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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Eugene C. Griffith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ERIC EMANUEL ENGLISH,

APPELLANT

APPELLATE CASE NO. 2018-000850

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Court of General Sessions

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5 State of South Carolina)

Transcript of Record

6 vs.)

2014-GS-32-01630

7 Eric Emanuel English,)

8 Defendant.)

9

10

11

January 8 - 10, 2018
Lexington, South Carolina

12

B E F O R E:

13

The Honorable Eugene C. Griffith, Jr., Judge; and a jury

14

15

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1 (The following proceedings were held January 8, 2018,
2 beginning at 10:47 AM.)

3 (Court's Exhibit Number 1 was marked for
4 identification.)

5 **BAILIFF:** All rise.

6 **THE COURT:** Y'all be seated, please.

7 Are we ready to proceed?

8 **MS. PATTERSON:** The State's ready, Your Honor.

9 **MR. CHEHOSKI:** The defense is ready.

10 **THE COURT:** Very well.

11 All right. Ms. Patterson, call the first case,
12 please.

13 **MS. PATTERSON:** Yes, sir, Your Honor. May it please
14 the Court? State of South Carolina versus Eric English
15 in Indictment 2014-GS-32-1630 for the offense of criminal
16 sexual conduct with a minor first degree.

17 **THE COURT:** All right. Ladies and gentlemen of the
18 jury, I'm gonna -- Ms. Patterson, who represents the State
19 as the Solicitor, has called the first case. I'll give
20 you some instructions as to kind of what's going on, but,
21 importantly, I'm gonna ask questions about do you know
22 anything about the case, have you heard anything, read
23 anything; social media, television, newspaper, it doesn't
24 matter, but all of my questions that will be asked is if
25 you know someone, one of the witnesses, one of the lawyers,

1 All right. Let's deal first with Mr. English and
2 his lack thereof presence.

3 **MR. CHEHOSKI:** I guess, Your Honor, I don't want to
4 get too much into what we spoke to unless ordered by the
5 Court. Obviously the bond form that he has does explain
6 that. Again, I don't want to -- I can say things that
7 would kind of give more information. But, again, I worry
8 about the whole attorney/client privilege matter as
9 perhaps an act of disloyalty as well and want to stay
10 within the bounds of the rules of professional conduct,
11 so unless ordered by the Court I can't go into anything
12 further other than the fact that obviously he's not here.

13 **THE COURT:** All right. Let me ask you this. Have
14 you talked to his bonding company?

15 **MR. CHEHOSKI:** I have not.

16 Your Honor, with reference to his bonding company,
17 they were -- they did file a motion to come off the bond
18 when he was picked up on a new charge earlier -- well,
19 last year, I guess, and they -- when we had the motion, I
20 want to say it was in late October --

21 **MS. PATTERSON:** November.

22 **MR. CHEHOSKI:** -- October or November of last year,
23 the bonding company did not show up to defend their motion
24 and, therefore, the bonding company was kept in place at
25 that time.

1 **THE COURT:** Yeah, Judge Keesley wrote that in hand.
2 Bail bonding company failed to appear and he initialed it,
3 so that's correct.

4 **MR. CHEHOSKI:** Right.

5 **MS. PATTERSON:** Yes, sir.

6 **MR. CHEHOSKI:** But as far as -- okay. He has not
7 reported. Your Honor, again, I just -- I do have
8 information, but I don't think I can tell the Court
9 without running afoul of certain rules of the code of
10 professional conduct unless ordered by the Court.

11 **THE COURT:** Did he get released on the second charge?

12 **MR. CHEHOSKI:** The second charge was converted to a
13 PR bond --

14 **THE COURT:** Okay.

15 **MR. CHEHOSKI:** -- at that same hearing back at the
16 end of October or November.

17 **THE COURT:** Okay.

18 All right. Ms. Patterson, do you want to be heard?

19 **MS. PATTERSON:** Yes, sir, Your Honor. It's the
20 State's request that we be allowed to proceed with the
21 trial. Mr. English has received ample notification that
22 this proceeding can go on with or without his presence.
23 That was contained in the original bond paperwork that he
24 signed back in 2014. We told him that I'm sure. We've
25 had so many hearings on this case, Your Honor, because

1 he's had bond hearings, new charges, different attorneys,
2 so I've had the pleasure of being in a lot of hearings
3 with Mr. English. He's received trial notice.
4 December 11th it was sent to him and that trial notice
5 contained language that informed him that the case may
6 result -- that it may result in the case being tried in
7 his absence if he does not show up and that a bench
8 warrant would be issued and we would commence with bond
9 estreatment. I, too, have not spoken with his bonding
10 company; however, they received notification as well that
11 this trial was gonna be called today. We do know that he
12 knows about this trial. He and his family have even
13 called my office. I think they've talked to the public
14 defender. They've told -- everybody has told him that he
15 needed to be here in court today. He's even had some
16 family members that reached out to my -- my victim's mom
17 wishing her luck with these pleadings, so we do know that
18 he received notice about this week's proceeding and we
19 just ask that this -- that the trial be continued without
20 his presence, Your Honor.

21 **THE COURT:** All right. Mr. Chehoski, let's talk
22 about whether your client will be tried in his absence or
23 not.

24 **MR. CHEHOSKI:** Thank you, Your Honor. I think
25 according to Rule 16 of the South Carolina Rules of

1 Criminal Procedure, the Court does have to make a finding
2 -- does have a make a finding that he was given notice,
3 that he was advised of his right to be present and that
4 he was warned that the trial may continue in his absence
5 if he does not appear. I -- also, Your Honor, I think
6 just out of an abundance of caution given that there
7 has been contact between my client's family and the
8 solicitor's office and the public defender's office, on
9 both sides, that the information is that he is in the
10 state, he has been informed that he needs to be here and,
11 you know, I think I -- out of an abundance of caution I
12 have to move for a continuance at least until he does
13 arrive.

14 **THE COURT:** Judge Keesley signed an order in July
15 of this year -- last summer, July 10th of 2017, and he
16 mentioned several times that Mr. English had reported
17 every time, he'd never been in trouble with law
18 enforcement other than the trespassing issue in Florida,
19 that he had reported to all hearings, he'd never had
20 trouble getting to court.

21 It seems to me based upon his bond that was issued
22 in -- on November 29th of 2014 that he was provided
23 notice that he was to follow all conditions set by circuit
24 court order and he'd be tried in his absence if he failed
25 to show and he's had several court appearances since then.

1 **MS. PATTERSON:** And I can provide you with a copy of
2 his trial -- the letter he received regarding his trial.

3 **THE COURT:** Yes. Let's mark that as Court's
4 Exhibit 2.

5 (Court's Exhibit Number 2 was marked for
6 identification.)

7 **THE COURT:** All things considered, Mr. Chehoski, I
8 believe that your client does have proper notice, that
9 he be tried in his absence and that he be tried some
10 time after the November 13th term of Court, this past
11 fall and --

12 **MR. CHEHOSKI:** Yes, Your Honor. I just want to
13 make sure -- we wanted to have everything on the record.

14 Another reason for moving for the continuance is
15 that Mr. English's presence is vital for our -- for our
16 defense and his -- again, just making sure that we say on
17 the record that we're asking for the continuance to at
18 least allow him time to get here even with the knowledge
19 -- that even with the information that we were provided
20 with today, we're asking for more time so he can get here.

21 **THE COURT:** Okay. Well, since we're talking a lunch
22 break until 2:00, we've still got an hour and forty-five
23 minutes before we get the jury sworn. So I think the
24 Court is taking kind of that into account to give him
25 time to get here and if he's in Charleston or Greenville

1 he can get here in two hours on the Interstate.

2 So I think it would be appropriate for us to start
3 at 2:00. I'd rather your client be here than not be
4 here, but notice has been made. His bond requires him
5 to be here and he's not, so we'll proceed at 2:00.

6 Anything else we want to put on the record regarding
7 that issue before we go onto the pre-trial matter that
8 the State has?

9 **MR. CHEHOSKI:** Your Honor, I don't think that -- I
10 just want to make sure -- you know, if I repeat myself,
11 please forgive me. That we have had contact with him
12 today, he has been informed that we are gonna be starting
13 today with or without him, but I am moving for the
14 continuance really out of abundance of caution. There's
15 some case law I read over the weekend that could find me
16 ineffective for not doing so and also for the sheer
17 necessity of his presence for his defense.

18 **THE COURT:** Okay. And you've made a record of that
19 and I am confident knowing you that you've apprised him
20 that the trial was gonna begin midday today and the jury's
21 been selected but not sworn yet, so I'm certain you've
22 advised him his presence is absolutely necessary and will
23 be quite helpful and so if he fails to show, that's to
24 his own detriment. So you've made -- you've made a good
25 record of what the Court believes you must show by

1 requesting a continuance to start the trial. I'm not
2 gonna grant your motion, but you've made a record of
3 it and you're protected.

4 All right. Ms. Patterson, what've you got?

5 **MS. PATTERSON:** Thank you, Your Honor.

6 The State has filed a motion to amend an out of court
7 statement of child pursuant to South Carolina Code Section
8 17-23-175. We filed this motion December 19th of last
9 year. We're seeking to admit a forensic interview of the
10 child by Brook Wymer on March -- and I apologize, I don't
11 have the date in front of me. March 28th? March 18th of
12 2014 by Brook Wymer, who was a forensic interviewer at
13 the Dickerson Center. This case was referred there by
14 Lexington County Sheriff's Department investigator Trish
15 Stoner after she began working on this case.

16 The State would move this out of court statement
17 meets the criteria of 17-23-175 in that it provides
18 particularized guarantees of trustworthiness. This child
19 was under the age of twelve at the time of the statement.
20 She was actually eight years old. The statement was
21 given in response to questioning conducted during the
22 investigative interview at the Dickerson Center and an
23 audio and visual recording of the statement has been
24 preserved by electronic means, and we have a copy of that
25 on -- of that, Your Honor. We've provided that in the

1 discovery and the child is here to is testify and subject
2 to cross-examination.

3 We do have Ms. Wymer here, Your Honor, if you would
4 like me to proffer her questioning. Like I said, we also
5 have a copy of the video. I have redacted a portion of
6 the video that I think is prejudicial to the Defendant.
7 During the questioning Ms. Wymer asked the child about if
8 she knew if her father did this to anybody else, so I have
9 redacted that portion out of the video and it has been
10 signed and attested to by Ms. Wymer, and I just wanted to
11 put that on the record.

12 I haven't time to provide Mr. Chehoski with that
13 redacted recording. Well, I can provide it now, but I
14 know he won't have time to see it. But as an officer of
15 the court, I will tell Your Honor that we have taken that
16 portion out. I'm not sure if there's anything else that
17 Mr. Chehoski wanted to --

18 **THE COURT:** How long is the interview?

19 **MS. PATTERSON:** It's about fifty minutes roughly.

20 **THE COURT:** Okay. All right. I'll -- if I can get
21 it watched over lunch, then I can make a ruling. I
22 understand the parameters of your motion to have it
23 qualified under the statute. Until I review it, I can't
24 make that ruling.

25 Mr. Chehoski, do you have any other objections other

1 than the redaction which she's done?

2 **MR. CHEHOSKI:** Yes, Your Honor, actually I do. I
3 have a memo that I've drawn up. May I approach?

4 **THE COURT:** Sure.

5 (Court's Exhibit Number 3 was marked for
6 identification.)

7 **MR. CHEHOSKI:** Your Honor, my objection to it is
8 actually severalfold. The first argument -- I guess the
9 first argument or first objection is that the statute
10 itself is unconstitutional under I think the Fifth,
11 Sixth and Fourteenth amendments of the United States
12 Constitution and Articles 3 and 6 of the South Carolina
13 Constitution because it does not provide for -- it does
14 not provide for -- the video is not under oath and that
15 the -- and that it is not subject to contemporaneous
16 cross-examination. And so, therefore, it's -- in our
17 opinion it would be improper bolstering of the witness
18 after testifying then to see her testify again on video.

19 We also think, Your Honor, that the necessity of the
20 statute -- or the necessity of the statute for this is it
21 helps to limit the exposure of trauma to the child for
22 having to confront her attacker. Well, given the way
23 certain things are, Your Honor, that is not gonna be
24 happening if Mr. English is not present. I think, again,
25 part of the necessity of that was to, again, limit the

1 exposure, so -- going to the intent of the statute to
2 limit the exposure that the witness has to undergo in
3 confronting her attacker, whereas now with -- with this
4 trial proceeding conceivably in Mr. English's absence,
5 that is now mitigated. So, Your Honor -- and this is,
6 of course, according to Maryland versus Craig where they
7 said that the State needs to make an adequate showing of
8 necessity where the State must present case-specific
9 evidence from which the trial court can determine whether
10 the admission of the videotape --

11 **THE COURT:** Slow down a little bit, Jason.

12 **MR. CHEHOSKI:** I'm sorry. I get a little bit ahead
13 of myself sometimes. The State must present case-specific
14 evidence from which the trial court can determine whether
15 admission of videotaped evidence is necessary to protect
16 the welfare of the particular child witness. Also the
17 trial court must find that the child witness would be
18 traumatized by the presence of the defendant and the trial
19 court must find that the trauma suffered by the child
20 witness in the presence of the defendant is more than
21 nervousness or excitement or some reluctance to testify.

22 Your Honor, I think in this case the -- certainly
23 the second and the third prongs of that are not
24 applicable given the absence of the Defendant.

25 Your Honor, in addition to that --

1 **THE COURT:** Let me make sure I understand your
2 argument. As I understand the way the interview was
3 done and the way I've been doing it for the last several
4 years, is that the interviewer comes in and testifies
5 that they're an employee of the facility, they work there
6 and there was a recording made of the interview of the
7 child; the time, date and place of the interview, and
8 that's about it. Just a brief foundation from the
9 interviewer. The Court has to make a finding reviewing
10 the audio and video of the entire interview as to whether
11 it meets the terms and parameters of the statute as to
12 -- as far as voluntariness and trustworthiness, and the
13 Court does that in-camera. If the Court deems it okay,
14 then the video is generally played during the trial of
15 the State's case. It's been my practice to not require
16 the State to call their witnesses in any particular order,
17 but that once they play the video that the child would be
18 subject to being placed on the stand after the video and
19 allowed to be cross-examined if so requested by the
20 defense whether the child's testified before or not.

21 So the child can testify and Court's got to make the
22 determination as to whether the child understands right
23 and wrong and those parameters and is competent to testify
24 and the child can testify if so qualified, then the video
25 can be played at any time in the State's case it wants to,

1 but after the video's played, it's admitted, and the child
2 can be called as a witness by Court so the defense doesn't
3 get put in the box for being the bad guy, so to speak, for
4 calling the child back up, the Court calls the child back
5 up as a witness and allows cross-examination at that time
6 so that it makes the cross-examination of the video
7 contemporaneous.

8 That's how I've generally managed these, so I want
9 to make sure I understand your objection. If the Court
10 proceeds and makes a determination of competency, then
11 on the video, trustworthiness and reliability under the
12 statute, then the child testifies, assuming that's how the
13 trial proceeds. Let me make certain I understand your
14 objection. What would you object to if that were the case?

15 **MR. CHEHOSKI:** Your Honor, my initial objection is
16 that the video itself is not under oath.

17 **THE COURT:** And that's why the contemporaneous
18 cross-examination. You'd be allowed that.

19 **MR. CHEHOSKI:** Right.

20 **THE COURT:** Okay. So I would not suppress it because
21 of that.

22 **MR. CHEHOSKI:** I understand, but I -- again, for the
23 purpose of the record -- and also I'd request that my --
24 the objection that I have in writing be made a Court's
25 exhibit for the record as well.

1 **THE COURT:** Certainly.

2 **MR. CHEHOSKI:** Again, Your Honor, I would ask --
3 the second part is that the videotaped interview is
4 inadmissible hearsay and unduly prejudicial. Again,
5 due to the fact that we have the witness here, she will
6 be subject to cross-examination and, therefore, the
7 video itself is unnecessarily cumulative and by being
8 cumulative, unduly prejudicial. And, again, it's also
9 hearsay since it is an out of court statement.

10 Thirdly, Your Honor, this is -- we're arguing that
11 it should not come in. If you -- if my objection is
12 overruled, we ask that it be redacted to comply with the
13 South Carolina rules of evidence, specifically rules 401
14 and 802, to redact additional portions such as the child
15 describing her birthday party. There is a period of time
16 when the interviewer leaves the room leaving the child
17 alone and drawing a picture. We find that irrelevant and
18 also can -- and also subject to a 403 analysis, unduly
19 prejudicial, because it can draw an emotional reaction.
20 And also at the end the child describing that she drew
21 a picture of the interviewer before completing the
22 interview. If my objection is overruled, we ask that
23 the video be further redacted to make sure that those
24 particular sequences are redacted.

25 And, finally, Your Honor, as you've already

1 mentioned, that we do request that cross-examination of
2 the complaining witness take place after the videotaped
3 evidence is put in.

4 **THE COURT:** All right.

5 **MR. CHEHOSKI:** And that is the basis of my objection.

6 **THE COURT:** Okay. Ms. Patterson answer -- I think
7 we've already discussed -- answer the bolstering question
8 as well as the 403 of the drawing and the comments about
9 the birthday party.

10 **MS. PATTERSON:** Your Honor, I don't know how we
11 could be bolstering the witness when the statute itself
12 requires that the child be present and is subject to
13 cross-examination. That's one of the requirements for
14 the admission of the out of court statement, so I don't
15 see how that could be bolstering when it's actually a
16 requirement under the statute.

17 The statute has been upheld in several cases, Your
18 Honor, State v. Bryant, as well as -- I have another
19 case right here before me finding that these statements
20 have a particularized guarantee of trustworthiness.
21 State v. Russell and State v. Bryant. I'm sorry. The
22 Defendant's presence, he's -- as far as I'm concerned,
23 he's waived his presence to be here. She's still subject
24 to cross-examination through his counsel even though the
25 Defendant chose not to be here.

1 As far as being prejudicial, the fact that she's
2 drawing a picture, Your Honor, this is just part of
3 the rapport. I mean, it's nothing prejudicial to the
4 Defendant. I mean, she's a child, so she may just, you
5 know, draw compassion just from the simple fact that
6 she's a child. I don't see how a child drawing a picture
7 of the interviewer is gonna draw any compression or
8 sympathy from the jury. So I would say, Your Honor, that
9 that not be granted under those circumstances, Your Honor.

10 And describing a birthday party, unfortunately this
11 incident did occur right around her birthday. I think
12 she may have -- that's why she was there. I think at one
13 point she went and got medical attention. It was on her
14 birthday. I mean, just the completeness. I've taken
15 out what I deem is prejudicial, but, I mean, just the
16 completeness of the video, I think, goes to the res gestae
17 of everything.

18 **THE COURT:** All right. I want to review the video
19 over lunch and make a determination of whether it's within
20 the boundaries of the statute. Also, I'll been looking
21 for the comments and the child's conversation with the
22 interviewer after the break when the child draws the
23 picture to see what comments she makes and try to make a
24 determination under 403 whether it's unduly prejudicial
25 to Mr. English or not, but the bolstering -- the statute

1 describes exactly the way to proceed to get an out of
2 court statement admitted, it's been recorded and the
3 child's presence is required, and I think that issue has
4 been addressed by the courts in the past and it's not
5 bolstering. The bolstering issues have already been --
6 other people commenting on the child's testimony and the
7 child's statements, and that's gonna be a minimum, is not
8 gonna happen if we present it in this fashion.

9 So, Mr. Chehoski, your record is protected. I'm not
10 gonna rule on the 403, the comments to the interviewer,
11 until I see the audio and the videotape. I'm not gonna
12 admit the audio/video until I review it and make certain
13 it's allowed within the parameters of the code section.
14 i will do that over lunch before we get started, all
15 right, but you're protected on that and I'll make my
16 ruling after seeing the video.

