. Sexual battery
4 is defined by our legislature, and it includes a number of
5 things in numerous ways. One way is actual sex. Another way
6 it could be digital penetration, some people may say fingering.

7 Another way is any intrusion into an opening of the
8 child, however slight. That means if he put a little bit of
9 his finger inside of their vaginas, that is a sexual battery.

10 You are also going to hear what we call cunnilingus,
11 which is oral stimulation of the female genitals. You might
12 say oral sex of a female. That all sexual battery as well.

13 I recognize that jury duty is probably not a good
14 time for anybody. I also recognize the fact that this is an
15 uncomfortable subject matter. Nobody wants to talk about
16 little girls getting molested by their grandpas. I get that.

17 As I told you, John Basile failed at his job to
18 protect his grandchildren. So your job this week is to listen
19 to the evidence and hold him accountable for what he did.

20 That is exactly what I am asking of you. Nothing
21 more; nothing less. Hold him accountable for what he did to
22 **MINOR 1** and **MINOR 2**. Thank you.

23 * * *

24 OPENING STATEMENT BY MR. STEPHENS

25 MR. STEPHENS: Good morning, ladies and gentlemen.

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1 I introduced myself yesterday. I am the appointed counsel for
2 that man over there, Mr. Basile.

3 I will start by telling you something you wouldn't
4 expect to hear from any defense attorney. I love Mr. Basile.
5 I have also heard the allegations against him.

6 These are things that are nauseating; that are
7 offensive. They are ugly to hear. Additionally, Mr. Basile
8 has admitted to some of these allegations. He has pled guilty
9 to things that he did that involve sexually touching his
10 granddaughters.

11 You may hate Mr. Basile. Many of you may have
12 children and you are disgusted and offended by this. You may
13 be wondering how I can represent someone like Mr. Basile,
14 someone with these horrible allegations. I will tell you
15 honestly, I don't like him because he did something that I
16 regard unforgivable, but I have to represent him.

17 The Constitution says that everybody who is charged
18 with a crime is entitled to zealous legal counsel. I believe
19 in that. If I couldn't put aside my own biases, my own
20 feelings about Mr. Basile and zealously represent him to the
21 best of my ability, I have no business being his defense
22 counsel and representing him in this Court.

23 You as jurors came in here and took an oath. That
24 oath requires you to put aside any biases you may have about
25 Mr. Basile, what he has admitted to, feelings about what he is

1 alleged to have done, in addition to what he admitted to. You
2 are required to put that aside and judge him based on the law
3 that the judge charges you on the evidence that is presented in
4 this case. That is duty. If you can't do that, you shouldn't
5 be sitting here as jurors in this case. I believe that each
6 one of you is capable of doing that.

7 Mr. Basile has admitted to sexually touching these
8 girls. Mr. Basile is entitled to a presumption of innocence
9 for the things things that he has pled not guilty to. We will
10 be discussing those at the conclusion of this case.

11 These include, as the solicitor stated, acts
12 involving penetration, cunnilingus or digital penetration all
13 the way up to intercourse. For those charges you must afford
14 Mr. Basile a presumption of innocence as any defendant here is
15 entitled to.

16 In the next couple of days we will have witnesses
17 come in. These two little girls are going to take the stand.
18 Unfortunately, I hope this doesn't re-traumatize them as to
19 what happened. Why are we here for that? I believe, and the
20 defense will argue, we are here because the arresting officers
21 and the solicitor's office can't back down. They made a stand.
22 They made a statement when they charged Mr. Basile. They
23 charged him based on the allegations that a five-year-old girl,
24 **MINOR 2**, made and her eight-year-old sister **MINOR 1** made.

25 That is what they are stuck to. When Mr. Basile

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1 was then arrested on these acts that charged him with the acts
2 that involved active penetration that **MINOR 2** had described.

3 In interviews by law enforcement officers you will
4 hear from him and hear his interview. This is not the quest
5 for the truth that we expect from law enforcement.

6 They had already charged Mr. Basile. It was a
7 quest for evidence to support that. As you heard, it was a
8 four-hour interview Mr. Basile. Repeatedly denied these
9 things. This is a 63-year-old man not in the best of health
10 who was worn down in the course of a four-hour interview and
11 admitted to things that they kept pushing him and pushing him
12 to admit these allegations.

13 Mr. Basile admitted that he had sexually touched
14 his grandchildren. From there it's understandable that the
15 officers believed he was capable of anything, even if it didn't
16 necessarily make common sense. As you hear the allegations
17 from these girls as they come in, I want you to keep in mind
18 Mr. Basile. You can't tell because he is sitting in a
19 wheelchair. He is over 6 feet tall. A large man. These are
20 tiny girls. **MINOR 2** alleged that he did things to place his
21 private into her private in her butt.

22 When you hear the evidence from the medical
23 examiner, listen to whether there was any indications of injury
24 to these girls, whether there was any indication of these hard
25 things to consider. You have to in considering whether or not

1 the State has proven their case. These allegations need to be
2 proven beyond a reasonable doubt.

3 Again, Mr. Basile admitted to sexual acts with
4 these children, touching, and he is going to be sentenced for
5 that later. You are not here to punish him for the things he
6 admitted here. You are not here to try to protect these girls.
7 You are here for one simple reason, to determine in the cases
8 if the State has met its burden of proof beyond a reasonable
9 doubt that Mr. Basile committed these other acts that they are
10 trying to allege; that they are putting these girls in front
11 you to prove. It will be hard to listen to them. You have to
12 consider whether the things that they are alleging are
13 reasonable and makes sense.

14 At the end of the case, when you consider these
15 allegations, as hard as they are to listen to, as hard as the
16 testimony is going to be to listen to, apply your common sense.
17 You will agree that the allegations from a five-year-old, some
18 of them don't make sense. Even though the State charged him
19 immediately and arrested Mr. Basile, it didn't make sense then,
20 it doesn't a make sense now.

21 Mr. Basile, during the course of a four-hour
22 interview after repeatedly saying I am confused. I am
23 confused. I don't remember, he admitted some of these acts.
24 They still don't make sense. Considering the sizes of these
25 girls as well as the other facts. When you consider all of

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1 that, it will be your duty to find if the State has not met its
2 burden of proof. It will be your duty to find Mr. Basile not
3 guilty of those.

4 I just ask the jury again to put aside all of your
5 biases and feelings that you may have. Listen to all the
6 witnesses and the evidence and afford Mr. Basile that
7 presumption of innocence and determine carefully whether the
8 State has met its burden. Thank you.

9 THE COURT: Thank you. You may call your first
10 witness.

11 MS. KEENEY: The State calls Christopher Capps.

12

13 CHRISTOPHER CAPPS,

14 being first duly sworn testified as follows:

15 * * *

16 DIRECT EXAMINATION

17 BY MS. KEENEY:

18 Q. State your name and spell your last name for the
19 record.

20 A. Christopher Capps, C-a-p-p-s.

21 Q. You can take your mask off if you want to.

22 Mr. Capps, where do you work now?

23 A. I am self-employed now.

24 Q. What kind of work do you do?

25 A. I own a couple of tow trucks.

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1 Q. Where did you work in July of 2019?

2 A. Beaufort County Sheriff's Office.

3 Q. What were your position there?

4 A. I was an assistant supervisor for the D Team,
5 southern patrol.

6 Q. D. team?

7 A. It's a shift.

8 Q. July 30, 2019 how did you get involved in this
9 case?

10 A. I responded to a call at Coastal Carolina in
11 reference to a sexual assault.

12 Q. That is a hospital?

13 A. Yes, ma'am.

14 Q. Were you able to determine the incident location?
15 How did you know that Beaufort County had jurisdiction?

16 A. The incident had occurred [REDACTED] Lane, which is in
17 in Bluffton, South Carolina.

18 Q. What County is that in?

19 A. Beaufort County.

20 Q. Who did you meet with when you got to the hospital?

21 A. Amber Eady.

22 Q. Who is she?

23 A. She is an aunt to MINOR 2 and MINOR 1 [REDACTED].

24 Q. Did you briefly interview her?

25 A. I did.

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1 Q. As a result of your interview, what did you do?

2 A. I contacted DSS in reference to sexual assault. I
3 had the DSS respond to start a safety plan so the children
4 wouldn't be returned back to the home where they were being
5 assaulted.

6 Q. Say what DSS is for clarity?

7 A. Department of Social Services.

8 Q. Did a DSS worker respond to the hospital?

9 A. Yes. Lakesha Johnson.

10 Q. Did anybody else respond to the hospital?

11 A. Investigator Weich and Investigator Calendine.

12 Q. They are investigators with the Beaufort County
13 Sheriff's Office?

14 A. Yes, ma'am.

15 Q. What did they do. Did they take over?

16 A. Yes, ma'am. They took over the investigation.

17 Q. Your job as a road deputy is to take the initial
18 call, and if it's something that needs to be investigated it
19 gets turned over to investigations, is that right?

20 A. For some cases. We go there and gather the
21 information. If it was just a minor case, we may investigate
22 it ourselves. Being the circumstances of this case, we -- I
23 don't think we called. They just showed up.

24 Q. What did you do after you left the hospital?

25 A. What did you do after you left the hospital?

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1 A. I went with Investigator Weich to [REDACTED] Lane. We
2 met with the girls' mother, Kimberly Hannibal.

3 Q. What did you all do?

4 A. DSS also went with us, Ms. Johnson. We did a
5 walk-thru of the residence. Investigator Weich interviewed Ms.
6 Hannibal.

7 Q. Was anything else done that you were a part of?

8 A. No, ma'am.

9 Q. Did DSS do a home check?

10 A. They did.

11 Q. They were looking in the residence?

12 A. Basically walking through and making sure the home
13 was clean and livable for the children.

14 Q. You had no other involvement in the case?

15 A. I just walked through the house with DSS.

16 MS. KEENEY: Thank you. No further questions for
17 this witness.

18 * * *

19 CROSS-EXAMINATION

20 BY MR. STEPHENS:

21 Q. Good morning, Mr. Capps. I only have one or two
22 questions for you.

23 First, when you responded to Coastal Carolina
24 Hospital, did you meet with or interview the children involved
25 in the case?

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1 A. I met with **MINOR 2**, but I didn't interview her with
2 reference to the incident.

3 Q. That is pretty standard procedure, isn't it, to
4 wait until the children have a forensic interview?

5 A. Yes.

6 Q. Everything that you gathered about the incident was
7 from talking with family members?

8 Q. Yes, sir.

9 Q. Like Ms. Eady?

10 A. Yes.

11 Q. Who had already talked to the girls about what had
12 happened?

13 A. Yes, sir.

14 Q. Do you know if they had any notes that they had
15 written down when they were talking to the girls, or did Ms.
16 Eady just tell you verbally what she call recalled the girls
17 telling her?

18 A. If the girls wrote notes?

19 Q. No. Was Ms. Eady reading from any kind of notes
20 she took, or was she just relaying to you?

21 A. No. She was going from memory.

22 MR. STEPHENS: All right. Thank you Mr. Capps. No
23 further questions.

24 MS. KEENEY: Ask that this witness be excused.

25 THE COURT: Any objection?

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1 MR. STEPHENS: No objection, Your Honor. Thank
2 you.

3 THE COURT: Thank you, sir.

4 MS. KEENEY: The State calls Amber Eady.

5 AMBER EADY,
6 being first duly sworn testified as follows:

7 * * *

8 DIRECT EXAMINATION

9 BY MS. KEENEY:

10 Q. State your name and spell it for the record.

11 A. My name is Amber Eady, A-m-b-e-r E-a-d-y.

12 Q. Amber, how old are you?

13 A. I am 38.

14 Q. Are you married?

15 A. I am.

16 Q. Who are you married to?

17 A. Keith Wanee (phonetic).

18 Q. Do you have any children of your own?

19 A. We do. We have one.

20 Q. How old is your child?

21 A. He is 16.

22 Q. Are there any other children that live with you
23 right now?

24 A. Yes.

25 Q. Who lives with you?

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1 A. My nieces and my nephew.

2 Q. What are their names?

3 A. MINOR 2, MINOR 1, and BROTHER .

4 Q. Who are BROTHER 's, MINOR 1's, and MINOR 2's
5 parents?

6 A. My brother, Shawn Basile, and their mother is
7 Kimberly Hannibal.

8 Q. Has Shawn have a close relationship with the girls
9 and BROTHER .

10 A. He does, but not that much now.

11 Q. Is he in and out of trouble?

12 A. Yes, ma'am.

13 Q. Who are your parents?

14 A. My parents is Christine Turnipseed and John Basile.

15 Q. Do you see John Basile in the courtroom today?

16 A. Yes, I do.

17 Q. Point him out what tell me what he is wearing.

18 A. A plaid shirt with a white mask.

19 Let the record reflect she has identified the
20 defendant.

21 THE COURT: Okay. The record will so reflect.

22 BY MS. KEENEY:

23 Q. Do MINOR 1 and MINOR 2 have a nickname for John
24 Basile?

25 A. Yes, ma'am.

1 Q. What do they call him?

2 A. Papa John.

3 Q. Do you know how old your dad is?

4 A. He is in his 60s.

5 Q. Do you have any brothers or sisters?

6 A. I do.

7 Q. Shawn and who else?

8 Q. My sister is Carrie Basile.

9 Q. MINOR 2, do you know her birthdate?

10 A. .

11 Q. How old is she today?

12 A. She is seven.

13 Q. MINOR 1, do you know her birthdate?

14 A. Yes. .

15 Q. How old is she today?

16 A. She is 10.

17 Q. That is a lot of birthdays and ages to remember.

18 I will take you back to January 1, 2018, to about

19 July of 2019. Can you tell me where MINOR 2, MINOR 1, and

20 BROTHER were living at the time?

21 A. They were living at Lane.

22 Q. What town is that in?

23 A. Bluffton.

24 Q. What county is Bluffton in?

25 A. Beaufort.

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1 Q. Kimberly, the girls' and **BROTHER**'s mom. Back
2 then, what did she do for works?

3 A. She worked nights as a security guard in Sea Pines.

4 Q. To your knowledge, do you know who would take care
5 of the children if Kimberly was working nights?

6 A. Yes. It would be Papa John.

7 Q. That is your dad, the defendant?

8 A. Yes.

9 Q. How would you get involved with the girls' lives?
10 Would you take care of them? What was that situation like?

11 A. We had them a lot on the weekends when they were
12 out of school. My mom and my stepdad would have them a lot on
13 the weekends also. We kind of shared. I ended up getting them
14 for the summer just to help my mom out so she didn't have to
15 put them in day care.

16 Q. You were like the day care for the Basile kids?

17 A. Yes, ma'am.

18 Q. In that house at Lane in Bluffton, who else
19 lived there? We have **MINOR 1**, **BROTHER**, **MINOR 2**, Papa John,
20 the defendant, Kimberly. Was anybody else living in that
21 house?

22 A. Yes, ma'am. It was her parents, Debbie and Mark
23 Campbell (phonetic.)

24 Q. When you say her, are you referring to Kimberly?

25 A. Yes, ma'am.

1 Q. Have you been in the house before?

2 A. I have. Yes, ma'am.

3 Q. How many stories is the house?

4 A. It's two stories.

5 Q. I will take you back to July 2, 2019. Tell me
6 about that day. What were you doing?

7 A. We were swimming in the pool night. It was the day
8 into the night.

9 Q. Who is we?

10 A. It was me, our son, my husband, and then MINOR 1,
11 MINOR 2, and BROTHER.

12 Q. Do you remember how old MINOR 2 was at the time?

13 A. I believe it was five.

14 Q. Do you remember how old MINOR 1 was at the time?

15 A. I believe eight.

16 Q. This is in the summertime. School is out?

17 A. Yes.

18 Q. You are the day care for the Basile kids at this
19 point.

20 A. Yes.

21 Q. What happens next?

22 A. We got out. We ordered pizza. MINOR 1 took a
23 shower first. I took her out, and I was going to immediately
24 put MINOR 2 in. I was brushing MINOR 1's hair. I just asked
25 them if anybody had been touching them inappropriately. If

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1 they had every touched them. It was normal for me to ask them
2 that. It wasn't anything out of the ordinary. **MINOR 1** was
3 saying -- she was telling --

4 Q. Let me interrupt you really quick. When you say
5 it's normal for you to ask that, why is that normal?

6 A. Because I always ask my son all the time. I still
7 ask him that.

8 Q. So like an over-protective parent?

9 A. Yes.

10 Q. People aren't supposed to touch you. That kind of
11 conversation with the kids?

12 A. Yes. It's just normal.

13 Q. Without telling anybody what the girls actually
14 said -- you can't do that. Did you notice anything weird in
15 their behavior?

16 A. That night?

17 Q. Yes.

18 A. I did. **MINOR 2** kind of shut down and was trying to
19 avoid the conversation. I just asked her if everything was
20 okay, if anybody had been touching her or anything. That is
21 when she said that.

22 Q. She made some disclosures to you?

23 A. She did.

24 Q. At that time that night, did **MINOR 1** make any
25 disclosures?

1 A. No.

2 Q. What happens next at MINOR 2 makes disclosures to
3 you?

4 A. I went out to my kitchen. I was stunned. My
5 husband seen me. I just started bawling. I wasn't even
6 bawling at the time, but he kind of eye-balled me to the
7 bedroom, that is when he asked me if everything was okay.

8 I told him. He told me that we needed to take them
9 to the hospital, to the doctor.

10 Q. Did you notice anything about MINOR 1's appearance
11 whenever you all were having this conversation and MINOR 2
12 saying what she said?

13 A. When I walked out, MINOR 1 was right at the door.
14 Her eyeballs were humongous. I don't know what she was
15 thinking.

16 Q. She just wasn't acting normal?

17 A. Right.

18 Q. This was is at nighttime, correct?

19 A. Correct.

20 Q. You all go to bed, isn't that right?

21 A. Right.

22 Q. The next day, what happens?

23 A. I had promised them to take them to the movies, and
24 I wanted to keep that promise to them. I knew they were not
25 going home. I took them to the movies. Then we went to get a

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1 bite to to eat. I went to my parents' house. I needed
2 somebody else to come with me.

3 I pulled over at the alligator farm, and I asked
4 MINOR 1 if I could talk to her. I told her that I was taking
5 her sister to the doctor. She just disclosed stuff to me then.

6 Q. At that point, MINOR 1 makes disclosures?

7 A. Yes.

8 Q. You were on the way to the hospital with MINOR 2
9 anyway, correct?

10 A. On the way to pick up my mom and drop them off.

11 Q. MINOR 1 has made disclosures. MINOR 2 made
12 disclosures the night before. Where do you go next after your
13 mom's house?

14 A. We went to Coastal Carolina.

15 Q. What happens when you get to Coastal Carolina?

16 A. We just told them that they had disclosed that they
17 were being sexually abused. Then we went into the room.
18 Investigator Weich responded to the hospital.

19 Q. Beaufort County Sheriff's Office respond to the
20 hospital?

21 A. Yes.

22 Q. Did DSS respond too?

23 A. They did.

24 Q. You have the kids now in your custody?

25 A. Yes.

1 Q. That is part of the DSS safety plan, is that
2 correct?

3 A. Yes, ma'am.

4 Q. Who took them to the forensic interviews at Hopeful
5 Horizons?

6 A. My mom and myself.

7 Q. After Hopeful Horizons did they go to another
8 doctor?

9 A. They did. They saw Kristin Dalton.

10 Q. Do you remember where she works?

11 A. Beaufort Pediatrics.

12 A. Are the girls in therapy now?

13 A. They are.

14 Q. You take them to therapy?

15 A. Yes, ma'am.

16 Q. Did you ever notice anything odd with the girls in
17 the past prior to this?

18 A. We did. **MINOR 2** had a yeast infection a lot.

19 They always were sore when they would go to the
20 bathroom. Different things like that.

21 Q. I take it you have your own biological child,
22 correct?

23 A. I do.

24 Q. You were not necessarily signing up to be a parent
25 to all three of those children, were you?

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1 A. No, ma'am.

2 Q. That is just kind of the hand you were dealt?

3 A. Yes.

4 MS. KEENEY: No further questions for this witness.

5 * * *

6 CROSS-EXAMINATION

7 BY MR. STEPHENS:

8 Q. Good morning, Ms. Eady.

9 A. Good morning.

10 Q. Starting with the disclosure by **MINOR 2**. On July
11 2, you said that you were basically having the good touch/bad
12 touch discussion?

13 A. Correct, yes, sir.

14 Q. Had you talked to her before about that sort of
15 thing?

16 A. Yes.

17 Q. Had she made any disclosures to you before about
18 someone touching you vaginally?

19 A. No, sir.

20 Q. Do you remember when you might have talked to her
21 before about that?

22 A. As long as they have been able to talk.

23 Q. How frequently do you see the girls -- I know you
24 mentioned they were swimming. Before they came to stay with
25 you, how often would you see them?

1 A. We seen them quite often.

2 Q. Before this happened, had you ever noticed any
3 signs of physical abuse, bruising, bleeding, from anywhere when
4 you were around them?

5 A. Yes, sir.

6 Q. Were those typical for a child, or was this
7 something specific?

8 A. I guess so. I don't understand what the question
9 is.

10 Q. Did you have any reason to suspect any kind of
11 abuse was happening to the girls before this disclosure by
12 **MINOR 2** when this happened?

13 A. You mean sexual abuse?

14 Q. Any type of physical abuse that was going on.

15 A. No. Just neglect.

16 Q. You mentioned the girls had gotten yeast infections
17 before.

18 A. Yes.

19 Q. Would it also be true to say that at least **MINOR 2**
20 had gotten urinary tract infections before?

21 A. I don't know.

22 Q. Do you have knowledge about yeast infections and
23 how they are treated?

24 A. Yes.

25 Q. Is it fair to say in your knowledge one of the

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1 treatments for yeast in infections is to apply topical
2 anti-fungal creams to the affected area?

3 A. Yes, sir.

4 Q. The vaginal area?

5 A. Yes, sir.

6 Q. Do you know whether the girls had been prescribed
7 or had any type of over-the-counter medication for a yeast
8 infection that was being applied before?

9 A. Yes, sir.

10 Q. Do you know, Ms. Eady, who was applying the
11 medicine when they had yeast infections? Was it just the
12 mother, Ms. Hannibal, or do you know if anyone else was
13 applying that medicine?

14 A. I don't know. I know what the girls had said to
15 me.

16 Q. Fair to say, ma'am, that you are aware at this time
17 that your father, John Basile was frequently the caregiver for
18 the girls when they were staying in this home?

19 A. Yes, sir.

20 Q. I believe you said. Ms. Hannibal was working -- I
21 don't recall if you said she was working nights. Were you
22 aware of whether she was working more shifts at night as a
23 security officer of some kind?

24 A. Yes, sir.

25 Q. During that time, your father was their caretaker?

1 A. Yes.

2 Q. Do you happen to know what their daily routine at
3 night was, regarding baths or showers?

4 A. I don't.

5 Q. Is it fair to say you don't know as a caretaker
6 when, at least for **MINOR 2** the five-year-old, Mr. Base had to
7 do anything to assist when they had a bath or a shower?

8 A. No, sir.

9 Q. Ms. Eady mentioned that **MINOR 2** made this
10 disclosure on July 2, and then **MINOR 1** made the disclosure to
11 you on the way to the Coastal Carolina Hospital on July 3,
12 correct?

13 A. Yes, sir.

14 Q. Are you aware of whether the girls had talked at
15 all between the July 2 disclosure until the , July 3
16 disclosure? Are you aware of whether they talked to each other
17 about disclosures?

18 A. No.

19 Q. After they went to the Coastal Carolina on July 3,
20 what was the length of time between then and when they went to
21 Hopeful Horizons for the forensic interview?

22 A. I don't know exactly the date. I want to say only
23 a few days.

24 Q. In that time between their initial disclosure and
25 when they went to Hopeful Horizons, did you talk to the girls

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1 at all about the disclosures they had mad?

2 A. I'm sorry.

3 Q. Did you ask them any other questions about the
4 disclosures they made to you?

5 A. Yes, I did. I asked them if there was anything
6 else that they needed to say, if they do, I needed them to tell
7 Hopeful Horizons -- I need to tell Hopeful Horizons.

8 Q. So basically you told them if there was anything
9 more that they needed to say, then you would tell them at
10 Hopeful Horizons, correct?

11 A. Correct.

12 Q. Were you present in the interview room when they
13 were interviewed by a forensic interviewer at Hopeful Horizons?

14 A. No, sir.

15 Q. Was your mother present?

16 A. No. No, sir.

17 Q. Were you watching it on closed-circuit TV or
18 anything like that?

19 A. No, sir.

20 Q. Fair to say that you didn't have any direct control
21 over what they were saying at Hopeful Horizons?

22 A. Correct.

23 Q. Did you ever review their interview?

24 A. No, sir.

25 Q. Also fair to say that if they told the folks at

1 Hopeful Horizons something different than what they told you,
2 you wouldn't have had a chance to let anyone know about the
3 difference in the two versions of what they told you?

4 A. Wait.

5 Q. Let me back up.

6 You didn't have an opportunity to observe their
7 interview with Hopeful Horizons, correct?

8 A. Correct.

9 Q. so you wouldn't have known exactly what they told
10 that interviewer?

11 A. Correct.

12 Q. You said that your mom went with you to Hopeful
13 Horizons; is that correct?

14 A. Yes.

15 Q. Do you know if your mother had spoken with the
16 girls about their disclosures?

17 A. No, sir.

18 Q. You don't know or --

19 A. No, sir. I don't know.

20 MR. STEPHENS: Ms. Eady, I don't believe I have
21 any further questions for you at this time. I do have a couple
22 of actual follow-up questions.

23 BY MR. STEPHENS:

24 Q. You mentioned that the girls continue to get
25 therapy or that you took them to therapy after the disclosures

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1 and your father's arrest?

2 A. Yes.

3 Q. Do you know about how many sessions that the girls
4 have gone to for therapy?

5 A. No, sir.

6 Q. Do you know how they conduct the therapy at Hopeful
7 Horizons, or is that done with the children alone?

8 A. What did you just ask?

9 Say?

10 Q. Are you present for those therapy sessions?

11 A. I am not in the room with them. They talk by
12 themselves with the counselor.

13 Q. So you don't get to see those therapy sessions?

14 A. No, sir.

15 Q. Are you aware of whether there is any kind of
16 coordinator person at Hopeful Horizons who works with the girls
17 in preparing to have them testify in court?

18 A. There's one, but they have not done it.

19 Q. The girls haven't worked with someone, as far as
20 showing them how to come testify in court?

21 A. It has been a long time since they have actually
22 done that.

23 A. In preparation for this trial, did you ever bring
24 the girls to the solicitor's office or to work with the
25 solicitor for how they are going to testify in court?

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1 A. Yes, sir.

2 Q. You recall that how many times?

3 A. One time -- two times. We went to the office one
4 time and came in here two times.

5 Q. When was that, ma'am?

6 A. The first court date. We came before -- we came
7 here, and they got to see the courtroom. We went to the
8 solicitor's office. Then yesterday, they came in here also.

9 MR. STEPHENS: Those are all the questions I have
10 got for you. Thank you, ma'am.

11 MS. KEENEY: No further questions for this witness.
12 May she be excused from the subpoena?

13 MR. STEPHENS: No objection, Your Honor.

14 THE COURT: Thank you, ma'am.

15 MS. KEENEY: The State calls **MINOR 1**.

16 THE COURT: Any of you all need a break?

17 Madam Solicitor, can you all approach a minute.

18 (Bench conference.)

19 THE COURT: Ladies and gentlemen, I need to send
20 you all to the jury room for a few minutes. Please do not
21 discuss the case. I will get you back out as soon as possible.

22 (Jury exits courtroom.)

23 THE COURT: Do you want to ask the questions, or do
24 you want me to do it?

25 MS. KEENEY: You can do it.

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1 THE COURT: Tell me what your name is.

2 THE WITNESS: MINOR 1.

3 THE COURT: My name is Ferrell Cothran. I just
4 happen to be the judge here this week. You have been called as
5 a witness, so I just need to ask you a few questions about your
6 testimony. It's important that you tell the truth. You know
7 the difference between the truth and a lie?

8 THE WITNESS: Yes.

9 THE COURT: Is it good to tell the truth or bad to
10 tell the truth?

11 THE WITNESS: Good.

12 THE COURT: Is it bad to tell a lie or good to tell
13 a lie?

14 THE WITNESS: Bad.

15 THE COURT: Do you understand what this courtroom
16 is about, what we are doing here, and my job to some degree?

17 THE WITNESS: Yes, sir.

18 THE COURT: The prosecutor in this case -- you have
19 talked to her before -- she will ask you some questions.

20 Do you understand?

21 THE WITNESS: Yes.

22 THE COURT: It's important that you answer the
23 questions of both attorneys who ask you the truth. Do you
24 understand that?

25 THE WITNESS: Yes.

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1 THE COURT: If they ask you a question and you
2 don't understand, you need to ask them to repeat it or explain
3 it, okay?

4 THE WITNESS: Yes, sir.

5 THE COURT: I need you to answer those questions to
6 the best of your ability and be truthful and not make up
7 anything or to tell them what you think they want to hear.
8 Okay?

9 THE WITNESS: Yes, sir.

10 THE COURT: Do you have any questions that you want
11 to ask me?

12 THE WITNESS: No, sir.

13 THE COURT: Anything further from either side?

14 MS. KEENEY: Not from the State.

15 MR. STEPHENS: Nothing from the defense, Your
16 Honor. Thank you.

17 THE COURT: Does anybody need a break?

18 THE COURT REPORTER: Yes, sir.

19 THE COURT: Then we will do that. You are doing a
20 lot of hard work. We will take a five-minute break.

21 You can step down if you want to or you can stay
22 right there.

23 (Recess.)

24 * * *

25 PROCEEDINGS CONTINUED

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1 THE COURT: I have one juror who has notified the
2 bailiff that today they need to leave at 5:00. That should not
3 be a problem, but I am just letting you all know so if you have
4 a witness that will take two hours, do not call them at 430. I
5 am stopping at 5:00.

6 Any other issues?

7 MR. STEPHENS: Nothing from the defense, Your
8 Honor.

9 THE COURT: Do you want MINOR 1 to get on the
10 stand before the jury comes in?

11 MS. KEENEY: Yes, Your Honor.

12 THE COURT: I am going to her sworn in in front of
13 the jury.

14 MS. KEENEY: That sounds great.

15 (Jury enters courtroom.)

16 THE COURT: You may swear the witness.

17

18 MINOR 1,

19 being first duly sworn testified as follows:

20 * * *

21 DIRECT EXAMINATION

22 BY MS. KEENEY:

23 THE COURT: I need you to speak up.

24 Ladies and gentlemen of the jury, this Plexiglass
25 blocks sound, and she is soft-spoken. It's important that you

1 be able to hear. If you can't hear her, please raise your
2 hand, and I will try to get her closer to the mike in some way.
3 The plexiglass blocks her voice, and mine is not very loud.
4 It's very important that you hear her, so just simply raise
5 your hand if you can't hear.

6 BY MS. KEENEY:

7 Q. MINOR 1, how old are you?

8 A. Ten.

9 Q. Do you remember your birthday?

10 A. [REDACTED].

11 Q. Are you on summer break right now?

12 A. Yes, ma'am.

13 Q. What grade are you going to go to next year?

14 A. Fifth.

15 Q. Bluffton Elementary.

16 Q. What is your favorite subject in school?

17 A. Math and art.

18 Q. Who are you are biological parents?

19 A. Kimberly Hannibal and Shawn Basile.

20 Q. Do you have any brothers and sisters?

21 A. One brother named BROTHER and a sister named

22 MINOR 2.

23 Q. Are they older or younger than you?

24 A. Younger.

25 Q. Who do you live with now?

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1 A. My aunt and uncle.

2 Q. Is it Amber?

3 A. Yes, ma'am.

4 Q. I will take you back to January 1, 2018 until July
5 of 2019, when you were about seven or eight years old.

6 Who did you live at that time?

7 A. My mom and my mom's mom and dad and my brother and
8 sister.

9 Q. You said Papa John?

10 A. Yes, ma'am.

11 Q. Who is Papa John to you?

12 A. (Indicating.)

13 MS. KEENEY: Let the record reflect that she has
14 identified the defendant.

15 THE COURT: Okay.

16 By MS. KEENEY:

17 Q. He is your grandpa. Is you dad Shawn -- that is
18 his dad, correct?

19 A. Yes, ma'am.

20 Q. The house that you lived in with Papa John and your
21 mom and your brothers and sisters, they are your mom's parents?

22 A. Yes.

23 Q. How many stories was that house?

24 A. Two.

25 Q. So you said that the house that you were living in

1 with Ms. Hannibal and Papa John is two stories?

2 A. Yes, ma'am.

3 Q. What room did you stay stay in?

4 A. Papa John's.

5 Q. Is that upstairs or downstairs?

6 A. Downstairs.

7 Q. Who else stayed in Papa John's room?

8 A. My sister and my brother.

9 Q. Her name is MINOR 2 ?

10 A. Yes, ma'am.

11 Q. Your brother is BROTHER ?

12 A. Yes, ma'am.

13 Q. How many beds were in Papa John's room?

14 A. Two.

15 Q. Full beds or something else?

16 A. One was full. One was a full bed and one was a

17 mattress on the floor.

18 Q. Tell me -- you stayed in a room with Papa John and

19 your brother and sister. Where did you sleep in the room?

20 A. On a mattress.

21 Q. Would you ever get in Papa John's bed?

22 A. Yes, ma'am.

23 Q. When you were seven and eight years old, can you

24 tell me what would happen with Papa John back then?

25 A. At night he would call me up to his bed. He would

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1 take off my clothes and he would like me in my private.

2 Q. You said he would start licking you in your private
3 area?

4 A. Yes, ma'am.

5 Q. When he licked you, was it inside or outside your
6 private?

7 A. Inside.

8 Q. He licked you inside your private?

9 A. Yes, ma'am.

10 Q. Once or more than once?

11 A. More than once.

12 Q. Did he do anything else to you?

13 A. What do you mean?

14 Q. You said he licked your private. Did he touch you
15 anywhere else on your body?

16 A. Yes. He would touch me on my chest and my bottom.

17 Q. When you say your bottom, you are talking about
18 your butt, correct?

19 A. Yes, ma'am.

20 Q. How would it feel when he licked your private?

21 A. It felt weird.

22 Q. Tell me about the whipped cream.

23 A. He would put it on my chest or my private and then
24 lick it off.

25 Q. Why didn't you tell anybody what had happened to

1 you for a while?

2 A. Papa John said if I told anyone I wouldn't get
3 dessert.

4 Q. You wouldn't get dessert?

5 A. Yes, ma'am.

6 Q. Do you like dessert?

7 A. Yes, ma'am.

8 Q. Did you eventually tell somebody about what Papa
9 John was doing to you?

10 A. Yes, ma'am.

11 Q. Who is the first person you told?

12 A. My mom. She said she would try to get somebody to
13 take me to the doctors.

14 Q. Did she take you to the doctor?

15 A. No, ma'am.

16 Q. She never took you to the doctor?

17 A. No, ma'am.

18 Q. Did she ever do anything about the situation with
19 Papa John?

20 A. No, ma'am. She just told me to sleep on the
21 mattress.

22 Q. Did you eventually tell someone else what happened?

23 A. Yes, ma'am.

24 Q. Who else did you tell?

25 A. I told my aunt.

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1 Q. Was it that day that you all were swimming at her
2 pool and **MINOR 2** told as well?

3 A. No, ma'am.

4 Q. Why didn't you tell that day when Aunt Amber asked
5 you what happened?

6 A. I was scared. I just wanted dessert.

7 Q. You wanted dessert. You didn't want that taken
8 away from you?

9 A. Yes.

10 Q. Have you ever seen Papa John's private part?

11 A. Yes, ma'am.

12 Q. Tell me about that.

13 A. He would ask me to touch it, but I never did. If I
14 didn't, he would call me a chicken.

15 Q. He would call you a chicken?

16 A. Yes, ma'am.

17 Q. Do you remember talking to Ms. Brooke at Hopeful
18 Horizons and she was showing you those dolls?

19 A. Yes, ma'am.

20 Q. When you were showing her what happened with the
21 dolls, what was that situation? What was Papa John doing to
22 you?

23 A. He would ask me to lean on him with my private
24 facing and his face and his private facing my face. He asked
25 me to touch it, but I wouldn't do anything with his private.

1 Q. When he licked you, where did he lick you?

2 A. On my private part.

3 Q. The private part you are referring to is your
4 private part that you pee out of, correct?

5 A. Yes, ma'am.

6 Q. Was he licking you in the inside or outside or
7 something else of your private?

8 A. Inside.

9 Q. Tell me about the swirley.

10 A. It looked like a pen. He only used it once. He
11 used it on my private inside. I didn't like it. He never used
12 it. He put it on a stand he had behind his bed.

13 Q. He had a little stand on the back of his bed that
14 he keeps stuff in?

15 A. It's pretty big. It has cabinets and little
16 shelves.

17 Q. About how big? Can you show me with your hands how
18 big the swirley was?

19 A. About this long (indicating.)

20 Q. Hold your hands up a little higher. About that
21 long?

22 A. Yes.

23 Q. Did you notice anything else about the swirley?
24 What would it do?

25 A. The tip of it, if you turn it on it sort of made a

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1 vibrating sound and it would spin around.

2 Q. You didn't really see much of that swirley did you?

3 A. No, ma'am.

4 Q. Would he ever give you anything after he did these
5 things to you?

6 A. Yes, ma'am.

7 Q. What did he give you?

8 A. He would sometimes give me extra chocolate or
9 something.

10 Q. Chocolate candy or dessert?

11 A. Yes, ma'am.

12 Q. Have you ever seen inappropriate pictures of people
13 before?

14 A. I have seen videos.

15 Q. Who showed you videos?

16 A. Papa John, on his phone.

17 Q. Is there A particular video or picture that you
18 remember what he showed you?

19 A. Yes. He showed me a woman doing it to herself,
20 using her finger and going around her private.

21 Q. Has anyone ever taken pictures of you with your
22 clothes off?

23 A. Clothes off?

24 Q. Yes.

25 A. Yes, ma'am.

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1 Q. Who did that?

2 A. Papa John.

3 Q. Do you remember going to see Ms. Brooke at Hopeful
4 Horizons and talking to her?

5 A. Yes, ma'am.

6 Q. Did you go to the doctor related to this? Do you
7 remember?

8 A. Not with my mom, my aunt.

9 Q. Your aunt Amber took you to the doctor?

10 A. Yes, ma'am.

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

12 BY MS. KEENEY:

13 Q. Did he ever do anything else to your bottom or your
14 butt? What did you do to your bottom or butt?

15 He would lick -- sometimes lick inside but mostly
16 outside.

17 MS. KEENEY: No further questions for this witness.

18 THE COURT: Okay.

19 * * *

20 CROSS-EXAMINATION

21 BY MR. STEPHENS:

22 Q. Hi, **MINOR 1**. Can you hear me all right?

23 A. Yes, sir.

24 Q. My name is Mr. Stephens. I am the attorney who is
25 defending Papa John for this trial. I know you have talked to

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1 me before. I am just going to try to not make this as scary
2 the best I can. Some of this stuff may be embarrassing, we
3 have to ask about it.

4 The stuff you were talking about that Papa John
5 did, that was something that happened before you told your Aunt
6 Amber back in 2019, right?

7 A. Yes, sir.

8 Q. And how old were you when you told Aunt Amber about
9 it?

10 A. I think I was eight or nine.

11 Q. You said you were going into the fifth grade this
12 fall, is that right?

13 A. Yes, sir.

14 Q. So in July of 2019, you were going into the third
15 grade?

16 A. I guess so.

17 Q. Do you remember where you were going to school?

18 A. Bluffton Elementary.

19 Q. Do you remember who your teachers were in the
20 second and third grade?

21 A. Second grade was my teacher Ms. Duncan.

22 Q. Is it hard to remember any of the stuff that
23 happened when you were back in the second grade?

24 A. A little bit.

25 Q. Did you read anything or watch anything to help you

1 remember what you had said back then before you came to testify
2 here today?

3 A. No, sir.

4 Q. Did you talk to the prosecutor, Ms. Keeney or
5 Ms. April about testifying before you came in here?

6 A. Yes, sir.

7 Q. Did they show you the witness stand and how you
8 would need to -- how you would need to talk when you were
9 talking in court today?

10 A. Yes, sir.

11 Q. **MINOR 1**, there is no right or wrong answers.
12 Don't worry. Did you practice what you were going to say when
13 you came in to testify?

14 A. Yes, sir.

15 Q. Do you remember how many times you practiced how
16 you were going to come testify?

17 A. Maybe once or twice.

18 Q. You and **MINOR 2** saw someone at Hopeful Horizons
19 every once in a while before you had to come testify in the
20 Court, like a therapist or counselor?

21 A. Yes, sir.

22 Q. Do you remember how many time you or **MINOR 2** met
23 with someone at Hopeful Horizons?

24 A. No, sir. I know we did it a lot.

25 Q. Was there anybody there who talked to you about

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1 coming to testify in court and what it was like?

2 A. Yes, sir.

3 Q. Do you remember who that was?

4 A. I think it might have been Ms. LaDonna.

5 Q. When you would meet with a counselor or Ms. LaDonna
6 at Hopeful Horizons, did you talk about what you had said that
7 Papa John did to you?

8 A. Yes, sir.

9 Q. Did they tell you that it was okay to tell that
10 sort of thing; that you are not in trouble? Did they tell you
11 stuff like that?

12 A. Yes, sir.

13 Q. You seem like a very brave girl, MINOR 1.

14 Did the ladies that you talked to at Hopeful
15 Horizons -- did they tell you that you were brave for talking
16 about all this stuff?

17 A. Yes, sir.

18 Q. Do you remember when you first told your Aunt Amber
19 what Papa John had done? Back in 2019, do you remember how
20 long you had spent with Aunt Amber at that time? Did you spend
21 the night over at her house?

22 A. Yes. We went to her house on the weekends and on
23 some nights.

24 Q. And MINOR 1, do you remember how often you got to
25 spend the weekend with your Aunt Amber before you told her what

1 happened?

2 A. No.

3 Q. Was that a regular sort of thing, to spend the
4 weekend with Aunt Amber?

5 A. Yes, sir.

6 Q. Do you remember when you told your mother what was
7 going on with Papa John?

8 Do you remember how long that was before you told
9 Aunt Amber?

10 A. No, sir.

11 Q. I understand it's two years ago. Do you remember
12 about how long that had been going on before you told Aunt
13 Amber?

14 A. Maybe a year or so.

15 Q. The thing that you mentioned with the swirley, do
16 you remember how long before you told Aunt Amber that that
17 happened?

18 A. No, sir.

19 Q. You said that Papa John kept that on a shelf behind
20 his bed?

21 A. Yes, sir.

22 Q. Do you remember the last time you saw it there
23 before you told Aunt Amber?

24 A. No, sir.

25 Q. Did you ever see anybody take it away or throw it

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1 away or anything like that?

2 A. No, sir.

3 Q. You never thought that, hey, that is where to go or
4 anything like that?

5 A. No, sir. I never messed with it.

6 Q. You said that Papa John took pictures of you.

7 Do you remember around how long it was before you
8 told Aunt Amber that that happened?

9 A. No, sir.

10 Q. Did he ever show you that picture on his phone or
11 anything?

12 A. Yes, sir.

13 Q. Do you know if he still had that phone when you
14 told Aunt Amber?

15 A. Yes, sir.

16 Q. He did?

17 A. Yes, sir.

18 Q. **MINOR 1**, do you remember if you and **MINOR 2** had
19 ever had Papa John taking silly pictures of you before this
20 happened when he used to take care of you?

21 A. What do you mean?

22 Q. Did he ever take silly pictures of you or **MINOR 2**
23 on his phone and show you?

24 A. Of our privates or just anything?

25 Q. Anything. Would he take pictures of you and show

1 you on his phone before this happened?

2 A. Yes, sir.

3 Q. Do you recall any other time that you were naked
4 when he took the pictures of you?

5 A. Yes, sir.

6 Q. When was that?

7 A. It was usually when he would come up to his bed at
8 night and he would start licking my private.

9 Q. There were other times when he took pictures of you
10 on his phone?

11 A. Yes, sir.

12 Q. Do you remember when you told Aunt Amber what
13 happened with Papa John, like what was going on when you told
14 her that?

15 A. We were driving, and she pulled over to the side of
16 the road and she asked me to get out. She asked me, and I told
17 her.

18 Q. Do you remember where you were driving to?

19 A. No, sir.

20 Q. **MINOR 1**, do you remember the time, the first time
21 Aunt Amber and your grandmother took you to Hopeful Horizons?

22 A. Yes, sir.

23 Q. Do you remember your Aunt Amber talking to you
24 before you went there about -- if you had left anything out
25 about talking to her before you went to tell them at Hopeful

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1 Horizons? Do you remember anything like that?

2 If you don't, that is fine. I am just asking if
3 you remember.

4 A. No.

5 Q. Do you remember Aunt Amber telling you anything
6 before you before you went to Hopeful Horizons about what you
7 needed to tell them?

8 A. No. I think I remember her telling me that to tell
9 if everything was true.

10 Q. Do you recall how long this was after you had
11 talked to her and told her and Aunt Amber what happened?

12 A. No, sir.

13 Q. So you don't know if it was a few days or a week or
14 two weeks or anything like that?

15 A. No, sir.

16 Q. **MINOR 1**, do you remember if there was an Ipad in
17 Papa John's room that your dad had left there?

18 A. Yes, sir. It was my dad's.

19 Q. Do you remember an Ipad that was up there?

20 A. Yes.

21 Q. Do you remember if you and **MINOR 2** ever used it to
22 play games or look at anything on the internet?

23 A. Yes, sir.

24 Q. Do you recall if you or **MINOR 2** ever looked at any
25 kind of pictures or videos with people who were naked touching

1 each other's privates on that Ipad?

2 A. Not on the Ipad, no.

3 Q. Was that just on Papa John's phone?

4 A. Yes, sir.

5 Q. Do you remember if you had any kind of rash or
6 anything like that on your privates while you were staying in
7 the room with Papa John?

8 A. Yes, sir.

9 Q. Do you know if **MINOR 2** had a rash or anything like
10 that?

11 A. No, sir.

12 Q. Did you have any kind of medicine that you were
13 supposed to put on your privates when you had that rash?

14 A. You mean Papa John?

15 Q. Either one. Was there any medicine that you needed
16 to put on your rash when you had it on your privates?

17 A. Aunt Amber had it, but Papa John didn't.

18 Q. The medicine?

19 A. Yes.

20 Q. You don't remember Papa John ever putting medicine
21 on you?

22 A. No, sir.

23 Q. Your mom was working nights back then?

24 A. Yes, sir.

25 Q. Papa John was taking care of you at night while she

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1 was working?

2 A. Yes, sir.

3 Q. Was he in charge of making sure you guys took baths
4 or showers and got ready for bed?

5 A. No, sir.

6 Q. Was there a shower or bathtub upstairs where he
7 lived?

8 A. Yes, sir.

9 Q. Is that where you guys would take baths or showers,
10 or was that downstairs?

11 A. We would use the upstairs bathroom.

12 Q. You said that you and MINOR 2 and BROTHER would
13 all sleep up there?

14 A. Yes, sir.

15 Q. You and MINOR 2 and BROTHER, if one of you was
16 there, all of you were probably there. Isn't that right?

17 A. Yes, sir.

18 Q. So there were never times when you were staying at
19 a different room than MINOR 2 and BROTHER?

20 A. No, sir.

21 Q. I know this is embarrassing and icky, but I
22 appreciate you answering all of these questions.

23 MR. STEPHENS: That's all, Your Honor.

24 MS. KEENEY: Just one question.

25 THE COURT: Okay.

1 * * *

2 REDIRECT EXAMINATION

3 BY MS. KEENEY:

4 Q. MINOR 1, when you all those bad videos on Papa
5 John's phone, were you looking at them yourself, or was someone
6 showing them to you?

7 A. Papa John was showing them to me.

8 MS. KEENEY: No further questions.

9 May she be excused?

10 MR. STEPHENS: I have no recross, Your Honor.

11 No objection to her being excused.

12 THE COURT: Thank you. You can step down.

13 MS. KEENEY: State calls MINOR 2.

14 Ladies and gentlemen, I need to send you back to
15 the jury room for a few minutes. Do not discuss the case.

16 (Jury exits courtroom).

17 VOIR DIRE EXAMINATION BY THE COURT

18 * * *

19 THE COURT: MINOR 2, you and BROTHER are younger
20 than MINOR 1.

21 THE WITNESS: Yes, sir.

22
23 THE COURT: MINOR 2, how are you doing? My name is
24 Ferrell Cothran, and I need to ask you a couple of questions.
25 These lawyers will ask you some questions in a little bit. I

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1 need you to answer those questions. Okay?

2 THE WITNESS: Yes.

3 THE COURT: Do you know the difference between
4 telling the truth and telling a lie?

5 THE WITNESS: Yes.

6 THE COURT: Is it good to tell the truth or bad to
7 tell the truth?

8 THE WITNESS: Good to tell the truth.

9 THE COURT: Is it good to tell a story or a lie or
10 bad to tell a story?

11 THE WITNESS: It could be both.

12 THE COURT: What do you mean by that? If you tell
13 something that is not true, is that bad or good?

14 THE WITNESS: Bad.

15 THE COURT: These lawyers are going to need to ask
16 you some questions about things that happened. I need you to
17 answer those questions truthfully.

18 THE WITNESS: Okay.

19 THE COURT: If they ask you something you don't
20 understand, you tell them you don't understand it. I need you
21 to tell them exactly what happened to the best of your ability
22 and not what you think they want to hear.

23 Can you do that?

24 THE WITNESS: Yes.

25 THE COURT: Can you talk loud enough for everybody

1 to be able to hear you?

2 THE WITNESS: Yes.

3 THE COURT: Do you have any questions you want to
4 ask me?

5 THE WITNESS: No.

6 THE COURT: Any further questions from either side?

7 MS. KEENEY: Nothing from the State.

8 MR. STEPHENS: Your Honor, just for clarification.
9 It was hard to hear **MINOR 2**. I know the Court asked her is it
10 good or bad to tell a story.

11 THE COURT: I think I gave her too many options.
12 Tell a story or a lie. Her response -- the question was not
13 very good. I tried to clear it up with whether it's good to
14 tell a lie or bad to tell a lie. She said it was bad.

15 I think I messed her up with story. She seemed to
16 understand the difference between a story and a lie. That was
17 a bad selection of words on my part.

18 MR. STEPHENS: Just because there may have been
19 miscommunication. For the Court to ask **MINOR 2** if she promises
20 to tell the truth, I think the oath is a little bit confusing
21 that the Clerk of Court gives.

22 THE COURT: It's really really important that you
23 tell the truth today, okay. Can you do that for me?

24 THE WITNESS: Yes.

25 THE COURT: When the jury comes back in, they need

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1 to hear what you are saying. This lady right here is going to
2 come up and ask you to give an oath and tell the truth.

3 Can you do that for me?

4 THE WITNESS: Yes.

5 THE COURT: If you don't understand anything, you
6 tell them you don't understand. I don't want you to make up
7 anything. I want you to tell exactly the truth. She will give
8 you the oath in the courtroom. She will not do that until all
9 of the jury gets back in here. They just want to hear what you
10 have to say. Can you do that for me?

11 THE WITNESS: Yes.

12 THE COURT: Thank you. Anything further?

13 MR. STEPHENS: Nothing from the defense. Thank
14 you.

15 MS. KEENEY: **MINOR 2**, I remind you that you have to
16 say yes or no. You can't just nod your head or shake your
17 head.

18 THE COURT: This lady down here is taking down
19 everything I say and you say. She can't take down a nod. It
20 has to be verbal.

21 You are doing really good. Thank you.

22 Anything before I bring the jury in?

23 MR. STEPHENS: Nothing from the defense, Your
24 Honor. Thank you.

25 (Jury enters courtroom.)

1 THE COURT: Swear the witness.

2

3 MINOR 2,

4 being first duly sworn testified as follows:

5 * * *

6 DIRECT EXAMINATION

7 BY MS. KEENEY:

8 Q. MINOR 2, can you say your name nice and loud for
9 these people to hear.

10 A. Yes, ma'am.

11 Q. What is your name?

12 A. MINOR 2.

13 Q. How old are you today?

14 A. Seven.

15 Q. Do you remember your birthday?

16 A. Yes.

17 Q. What is it?

18 A. .

19 Q. You are on summer break, correct?

20 A. Yes.

21 Q. What grade are you going to go into?

22 A. Second.

23 Q. Do you remember what school you school you go to?

24 A. No.

25 Q. Do you remember what your favorite subject is in

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1 school?

2 A. Art and math.

3 Q. Do you know your mom's and dad's name, your
4 biological mom and dad?

5 A. Yes.

6 Q. What are their names?

7 A. Kimberly and Shawn.

8 Q. Do you have any brothers or sisters?

9 A. Yes, ma'am.

10 Q. What are their names?

11 A. **MINOR 1** and **BROTHER**.

12 Q. Is **BROTHER** older or younger than you?

13 A. Older.

14 Q. Is **MINOR 1** older or younger than you?

15 A. Older.

16 Q. Would do you live with now?

17 A. My Aunt Amber.

18 Q. Is that name, Amber?

19 A. Yes.

20 Q. Who else lives in that house?

21 A. My cousin and my uncle.

22 Q. Do **MINOR 1** and **BROTHER** live there too?

23 A. Yes, ma'am.

24 Q. I will take you back to January 1, 2018 to July of
25 2019. You were about to turn four years old, five years old in

1 that time period.