17 **MR. CHEHOSKI:** Thank you, Your Honor.

18 **THE COURT:** Okay. Anything else?

19 **MS. PATTERSON:** Yes, sir, Your Honor.

20 The State, we did file a motion to clear the
21 courtroom when the child victim testified, and that was
22 in regards to the Defendant's family, but I don't think
23 they're here, so that may not be an issue. Like I said,
24 I've had several hearings with them, they're very vocal,
25 they're very passionate. I've got information that they

1 had -- they've tried to influence the mother before and
2 so I was just gonna ask just during her testimony only
3 that any spectators be -- not be allowed in the courtroom
4 during her testimony.

5 **THE COURT:** And that's just other family members, not
6 the Defendant if he's present.

7 **MS. PATTERSON:** Certainly, Your Honor.

8 **THE COURT:** Okay. Fair enough. I mean, we'll
9 consider that, but if nobody's here that won't be a
10 problem.

11 **MS. PATTERSON:** I don't think we have any competency
12 issues with Minor , the victim, Your Honor. I've gotten
13 to know her over the last four years this case has been
14 pending. I don't foresee any competency issues. I'm not
15 sure if the Defendant -- or the defense is raising any as
16 related to her competency.

17 **MR. CHEHOSKI:** Your Honor, again, just really for
18 the protection of the record, a hearing as prescribed
19 under Rule 601.

20 **THE COURT:** We'll do that in camera, that will be
21 fine, when she gets called.

22 **MS. PATTERSON:** And I don't think there's any
23 Jackson v. Denno hearing. The only statement that the
24 State may offer is one that the Defendant gave to
25 Investigator Stoner over the telephone. He certainly

1 wasn't in custody then. I think he may have even called
2 her. He initiated the conversation, admitted that he
3 tested positive for gonorrhoea, so we would not say that
4 he was subject to Miranda as he was not in custody or in --
5 custodially interrogated.

6 **THE COURT:** All right. A telephone call is not
7 really custody.

8 **MS. PATTERSON:** Right.

9 **MR. CHEHOSKI:** Your Honor, I guess I would object to
10 that. I don't think that testing positive for gonorrhoea
11 would be a statement against -- or saying that he tested
12 positive for gonorrhoea would be a statement against
13 interest. I would say that that would be hearsay.

14 **MS. PATTERSON:** A statement by a party opponent.

15 **MR. CHEHOSKI:** But it's not -- it's not
16 incriminating.

17 **MS. PATTERSON:** It's gonna be incriminating, Your
18 Honor, because she's tested positive for gonorrhoea.

19 **THE COURT:** We'll make a determination on the fly,
20 but it sounds to me like it's against his interest, but
21 I'm gonna consider your motion to suppress a motion in
22 limine, that comment, but he's not in custody so I don't
23 believe a Jackson v. Denno hearing is necessary.

24 **MS. PATTERSON:** The only other thing I have, Your
25 Honor, and before I make this motion think I need to give

1 Your Honor a little bit of background about this case.
2 And just bear with me because it can get kind of
3 convoluted.

4 The victim in this case was seven years old, Minor
5 . On March 4th she was at school at New Providence
6 Elementary when she began experiencing some vaginal
7 discomfort. She reported it to the nurse, only that her
8 panties was messed up, and her nurse, I think, three
9 times gave her a change of panties, but made a phone call
10 to her mom to let her know what was going on. Once the
11 child got home, got off the bus, her mom inquired of her
12 about what was going on. She looked in her panties, she
13 saw this was something unusual, she got concerned and she
14 asked her child what happened. Reluctantly Minor told
15 her mom that her dad, Eric English, put his nasty part
16 inside her nasty parts three days prior when she was at
17 his home on a weekend visit. The mom took Minor to
18 Palmetto Health Richland where they performed a broad
19 spectrum of STD testing and she was subsequently diagnosed
20 with gonorrhoea. Eric English went and got tested, as well
21 as the mom's boyfriend at the time, James Stroman.

22 At this point no law enforcement had contacted
23 either parties. They went and got tested. Both went to
24 separate Lexington Medical Center sites to get tested for
25 medical purposes and Jamie's test came back negative,

1 Eric's came back positive. Minor 's testing, of course,
2 was done at Palmetto Health Richland. The State will
3 seek to introduce these results into evidence and we will
4 seek to do so under the business exception rule; that is,
5 Rule 803, Subsection 6. We would seek to introduce these
6 results under this rule, which would not require any chain
7 witnesses with regards to the lab, and that is supported
8 because the rule itself states that a memorandum, report
9 in our case, in any form of acts, events or conditions
10 or diagnosis made at or near the time by or for the
11 information transmitted, and it goes on to say, you know,
12 if these records were kept in the ordinary course of
13 business and if it's a regular practice of the business
14 activity to make the memoranda or report, and it goes on.

15 It's the State's position that these tests were done
16 for medical treatment. They were not done for any -- at
17 the urging of any police investigations at that time
18 because the investigator hadn't even contacted any of
19 them at this point. These records are kept, Your Honor
20 -- there's certain quality controls that are presumed to
21 be reliable for medical purposes and the reliability of
22 the testing relies -- lies in the medical facility's
23 fundamental interests in treating their patients. We
24 will certainly have here to testify about these reports
25 the doctors who pulled up these reports, who had access

1 to these reports, pulled up these reports, and made their
2 diagnoses and/or treatment based on these reports. They
3 have access to them. They will attest that these are
4 normally done in the course of the medical facility's
5 business. These are supported, Your Honor, in case law,
6 and I have case law for Your Honor, as well as the
7 Defendant -- or defense, that supports these findings
8 with regards to the reliability of medical testing and
9 reports done for medical purposes.

10 The first one, Your Honor, the Ex Parte Department
11 of Health and Environmental Control, I'm looking at the
12 page in which the defendant's HIV test results were
13 admissible as business records under the business records
14 exception to hearsay rule without a chain of custody in
15 and, particularly, on page 5 --

16 **THE COURT:** All right. I've addressed this issue
17 before. Have y'all not read State versus Jerome Chisholm,
18 a court of appeals case decided October 26, 2011?

19 **MS. PATTERSON:** I haven't read that one. I think
20 Mr. Pogue said he had seen it.

21 **THE COURT:** I think it's an excellent case to read
22 because it addresses this issue. It was one of my first
23 cases in Greenwood County. Mr. Chisholm was accused of
24 something similar and it turns out he was HIV positive and
25 so was the child and the records came in as an exception

1 to the -- under the business records rule and it was
2 upheld.

3 **MS. PATTERSON:** And that's just --

4 **THE COURT:** Even without the chain of custody. It
5 was real similar.

6 **MS. PATTERSON:** Yes, sir. And that's just our issue
7 in presenting. It will just help things flow. In
8 talking to the people at the hospital -- I mean, the labs,
9 of course, they perform so many of the labs, but these
10 are tests that they rely on during the ordinary course
11 of their business in order to treat and diagnose their
12 patients or diagnose and treat their patients. And he
13 was treated in this case because his results came back as
14 positive and certainly the child was. Jamie Stroman,
15 Your Honor, he was -- his test results came back negative
16 in the case.

17 **THE COURT:** All right. Mr. Chehoski, do you want to
18 be heard?

19 **MR. CHEHOSKI:** Yes, sir, Your Honor. Actually, we're
20 gonna be objecting to that pursuant to the case of State
21 versus Emily Johnston James, which is a Supreme Court case
22 decided in 2000 -- 1971 rather. I have copies of it to
23 hand up to the Court. If I may approach?

24 **THE COURT:** Sure.

25 **MR. CHEHOSKI:** And for -- Your Honor, with this

1 one it says that -- that where tests or analyses are
2 conducted -- or actually let me get this right. Where
3 the tests or analyses are offered to prove an essential
4 element of a crime or connect the defendant directly
5 with the commission of a crime, such results must be
6 substantiated by the person that conducted the test or
7 analysis. In this case, Your Honor, the tests were
8 performed in California and they just had somebody read
9 it in and that was objected to, Your Honor. So we're
10 making a motion in limine to -- to object to that or
11 suppress it without the persons who actually performed
12 the test -- the actual person who performed the test if
13 they are not here to testify.

14 **THE COURT:** All right. The -- Ms. Patterson, who
15 would you have testifying to get the records in?

16 **MS. PATTERSON:** With respect to **Minor** ?

17 **THE COURT:** No, with the Defendant.

18 **MS. PATTERSON:** Oh, the Defendant?

19 **THE COURT:** Uh-huh.

20 **MS. PATTERSON:** We actually have the doctor here that
21 performed the swab and who pulled up the results, verified
22 it, and diagnosed him with gonorrhoea.

23 **THE COURT:** Okay.

24 All right. Mr. Chehoski, what else do you got? I
25 mean --

1 **MR. CHEHOSKI:** Your Honor, again --

2 **THE COURT:** I think the Chisholm case is more recent,
3 it's 2011, and it was real close and factually the same
4 thing.

5 **MR. CHEHOSKI:** Your Honor, again, we'd be objecting
6 to it as to hearsay.

7 **THE COURT:** Okay. I'm gonna tell you that assuming
8 the State's testimony goes and they call the witnesses
9 as going, I would probably allow a consistent ruling in
10 allowing the results to come in consistent with Chisholm
11 and if they can't bring a witness in and lay the foundation
12 for the test, then that would change my ruling. But when
13 y'all started describing this a light came on, I've heard
14 this before, and it was one of my first cases back in
15 Greenwood County years ago. So if y'all want to read
16 Chisholm and argue it further, it's an appeals court case,
17 but I'm not sure where it's reported. Anyway, I can get
18 it to you if you need it.

19 All right. Anything else?

20 **MS. PATTERSON:** That's all from the State, Your
21 Honor.

22 **THE COURT:** All right.

23 **MR. CHEHOSKI:** Your Honor, we also have -- I have two
24 motions. One motion is to prohibit the use of the word
25 "forensic" pursuant to State versus Kromah when describing

1 the Dickerson Center interviewer, Ms. Wymer, and the
2 interview itself.

3 **MS. PATTERSON:** Your Honor, that's fine. We can call
4 it an investigative interview.

5 **THE COURT:** All right. You can call it an interview.
6 Investigative interview is fine. And if someone says
7 "forensic interview" inadvertently, I don't think that
8 will be grounds for a mistrial, but I think when it gets
9 repeated over and over and over, then that creates an
10 issue. So if y'all can minimize and caution your
11 witnesses to not use that technical term, that will be
12 greatly appreciated. But an interview of the child to me
13 is fine.

14 **MS. PATTERSON:** Yes, sir.

15 **THE COURT:** So to the extent forensic's minimized,
16 I'll grant Mr. Chehoski's motion on that.

17 **MR. CHEHOSKI:** Thank you, Your Honor. And, again,
18 we have another motion to limit this hearsay testimony at
19 the time and place.

20 **THE COURT:** Yes, that's in the rules. Time and
21 place. You get that, so. They know the rules.

22 **MS. PATTERSON:** Yes, sir.

23 **MR. CHEHOSKI:** Your Honor, I think that's all I
24 have.

25 **THE COURT:** Okay.

1 All right. If y'all will get me a copy of the
2 interview so I can watch it during lunch.

3 **MS. PATTERSON:** Yes, sir.

4 **THE COURT:** And we'll stand down until 2:00. That's
5 an hour and fifteen minutes.

6 All right. We'll stand at ease until 2:00.

7 (Court's Exhibit Number 4 was marked for
8 identification.)

9 (Whereupon, a luncheon recess was taken.)

10 **BAILIFF:** All rise. Court's now in session.

11 **THE COURT:** Y'all be seated.

12 All right. Anything further on the video? I watched
13 it and it complies with the statute. It's voluntary,
14 there's no leading questions, she appears competent, it's
15 a comfortable setting, it's recorded. She speaks softly,
16 but you can hear her. I didn't hear anything leading or
17 that suggested the answers, so voluntariness looks fine.

18 **MR. CHEHOSKI:** Your Honor, I haven't had a chance
19 to watch the redacted copy of it. I have watched the
20 original several times, of course. I would just like the
21 opportunity to, you know, watch -- I don't know if they
22 were planning on putting it in today?

23 **MS. PATTERSON:** We were.

24 **MR. CHEHOSKI:** Okay. I guess I would like to just
25 preserve my objections then.

1 **THE COURT:** Okay. Fair enough.

2 Now the 403, the picture the girl drew, I don't see
3 that as prejudicial to your client. It was a picture
4 drawn by a youngster. And I don't -- I'll tell you what
5 I'll do for you. I'll tell Ms. Patterson or Mr. Pogue,
6 whoever closes, to not comment on the picture in any
7 way. It's just a picture. I mean, there's no -- I don't
8 think it's of any use one way or the other to anybody,
9 but --

10 **MS. PATTERSON:** Certainly, Your Honor.

11 **THE COURT:** I don't know what benefit it would be for
12 a closing argument suggesting, but stay away from it and
13 that way it can't be used prejudicially.

14 **MS. PATTERSON:** Certainly, Your Honor.

15 And I apologize, Your Honor. I failed to address
16 this before we went to lunch. There are some stipulations
17 that we are willing to stipulate to, and I've given a
18 copy to Mr. Chehoski. As I stated earlier, there was
19 another person, Jamie Stroman, who was tested for -- who
20 had a sexual -- I mean, who had an STD test done. During
21 -- once this child disclosed that her father had sexually
22 assaulted her, she began counseling at the Dickerson
23 Center and in June -- on June 3rd of 2014 during a
24 counseling session she also disclosed that Jamie Stroman
25 had sexually assaulted her just like her daddy, those

1 were her words, and on June 16th, Jamie Stroman was
2 interviewed by Detective Chris Ellis of the Lexington
3 Police Department and he admitted to digitally
4 penetrating **Minor** . He was arrested for criminal sexual
5 conduct with a minor in the first degree and we actually
6 tried him on March 30th of last year and he was convicted
7 of criminal sexual conduct with a minor in the first
8 degree against **Minor** . We do think, Your Honor, that
9 the rape shield would not protect these disclosures. We
10 don't want to keep anything from the jury, Your Honor.
11 It's our intent to keep a clean record. These are things
12 we're not trying to hide. It's our position these were
13 two separate defendants, it was two separate incidents,
14 and that Jamie only admitted to digitally penetration,
15 which was certainly enough for the criminal sexual conduct
16 charge.

17 But we have these stipulations, Your Honor. I'm
18 not sure how Your Honor wishes to handle this or if
19 Mr. Chehoski has any objections to it, but these are
20 things the State is willing to concede.

21 **MR. CHEHOSKI:** Your Honor, I don't know if -- we
22 don't have any objection to the stipulation.

23 **THE COURT:** How would you like to present it to the
24 jury? By the Court?

25 **MS. PATTERSON:** Yes, sir.

1 **THE COURT:** And you want to do that after y'all have
2 your openings?

3 **MS. PATTERSON:** Yes. Well, I think it's gonna be
4 mentioned in opening, so if it could be done prior.

5 **THE COURT:** All right. As soon as the jury is sworn
6 in, I'll explain to them what a stipulation is and y'all
7 have reduced it to writing and we'll go from -- we'll do
8 it that way.

9 **MS. PATTERSON:** Yes, sir.

10 **THE COURT:** And we can mark this as a Court's
11 exhibit.

12 (Court's Exhibit Number 5 was marked for
13 identification.)

14 **THE COURT:** All right. Are you ready to bring the
15 jury in?

16 **MS. PATTERSON:** The State's ready, Your Honor.

17 **MR. CHEHOSKI:** Defense is ready.

18 **THE COURT:** Mr. Chehoski, do you have any objection
19 to me mentioning that Mr. English is not here? He has a
20 right to be here and he's not here and he may come and if
21 he comes he may join us?

22 **MR. CHEHOSKI:** As long as they're not allowed to
23 make any inference about that.

24 **THE COURT:** Okay. That's right.

25 All right. Bring in the jury.

1 (Whereupon, the jury enter the courtroom at 2:11 PM.)

2 **THE COURT:** Hope, how many judges come down here
3 and talk to the jury like this?

4 **THE CLERK:** Pardon?

5 **THE COURT:** How many judges come down and talk to
6 the jury?

7 **THE CLERK:** You and Judge Russo are the only two I
8 know.

9 **THE COURT:** Okay. Something I like to do, Judge
10 Russo does, too. He's from Florence. He was assigned
11 here for a little while, but he's -- he and I are about
12 the same age. I like coming down here and talking rather
13 than -- it seems like I'm preaching up there. I like
14 talking to you down here. It's a little more personal.

15 Now, folks, this is a case called by the State
16 against Mr. English. It's criminal sexual conduct in the
17 first degree. As I told you, the indictment that I read
18 from is a formal allegation made by the State of what
19 they believe -- the State believes it can prove against
20 Mr. English.

21 Now Mr. English has pled not guilty, but he's not
22 here. And it's his decision whether he wants to come or
23 not. And he may come later and if he does it will be his
24 decision whether he wants to testify or not. One thing
25 important that's a part of my instructions is to tell you

1 what you can do with that information or not. Someone
2 -- every person accused is presumed to be innocent and
3 they have the right to remain silent and if Mr. English
4 doesn't come or if he comes and chooses not to testify,
5 my instruction will be the same to you. You may not
6 consider or discuss or insinuate or believe or make any
7 findings whatsoever on the fact that he chose not to
8 enter any testimony because he doesn't have to prove
9 anything and he doesn't have to disprove anything. He
10 comes to court clothed with the presumption of innocence
11 and he's allowed to choose whether or not he wishes to
12 testify. The State's got to rest its case on its facts
13 and its witnesses. So since Mr. English isn't here, I
14 want to point that out to you, but tell you that's a
15 matter that won't be discussed in deliberations whether
16 he comes or not. Now if he comes and he testifies,
17 that's different. If he comes and wants to watch and
18 listen and help his attorneys, that's his decision. The
19 fact that he's not here, you don't take any inference that
20 that's proof of anything.

21 Now we're gonna give you the oath in a few minutes
22 and I'm gonna give you some stipulations that both sides
23 have agreed to. They believe these are facts that y'all
24 won't have to decide. These are facts that we both agree
25 on. That's what a stipulation is, so I'm gonna provide

1 those to you momentarily. Remember this now. The lawyers
2 are gonna present the case, you know, the witness and the
3 evidence. If there's an objection that I need to hear a
4 little further, I'm gonna say I believe there's a matter
5 of law and step y'all out and y'all can't discuss it while
6 I'm hearing that, so that's what we'll do. If I can make
7 a ruling and keep rolling on -- sometimes the lawyers will
8 say Judge, Rule 403, it's prejudicial, I say no, it's not,
9 it's not prejudicial, and we'll move right on because I
10 have an idea of the flavor of the case as it goes through
11 and kind of pick up on it. But if it's something that I
12 can't anticipate, then I need to make a record and I'll
13 excuse y'all, all right?

14 But for our purposes we're gonna go through the
15 trial as best we can. If you need a break, we go too
16 long, let me know and we'll take a short break and come
17 back in here. I drank a lot of coffee this morning, so
18 I need breaks, too, it's okay. The lawyers have issues
19 and they like to check on witnesses to make sure the next
20 witness is coming in, so having an extra break or two is
21 not a big problem.

22 But understand this. The State goes first, they do
23 their argument first, they call their witnesses because
24 it's their responsibility or burden to prove the case or
25 the allegation against Mr. English beyond a reasonable

1 doubt. Mr. Chehoski and Mr. Story will be allowed to
2 participate and cross-examine any of the State's
3 witnesses and present any defenses they may have and
4 they also have agreed to these stipulations.

5 All right. Ms. Frick, if you will place the jury
6 under oath, I'll then give them the stipulations.

7 **THE CLERK:** Yes, Your Honor.

8 Please stand and raise your right hand.

9 (Whereupon, the jury was sworn by the Clerk of
10 Court.)

11 **THE CLERK:** Be seated, please.