2 Do you remember who you were living with before
3 Aunt Amber?

4 A. Yes, ma'am.

5 Q. Who were you living with?

6 A. My mom, my grandma and grandpa, Papa John.

7 Q. Who is Papa John to you? Is he related to you?

8 A. I don't know.

9 Q. Maybe it was a bad question.

10 Is he like a grandpa uncle or something else?

11 A. Yes.

12 Q. Which one?

13 A. I think --

14 Q. Is he your dad's dad?

15 A. No, ma'am.

16 Q. You call him Papa John, correct?

17 A. Correct.

18 Q. Tell me about the house that you lived in with Papa
19 John.

20 A. It was a bad house.

21 Q. One story or two stories? Does it have stairs or
22 no?

23 A. It had two floors.

24 Q. What room did you stay in?

25 A. Sometimes I stayed in my mom's room; sometimes I

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1 stayed in Papa John's.

2 Q. Be nice and loud. Sometimes you stayed in your
3 mom's room and sometimes you stayed in Papa John's room?

4 A. Correct.

5 Q. Who else would stay in Papa John's room?

6 A. My sister and my brother.

7 Q. In Papa John's room, how many beds were there
8 there?

9 A. One.

10 Q. Were there any other things in there, like a
11 mattress or something else?

12 A. Yes.

13 Q. What was it?

14 A. A mattress.

15 Q. Where was that mattress?

16 A. On the floor.

17 Q. When you stayed in Papa John's room, would you
18 sleep in the bed with Papa John or on the mattress or something
19 else?

20 A. One time I slept on the mattress. Mostly, I slept
21 on Papa John's bed.

22 Q. Do you remember if Papa John's bedroom -- did it
23 have a door to the bedroom?

24 A. Yes, ma'am.

25 Q. Your mom, Kimberly, did she work at nighttime a

1 lot?

2 A. Yes, ma'am.

3 Q. Who would take care of you at night when your mom
4 was at work?

5 A. Papa John.

6 Q. When you were between the ages of 3 and 5 years
7 old, can you tell me what happened with Papa John, what he
8 would d?

9 A. Yes, ma'am.

10 Q. What would he do?

11 A. He put his private -- he put his private in my
12 bottom.

13 Q. Let me ask you something. The first thing that you
14 said, he put his private in your private?

15 A. Yes.

16 Q. Your private. Is that the thing you pee out of?

17 A. Yes, ma'am.

18 Q. Would his private go inside your private, outside
19 your private, or somewhere else?

20 A. Inside.

21 Q. How did that make you feel?

22 A. It made me feel scared.

23 Q. Did you ever see anything like -- did you notice
24 anything weird about his private? Did you see anything come
25 out of his private?

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1 A. Yes, ma'am.

2 Q. What did you see?

3 A. Some sort of white stuff.

4 Q. Where would the white stuff go?

5 A. On my face.

6 Q. When he put his private inside your private part,
7 was that one time or more than one time?

8 A. More than one time.

9 Q. What else did he do to you besides putting his
10 private in your private?

11 A. I don't remember anymore.

12 Q. You don't remember?

13 A. No.

14 Q. What, if anything, did he do with his hands?

15 A. He touched my private part.

16 Q. He used his hands to touch your private part?

17 A. Yes, ma'am.

18 Q. Would his hands or fingers go inside your private,
19 outside your private, or somewhere else?

20 A. Inside.

21 Q. His finger went inside your private?

22 A. Yes, ma'am.

23 Q. That was when you were maybe 3 to 5 years old,
24 somewhere in there?

25 A. Yes, ma'am.

1 Q. Do you remember if Papa John did anything with his
2 mouth?

3 A. No, ma'am.

4 Q. Do you remember -- let me rephrase.

5 Do you remember if he did anything with his tongue?

6 A. Yes, ma'am.

7 Q. What did he do with his tongue?

8 A. He put his tongue in my private.

9 Q. He put his tongue in your private?

10 A. Yes, ma'am.

11 Q. When you say that, did he put it inside your
12 private, outside your private or something else?

13 A. Inside.

14 Q. His tongue went inside your private?

15 A. Yes.

16 Q. You said earlier that he did something to your
17 behind or your bottom, correct?

18 A. Yes.

19 Q. What did he do to your bottom?

20 A. He put his private part in my bottom.

21 Q. He put his private part in your bottom?

22 A. Yes.

23 Q. Did you tell anybody what Papa John was doing to
24 you eventually?

25 A. I told my mom.

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1 Q. What did your mom do?

2 A. She said sleep on the mattress.

3 Q. She said sleep on the mattress?

4 A. Yes, ma'am.

5 Q. Did you tell anybody other than your mom?

6 A. I guess I told my aunt.

7 Q. You told your Aunt Amber?

8 A. Yes, ma'am.

9 Q. Did she take you to the doctor?

10 A. Yes, ma'am.

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

12 THE COURT: Okay.

13 MS. KEENEY: No further questions for this witness.

14 THE COURT: Okay.

15 * * *

16 CROSS-EXAMINATION

17 BY MR. STEPHENS:

18 Q. Hi, MINOR 2. My name is Mr. Stephens. I work for
19 Papa John for this trial, so I have to ask you some questions
20 just like Ms. Keeney did. Some of them may be a little
21 embarrassing or icky. I am sorry. If that is the case, if you
22 don't understand anything I am asking, let me know. I will see
23 if I can ask it in a better way.

24 Q. Ms. Keeney, she asked you questions about things
25 that happened when you would stay up in Papa John's room a

1 couple of years ago?

2 A. Yes, sir.

3 Q. Is it hard to remember everything that happened two
4 years ago when you were three or four?

5 A. Yes, sir.

6 Q. Did Ms. Keeney or anybody from her office help you,
7 show you where you would be sitting and how you would be
8 talking when you are here today?

9 A. Yes, sir.

10 Q. Did you practice how you were going to answer
11 questions?

12 A. Yes, sir.

13 Q. Do you remember how many times you practiced how
14 you were going to have to answer questions?

15 A. No, sir. I don't remember.

16 Q. Do you remember going to Hopeful Horizons to talk
17 about what had happened with Papa John?

18 A. No, sir.

19 Q. Was there some kind of person you would go talk to
20 about the things that happened to you?

21 A. Yes, sir.

22 Q. Did they talk to you about having to come to court
23 and testify or answer questions in court?

24 A. I don't remember.

25 Q. Did they tell you that it's okay to talk about the

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1 things that happened?

2 A. I don't remember.

3 Q. Did you meet with anyone who told you you are a
4 brave girl for talking about all of this stuff?

5 A. Yes, sir.

6 Q. It's embarrassing to talk about, isn't it?

7 A. Yes, sir.

8 Q. When you told your Aunt Amber what happened, did
9 you see Aunt Amber a lot back then before you came to live with
10 her?

11 A. What does that mean?

12 Q. Before you told -- I am just asking before you told
13 Aunt Amber what happened, you had seen her for swimming and
14 things like that on weekends.

15 Do you remember any of that

16 A. I don't remember the swimming a lot.

17 Q. Do you remember seeing Aunt Amber and your cousin
18 at all before you told them what happened?

19 A. Yes.

20 Q. Do you remember when you told her what happened?

21 A. No.

22 Q. Have you had to talk to a lot of people about what
23 happened?

24 A. No, sir.

25 Q. Has anybody shown you a recording with you talking

1 about what happened? Did you get to see what you looked like
2 when you first told someone?

3 A. No, sir.

4 Q. What a stupid question for a five-year-old.

5 Did anybody tell you what you had said before to
6 help you remember things?

7 A. Yes, sir.

8 Q. Someone said -- you told this happened, and that
9 would help you remember what happened with Papa John?

10 A. Yes, sir.

11 Q. Do you remember -- **MINOR 2**, do you remember when
12 you used to get rashes on your privates?

13 A. Yes, sir.

14 Q. Do you remember getting medicine to put on your
15 privates when you were rashy?

16 A. Yes, sir.

17 Q. Do you remember who helped put medicine on you?

18 A. Yes, sir.

19 Q. Do you remember if Papa John ever helped put
20 medicine on you when you were rashy?

21 A. Yes, sir.

22 Q. Did you say yes?

23 A. Yes, sir.

24 Q. When you would stay in Papa John's room, would he
25 help you with showering or taking a bath or anything like that?

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1 A. I don't remember.

2 Q. That is fine.

3 Do you remember that your mommy was working nights
4 back then, so she would be gone when you went to sleep?

5 A. Yes, sir.

6 Q. Would Papa John be the one who got you ready to go
7 to bed?

8 A. Yes, sir.

9 MR. STEPHENS: I don't think I have any other
10 questions for you, **MINOR 2**.

11 MS. KEENEY: No further questions for this witness.
12 May she be excused?

13 THE COURT: Any objection?

14 MR. STEPHENS: No objection, Your Honor. Thank
15 you.

16 THE COURT: Thank you, **MINOR 2**. You can go.

17 MS. KEENEY: Your Honor, may we approach?

18 THE COURT: Yes.

19 (Bench conference.)

20 MS. KEENEY: Ladies and gentlemen, I am informed by
21 the prosecutor that our next witness may be lengthy, so we will
22 go to lunch.

23 It's very important that you come back from lunch
24 on time. Do not discuss this case yet. Do not allow anyone to
25 discuss it with you. Do not do any research. I will see you

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1 back at 1:30. Thank you.

2 (The jury exited the courtroom.)

3 THE COURT: Anything we need to deal with before we
4 break for lunch?

5 MR. STEPHENS: Nothing from the defense, Your
6 Honor.

7 MS. KEENEY: Nothing from the State.

8 THE COURT: All right. 1:30. Thank you.

9 (Luncheon recess.)

10 * * *

11 PROCEEDINGS CONTINUED

12 THE COURT: Everyone ready to go?

13 MS. KEENEY: Yes, Your Honor.

14 MR. STEPHENS: Yes, Your Honor.

15 THE COURT: Bring them in.

16 (Jury enters courtroom.)

17 THE COURT: Thank you, sir. You may call your next
18 witness.

19 MS. KEENEY: State calls Brooke Bentley.

20 * * *

21 BROOKE BENTLEY,

22 being first duly sworn testified as follows:

23 * * *

24 DIRECT EXAMINATION

25 MS. KEENEY: May it please the Court.

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1 THE COURT: Yes, ma'am.

2 BY MS. KEENEY:

3 Q. Ms. Bentley, state your name and spell your last
4 name for the court reporter.

5 A. Brooke Bentley, B-e-n-t-l-e-y.

6 Q. Ms. Bentley, where do you work?

7 A. A children's advocacy center, Hopeful Horizons.

8 Q. What is your position there?

9 A. I am the lead forensic interviewer and also a
10 therapist.

11 Q. What is a forensic interview?

12 A. Forensic interviewer interviews children at the
13 request of law enforcement and DSS.

14 Q. You have specialized training on how to question
15 children?

16 A. Yes.

17 Q. The room in which you interview children, is there
18 any special equipment in the room?

19 A. Yes. Inside the room there are cameras and
20 microphones. The cameras are to video the children, and the
21 microphones are to make sure we hear the children on the
22 videos.

23 Q. When you interview a child, is there anybody else
24 in the room typically, other than you and the child?

25 A. No. In the interview room itself, it's just myself

1 and the child.

2 Q. If you are interviewing two different children, you
3 would never have both children in the same room asking them
4 questions?

5 A. Absolutely not.

6 Q. On July 8, 2019, how did you get involved in this
7 case?

8 A. We received a request from law enforcement to
9 interview both MINOR 2 and MINOR 1. I was the forensic
10 interviewer for that day. I did the interviews for the girls.

11 Q. Do you remember how old MINOR 2 was at the time of
12 the interview?

13 A. MINOR 2 was five, I believe.

14 Q. How old was MINOR 1 at the time of the interview?

15 A. Eight.

16 Q. I will show you what has been marked as State's
17 Exhibit 1. Look at this item and tell me if you recognize it.

18 A. Yes. It's a DVD of the interview with MINOR 1 and
19 with MINOR 2.

20 Q. You reviewed this video?

21 A. Yes.

22 Q. You initialed that you reviewed it?

23 A. Yes, ma'am.

24 Q. Is that a fair and accurate depiction of the
25 forensic interviews of MINOR 1 and MINOR 2?

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1 A. Yes, ma'am.

2 MS. KEENEY: At this time, the State moves to
3 introduce State's Exhibit 1 into evidence.

4 MR. STEPHENS: No objection.

5 THE COURT: Entered without objection.

6 MS.KEENEY: Thank you, Your Honor.

7 State's Exhibit 1 was marked and accepted into
8 evidence.)

9 MS. KEENEY: Permission to publish?

10 THE COURT: Yes.

11 (State's Exhibit 1 published for the jury.)

12 BY MS. KEENEY:

13 Q. Before I play the next interview, Ms. Bentley,
14 **MINOR 2** referred to body parts. What did she identify as the
15 female -- she called it her private part, correct?

16 A. Correct.

17 Q. What was she referring to specifically?

18 A. It's a picture. It's an anatomical diagram. She
19 was referring to the vagina.

20 Q. When she was talking about Papa John's private
21 part, where are on the picture was she referring to?

22 A. She was identifying the penis on the male
23 anatomical diagram.

24 THE COURT: Anybody need a break?

25 While she is pulling this up, we will take a short

1 break. Do not discuss the case.

2 (Jury exits courtroom.)

3 THE COURT: Let's get started.

4 (Jury enters courtroom.)

5 MS. KEENEY: May it please the Court, I will
6 publish the second video.

7 (State's Exhibit 1 was published for the jury.)

8 BY MS. KEENEY:

9 Q. Two more questions for you. When **MINOR 1** referred
10 to Papa John's private part, did she refer to it on the
11 diagram?

12 A. She did.

13 Q. What area did she identify?

14 A. The penis on the male anatomic diagram.

15 Q. When she referred to her private part, did she
16 identify it on the diagram?

17 A. She did.

18 Q. What part is that?

19 A. She identified the vagina on the female in the
20 anatomical diagram.

21 MS. KEENEY: Thank you. No further questions for
22 this witness.

23 * * *

24 CROSS-EXAMINATION

25 BY MR. STEPHENS:

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1 Q. Good afternoon, Ms. Bentley. Just a few questions.
2 You stated that the day MINOR 2 and MINOR 1 were brought over
3 for their forensic interviews. What day was that?

4 A. The date that I have on the report is July 8, 2019.

5 Q. Do you know the date that they first disclosed to
6 their caregiver?

7 A. I do not.

8 Q. Do you know if they had spoken with a family member
9 or a caregiver about the allegations before they came in and
10 met with you?

11 A. I believe in the interview they had stated that
12 they had disclosed to their aunt prior to.

13 Q. Does Hopeful Horizons give any kind of guidance to
14 the family about not talking about the allegations or anything
15 like that?

16 A. No. We do not have any contact with the family
17 until the day of the interview when the children are brought
18 in.

19 Q. After the children are brought in, is there any
20 discussion with their parents or caregiver about what is safe
21 or not safe to talk to the child about?

22 A. Yes. Typically, whoever brings the children in, we
23 tell them after the interview, we ask that they not ask the
24 children questions about what I have asked them specifically or
25 what they have told us.

1 If the children leave the interview and they start
2 talking to the caregiver, we ask for them to just praise the
3 child or tell them they were brave and did a good job. We ask
4 them not to probe any information from them because it is an
5 open investigation.

6 Q. If the children want to discuss this, they are
7 basically just told 00 there is no negative reinforcement. You
8 only have positive reinforcement about you are brave for
9 talking about this. It is okay to talk about that, that sort
10 of thing?

11 A. Right.

12 Q. I heard you state during the direct examination, on
13 the friends interviews you also do some of the therapy that
14 goes on at Hopeful Horizons?

15 A. Correct.

16 Q. Did you see **MINOR 2** or **MINOR 1** for therapy after
17 their forensic views.

18 A. No.

19 Q. Are you aware whether they did get therapy?

20 A. Yes. They had treatment with one of the other
21 therapists.

22 Q. Hopeful Horizons in the past, there was a person on
23 the staff to assist the child in preparing them if they were
24 going to come testify in court; is that correct?

25 A. Yes. If the child has completed therapy, they can

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1 come by the time we get to court. They can call the therapist,
2 and they can just give booster sessions, which is what we call
3 them, just to prepare them emotionally for what is to come in
4 court.

5 Q. Fair to say that you are not aware of what therapy
6 sessions like that that these girls might have had after you
7 saw them as their forensic interviewer?

8 A. I just know that they were in treatment. That's
9 it.

10 MR. STEPHENS: No further questions. Thank you.

11 MS. KEENEY: Just one question.

12 * * *

13 REDIRECT EXAMINATION

14 BY MS. KEENEY:

15 Q. Towards the end of **MINOR 1**'s interview, you asked
16 her if anyone had talked to her about what to say, is that
17 correct?

18 A. Correct.

19 Q. What did she say?

20 A. She said that her aunt had talked to her and she
21 had told her just to tell the truth.

22 MS. KEENEY: Thank you. No further questions.

23 THE COURT: You can step down. Thank you.

24 MS. KEENEY: May this witness be excused?

25 THE COURT: Any objection?

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1 MR. STEPHENS: No objection, Your Honor. Thank
2 you.

3 THE COURT: Yes.

4 MS. KEENEY: State calls Eric Calendine.

5 THE COURT: Everybody okay? We have one more
6 witness today. I promised someone on the jury that we would be
7 done by 5:00, and we will be out by 5:00.

8 * * *

9 ERIC CALENDINE,
10 being first duly sworn testified as follows:

11 * * *

12 DIRECT EXAMINATION

13 BY MS. KEENEY:

14 Q. Please state your name for the record and spell
15 your last name.

16 A. Eric Calendine, C-a-l-e-n-d-i-n-e.

17 Q. Investigator Calendine, where do you work?

18 A. Beaufort County Sheriff's Department.

19 Q. What is your position there?

20 A. Master Sergeant.

21 Q. What was your position in July of 2019?

22 A. I was a staff sergeant over the investigations in
23 the south side.

24 Q. What is that?

25 A. Hilton head, Bluffton.

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1 Q. North side is Beaufort, St. Helena, Lady's Island?

2 Yes, ma'am

3 Q. On July 10 of 2019, how did you get involved in
4 this case?

5 A. We had obtained a search warrant for the residence
6 at [REDACTED] Lane in Bluffton and also arrest warrants for Mr.
7 John Basile. We conducted an operation surveillance. We knew
8 from some intel that he would be leaving for work that morning,
9 so we set up just outside of his residence waiting for him to
10 leave the vehicle and conduct a traffic stop.

11 A. In Beaufort County.

12 Q. You all were going to do a search warrant at that
13 residence?

14 A. Yes, ma'am.

15 Q. Is that normal procedure to camp out, scope the
16 area before you execute the search warrant?

17 A. Surveillance just to make sure we had the right
18 address, we have eyes on it to make sure the person who is
19 leaving and going, who is actually at the residence, just
20 pre-surveillance and pre-operation type of stuff.

21 Q. Who was you with you?

22 A. Sergeant Murphy and Corporal Weich.

23 Q. What car were you in? Were you in a road patrol
24 car or a different type of car?

25 A. I was in an unmarked vehicle at the time. No

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1 stripes or markings. It had undercover blue lights in it.

2 Q. Did your unmarked car have what we call an in-car
3 camera or a camera attached to the car so you could see what
4 was going on?

5 A. No, ma'am.

6 Q. Did you, in fact, see the defendant leave the
7 residence or did somebody see him leave the residence?

8 A. We did.

9 Q. What happened at that point?

10 A. We followed the vehicle as turned onto Simmonsville
11 Road. We conducted a traffic stop as it turned on to U.S.
12 Route 278 from Simmonsville Road.

13 Q. What happened next?

14 A. Myself and Sergeant Murphy and Corporal Weich
15 approached the vehicle. We identified the driver as John
16 Basile. We got him out. He was detained.

17 At that point we photographed the vehicle. We left
18 the group at the house as far as surveillance of the house
19 goes. We had the defendant detained and essentially under
20 arrest.

21 At that point, he was transported to the substation
22 for interview. I went over to the house to help them conduct
23 the search warrant at the house itself.

24 Q. Do you know if he was transferred to Beaufort
25 County Sheriff's Office or Bluffton Police Department?

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1 A. I think they went to the Bluffton Police
2 Department.

3 Q. Did you participate in any interview with the
4 defendant?

5 A. No, ma'am.

6 Q. What did you next?

7 A. I went to the residence and met with the other
8 officers who were going to conducted the search at the house
9 itself. We do a video of the house before we do any kind of
10 searching. We videotape the house before we go in. Then after
11 the videotape is done, we start searching the house itself for
12 certain items that are in the search warrant.

13 Q. did you participate in the execution of the search
14 warrant?

15 A. Yes.

16 Q. Watch over it?

17 A. Yes.

18 Q. I will show you what has been marked as State's
19 Exhibits 2 through 12. Can you flip through each one of those
20 and tell me if you recognize those documents or photographs, I
21 guess.

22 A. Yes, ma'am. I do.

23 Q. What are those photographs of?

24 A. The residence at [REDACTED] Lane, different rooms.
25 And also the outside of the house.

1 Q. Are those a fair and accurate depiction of The what
2 the residence looked like on the day of the search warrant
3 execution?

4 A. Yes, ma'am.

5 MS. KEENEY: At this time the State moves to admit
6 State's Exhibits 2 through 12 into evidence.

7 THE COURT: What says the defense?

8 MR. STEPHENS: No objection.

9 THE COURT: Entered without objection.

10 (State's Exhibits 2 - 12 were accepted and
11 entered into evidence.)

12 MS.KEENEY: Permission to publish?

13 THE COURT: Yes, ma'am.

14 BY MS. KEENEY:

15 Q. I have State's Exhibit Number 2 up here.

16 Where was this photograph taken

17 A. In the suspect's bedroom.

18 Q. This thing that my finger is on, is that a shelf or
19 a head-board type?

20 A. Yes. The headboard to the bed itself.

21 Q. There are things being stored in here, is that
22 correct?

23 A. Yes.

24 Q. I will show you what has been marked as State's
25 Exhibit 3. Where was this photograph taken?

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1 A. On the side of the bed almost like a nightstand or
2 storage area.

3 Q. State's Exhibit Number 4.

4 A. That is the outside of the house.

5 Q. That is [REDACTED] Lane?

6 A. Yes, ma'am.

7 Q. State's Exhibit 5. What is this?

8 A. That was on the opposite side of the bed against
9 the wall. It has candy and bags and drawings and stuff.

10 Q. State's Exhibit Number 6. Where was this photo
11 taken?

12 A. That is a mini-fridge in the bedroom over by the
13 closet.

14 Q. Was this the suspect's, John Basile's, bedroom?

15 A. Yes, it was.

16 Q. He had a mini-fridge in there?

17 A. Correct.

18 Q. Do you see the item that my finger is on right
19 there?

20 A. Yes.

21 Q. What is that?

22 A. A can of whipped cream.

23 Q. State's Exhibit Number 7. Is this the same
24 mini-fridge?

25 A. Yes.

1 Q. Is that the can of whipped cream?

2 A. Yes, ma'am.

3 Q. State's Exhibit Number 8. What is this?

4 A. The freezer part of the refrigerator, the bottom
5 shelf. Then there is the top of the refrigerator/ freezer
6 part.

7 Q. What is this item that my finger is on?

8 A. Some type of Sundae-type treat. Ice cream.

9 Q. State's Exhibit Number 9. What is this a picture
10 of?

11 A. The door of the freezer, the storage on the freezer
12 door itself.

13 Q. What is this item that my finger is on?

14 A. More Sundae-type ice cream treats.

15 Q. I will show you State's Exhibit Number 10. Another
16 picture of that same previous item?

17 A. Yes, ma'am.

18 Q. State's Exhibit Number 11. Was this the same can
19 of whipped cream we were previously looking at?

20 A. Yes, ma'am.

21 Q. State's Number 12. What is this item that my
22 finger is on?

23 A. A picture of a naked woman.

24 Q. Spreading her privates?

25 A. Yes, ma'am.

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1 Q. Where was this item found?

2 A. In a storage drawer by the hotplate in the room
3 itself.

4 Q. In John Basile's room?

5 A. Yes, ma'am.

6 Q. You all did, in fact, collect that picture that I
7 just showed you?

8 A. Yes, ma'am. We did.

9 Q. You collected that as evidence?

10 A. Yes, ma'am.

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

12 Move to admit State's Exhibits 2 through 12.

13 THE COURT: Any objection?

14 MR. STEPHENS: No objection.

15 THE COURT: Admitted.

16 (State's Exhibits 2 through 12 were marked and
17 admitted into evidence.)

18 MS.KEENEY: No further questions for this witness.

19 * * *

20 CROSS-EXAMINATION

21 BY MR. STEPHENS:

22 Q. Good afternoon, Mr. Calendine. How are you?

23 A. Good.

24 Q. General questions to the specific.

25 You said that Mr. Basile was removed from his

1 vehicle and placed under arrest before the search of the home,
2 correct?

3 A. Correct.

4 Q. He wouldn't have had an opportunity to go back to
5 the home and do anything with the evidence prior to your
6 search, correct?

7 A. Correct.

8 MR. STEPHENS: Your Honor, may I approach the
9 witness?

10 THE COURT: Yes, sir.

11 BY MR. STEPHENS:

12 Q. Handing you what was marked as State's Exhibit 2.
13 I think you said that was the headboard, shelves behind
14 the defendant's bed?

15 A. That is what I considered it. A headboard behind
16 the bed.

17 Q. You went through all of those items?

18 A. I personally did not do through every single item.
19 There were other investigators conducting the search as well.

20 Q. Was there a seizure of any kind of sex toy,
21 vibrator, or dildo in that area or anywhere in the bedroom?

22 A. I don't have it on my return. No.

23 Q. If you look at State's Exhibit 2, you don't see an
24 item like that on those shelves, correct?

25 A. I couldn't see them right away.

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1 Q. Fair enough. As part of your search of the home
2 and the stop of Mr. Basile's vehicle, was his cell phone taken
3 into evidence?

4 A. It was.

5 Q. To the best of your knowledge, obviously, your
6 office doesn't do the forensic searches of electronic devices
7 directly. Those go away for somebody?

8 A. We have a forensic lab doing cell phones. I don't
9 know if in 2019 we were doing that or not. If we weren't, it
10 would go to SLED.

11 Q. And is it fair to say, to the best of your
12 knowledge -- do you know if any forensic search was done on
13 that cell phone?

14 A. I personally didn't do anything, as far as -- I
15 didn't have anything to do with the cell phone.

16 Q. That would have been turned to the lead
17 investigator in the case in order to be processed?

18 A. Yes.

19 Q. You could not say whether that had occurred?

20 A. I cannot.

21 Q. I am showing you State's Exhibit Number 12, which
22 has the picture of the female with her genitals and anus. I
23 think you said that that came from a container in the room?

24 A. One of those plastic storage drawers. There were
25 two different drawers in the corner of the room by the

1 hotplates where the TV was in the corner.

2 Q. That wasn't in plain view so that anyone looking
3 down who see the naked picture of the female?

4 A. You would have to pull the drawer out to see the
5 picture.

6 Q. To the best of your recollection, your office
7 didn't suspect that this was child pornography, correct?

8 A. I couldn't tell you on that one, just because there
9 is no face.

10 Q. Are you familiar with Tanner scaling for
11 determining the age of --

12 A. I am not.

13 Q. To the best of your knowledge, is it fair to say
14 that Mr. Basile was never charged with possession of child
15 pornography?

16 A. I don't know.

17 Q. Master Sergeant Calendine, other than the stop of
18 Mr. Basile and the search of the home, was that the extent of
19 your participation in this investigation?

20 A. I returned the search warrant to the judge. That
21 is the extent of my involvement.

22 Q. Fair to say that you never spoke with the juvenile
23 victims of the case or family members or took witness
24 statements from them?

25 A. No, sir.

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1 MR. STEPHENS: Thank you. No further questions for
2 Master Sergeant Calendine.

3 MS. KEENEY: No further questions for this witness.
4 May he be excused?

5 THE COURT: Any objection?

6 MR. STEPHENS: No objection, Your Honor.

7 MS. KEENEY: Thank you, Your Honor. Is this a good
8 stopping point?

9 THE COURT: This is a great stopping point.
10 Any problem with starting back at 9:30?

11 Okay. I need you back in the jury room at 9:30 in
12 the morning. Please do not discuss this case with anyone. Do
13 not do any research. If you have an emergency, please let us
14 know. I can't get started until all 13 jurors show up. Have a
15 good evening. Thank you.

16 (Jury exits courtroom.)

17 THE COURT: From a scheduling standpoint tomorrow,
18 do you think you will finish your case?

19 MS. KEENEY: Yes, sir. I have the nurse
20 practitioner that can only be here in the morningtime, so she
21 will be my first person tomorrow. Then the blind expert, and
22 then Officer Weich, which we will play the video, but it's
23 two-and-a-half hours long. We will finish all the witness
24 testimony.

25 THE COURT: Two-and-a-half hours is the confession?

STATE v. JOHN T. BASILE - 2019-GS-07-01383, VOLUME I

1 MS. KEENEY: Yes, sir.

2 THE COURT: Are you only going to play a portion of
3 it, or are you going to play all of it.

4 MS. KEENEY: I have redacted it down to
5 two-and-a-half hours. It was about four hours long.

6 MR. STEPHENS: Your Honor, we are still reviewing
7 that. I don't anticipate a problem with it. I just want to
8 make sure they didn't cut out any of the parts that we want to
9 reference.

10 THE COURT: So it's hearsay. Playing anything for
11 four hours to the jury is really bad. It's longer than Gone
12 With the Wind, as far as keeping jurors' attention. Unless it
13 is really something important in your case, I recommend not
14 doing it.

15 MS. KEENEY: It's down to two-and-a-half hours.

16 THE COURT: You all need to put up what you think
17 is pertinent to this jury to make that decision. I will not
18 limit that in any way. It's just tough on a jury or anybody to
19 watch four hours of any type of video.

20 MS. KEENEY: It was painful watching the one hour.

21 THE COURT: I have been in medical malpractice
22 cases where they go on and on and on with the videos of
23 doctors. The jury wants to know their arm off before they get
24 to the end of it.

25 As long as you can get it down to what is pertinent

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1 to what this jury needs to hear to make a decision, that is
2 fine. Having said that, you need to also -- you are entitled
3 to cover what your bases are.

4 MR. STEPHENS: Your Honor, I don't anticipate any
5 issue with it, but because I haven't watched the whole video
6 yet, I want to make sure I left some wiggle room there.

7 THE COURT: Okay.

8 Anything else you all need from me?

9 MS. KEENEY: No, Your Honor.

10 MR. STEPHENS: Nothing from the defense.

11 THE COURT: All right. I will see you all in the
12 morning.

13 (At 4:47 p.m. the proceedings were continued to be
14 resumed the following day without interruption)

15 * * *

16 END OF VOLUME I

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STATE of SOUTH CAROLINA v. JOHN T. BASILE - 2019GS0701383, VOLUME II

1 STATE OF SOUTH CAROLINA IN THE GENERAL SESSIONS COURT
2 COUNTY OF BEAUFORT 14th JUDICIAL CIRCUIT

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STATE OF SOUTH CAROLINA,

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vs.

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CASE NO.: 2019-GS-07-01383, -384
2019-GS-07-01969, -70
2021-GS-07-00459, -60

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JOHN T. BASILE,

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Defendant.

TRANSCRIPT OF JURY TRIAL
VOLUME I
(PAGES 152 - 261)

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11

TRIAL BEFORE:

THE HONORABLE R. FERRELL COTHRAN

12

DATE:

JUNE 23, 2021

13

REPORTED BY:

KYMBERLEE M. WILLIAMS, CSR/RPR

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STATE of SOUTH CAROLINA v. JOHN T. BASILE - 2019GS0701383, VOLUME II

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STATE of SOUTH CAROLINA v. JOHN T. BASILE - 2019GS0701383, VOLUME II

1 PROCEEDINGS

2 * * *

3 WEDNESDAY, JUNE 23, 2021

4 BEAUFORT, SOUTH CAROLINA

5 * * *

6 THE COURT: Let's bring in the jury.

7 (Jury enters courtroom.)

8 THE COURT: I understand you all have picked a

9 foreperson?

10 THE FOREPERSON: Yes, sir.

11 THE COURT: That is you?

12 THE FOREPERSON: Yes, sir.

13 THE COURT: Very good. At this time, ladies and

14 gentlemen, we will continue with the trial.

15 Call your next witness.

16 MS. KEENEY: State calls Kristen Dalton.

17 ANNE KRISTEN DALTON,

18 being first duly sworn testified as follows:

19 * * *

20 DIRECT EXAMINATION

21 MS.KEENEY: Thank you. May it please the Court?

22 THE COURT: Yes, ma'am.

23 BY MS. KEENEY:

24 Q. Ms. Dalton, where do you work?

25 A. Currently I work at Beaufort Pediatrics.

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1 Q. What is your position there?

2 A. I am a Pediatric Nurse Practitioner.

3 Q. Tell the jury a little bit about your educational
4 and work background?

5 A. In 1983, I received a Bachelor's in Nursing from
6 the University of Virginia. In 1994 I received a Master's in
7 nursing from Indiana University. A few months later I passed a
8 certifying board exam to be a Pediatric Nurse Practitioner.

9 In August of '94, I started working at Beaufort
10 Pediatrics, where I continue to work today.

11 In 2003 I contracted with our local children's
12 advocacy center, Hopeful Horizons, and became the child abuse
13 medical provider for them. I started out doing one or two
14 exams a week. Over the years, I have devoted more and more
15 time to that work until I started doing half-time the abuse
16 work and half-time general peds.

17 I retired from the abuse work last October. I
18 continue to work at Beaufort Pediatrics.

19 Q. When a child has been suspected to be abused, you
20 would do the exams for pretty much all the cases in the 14th
21 circuit?

22 A. Correct.

23 Q. How many forensic medical exams do you think you
24 have done?

25 A. Over 1,100.

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1 Q. You have done a lot?

2 A. Yes.

3 Q. Have you been previously qualified as an expert
4 before in the court?

5 A. Yes, I have.

6 Q. As a child abuse medical provider?

7 A. Yes.

8 Q. Do you remember how many times you have been
9 qualified as an expert?

10 A. Over two dozen.

11 MS.KEENEY: Your Honor, at this time the State
12 would offer Ms. Dalton as an expert in the field of child abuse
13 medical provider.

14 THE COURT: Any objection?

15 MR. STEPHENS: Your Honor, if this is the area that
16 she is being qualified, then the defense has no objection.

17 THE COURT: Court so finds.

18 BY MS.KEENEY:

19 Q. Can you tell me about the process for one of your
20 exams for a child that has been suspected to be abused?

21 A. The process of the exam is something that has been
22 determined by Beaufort, South Carolina, Child Abuse Medical
23 Response System. This is a group of about 24 nurse
24 practitioners and pediatricians in South Carolina who have
25 developed protocols for how the abuse exams should take place.

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1 Basically, I start by reviewing some information
2 including the law enforcement incident report, if there is one.
3 Information may be given by the Department of Social Services
4 and then the written forensic interview if the child had such
5 an interview. The children are then brought to my office by
6 their caregiver.

7 I do the exam at Beaufort Pediatrics in a special
8 room for these exams that has all of my equipment on it. I
9 start the procedure by interviewing the caretaker who came with
10 the child that day. I obtain a full medical history from the
11 caretaker, which includes a social history, information about
12 where the child has lived during their life and with whom,
13 whether or not there have been previous incidences where the
14 family was involved with law enforcement and social services,
15 and whether or not the child has been removed from the home or
16 directly investigated for maltreatment in the past.

17 I then do a full medical history. That includes
18 information about their birth, any previous surgeries, any
19 medications they take, any recent use of antibiotics.
20 Specifically, I ask about whether there had ever been any
21 accidental genital injury for the child.

22 I then do a behavioral history. I talk to them
23 about how the child is doing in school, if they are school age.
24 If there has been any change in their academic achievement at
25 school. If there have been any concerning behavioral issues,

1 such as aggression or becoming withdrawn, becoming fearful. I
2 will ask about how the child has been sleeping.

3 I will get what is called a review of symptoms. To
4 Assess if the child has complained of any genital pain and
5 difficulty with urinating or having a bowel movement, whether
6 there have been any rashes, complaints of headaches, stomach
7 aches, that kind of thing.

8 After I have interviewed the caretaker, I will
9 interview the child, usually it's just me and the child and the
10 victim advocate from the child advocacy center. I will ask the
11 child questions designed to guide my medical exam. I am not
12 doing a full forensic interview. I am going to ask the child
13 if they have ever been touched in a way they didn't like, and,
14 if so, where on their body were they touched and what were they
15 touched with.

16 I need to know this information to guide my exam
17 and to make medical decisions about what kind of testing for
18 sexually transmitted infections, if necessary. After the
19 interview, I explain to the child the equipment that I am going
20 to use, which is a cu-do-scope, this is a device that has
21 high-powered magnification and a very strong light source. It
22 has the capability of taking photographs and video.

23 I explain to the child that I will not be touching
24 their body with that. I usually reassure the child that they
25 are going to be in control of the exam. I won't do anything

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1 that they don't want me to do. If they think anything I am
2 doing hurts, we will stop and take a break and proceed if we
3 can.

4 I then perform a head-to-toe medical exam. Then
5 the last thing I do is the genital exam. That is usually done
6 also without the caretaker in the room; however, if the child
7 is anxious and wants their caretaker in the room, they will be
8 present. Sometimes if the child is anxious or hesitant, I will
9 even do the exam while the child is in the lap of the
10 caretaker.

11 After the exam is done, I will do any STD testing
12 that I feel are indicated. I usually reassure the child that
13 their body is okay and explain to the caregiver what the
14 findings were on my exam, which the majority of the time there
15 are no findings. I explain to them why they were no findings
16 and encourage them to go ahead and make sure that the child
17 follows through with their therapies and arrange for follow-up
18 phone calls to report results and also STD reactions.

19 I then write up my report, which is usually about a
20 7 or 8 page report. I distribute that to the law enforcement
21 and DSS.

22 Q. You said that most of the time there are no
23 findings. Elaborate more on that?

24 A. Sure. National statistics show that 97 percent of
25 children who are sexually abused have normal exams. There are

1 multiple reasons for these exams being normal. The first is
2 the big myth that when a female is penetrated that the hymen
3 will tear and it will be permanently torn and a medical
4 examiner will be able to tell after the first incident of
5 penetration that that person has been penetrated.

6 The hymen is a thin membrane that is at the opening
7 of the vagina. If you consider a doughnut, for general
8 discussion, the donut has a hole in the middle and it goes all
9 the way around. This tissue that the hymen is made of is very
10 similar to the tissue that is inside your mouth. So it's
11 elastic, stretchy, it has a really good blood supply. Good
12 blood supply means rapid healing.

13 If you think about incidents in your past where you
14 may have been chewing and you bit your cheek and it really hurt
15 and it may have bled and there may have been some swelling you
16 probably healed in a matter of days. None of us can look in
17 the mirror and see all the creases where we bit our cheeks over
18 our life because the healing is complete.

19 Very similar process is what happens with the
20 hymen. The second thing, the elasticity of the hymen. If I
21 took a bag of rubber bands that were all the same size and I
22 pulled out one and I stretched it and put it back in the bag
23 and handed you the bag, it's very unlikely you would be able to
24 tell me which rubber band had been stretched.

25 Same thing with the hymen. Very elastic and

1 stretchable. A third issue is because of this rapid healing,
2 if injury occurs during penetration, we are talking about 24 to
3 36 hours on average for the healing to occur. If a child has
4 something called petechia, which are little red dots that are a
5 result of blood vessels bursting. We expect those to heal
6 within 24 hours. If they have bruising of the hymen, we expect
7 that to heal within 24 to 36 hours.

8 If they had a A traumatic tear of the hymen, we
9 expect that to heal rapidly as well without physical scarring,
10 just like the inside of your mouth. The only exception to that
11 would be if that injury to the hymen, thinking of your
12 doughnut, if the doughnut had been torn completely through. So
13 open like this. If the two edges of the hymen are no longer
14 proximated and touching each other, it's unlikely they will be
15 able to heal.

16 If you think about having a laceration on your
17 forehead, if you have a deep enough laceration, you need to go
18 get stitches. The stitches hold the skin together so that it
19 can heal. It's the same idea with the hymen. If the tear in
20 the hymen doesn't go all the way through the base and pieces of
21 the hymen are still approximated and touching each other at the
22 bottom, it can heal from the bottom up and heal without any
23 visible injuries whatsoever.

24 One other reason that the exams are often normal is
25 that a child may have difficulty with the concept of

1 penetration. If a girl was sexually abused and her offender
2 puts his penis at the opening of the vagina or moves his penis
3 between the labial folds and does not actually penetrate
4 through the hymen into the vagina, most children are not going
5 to understand that. It didn't go all the way in. Similarly,
6 with anal penetration. If the perpetrator's penis is at the
7 opening to the anus and he moves the penis in between the
8 gluteal folds, butt cheeks, the penis may not have gone through
9 the anus into the rectum, but the child's perception was that
10 the penis was inside their bottom.

11 So they often have difficulty understanding if
12 there was full penetration or not.

13 Q. Are you looking for DNA evidence when you are doing
14 these exams?

15 A. It's rare that in my role I am looking for DNA.
16 DNA is lost more rapidly on children than on adults. We
17 believe that usually within 24 hours your chances of getting
18 DNA are over. If we know that a child had been sexually abused
19 it's within 72 hours of the assault, we may consider time to
20 obtain some DNA. After that, we are not going to be able to
21 get any DNA from your body. Because children rarely disclose
22 their abuse until they feel like they are safe or in a safe
23 place, it's not common that we --

24 MR. STEPHENS: Objection, Your Honor. I will
25 object to that last line of questioning, the last answer with

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1 most children when they disclosed. This expert has only been
2 qualified on child abuse physical examinations or child abuse
3 medical providing, not in the psychological syndrome related to
4 sexual abuse.

5 MS. KEENEY: We can move on from it.

6 THE COURT: Okay.

7 BY MS. KEENEY:

8 Q. As you were saying, if you are examining children
9 let's say more than ten days after the last alleged sexual
10 abuse, you are not going to find DNA, are you?

11 A. Correct. We don't even try.

12 Q. Go back about how there is rarely ever findings of
13 injury. Tell the jury about the study regarding pregnant women
14 that they did.

15 A. There was a study done with 36 pregnant adolescents
16 who had all disclosed sexual abuse. Those 36 teenagers were
17 examined by child abuse medical experts. The genitalia was
18 photographed. Those photographs were reviewed by multiple
19 experts. Out of 36 teen age girls who were pregnant, only two
20 of them had findings that were confirming that they had been
21 penetrated.

22 Q. So that just further supports that findings are
23 pretty rare?

24 A. Correct.

25 Q. Did you examine MINOR 2 in this case?

1 A. I did.

2 Q. You saw her on July 23, 2019?

3 A. Yes.

4 Q. Who brought her in?

5 A. Her aunt, Amber Eady.

6 Q. Like you were telling us earlier, your typical
7 procedure of the process of the exam, did you review the
8 incident report?

9 A. I did.

10 Q. What else did you review?

11 A. The forensic interview.

12 Q. Did you watch the video or just read the report?

13 A. Just read the report.

14 Q. Did you talk to Amber Eady?

15 A. I did.

16 Q. Did you get the medical background, behavioral
17 background for MINOR 2.

18 A. Yes.

19 Q. Did you talk to MINOR 2?

20 A. I did.

21 Q. And, again, what was the purpose of you talking to
22 MINOR 2?

23 A. For the purpose of the medical exam. I needed to
24 know what parts of her body had been touched and what they had
25 been touched with.

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1 Q. How old was MINOR 2 at the time of this exam?

2 A. She was eight.

3 Q. Wrong girl.

4 A. She was five.

5 Q. MINOR 2 was five. You were saying eight because
6 you also evaluated MINOR 1; is that correct?

7 A. Correct.

8 Q. What was the medical history that was provided for
9 MINOR 2, the five-year-old?

10 A. I will need to look at my report.

11 Q. I will hand you your report. I will hand you
12 MINOR 1's for later for your review.

13 You got a medical history for MINOR 2. What was
14 it? Was it anything significant?

15 A. Her medical history was not significant. She
16 didn't have any chronic medical conditions. She wasn't on any
17 medication and she was fully immunized.

18 Q. Did she have a history of yeast infections?

19 A. Yes, she did.

20 Q. Other than that, her medical history was pretty
21 normal?

22 A. Yes.

23 Q. You said you talked with MINOR 2 and she made
24 certain disclosures. What body parts did she disclose had been
25 touched that you tried to focus on?

1 A. Going back to the medical history. You have to do
2 a physical review of systems. In that, the significance of
3 that was that she had disclosed dysuria, painful urination.
4 She had disclosed constipation, frequent stomach aches. Her
5 aunt said that she often cries when her aunt tries to help her
6 wash her private area in the bath.

7 Q. Can you tell me the areas of the body that **MINOR 2**
8 said had been touched and what you were looking for in her
9 medical exam?

10 A. She, **MINOR 2**, disclosed to me that she had been
11 touched in her privates.

12 MR. STEPHENS: Objection, Your Honor. May we
13 approach?

14 THE COURT: Yes.

15 (Bench conference.)

16 BY MS. KEENEY:

17 Q. I am going to ask you a few specific questions.
18 You can just say yes or no to them.

19 Did she disclose oral contact to her genitalia?

20 A. Yes.

21 Q. Did she disclose oral contact with someone else's
22 genitalia?

23 A. Yes.

24 Q. Did she disclose digital anal penetration?

25 A. Yes.

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1 Q. Digital vagina penetration?

2 A. Yes.

3 Q. And penile anal contact?

4 A. Correct.

5 Q. Penile vaginal contact?

6 A. Correct.

7 Q. You said that based on her disclosures, that these
8 types of touching occurred more than ten days prior to the
9 exam?

10 A. Yes.

11 Q. Were there any findings in Loralai's case?

12 A. No.

13 Q. Did you expect there to be any findings?

14 A. No.

15 Q. Based on all those reasons you have previously
16 testified to.

17 A. Correct.

18 Q. Anything else of note regarding Loralai's exam that
19 I have left out or you have left out? I don't think there is,
20 but I just wanted to check with you.

21 A. No. I don't think so. Her STD testing was
22 negative.

23 Q. Thank you. Did you exam MINOR1, the
24 eight-year-old?

25 A. Yes.

1 Q. On July 23, 2019?

2 A. It was.

3 Q. Like we talked about MINOR 2's exam and other
4 exams. You went through the same process?

5 A. I did.

6 Q. Did you get a medical history for MINOR 1?

7 A. I did.

8 Q. Anything significant regarding her medical history?

9 A. The significance of the medical history was that
10 she had a slight decrease in her performance at school. She
11 had complained of painful urination, painful constipation. She
12 had had vaginal discharge. She had genital lesions.

13 Q. She had genital lesions?

14 A. Correct.

15 Q. Again, I am going to lead you a little bit. Did
16 she disclose some type of oral contact with her genitalia area?

17 A. She did.

18 Q. She disclosed some general fondling?

19 A. She did.

20 Q. She disclosed anal and genital contact with an
21 object?

22 A. She did.

23 Q. What were the results of MINOR 1's exam?

24 A. She had a condition called chondyloma or genital
25 warts. Genital warts are a virus. It's caused by Human

1 Papiloma Virus. It's the virus that causes all warts, whether
2 on your fingers or your knee or your foot or in the genital
3 area. Genital warts are transmitted sexually. They are also
4 transmitted in non-sexual manners. Some of her genital warts
5 were infected, so they had a little bacterial infection on top
6 of her warts.

7 She had two notches in her hymen. When we examine
8 the hymen, we refer to the location as a face of a clock. If
9 you are looking at the hymen, her injuries -- the findings were
10 at 5:00 at 7:00. They were deep notches. So instead of the
11 rim of the hymen being completely symmetrical and
12 uninterrupted, she had a V-shaped notch at 5:00 and another
13 V-shaped notch at 7:00.

14 Q. Are you able to make any opinions regarding those
15 notches?

16 A. Unless the notches are completely through to the
17 base of the hymen, we from a medical standpoint will have
18 concerns about there being notches in the hymen. But because
19 it is believed that some girls may have that as a natural
20 variant that is unrelated to abuse, we medical professionals do
21 not call that indicative of penetration. We just consider it
22 concerning.

23 Q. Basically, it's?

24 A. The a red flag.

25 A. Correct.

1 Q. But you can't say for sure whether or not she was
2 actually penetrated?

3 A. Yes.

4 Q. It could be a completely normal variance for her?

5 A. Yes.

6 Q. Anything else with **MINOR 1**?

7 A. Her STD testing was negative. I did see her back
8 for a follow-up visit, and her infection of her warts had
9 cleared.

10 MS. KEENEY: Thank you. No further questions for
11 this witness.

12 * * *

13 CROSS-EXAMINATION

14 BY MR. STEPHENS:

15 Q. I just want to start off with some questions about
16 where you work. You are kind of working in two places for
17 purposes of these court hearings?

18 A. I work in one location, but I work for two
19 different entities.

20 Q. You worked for Beaufort Pediatrics for your normal
21 clinical nurse practitioner work?

22 A. Correct.

23 Q. For these cases, you also do the forensic
24 examinations on behalf of Hopeful Horizons.

25 A. Yes.

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1 Q. Hopeful Horizons -- I know you don't physically
2 work there, but you are aware that they are physically
3 co-located with the solicitor's office as of a couple of years
4 ago?

5 A. That the solicitor's office is in the same place as
6 Hopeful Horizons? There are several locations for Hopeful
7 Horizons. The main one that I interact with is the one in
8 downtown Beaufort.

9 Q. Do you coordinate with law enforcement at the
10 solicitor's office in doing these forensic examinations?

11 A. No. The coordination is done. The referrals are
12 made to the children's advocacy center. The determination is
13 made if, based on the set of protocols, if an exam is
14 indicated. Then the advocacy center schedules them with me.

15 Q. I guess what I am trying to, ma'am, is that these
16 are not examinations for treatment. They are examinations for
17 law enforcement investigation. Would that be fair?

18 A. No. Because they are for treatment. If a child
19 has been sexually abused and has not had any treatment, they
20 can become infertile if they didn't get their treatment. If
21 they have injected HIV, you have to -- when a child is
22 discloses something that could lead to a very serious
23 complication if it's untested and treated.

24 Q. Talking about looking for signs of abuse. Can you
25 agree that the primary purpose of the examinations is to look

1 for signs of abuse for law enforcement investigations?

2 A. I would say it's equally as difficult to look for
3 STD and abuse. You cannot allow a child to have an STD and go
4 untreated.

5 Q. Fair enough. I just want to talk to you a little
6 bit about some of the general information you passed on about
7 the elasticity and the healing ability of the hymen.
8 You described it and its healing. Is that the hymen of all
9 females or post-pubescent or pre-pubescent females?
10 Is there any kind of difference between females?

11 Q. There is definitely a difference in the appearance
12 of the hymen from birth to two. It's estrogenized, which means
13 it is a little thicker and a little bit enfolding on itself.
14 The estrogen effect from birth wears off at around age tow. It
15 changes to be a little bit thinner. And it's usually a
16 complete doughnut-type shape. When a child turns about five,
17 that tends to change into more of a crescent-type shape.

18 Then when a child is at puberty, an estrogen effect
19 occurs again and the hymen will thin and fold in on itself.

20 Q. You talked about the ability of the hymen to repair
21 itself from tears that are not full tears of the hymen.
22 Correct?

23 A. Correct.

24 Would the difference between a partial tear or full
25 tear of the hymen -- would you agree that that would be based

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1 on, I guess the relative size of the hymen and whatever object
2 may be penetrating the hymen.

3 A. No. That doesn't correlate medically. We know
4 that through -- I know through personal experiences. So I have
5 seen a five-year-old with a completely normal exam where there
6 was video evidence, very clear evidence, of her being
7 penetrated. And there was nothing happening with the hymen.

8 I have seen a two-year-old where the penetration
9 was witnessed -- and because of that, I saw her right after the
10 assault, who had tremendous injury -- when I did the follow-up
11 a few weeks later, there was complete healing.

12 So because of the ability of the hymen to stretch,
13 you have to take into consideration, was it a violent
14 aggressive type of assault, or was it something that was done
15 in a more coercive and slower process, which gives the hymen
16 time to heal.

17 If a lubricant was used, there will be time for it
18 to stretch. You will see different things if somebody is
19 violently raped in a very rapid manner than what you are going
20 to see if it was done in a slower process.

21 Q. Ms. Dalton, you are describing imperial examples
22 where the hymen wasn't torn. Statistically, when we are
23 talking about averages, someone who is penetrated with a larger
24 object like a penis, if there is full intercourse, isn't it
25 more likely that the hymen is going to be ruptured than not? .

1 Let me ask my question a better way. Ma'am, most
2 women who engage in sexual activity, at some point their hymens
3 are ruptured. Would that be a fair statement?

4 A. Yes.

5 Q. Wouldn't you agree that penetration of a hymen with
6 a penis is more likely to result in that kind of rupture than
7 not?