12 **THE COURT:** All right. I did briefly speak to the
13 jury and Ms. Lane will be our foreperson. And I told the
14 jury this is my practice. They can sit anywhere they
15 like and they can mix and match seats and change and do
16 whatever. It's always my observation once you kind of get
17 in a position of comfort, and it's kind of like going to
18 church, you sit in the same pew generally every Sunday.
19 Jurors generally migrate right back to the same of the
20 jury box because that's kind of their comfort zone, and
21 that's fine. I want y'all to be comfortable, okay, so
22 make yourself comfortable and if you need something let
23 the bailiffs know and we'll tend to that.

24 All right. Folks, before the parties give their
25 opening statements, I'll tell you that the parties have

1 written down -- the State wrote them down and the defense
2 has agreed that these are stipulations of fact. Since
3 the allegations arose in this case, on June 3rd of 2014
4 during a counseling session at the Dickerson Center,

5 Minor disclosed that her mom's boyfriend,
6 Jamie Stroman, had sexually assaulted her. On June 16th
7 of 2014, Jamie Stroman admitted to digitally penetrating

8 Minor to Detective Chris Ellis of the Lexington
9 Police Department. Jamie Stroman was arrested for
10 criminal sexual conduct with a minor first degree. On
11 March 30th of 2017, he was convicted of that offense,
12 criminal sexual conduct with a minor first degree, and

13 Minor was the victim.

14 Those are the facts that the parties are gonna
15 discuss that are agreed to by each of the parties.

16 Ms. Patterson, are you up?

17 **MS. PATTERSON:** Oh, no. Mr. Pogue.

18 **THE COURT:** All right. Mr. Pogue.

19 **MR. POGUE:** May it please the Court, Your Honor?

20 **THE COURT:** Yes, sir.

21 **MR. POGUE:** I've spent a lot of time over the past
22 couple of days thinking about what it was that I was going
23 to tell you this afternoon when I had the opportunity.
24 You see, there's a lot of training material out there, a
25 lot of expert advice on how to give an effective opening

1 argument in an important trial like this one. And to be
2 honest, over the years I've found that some of that advice
3 from that material can be helpful, but there's one thing
4 that I've found that all of mock trial coaches and these
5 experts in regard to communicating a point to a group of
6 people, one thing they can't prepare you for is the moment
7 that when an eight-year-old little girl walks into your
8 office, scared, precious, and begins to describe the most
9 horrific violations of her innocence that you could ever
10 imagine. It rocks you to your soul.

11 But that's just what you'll see at this trial.
12 You'll see little **Minor** and she'll walk right up here
13 past you-all and she'll come right up here as a brave now
14 eleven-year-old little girl and she'll take this stand and
15 she'll tell you the things that she's told the forensic --
16 or, excuse me, the investigative interviewer, things that
17 she's told us about what the Defendant in this case, her
18 biological daddy, her own flesh and blood, did to her.

19 Instead of spending the last several years focussed
20 on the joys and the innocence of childhood, she's been in
21 the depths of a nightmare that involved -- or, you know,
22 doing -- what she should have been doing is she should
23 have been emersed in things like playing dress-up with
24 her friends, she should have been doing things like having
25 tea parties with her friends, she should have been doing

1 things emerging herself into Disney movies. Instead,
2 she was having to deal with investigative interviews,
3 forensic exams -- excuse me, investigative exams, sexually
4 transmitted diseases and treatment for that, trauma
5 counseling, therapy sessions. She will never have a
6 chance to go back and live a happy, healthy childhood.
7 That was stolen from her, ripped from her forever.

8 Now you also have heard, and you may hear a little
9 bit more, that unimaginably, she was not only assaulted
10 by her own biological father, but also assaulted by her
11 mother's ex-live-in boyfriend, James Stroman, who was
12 convicted by a jury last March for criminal sexual conduct
13 with a minor in the first degree. But we're not here to
14 try that case today. We're not here for Jamie Stroman.
15 Today, this week, what we're here for is to try the
16 Defendant, Eric English. So don't let yourself get
17 distracted for the purpose of why we're here today and
18 the rest of this week or the better part of this week.

19 So what exactly did the Defendant do in this case?
20 During this trial you'll hear evidence --

21 I beg the Court's indulgence.

22 **THE COURT:** Uh-huh.

23 **MR. POGUE:** During this trial you will hear evidence,
24 you'll hear testimony from **Minor** , that on that Saturday,
25 March 1, 2014, she went to go stay with the Defendant,

1 her biological daddy, Eric English, at his house on Edmond
2 Highway in Lexington. You will hear that that evening she
3 alleges that he put his nasty part into her nasty part and
4 that she saw a green, yellowish substance come out of his
5 nasty part, and that she would later wipe herself off.

6 You will hear **Minor** testify that she goes back to
7 school on Monday, the 3rd. She comes back from her visit
8 on Sunday evening. On Monday, the 3rd, she goes back to
9 school at New Providence. On Tuesday, the 4th, she goes
10 to see the nurse at the school because she has -- her
11 underwear's wet and it itches and it hurts. You'll hear
12 evidence that **Minor** was taken to the hospital, that she
13 had thick green, yellowish discharge from her vagina. You
14 will hear that **Minor** tested positive for gonorrhoea and
15 from the moment that she was asked on March 4th about who
16 did this to her up until today she's always maintained in
17 every statement that her father sexually assaulted her on
18 Saturday, March 4th -- or, excuse me, March 1, 2014. Has
19 never backed off of that.

20 You'll hear evidence, medical evidence, that on
21 Thursday, March the 6th, the live-in boyfriend, Jamie
22 Stroman, who was convicted of assaulting her, tested
23 negative for gonorrhoea. You'll hear evidence that on
24 Friday, the 7th, the Defendant in this case, Eric English,
25 who she alleges assaulted her on Saturday, March 1st,

1 tests positive for gonorrhoea, the same disease that she
2 tested positive for on March 4th. The only STD she tested
3 positive for and the only STD that he tested positive for.

4 The Defendant in case is charged with criminal sexual
5 conduct with a minor in the first degree. Well, what is
6 that? What does that mean? Under South Carolina law,
7 criminal sexual conduct with a minor in the first degree
8 is when the actor, the Defendant, engages in a sexual
9 battery with a victim who is less than eleven years old
10 -- aged less than eleven years of age. You'll hear

11 **Minor** testify and you'll hear evidence that she was,
12 in fact, seven years old, getting ready to turn eight on
13 March 1, 2014.

14 So what does this mean? This is the key phrase here.
15 What is a sexual battery? Well, the law defines that as
16 a weapon. The judge will explain this law to you at the
17 end of this trial. Sexual battery under South Carolina
18 statute is sexual intercourse, cunnilingus, fellatio,
19 anal intercourse or, and the key phrase here, any
20 intrusion, however slight, of any part of the person's
21 body or any object into the genital or anal opening of
22 another person's body. So any intrusion into a genital
23 area by any object.

24 And we have to prove all of that to you beyond a
25 reasonable doubt and we welcome that burden. If we get

1 to the end of this trial and you don't feel beyond a
2 reasonable doubt, firmly convinced, of this Defendant's
3 guilt, we want you to go back there and find him not
4 guilty. But Senior Assistant Solicitor Rhonda Patterson
5 and I believe that when we get done with this trial there
6 will be no doubt, no reasonable doubt. You will be
7 firmly convinced of the Defendant's guilt.

8 But what is reasonable doubt? Reasonable doubt as,
9 again, the judge will likely describe to you and explain
10 to you in the law that he gives to you at the end of the
11 trial, reasonable doubt is doubt that leaves you -- or,
12 excuse me. Reasonable doubt -- or I should say beyond
13 a reasonable doubt is evidence that leaves you firmly
14 convinced. Let me rephrase that. Firmly convinced. It
15 doesn't mean that we have to prove it beyond all possible,
16 conceivable, imaginable, creative doubt. It just means
17 that we have to convince you beyond all reasonable doubt.
18 The law does not require that we're able to overcome all
19 doubts, just that all of the doubts that you have that we
20 overcome must be reasonable.

21 Don't make the mistake of losing the forest for the
22 trees in this case. Don't get distracted by things that
23 are tangentially related to the case. We chose you for
24 this jury because you struck us as folks that have good
25 old-fashioned common sense and when you get done listening

1 to all of the testimony, the medical evidence, and
2 watching the interview of Minor on video, we believe
3 that you will be firmly convinced of his guilt and when
4 you go back in that jury room and you deliberate that
5 evidence, the most important tool that you will have with
6 you is your common sense.

7 I don't know if they still take your phones from you.
8 I think they let you keep them now, but the old clerk used
9 to take your phones from you because that used to be what
10 I used to say is that you can't take your phone, but you
11 can take your common sense. Well, apparently you can take
12 them both back there. But that will be your most important
13 tool.

14 The word "verdict" means in Latin to speak the truth.
15 The truth in this case is that Eric English assaulted and
16 gave his daughter, Minor, seven years old at
17 the time, gonorrhoea; that he's guilty of criminal sexual
18 conduct with a minor in the first degree. We would ask
19 that when you get done hearing all the evidence in this
20 case that you go back in there in that verdict -- I mean,
21 in that jury room and you render a verdict that speaks to
22 the truth, which is that he is guilty. Thank you.

23 Please listen to anything the defense counsel may
24 have to say.

25 **THE COURT:** All right. Mr. Chehoski.

1 **MR. CHEHOSKI:** Good afternoon.

2 Eric English is innocent and he's living through a
3 nightmare, facing what we can only -- charges that would
4 keep us up at night. To have your own daughter accuse
5 you of the unthinkable. Just hearing the words out loud
6 is enough to make your stomach churn, but it's this case
7 perhaps more than any other case that puts our system to
8 the test and you, as jurors, I have to reminded you of
9 your oath. Because you may have had a visceral or an
10 emotional reaction when you heard the words of that
11 indictment, and that's okay. But now you have to put
12 that aside and get down to the work that you have to do
13 as jurors.

14 For this case what I want to kind of give you a
15 heads-up on is try to focus on the actions of Eric English
16 during this trial and when you do that I want you to ask
17 yourselves are these the actions of someone who knows he's
18 guilty? When you do something wrong, it changes the way
19 you behave, and when you've been wrongfully accused you
20 react. And when that accusation is really serious, you
21 step up and you try to prove yourself innocent, and this
22 is where you come in as jurors.

23 When you came to the courthouse today as Mr. Pogue
24 said, you didn't check your common sense at the door.
25 You -- each one of you have unique life experience that

1 you bring in with you and we want you to use that life
2 experience to filter the testimony, the evidence and the
3 arguments and the law from right now -- or from when you
4 took that oath all the way to when -- and especially when
5 you go into that room to discuss your case because when
6 you do you get to have your voice heard. Your vote is
7 just as important as the person's next to you. You are
8 entitled to speak your voice. You are entitled to
9 disagree. You are entitled to voice your opinion and
10 you're entitled to vote your conscience. I'm imploring
11 you to do so. When you look at this case, you'll see that
12 Eric English's actions are the actions of an innocent man
13 and I will be asking that your verdict will reflect that
14 truth. Thank you.

15 **THE COURT:** Ms. Patterson.

16 **MS. PATTERSON:** Your Honor, the State calls Minor
17 .

18 **THE CLERK:** I want you to put your left hand on the
19 Bible and raise your right hand.

20 (Whereupon, Minor was duly sworn by the
21 Clerk of Court.)

22 **THE CLERK:** Have a seat right up there. Here, you
23 can take this with you.

24 **THE WITNESS:** Thank you.

25 **THE COURT:** Good afternoon, Minor . My name's

1 Judge Griffith. I'll be sitting right here. If you want
2 some water or something, Mr. Danny will get it for you,
3 all right? Come up a little closer to the microphone.

4 Ms. Johnson, the lady right here, see her moving her
5 fingers? She's typing down what I'm saying to you and
6 she'll type up every answer, so what's important is she
7 hears you and everybody else hear you, okay?

8 **MR. CHEHOSKI:** Your Honor, may we approach for a
9 brief moment?

10 **THE COURT:** Yes.

11 (Proceedings held at the bench; not reported.)

12 **THE COURT:** All right. Ms. Lane, I've got to put
13 something on the record real quick. Y'all step in the
14 jury room and I'll have you right back out here.

15 (Whereupon, the jury retires to the jury room at
16 2:34 PM.)

17 **THE COURT:** All right. Ms. Patterson, do you want
18 to proffer this?

19 **MS. PATTERSON:** I can.

20 **THE COURT:** All right.

21 **Minor** ,

22 having been duly sworn, testified as follows:

23 EXAMINATION (In-Camera)

24 BY MS. PATTERSON:

25 Q. Good afternoon, **Minor** .

- 1 A. Good afternoon.
- 2 Q. And can you fix the microphone so I can hear you?
- 3 A. (Witness complies.)
- 4 Q. How old are you Minor ?
- 5 A. Eleven.
- 6 Q. Eleven. And when's your birthday?
- 7 A. [REDACTED].
- 8 Q. Do you know what year you were born?
- 9 A. 2006.
- 10 Q. 2006. And what grade are you in?
- 11 A. Sixth.
- 12 Q. Sixth grade. And what school do you go to?
- 13 A. Saint Andrews.
- 14 Q. Do you like school?
- 15 A. Yes.
- 16 Q. What kind of things do you like to do at school?
- 17 A. I like to learn social studies.
- 18 Q. Do you got some good friends at schools?
- 19 A. Yes.
- 20 Q. What are their names?
- 21 A. I've got a best friend named Kya and Samariah and
- 22 some other friends.
- 23 Q. Okay. And you're big sister, right?
- 24 A. Yes.
- 25 Q. And how many brothers and sisters do you have living

1 with you?

2 A. I have one brother living with me and one sister.

3 Q. And what are their names?

4 A. EJ and Serenity.

5 Q. And when are their birthdays?

6 A. Serenity's birthday is [REDACTED] and my brother

7 EJ 's birthday is [REDACTED].

8 Q. And, Minor, do you know the difference between the
9 truth and a lie?

10 A. Yes, I do.

11 Q. And what's the difference in your own words?

12 A. The truth is to tell what happened and a lie is to
13 tell what didn't happen.

14 Q. Is it good to tell the truth?

15 A. Yes.

16 Q. Is it good to tell a lie?

17 A. No.

18 Q. And what could happen if you tell a lie?

19 A. You can get in trouble.

20 Q. So if I said Ms. Rhonda has red hair, is that a truth
21 or a lie?

22 A. A lie.

23 Q. And do you know why you're here today?

24 A. Yes.

25 **MS. PATTERSON:** Your Honor, that's all I may have

1 with respect to competency.

2 **THE COURT:** Do you have any questions, Mr. Chehoski,
3 you'd like to ask her?

4 EXAMINATION (In-Camera)

5 BY MR. CHEHOSKI:

6 Q. **Minor** , you said you can get in trouble if you tell
7 a lie. What kind of trouble can you get into?

8 A. You have to suffer your consequences.

9 Q. And what does consequences mean to you?

10 A. I'm confused.

11 Q. In your own words, you said if you tell a lie you can
12 suffer the consequences. Consequence is a big word and
13 I want to ask in your own words what does that word mean
14 to you?

15 A. When you have a consequence, you have to suffer what
16 you did. So when you're little, you might have to get a
17 popping or something.

18 Q. I'm sorry, what did you say?

19 A. When you're little, you have to get a popping or when
20 you're big you probably have to go to jail.

21 Q. Okay. All right. And have you ever suffered -- have
22 you ever gotten -- gotten in trouble before?

23 A. Yes.

24 Q. And have you suffered consequences before?

25 A. Yes.

1 Q. What kind of consequences have you suffered before?

2 A. I have to get in the corner.

3 Q. Like a timeout?

4 A. (Nods head.)

5 Q. All right.

6 **MR. CHEHOSKI:** Nothing further, Your Honor.

7 EXAMINATION (In-Camera)

8 BY THE COURT:

9 Q. All right. Minor , let me ask you a question. If
10 you don't tell the truth in here, who can you get in
11 trouble with in the courtroom?

12 A. You.

13 Q. Okay.

14 All right. Has anybody promised you anything like
15 a reward or a prize or something if you came in here and
16 testified a certain way?

17 A. No.

18 Q. Okay. Has anybody threatened you to testify a
19 certain way?

20 A. No.

21 Q. Okay.

22 **THE COURT:** All right. I think Under 601 she's very
23 clear that she understands right from wrong and the truth
24 from a lie and she's very alert and her demeanor when I
25 asked her the question it was very apparent that she

1 understood where I was -- my questions and the angle
2 from, so I find her competent.

3 And would you like this redone in front of the jury?
4 I think it would be appropriate.

5 **MS. PATTERSON:** Yes, sir.

6 **THE COURT:** Okay. We'll do it.

7 All right. Do y'all need a break before I bring
8 them back in?

9 **MS. PATTERSON:** Nothing from the State.

10 **MR. CHEHOSKI:** Nothing from the defense.

11 **THE COURT:** All right. Let me have them.

12 (Whereupon, the jury returns to the courtroom at
13 2:39 PM.)

14 **THE COURT:** All right, Ms. Patterson. When you're
15 ready.

16 **MS. PATTERSON:** Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MS. PATTERSON:

19 Q. Good afternoon, Minor .

20 A. Good afternoon.

21 Q. Are you okay?

22 A. Yes.

23 Q. Okay. And, Minor , can you tell the jury how old
24 you are?

25 A. I'm eleven.

- 1 Q. And when's your birthday?
- 2 A. [REDACTED].
- 3 Q. And what year were you born; do you know?
- 4 A. 2006.
- 5 Q. And what grade are you in?
- 6 A. Sixth.
- 7 Q. And what school do you go to?
- 8 A. Saint Andrews.
- 9 Q. And do you like school?
- 10 A. Yes.
- 11 Q. What do you like about school?
- 12 A. Social studies.
- 13 Q. Have you got a lot of friend at school?
- 14 A. Yes.
- 15 Q. What are their names?
- 16 A. I have a best friend named Kya and another friend
- 17 Samariah.
- 18 Q. And do you have brothers and sisters that live with
- 19 you?
- 20 A. Yes.
- 21 Q. And what do you have?
- 22 A. I have one brother and one sister.
- 23 Q. And how old are they? Well, what are their names?
- 24 A. Serenity and EJ .
- 25 Q. And what is -- how old is EJ ?

- 1 A. He is ten.
- 2 Q. And how old is Serenity?
- 3 A. Two.
- 4 Q. So you're the oldest?
- 5 A. Yes.
- 6 Q. You like being a big sister?
- 7 A. Yes.
- 8 Q. And do you know the difference between the truth and
9 a lie?
- 10 A. Yes.
- 11 Q. And what does it mean to tell the truth?
- 12 A. To tell the truth it means when you tell what really
13 happened.
- 14 Q. And what does it mean to tell a lie?
- 15 A. What -- you're telling what didn't happen.
- 16 Q. And is it good to tell the truth?
- 17 A. Yes.
- 18 Q. Is it good to tell a lie?
- 19 A. No.
- 20 Q. And what could happen if, say, you lied to your mom
21 about cleaning your room?
- 22 A. I have to suffer a consequence.
- 23 Q. And what is a consequence?
- 24 A. When you have to get in trouble.
- 25 Q. And what would happen if you told a lie here in the

- 1 court, who could you get in trouble with?
- 2 A. The judge.
- 3 Q. Minor , what is your mom's name?
- 4 A. Sarah.
- 5 Q. And what's her last name?
- 6 A. Stoudemeyer.
- 7 Q. And what is your dad's name?
- 8 A. Eric.
- 9 Q. Do you know his last name?
- 10 A. Yes.
- 11 Q. What is it?
- 12 A. English.
- 13 Q. Who do you live with?
- 14 A. My mom.
- 15 Q. Do you ever go visit your dad?
- 16 A. No.
- 17 Q. Did you ever go visit your dad?
- 18 A. Yes.
- 19 Q. And how often would you go visit your dad?
- 20 A. I only visit him on the weekends.
- 21 Q. And when you would visit your dad on the weekends,
22 who lived with your dad?
- 23 A. My grandma, her boyfriend, Amanda, and my little
24 brother.
- 25 Q. And what was your grandmother's name that lived

- 1 there; do you know?
- 2 A. (Shakes head.)
- 3 Q. What did you call her?
- 4 A. Nana.
- 5 Q. And who was Amanda?
- 6 A. My dad's boyfriend -- I mean, girlfriend. Sorry.
- 7 Q. And what was your little brother's name that lived
- 8 there?
- 9 A. EJ .
- 10 Q. And is EJ younger or older than you?
- 11 A. Younger.
- 12 Q. And when you would go visit with your dad, did you
- 13 spend the night?
- 14 A. Yes.
- 15 Q. And when you would spend the night, where would you
- 16 sleep?
- 17 A. On the floor.
- 18 Q. Where would EJ sleep?
- 19 A. On the floor.
- 20 Q. Where would your dad and Amanda sleep?
- 21 A. On the floor.
- 22 Q. In what room on the floor did you sleep?
- 23 A. In the living room.
- 24 Q. And do you still go visit your dad?
- 25 A. No.

1 Q. And why not?

2 A. Because he put his thing in my private.

3 Q. And let's talk about that a little bit. Do you
4 remember when this happened, the last time?

5 A. No.

6 Q. Do you remember where you were?

7 A. Yes.

8 Q. Where were you?

9 A. At his house.

10 Q. And do you remember what day you had went to his
11 house, what day of the week it was?

12 A. (Shakes head.)

13 Q. And who was there at his house when you went there?

14 A. Me, my brother and him.

15 Q. And where was Amanda?

16 A. With my momma.

17 Q. And where had she and your mom went, if you know?

18 A. I don't know.

19 Q. And what did he do to your body?

20 A. He put his private in my private.

21 Q. And when he put his private in your private, were
22 your clothes on or off?

23 A. Off.

24 Q. Were you lying down, standing up or something else?

25 A. Lying down.

- 1 Q. And what was your daddy doing?
- 2 A. He was lying down.
- 3 Q. And how was your body next to his?
- 4 A. Mine -- my body was sideways on my side.
- 5 Q. And where was -- where was he at?
- 6 A. Behind me on his side.
- 7 Q. And when he would put his private in your private,
- 8 would it be inside or outside or something else?
- 9 A. Both.
- 10 Q. And how did you know when it was inside?
- 11 A. Because I felt it.
- 12 Q. Did you ever see his private part?
- 13 A. Yes.
- 14 Q. Did you ever see anything come out of it?
- 15 A. Yes.
- 16 Q. And where was EJ?
- 17 A. On the floor.
- 18 Q. Where was your grandma?
- 19 A. I don't know.
- 20 Q. Did you ever tell somebody that this happened that
- 21 night?
- 22 A. No.
- 23 Q. Why not?
- 24 A. Because I was scared.
- 25 Q. And why were you scared?

- 1 A. Because I thought I was gonna get in trouble.
- 2 Q. Do you remember how old you were when this happened?
- 3 A. Six and seven.
- 4 Q. Do you remember what school you were going to at the
- 5 time that this happened?
- 6 A. Yes, ma'am.
- 7 Q. What school?
- 8 A. New Providence.
- 9 Q. And did you ever go see anybody about anything at
- 10 New Providence?
- 11 A. The nurse.
- 12 Q. And why did you go see the nurse?
- 13 A. Because I had this yellow and some brownish stuff
- 14 coming out of me and it was in my underwear.
- 15 Q. And what did the nurse do?
- 16 A. She gave me a new pair of underwear.
- 17 Q. And did you tell her what happened to you at your
- 18 dad's?
- 19 A. No.
- 20 Q. And why didn't you tell her?
- 21 A. Because I didn't want my momma to know.
- 22 Q. And how did you get home from school that day?
- 23 A. Bus.
- 24 Q. And when you got home, what happened?
- 25 A. I showed my momma my underwear.

1 Q. Did you tell your mom what happened to you?

2 A. Yes, ma'am.

3 Q. Did you want to tell her what happened to you?

4 A. No, ma'am.

5 Q. And why didn't you want to tell her?

6 A. Because I was scared.

7 Q. And after you told your mom, what happened?

8 A. She took me to the hospital.

9 Q. And at the hospital did you get any medicine or
10 anything?

11 A. I can't remember.

12 Q. Minor , have you been back to see your dad since?

13 A. No.

14 **MS. PATTERSON:** I beg the Court's indulgence,
15 Your Honor.

16 Your Honor, no further questions at this
17 time.

18 **THE COURT:** Okay.

19 **MR. CHEHOSKI:** Your Honor, can we approach again?

20 **THE COURT:** Sure.

21 (Proceedings held at the bench; not reported.)

22 **THE COURT:** All right, Ms. Minor . You can step
23 down. They're gonna call you back later, but you're done
24 for now.

25 (Witness excused.)

1 director of social work field experiences there at
2 Columbia College. I was also employed by Firm Foundations
3 Counseling and Wellness as a counselor and then prior to
4 that I was employed by the Dickerson Childrens Advocacy
5 Center.

6 Q. And how long were you employed at the Dickerson
7 Center?

8 A. I was employed with the Dickerson Center from August
9 2010 until July 2014, so right at four years.

10 Q. And what type of services does the Dickerson Center
11 provide?

12 A. The Dickerson Center provides investigative
13 interviews for law enforcement and the Department of
14 Social Services. They also provide investigative medical
15 examinations for law enforcement and the Department of
16 Social Services. They provide victim advocacy services
17 for children and families. They also provide counseling
18 services and they coordinate the multidisciplinary team
19 that's made up of law enforcement, DSS interviewers,
20 mental health and the Solicitor's office.

21 Q. And what was your job title at the Dickerson Center?

22 A. Before I left, my job title was the director of
23 clinical services and I was also one of the investigative
24 interviewers.

25 Q. And what type of training did you receive to become

1 an investigative interviewer?

2 A. I received my training in October 2010. It was a
3 40-hour intensive training, a full week of training,
4 provided by the National Child Protection Training Center,
5 the Childrens Law Center at the University of South
6 Carolina and the Assessment Resource Center in Richland
7 County, and then I received two advanced investigative
8 interviewer trainings; one in 2012 that was two days and
9 one in 2014 that was two days.

10 Q. And what -- about how many interviews have you
11 conducted with children?

12 A. When I left the Dickerson Center, I had conducted
13 305 forensic -- or 305 investigative interviews.

14 Q. And are there any rules or guidelines that you
15 follow when you do these interviews?

16 A. Yes. The interviews are done with a semistructured
17 protocol and the questions that we ask are as much as
18 possible supposed to be open-ended questions that could
19 provide free recall answers from the child, so -- just to
20 make sure you get their words and their narrative. So
21 you want to ask as many open-ended questions as possible.

22 Q. And what type of questioning format is used in these
23 interviews?

24 A. Non-leading, non-suggestive, open-ended questions.

25 Q. And on March 18th of 2014, did you interview a child

1 named Minor ?

2 A. I did.

3 Q. Do you know how old she was when you interviewed her?

4 A. She was eight years old when I interviewed her.

5 Q. And how does a child come to your agency to get
6 interviewed?

7 A. We only do the investigative interviews if the
8 referral is made by the Department of Social Services or
9 by a law enforcement agency.

10 Q. Or what person or agency made the referral for
11 Minor ?

12 A. Detective Trish Stoner with the Lexington County
13 Sheriff's Department.

14 Q. And without saying what she may have said, was
15 Minor able to respond to the questions conducted in
16 the investigative interview?

17 A. She did answer questions during the interview.

18 Q. And without saying what she may have said, did she
19 disclose to you any information about being assaulted?

20 A. Yes.

21 Q. And what, if anything, did she tell you concerning
22 the time or timeframes of the assault?

23 A. She stated that the assault occurred the last time
24 when she was seven years old and that it was during the
25 last weekend visit that she had at her father's house and

1 she did state that it was a Saturday night at nighttime.

2 Q. And what, if anything, did she tell you concerning
3 the place or places of the assault?

4 A. She stated that it occurred at her father's home in
5 the living room on the floor where she was sleeping.

6 Q. And did you document **Minor** 's interview?

7 A. I did.

8 Q. I'm gonna show you what's been marked as State's
9 Exhibit Number 1 and ask you to take a look at this
10 object. And do you recognize that?

11 A. I do.

12 Q. And what is that?

13 A. This is a copy of the forensic interview -- of
14 **Minor** 's interview.

15 Q. And how do you recognize that as being the copy?

16 A. Because I watched it and initialled it.

17 **MS. PATTERSON:** Your Honor, at this time we'd move
18 State's Exhibit Number 1 into evidence.

19 **MR. STORY:** No objection.

20 **THE COURT:** All right. The Court's already had an
21 in-camera viewing consistent with the statute and it will
22 be admitted.

23 (State's Exhibit Number 1, an Investigation
24 Interview, was admitted into evidence.)

25 **MS. PATTERSON:** Your Honor, permission to publish?

1 **THE COURT:** All right. Ms. Lane, I'm gonna -- I had
2 to watch the video ahead of time to make certain it was
3 done pursuant to a statute, and I've done so. I did it
4 over lunch. It's about 55 minutes. Would y'all like a
5 break right now and then come back and watch it? You can
6 briefly talk with them because it's a 55-minute run and
7 so I don't want to get 30 minutes into it and say oh,
8 let's have a break, so.

9 **THE FOREPERSON:** Can you tell us what time it is
10 now, sir?

11 **THE COURT:** It's -- watching the clock in the back,
12 it's a few minutes until three. Do y'all want a few
13 minutes and come back and watch it? It's up to y'all.

14 (Discussion between the jurors.)

15 **FOREPERSON:** We're good.

16 **THE COURT:** All right. Ms. Patterson, you may
17 publish.

18 **MR. STORY:** Your Honor, I said there were no
19 objections. I meant there were no new objections from
20 the defense. We'd like to renew our previous objection.

21 **THE COURT:** All right. Everything's admitted subject
22 to the objections we discussed on the record, so you're
23 protected.

24 **MR. STORY:** Thank you, Your Honor.

25 **THE COURT:** All right.

1 **MS. PATTERSON:** Your Honor, may we approach?

2 **THE COURT:** We need Mr. --

3 **MS. PATTERSON:** Yes.

4 **THE COURT:** I can't think of his name, but I can see
5 his face.

6 (Pause in proceedings.)

7 **THE COURT:** I'm gonna step off. Let's all take a
8 break while they do this.

9 (Whereupon, the jury retires to the jury room at
10 3:04 PM.)

11 (Recess taken.)

12 **BAILIFF:** All rise. Court's now in session.

13 **THE COURT:** All right. Be seated.

14 **MS. PATTERSON:** We're ready, Your Honor.

15 **THE COURT:** Okay. All right. Are we all good to
16 go? Bring us the jury.

17 (Whereupon, the jury returns to the courtroom at
18 3:12 PM.)

19 **THE COURT:** All right. Ms. Patterson, are you ready
20 to publish?

21 **MS. PATTERSON:** Yes, sir, Your Honor. We're ready.

22 **THE COURT:** All right. Ms. Lane, y'all look and
23 make sure -- these lights right here give a glare, so we
24 normally cut those off when we play the videos. Can y'all
25 see the screen okay? If anybody can't, y'all give me the

1 "hi" sign and we'll adjust, okay?

2 (Whereupon State's Exhibit Number 1 was played for
3 the Court and jury beginning at 3:13 PM and ending at
4 4:09 PM.)

5 BY MS. PATTERSON:

6 Q. Ms. Wymer, do you know which -- what date that
7 **Minor** was referred to the Dickerson Center for her
8 interview?

9 A. Her intake was dated March the 5th, 2014.

10 Q. What was her interview date?

11 A. March the 18th, 2014.

12 Q. Is it normal to have a two-week gap in between
13 referral and interview?

14 A. It just depended on how busy we were and how many
15 interviewers were available at the time, so we scheduled
16 them as soon as we were able to.

17 Q. And are parents typically allowed in the interview
18 room?

19 A. No.

20 Q. And why not?

21 A. Because it's important that we receive the child's
22 narrative and that the information is not influenced in
23 any way by anybody else.

24 **MS. PATTERSON:** I beg the Court's indulgence.

25 No further questions. Please answer any questions

1 the defense may have.

2 **MR. STORY:** May it please the Court?

3 **THE COURT:** Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. STORY:

6 Q. Good afternoon, Ms. Wymer.

7 A. Good afternoon.

8 Q. This interview took place in -- you said March 18th
9 of 2015?

10 A. '14.

11 Q. '14. Excuse me. Now subsequent to this interview,
12 you had another opportunity to interview Minor ,
13 correct?

14 A. Not before this interview.

15 Q. Not before, subsequent to the --

16 A. After.

17 Q. -- subsequent to this interview, after?

18 A. Yes.

19 Q. And that was in June, correct?

20 A. Yes.

21 Q. And in that interview she made another disclosure
22 about another individual assaulting her, correct?

23 A. She did.

24 Q. And that individual was Jamie Stroman?

25 A. Yes.

1 Q. And she disclosed that he had assaulted her between
2 the ages of six and seven?

3 A. Yes.

4 Q. Now during this interview, the March interview that
5 we just watched, were any members of law enforcement
6 present at the building?

7 A. Not that day.

8 Q. But you testified that her mother, Sarah Stoudemeyer,
9 was present?

10 A. Yes, she brought her there.

11 Q. She brought her there. She was not allowed in the
12 interview room?

13 A. No.

14 Q. But she was present?

15 A. In the building.

16 Q. In the building. And several times **Minor** asked
17 for her mother?

18 A. Yes.

19 Q. In fact, there were certain things she didn't want
20 to talk about without her mother present?

21 A. Right.

22 **MR. STORY:** I beg the Court's indulgence.

23 **THE COURT:** Uh-huh.

24 **MR. STORY:** No further questions. Thank you.

25 **THE COURT:** You can step down.

1 (Witness excused.)

2 **THE COURT:** The Court would recall Minor .

3 (Whereupon, Minor , retakes the witness
4 stand.)

5 **THE COURT:** All right. Just like we did before,
6 we're gonna work with that microphone. Now you remember
7 earlier you promised to tell the truth?

8 **THE WITNESS:** (Nods head.)

9 **THE COURT:** You've still got to promise, okay?

10 **THE WITNESS:** Yes.

11 **THE COURT:** All right. Tell me your name so
12 Ms. Johnson can hear you.

13 **THE WITNESS:** Minor .

14 **THE COURT:** Okay. The microphone sounds good.

15 Minor

16 having been previously sworn, testified as follows:

17 CROSS-EXAMINATION

18 BY MR. CHEHOSKI:

19 Q. Minor , have we met before today?

20 A. Yes.

21 Q. All right. Do you remember my name?

22 A. No.

23 Q. My name is Jason or you can call me Mr. Chehoski or
24 Mr. Jason. And if at any time you need a break, just let
25 me know, okay?

1 A. Yeah. Okay.

2 Q. All right. And I really don't want to keep you here
3 too long. Now how -- before this incident, how often did
4 you stay with your dad?

5 A. What do you mean?

6 Q. How often did you see your dad before he -- before
7 you told that -- someone that he hurt you?

8 A. I only seen him on the weekends.

9 Q. On the weekends. Was it every weekend?

10 A. Yes.

11 Q. Okay. And you would always sleep on the floor at his
12 house?

13 A. Yes.

14 Q. And EJ would always sleep beside you?

15 A. Yes.

16 Q. All right. You slept in the living room; is that
17 right?

18 A. Yes.

19 Q. And did you -- where in the living room did you
20 sleep?

21 A. On the floor.

22 Q. On the floor, but what -- what side of the living
23 room?

24 A. In the middle.

25 Q. In the middle. Were you close to the television?

- 1 A. Yeah.
- 2 Q. All right. And your dad slept with Amanda, correct?
- 3 A. Yeah.
- 4 Q. And did he sleep in the middle, too, or was he on the
5 side or something else?
- 6 A. He was behind me and Amanda was in front of my
7 brother.
- 8 Q. Was your brother in between you and your dad?
- 9 A. Yeah.
- 10 Q. Okay. And so EJ was also in the room at the time?
- 11 A. Yeah.
- 12 Q. Okay. Was he awake or asleep or something else?
- 13 A. When?
- 14 Q. When -- when this night -- on this night that that
15 all happened?
- 16 A. He was awake watching TV.
- 17 Q. He was awake watching TV? You said he was watching
18 the Fox and the Hound?
- 19 A. Uh-huh.
- 20 Q. All right. And EJ turned around?
- 21 A. Yeah.
- 22 Q. Okay. And after it happened, your dad got up; is
23 that right?
- 24 A. Yeah.
- 25 Q. Yeah. And did he -- he spoke to Chris, right?

- 1 A. Uh-huh.
- 2 Q. He was also in the house?
- 3 A. I guess so.
- 4 Q. Right. But he was in -- he was in another room?
- 5 A. He was in my nana's room.
- 6 Q. He was in your nana's room. Do you remember if the
7 door was open or closed?
- 8 A. I don't remember.
- 9 Q. That's fine. And after he got up, he went to sleep,
10 right?
- 11 A. I think so.
- 12 Q. All right. Just a couple of more questions and then
13 we'll be done. You've had the chance to speak with --
14 speak about this with many other people, right?
- 15 A. Yes.
- 16 Q. Do you know how many people you've spoken about this
17 with?
- 18 A. No.
- 19 Q. Do you know if it was more than five people?
- 20 A. No.
- 21 Q. Okay. Was it -- and -- but you've spoken with --
22 spoken about this with Ms. Brooke; is that right?
- 23 A. Yes.
- 24 Q. And Ms. Rhonda, right here?
- 25 A. Yes.

1 Q. Right. And, of course, your mother?

2 A. Yes.

3 Q. And were there -- is there -- was that it or were
4 there more?

5 A. I spoke with my doctors.

6 Q. With your doctors?

7 A. And my nurse.

8 Q. Okay. And before testifying here today, have you had
9 a chance to sit in that chair before?

10 A. Yes.

11 Q. All right. And speak about this case? Did you speak
12 about this night?

13 A. No.

14 Q. No? You didn't -- didn't have a practice run?

15 A. Oh, yeah.

16 Q. Okay. All right. And the last question I have for
17 you, Ms. **Minor** , was a couple of days later when you
18 started leaking at school, you said you took the bus home;
19 is that right?

20 A. Yes, I did.

21 Q. All right.

22 **MR. CHEHOSKI:** One moment, please, Your Honor.

23 **Minor** , thank you very much. That's all the
24 questions I have for you.

25 **THE COURT:** Anything else, Ms. Patterson.

1 Q. And EJ?

2 A. Uh-huh.

3 Q. And what's EJ's real name?

4 A. EJ .

5 Q. And on the video you kept asking for your mom. Why
6 did you want your mom?

7 A. Because I didn't want to talk without her.

8 Q. And later let me ask you -- when you finally told
9 Ms. Brooke later on about your momma's boyfriend, where
10 was he? Was he living with you then?

11 A. I don't understand.

12 Q. You finally told Ms. Brooke that your mom's boyfriend
13 also did this to you.

14 A. Uh-huh.

15 Q. Was he in the house with you then when you told?

16 A. No.

17 Q. And was Chris Nana's boyfriend?

18 A. Yes.

19 **MS. PATTERSON:** No further questions.

20 **THE COURT:** Anything else?

21 **MR. CHEHOSKI:** (Shakes head.)

22 **THE COURT:** All right. You may step down,

23 Ms. Minor .

24 (Witness excused.)

25 **THE COURT:** Is this a good time for short break?

1 **MS. PATTERSON:** Your Honor, may we approach?

2 **THE COURT:** Sure.

3 (Proceedings held at the bench; not reported.)