8 A. Compared to what? A penis compared to a finger?

9 Q. The hymen would be more likely to rupture than not
10 rupture.

11 A. No. Definitely not. Penetration with a penis does
12 not correlate with rupture of a hymen. That is why we say 97
13 percent of these exams are normal.

14 Q. Couldn't those also be examples where penetration
15 didn't happen?

16 A. It's possible.

17 Q. You gave an example, you talked about a study with
18 36 teenagers who described sexual abuse. There was no
19 indication of that kind of abuse, the torn hymen, et cetera,
20 correct? Those were physically mature females, one would
21 suspect, because they were teenagers?

22 A. They had to have had started having periods just
23 months before starting periods in order to become pregnant.

24 Do you know -- you mentioned the ages of the two
25 girls that you examined. **MINOR 2** age 5 and **MINOR 1** age 8.

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1 Do you know what their heights and weights were
2 when you examined them?

3 Q. I do. MINOR 1 weighed 62 pounds and she was 4.25
4 inch. MINOR 2 was 45-and-a-half pounds, and she was 3 foot 9.5
5 inches.

6 Q. I believe you said the findings for MINOR 2, there
7 were no -- you made no findings for her examination?

8 A. Correct.

9 Q. MINOR 1 you gave your findings that there was the
10 genital warts and the notches in her hymen?

11 A. Yes.

12 Q. I believe you mentioned something about the
13 disclosures that MINOR 1 had made. Would you agree that those
14 disclosures did not include any allegation of
15 genital-to-genital contact or penetration?

16 A. Her disclosures to me did not.

17 Q. Loralai's did involve an allegation of penetration
18 of the anus and her genitals, correct?

19 A. Correct.

20 We talked about the elasticity of the hymen and the
21 healing ability. Would you also agree there is a number of --
22 concentration of nerve endings at those locations. Is any kind
23 of tearing of the anus or the hymen -- would that typically
24 involve some amount of pain?

25 A. We would presume it would.

1 Q. Are you aware of whether these girls had disclosed
2 or claimed that it was painful when they were touched or when
3 this penetration occurred?

4 A. Yes. They did disclose pain. MINOR 1 did. It's
5 routine for me to ask the child how it felt. When I asked
6 MINOR 2 whether it hurt, her response was -- she didn't really
7 respond to that question. She just told me what had happened.

8 Q. All right.

9 Ma'AM, you described that the history, the medical
10 history, you were provided for the girls, especially for
11 MINOR 2, involves some previous rashes or yeast infections?

12 A. Yes.

13 Q. You would agree that most rashes or yeast
14 infections that children have are not related to sexual abuse,
15 although they could be related to sexual abuse?

16 A. It could be, yes.

17 Q. Children who are not sexually abused also get those
18 rashes, correct?

19 A. Usually it's on children who are there diapers or
20 children who have diabetes or they have poor control of their
21 blood sugar which allows yeast to grow in the vaginal tract.

22 Once they hit adolescence, it becomes more likely.
23 It's not common for healthy children once they are out of
24 diapers until they are in puberty to get yeast infections. It
25 can happen.

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1 Q. Because you do examinations not specifically
2 related to sexual abuse, wouldn't you agree that some of these
3 rashes occur if there is some level of neglect and the children
4 are -- that they don't shower enough or they are wearing dirty
5 clothes or that sort of thing?

6 A. Sure.

7 MR. STEPHENS: No further questions for Nurse
8 Dalton.

9 MR. STEPHENS: Thank you, ma'am.

10 MS. KEENEY: Just one.

11 * * *

12 REDIRECT EXAMINATION

13 BY MS.KEENEY:

14 Q. Just one. Did you mention something about
15 lubricant?

16 A. Yes.

17 Q. What were you saying about that?

18 A. The consensual intercourse between adults. The
19 female body usually produces a natural lubricant which makes
20 intercourse not painful for the woman who is consenting to sex.
21 If there is not any arousal or if it's a child, they are not
22 going to have any lubricant naturally produced by their body.

23 Q. You would agree that there are other types of
24 lubricant that are not natural?

25 A. Absolutely.

1 Q. Did MINOR 2 disclose any type of lubricant to you?

2 A. Yes. She disclosed a lubricant he used on her.

3 MS. KEENEY: No further questions.

4 MR. STEPHENS: I have a follow-up question from
5 that.

6 THE COURT: Technically, under the rule, you don't
7 get to recross.

8 MR. STEPHENS: That is all right, Your Honor. I
9 will forgo it.

10 THE COURT: May this witness be excused?

11 Any objection?

12 MR. STEPHENS: No objection, Your Honor.

13 THE COURT: Call your next witness.

14 MS. KEENEY: State calls William Weich.

15 WILLIAM WEICH,

16 being first duly sworn testified as follows:

17 * * *

18 DIRECT EXAMINATION

19 BY MS. KEENEY:

20 Q. Please state your name clearly and spell your last
21 name for the court reporter.

22 A. William Weich, W-e-i-c-h.

23 Q. Investigator Weich, where do you work?

24 A. I work for the Beaufort County Sheriff's
25 Department.

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1 Q. And what is your position there?

2 A. Currently assigned to southern investigations,
3 which is anything in Beaufort County south of the Broad River.

4 Q. So Hilton head, Bluffton, Okatie?

5 A. Yes.

6 Q. How long have you been at the Beaufort County
7 Sheriff's Department?

8 A. Seven years today.

9 Q. On July 3, 2019, how did you get involved in this
10 case?

11 A. I was requested to respond to the Coastal Carolina
12 Hospital in Hardeville in reference to a report of a possible
13 sexual assault.

14 Q. Was there another investigator who responded with
15 you?

16 A. My supervisor at the time, Staff Sergeant
17 Calendine.

18 Q. That was the second guy who testified yesterday?

19 A. Yes, ma'am.

20 Q. Was there an officer already on the scene at the
21 hospital?

22 A. Sergeant Capps.

23 Q. That was the first witness of this trial?

24 A. That's correct.

25 Q. What did you do when you got to the hospital?

1 A. I met briefly with Sergeant Capps and gathered some
2 basic facts about what he had discovered up to that point.

3 Q. Did you meet with any witnesses?

4 A. I met with Ms. Amber Eady.

5 A. Who is she?

6 A. She is MINOR 2 's and MINOR 1 's biological aunt.
7 The daughter of John.

8 Q. Amber is the daughter of the defendant?

9 A. Yes.

10 Q. Did you meet with MINOR 1 and MINOR 2 ?

11 A. I was present in the room briefly when DSS Agent
12 Johnson spoke with them, but I didn't interview with them. I
13 just introduced myself and said, hi.

14 Q. When you have potential child victims, do you
15 normally do a detailed interview of those children?

16 A. No, ma'am.

17 Q. What is the normal protocol for that?

18 A. We contact Hopeful Horizons and schedule a forensic
19 interview.

20 Q. Is that because Hopeful Horizons are trained better
21 on how to talk to children when asking questions?

22 A. Yes, ma'am.

23 Q. The girls are at the hospital. Did they get some
24 type of evaluation or checkup at the hospital, to your
25 knowledge?

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1 A. I imagine so. I don't recall consulting with any
2 doctors or nurses at the hospital.

3 Q. What did you do next?

4 A. I believe it was on July 5. I was able --

5 Q. Let me take you back before July 5.

6 Did you go to the incident location that same day?

7 A. Yes, ma'am.

8 Q. Where was that incident location?

9 A. [REDACTED] Lane, which is in Bluffton, the
10 jurisdiction of the Beaufort County Sheriff's Department.

11 Q. What did you do when you went to [REDACTED] Lane that
12 day?

13 A. I spoke briefly with the children's mother,
14 Kimberly Hannibal.

15 Q. Got a statement from her?

16 A. Yes.

17 Q. Did DSS come to the incident location?

18 A. Yes, ma'am, they did.

19 Q. Did DSS put in place some type of safety plan so
20 while your investigation is pending, the children are
21 protected?

22 A. Yes. Based on the information gathered at the
23 hospital, DSS determined that there needed to be a safety plan
24 put in place and that the children would not be allowed to
25 return to the residence during the course of the investigation.

1 Q. At that step you needed to get a statement from the
2 girls.

3 A. Yes.

4 Q. What did you do to try to get a statement from the
5 girls?

6 A. I contacted Hopeful Horizons and scheduled a
7 forensic interview for both of them to be completed.

8 Q. Did you get any search warrants in this case?

9 A. Yes, ma'am.

10 Q. Was that for the incident location?

11 A. Yes.

12 Q. I assume since we are here today you got arrest
13 warrants, right?

14 A. That is correct.

15 Q. July 9, 2019.

16 A. Yes, ma'am. I explained the facts of the case to a
17 judge.

18 Q. You don't have to go into that. You got arrest
19 warrants July 9, 2019. The next day is July 10, 2019. What do
20 you do?

21 A. In the early morning hours, we set up several
22 different investigators for different locations around the
23 incident location anticipating for the defendant to leave for
24 work that morning.

25 Q. Did you, in fact, see the defendant leave for work,

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1 or did somebody see him leave for work?

2 A. Yes, ma'am.

3 Q. What happened next?

4 A. We conducted a traffic stop on the vehicle at the
5 intersection of Simmonsville Road and Highway 278.

6 Q. What happens next?

7 A. I made contact with the driver of the vehicle that
8 we observed. I was able to positively identify him as the
9 defendant.

10 Q. Do you see John Basile in the courtroom today?

11 A. I do.

12 Q. Point him out and then describe what he is wearing
13 to the jury.

14 A. Sitting at the table next to his counselor in a
15 magenta shirt.

16 MS. KEENEY: Let the record reflect that he has
17 identified the defendant.

18 THE COURT: Okay.

19 BY MS. KEENEY:

20 Q. So you pulled the defendant over. You got the
21 arrest warrants in hand. You take him into custody. What
22 happens next while you are still on scene?

23 A. Once he was placed into handcuffs, he was advised
24 that he was being placed under arrest for active arrest
25 warrants. Sergeant William Murphy Mirandized him, read him his

1 Miranda rights.

2 Q. The Miranda Rights, do you know them off the top of
3 your head for the most part?

4 A. Yes, ma'am.

5 Q. We will go over that in a minute. He recited the
6 standard Miranda Rights?

7 A. That's correct.

8 Q. Did the defendant indicate whether or not he would
9 speak to law enforcement?

10 A. Yes, he did.

11 Q. Did he ask for an attorney?

12 A. No, ma'am.

13 Q. Was this interaction or this traffic stop -- what
14 car are you in? Are you in like a road patrol car, like the
15 ones that you see with Beaufort County Sheriff's Office, or are
16 you in some different type of car?

17 A. It was an un marked black SUV.

18 Q. Is that what you all call investigator cars?

19 A. We have several different kinds. Yes, ma'am, it
20 would be an unmarked concealed with the blue lights on.

21 Q. Do you have any cameras attached to these unmarked
22 cars?

23 A. No, ma'am.

24 Q. Did you record this interaction in any way?

25 A. Yes. After the defendant was taken into custody, I

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1 retrieved my digital recorder from within my unmarked vehicle.
2 I activated it and brought it with me as we drove from the
3 incident location to the Bluffton Police Department.

4 Q. Who is with you going to the Bluffton Police
5 Department?

6 A. Sergeant Reynells was seated in the front seat, and
7 the defendant was seated in the front right seat. I was behind
8 Sergeant Reynells.

9 Q. You are on your way to the Bluffton Police
10 Department. You have got your digital recorder on.

11 Are you all talking about the case during this car
12 ride to the Bluffton Police Department?

13 A. No, ma'am.

14 Q. Why did you choose to go to the Bluffton Police
15 Department as opposed to the sheriff's office?

16 A. It was just closer in proximity as opposed to
17 driving through rush-hour traffic to Hilton Head. We just
18 wanted to get to the Bluffton Police Department, which was
19 closer.

20 Q. You were in Bluffton. It didn't make sense to go
21 back to Hilton Head to interview him. He is under arrest, so
22 he is eventually going to Beaufort to the jail, correct?

23 A. That's correct.

24 Q. You go to Bluffton because it's basically more
25 convenient?

1 A. Yes, ma'am.

2 Q. During this car ride you all were not talking about
3 the case or anything?

4 A. Not at all.

5 Q. When you get to the Bluffton Police Department --
6 tell me about where you interview him at the Bluffton police
7 department?

8 A. There have an interview room which is just inside
9 their detention holding area that they have there. It's a
10 standard interview room, probably -- I don't want to give exact
11 dimensions. It's an interview room that they have set up.

12 Q. Is their independent view room set up with any type
13 of recording equipment?

14 A. Yes. It's audio and video recorded.

15 Q. Tell me about the Bluffton Police Department audio
16 and video system?

17 A. They had some kinks in it, I guess you would call
18 it. Unbeknownst to us, the audio does not sync up with the
19 video. There a big time delay. So if you see what I am doing
20 what I am doing in my gestures and what I am saying, it could
21 be several minutes later that the words that would correlate
22 with my gestures are being observed and heard at the same time.

23 Q. So you could see someone potentially moving their
24 mouth but words are not actually coming out of the audio
25 because of the delay?

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1 A. That's correct.

2 Q. You still had your digital recorder, correct?

3 A. Yes, I did.

4 Q. Is your digital recorder recording at the same time
5 that the Bluffton Police Department video is recording?

6 A. It would have been recording from when we got into
7 the car to even leave to go over there. I never shut it off.

8 Q. It's on the entire time?

9 A. Correct.

10 Q. You are at the Bluffton Police Department. You got
11 him in the interview room. The camera is on. The audio is on.
12 Your digital recorder is on. I will show you what has been
13 marked at State's Exhibit Number 14.

14 What is the first thing you do before you talk to
15 him about the case?

16 A. I took his handcuffs where he was handcuffed behind
17 his back. Because of his large stature, he was wearing two
18 sets of handcuffs at the time. I moved his hands to the front
19 of his body.

20 Q. What do you do next? Just start talking about the
21 case?

22 A. No, ma'am. I retrieved a Beaufort County Sheriff's
23 Office Miranda warning form.

24 Q. He has already been recited the Miranda warnings;
25 correct?

1 A. Yes, ma'am.

2 Q. But you do it again. Isn't that right?

3 A. Yes.

4 Q. State's Exhibit 13. Do you recognize that
5 document?

6 A. Yes I do.

7 Q. What is that document?

8 A. The Beaufort County Sheriff's Office Miranda
9 warning form. It goes over each and every one of someone's
10 rights with two other qualifying questions.

11 Q. Is this a copy of the Miranda form that was
12 presented to the defendant?

13 A. Yes, ma'am.

14 Q. Is that a fair and accurate depiction of the
15 Miranda form that the defendant signed?

16 A. Yes, it is.

17 MS. KEENEY: At this time the State moves to admit
18 State's Exhibit Number 13 into evidence.

19 THE COURT: What says the defense?

20 MR. STEPHENS: No objection, Your Honor.

21 THE COURT: In without objection.

22 State's Exhibit 13 was marked and accepted into
23 evidence.)

24 MS. KEENEY: Request to publish.

25 THE COURT: Okay.

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1 BY MS. KEENEY:

2 Q. This is a copy of the form that you presented John
3 Basile, correct?

4 A. Yes.

5 Q. Up here is your assigned case number?

6 A. That's correct.

7 Q. Location where the Miranda warning was issued,
8 bluffton Police Department. That is where you all were
9 located?

10 A. Yes, ma'am.

11 Q. His name.

12 A. John Thomas Basile.

13 Q. What is his date of birth?

14 A. [REDACTED].

15 Q. How old was he at the time of the interview?

16 A. I believe 63.

17 Q. Statement of rights. Read Number 1 for the jury.

18 A. You have the right to remain silent.

19 Q. What are these letters right here, J.B.

20 What is that of?

21 A. We asked whoever we are reading the Miranda rights
22 to to place their initials next to each line as it is being
23 read to them. Then we ask them if they understand it.

24 Q. They put their initials next to it if they
25 understand it?

1 A. Correct.

2 Q. Number 2.

3 A. Anything you say can and will be used against you
4 in a court of law.

5 Q. Number 3.

6 A. You have the right to have an attorney present
7 before or during questioning.

8 Q. Number 4.

9 A. If you cannot afford to hire an attorney, one will
10 be appointed for you before any questioning if you wish.

11 Q. So did Mr. Base indicate that he understood all of
12 those rights?

13 A. He placed his initials next to them. Yes.

14 Q. The next section is the waiver of the rights.

15 What is this first question here

16 A. Do you understand each of the rights as I have
17 explained them to you.

18 Q. What did Mr. Basile say?

19 A. He put his initials next to yes.

20 Q. What does the next one say?

21 A. Having these rights in mind, do you wish to talk
22 with us now.

23 Q. What did Mr. Basile say in response to that
24 question?

25 A. Yes, and he placed his initials next to yes.

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1 Q. He wants to talk to you, correct?

2 A. That's correct.

3 Q. Does he ever ask for an attorney during the course
4 of this interview?

5 A. No, ma'am.

6 Q. Does he ever indicate that he does not want to talk
7 to you anymore?

8 A. No.

9 Q. Let's talk about the signature. This first
10 signature, whose signature is that?

11 A. That is mine.

12 Q. Did you mess up?

13 A. Yes.

14 Q. You accidentally signed under where Mr. Basile was
15 supposed to sign, correct?

16 A. That's correct.

17 Q. You fix it by having Mr. Basile sign right below?

18 A. Yes. I do recall that we discussed that I had
19 signed on the wrong line. More or less, it's just his
20 acknowledgment.

21 Q. Not that big of a deal, as long as he signed it,
22 correct?

23 A. Correct.

24 Q. And then this date here. What does that date
25 reflect?

1 A. 7-10-2019.

2 Q. That is military time?

3 A. Yes.

4 Q. What time is that?

5 A. 7:22 a.m.

6 Q. That is the time that the interview begins;
7 correct?

8 A. That's correct.

9 During the course of this interview -- about how
10 long was the interview?

11 A. From the time that he was arrested at the traffic
12 stop to the conclusion was roughly four hours.

13 Q. During this whole four-hour course of interaction
14 from when he is pulled over to after the conclusion of the
15 interview, do you and Investigator Reynells ever threaten Mr.
16 Basile in any way?

17 A. No, ma'am.

18 Q. Do you all ever promise him anything in exchange
19 for a statement?

20 A. No, ma'am.

21 Q. If he wanted water or something, would you have
22 provided it to him?

23 A. He did request water, and we did provide it for
24 him.

25 Q. If he needed to go to the bathroom during the

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1 course of this four-hour interview, would you have allowed him
2 to?

3 A. Absolutely.

4 Q. If he said, I don't want to talk to you anymore,
5 would you have stopped the interview?

6 A. Yes.

7 Q. And if he asked for a lawyer, what would you have
8 done?

9 A. Terminated the interview immediately.

10 Q. During this interview -- I assume all those
11 questions I just asked, Investigator Reynells didn't do any of
12 those things either. He didn't threaten or promise him
13 anything?

14 A. No, ma'am.

15 Q. When you and Investigator Seth Reynells were
16 interviewing him, were you all like yelling at him? What is
17 the vibe of the interview?

18 A. Essentially, how we are communicating right now.
19 Very casual, almost laid back.

20 Q. Did the defendant appear to be under the influence
21 of any alcohol or drugs?

22 A. No, ma'am.

23 Q. Did he appear to have any physical or mental
24 disabilities to the extent where he did not understand what is
25 going on?

1 A. No.

2 Q. Do you know anything about his work experience or
3 educational experience?

4 A. I don't recall asking him anything about education.
5 I know that he currently did have a job. He was on his way to
6 his job when we had arrested him.

7 Q. Obviously, you pulled him over, and he had a
8 driver's license, right?

9 A. That's correct.

10 Q. So he passed the driver's test?

11 A. Yes.

12 Q. If he wanted to just take a break from the
13 questioning and say, I need a few minutes to think about
14 things, or I just need a breather, would you have provided that
15 to him?

16 A. Absolutely.

17 Q. Did he appear to understand -- when you asked him a
18 question, did his responses seem like he knew what you were
19 asking or knew -- let me rephrase.

20 When you asked him a question, did he understand --
21 did he seem to understand your questions?

22 A. Yes.

23 Q. After the interview was over, did you transport him
24 to the jail, or somebody else?

25 A. Somebody else did.

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1 Q. During this interview -- I will show you what has
2 been marked as State's Exhibit Number 14.

3 Do you recognize this item?

4 A. I do.

5 Q. What is that item?

6 A. I believe it is a copy of the interview that
7 Sergeant Sergeant Reynells and I conducted.

8 Q. You signed that indicating that you reviewed it?

9 A. Yes, ma'am.

10 Q. The date that you signed it was yesterday?

11 A. Yesterday, after I reviewed. It yes, ma'am.

12 Q. Is this a fair and accurate depiction of your
13 interview with John Basile at the Bluffton Police Department?

14 A. Yes.

15 MS. KEENEY: At this time the State would move to
16 admit State's Exhibit Number 14 into evidence.

17 THE COURT: What says the defense?

18 MR. STEPHENS: If we may have a moment, Your Honor.

19 BY MS. KEENEY:

20 Q. I asked you if this is a fair and accurate
21 depiction of his interview, correct, subject to some redactions
22 pursuant to the Court's rules, correct?

23 A. That's correct.

24 Q. You didn't alter or tamper with it, the integrity
25 of it. There are just certain things that had to be redacted

1 because of our rules of evidence, correct?

2 A. Yes, ma'am.

3 MS. KEENEY: At this time the State moves to admit
4 State's Exhibit Number 14 into evidence.

5 MR. STEPHENS: No objection.

6 THE COURT: Admitted without objection.

7 State's Exhibit 14 was marked and accepted into
8 evidence.)

9 BY MS. KEENEY:

10 Q. Before I publish that, I will ask you some other
11 questions. Then maybe we might want to take a break before I
12 publish it?

13 A. Okay.

14 Q. Let me ask you about this.

15 While you and Seth Reynells are interviewing Mr.
16 Basile, what are other members of the Beaufort County Sheriff's
17 Department doing?

18 A. Multiple other investigators had gone to [REDACTED]
19 Lane and executed the search warrant that I obtained.

20 Q. You heard Investigator Calendine testify this week
21 that certain items were collected pursuant to the search
22 warrant, tablets, the defendant's phone, correct?

23 A. Yes, ma'am.

24 Q. Who did you have examine that phone?

25 A. Derek Nelson.

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1 Q. Who is Derek Nelson?

2 A. He is an investigator with the 14th Circuit
3 Solicitor's Office.

4 Q. Did you review the phone contents with Derek
5 Nelson?

6 A. I did.

7 Q. With your review of the defendant's phone, did you
8 see any child porn on there?

9 A. No.

10 Q. Did you see adult porn?

11 A. Yes.

12 Q. During your interview with the defendant, did he
13 admit to taking some pictures of the girls?

14 A. Yes, he did.

15 Q. What did he say he did with those pictures?

16 A. He said he had deleted them from his phone.

17 Q. He said he deleted the?

18 A. Yes.

19 Q. Did the defendant admit that he -- that the girls
20 called him a certain name, a nickname?

21 A. Papa John.

22 Q. The girls referred to him as Papa John?

23 A. Correct.

24 MS. KEENEY: Your Honor, may we approach?

25 THE COURT: Yes, ma'am.

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1 (Bench conference)

2 THE COURT: Ladies and gentlemen, we will take our
3 morning recess at this time. I remind you do not discuss this
4 case yet. I will get you back out here in just a few minutes.

5 (Jury exits courtroom.)

6 (Recess.)

7 * * *

8 PROCEEDINGS CONTINUE

9 THE COURT: All right. Let's bring in Number 62.

10 (Juror 62 enters the courtroom.)

11 THE BAILIFF: Juror Number 62, Judge.

12 THE COURT: Have you been able to make arrangements
13 about your wife?

14 THE JUROR: I don't have nobody.

15 THE COURT: We have gotten to the point so I can
16 cut you loose and we will put an alternate in your place. You
17 can be done for the rest of the week.

18 THE JUROR: Yes, sir.

19 THE COURT: You are done for the week. You don't
20 have to call back. The clerk will send you a huge check for
21 your services.

22 THE JUROR: Thank you, Your Honor.

23 (Juror Number 62 exits the proceedings.)

24 (Jury enters the courtroom.)

25 THE COURT: Un like the Presbyterian Church in

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1 Manning, there is no assigned seating, so you can sit wherever
2 you like.

3 THE COURT: Mr. Shaw, you are up. You are no
4 longer an alternate. You are now a regular juror. I am down
5 to 12, so I can't lose anymore.

6 THE COURT: May it please the Court.

7 THE COURT: Yes, ma'am.

8 BY MS. KEENEY:

9 Q. Investigator Weich, I will show you what has been
10 marked as State's Exhibit Number 15.

11 Do you recognize this item?

12 A. Yes I do.

13 Q. What is that item?

14 A. This is my working case file that I had all my
15 documents in at this time Mr. Basile was arrested.

16 Q. What did you do with that case file during the
17 interview?

18 A. At one point in the interview, I asked the
19 defendant to trace his right hand onto the back of my case
20 file. After he did, I asked him to go -- we discussed some of
21 his acts and which hand he would have used. I asked him to
22 draw a line on a part of his finger that he believed may have
23 penetrated either MINOR 2's or MINOR 1's vagina.

24 Q. That is the actual folder that he traced his hand
25 on?

1 A. Yes, it is.

2 MS. KEENEY: At this time the State moves to admit
3 State's Exhibit Number 15 into evidence.

4 MR. STEPHENS: No objection.

5 THE COURT: In without objection.

6 State's Exhibit 15 was marked and accepted into
7 evidence.)

8 BY MS. KEENEY:

9 Q. So this is a picture of the defendant's hand that
10 he traced himself, correct?

11 A. That's correct.

12 Q. This John B 7-10-2019, what does that represent?

13 A. So I asked him to either sign or initial the date
14 indicating that he was the person who drew that picture.

15 Q. What my finger is on right now, tell the jury what
16 that indicates.

17 A. His fingernail.

18 Q. That is the portion he says penetrated the girls'
19 vagina?

20 A. There is actually a line.

21 Q. That part of his finger penetrated?

22 A. Yes. It looks like it goes from one side to the
23 other.

24 MS. KEENEY: At this time the State will publish
25 State's Exhibit Number 14.

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1 MS. KEENEY: Judge, at this time can we go ahead
2 and take lunch?

3 THE COURT: Yes.

4 Okay. Ladies and gentlemen, we are going to stop
5 right here and get lunch. We are bringing you in lunch today.
6 We are going to have you eat in the jury room so we can try to
7 get finished today.

8 So we are going to try to take about 30 minutes.
9 If you need a little bit more time, just let us know, but we
10 are going to stop for lunch, and then we will come back and
11 finish this.

12 Do not discuss the case yet. Just eat lunch.

13 (Jury exits courtroom.)

14 THE COURT: Anything before we break for lunch?

15 MS. KEENEY: Nothing from the State.

16 MR. STEPHENS: Nothing from the defense, Your
17 Honor.

18 THE COURT: We will be back in roughly 30 minutes,
19 maybe a little longer.

20 (Luncheon recess.)

21 * * *

22 PROCEEDINGS CONTINUE

23 THE COURT: Are we ready for the jury?

24 MS. KEENEY: We are ready.

25 THE COURT: Thank you.

1 Defense ready?

2 MR. STEPHENS: We are ready, Your Honor.

3 THE COURT: Sir, you can come back up to the
4 witness stand.

5 Let's bring in the jury.

6 (Jury enters courtroom.)

7 THE COURT: All right, ladies and gentlemen. We
8 will continue.

9 (State's Exhibit 14 continued.)

10 MS.KEENEY: Thank you. No further questions.

11 * * *

12 CROSS-EXAMINATION

13 BY MR. STEPHENS:

14 Q. Good afternoon, Investigator Weich. I just want to
15 go back to when you first got involved in this investigation.

16 You said you were called out to the hospital first,
17 correct?

18 A. Yes.

19 Q. You said you spoke with the victim's aunt, Amber
20 Eady, but you didn't speak with the victims because you were
21 waiting for their interview at Hopeful Horizons, correct?

22 A. I hadn't scheduled an interview, but, yes.

23 Q. At some point an interview with Hopeful Horizons.
24 Did that take place on July 8, do you recall?

25 A. To the best of my recollection, yes.

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1 Q. July 9 is the date that you swore out the arrest
2 warrants for Mr. Basile, is that correct?

3 A. Along with the search warrant for the residence,
4 yes.

5 Q. Were you present for the interview of the girls at
6 Hopeful Horizons? Not in the room, but watching remotely?

7 A. Yes.

8 Q. And based on the girls' statements at Hopeful
9 Horizons, was that the basis for the arrest warrants that you
10 swore out?

11 A. That was the basis for going to speak with the
12 judge regarding this, yes, regarding the totality of the
13 information that I had gathered at this point.

14 Q. Were those arrest warrants for basically vaginal
15 penetration of MINOR 1 by the defendant with his
16 tongue?

17 Was that one of the warrants

18 A. It was for the elements of the Criminal sexual
19 conduct in the first degree, yes.

20 Q. As far as the acts alleged in the warrants, one was
21 penetration of MINOR 1's vagina by the defendant, is
22 that correct?

23 A. Yes.

24 Q. The other one was for repeated vaginal, anal, and
25 oral penetration of MINOR 2 from the defendant with his

1 penis and fingers. Does that sound about right?

2 A. Without having it in front of me, yes, sir. That
3 sounds right.

4 Q. Those were sworn to and issued by Judge Vox on July
5 9?

6 A. That's correct.

7 Q. And as well as the search warrant, you said,
8 correct?

9 A. Yes, sir.

10 Q. On July 10 you met with the -- the defendant was
11 stopped and placed under arrest on his way to work that
12 morning?

13 A. Yes, sir.

14 Q. Master Sergeant Calendine was conducting the search
15 of the home while you and Investigator Reynells interviewed the
16 defendant, correct?

17 A. He at the time was a Staff Sergeant, but, yes,
18 Calendine.

19 Q. When you were interviewing the defendant, you had
20 already issued the arrest warrants with what he was suspected
21 of doing, correct?

22 A. Yes, sir. He was under arrest for those two
23 warrants, and that was it.

24 Q. In other words, this wasn't part of investigating
25 prior to charging the defendant, correct?

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1 A. Investigating the allegations.

2 Q. I will come back to that.

3 Let me ask you a couple of questions about the
4 actual search of the home. When the home was searched, you are
5 aware that the cell phone of the defendant was seized. I
6 believe the earlier testimony was that it was analyzed by an
7 investigator with the solicitor's office?

8 A. It was analyzed by Derek Nelson, yes.

9 Q. No images suspected to be naked images of the
10 victim were recovered on the phone?

11 A. Correct.

12 Q. I believe there was a statement during the
13 interview that even if those images are deleted from your
14 phone, they are always there.

15 Did you state that, or was that Investigator
16 Reynells?

17 A. I believe it was me.

18 Q. To the best of your knowledge, is it fair to say
19 that there was no sex toy like a vibrator or dildo that were
20 recovered from the defendant's room in the home?

21 A. That's correct.

22 Q. Those were not located elsewhere like in his car or
23 anything like that?

24 A. Those?

25 Q. There wasn't a sex toy like the one described by

1 the victims in this case that was recovered during your
2 investigation, correct?

3 A. Correct.

4 Q. Just to clear up one thing that was said earlier.
5 As you are aware, now Master Sergeant Calendine testified about
6 a picture of a female spreading her genitals was recovered in
7 the defendant's room. There was some mention in the interview
8 that that appeared to be a juvenile. I am not sure who said
9 it.

10 Do you recall that statement during the interview
11 of the defendant?

12 A. I do recall it being uttered, yes.

13 Q. Is it fair to say to the best of your knowledge,
14 there is no reason to believe that was an image of child
15 pornography?

16 A. I only examined it afterwards. It did not appear
17 to be child pornography.

18 Q. Fair enough. Thank you.

19 With respect to the interview itself, I understand
20 that the interview we watched was about two-and-a-half hours.

21 Do you know the total length of time that that
22 interview took place?

23 A. Without having the exact times in front of me, I
24 would speculate about three-and-a-half hours.

25 Q. Towards the end of the interview there were a

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1 couple of occasions where the defendant said, I am confused or
2 I am getting confused again.

3 Did you have any reason to suspect that the
4 defendant, Mr. Basile was suffering from any kind of mental
5 problem or cognitive issue when he was being interviewed?

6 A. Absolutely not.

7 Q. He was 62 at the time he was being interviewed?

8 A. I believe 63.

9 Q. To the best of your knowledge, he didn't have any
10 memory issues that you are aware of, other than his statements
11 that I don't remember, or I am getting confused.

12 Would that be fair?

13 A. Well, I am not a doctor, but I didn't recognize
14 anything.

15 Q. I believe you said in a question from Ms. Keeney on
16 direct examination that no promises were made to the defendant
17 during the interview, like a promise of leniency or anything
18 like that, correct?

19 A. Correct.

20 Q. And do you recall if anyone ever mentioned to the
21 defendant that the defendant was going to jail if he denied the
22 allegations?

23 A. No.

24 A. And was there any statement that you recall about
25 the defendant might not go to jail if he admitted the

1 allegations?

2 A. Absolutely not.

3 Q. I think you already mentioned that the defendant
4 was given water when he asked for it, but he didn't request
5 food or bathroom breaks or anything like that, correct?

6 A. He did not.

7 Q. You told the prosecutor, Ms. Keeney, that he would
8 have been provided a break from questioning if he had asked for
9 it, correct?

10 A. Yes, sir.

11 Q. Do you recall if you or Investigator Reynells told
12 the defendant that he would be given a break if he asked for
13 it?

14 A. I don't recall either of us.

15 Q. That is not part of the rights advisement, correct?
16 The right's advisement talks about that he can stop questioning
17 at any time, but there is nothing about breaks or food or
18 anything like, that correct?

19 A. That's correct.

20 Q. Investigator Weich, is it fair to say that suspects
21 who are being interviewed are usually pretty reluctant to admit
22 to misconduct, correct?

23 A. Yes.

24 Q. Is it fair to say that investigators have to use
25 different techniques to try to soften them up or make them more

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1 comfortable with making some kind of admission of misconduct.

2 Let me give you an example to help it be clear.

3 Isn't it true that sometimes you have to use
4 techniques like minimizing the misconduct to get someone to
5 admit to having committed the misconduct?

6 A. Yes.

7 Q. Was that a technique that you and Investigator
8 Reynells were using in this case?

9 A. I can't say specifically that I was using that
10 technique. I can't speak for what was going through
11 Investigator Reynells' mind.

12 Q. Is it fair to say that you are allowed to mislead a
13 defendant or a suspect in an interview just as long as their
14 will isn't overborne by whatever technique you are using?

15 For example, you can tell them that a witness said
16 something that that they didn't say. You can mislead a suspect
17 like that when you are interviewing them though, correct?

18 A. Yes, we can.

19 Q. Do you recall whether there were any statements
20 like that that were not true that you were using in that
21 interview? Obviously, it was two years ago.

22 A. No. There was not.

23 Q. To the best of your recollection?

24 A. To the best of my recollection, no.

25 MR. STEPHENS: I believe I may be about done.

1 THE COURT: Okay.

2 MR. STEPHENS: No further questions for
3 Investigator Weich. Thank you.

4 * * *

5 REDIRECT EXAMINATION

6 BY MS.KEENEY:

7 Q. So at the time that you interviewed the defendant,
8 you already had the arrest warrants.

9 So he was going to jail regardless of whether he
10 admitted or denied, is that correct?

11 A. That's correct. He had been advised that he was
12 under arrest.

13 Q. My second question is: When you told the defendant
14 that we are going to analyze the phones, the devices, just
15 because you said you deleted it, things don't really always get
16 deleted.

17 And so was that true what you said, to your
18 knowledge?

19 A. Oftentimes things can be recovered from a phone,
20 but oftentimes they can't. I was speculating.

21 Q. It's not necessarily true -- let me rephrase that.
22 That was a negative.

23 -- that if you delete something off of the phone,
24 sometimes it can be recovered but not all the time.

25 Is that correct?

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1 A. That's correct.

2 MS. KEENEY: Thank you.

3 No further questions.

4 THE COURT: You can step down.

5 MS.KEENEY: Your Honor, at this time the State
6 rests.

7 * * *

8 STATE RESTS

9 * * *

10 THE COURT: Ladies and gentlemen, I need you to go
11 to the jury room for just a few minutes.

12 (Jury exited courtroom.)

13 * * *

14 DEFENDANT'S RIGHT TO TESTIFY OR NOT TESTIFY

15 * * *

16 THE COURT: Mr. Basile, I need you to raise your
17 hand. I need to talk to you.

18 * * *

19 JOHN THOMAS BASILE,

20 being first duly sworn by the Court testified as follows:

21 * * *

22 EXAMINATION BY JUDGE COTHRAN

23 * * *

24 THE COURT: We have reached the point in this trial
25 where the State has rested. You have a right at this trial to

1 testify if you want to, but you do not have to testify.

2 You have a Constitutional right to remain silent.

3 If you choose to testify, you will be treated like any other
4 witness. They will be able to cross-examine you. I don't know
5 if you have a prior criminal record that is admissible or not,
6 but if you do, that may come out against you to impeach you.

7 Do you understand that?

8 THE DEFENDANT: Yes, sir, I do.

9 THE COURT: Whether you testify or don't testify in
10 this case is your decision. Your lawyer can give you advice as
11 to what he thinks you should do or should not do, but
12 ultimately the decision is your decision.

13 Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: It's your Constitutional right.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: If you decide not to testify, I will
18 instruct the jury that they cannot consider the fact that you
19 have not testified in this case against you in any way
20 whatsoever.

21 Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you have any questions that you want
24 to ask me concerning your rights?

25 THE DEFENDANT: No, sir. I don't.

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1 THE COURT: All right.

2 Yes, sir.

3 MR. STEPHENS: Your Honor, I don't have anything
4 else to say with respect to Mr. Basile.

5 I have do have a motion for directed verdict I
6 would like to make at the appropriate time.

7 THE COURT: Okay.

8 MR. STEPHENS: Out of an abundance of caution, I
9 would ask to renew all my prior motions and objections
10 repeatedly now and at the close of the case.

11 So, Your Honor, at this point the defense wishes to
12 renew all my prior motions and objections on the previous
13 grounds argued as well as make a motion for directed verdict on
14 two of the remaining indictments.

15 May I proceed, Your Honor?

16 THE COURT: Yes, sir.

17 MR. STEPHENS: Basically, Your Honor, considering
18 my obligation to not make a frivolous motion, I don't believe,
19 in good conscience. I move for directed verdict on the
20 indictments, -1384, -1969, which alleges cunnilingus, I believe
21 there is evidence that meets the burden of a scintilla of
22 evidence required for the question to go to the jury past the
23 motion for directed verdict.

24 However, with the indictment -1383 alleging penile
25 penetration of MINOR 2's vagina and -1970 alleging

1 digital penetration of her vagina, I did want to move for
2 directed verdict on those on the basis that the minor child at
3 the time she made the allegation was five years old.

4 I believe that she displayed some issues about her
5 memory and recall during her forensic interview,
6 contemporaneous with the disclose on when she couldn't remember
7 what school she went to and there were other facts that she
8 couldn't seem clear on, couldn't remember, didn't remember that
9 the defendant's was her grandfather.

10 Additionally, Your Honor, the medical examiner,
11 Nurse Dalton, stated that she had no findings on her physical
12 examination of MINOR 2. She did testify that that is
13 common; that any tearing might have healed itself. When I
14 asked her whether MINOR 2 disclosed any pain with
15 the alleged penetration, she said, no.; that there was nothing,
16 no response from MINOR 2.

17 So no allegation that this alleged penile
18 penetration of her vagina resulted in any tearing and bleeding,
19 any pain from the victim MINOR 2. This was not something that
20 the defendant admitted to in his interview. So there is no
21 corroboration there. He never admitted to any kind of
22 penetration.

23 On the issue of digital penetration, Your Honor,
24 even in that testimony in the interview, Mr. Basile stated that
25 he touched MINOR 2 over her clothes. There was never a

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1 statement that he touched her with her clothes off such that
2 there would be penetration. Even with the description of the
3 tip of his finger, he still talked about rubbing the
4 five-year-old MINOR 2 over her clothes, Your Honor.

5 Again, even considering the low standard required
6 for denial of a motion for directed verdict, we feel that those
7 two indictments should not go forward for a jury's
8 consideration.

9 That is all I have to argue on those, Your Honor.

10 THE COURT: Those indictments are -1383, and -1970
11 are the two you are making a motion on?

12 MR. STEPHENS: Yes, Your Honor.

13 THE COURT: Do you want to respond?

14 MS. KEENEY: Very, very briefly.

15 Obviously, the standard is in the light most
16 favorable to the State. With respect to -1383, penile
17 penetration of the vagina, MINOR 2 testified that his private
18 part went inside of her private part. She also said it
19 multiple times during the forensic interview.

20 She identified the body parts for the forensic
21 interviewer. That is enough to send it to the jury.

22 With respect to indictment ending in -1970,
23 regarding digital penetration of MINOR 2, obviously, in the
24 light most favorable to the State, MINOR 2 testified that his
25 finger went inside her private part. She said it in the

1 forensic interview, and he admitted to it. He just said it was
2 the very, very tip and he he drew his hand to corroborate it.

3 thank you. Nothing further.

4 THE COURT: I think that there is an existence of
5 evidence in this case. What weight the jury gives that, you
6 certainly can argue that.

7 I think that she did testify about penile
8 penetration and digital penetration. That is in the record.
9 The jury can give it whatever weight the jury determines it
10 appropriate.

11 I will respectfully deny your motion for directed
12 verdict.

13 MR. STEPHENS: I understand, Your Honor.

14 Your Honor, as to defendant's case in chief, at the
15 request of Mr. Basile, I believe he is not testifying in his
16 own defense. The defense is not offering any other witnesses
17 or evidence. The defense would rest when the jury comes back,
18 Your Honor.

19 THE COURT: Okay.

20 We will take a six-minute break and come back at
21 3:00 and argue and charge.

22 MS. KEENEY: Judge, I do it think Mr. Stephens
23 wanted to put on the record that he wants to object to my
24 proposed jury charge. I didn't write it out. State versus
25 Morgan is what I am relying on about defining cunnilingus and

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1 about the last -- close-to-the-last paragraph at the end of the
2 case and for this case.

3 For the record that is 352 SC 359. I am asking
4 that Your Honor define cunnilingus. Number one, it's not a
5 word that everybody uses or everybody knows. I don't want the
6 jury to think that there actually has to be penetration. That
7 is not what the law says.

8 THE COURT: Okay.

9 MR. STEPHENS: Your Honor, I just want to preserve
10 the issue for the record. The defense's objection is just that
11 the Legislature couldn't define cunnilingus by statute if so
12 desired. I think that the definition that the Court of Appeals
13 chose to use in the decision shouldn't be a binding matter of
14 law. Again, Your Honor, I am just trying to preserve the issue
15 for appeal.

16 THE COURT: It is preserved. Because cunnilingus
17 is not normally defined in the law. Because Justice Anderson
18 defined it in the Morgan case, I am going to agree with the
19 State and charge that. I am glad that she put it on the record
20 for what case it came from, but the appellate courts may have a
21 hard time finding that definition.

22 MR. STEPHENS: I understand, Your Honor. Thank
23 you.

24 THE COURT: Let's take a brief recess and come back
25 in about five to ten minutes.

1 (Recess.)

2 * * *

3 PROCEEDINGS CONTINUE

4 THE COURT: Everyone ready?

5 MR. STEPHENS: Defense is ready, Your Honor.

6 MS. KEENEY: The State is ready.

7 THE COURT: Let's bring in the jury.

8 THE BAILIFF: The jury is entering the courtroom,

9 Your Honor.

10 (Jury enters the courtroom.)

11 THE COURT: Okay.

12 Mr. Stephens.

13 MR. STEPHENS: Your Honor, at this time the defense
14 rests.

15 * * *

16 DEFENSE RESTS

17 * * *

18 THE COURT: Ladies and gentlemen, you have heard
19 all of the evidence you will hear in this case. Now, if you
20 will pay attention to the closing arguments of the attorneys,
21 then I will charge you on the law and give you this case to
22 decide.

23 MS. KEENEY: Thank you, Your Honor.

24 May it please the Court.

25 THE COURT: Yes, ma'am.

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* * *

CLOSING ARGUMENT BY MS. KEENEY

MS. KEENEY: I told you all at the beginning of this that the defendant failed at his job at being a granddad. In listening to the girls testify and after sitting here all week, I realized that what I said was probably the biggest understatement of the year.

He took things from those girls that they will never get back. He absolutely robbed them of their innocence. I try to find a silver lining in these things, because I do all of these types of cases for our circuit. So I try to find some positive things. If not, it's just sadness that you see.

There are two things, two things about this. One thing is that he didn't rob them of their courage. They came into this courtroom and got up on that witness stand in front a man who had admittedly done these things to them, and they testified against them. They told a roomful of strangers exactly what happened to them.

There is no doubt that those girls were good witnesses. You know why that is? It's not hard to be a good witness when the truth is on your side. It's not hard.

That leads me to the second silver listening, Amber Eady, the defendant's own daughter who now has custody of the kids. That is the second silver lining. You heard from her that that home was full of broken promises. You heard about

1 what the defendant did. Now they are finally with someone who
2 takes care of them.

3 She didn't want to be their mother. She is happy
4 to volunteer, but don't get us wrong. She didn't sign up to be
5 a mom to three children who are not hers. They are her nieces
6 and nephews. She has a 16-year-old. She is almost done
7 raising kids. And now she has a seven-year-old, a
8 ten-year-old, and **BROTHER** is younger. It's like she is
9 starting all over again.

10 They are finally in a home where someone listens to
11 them and cares about them and takes care of them. For that, I
12 am grateful.

13 Now, Amber Eady told you exactly how this came out.
14 Her discussions with **MINOR 2** and **MINOR 1**. She told you what
15 she did when she found out. She had the appropriate response.
16 Their mother, Kimberly, I don't have words for her. Honestly, I
17 don't want to give her the time of day. We are not here about
18 Kimberly. We are here because of what he did, not Kimberly.

19 Amber had the appropriate response. She took those
20 girls to the doctor. The police were called. She did
21 everything to try to help with the investigation. She took
22 them to the forensic interview. She took them to the medical
23 exam. She did everything perfectly. I am thankful for Amber
24 Eady.

25 You heard from **MINOR 1**. She is now 10 years old.

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1 She talked about when she was between seven and eight years
2 old, exactly what the defendant did to her. He licked the
3 insides of her private parts, inside and outside, and squirted
4 whipped cream on her private parts and licked it off. She told
5 you about that.

6 She described what we all can pretty much assume
7 was a vibrator. She doesn't even have the word for it because
8 she is so young. She doesn't even know what it is. She is
9 describing a vibrator.

10 I know what the defense is going to do. They will
11 say, well, they never found a vibrator. You know what Ms.
12 Dalton also told you? She told you in that forensic interview
13 that you watched when Ms. Brooke Bentley was asking her about
14 that. She said, I think he got rid of it because I haven't
15 seen it. He got rid of this evidence.

16 She told you that the reason she didn't tell
17 anybody is because she wouldn't get desserts anymore. That is
18 a child's mindset right there. He took something that children
19 love and he converted it to use it against her so that she
20 would keep his secret.

21 You heard from **MINOR 2**. She is seven now. She
22 talked about how when she was between three to five years old,
23 all the things that the defendant did to her. He licked the
24 insides of her privates. He put his private inside of her
25 private. He put his finger inside of her private. She

1 testified to that, and you saw it in the forensic interview.

2 What did she say about his private parts? That
3 something -- her words -- white stuff squirted out of it onto
4 her face, and it made her cry. Five-year-old girl. She was
5 five when she did that interview. They don't know about white
6 stuff squirting out of men's private parts and say that it went
7 onto her face if it didn't happen. They don't just make that
8 up.

9 You heard from Brook Bentley, who is the lady
10 from Hopeful Horizons who interviewed the children. You
11 watched the videos. You know what she should be thinking
12 about? Wow. Those are consistent. They have been telling
13 what has happened to them for two years over and over again.
14 People after people said. Brooke to Kristen Dalton and to you
15 all. They are consistent. Their story doesn't change. It's
16 not because -- what he is going to try to argue is that they
17 were coached or they were --

18 MR. STEPHENS: Objection, Your Honor. May we
19 approach?

20 THE COURT: Yes.

21 (Bench conference.)

22 MS. KEENEY: Defense might argue that we coached
23 them. We told them what to say. You heard from the girls.
24 They didn't even watch their interviews. They have never seen
25 it before. They were not coached. Like I said, it's not hard

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1 to be a good witness when the truth is on their side.

2 Not to mention, what did you see on **MINOR 1**'s
3 forensic interview, what Ms. Bentley testified to. She asked
4 her at the very end of that interview, has anyone told you what
5 to say when coming here? **MINOR 1** said, yes. She did say,
6 yes. She said, who told you to say something and what did they
7 tell you? **MINOR 1** said, my Aunt Amber told me to come in here
8 and tell the truth.

9 You heard from Eric Calendine, who was the Beaufort
10 County Sheriff's Department investigator who helped participate
11 in the search warrant of the defendant's residence. You heard
12 about that they didn't find the vibrator. There was nothing on
13 the phone found.

14 However, they did find whipped cream in the room,
15 which corroborates the girls, skirting whipped cream, not to
16 mentions he admits to squirting whipped cream on their private
17 parts, **MINOR 1**'s private parts. You saw the picture of a
18 naked spreading her own private. I am not contending that that
19 is child porn. Don't get me wrong. It just corroborated what
20 **MINOR 1** says is what you saw from the forensic interview. He
21 would show her images of women or older girls spreading their
22 private parts.

23 You heard from Kristen Dalton, who is the nurse
24 practitioner. She talked to you about her medical exams of
25 **MINOR 1** and **MINOR 2**. I am not sure if that was new news to

1 you all. I know that a lot of people think that when you
2 examine a girl or a child or whoever, that you can tell if they
3 are virgins. I am pretty sure most of you all probably assumed
4 that that is true. It's not medically true. You cannot tell
5 that. The female anatomy, the the vagina and the hymen, it
6 heals so quickly that you don't find injuries in 97 percent of
7 the cases.

8 You heard about the study about the pregnant girls
9 who we know had had sex; right? They are pregnant. I don't
10 believe that they are Virgin Mary. So they are pregnant, and
11 most of them didn't even have any injuries. She told you about
12 in her personal experience of what has witnessed, she saw
13 someone on video -- she had a case where someone was on video
14 penetrating a child. It was clear evidence that that child was
15 penetrated, and there was no finding.

16 So the fact that **MINOR 2** did not have any injuries
17 doesn't prove he didn't put his penis in her. In fact, Kristin
18 expected it. She expected it. That was not a shock for her.

19 On the other hand, we have got **MINOR 1** who does
20 have what could be an injury. There was a deep notch on her
21 hymen, which could represent an injury. It could be a normal
22 variance, but what did Kristen Dalton tell you? It's a red
23 flag. It's a major red flag.

24 The defense might argue his client is a big man,
25 and he is. He is probably about 6, 6. A big guy. If he got

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1 on top of MINOR 2 and put his penis in her, she is going to be
2 all torn up down there. That is simply not medically correct.
3 You heard the testimony to prove that.

4 You hear from Investigator Weich, who is the lead
5 investigator. He talked about the interview that you all just
6 spent two-and-a-half hours watching. You saw what the
7 defendant said. You probably noticed that these investigators,
8 they were actually really nice to him. They were super nice.
9 They are talking to a guy who is suspected of molesting his
10 grandchildren, and they are keeping his cool. I don't know if
11 everybody can do that. They didn't threaten him to make those
12 statements. What did you watch? You watched the defendant lie
13 over and over again about, I would never do that to my
14 granddaughters. I can't even think about that. That is
15 horrible. They are way too young for that.

16 What does it turn into? Okay. I licked MINOR 1 a
17 few times. She really liked it. I did it. I squirted some
18 whipped cream on her. No. I didn't do MINOR 2. You might be
19 asking, how come he didn't admit to MINOR 2.

20 This Judge is going to tell you that you can use
21 your common sense here. Common sense that MINOR 2 is younger.
22 That is something that is even ickier. It's all icky. Don't
23 get me wrong. It's all gross. To have to admit that you did
24 it to a five-year-old, like that is up there.

25 You are heard the defendant admit to putting part

1 of his finger inside of them, penetrating them. He draws, he
2 traces his hand and he does the little line, the very tip of
3 his finger. And guess what, guys? We will talk about the law.
4 That is a sexual battery. It is any intrusion, however slight.
5 If it's just the little tip of your finger, it's still a sexual
6 battery. He admits that he did that to MINOR 2. He admits it.

7 You heard him deny, deny, deny about MINOR 2.
8 Eventually he said, yeah. I did lick her one time. It was a
9 few licks. I thought, you are really not like MINOR 1. You
10 don't like it.

11 What did he say before that, which was even ickier.
12 He wasn't doing it to MINOR 2 because she is not his type. The
13 eight-year-old MINOR 1 is?

14 So you heard him admit to when MINOR 1 was doing
15 the dolls in the forensic interview. She said, I put my
16 private part towards his mouth. Then he had my head towards
17 his private part. He was trying to get me to do stuff to the
18 private part, but I didn't want to do that. But he did lick my
19 private part. He admits to that. He admits it. You watched
20 that on the interview. He said, yeah, I licked her, but she
21 never did anything to my private.