4 **THE COURT:** All right. Remember when we were talking
5 about organizing witnesses? We did so well we got all of
6 them that we have here done, so we're done for the day.
7 When you go home for the evening, don't discuss the case
8 with anybody. You can tell anybody you're on the jury,
9 but that I instruct you to not to discuss the case.

10 Now most of y'all are about my age, so you're not
11 youngsters. Don't go on Facebook and say I'm on the jury
12 because that invites yourself into a conversation with
13 anybody that's on Facebook. Don't do that. Any social
14 media, stay off of it. You can go on it, just don't say
15 I'm on a jury and; well, what's the case about. That's
16 gonna be one of the questions from whoever you're talking
17 to. Don't do it. I don't even have a Facebook account,
18 so I'm instructing y'all to stay clear of talking about
19 this case among one another.

20 We'll see you in the morning. When y'all get here
21 -- I'm gonna try to start at 9:30 sharp. I have another
22 matter I've scheduled. Ms. Johnson and I'll be here
23 shortly after 9:00 and by 9:15 hopefully get it done. So
24 if y'all get here about 9:30 we should be get started
25 shortly after that.

1 Y'all enjoy your evening. Watch the football game.
2 Don't stay up too late. Hopefully, the red and white
3 team will win. Go Gamecocks.

4 All right. See y'all in the morning.

5 (Whereupon, the jury was excused for the evening at
6 4:21 PM.)

7 **THE COURT:** All right. Do y'all want to stand at
8 ease until 9:30 with this?

9 **MS. PATTERSON:** Yes, sir. Thank you.

10 **THE COURT:** Good enough. Thank y'all. See you in
11 the morning.

12 (Whereupon, the proceedings were concluded for
13 January 8, 2018, at 4:23 PM.)

14 (The following proceedings were held January 9, 2018,
15 beginning at 9:34 AM.)

16 **BAILIFF:** All rise. Court is now in session. The
17 Honorable Eugene C. Griffith presiding.

18 **THE COURT:** Thank you. Y'all be seated.

19 Is there any reason I forgot to issue a bench
20 warrant last night to get Mr. English into court?

21 **MS. PATTERSON:** I kind of thought about it, but...

22 **THE COURT:** All right. Ms. Frick, I want one of
23 those.

24 **THE CLERK:** We'll have you a bench warrant. I'll
25 get one issued.

1 **THE COURT:** Okay. Since he didn't show up for this
2 trial, I can issue it myself without -- I was gonna do
3 Mr. Chehoski a favor and get his client in here for him.

4 **MR. CHEHOSKI:** Well, Your Honor, I don't think that
5 a bench warrant should really be necessary until there's
6 an actual, you know, reason.

7 **THE COURT:** Well, his trial started. That's a reason.

8 **MR. CHEHOSKI:** Yeah, but, I mean, if he's found not
9 guilty, there's no reason to keep that bench warrant out
10 there.

11 **THE COURT:** If he's found not guilty, I'm gonna pick
12 it up. You can bet on that. That won't be a problem.

13 All right. Are y'all ready?

14 **MS. PATTERSON:** Yes, sir, we're ready.

15 **THE COURT:** You're still looking for your client to
16 come in the door?

17 **MR. CHEHOSKI:** I have a nervous habit.

18 **THE COURT:** All right. Bring in the jury.

19 (Whereupon, the jury enter the courtroom at 9:39 AM.)

20 **THE COURT:** All right. Are you ready to you call
21 your witness?

22 **MR. POGUE:** Yes, Your Honor.

23 The State calls Lee Lamb to the stand, Your Honor.

24 **THE CLERK:** Place your left and raise your right.

25 (Whereupon, Lee Lamb was duly sworn by the Clerk of

1 Court.)

2 **THE CLERK:** Have a seat right up there, ma'am. Once
3 you're seated, speak up loud and clear. State your name,
4 spelling your last.

5 **THE WITNESS:** Lee Lamb, L-A-M-B.

6 LEE LAMB,

7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. POGUE:

10 Q. Good morning, Ms. Lamb. Ms. Lamb, what is your
11 occupation?

12 A. I'm a school nurse.

13 Q. And where are you a school nurse?

14 A. New Providence Elementary.

15 Q. And how long have you been employed there at
16 New Providence?

17 A. I started there in 2008 as a health room assistant
18 and moved to the school nurse position in 2013 and I'm --
19 to the present.

20 Q. Okay. Now what kind of nurse are you? What degree
21 do you hold?

22 A. I hold a bachelor's of science in nursing.

23 Q. Okay. So you're an RN?

24 A. Yes.

25 Q. Okay. All right. How long have you -- or when did

1 you obtain that?

2 A. In 1984, I obtained my RN, a diploma program, and
3 then I went back to school and received my bachelor's of
4 science in nursing in 2001.

5 Q. Okay. And you say you've been working at New
6 Providence since about 2008, 2009?

7 A. When they opened in 2008, yes.

8 Q. Okay. Now when you were working there in 2014, did
9 you know a student by the name of **Minor** ?

10 A. Yes.

11 Q. Okay. Did she ever come by your office to see you?

12 A. Yes.

13 Q. Okay. Did she come by your office just occasionally
14 or would you say she came by often? Did you know her
15 well?

16 A. Yes.

17 Q. Okay.

18 A. Yes.

19 Q. Okay.

20 A. Well, as well as you can as a -- in that short time
21 that you see them, yes.

22 Q. Sure. Sure. Okay. But you -- I mean, you new her?

23 A. Oh, yes. Yes.

24 Q. So do you recall **Minor** coming by your office on
25 Monday, March the 3rd of 2014? Well, first of all, let

1 me ask you this. When people -- when students come to
2 your office, do you keep records of those visits?

3 A. Yes. Yes.

4 Q. Now did you bring a record regarding Minor
5 from March 3rd with you today?

6 A. Yes.

7 Q. Okay. What did she come to see you for on March 3,
8 2014?

9 A. On March 3rd, she -- she -- I always put a -- quote
10 what they say when they come into the health room and she
11 said I need my pants fixed.

12 Q. Okay. Was that a common thing for students to stop
13 by and just -- to have something like their pants fixed?

14 A. Yes.

15 Q. Was it always medically-related?

16 A. Oh, no. They come for all sorts of things.

17 Q. Okay. Now did she stop by your office to see you
18 again the next day on March 4th?

19 A. Yes.

20 Q. Okay. What time did she first come by your office?

21 A. She came in at 9:17.

22 Q. Okay. And what was the purpose for her visiting you
23 at 9:17?

24 A. Her quote was my underwear got dirty when I went to
25 the bathroom. Can I get a new pair? It is wet.

1 Q. Okay. And what did you do in response to her
2 request?

3 A. I provided her a pair of underwear and like a baby
4 wipe and instructed her how to use -- if she needed to use
5 it and -- and I gave her a pair of underwear. She changed
6 by herself in the restroom, I don't go in there, and I
7 gave a little -- I always give two bags for them to bag
8 up their underwear or clothes to put in their bookbag.

9 Q. Okay. And you said that you don't go in there with
10 them?

11 A. No.

12 Q. You give them the underwear and they go in there
13 themselves to change?

14 A. Yes. And I us always document that they went in
15 there by themselves.

16 Q. Okay. All right. After she returned, did she have
17 her old underwear bagged up from what you could tell?

18 A. Yes. Yes, and I instructed her to -- to place it in
19 her bookbag.

20 Q. Okay. Do you ever give them any -- when they come to
21 see you, do you ever give them any instructions in regard
22 to if they should tell their parents?

23 A. About every visit I tell them to tell their parents
24 about coming to the health room and the visit.

25 Q. Did you tell her to tell her mom in this case?

1 A. Yes, I instructed her to tell her mother that she
2 requested a new pair of underwear because something got
3 on her own underwear.

4 Q. Okay. Did you see **Minor** at all the rest of that
5 day on March 4th?

6 A. Yes.

7 Q. When did she next come back?

8 A. Her next visit was at 12:11.

9 Q. Okay. And what was the purpose for her visit at
10 12:11?

11 A. She told me that now it hurts and it is wet again.

12 Q. It -- when you say "it", what was she referring to?

13 A. I believe her underwear.

14 Q. Okay. So her underwear was wet?

15 A. Again.

16 Q. And she said -- she said that it -- it hurts?

17 A. Yes. Now "it hurts" and "it is wet again" were her
18 quotes.

19 Q. Okay. When she was saying that it hurts, what did
20 you -- did you have an indication from her as to what she
21 was talking about?

22 A. Yes, I knew what she was talking about.

23 Q. Okay. What was she talking about that hurt?

24 A. Her private area.

25 Q. Okay. And what did you do in response to her coming

1 at 12:11?

2 A. I called her mother and I left a message with her
3 mother.

4 Q. Okay. Did she leave or did she come back again later
5 that day? What happened after that?

6 A. Yes, she came back.

7 Q. Okay. What time did she come back?

8 A. She came back at 1:20.

9 Q. Okay. What did she -- what was the purpose of her
10 visit at 1:20?

11 A. She said now it is itching and hurting. I need to
12 change.

13 Q. Okay. Again, itching and hurting, she's referring
14 to?

15 A. Her under -- her underwear and her private area, yes.

16 Q. Okay. What did you do in regards to treatment?

17 A. We gave her another pair of underwear. I said
18 provided clothing and she went into the restroom and
19 changed by herself and, again, I instructed her to put it
20 in her bookbag and I gave her a bag to tie it up with --
21 to tie it with, yes.

22 Q. Okay. Did you contact her parents or her mother?

23 A. Well, I told her that -- student informed mother
24 stated she was gonna try to get off work early and take
25 her to the doctor, which meant mom had called me back and

1 I had spoken with mother and so I was telling -- I was
2 telling **Minor** what mom had said.

3 Q. Okay. And that was for the purposes of medical
4 treatment?

5 A. Yes. Yes.

6 **MR. POGUE:** I beg the Court's indulgence.

7 BY MR. POGUE:

8 Q. Did **Minor** take the underwear with her when she
9 left?

10 A. Yes.

11 Q. Okay. Both pairs?

12 A. Yes. I -- yes. I gave her bags for both pairs, yes.

13 Q. Okay. Ms. Lamb, is it your policy -- or did you ever
14 ask her anything about what was the cause of this?

15 A. Her first visit I -- I documented she denied any
16 complaints. Stated she did not know how her underwear got
17 dirty.

18 Q. Okay. Do y'all have any policies in regards to if
19 you were to suspect any sort of abuse or -- specifically
20 in this case, sexual abuse, would you be mandated to
21 report it?

22 A. Yes, I'm legally mandated.

23 Q. Okay. Before today, had you ever gotten any
24 indication that she was being assaulted?

25 A. Before that day?

1 Q. Yes, before that on March 4th.

2 A. No.

3 Q. Okay. Did you have any inclination or opinion as to
4 that -- let me ask you this question. Did you ever see
5 her underwear personally?

6 A. No.

7 Q. Okay. So you wouldn't have been able to look at it
8 to diagnose it?

9 A. No.

10 Q. Did you have any opinions as to what may have been
11 causing this wetness, itching or hurting?

12 **MR. CHEHOSKI:** Objection, Your Honor. Calls for
13 speculation.

14 **THE COURT:** Sustained.

15 **MR. POGUE:** I'll withdraw the question, Your Honor.

16 **THE COURT:** Okay.

17 **MR. POGUE:** No further questions, Your Honor.

18 **THE COURT:** All right. Mr. Chehoski.

19 CROSS-EXAMINATION

20 BY MR. CHEHOSKI:

21 Q. Nurse Lamb, you said you had to document every time
22 a student comes to see you?

23 A. Yes.

24 Q. And you document -- but you don't -- you also stated
25 that you actually had called and spoken to the mother?

1 A. Yes. On the second visit, I wrote information --
2 info exchanged, message left with mother to call health
3 room.

4 Q. Where is the documentation that you did actually
5 speak to the mother?

6 A. The document -- I wrote it in my note that student
7 informed that mother stated she was gonna try to get off
8 work early, which meant I spoke with mother.

9 Q. All right. But you don't actually document the
10 conversation that you had with the mother?

11 A. At this time, no.

12 Q. All right. And -- let's see. What other -- are you
13 authorized to provide any medication to students?

14 A. Only if I have a permission form from the doctor or
15 from the parent.

16 Q. And that wasn't the case in this case?

17 A. No.

18 Q. All right. And **Minor** never disclosed the --
19 never disclosed a reason for the visits or as far as the
20 underlying reasons for the visits, right? She never told
21 you why she was leaking?

22 A. Oh, no. No.

23 **MR. CHEHOSKI:** One moment, please, Your Honor.

24 Nothing further, Your Honor.

25 **THE COURT:** You can step down.

1 (Witness excused.)

2 **MR. POGUE:** Your Honor, Ms. Lamb, may she be
3 excused?

4 **MR. CHEHOSKI:** There's no objection.

5 **THE COURT:** I'm sure she's got plenty to do at
6 school.

7 **MS. PATTERSON:** Your Honor, the State calls Gina
8 Dyer-Goss.

9 **THE CLERK:** Place your left and raise your right.
10 (Whereupon, Gina Dyer-Goss was duly sworn by the
11 Clerk of Court.)

12 **THE CLERK:** Have a seat please, ma'am. Once you're
13 seated, state your full name, spelling your last, please.

14 **THE WITNESS:** Okay. Gina Dyer-Goss, D-Y-E-R hyphen
15 G-O-S-S.

16 GINA DYER-GOSS,
17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. PATTERSON:

20 Q. And, Ms. Goss, where are you employed?

21 A. Palmetto Health.

22 Q. And what is your job title?

23 A. I'm the forensic nurse manager.

24 Q. And how long have you been a nurse?

25 A. I've been a nurse since 2000.

1 Q. And how long have you been in management?

2 A. Since 2014.

3 Q. And what are some of your duties as a forensic nurse
4 manager?

5 A. Providing the schedule for all of the full-time
6 nurses that I have working in my department, following up
7 with positive lab results, getting lab results from the
8 outer lying hospitals we deal with, community trainings,
9 working with management and leadership in the hospital
10 system.

11 Q. And what is your educational background?

12 A. I have been a registered nurse since 2010 and went
13 back and got my bachelor of science in nursing in -- I'm
14 sorry, nursing since 2000, BS since 2010.

15 Q. Have you had any additional specialized training in
16 the field of nursing?

17 A. Yes. I'm a certified forensic nurse, as well as I
18 hold certifications for the sexual assault nurse examiner
19 adult and adolescent population and a certification for
20 the sexual assault nurse examiner pediatric population.

21 Q. And have you ever performed any research in the area
22 of child sexual abuse?

23 A. Non-published research, but just within hospital
24 systems and law enforcement reports.

25 Q. And have you received any specialized training

1 concerning child sexual abuse examinations?

2 A. Sexual assault nurse examiner training in pediatrics.

3 Q. And how many years of experience do you have

4 concerning child sexual assault examinations?

5 A. I've been a forensic nurse and a SANE nurse since

6 2008, pediatric since 2011.

7 Q. And about how many child sexual abuse examinations

8 have you performed?

9 A. More than 300.

10 Q. Have you been previously qualified as an expert in

11 the field of child sexual abuse examinations?

12 A. I have.

13 Q. Have you testified in court before?

14 A. I have.

15 Q. How many times?

16 A. Three to four.

17 **MS. PATTERSON:** Your Honor, at this time I will
18 offer Ms. Goss as an expert in child sexual assault
19 examinations.

20 **THE COURT:** Any voir dire?

21 **MR. STORY:** Your Honor, I would like to voir dire the
22 witness.

23 **THE COURT:** I'll be glad to let you do it.

24 VOIR DIRE EXAMINATION

25 BY MR. STORY:

1 Q. Ms. Dyer-Goss, good morning.

2 A. Good morning.

3 Q. Explain a little bit to me -- you told Ms. Patterson
4 you haven't done any published research, correct?

5 A. Correct.

6 Q. Your testimony was that you, and correct me if I'm
7 wrong, you've done hospital system research --

8 A. Uh-huh.

9 Q. -- as well as law enforcement reports?

10 A. Correct.

11 Q. Could you describe those a little bit more
12 specifically beginning with the hospital system research?

13 A. Sure. We look at trends of child ages, gender
14 specific. We look at different races and when they come
15 in, what time of day they come in, things like that. And
16 with the law enforcement, it's kind of just a comparison
17 of reports that are being made.

18 Q. Okay. And so what organizations, if any, was this
19 research conducted with?

20 A. It was done -- it's done on a monthly basis and a
21 quarterly basis with our hospital, so it's done between
22 Lexington Medical Center, Kershaw Health, Palmetto Health
23 Richland, Palmetto Health Baptist, Palmetto Health
24 Parkridge.

25 Q. Okay. So it was all sort of within the hospital

1 system, within, I guess, neighboring hospitals?

2 A. Yes.

3 Q. And so the law enforcement reports would be you just
4 sort of follow up with the reports that law enforcement
5 makes after --

6 A. Yes.

7 Q. -- you've seen patients for what you suspect may be
8 sexual assault, things of that nature?

9 A. Yes.

10 Q. Okay. That's a fair description?

11 A. Yes.

12 Q. And you've done over 300 examinations?

13 A. Yes.

14 Q. And you've testified in court three or four times?

15 A. Yes.

16 Q. This will be the fourth or the fifth time?

17 A. Yes.

18 **MR. STORY:** I beg the Court's indulgence.

19 Your Honor, I would ask the Court a little more
20 specifically to narrow the field of the expertise of what
21 Ms. Dyer-Goss is allowed to speculate on, so -- and I
22 think Ms. Patterson offered her as an expert in forensic
23 examinations or nurse forensic examinations.

24 **MS. PATTERSON:** Child sexual assault examinations.

25 **THE COURT:** And, correct me if I'm wrong, Ms. Goss

1 testified that she was an RN since 2000, she got a
2 bachelor of science in the field of nursing in 2010.
3 She was a certified nurse in adult sexual assault
4 examinations in 2008 and then became a pediatric
5 certified SANE examiner in 2011, and in that field she's
6 examined over 300 patients. Is that correct?

7 **THE WITNESS:** That's correct, Your Honor.

8 **THE COURT:** I wanted to make sure my notes were
9 right.

10 So you're offering her as an expert in the field of
11 pediatric sexual examination?

12 **MS. PATTERSON:** Yes, sir.

13 **MR. STORY:** No objection then.

14 **THE COURT:** All right.

15 All right. So y'all understand what that discussion
16 was about, Ms. Goss has been offered as an expert because
17 of her specialized training, her experience in the field
18 of pediatric sexual assault examination of youngsters.
19 She can offer opinions to what she saw, in addition to
20 what she actually did, so she can offer an opinion. Most
21 lay witnesses are only allowed to say I saw this, I
22 smelled that, I did this or that. She can offer an
23 opinion in that field also because of her special
24 training.

25 All right, Ms. Patterson. She is so qualified.

1 Q. And why is it important to get that history on the
2 child from the referring agency?

3 A. We need to make sure that those children are
4 medically cleared before we take them and take over their
5 care.

6 Q. Now do you have any notes pertaining to a patient
7 named **Minor** ?

8 A. I do.

9 Q. And what date did you see **Minor** ?

10 A. She arrived at our hospital at Palmetto Health
11 Richland on March the 4th, 2014.

12 Q. And do you know what time she arrived?

13 A. The original phone call I received from Lexington
14 Medical was at 17:07, so 5:07, and then she arrived at
15 Richland at 6:04.

16 Q. And, again, who was she referred by?

17 A. Lexington Medical Center Emergency Department.

18 Q. And who brought **Minor** into your hospital?

19 A. Her mother.

20 Q. And did you obtain the medical history from **Minor**
21 from either she or her mom when they arrived?

22 A. The medical history for the child is actually taken
23 from the parent or guardian.

24 Q. And is this information important for the purposes
25 of medical treatment and diagnosis?

1 A. It is. We have to rule out that there are any
2 underlying medical conditions that could be pertinent to
3 my evaluation of the child.