22 I suspect that the defense might argue that while
23 the girls said, MINOR 1 said, that he took photos and videos
24 of me. Law enforcement -- we didn't find the videos. That is
25 absolutely correct. I am not hiding that from you. I got

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1 Investigator Weich to talk about that. We couldn't find them.
2 You know what? The very simple answer is the defendant told
3 you he took pictures of the girls, but he deleted them. It's
4 not that big of a shock we didn't find them. We are not always
5 able to recover deleted items. Sometimes we can, sure, but not
6 every time.

7 The judge is going to tell you about the law in
8 this case. I will briefly go over it. It's essentially the
9 same charge for each girl.

10 He is charged with criminal sexual conduct with a
11 minor, first degree. Four counts of them. Once this gets goes
12 up, we will go through each count. So we have got four charges
13 total. Three of them relate to **MINOR 2** and one relates to
14 **MINOR 1**.

15 Let me start with **MINOR 1**. It's probably the
16 easiest. **MINOR 1** is criminal sexual conduct with a minor,
17 first degree. We are talking about cunnilingus. So what that
18 is defined as is oral stimulation of the vulva or clitoris with
19 the lips or tongue. Penetration is not required. So if he is
20 licking down in that area, you have got cunnilingus.

21 How do we prove that? This is so easy to prove.
22 Number one, she says he does it. Number two, he said he did
23 it. What did he say about **MINOR 1**? He said, she liked the
24 clit thing. We are talking about an eight-year-old. She liked
25 the clit thing. That should be a no-brainer.

1 The next charge I have to prove is criminal sexual
2 conduct with a minor, first degree. Penile penetration of
3 **MINOR 2**'s vagina. Basically, criminal sexual conduct with a
4 minor is defined as somebody doing a sexual battery upon a
5 child under 11. We don't have an age dispute, right? We have
6 two girls who are far, far under 11.

7 What we have to ask ourselves is, did he perform a
8 sexual battery? He already told you in his opening that he
9 admitted to sexual touching; okay? So did he do a sexual
10 battery is what you are considering.

11 For **MINOR 1**, sexual battery is defined in multiple
12 ways. Sexual batter definition can be sexual intercourse,
13 cunnilingus, fellatio, any intrusion, however slight, of any
14 part of a person's body or any object into the genital or anal
15 openings of another person's body. So there are multiple ways
16 to prove a sexual battery. So you have actual intercourse,
17 cunnilingus, basically the licking of the private parts with no
18 penetration required, or any intrusion with whatever body part
19 or object of someone into one of the openings.

20 We have already talked about **MINOR 1** and about
21 cunnilingus. He admits to it. She said he did it. He admits
22 to squirting whipped cream on her private parts. That should
23 be pretty easy to decide. I don't know what other evidence you
24 could possibly want than someone who is on video saying, yes, I
25 did this. She liked the clit thing. I don't think I can give

1 you any more evidence than that.

2 So the next charge you go to is criminal sexual
3 conduct with a minor, first degree. Did he perform sexual
4 battery? In this case I am alleging was penile penetration of
5 **MINOR 2**'s vagina. I will admit to you this is the only thing
6 that you really should be talking about back there because he
7 admits to the rest. The only thing he adamantly denies is
8 putting his penis inside of **MINOR 2**, and I get that. I get why
9 he doesn't want to admit to that.

10 So that is the biggest debate back there. She told
11 you he did it. He is saying he didn't. You know what she also
12 said? White stuff was coming out of his private and onto her
13 face. I don't know how she would even be able to articulate
14 that unless it happened.

15 The next charge you have to consider is whether or
16 not he performed cunnilingus on **MINOR 2**. Once again, that
17 should be super easy. Number one, she tells you he did it.
18 Number two, he tells you he did it. He told you in the
19 interview. He denied, denied, denied. Then he said, well, I
20 did lick her on her private part, but it was just one time and
21 it was a few licks. She didn't really like t. She wasn't like
22 **MINOR 1**, so I didn't do it again. So he told you he did it.
23 That should be super easy for you to decide.

24 The last charge, did he perform sexual battery of
25 digital penetration on **MINOR 2**? Once again, super easy. She

1 told you he did. He told you he did. Now, the fact that that
2 little tiny piece of his finger went into her, that is enough.
3 Any intrusion, however slight.

4 Once again, the biggest debate is whether he put
5 his penis in her. What I submit to you is this: The judge is
6 going to tell you about what we call credibility. It's your
7 job to determine the credibility of these witnesses. Another
8 word for credibility is believability. Do you believe these
9 witnesses? Do you believe these girls? What do believe? You
10 are the factual finders. You are the ones who decides what
11 happened here.

12 He decides the law; you decide the facts. So I
13 submit to you this: This case doesn't really come down to
14 credibility. This might be one of the first cases I have ever
15 had in my entire live that credibility is really not an issue
16 because he is telling you he did it. He told you in the video
17 that he did all of those crimes, except for one.

18 He told that he has pled guilty. He told you that
19 in the opening, not me. He pled guilty to sexually touching
20 these girls. You don't even have to question, are these folks
21 telling the truth? In a lot of my questions, that is what we
22 question. Are they telling the truth? Do they have a reason
23 to lie? Those are the things that go through my mind when I
24 look at a case. Here, you don't even have to question it
25 because he has admitted to it.

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1 So I guess you are probably wondering, why are we
2 here? I get that. Mr. Stephens asked that in the opening.
3 Why are we here? This is why we're here, self-preservation.
4 If you think from a common sense standard that -- he has
5 already told you he pled guilty to just general sexual
6 touching. He is denying he did a sexual battery, even though
7 he admitted to it multiple times in his interview. Everything
8 that we are talking about is gross and icky but there are
9 different degrees of gross, right? Just general touching of
10 privates is bad. It does not justify it whatever. It's awful.
11 You shouldn't do that. Criminal. But again, sexual battery,
12 that is even worse. He is minimizing what he did. He doesn't
13 want to have to face the full responsibility of what he did. I
14 get that. I understand that. He has been doing that from the
15 beginning of his interview.

16 Remember. I would never do that. Not me. Those
17 are my granddaughters. I love that. I would never do that. I
18 can't believe that they are saying this. I am just so shocked.
19 Well then, it's like, okay. I did these things but they liked
20 it.

21 I told you that this case really doesn't come down
22 to credibility because you already know they are credible.
23 They have already admitted that bad things have happened to
24 these girls. To the extent that it does. So I guess it only
25 does to one degree. That is probably the charge or whether or

1 not he put his penis in her, right? That is the only thing he
2 hasn't admitted to.

3 Do you believe the girl who has been consistent
4 throughout, who has had to tell her story to numerous people,
5 who came into this courtroom and told you exactly what happened
6 with his penis in her private part, or do you believe the man
7 that lied, lied, lied, and lied. And then finally admitted to
8 MINOR 1, but then he denied MINOR 2, all things with MINOR 2.
9 Then finally he said, yes. I did some things with MINOR 2.
10 Who do you believe? Do you believe the girl who has been
11 telling the same story over and over again and had no reason to
12 lie, or do you believe the guy who has lied repeatedly?

13 I think it's a no-brainer. The judge will tell you
14 I have to prove these charges beyond a reasonable doubt. He is
15 presumed innocent, and I have to prove that he committed these
16 crimes. I submit to you that I don't know what else I can give
17 you, other than it being on video. He told you he did it.

18 You don't have to be -- reasonable doubt does not
19 mean 100 percent. It means that you are firmly convinced that
20 it happened. There are very few things in life that we know
21 with 100 percent certainty. If you are firmly convinced that
22 he committed these crimes, then find him guilty.

23 Mr. Stephens said something in his opening. I have
24 been thinking about it all week. He said that we are here --
25 he asked that same question in the opening. He said, you are

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1 probably wondering why we are here. He has already pled guilty
2 to some touching.

3 He said it's because the State picked some charges,
4 sexual battery charge, and they can't back down. I started
5 thinking about that. He is sort of right. I mean, I can back
6 down. I have the ability to back down from it, but I don't
7 choose to back down. What did I tell you from the very
8 beginning? I want him to be held accountable for what he did.
9 Nothing more; nothing less. That is what I want. That is
10 justice.

11 Anything less than that is not justice. Those
12 girls deserve all the justice in the world. I am not going to
13 back down when he is on video admitting to sexual battery. I
14 am not going to just give up because he pled to some lesser
15 charges. I am not going to do it. It's not justice.

16 In conclusion, I ask that after Mr. Stephens gets
17 his argument and the judge tells you about the law, that you go
18 back to that jury room and you find him guilty of all four
19 charges. Hold him accountable for what he did. That is all I
20 am asking for. Nothing more; nothing less. Thank you.

21 THE COURT: Thank you.

22 MR. STEPHENS: May we approach briefly?

23 THE COURT: Yes, sir.

24 (Bench conference.)

25 THE COURT: Yes, sir.

1 * * *

2 CLOSING ARGUMENT BY MR. STEPHENS

3 MR. STEPHENS: Good afternoon, ladies and
4 gentlemen. I just want to start by saying I wish Ms. Keeney
5 had told me some of the things I was going to do with my
6 closing. I wouldn't have to work so hard and figure it out
7 myself. My first trial as a defense attorney was about 20
8 years ago. It was the military equivalent of a criminal sexual
9 conduct case. I was a 20-something-year-old marine lawyer
10 captain, and this very experienced colonel stood up in his
11 closing argument and said for the prosecution. One of the
12 things he said was that you can believe the seven-year-old
13 victim in our case because children don't lie.

14 That struck me as a little bit ridiculous. I had
15 children. The colonel had children. My experience was, kids
16 can lie like the dickens. When I thought about it a little bit
17 later after that case, it occurred to me that there is
18 something important -- I don't know why kids are so prone to
19 lie and fabricate, depending on the age.

20 I think as some of the things, if you watch the
21 forensic interviews of these girls, it might have shown this.
22 Sometimes it's hard to describe things correctly. Sometimes
23 fantasy may come in a little bit. If you saw the interview of
24 MINOR 2 -- we're not talking about fantasy thing. She
25 is still doodling in the corner. She had a hard time

1 separating fact from fiction.

2 I am not saying these girls made this all up; that
3 they had any bone to pick with Mr. Basile, their grandfather.
4 It's especially hard because parts of what they say are things
5 that Mr. Basile did also admit to. Horrible things he had
6 already pled to.

7 The really difficulty in this case for you the jury
8 is that you still have the burden to give him the presumption
9 of innocence for the things he has not pled guilty to. The
10 State hasn't met its burden of beyond a reasonable doubt of
11 each part of those offenses. Ms. Keeney didn't point out --
12 this should be a no-brainer for some of the defenses where the
13 defendant made a statement to law enforcement about it.

14 I want to go over a little bit about the context of
15 the interview that happened and as well as the children's
16 statements they made. To talk about the children first,
17 Ms. Keeney said that we could all agree that the children --
18 there is no doubt that the girls were good witnesses. Well,
19 here in the courtroom, obviously they were good witnesses. As
20 they said, they had met with people to help them practice how
21 they were going to testify.

22 As **MINOR 2**, the younger girl stated, she had been
23 told what was in her earlier statement. When I asked her, she
24 couldn't remember her forensic interview. That is not someone
25 who has testified from memory. She was five at the time of

1 that forensic interview. She has testified about things she
2 has heard since then. I guess that is to be expected.

3 I can't imagine trying to ask one of my kids at age
4 8 what they had said when they were five. It's hard to ask
5 them and get a good response about what they said last week.
6 You can see that from **MINOR 2**'s answer. She doesn't really
7 remember what she she said. She doesn't remember her forensic
8 interview. She didn't have someone talk to her about what she
9 said originally and someone help her with what she was going to
10 testify to in Court.

11 **MINOR 1** was a little bit older when she was first
12 interviewed. She said she had someone help her with how she
13 was going to testify in Court. Her forensic interview,
14 originally when she was eight, is a lot more controlled. She
15 sits. She responded to the forensic interviewer. As you saw,
16 the result was a lot of her answers were more even. She didn't
17 talk about penetration that included actual sex where you would
18 have expected to see, regardless of Ms. Dalton's testimony on
19 behalf of the State.

20 Some of these sex acts you would expect to see
21 physical signs. An indication where a small child who is
22 engaging in some kind of penetration by a larger adult, there
23 would be some kind of tearing of the hymen. Some type of
24 bleeding. Something that was noticed. You heard Amber Eady,
25 the girl's aunt, testify about signs that she saw of abuse,

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1 bruising, things like that. She had been paying attention to
2 the girl and looking for signs of abuse. No one ever said they
3 saw any kind of bleeding from the genital areas of these girls
4 or blood or semen on the sheets of the defendant. Nothing like
5 that was seized or placed into evidence.

6 As Investigator Weich told you on the witness
7 stand, these allegations of what happened to five-year-old
8 **MINOR 2**, that is he testified happened a long time ago,
9 when she was three or four years old. Those charges are all
10 based on the recollection of a five-year-old trying to remember
11 what happened when she was four.

12 Clearly, these girls were exposed to some matters
13 they should not have been or that you would have expected to
14 see at such a young age. Their five-year-old is not going to
15 remember what happened. No statement from her older sister who
16 shared the room with her said anything that she witnessed. I
17 think to **MINOR 2**, it could be understandable that the younger
18 sibling of **MINOR 1** may have been asleep or missed any sexual
19 acts that happened to their big sister, **MINOR 1**.

20 She is the older one there. She shared a room and
21 she was constantly with her siblings. There is no testimony
22 from her about having witnessed anything happening to **MINOR 2**.
23 If you combine that with the allegations with **MINOR 2** about
24 penile or vaginal penetration, they were not substantiated by
25 the medical examiner. There were no findings of abuse.

1 Take that for whatever she says it means. There
2 are no findings to support this allegation from **MINOR 2**.
3 Additionally, with Mr. Basile's interview -- and I want to talk
4 in a minute about the circumstances of the interview. Even
5 after four hours of constantly talking to him and trying to get
6 him to admit to sexual acts that would support the charges, the
7 officers already note they are not looking into the truth of
8 the matter. They are trying to support the charges that were
9 alleged. After four hours, he was not willing to say something
10 that didn't happen with **MINOR 2**. He did admit to sexual
11 activities with **MINOR 1**. He pled guilty to sexual contact.
12 The State would argue that the acts Mr. Basile pled guilty to
13 are not sufficient. They do not encompass what he did.

14 Ladies and gentlemen, they are looking for a lot of
15 precision that they may not have in this case. Mr. Basile was
16 62 years old when he was interviewed. You heard him a few
17 times in that interview say, I don't remember. I don't
18 remember. I am confused about what I am getting accused of.

19 There is misconduct, sexual conduct that happened,
20 and he has admitted to it. Even Mr. Basile doesn't remember
21 things, he is trying to placate these investigators who had him
22 in handcuffs. For all you may have believed, they are going to
23 question him until he admitted it.

24 At one point, I believe Investigator Weich may have
25 spoken about this. There is a moment approximately at 11:00,

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1 11:30. Investigator Weich said, you are going to jail. There
2 is a pause. If you deny this -- and then he moves onto
3 something else. A person had been left with the impression
4 that you are going to jail if you continue to deny this. If
5 the jury requests to see it, you can come back in the courtroom
6 and watch the interview again, if you are so inclined.

7 There are moments where the investigator said, we
8 don't want to hear that yet. Don't say that. Again, we know
9 that is not what happened.

10 I have never been under arrest and in handcuffs for
11 hours being interviewed. It seems to me that at some point
12 anyone is going to say whatever it takes to make this end. I
13 know that Ms. Keeney is pointing out that the investigators
14 were nice and polite.

15 They are not in the beginning with Mr. Basile. He
16 was under arrest and not free to leave and being questioned
17 without being told he could take a break, stop. It's in the
18 initial rights advisement when you have been questioned for two
19 hours with no end in sight. What are you going to do even
20 worse when your conscious is bothering you? He did something.
21 Even when you say, okay. I was lovey-dovey with MINOR 1. I
22 kissed her where I shouldn't. I licked her in her southern
23 region. That is what he initially said, but that is not
24 enough.

25 He asked some questions. They need to support the

1 allegations that were already charged. They could have waited
2 until after. Instead, they went with the initial statement
3 from a five-year-old girl that has never been supported other
4 than her own consistency. Yes, to be consistent when someone
5 tells you what you said.

6 I told you at the beginning of this case that it
7 may be the most difficult job you have ever had to sit here to
8 do. Judge a person who has done some unspeakable things,
9 unforgivable things and say, even though I want this person
10 punished for what they admitted to, I am going to presume him
11 innocent and decide whether the rest has been proven beyond a
12 reasonable doubt. You must be firmly convinced that these
13 things happened. That is difficult. It's your duty, ladies
14 and gentlemen. Mr. Basile is going to be sentenced on the
15 things that he has pled guilty to. Your job is to determine
16 when the judge gives you the law for these remaining four
17 indictments whether the State has proven their case, beyond a
18 reasonable doubt.

19 When you consider the context of the statements
20 that were made by very young girls who may have not had a full
21 recollection of things that they both said happened a long time
22 ago to the statements that the defendant made, a 62-year-old
23 man who has been handcuffed for hours and asked questions that
24 don't stop.

25 Remember, that video was redacted. There is an

STATE of SOUTH CAROLINA v. JOHN T. BASILE - 2019GS0701383, VOLUME II

1 hour-and-a-half missing. Questioning, questioning. I submit
2 that, again, a person will say just about anything to try to
3 get the questioning over with. Part of when you know that
4 there are some things he did do. There are some things that he
5 didn't.

6 Regardless of what you suspect Mr. Basile having
7 done, even if you have a strong suspicion, that is not proof
8 beyond a reasonable doubt. You have to be firmly convinced
9 that he did every element of the offenses of which he is
10 charged.

11 Again, ladies and gentlemen, as I said, it's a
12 tough job. A difficult burden. It's what the law requires. I
13 trust when you retire to the jury room and consider the
14 evidence, you will find and do what is a correct and just
15 decision on Mr. Basile's guilt or innocence on the charged
16 offenses. Thank you.

17 * * *

18 JURY CHARGE

19 THE COURT: Now that you have heard all the
20 evidence in this case and the arguments of both the State and
21 the defendant, I am going to charge you on the law that you
22 will apply in this case. Under our Constitution in a court of
23 law, only the jury can make a finding of fact in a case. I am
24 not permitted to indicate to you how I might feel about the
25 facts. So if I have said anything or done anything throughout

1 this trial that you think I have an opinion about the facts,
2 you are to disregard that. You, and only you, must determine
3 what the facts are in this case.

4 That is based on the evidence that is before you.
5 That same constitution in the court of law that makes you the
6 exclusive judge of the facts, makes me the exclusive judge of
7 the law. So if you have an idea of what you think the law is
8 or what the law should be and it differs from what I now tell
9 you the law is, under your oath you are to disregard your ideas
10 and accept the law exactly as I have given it.

11 The fact that the defendant was arrested, charged,
12 and indicted in this case is not evidence in this case. It
13 cannot be considered by you as evidence of guilt in this case,
14 nor does it create any presumption or interest in guilt. The
15 indictment is simply a formal written instrument that contains
16 the charges against the defendant, and it serves as a formal
17 document to process these charges through the court system.

18 The defendant has pled not guilty to this
19 indictment. That casts the burden upon the State to prove each
20 and every element of the indictment to you beyond a reasonable
21 doubt.

22 A person charged with committing a criminal offense
23 in South Carolina is never required to prove himself or herself
24 innocent. It is an important rule of law in this country that
25 a defendant in a criminal trial will always be presumed to be

STATE of SOUTH CAROLINA v. JOHN T. BASILE - 2019GS0701383, VOLUME II

1 innocent of the crime charged unless and until that guilt has
2 been proven to you by the evidence that satisfies you of that
3 guilt beyond a reasonable doubt.

4 The presumption of innocence is not a mere legal
5 theory. It is not just a legal phrase. It is a substantial
6 constitutional right to which every defendant is entitled. The
7 presumption of innocence accompanies the defendant from the
8 time he is charged throughout the trial until you reach a
9 verdict of guilt based upon evidence that satisfies you of that
10 guilt beyond a reasonable doubt.

11 A reasonable doubt is a doubt which makes an
12 honest, sincere, conscientious juror in search of the truth to
13 hesitate to act. Proof beyond a reasonable doubt must be proof
14 of such a convincing character that a reasonable person would
15 not hesitate to rely and act upon it in the most important of
16 his or her own affairs.

17 Proof beyond a reasonable doubt can also be
18 described as proof that leaves you firmly convinced of the
19 defendant's guilt. There are very few things in this world we
20 know with absolutely. In a criminal case, the law does not
21 require proof that overcomes every possible doubt. If based on
22 your consideration of the evidence you are firmly convinced
23 that the defendant is guilty of the crime charged, you must
24 find him guilty.

25 If on the other hand you think there is a real

1 possibility that he is not guilty, you must give him the
2 benefit of that doubt and find him not guilty.

3 In determining the facts of a case, you must
4 necessarily pass upon the credibility of the witnesses, which
5 simply believability of the witness and the value and weight to
6 be given to their testimony. You alone must decide the force
7 and effect of the truth of that testimony. In making these
8 decisions, there are many things that you may and should think
9 into consideration, such as: The manner and appearance of the
10 witness on the stand; sometimes referred to as the demeanor of
11 the witness.

12 Was the witness forthright or hesitant? Was the
13 witness' testimony consistent, or did it contain discrepancies?
14 What was the ability of the witness to know the facts about
15 which he or she testified? Did the witness have a causal
16 reason to be bias or prejudiced in favor of their testimony?

17 Was the testimony of a witness corroborated or made
18 stronger by other testimony or evidence, or was it made weaker
19 or impeached by such other evidence or testimony?

20 Under the rules of evidence, we do not ordinarily
21 permit a witness to testify to opinions or conclusions. An
22 exception to this rule is a witness we call expert witnesses.
23 A witness who by education and experience has become an expert
24 in some science, art, profession, or calling may give his
25 opinion in what they claim to be an expert in. They also may

STATE of SOUTH CAROLINA v. JOHN T. BASILE - 2019GS0701383, VOLUME II

1 state the reasons for their opinion.

2 You should consider an expert's opinion received
3 into evidence in this case like any other evidence. You give
4 it the weight you think it deserves. If you decide that the
5 opinion of the expert is not based on sufficient education and
6 experience or if you conclude that the reasons given in support
7 of the opinion are not sound or if the opinion is outweighed by
8 other evidence, you may disregard the opinion in its entirety.

9 An expert's opinion is to be given no greater
10 weight than that of any other witness simply because the
11 witness is an expert. Further, you are not required to accept
12 an expert's opinion, even though it is not contradicted. As
13 jurors you have a right to believe a small portion of a
14 witness' testimony and disregard the larger or vice versa. You
15 may believe all of a witness' testimony or none. You may
16 believe the testimony of a single witness against that of many
17 other witnesses.

18 Now, criminal intent is a necessary element of each
19 crime that must be proven by the State beyond a reasonable
20 doubt. Criminal intent is always a matter that must be
21 determined by the jury from the circumstances surrounding the
22 situation. There is no way to prove intent to a mathematical
23 certainty. There is no way medical science can dissect a
24 person's brain and determine what he or she had in mind.

25 The law states criminal intent may be inferred from

1 the circumstances shown to have existed both before and after
2 the fact.

3 This is how you the jury make a determination of
4 whether or not the element of intent was present. Criminal
5 intent is a state of mind that operates jointly with an act or
6 omission in the commission of a crime. Criminal intent is a
7 mental state of conscious wrongdoing. It is up to you to
8 determine the intent based on the circumstances shown to have
9 existed.

10 I tell you that the State must prove criminal
11 intent beyond a reasonable doubt, just as the State must prove
12 every element beyond a reasonable doubt.

13 There are two types of evidence that are generally
14 presented during a trial, direct evidence and circumstantial
15 evidence. Direct evidence directly proves the existence of a
16 fact. It does not require deduction.

17 Circumstantial evidence is proof of a chain of
18 facts or circumstances indicating the existence of a fact.
19 Crimes may be proven by circumstantial evidence. The law makes
20 no distinction between the weight or value to be given to
21 either direct or circumstantial evidence.

22 However, to the extent that the State relies on
23 circumstantial evidence, all the circumstances must be
24 consistent with each other and when taken together point
25 conclusively to the guilt of the accused beyond a reasonable

STATE of SOUTH CAROLINA v. JOHN T. BASILE - 2019GS0701383, VOLUME II

1 doubt. If the circumstances merely portray the defendant's
2 behavior is suspicious, the proof failed.

3 The State has the burden of proving the defendant
4 guilty beyond a reasonable doubt. This burden rests on the
5 State, regardless of whether the State relies on direct
6 evidence, circumstantial evidence, or a combination of the two.

7 I have admitted into evidence in this case a
8 statement allegedly to have been made by the defendant. Before
9 you make consider these statements as evidence for any purpose,
10 you must find that the State has proven beyond a reasonable
11 doubt and the answer is yes to both of the following question:
12 One, did the defendant make the statements? Two, was the
13 statement made voluntarily?

14 The word voluntarily means that he freely chose to
15 make the statement, and it was not induced by pressure, force,
16 or intimidation. If the statement was voluntarily given, it
17 may be used against him. If the statement is not voluntarily
18 given, it may not be used against him.

19 In determining whether or not the statement of the
20 defendant was voluntary, you should consider all the facts and
21 circumstances surrounding the statement, including the
22 defendant's age, maturity, his level of education and
23 intelligence, his physical and mental health, his background
24 and employment, the nature of any questioning and any other
25 evidence that you believe bears on the voluntariness of the

1 defendant's statement.

2 If the defendant was in custody at the time the
3 statement was made, then you should also consider the place and
4 length of his custody and whether or not he understood his
5 constitutional rights, what we commonly refer to as his Miranda
6 rights. These rights are that he has a right to remain silent;
7 that any statement that he does make can and will be used
8 against him in a court of law;

9 That he has the right to consult a lawyer before
10 and during any questioning; that if he cannot afford a lawyer,
11 the Court will appoint one to represent him without cost.

12 He has the right to exercise these rights at any
13 time and terminate the questioning or not answer any questions
14 or make any statements. I find as a matter of law that the
15 defendant was in custody at the time the statement was made.

16 Now, the defendant is charged with criminal sexual
17 conduct with a minor in the first degree. The State must prove
18 beyond a reasonable doubt that the defendant engaged in sexual
19 battery with the victim. A sexual battery is sexual
20 intercourse, cunnilingus, fellatio, anal intercourse or any
21 intrusion, however slight, of any part of a person's body or
22 any object into the genitalia or anal opening of another
23 person's body, except when the intrusion is accomplished for
24 medically recognized treatment or diagnosis.