4 Q. And did you obtain any information about Minor 's
5 present complaints?

6 A. From her mother. Is that the one you're asking
7 about?

8 Q. Yes.

9 A. There are specific questions that we ask parents and
10 I asked her what circumstances prompted the statement.
11 She explained to me that she had been notified from the
12 school nurse about Minor 's complaints and her underwear.

13 Q. And what were some of her complaints?

14 A. She stated that the child did not want to tell anyone
15 because of the person who was considered the offender.
16 She stated that the child had some complaints in her
17 genital area and that she had a discharge.

18 Q. And were you able to talk to Minor ?

19 A. I did.

20 Q. And did you ask her any questions about what was
21 going on with her?

22 A. I did. The first question that we ask children when
23 they come in is why were you brought to the hospital and
24 her statement was because I was leaking down there.

25 Q. And what kind of questions do you typically ask

1 children?

2 A. We ask children open-ended questions instead of
3 asking them to give us yes or no answers. Asking them
4 open-ended questions gives them the option to elaborate
5 on the question that you've asked. It also gives them
6 the option to talk about their feelings and emotions and
7 things that they would typically not say if it's just a
8 yes or no answer.

9 Q. And before you began your examination of **Minor** ,
10 is it important for you to know the allegations?

11 A. It is. Because I am medical personnel, I am
12 medically driven, so I have to know the assault history,
13 the medical history, the social history. I have to know
14 all of those components in order to determine which
15 direction I need to go with her evaluation and her
16 examination.

17 Q. And without saying what she may have told you, was
18 she able to identify who assaulted her?

19 A. She did.

20 Q. And were you able -- is it important for you to know
21 the time and place of the assault?

22 A. It is. At the end of our evaluation and examination,
23 my job is to have a safety plan in place for patients when
24 they leave the hospital. I need to know who they live
25 with, who are the primary caregivers, where does the child

1 go, what school, where do they visit, things like that, so
2 that I can make sure that I am not putting that child back
3 into a situation that's not healthy for them.

4 Q. And what were you able to find out with regards to
5 the time of the assault?

6 A. I have to ask last contact. Once I know -- once I
7 have a name of an offender, I have to ask last contact
8 with that person, and my understanding was the last
9 contact with the person was March 1st around 11:00 PM
10 until about 2 AM the next morning.

11 Q. Now in your report do you have that that's the last
12 contact or the date and time of the assault?

13 A. The last contact would actually be the date we use
14 for the last -- the last date of assault.

15 Q. And did you receive any information about where the
16 assault took place?

17 A. I was given an address.

18 Q. What address were you given?

19 A. Pine Straw Trailer Park, Edmond Highway, Lot Number █ .

20 Q. Okay. In which city?

21 A. Lexington.

22 Q. And what kind of examination did you perform on
23 Minor ?

24 A. I did a full medical history, assault history, social
25 history, forensic evaluation and a forensic examination.

1 Q. And did you do any type of physical examination?

2 A. Yes, we do a head to toe assessment, including a
3 genital and rectal exam.

4 Q. Okay. And during that physical exam, did you notice
5 any type of injuries on **Minor** ?

6 A. Yes. On initial examination, the first thing we do
7 is collect clothing, so I collected two pair of panties
8 and on one pair of those panties they were very stained
9 and very yellow. Upon examination of her genital area,
10 she had -- we do a technique that's called a separation
11 and traction where we hold the left and the right labia
12 majora, pull them towards us and separate them so that we
13 can get a good visual of the hymen and all of the female
14 genitalia. So when doing that, on inspection of her
15 external genitalia, there was a lot of yellow, thick,
16 greenish colored drainage on the exterior part of her
17 vaginal labia majora, and then on that traction where you
18 have to hold and pull she complained of some tenderness
19 in that area. She also had some reddened areas on her
20 hymen and some swelling and discomfort in her clitoral
21 area.

22 Q. Okay. And did these injuries concern you?

23 A. They did.

24 Q. Was there any lab work ordered?

25 A. There was. Due to her last contact, we will always

1 rule out sexually transmitted infections, so a urine
2 specimen was obtained in order to test for gonorrhea and
3 Chlamydia. She also had blood drawn to test for syphilis
4 and HIV. She had a rectal test done that tests for
5 gonorrhea and Chlamydia. We also drew labs for -- I drew
6 labs for Hepatitis A, B and C. And then due to her having
7 discharge, we collect another test that's called a
8 trichomonas affirm test.

9 Q. And did you -- did you collect the urine and blood
10 samples?

11 A. I did.

12 Q. Okay. And what did you do with the samples?

13 A. All of the samples are collected. They are labeled
14 with a patient label that is generated through the
15 hospital. I have to put the time of collection, my
16 initials and my employee ID on those laboratory specimens.
17 They are then put into a laboratory transport bag and
18 then once the exam is over and patient has been discharged,
19 I take all of those with the chain of custody to the
20 laboratory at the hospital.

21 Q. And why is the employee ID and the labels and stuff,
22 why is that necessary?

23 A. The labels are necessary so that the laboratory knows
24 exactly what tests are performed and on the particular
25 patient. The lab test orders are actually put into our

1 computer system at the hospital and that's what the
2 laboratory personnel pulls their orders from. My initials
3 and my employee ID are on there so that if it ever has to
4 be tracked back or it's lost, they know who to contact.

5 Q. And y'all keep track of everything you said with a
6 computer system?

7 A. Uh-huh.

8 Q. And do y'all have an in-house lab that you use?

9 A. We do.

10 Q. Okay. And do you get the lab results right when the
11 patients are in there for their examination?

12 A. We do not. Those lab results -- on pediatric
13 patients when they are prepubescent, which means they have
14 not hit puberty yet and they do not have a period, those
15 labs are actually sent out to an outside laboratory for
16 further testing and for what we call a reflex. So if a
17 lab comes back positive, that outside lab does the reflex
18 to actually test it a second time.

19 Q. And did you give any instructions to **Minor** or her
20 mom with regards to receiving any possible positive test
21 results?

22 A. We notify them that if we receive any positive test
23 results we will notify them when we get those. We do not
24 notify on an original positive because we always want to
25 make sure that we've had a reflex test for confirmation

1 on a positive. I also instruct the parent that if they
2 have any issues or any problems that the child can be
3 taken to their primary care physician or back to the
4 emergency department.

5 Q. And in this particular case, do you know who
6 **Minor** 's pediatrician was?

7 A. I believe it's Brookland Cayce. Brookland Cayce
8 Pediatrics.

9 Q. Okay. And, Ms. Goss, in your expert opinion were
10 **Minor** 's findings consistent with a child who had been
11 sexually abused?

12 A. Yes, ma'am.

13 **MS. PATTERSON:** I beg the Court's indulgence.

14 Thank you, Ms. Goss. Please answer any questions
15 the defense may have.

16 CROSS-EXAMINATION

17 BY MR. STORY:

18 Q. Ms. Dyer-Goss, briefly. You've been qualified as
19 an expert in pediatric sexual examinations. Done over
20 300 of them?

21 A. (Nods head.)

22 Q. You've described this day some of **Minor** 's symptoms
23 were drainage in the vaginal area, tenderness, correct?

24 A. Correct.

25 Q. Redness?

1 A. (Nods head.)

2 Q. Swelling?

3 A. (Nods head.)

4 Q. These -- in your experience, these things can be
5 symptomatic of many different diagnoses, correct?

6 A. Some of them can.

7 Q. Some of them can?

8 A. Yes.

9 Q. So, for example, this could be symptomatic of
10 Chlamydia?

11 A. Yes.

12 Q. It could also be symptomatic of a yeast infection?

13 A. Not the drainage.

14 Q. Not the drainage?

15 A. Correct.

16 Q. Okay. What about certain types of allergies?

17 A. Yes. For the swelling and discomfort, yes.

18 Q. And what about a cyst?

19 A. It depends on where you're talking about the cyst
20 would be. Are you talking about internal or external?

21 Q. Either one.

22 A. Internal, typically no. External, a cyst would be
23 visual, so the drainage would be coming from something
24 like a cyst.

25 Q. So you would be able to see it from the cyst is what

1 you're telling me?

2 A. Yes.

3 Q. But, of course, you do these tests because sometimes
4 they don't come back symptomatic of a sexually transmitted
5 disease, for example?

6 A. If they are asymptomatic, yes.

7 Q. Okay. And I'm sorry. I said symptomatic, but what
8 I meant was actually positive for a sexually transmitted
9 disease.

10 A. There are -- there are children that have been
11 sexually assaulted, but their sexually transmitted
12 infection tests are negative.

13 Q. So -- okay. And so just -- so my question is, there
14 are children who are symptomatic whose tests come back
15 negative?

16 A. I have not seen any, but I'm sure there are.

17 Q. Okay. So -- but we've established that these
18 symptoms could indicate another problem?

19 A. Yes.

20 Q. Okay. So if, for example, since you're an expert, a
21 child came back who was symptomatic and their tests were
22 negative for a sexually transmitted disease, that may or
23 may not indicate sexual abuse?

24 A. That's a hard one to answer because I have not
25 experienced any children who come in symptomatic with the

1 type of complaints and drainage that I found on Minor ,
2 I have not experienced that that would be a negative STI
3 exam.

4 **MR. STORY:** Okay. I beg the Court's indulgence.
5 That's all. Thank you.

6 **THE COURT:** Anything else, Ms. Patterson?

7 **MS. PATTERSON:** No, sir, Your Honor. We ask that
8 this witness be excused.

9 **THE COURT:** Certainly.

10 **THE WITNESS:** Thank you.

11 (Witness excused.)

12 **MS. PATTERSON:** The State calls Dr. Paul Guerry.

13 **THE CLERK:** Place your left and raise your right.

14 (Whereupon, Paul Guerry was duly sworn by the Clerk
15 of Court.)

16 **THE CLERK:** Have a seat, please, sir. Once you're
17 seated, Doctor, please state your full name, spelling
18 your last.

19 **THE WITNESS:** My full name is Paul Guerry,
20 G-U-E-R-R-Y.

21 PAUL GUERRY,

22 having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. PATTERSON:

25 Q. Good morning, Dr. Guerry.

1 A. Good morning.

2 Q. And, Dr. Guerry, can you tell us where you're
3 employed?

4 A. I am employed as a pathologist with a company called
5 Professional Pathology Services and we are an independent
6 contractor providing professional pathology services to
7 various hospitals, including Palmetto Heath. I'm not an
8 employee of Palmetto Health, but I do -- my company has a
9 contract to provide those services.

10 Q. All right. And can you tell us what is pathology?

11 A. Well, a pathologist -- and I'm Board-certified in
12 both anatomical and clinical pathology. We're medical
13 doctors that oversee the laboratory work in hospitals and
14 in -- also in the outpatient setting. Anatomic pathology
15 refers to the evaluation of tissue specimens, biopsies
16 that might be obtained by surgeons or other physicians,
17 cytology samples, PAP smears. We're the ones that
18 evaluate those specimens, process the tissues, turn them
19 into a microscopic slide that we can examine under a
20 microscope and render diagnoses or diagnostic opinions.

21 Clinical pathology refers to other parts of the
22 laboratory. Things like microbiology, chemistry, blood
23 banking, those type of services that are provided in a
24 hospital, so we provide special oversight for those
25 services as well.

1 Q. And would those laboratory testings include sexually
2 transmitted disease testing that the hospitals may conduct
3 on patients?

4 A. That is correct.

5 Q. Okay. And what's your educational background and
6 experience?

7 A. Well, I am a medical doctor. I received my MD
8 degree from the Medical University of South Carolina in
9 Charleston in 1983. I received my MD degree, immediately
10 entered into a pathology residency training program, also
11 in Charleston at MUSC, and so for the next six years I was
12 either involved in my residency training, which includes
13 both anatomic and clinical pathology training. I did go
14 away to Memorial Sloan Kettering Cancer Center in New York
15 and spent a year there with a fellowship training year in
16 oncologic pathology, which is cancer pathology, but that's
17 been the crux of my training.

18 Q. So you have had postgraduate training in the field of
19 pathology?

20 A. Yes, that's what I mean by a residency program.

21 After I received my MD degree, I spent the next six years
22 specifically being trained in the areas of pathology.

23 Q. And have you had any publications?

24 A. Gosh, a few. I'm not academically orientated, but I
25 have over the time published a few articles, but not very

1 many.

2 Q. And do you have teaching experience in the field of
3 pathology?

4 A. Yes, I have always been involved with teaching both
5 -- medical technologists in various training programs,
6 both in Charleston as well as in Columbia. The Baptist
7 Hospital for years had a training program for medical
8 technologists. These are the people that actually work
9 in the lab, the non-MDs, but specially trained people
10 that do the laboratory tests that we're talking about, so
11 I've had some teaching oversight of that over the years
12 and also involved in the training of medical students and
13 residents that happen to be rotating at Palmetto Health
14 Richland.

15 **MS. PATTERSON:** Your Honor, at this time we move
16 Dr. Guerry as an expert in the field of pathology.

17 **MR. CHEHOSKI:** Without objection.

18 **THE COURT:** All right. The same as the last witness.
19 Dr. Guerry is qualified as an expert in the field of
20 pathology, which means he can render opinions in that
21 field of medicine.

22 All right. Continue on, Ms. Patterson.

23 (State's Exhibit Number 2 was marked for
24 identification.)

25 BY MS. PATTERSON:

1 Q. And, Dr. Guerry, can you tell us a little bit about
2 your role as the medical director of the pathology
3 department for the company that you work for?

4 A. Yes. Well, in my role as medical director -- and
5 I've been serving in that capacity a number of years. I
6 started working at Palmetto Health Baptist in about 1989,
7 I think, is when I started there, and this was before
8 Palmetto Health even came into existence. I was just
9 part of a small group of pathologists there. But over
10 time the hospitals merged and my pathology group merged
11 with another group and we've just continued to grow and
12 get larger. But much of my time is spent on a daily basis
13 involved in the anatomic pathology side of medicine where
14 I'm looking at biopsies and that sort of thing, but I also
15 have the oversight responsibility of making sure that the
16 clinical laboratory tests that are done in the hospital
17 are done appropriately, reliably and consistently and to
18 make sure that the various accreditation agencies that
19 oversee our work -- make sure that we're meeting the
20 standards of those organizations, and I'm referring to
21 things like the College of American Pathologists, which
22 is an independent organization that comes in and inspects
23 our laboratory on a regular basis making sure that
24 we're doing the job that we're doing and I have the
25 professional responsibility of making sure that we meet

1 those standards, and also other government agencies such
2 as, you know, Medicare, the joint commission, when they
3 come in and inspect the hospital, and they will include
4 inspections of the laboratory looking to make sure that
5 we're doing the job that we're supposed to be doing and
6 doing it correctly and it's my responsibility to make
7 sure, in part -- I'm a part of a team, a much larger
8 team, you know, doing this, but that is -- I'm the MD
9 that's responsible for making sure that that's getting
10 done.

11 Q. And can you explain a little about the safety
12 measures put into place by your lab to ensure that the
13 testing samples that are done are done on an identified
14 patient?

15 A. Right. It's very important. Specimen integrity
16 and the reliability of the results are of paramount
17 importance. In other words, if a laboratory test would
18 come from you, I need to make sure the results that we
19 generate are coming from you, and not you, and if we
20 don't ensure that we obviously will be doing more harm
21 than good in not only the care of patients, but just,
22 you know, my own professional reputation. You could
23 quickly understand that if we're not generating results
24 that belong to the correct patients you would have mass
25 confusion obviously, so it's very important that when you

1 drew a tube of blood or have a biopsy specimen identified
2 from a patient that you make sure that everywhere along
3 that process that you don't have a mixup of those
4 specimens. And we do things like when the patient is
5 first admitted or a specimen is collected, we make sure
6 that the collection device, be it a tube of blood or a
7 tissue specimen, it doesn't matter, is properly labeled
8 with unique identifiers, and by that I mean not only just
9 the patient's name, but it can be traced back to birth
10 date, Social Security number, medical record number that
11 the hospital applies to this particular patient, so --
12 and these specimens are also marked with bar codes as
13 they're going through and electronically scanned through
14 the laboratory by the instrumentation itself in the case
15 of the clinical lab that we make sure that that specimen
16 belongs to that patient and so the results are correct
17 and accurate in that regard.

18 Q. And does your laboratory keep records of the lab
19 testing and the results?

20 A. Yes.

21 Q. Okay. I'm gonna show you what's been marked as
22 State's Exhibit Number 2 and ask you to take a look at
23 this. And you can take a minute to look over that
24 document.

25 A. Yes, these are a summation of some laboratory tests

1 that were performed in our laboratory and then some of the
2 tests were collected in our laboratory and sent out to a
3 reference lab called ARUP, A-R-U-P. It's a laboratory
4 that we'll sometimes use. But, regardless, it's -- I am
5 familiar with this information.

6 Q. And how were those records prepared or generated?

7 A. Well, first the specimen has to be collected or --
8 and this is on a patient that's already registered in the
9 hospital system, and by that I mean registered with name
10 and Social Security number, birth date and that sort of
11 thing, given unique identification numbers, and then once
12 that is done that -- a special label can be generated and
13 affixed. It's got a sticky label, it sticks on the tube
14 of blood, sticks on whatever the container might be, and
15 stays with that specimen from that point on. So we want
16 to make sure, you know, once that specimen is collected
17 and is brought to the lab and then properly identified,
18 then we can do the testing at that point.

19 Q. And at the time is all that information inputted into
20 a system that generates these records?

21 A. It will be part of the laboratory computer system
22 and ultimately into the patient's medical record at the
23 hospital as well.

24 Q. And are these records kept and maintained for
25 security reasons?

1 A. Well, they're maintained for the health -- you know,
2 the medical record is maintained in a secure fashion,
3 you know, for the benefit of the patient.

4 Q. And as medical director, do you have access to these
5 records?

6 A. Yes.

7 Q. And how do you gain access to these records?

8 A. Well, I have to have a secure logon into the hospital
9 system or into any one of the laboratory systems and I
10 have to have -- or I have to know either a patient's name
11 or identification number or medical record number or
12 some way like that to hook up that particular bit of
13 information, but I do have status as the medical director
14 to gain access to this information.

15 Q. And does Palmetto Health Richland prepare these
16 records in the ordinary course of business?

17 A. Yes.

18 Q. And, again, what is the purpose of maintaining these
19 properly identified records?

20 A. Well, remembering that the -- the pathology and the
21 laboratory in general we're serving as consultants to the
22 physicians that are ordering these tests and they will
23 have a specific reason or rationale for ordering whatever
24 test they do and it's our job to make sure we generate
25 appropriate and accurate results of those tests, provide

1 them to the ordering physician, but also make them
2 available in the medical records should other consulting
3 physicians later on need to have access to that
4 information as well, so we have to retain it for future
5 access as well.

6 **MS. PATTERSON:** Your Honor, at this time we move
7 State's Exhibit Number 2 into evidence.

8 **MR. CHEHOSKI:** Your Honor, subject to previous
9 objections, specifically it would be case law State
10 versus James and the violation under Article 5 -- well,
11 the Fifth, Sixth and Fourteenth amendments to the United
12 States Constitution and Article 3 and 10 of the South
13 Carolina Constitution.

14 **THE COURT:** Can I see it? Can I see the exhibit?

15 **MS. PATTERSON:** Oh, I sorry, Your Honor.

16 **THE WITNESS:** (Handing.)

17 **THE COURT:** These are the records of young

18 minor

19 **MS. PATTERSON:** Yes, sir.

20 **THE COURT:** Okay. I think consistent with the
21 medical records, he's identified them, that they're
22 business records. They will be admitted subject to the
23 objection. These are the records of the child.

24 It will be State's Exhibit 2?

25 **MS. PATTERSON:** Yes, sir.

1 (State's Exhibit Number 2, a Pathology Record, was
2 admitted into evidence.)