25 Cunnilingus is defined as oral stimulation of the

STATE of SOUTH CAROLINA v. JOHN T. BASILE - 2019GS0701383, VOLUME II

1 vulva or clitoris with the lips or tongue. Cunnilingus is
2 medically and legally accomplished by licking or kissing the
3 vulva or clitoris. Penetration of the vagina is not necessary
4 or required. The State must prove beyond a reasonable doubt
5 that the defendant was less than -- that the victim was less
6 than 11 years of age at the time of the sexual battery.

7 When consent, willingness, indifference, or
8 ignorance on the part of the minor, if any, as to what was
9 taking place does not in any way affect the charge of criminal
10 sexual conduct with a minor because an unmarried woman under
11 the age of 14 cannot legally cannot legally consent to sexual
12 intercourse.

13 Ladies and gentlemen, you are not advocates for the
14 State of South Carolina or this defendant. You do not serve as
15 jurors to reward your friends or punish your enemies. That
16 system of justice simply would not be tolerated.

17 You have been selected by both the State and this
18 defendant to be fair and impartial jurors. It is your duty by
19 your joint deliberation to determine the facts of this case and
20 give the defendant every reasonable doubt on each and every
21 issue.

22 When you determine what the facts are in this case,
23 you are to apply the law that I have given to you and reach a
24 verdict in this case. When you have accomplished this, you
25 would have satisfied your duty to this Court. This verdict

1 must be unanimous, which means all 12 of you must agree.
2 Mr. Foreperson, I have had my law clerk draw up a possible
3 verdict form. State of South Carolina, County of Beaufort, v.
4 John Thomas Basile. There are four possible verdicts on this
5 form. Number one, as to the charge, it gives you the
6 Indictment Number as -01383, first degree criminal sexual
7 conduct with a minor. Penile penetration of the vagina of
8 **MINOR 2**. We the jury unanimously find the defendant
9 guilty or not guilty.

10 As to Number 2 ending in -1970, the charge of
11 criminal sexual conduct in the first degree with a minor,
12 digital penetration as to **MINOR 2**. We the jury
13 unanimously find the defendant guilty or not guilty.

14 As to Number 3 ending in -1969 first degree
15 criminal sexual conduct with a minor, cunnilingus with **MINOR 2**
16 **MINOR 2** We the jury unanimously find the defendant guilty or
17 not guilty.

18 Number 4, ending in -1384, first degree criminal
19 sexual conduct with a minor, cunnilingus with **MINOR 1**.
20 We the jury unanimously find the defendant guilty or not
21 guilty.

22 As I have told you, for each one of these counts,
23 the State must have proven to you beyond a reasonable doubt.
24 The order that my law clerk put them in, you should draw no
25 conclusions whatsoever. You simply will go through each one of

STATE of SOUTH CAROLINA v. JOHN T. BASILE - 2019GS0701383, VOLUME II

1 these. It must be a unanimous verdict. You check the
2 appropriate verdict you receive. You sign the bottom of it and
3 date it and knock on the door. We will bring you out and
4 receive the verdict.

5 If you have a question, you must write that
6 question down on a piece of paper and give it to the bailiff.
7 I will bring you back in and and try to answer it. I can tell
8 you right now, I cannot answer a question of fact. I can't do
9 it in this case. If you have a question of law, I can bring
10 you back out and charge you further on a question of law.

11 If you have a question of fact, I can't answer it.
12 If you want to hear the charge again or whatever, I can bring
13 you back out and do that.

14 Do they have the capabilities of watching the disks
15 in the jury room?

16 MS. KEENEY: No, Your Honor.

17 THE COURT: That happens in most of the courthouses
18 in the state. I don't have any way for you to play -- you will
19 receive all the evidence that you will carry back to the jury
20 room with you, but you can't play these disks. You have to
21 watch them in here.

22 If you for any reason want to watch any part of any
23 of it, simply let the bailiff know, and he will bring you back
24 in here and we will play it for you again on these screens.

25 I have to go over my charge with the attorneys and

1 be sure I haven't left anything out. If I have, I will bring
2 you back out and charge you further. If I have covered
3 everything, I will send this verdict form along with the
4 evidence back to the jury room. When you receive it, that will
5 be your indication to begin your deliberations.

6 If for any reason one of have to leave the room.
7 Go to the rest room or something. You have to stop talking
8 about the case. You can only talk about it when all 12 of you
9 are present. In all total, you must agree on the verdict
10 before you can check the box. Thank you.

11 If you will go to jury room, I will either send
12 this in and you can start, or I will bring you back out.

13 (Jury exits courtrooms at 4:05 p.m.)

14 THE COURT: Any exceptions or deletions on behalf
15 of the State?

16 MS. KEENEY: None from the State.

17 THE COURT: From the defense.

18 MR. STEPHENS: Your Honor, just renewing my
19 definition on the record for the definition of cunnilingus;
20 otherwise, nothing further from the defense.

21 THE COURT: Thank you, sir.

22 MS. KEENEY: I am sorry to interrupt.

23 THE COURT: Go ahead.

24 MS. KEENEY: The only thing I was going to say,
25 Mr. Stephens might want to articulate the basis of his

STATE of SOUTH CAROLINA v. JOHN T. BASILE' - 2019GS0701383, VOLUME II

1 objection for record purposes of my closing. You objected but
2 we talked about it up there. I don't know if you want to put
3 it on the record.

4 MR. STEPHENS: I don't think we actually asked for
5 a ruling from the judge on it.

6 THE COURT: I never ruled on it. You all corrected
7 yourself.

8 MS. KEENEY: I changed it to he might argue.

9 THE COURT: Versus what he was going to argue. I
10 understand.

11 Here is the verdict form. You all get with my
12 Court reporter and make sure that she and you all both agree
13 what evidence is in. I think I have 14 pieces of evidence.

14 MS. KEENEY: We have got 15.

15 THE COURT: Yes, you do. I got it.

16 We will be in recess until they reach a verdict.

17 (Court stood at ease while the jury deliberated
18 upon its verdict.)

19 * * *

20 READING OF THE VERDICT

21 THE COURT: I understand we have a verdict.

22 Anything before I bring the jury in?

23 MS. KEENEY: Nothing from the State.

24 MR. STEPHENS: Nothing from the defense.

25 THE COURT: Let's bring them in and take the

1 verdict.

2 (Jury enters courtroom at 4:37 p.m.)

3 THE COURT: Mr. Foreperson, I understand you have a
4 verdict.

5 THE FOREPERSON: Yes, Your Honor. We do.

6 THE COURT: Is it unanimous?

7 THE FOREPERSON: It is. Yes, sir.

8 THE COURT: Thank you.

9 THE CLERK: In the Court of General Sessions, The
10 State of South Carolina versus John Thomas Basile.

11 We the jury find the defendant guilty as to the
12 charge in 2019-GS-07-01970, first degree criminal sexual
13 conduct with a minor.

14 We the jury find the defendant guilty as to the
15 charge in 2019-GS-07-1969, first degree criminal sexual conduct
16 with a minor.

17 We the jury unanimously find the defendant guilty
18 as to the charge in 2019-GS-07-01384, first degree criminal
19 sexual conduct with a minor.

20 We the jury unanimously find the defendant guilty
21 as to the charge in 2019-GS-07-01383, first degree criminal
22 sexual conduct with a minor.

23 THE COURT: Anything from the State before I
24 dismiss the jury?

25 MS. KEENEY: No, Your Honor.

STATE of SOUTH CAROLINA v. JOHN T. BASILE - 2019GS0701383, VOLUME II

1 THE COURT: From the defense?

2 MR. STEPHENS: No, Your Honor. Thank you.

3 THE COURT: Lady and gentleman, I want to thank you
4 all for your service this week. I know this has been a
5 difficult case. You all have paid close attention, and I
6 appreciate it. They tell me we don't have any other trials
7 this week, so you are free to go. You don't have to do this
8 again for three years.

9 I have been telling you all week that you couldn't
10 talk about this case. Now you can talk about it with anybody
11 you want to. If you don't want to, you don't have to. But you
12 can at least go home and tell your family what you have been
13 doing all week. I appreciate your service. Have a great rest
14 of the week. Thank you so much.

15 (Jury exits courtroom.)

16 (Recess.)

17 * * *

18 SENTENCING HEARING

19 THE COURT: Anything from the State?

20 MS. KEENEY: Briefly, Your Honor. Obviously, you
21 have been here all week. You have listened to the facts. You
22 saw the girls. You heard them testify. They will have to live
23 with this for the rest of their lives. That is what we are
24 asking for here; for a life sentence. I know it says 25 or
25 life. We are asking for life. If you think that he deserves

1 something less, then we would ask for a consecutive sentence.

2 Obviously, the maximum on the two charges that he
3 pled guilty to, which is 15.

4 The victim's family does not want to speak. He
5 does not have a prior record, but as Your Honor knows, what he
6 is convicted of is as bad as it gets besides basically
7 murdering someone.

8 THE COURT: Yes, sir.

9 MR. STEPHENS: Thank you, Your Honor. As has been
10 discussed in chambers, the 25 years is practically a life
11 sentence for Mr. Basile. He is 65 years old. He has declining
12 health.

13 Your Honor, the defense would argue that we don't
14 believe that a life sentence is appropriate given the facts in
15 his case, given the fact that he was cooperative to law
16 enforcement. He did admit to the abuse. The abuse, while it
17 is some of the most serious offenses that can be considered by
18 the Court, on a scale of the seriousness of this type of sexual
19 battery, it is relatively limited in scope and duration.

20 His behavior was affected by some extenuating
21 conditions, which include his alcohol use and abuse that had
22 been noted by some family members.

23 It was not accompanied by extensive grooming or
24 threats to the children. There has been at least a partial
25 acceptance of responsibility of his pleas to the lesser

STATE of SOUTH CAROLINA v. JOHN T. BASILE - 2019GS0701383, VOLUME II

1 offense, Your Honor.

2 The only other thing I would note for the Court is
3 Mr. Basile would like to address the Court and would note that
4 he has been in pretrial confinement for 714 days, Your Honor.

5 THE COURT: Yes, sir. I will be glad to hear from
6 you.

7 THE DEFENDANT: Your Honor, I just want to tell my
8 family and especially the girls how sorry I am. Maybe some day
9 they can forgive me because I know I will never forgive myself.

10 THE COURT: Thank you, sir.

11 Mr. Basile, I have taken into account the fact that
12 you don't have a prior record and your age, even though the
13 facts in this case were horrific.

14 On Indictment 2019-GS-07-01970, the sentence of the
15 Court is you be committed to the State Department of
16 Corrections for a term of 25 years.

17 On Indictment ending in -1969, it's 25 years to run
18 concurrent.

19 Indictment ending in '1383, 25 years to run
20 concurrent.

21 Indictment ending in -1384, 25 years to run
22 concurrent.

23 On the lewd act, criminal sexual conduct, third
24 degree, on indictment ending in -460 the sentence is 15 years
25 to run concurrent with all counts.

STATE of SOUTH CAROLINA v. JOHN T. BASILE - 2019GS0701383, VOLUME II

1 Indictment ending in -459 the sentence is ten years
2 to run consecutive to Indictment 16-GS-07-01384.

3 Understanding your age, this is, in all
4 probability, will constitute a life sentence.

5 MS. KEENEY: Thank you, Your Honor.

6 MR. STEPHENS: Thank you, Your Honor.

7 (At 5:11 p.m., the proceedings were concluded.)

8 * * *

9 END OF VOLUME II

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STATE of SOUTH CAROLINA v. JOHN T. BASILE - 2019GS0701383, VOLUME II

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CERTIFICATE OF REPORTER

* * *

I, KYMBERLEE M. WILLIAMS, Registered Professional Reporter, do hereby certify that the foregoing transcript is a true, accurate, and complete record of the matter held in the Court of General Sessions on the 21st - 23rd days of June, 2021, in the Fourteenth Judicial Circuit in the State of South Carolina.

I further certify that I am neither related to, nor counsel for, any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 31st day of December, 2021 at Beaufort County, South Carolina.



Kymberlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
State of South Carolina
Fourteenth Judicial Circuit
kwilliams@sccourts.org

WITNESSES

BCSD - Todd Conway

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 3/25/21

VERDICT

Guilty

Foreperson of Petit Jury

Date:
INDICT

6/23/21

DOCKET NO. 2019GS0701969

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

March Term 2021

THE STATE

vs.

JOHN THOMAS BASILE

AMENDED Indictment For

Criminal Sexual Conduct With Minor,
First Degree

SC Code: 16-3-655(A)(1) & (D)(1)

CDR Code: 0385

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

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.

RECEIVED
JUL 07 2021
SC Court of Appeals

STATE OF SOUTH CAROLINA

)
)
)AMENDED
INDICTMENT

2019GS0701969

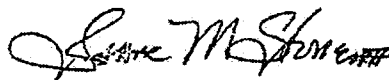
COUNTY OF BEAUFORT

At a Court of General Sessions, convened on March 25, 2021, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct With Minor, First Degree

That in Beaufort County, South Carolina, on or about January 1, 2018 through July 1, 2019, the Defendant, JOHN THOMAS BASILE, did engage in sexual battery with [REDACTED] who was less than eleven years of age at the time of the sexual battery, to wit: cunnilingus, all in violation of Section 16-3-655(A)(1) & (D)(1), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

GUTT

WITNESSES

BCSO

DOCKET NO. 2019GS0701969

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

November Term 2019

THE STATE

vs.

JOHN THOMAS BASILE

Indictment For

Criminal Sexual Conduct With Minor
- 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.

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

NOV 14 2019

VERDICT

Foreperson of Petit Jury

Date:

INDICT

RECEIVED

JUL 07 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

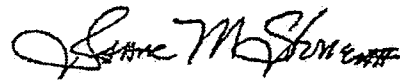
INDICTMENT
2019GS0701969

At a Court of General Sessions, convened on November 14, 2019, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct With Minor – First Degree

That in Beaufort County, South Carolina, on or about August 1, 2018 through July 1, 2019, the Defendant, JOHN THOMAS BASILE, did engage in sexual battery with [REDACTED] who was less than eleven years of age at the time of the sexual battery, to wit: oral intercourse, all in violation of Section 16-3-655(A)(1), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

True Bill

WITNESSES

BESD - Todd CALHOUN

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

6/25/21

VERDICT

Guilty

Foreperson of Petit Jury

Date:

INDICT

6/23/21

DOCKET NO. 2019GS0701970

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

March Term 2021

THE STATE

vs.

JOHN THOMAS BASILE

AMENDED Indictment For

Criminal Sexual Conduct With Minor,
First Degree

SC Code: 16-3-655(A)(1) & (D)(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.

RECEIVED
JUL 07 2021
SC Court of Appeals

STATE OF SOUTH CAROLINA)

AMENDED
INDICTMENT

COUNTY OF BEAUFORT)

2019GS0701970

At a Court of General Sessions, convened on March 25, 2021, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct With Minor, First Degree

That in Beaufort County, South Carolina, on or about January 1, 2018 through July 1, 2019, the Defendant, JOHN THOMAS BASILE, did engage in sexual battery with [REDACTED] who was less than eleven years of age at the time of the sexual battery, to wit: digital penetration, all in violation of Section 16-3-655(A)(1) and (D)(1), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

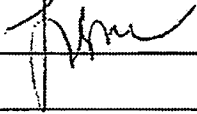


Solicitor

119 011 T

WITNESSES

BCSO

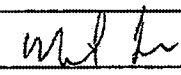


ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

True Bill


 Foreperson of Grand Jury

Date:

JUL 14 2019

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2019CS0701970

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

November Term 2019

THE STATE

vs.

JOHN THOMAS BASILE

Indictment For

Criminal Sexual Conduct With Minor
- 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

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.

RECEIVED
JUL 07 2021
SC Court of Appeals

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF BEAUFORT)

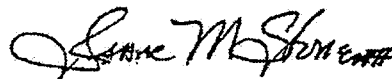
2019GS0701970

At a Court of General Sessions, convened on November 14, 2019, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct With Minor

That in Beaufort County, South Carolina, on or about August 1, 2018 through July 1, 2019, the Defendant, JOHN THOMAS BASILE, did engage in sexual battery with [REDACTED] ([REDACTED]) who was less than eleven years of age at the time of the sexual battery, to wit: anal penetration, all in violation of Section 16-3-655(A)(1), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

True Bill

WITNESSES

BCSD Todd CACHOON

ARREST WARRANT NUMBER

2019A0710300335

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 3/25/21

VERDICT

Guilty

Foreperson of Petit Jury

Date: 6/23/21
INDICT

DOCKET NO. 2019GS0701383

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

March Term 2021

THE STATE

vs.

JOHN THOMAS BASILE

AMENDED
Indictment ForCriminal Sexual Conduct With Minor,
First Degree

SC Code: 16-3-655(A)(1) & (D)(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.

RECEIVED

JUL 07 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA

)
)
)AMENDED
INDICTMENT

2019GS0701383

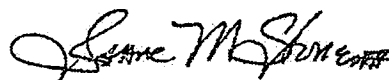
COUNTY OF BEAUFORT

At a Court of General Sessions, convened on March 25, 2021, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct With Minor, First Degree

That in Beaufort County, South Carolina, on or about January 1, 2018 through July 1, 2019, the Defendant, JOHN THOMAS BASILE, did engage in sexual battery with [REDACTED] ([REDACTED]) who was less than eleven years of age at the time of the sexual battery, to wit: penile penetration of vagina, all in violation of Section 16-3-655(A)(1) & (D)(1), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

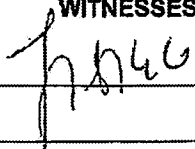


Solicitor

line Bm

WITNESSES

BCSO

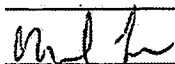


ARREST WARRANT NUMBER

2019A0710300335

ACTION OF GRAND JURY

True Bill



Foreperson of Grand Jury

Date:

NOV 14 2019

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2019GS0701383

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

November Term 2019

THE STATE

vs.

JOHN THOMAS BASILE

Indictment For

Criminal Sexual Conduct With Minor
- 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.

RECEIVED

JUL 07 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF BEAUFORT

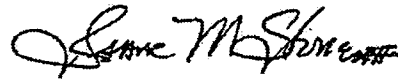
2019GS0701383

At a Court of General Sessions, convened on November 14, 2019, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct With Minor – First Degree

That in Beaufort County, South Carolina, on or about August 1, 2018 through July 1, 2019, the Defendant, JOHN THOMAS BASILE, did engage in sexual battery with [REDACTED] who was less than eleven years of age at the time of the sexual battery, to wit: vaginal penetration, all in violation of Section 16-3-655(A)(1), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

True Bill

WITNESSES

BCSD - Todd Calhoun

ARREST WARRANT NUMBER

2019A0710300336

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: 3/25/21

VERDICT

Guilty

Foreperson of Petit Jury
Date: 6/23/21
INDICT

DOCKET NO. 2019GS0701384

The State of South Carolina
County of Beaufort

COURT OF GENERAL SESSIONS

March Term 2021

THE STATE

vs.

JOHN THOMAS BASILE

Amended
Indictment ForCriminal Sexual Conduct With Minor,
First Degree

SC Code: 16-3-655(A)(1) & (D)(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.

RECEIVED

JUL 07 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA

)
)
)AMENDED
INDICTMENT

COUNTY OF BEAUFORT

2019GS0701384

At a Court of General Sessions, convened on March 25, 2021, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct With Minor, First Degree

That in Beaufort County, South Carolina, on or about January 1, 2018 through July 1, 2019, the Defendant, JOHN THOMAS BASILE, did engage in sexual battery with [REDACTED] who was less than eleven years of age at the time of the sexual battery, to wit: cunnilingus; all in violation of Section 16-3-655(A)(1) & (D)(1), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

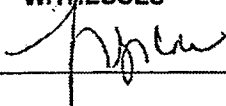


Solicitor

1 out

WITNESSES

BCSO



DOCKET NO. 2019GS0731384

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

November Term 2019

THE STATE

vs.

JOHN THOMAS BASILE

Indictment For

Criminal Sexual Conduct With Minor
- 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.

ARREST WARRANT NUMBER

2019A0710300336

ACTION OF GRAND JURY

True Bill


Foreperson of Grand Jury
Date: NOV 14 2019

VERDICT

Foreperson of Petit Jury

Date:
INDICT

RECEIVED

JUL 07 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF BEAUFORT

2019GS0701384

At a Court of General Sessions, convened on November 14, 2019, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct With Minor – First Degree

That in Beaufort County, South Carolina, on or about August 1, 2018 through July 1, 2019, the Defendant, JOHN THOMAS BASILE, did engage in sexual battery with [REDACTED] who was less than eleven years of age at the time of the sexual battery, to wit: vaginal penetration, all in violation of Section 16-3-655(A)(1), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

True Bill

STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort

STATE

VS.

JOHN THOMAS BASILE

AKA:

Race: White

Sex: Male

Age:

DOB:

SS#:

Address:

DL#

*

SID#

) INDICTMENT/CASE#:

2019GS0701969

) A/W#:

DIRECT INDICTMENT

) Date of Offense:

01/01/2018 07/01/2018

) S.C. Code §:

16-3-655(A)(1)

) CDR Code #:

0385

) SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or☐ PLEADS

TO: Criminal Sexual Conduct with a Minor, First Degree

In violation of § 16-3-655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS☒ MOST SERIOUS☐ MANDATORY GPS ☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def's initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence.☐ Recommendation by the State.

ATTORNEY:

(Solicitor)

(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 25 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 Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered ☐ PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§14-1-206 (Assessments (07.5%))

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2993 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso 61.6 (Public Def/Prob)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

\$100

\$100

\$12

\$25

\$500

\$25

\$150

\$50

\$40/each

\$ 3.75

\$ 128.75

☐ 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 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

TOTAL

Clerk of Court/Deputy Clerk:

Court Reporter:

MP-SCCA/217 (04/2018)

Presiding Judge:

Judge Code:

Sentence Date:

Certified - A True Copy

Jerrin Ann Rosebeau - Clerk of Court
Beaufort County SC - Jennifer PetroffRECEIVED
JUL 07 2021
SC Court of Appeals

STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort

STATE

VS.

JOHN THOMAS BASILE

AKA:

Race: White Sex: Male Age:

DOB: SS#

Address:

DL# * SID#

) INDICTMENT/CASE#:

2019GS0701970

) A/W#:

DIRECT INDICTMENT

) Date of Offense:

01/01/2018 07/01/2019

) S.C. Code §:

16-3-655(A)(1)

) CDR Code #:

0385

) SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Criminal Sexual Conduct with a Minor, First Degree

In violation of § 16-3-655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ MANDATORY GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 2nd)

The charge is: ☒ As indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (def's initials)
The plea is: ☐ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☐ Recommendation by the State.

(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 25 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 Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

\$14-1-211 (A)(2)(DUI Surcharge)

\$56-5-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

Proviso 61.6 (Public Def/Prob)

\$14-1-212 (Law Enforce. Funding)

\$14-1-213 (Drug Court Surcharge)

\$50-21-114 (BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

\$100

\$100

\$12

\$25

\$500

\$25

\$150

\$50

\$40/each

\$

\$

\$

\$

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☐ 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 requires \$500 be paid to Clerk during probation and shall be collected before any other fee.

Presiding Judge:

Judge Code:

Sentence Date:

Certified - A True Copy

TOTAL

\$ 12675

Clerk of Court/Deputy Clerk

Court Reporter:

MP-SCCA/217 (04/2018)

Jerr Ann Rosemeas - Clerk of Court
Beaufort County, SC - Jennifer Petry

RECEIVED

JUL 07 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort

STATE

VS.

JOHN THOMAS BASILE

AKA:

Race: White Sex: Male Age:

DOB: SS#

Address:

DL# SID#

) INDICTMENT/CASE#:

2019GS0701383

) A/W#:

2019A0710300335

) Date of Offense:

01/01/2018 07/01/2019

) S.C. Code §:

16-3-655(A)(1)

) CDR Code #:

0385

) SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Criminal Sexual Conduct with a Minor, First Degree

In violation of § 16-3-655(A)(1) of the S.C. Code of Laws, hearing CDR Code # 0385

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS☒ MOST SERIOUS☐ MANDATORY GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted,☐ Lesser Included Offense.☐ Defendant Waives Presentment to Grand Jury.

(def's initials)

The plea is: ☐ Without Negotiations or Recommendation.☐ Negotiated Sentence,☐ Recommendation by the State.ATTORNEY: *Michael Kelly 100145*
(Attorney for Defendant) (SC Bar #)*72418*
(Attorney for Defendant) (SC Bar #)WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections☐ County Detention Center,for a determinate term of 25 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 Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment _____

Payment Terms: _____

☐ Set by SCDPPPSRecipient: *Public Defender Application*

*Fine:

§14-1-206 (Assessments 107.5%)		\$ <u>40</u>
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100</u>
§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/Prob)	\$500	\$ _____
§14-1-212 (Law Enforcement Funding)	\$25	\$ <u>25</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/each	\$ _____
3% to County (if paid in installments)		\$ _____

☐ 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 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

TOTAL

\$168.75

Clerk of Court/Deputy Clerk

Court Reporter: *K. [Signature]*

MP-SCCA/217 (04/2018)

Presiding Judge: *[Signature]*Judge Code: *2144*Sentence Date: *1-23-21*

Certified - A True Copy

[Signature]
 Jerri Ann Rosendau - Clerk of Court
 Beaufort County, SC - Jennifer Petroff

STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort

STATE

VS.

JOHN THOMAS BASILE

AKA:

Race: White

Sex: Male

Age:

DOB: [REDACTED]

SS#: [REDACTED]

Address:

DL# *

SID#

) INDICTMENT/CASE#:

2019GS0701384

) A/W#:

2019A0710300336

) Date of Offense:

01/01/2018 07/01/2019

) S.C. Code §:

16-3-655(A)(1)

) CDR Code #:

0385

) SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or☐ PLEADS

TO: Criminal Sexual Conduct with a Minor, First Degree

In violation of § 16-3-655 (A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ MANDATORY GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury,

(def's initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

(Solicitor)

(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 25 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 Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred☐ Def. Waives Hearing☐ Ordered

PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

§14-1-211 (A)(2)(DUI Surcharge)

\$100

§36-5-2995 (DUI Assessment)

\$12

§36-1-286 (DUI Breath Test)

\$25

Proviso 61.6 (Public Def/Prob)

\$500

§14-1-212 (Law Enforce. Funding)

\$25

§14-1-213 (Drug Court Surcharge)

\$150

§50-21-114 (BUI Breath Test Fee)

\$50

§36-5-2942(J) (Vehicle Assessment)

\$40/each

3% to County (if paid in installments)

\$375

TOTAL

\$12675

Clerk of Court/Deputy Clerk

Court Reporter: _____

MP-SCCA/217 (04/2018)

☐ 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 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

Certified - A True Copy

Jeri Ann Rosebeau - Clerk of Court
Beaufort County, SC - Jennifer FetoffRECEIVED
JUL 07 2021
SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014, order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

s/David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED
Jun 03 2022
SC Court of Appeals

This 3rd day of June, 2022.