3 BY MS. PATTERSON:

4 Q. And, Dr. Guerry, those records that were just
5 admitted into evidence, what is the name identified on
6 those records?

7 A. The name?

8 Q. Yes, sir.

9 A. It's -- **Minor** is the name of the
10 patient.

11 Q. And what date does the records contain she was
12 admitted into the hospital?

13 A. Well, it looks like March 4, 2014, so it says
14 03042014.

15 Q. And the laboratory that you're the medical director
16 of performed a STD spectrum testing on her -- on the
17 sample that was provided to your lab?

18 A. That is correct.

19 Q. And what type of sample did you obtain?

20 A. Well, I didn't personally obtain it, it was delivered
21 to the lab, but it was a urine sample. I believe that's
22 the one you're referring to.

23 Q. Yes, sir. And does this sample have unique
24 identifiers that relate to **Minor** as you
25 previously testified about?

1 A. Correct.

2 Q. And can you tell us what type of -- was a gonorrhea
3 test performed on this sample?

4 A. It was.

5 Q. And can you tell us just as in laymen's terms as to
6 how that sample was performed -- how that test was
7 performed?

8 A. Well, very generally it's a DNA amplification test,
9 which means it's a test that looks for genetic material
10 that's specific or will help you identify specifically
11 the organism in question. In this case it was --
12 gonorrhea is the bacteria that we're looking for, so it's
13 -- we're looking for a very specific signal that will --
14 is specific for that organism and if it's present it can
15 be amplified or multiplied to a level that can be detected
16 and then determined if it's truly positive or not.

17 Q. Okay. And what was the results of her testing with
18 respect to gonorrhea?

19 A. It was positive.

20 Q. Was any type of confirmation done on that test?

21 A. Well, it was -- it was. There were several different
22 samples that were collected. There was a urine and a
23 rectal swap sample and some of the samples were sent to
24 the outside reference laboratory, and this is all based
25 on how the physician ordered these tests, they ordered

1 different tests to be performed, and some of the tests
2 were sent to this outside lab, but they got similar
3 results also positive for gonorrhea.

4 Q. Okay. And is it in the ordinary course of business
5 for Palmetto Health to send it out to an outside
6 laboratory for confirmation?

7 A. Yes, we do on occasion send it to an outside lab.

8 Q. And was she also tested for syphilis?

9 A. She was tested for that. One of the tests, which is
10 a screening test, came back positive, but that doesn't
11 necessarily mean she had the disease and confirmatory
12 tests subsequently were found to be negative, so that --
13 she really was not found to have syphilis.

14 Q. Okay.

15 A. At least from a laboratory standpoint.

16 **MS. PATTERSON:** I beg the Court's indulgence, Your
17 Honor.

18 Thank you, Dr. Guerry. Please answer any questions
19 the defense may have.

20 CROSS-EXAMINATION

21 BY MR. CHEHOSKI:

22 Q. Dr. Guerry, did you personally perform the test on
23 these?

24 A. No, I served in a supervisory role in that capacity.

25 Q. All right. Did you review the results before

1 delivering them to the State or back to the hospital?

2 A. Yes.

3 Q. Now there are -- are there multiple strands of
4 gonorrhoea?

5 A. There are different subtypes, yes.

6 Q. Those subtypes, are they identifiable through the
7 DNA amplification test?

8 A. I'm not sure exactly what you mean. Will they be
9 detected by it?

10 Q. Can you distinguish which strand of gonorrhoea it is
11 through the amplification test?

12 A. No.

13 Q. And are the -- and you're not involved with the
14 treatment of the disease afterwards, correct?

15 A. That's correct.

16 **MR. CHEHOSKI:** One moment, please.

17 BY MR. CHEHOSKI:

18 Q. Now you had said earlier, again, that the initial
19 screening test came back positive for syphilis?

20 A. The screening test, yes.

21 Q. Right. And that screening test is just -- is that
22 just like an indicator for further testing?

23 A. It is an indicator. That's a good way to describe
24 it. In matters of public health when you're doing
25 screening tests, you oftentimes want a test that's gonna

1 have a high degree of sensitivity, meaning you don't
2 want to miss anybody with the disease. Sometimes as a
3 consequence of that, the specificity is limited. It means
4 that you might get a positive result in somebody that
5 doesn't have the disease, but the whole idea behind the
6 screening test is you want to make sure you don't miss
7 anybody. So you might get a couple of people that are
8 positive and that just means they need additional testing
9 to determine if they're truly positive or not and if they
10 come back positive, then it's done its job and if it comes
11 back negative, well, it just means that it was a
12 false-positive, but that's really how the test is designed
13 anyway. The main purpose on a screening test is to make
14 sure you don't miss anybody that has the disease.

15 Q. And so the screening -- again, the screening test is
16 to identify what areas need further testing?

17 A. Correct.

18 Q. And that's what the confirmatory tests are for?

19 A. That's correct.

20 **MR. CHEHOSKI:** Thank you. Nothing further, Your
21 Honor.

22 **THE COURT:** Anything else?

23 **MS. PATTERSON:** Nothing further. We ask that this
24 witness be excused.

25 **MR. CHEHOSKI:** No objection.

1 **THE COURT:** Certainly.

2 (Witness excused.)

3 **THE COURT:** All right. Let's take us a short break.
4 Y'all step in the jury room and take a few minutes and
5 I'll have you back out here shortly. Don't discuss the
6 case.

7 (Whereupon, the jury retires to the jury room at
8 10:35 AM.)

9 **MS. PATTERSON:** Your Honor, may we approach
10 regarding scheduling?

11 **THE COURT:** Sure. Come on up here.

12 (Proceedings held at the bench; not reported.)

13 **THE COURT:** All right. Bring the jury in.

14 (Whereupon, the jury returns to the courtroom at
15 10:55 AM.)

16 **THE COURT:** All right. We're ready to proceed on.
17 Call your next witness.

18 **MS. PATTERSON:** Thank you, Your Honor.

19 The State calls Dr. Katherine Atkinson.

20 **THE CLERK:** Place your left and raise your right.

21 (Whereupon, Katherine Atkinson was duly sworn by the
22 Clerk of Court.)

23 **THE CLERK:** Have a seat, Doctor. Once you're seated,
24 state your full name, spelling your last on the record.

25 **THE WITNESS:** My name is Dr. Katherine Joy Atkinson.

1 It's A-T-K-I-N-S-O-N.

2 KATHERINE JOY ATKINSON,

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. PATTERSON:

6 Q. Dr. Atkinson, where are you currently employed?

7 A. I'm employed at Brookland Community Pediatrics,
8 part of the Eau Claire Health Cooperative.

9 Q. And how long have you been a pediatrician?

10 A. For ten years.

11 Q. And can you give us a little bit about your
12 educational background?

13 A. I completed my undergraduate at the College of
14 Charleston and went to the Medical University of South
15 Carolina in Charleston also and then I completed my
16 residency in pediatrics at the University of South
17 Florida in Tampa.

18 Q. And what type of -- have you done any other training
19 postgraduate besides your residency?

20 A. No, that's it.

21 Q. Okay. And are you Board-certified in the field of
22 pediatric medicine?

23 A. Yes, I am.

24 Q. And have you always practiced in the field of
25 pediatrics?

1 A. Yes.

2 Q. And about how many patients do you see yearly?

3 A. Probably around 4200 a year.

4 **MS. PATTERSON:** Your Honor, at this time we move
5 Dr. Atkinson as an expert in the field of pediatric
6 medicine.

7 **MR. STORY:** No voir dire for this witness, Your
8 Honor.

9 **THE COURT:** All right. Dr. Atkinson is qualified
10 as a physician in the field of pediatrics.

11 BY MS. PATTERSON:

12 Q. And as a pediatrician, what type of illnesses do you
13 treat for children?

14 A. We treat a wide variety. We treat acute onset such
15 as colds and rashes, we treat chronic illnesses also such
16 as asthma, eczema. We treat psychiatric illnesses such
17 as ADHD and anxiety, and we treat a variety of illnesses
18 such as pneumonias, blood infections, genital urinal
19 infections and also handle preventative care for children
20 and adolescents.

21 Q. And do you have a patient named **Minor** ?

22 A. I do.

23 Q. Did you see **Minor** in March of 2014?

24 A. I did.

25 Q. And what specific date did you see **Minor** ?

1 A. Per my records it was March 5, 2014.

2 Q. And what was the reason for **Minor** 's visit?

3 A. It was an emergency room followup for a vaginal
4 discharge.

5 Q. And is it important in the treatment of your patients
6 to obtain a history?

7 A. Yes.

8 Q. And who was the source of her history?

9 A. Her mother.

10 Q. Did you perform any type of physical exam on
11 **Minor** ?

12 A. I did. I did a focussed physical exam basically
13 looking at the genital region and it showed a profuse
14 amount of a green purulent vaginal discharge. It was
15 difficult to really tell if there was any trauma due to
16 the amount of discharge that was present.

17 Q. And did you access any medical records from Palmetto
18 Health Richland?

19 A. I did.

20 Q. And did you rely on those reports for the purposes
21 of your medical diagnosis and treatment of **Minor** ?

22 A. I did.

23 Q. Is this something that you typically do if your
24 patients are seen at Palmetto Health Richland?

25 A. Yes.

1 Q. And so do you have -- how do you have access to
2 their records?

3 A. I have credentials through Richland because I do
4 round on the newborn babies through our practice
5 periodically on the weekends.

6 Q. And based on that lab report, did you diagnose
7 **Minor** with anything?

8 A. Yes.

9 Q. And what was that?

10 A. I diagnosed her with gonorrhoea and after consultation
11 with the pediatric infectious disease doctor via the phone
12 we diagnosed her with syphilis.

13 Q. And did you have any information regarding any
14 confirmatory testing done on the syphilis?

15 A. Yes, after the fact.

16 Q. And before you had that confirmation, did you treat
17 her for gonorrhoea and/or syphilis?

18 A. Yes. Again, that was based on recommendations from
19 a pediatric infectious disease specialist.

20 Q. And at some point later was the results of her
21 syphilis test changed?

22 A. Yes.

23 Q. And what did it come back as?

24 A. It came back -- the confirmatory test was negative.

25 Q. And have you had to do any followup treatments with

1 really could not see if there was any -- if there was
2 trauma or there was not trauma.

3 **MR. STORY:** I beg the Court's indulgence.

4 BY MR. STORY:

5 Q. Did you prescribe **Minor** any medication?

6 A. I did.

7 Q. What did you prescribe?

8 A. We prescribed penicillin and Rocephin in the office.

9 Q. And penicillin is an antibiotic?

10 A. They both are.

11 Q. They both are?

12 A. Yes.

13 **MR. STORY:** Thank you. No further questions.

14 **MS. PATTERSON:** Your Honor, we ask that this witness
15 be excused.

16 **THE COURT:** Certainly. I'm sure she's got plenty
17 of patients to see if she sees 4200 a year. Thank you,
18 ma'am.

19 (Witness excused.)

20 **MR. POGUE:** Your Honor, at this time the State calls
21 Pamela Levi to the stand.

22 **THE CLERK:** Place your left and raise your right.

23 (Whereupon, Pamela Levi was duly sworn by the Clerk
24 of Court.)

25 **THE CLERK:** Have a seat, please, ma'am. Once you're

1 seated, state your full name, spelling your last, please.

2 **THE WITNESS:** My name's Pamela Levi, L-E-V-I.

3 PAMELA LEVI,

4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. POGUE:

7 Q. How are you doing, Ms. Levi?

8 A. Fine.

9 Q. Ms. Levi, where are -- what is your occupation?

10 A. I'm a family nurse practitioner.

11 Q. And where are you employed as a nurse practitioner?

12 A. Lexington Medical Center in Swansea, South Carolina.

13 Q. Okay. That's an individual branch of Lexington
14 Medical Center?

15 A. It is. It's one of our rural health centers and
16 it's an urgent care center.

17 Q. Okay. And what exactly is a nurse practitioner, if
18 you could explain to the Court.

19 A. It's a mid level provider. We have specialized
20 training so that we're able to see patients and then we're
21 credentialed through the American Nursing Association.

22 Q. Are you able to prescribe any sort of medications?

23 A. Yes.

24 Q. Okay. Do you work strictly at the Swansea branch or
25 do you work --

1 A. That is my primary location. Occasionally I'm pulled
2 to another location for coverage, but that's my primary
3 location.

4 Q. Okay. When patients come into the Lexington Medical
5 Center at Swansea or any branch, do you keep records of
6 the visits that they make there or the tests that you
7 performed, diagnoses that you made?

8 A. We do. They're kept in an electronic record.

9 Q. Okay. And who has access to the records?

10 A. We each have access under our own personal login.

11 Q. We being who?

12 A. The clinical staff.

13 Q. Okay. Who would that include?

14 A. That would include our nurses and our physicians,
15 nurse practitioners, physician assistants.

16 Q. Okay. And do you have a unique login identification?

17 A. We do.

18 Q. Okay. So when information is entered by a particular
19 individual for a patient, are you able to determine who it
20 was entered by and when it was entered?

21 A. Yes, it has our name, the date and the time it was
22 entered.

23 Q. Okay. And are these records kept in the regular
24 course of business for treating patients there at the
25 Lexington Medical Center?

1 A. Yes.

2 Q. Okay. When records are entered into the system, are
3 they typically made at the time that the action was taken?

4 A. Yes.

5 Q. Do you know how these records are stored?

6 A. They're stored on a server.

7 Q. Okay. Now are you -- are you aware of an individual
8 by the name of James Stroman who visited the Lexington
9 Medical Center at Swansea on March 5, 2014?

10 A. Yes.

11 Q. Were you the provider that saw him on March 5th?

12 A. No.

13 Q. Okay. According to your records, what was -- who was
14 it that saw him that day?

15 A. Janice Black, another nurse practitioner.

16 Q. Okay. And did he indicate according to your records
17 the purpose of his visit?

18 A. Yes, he indicated to Janice that he had unprotected
19 sex two weeks prior to coming in to be seen and wanted to
20 be tested for STDs.

21 Q. Okay. Did -- was a physical exam conducted --

22 A. Yes.

23 Q. -- on him that day?

24 A. Yes.

25 Q. Did he indicate any symptoms --

1 A. No.

2 Q. -- of a sexually transmitted --

3 A. He denied any symptoms.

4 Q. Were any symptoms or indicators of sexually
5 transmitted diseases found during the physical exam?

6 A. No.

7 Q. Okay. And you said that -- did he indicate as to
8 whether he had had sexually transmitted diseases in the
9 past?

10 A. Yes, he indicated that himself and his partner had
11 had Chlamydia years previously and had been treated for
12 it.

13 Q. Okay. All right. Was any -- any tests done or
14 requested by the patient?

15 A. Yes.

16 Q. What tests were performed or what specimens were
17 collected for testing?

18 A. He had a hepatitis profile, an HIV test, a syphilis
19 test, he was tested for gonorrhea and Chlamydia and
20 herpes.

21 Q. Okay. And how was that test collected or how were
22 the specimens collected obtained from the individual
23 patient? How is it collected?

24 A. All of these tests would be blood work with the
25 exception of the gonorrhea and Chlamydia test, which is

1 a urethral swab.

2 Q. Okay. Were you working at Lexington Medical Center
3 on March the 7th of 2014?

4 A. Yes.

5 Q. And did you ever during -- while working there that
6 day, did you ever see any test results for Mr. Stroman be
7 entered into the system?

8 A. Yes.

9 Q. Okay.

10 **MR. STORY:** Your Honor, objection under the previous
11 grounds to the business records.

12 **THE COURT:** Okay. The objection is overruled.

13 BY MR. POGUE:

14 Q. Go ahead. I think you were gonna explain what it
15 was.

16 A. Yes, when -- these specific tests are run at the
17 main hospital, so they are resulted directly to the
18 patient's chart, but they go into a pool of lab work
19 that has to be signed off by either a physician, nurse
20 practitioner or PA.

21 Q. So a nurse or a lab tech or something like that
22 couldn't sign them?

23 A. No, they cannot sign them off.

24 Q. And who is it that enters the test result information
25 into the system?

1 A. That would be the lab at the main hospital.

2 Q. More specifically, the person at the lab, would it
3 be just any person in the lab or would it be somebody that
4 did the test?

5 A. The person who conducted the test.

6 Q. Okay. And so you said that you saw -- go ahead. I
7 was asking whether you saw the test result for James
8 Stroman.

9 A. I saw the results and reviewed them and signed off
10 on them because no additional treatment was needed.

11 Q. Okay. Did you bring a copy of the test results that
12 you verified to court?

13 A. Yes.

14 (State's Exhibit Number 3 was marked for
15 identification.)

16 BY MR. POGUE:

17 Q. Ms. Levi, we've had the test results marked as
18 State's Exhibit Number 3 for identification purposes.
19 Is that a fair and accurate representation of the test
20 results from the records?

21 A. Yes.

22 Q. Okay.

23 **MR. POGUE:** Your Honor, at this time the State would
24 move the medical records into evidence.

25 **MR. STORY:** Objection under the previously stated

1 grounds, Your Honor.

2 **THE COURT:** Let me see them.

3 BY MR. POGUE:

4 Q. Ms. Levi --

5 **THE COURT:** Hang on. Hang on. I need to see it.

6 It will be admitted subject to the objection as a
7 business record.

8 **MR. POGUE:** Thank you, Your Honor.

9 (State's Exhibit Number 3, a Medical Report, was
10 admitted into evidence.)

11 BY MR. POGUE:

12 Q. Ms. Levi, could you please tell me the different
13 diseases again for the jury that he was tested for and
14 the results that you received?

15 A. He was tested for Hepatitis A, B and C. He was
16 tested for HIV, gonorrhea, Chlamydia, syphilis and Herpes
17 Type I and II.

18 Q. Was he -- did he test positive for any of those
19 disease?

20 A. He tested positive for Herpes Type I, but that's the
21 cold sore virus and very commonly positive in a population.

22 Q. Okay. Specifically for the gonorrhea test, was that
23 positive or negative?

24 A. It was negative.

25 Q. And just to be specific, when was this specimen

1 collected again?

2 A. It was collected on March the 5th.

3 Q. Okay. And the results were sent?

4 A. On March the 6th and I verified them on March
5 the 7th.

6 **MR. POGUE:** I beg the Court's indulgence.

7 No further questions, Your Honor.

8 **MR. STORY:** Thank you. Briefly.

9 CROSS-EXAMINATION

10 BY MR. STORY:

11 Q. Good morning, Ms. Levi.

12 A. Good morning.

13 Q. Was Mr. Stroman alone when he came to see you?

14 A. I did not examine Mr. Stroman. Janice Black
15 examined Mr. Stroman.

16 Q. So you weren't there when he came in?

17 A. No.

18 Q. All right. So you indicated that he tested positive
19 for Herpes Type I?

20 A. Yes.

21 Q. Which is common in the population?

22 A. Yes.

23 Q. Is that an incurable type of herpes?

24 A. All herpes is chronic.

25 Q. Okay. Thank you.

1 A. It's what gives you a fever blister.

2 **MR. STORY:** Thank you. No further questions.

3 **THE COURT:** You can step down.

4 **MR. POGUE:** Your Honor, we'd ask that the witness
5 be excused.

6 **THE COURT:** Certainly.

7 (Witness excused.)

8 **THE COURT:** All right. While we had that last
9 break, I had something else to do and the witnesses have
10 been going a little quicker, but we've scheduled other
11 witnesses to appear at 2:00 and so y'all will get a little
12 longer lunch break just like yesterday, so you can go
13 home, go shopping, do whatever. Be back in the jury room
14 at 2:00. We've got two or three more witnesses and that
15 may be all the State's gonna present this afternoon, but
16 just because of the pace of the testimony we got through
17 a little early on lunch.

18 So don't discuss the case and be back in the jury
19 room at 2:00.

20 (Whereupon, the jury was excused for lunch at
21 11:14 AM.)

22 **THE COURT:** Y'all have got two more, three more
23 witnesses?

24 **MS. PATTERSON:** Two, maybe three.

25 **THE COURT:** Okay. So that may be it for this

1 afternoon and then they can decide what they're gonna
2 do.

3 **MS. PATTERSON:** Yes, sir.

4 **THE COURT:** All right. Fair enough.

5 **MR. POGUE:** Thank you, Judge.

6 **THE COURT:** See y'all about 2:00.

7 (Whereupon, a luncheon recess taken.)

8 **BAILIFF:** All rise. Court is now in session.

9 **THE COURT:** All right. Be seated. Have we got
10 everybody here.

11 All right. Bring them to me.

12 (Whereupon, the jury returns to the courtroom at
13 2:05 PM.)

14 **THE COURT:** All right, Mr. Pogue. Call your next
15 witness.

16 **MR. POGUE:** Thank you, Your Honor. The State calls
17 Dr. Wesley Frierson.

18 **THE CLERK:** Place your left and raise your right.

19 (Whereupon, Wesley Frierson was duly sworn by
20 the Clerk of Court.)

21 **THE CLERK:** Have a seat up there. Once you're
22 seated, state your name, spelling your last.

23 **THE WITNESS:** Wesley Frierson. Last name is
24 F-R-I-E-R-S-O-N.

25 WESLEY FRIERSON,

1 Q. Okay. And what did you see Mr. English for that
2 day?

3 A. He was requesting a STD check.

4 Q. Okay. Let me ask you this question, Dr. Frierson.
5 In the ordinary course of business at the Lexington
6 Medical Center, do you keep records of patients that
7 come to see you?

8 A. Yes, sir.

9 Q. Okay. And how are those records kept?

10 A. They're kept electronically.

11 Q. Okay. How are they stored?

12 A. Through the usual -- Epic is what we use now. At
13 that time it was an electronic system called Allscripts.

14 Q. Okay. And do you record -- when you have a patient
15 come to see you, do you enter into the system, into the
16 records, whatever action was taken at the time that you
17 took that action?

18 A. Yes, sir. That's all recorded in my medical notes.

19 Q. So it's entered contemporaneously?

20 A. Yes, sir.

21 Q. Okay. And what is the purpose for entering those
22 records?

23 A. To keep accurate accounts of what we do and see in
24 regards to patient care.

25 Q. Okay. So you rely on those records to treat?

1 A. Absolutely.

2 Q. Back to March 6th, so you said Mr. English came
3 to see you and what was it that he was seeing you for
4 again?

5 A. He wanted to be checked for sexually transmitted
6 disease.

7 Q. Did he indicate which diseases he wanted to be
8 checked for?

9 A. He did not say.

10 Q. Okay. Did you perform a physical exam?

11 A. I did.

12 Q. Okay. Did you speak with him about any symptoms he
13 was having?

14 A. I did. I asked him about any painful urination or
15 soreness.

16 Q. And did you perform any tests or take any specimens
17 from him?

18 A. Yes, we did a swab for gonorrhea and Chlamydia.

19 Q. Okay. And when you say a swab, like kind of explain
20 to the Court just a little bit like what that is and how
21 you do that.

22 A. Okay. So it's basically like a large Q-Tip that we
23 insert into the head of the penis to obtain secretions
24 which is then placed back into the tube holder and
25 labeled only after the patient has identified themselves

1 correctly, so we use name and birth date.

2 Q. Okay. And what happens with it after that?

3 A. After that it's transported to the lab.

4 Q. Okay. Is the lab there inhouse at Lexington Medical
5 Center?

6 A. Yes, sir.

7 Q. Okay. And you collected it on the 6th?

8 A. That's correct.

9 Q. Did you view the results of that test?

10 A. I did.

11 Q. Okay. Were they entered into your records?

12 A. Yes, sir.

13 Q. Who enters the test results into the records?

14 A. The lab analysts usually are the ones that are
15 responsible for that. No one else is doing that
16 information -- entering it into the system.

17 Q. And who verified the records?

18 A. I did it myself.

19 Q. I apologize. Who verified the test results?

20 A. I did myself.

21 **MR. POGUE:** I beg the Court's indulgence.

22 Permission to approach?

23 **THE COURT:** Uh-huh.

24 BY MR. POGUE:

25 Q. Did you bring the records with you today?

1 A. Yes, sir.

2 Q. Okay.

3 (State's Exhibit Number 4 was marked for
4 identification.)

5 BY MR. POGUE:

6 Q. Dr. Frierson, we have marked State's Exhibit
7 Number 4 for identification purposes. What is that
8 item?

9 A. I'm sorry?

10 Q. What is that item?

11 A. This is the test result from the swab that we took
12 during his visit.

13 Q. And what was --

14 **MR. POGUE:** Your Honor, at this time the State
15 would actually move State's Exhibit 4 into evidence.

16 **MR. CHEHOSKI:** Your Honor, renewing previous
17 objections.

18 **THE COURT:** As consistently ruled on all the same
19 findings under State versus Chisholm that the chain's
20 not necessary, it's a business record exception of
21 hearsay, and it will be allowed.

22 **MR. POGUE:** Thank you, Your Honor.

23 (State's Exhibit Number 4, Medical Report, was
24 admitted into evidence.)

25 BY MR. POGUE:

1 Q. Doctor, I was getting ready to ask you what was he
2 tested for according to the results?

3 A. So that day he was tested for Chlamydia and
4 gonorrhea.

5 Q. Okay. And what were the results of those two tests?

6 A. The gonorrhea test was positive and the Chlamydia
7 test was negative.

8 Q. Okay. The Chlamydia was negative, the gonorrhea was
9 positive?

10 A. Yes, sir.

11 **MR. POGUE:** I beg the Court's indulgence.

12 No further questions, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. CHEHOSKI:

15 Q. Dr. Frierson, did you also treat Mr. English?

16 A. I did not.

17 Q. You did not. All right. And you were not the one
18 who performed the test on the sample; is that correct?

19 A. No, sir.

20 Q. You were the one or --

21 A. I was not the one that ran the test itself.

22 Q. I'm sorry for the confusing question. Let's just
23 make sure we're on the same page. You were not the one
24 who performed the test; is that right?

25 A. What I will say is that I obtained the sample from

1 the patient. I did that at the bedside when he was there.
2 The actual sample itself goes to the lab where it is
3 tested.

4 Q. All right. You were not at the lab when it was
5 tested?

6 A. No, sir.

7 Q. Thank you. And you are familiar with -- there are
8 multiple strains of gonorrhoea; is that correct?

9 A. That's correct.

10 Q. All right. And do these tests test for those
11 different strains?

12 A. No, sir. Not routinely.

13 Q. Okay. And was -- are you aware of any court order
14 that Mr. English submitted to when he saw you?

15 A. I am not.

16 **MR. CHEHOSKI:** Nothing further.

17 **THE COURT:** Okay. Anything else, Mr. Pogue?

18 **MR. POGUE:** We just ask that the witness be excused,
19 Your Honor.

20 **THE COURT:** All right, Dr. Frierson. Be on your way.

21 **THE WITNESS:** Thank you.

22 (Witness excused.)

23 **MR. POGUE:** Your Honor, at this time the State would
24 call Deputy Garth Justice.

25 (Whereupon, Garth Justice was duly sworn by the

1 Clerk of Court.)

2 **THE CLERK:** Once you're seated, state your full name,
3 spelling your last.

4 **THE WITNESS:** Garth Justice, J-U-S-T-I-C-E.

5 GARTH JUSTICE,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. POGUE:

9 Q. Deputy, how are you this afternoon?

10 A. Doing well. And yourself?

11 Q. Good. Good. It seems redundant, but where are you
12 currently employed?

13 A. Lexington County Sheriff's Department.

14 Q. How long have you been employed there?

15 A. Right at -- a little over ten years.

16 Q. In March of 2014, were you -- what was your -- in.
17 What capacity were you employed at the Lexington sheriff's
18 department?

19 A. I was a member of our fugitive task force, also
20 known as the U.S. Marshals Task Force. We work with the
21 marshals out of Columbia.

22 Q. And were you involved at all with this case?

23 A. I was.

24 Q. And how were you involved?

25 A. Myself and the marshals task force took this case on

1 in an attempt to locate and arrest Mr. Eric English. I
2 kind of headed up the investigation and was responsible
3 for trying to locate him.

4 Q. Okay. So you were serving an arrest warrant?

5 A. Yes, sir.

6 Q. Okay. Did you serve the arrest warrant on the
7 Defendant?

8 A. Yes, sir, I did. Myself and some other members of
9 the task force located Mr. English at [REDACTED] Edmund Highway,
10 Lot Number [REDACTED], which is in the Edmund area of Lexington
11 County.

12 Q. Okay. Is that -- were you also -- were you also
13 aware of where the incident location was that involved
14 the criminal sexual conduct that he was being arrested
15 for, what that incident location was?

16 A. Yeah, it would have been in the case file that I had.
17 I would have had all kinds of information, you know, the
18 initial incident report and things of that nature.

19 Q. Does it indicate to you -- do you have your report
20 with you?

21 A. I do. I have the arrest report.

22 Q. According to your report, what was the incident
23 location?

24 A. I have on here that the address that was on the
25 arrest warrant was [REDACTED] Edmund Highway, Lot Number [REDACTED], so

1 that would have been the incident location.

2 **MR. POGUE:** I beg the Court's indulgence.

3 Your Honor, at this time we have no further
4 questions.

5 CROSS-EXAMINATION

6 BY MR. CHEHOSKI:

7 Q. Deputy, what capacity are you currently serving?

8 A. I'm a court security officer here at the courthouse.

9 Q. You're here to keep us safe?

10 A. Yes, sir.

11 Q. Somebody has to do it?

12 A. That's right.

13 Q. In reference to this case, Mr. -- you found
14 Mr. English at that location?

15 A. Yes, sir. He was asleep or lying in a bed near the
16 front door of the location.

17 Q. And when -- he didn't run from you?

18 A. No, sir. The best I remember, I don't have it --
19 my report says that he was lying in a bed. I'm almost a
20 hundred percent sure he was asleep at the time.

21 Q. And, therefore, he didn't fight with you either?

22 A. No, we had no -- I actually documented in my report
23 that he was taken into custody without incident.

24 Q. Without incident. Also while you were taking him
25 into custody, you asked him if he wanted to speak to an

1 investigator?

2 A. Correct. I had no role in the actual investigation
3 of the case. My role was simply to locate Mr. English,
4 but as a -- you know, to assist not only the Defendant,
5 but the investigator, I always ask if they wanted to speak
6 to the investigator, to give them that option.

7 Q. Right. You're not involved in any of the particulars
8 of the investigation?

9 A. No, I wouldn't have asked him any questions regarding
10 the case. I would have simply asked him if he wanted to
11 speak to the investigator and let them handle that.

12 Q. And upon asking that and upon him giving the answer
13 to that question, you relayed that information to the
14 investigator?

15 A. Yes, sir. I contacted -- well, at the time
16 Investigator Chandler, but it's now Stoner.

17 Q. Right. And relayed that information in case he did
18 want to talk?

19 A. Yes, sir.

20 Q. All right.

21 **MR. CHEHOSKI:** One moment, please, Your Honor.

22 That's all the questions I have. Thank you.

23 **THE COURT:** All right. Anything else, Mr. Pogue?

24 **MR. POGUE:** Your Honor, we have no further questions.

25 We just ask that he be excused.

1 **THE COURT:** Okay. See you later.

2 **THE WITNESS:** Thank you.

3 (Witness excused.)

4 **MR. POGUE:** Your Honor, may we approach?

5 **THE COURT:** You may.

6 (Proceedings held at the bench; not reported.)

7 **THE COURT:** We've got a witness coming at 2:30, so
8 y'all step in the jury room until 2:30 or until the
9 witness gets here, so for about nine minutes or so. You
10 can't discuss the case.

11 (Whereupon, the jury retires to the jury room at
12 2:20 PM.)

13 **BAILIFF:** All rise, please.

14 **THE COURT:** Be seated.

15 All right. Are you ready?

16 **MS. PATTERSON:** Yes, sir, we're ready.

17 **THE COURT:** All right. Bring in the jury, please.

18 (Whereupon, the jury returns to the courtroom at
19 2:36 PM.)

20 **THE COURT:** All right. Call your witness.

21 **MR. POGUE:** Thank you, Your Honor. The State calls
22 Dr. Henry Gilbert Potter to the stand.

23 **THE CLERK:** Place your left and raise your right.

24 (Whereupon, Henry Gilbert Potter, was duly sworn by
25 the Clerk of Court.)

1 **THE CLERK:** Once you're seated, state your full name,
2 spelling your last, sir.

3 **THE WITNESS:** My name is Henry Gilbert Potter,
4 P-O-T-T-E-R.

5 HENRY GILBERT POTTER,
6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. POGUE:

9 Q. Good afternoon, Dr. Potter. How are you doing?

10 A. Excellent.

11 Q. Good. Good. What is your occupation?

12 A. I'm the medical director for South Carolina DHEC
13 Public Health Region -- Midlands Public Health Region.

14 Q. And for those of us who may not know, what does DHEC
15 stand for?

16 A. DHEC stands for the Department of Health and
17 Environmental Control. It is essentially the State board
18 of health.

19 Q. Okay. And let's start at the beginning. What's
20 your educational background? How did you become a
21 doctor?

22 A. I received a bachelor's degree from Lipscomb
23 University in 1969. I had a short career in the Navy,
24 worked in medical research and went to medical school at
25 Michigan State University. Following a few years of

1 practice in preventative medicine in the Navy, I went
2 to graduate school at the University of Washington in
3 Seattle, received a master's in public health and then
4 received my boards from the American College of
5 Preventative Medicine in 1988.

6 Q. Okay. And are you Board-certified here in South
7 Carolina?

8 A. I am to practice preventative medicine, yes.

9 Q. Okay. And how long have you been employed as the
10 medical director of the Midlands region for public health
11 at DHEC?

12 A. In March, it will be fifteen years.

13 Q. Okay. And explain to the Court a little bit about
14 what it is that you do as the medical director at DHEC?

15 A. I am in charge of supervising the pharmacy, the
16 laboratory, the epidemiology staff, and I take medical
17 consultations on sexually transmitted diseases,
18 tuberculosis, rabies control and anything else that
19 comes across my desk.

20 Q. Okay. Doctor, do you know what standing orders are?

21 A. Standing orders are created for staff, particularly
22 nurses, things like that, to be able to operate
23 independently without having to seek a doctor's written
24 statement at any particular time. They are looked at,
25 approved and usually written to specifics; however, the

1 ones we use are from the Centers for Disease Control
2 recommendations and they allow a non-licensed -- well, a
3 licensed nurse to act under the orders of a physician
4 to perform certain functions, including diagnosis and
5 treatment of diseases.

6 Q. And do you consult on setting what these standing
7 orders are?

8 A. I sit on the committee that reviews the standing
9 orders for South Carolina DHEC.

10 Q. Okay. Do you -- in your role, do you ever consult
11 or prescribe treatment regimens or treatment plans for
12 sexually transmitted diseases?

13 A. Yes, I do. I receive consultations, particularly
14 in situations where the standing order might be -- the
15 recommended treatment might be slightly different than
16 the standing order that the practitioner needs to get
17 approval for a treatment.

18 Q. Okay. Is gonorrhea one of the diseases that you
19 consult on and/or prescribe treatment regimens for?

20 A. It is.

21 Q. Okay. How often do you consult -- or let me ask you
22 this question. How many cases do you typically consult
23 on gonorrhea a month?

24 A. On gonorrhea, probably ten to a dozen. Most of the
25 treatments are fairly standard for it. It's not too often

1 that there's a rare situation for that. On all STDs I
2 probably have three to four a day.

3 Q. Okay. And where were you employed prior to DHEC?

4 A. I was a preventative medicine officer in the United
5 States Navy. I retired from the United States Navy.

6 Q. And what did you -- what was your responsibilities
7 and roles in that position?

8 A. In that position, I was a clinical epidemiologist
9 at the Naval Hospital in Bremerton, Washington and looked
10 at programs and did utilization reviews and epi research
11 and studies on treatments of various programs there.

12 Q. Have you ever served as an instructor or consultant
13 in preventative medicine?

14 A. Yes, I'm frequently asked to do briefings and studies
15 and presentations.

16 Q. Okay. Have you ever testified as an expert witness
17 in court before?

18 A. Yes, I have.

19 Q. And in what area did you testify as an expert
20 witness?

21 A. On sexually transmitted disease and, specifically,
22 gonorrhea.

23 **MR. POGUE:** Your Honor, at this time the State moves
24 to have Dr. Potter certified as an expert in the area of
25 public health and preventative medicine.

1 **THE COURT:** Any voir dire?

2 **MR. CHEHOSKI:** No, Your Honor. We have no objection.

3 **THE COURT:** He will be so qualified in the field of
4 public health and preventative medicine.

5 **MR. POGUE:** Thank you, Your Honor.

6 BY MR. POGUE:

7 Q. Dr. Potter, what exactly is gonorrhoea? Kind of
8 explain a little bit about the pathology.

9 A. Gonorrhoea is a bacteria, *Neisseria gonorrhoeae*. It
10 is transmitted as a sexually transmitted disease. It is
11 a bacteria. It will cause urethritis in men and
12 vaginitis and cervicitis in women. It can be passed
13 from penis to vagina, penis to rectum or penis to pharynx
14 depending upon the sexual act.

15 Q. Okay. And this may be a little redundant, but how is
16 -- how is gonorrhoea most commonly contracted?

17 A. It is usually genitally transmitted from penis to
18 vagina.

19 Q. And can it be contracted in any other way other than
20 through some sort of sexual act?

21 A. Because it is such a fastidious organism it doesn't
22 exist very well outside of the human infection, but in
23 an extremely rare situation where it can be casually
24 transmitted perhaps through a partner sleeping in bed if
25 one person was infected, but that's an extremely rare

1 situation.

2 Q. And how would you expect to see a seven-year-old
3 child contract gonorrhoea?

4 A. Excuse me again?

5 Q. How would you in your expert opinion expect a
6 seven-year-old child to be most likely to contract
7 gonorrhoea?

8 A. It is presumed in any prepubertal child if they have
9 gonorrhoea that it has been sexually transmitted.

10 Q. Okay. What are the methods for testing whether a
11 person has gonorrhoea?

12 A. There are several methods that help the diagnosis.
13 The most basic and one of the originals is gram stains
14 where a swab of the exudate would be smeared and looked
15 at under stain under a microscope. That doesn't
16 differentiate that well, it gets you into a class, but in
17 a symptomatic person it's presumed to be positive. Most
18 of the tests today -- most of the tests today are done by
19 genetic probes. The culture is kind of the gold standard,
20 but it is clumsy, a little bit difficult to perform, and
21 you also won't get a result for several days, whereas the
22 genetic probes that are used today can be done quite
23 rapidly and the acquisition of the specimen is pretty
24 simple. It's usually done by urine for most cases.

25 Q. Just so I understand, so in laymen's terms it sounds

1 like the two most common are the urine or a swab, correct?

2 A. Yes. The urine is the most common. Other situations
3 you can swab if you want to get a specimen from the throat
4 or from the rectum.

5 Q. What are common symptoms of gonorrhea?

6 A. Usually after two to five days of incubation from
7 exposure a person will start to develop an inflammation
8 and a rash. In a male, it will show up as a -- it may
9 develop into an exudate, but it will be an itching
10 situation and pain on urination. In women, they may
11 develop a vaginitis, an itching there. They can
12 occasionally have a urethritis or a urinary tract
13 infection that may be symptomatic as well, the burning
14 urine.

15 Q. In females, would you expect -- in a seven-year-old
16 child, would you expect there to be discharge if they were
17 symptomatic?

18 A. I would expect a child to react promptly. In a
19 child who is not sexually experienced, the sensation of a
20 vaginal irritation and vaginitis would probably be quite
21 alarming, especially when they would see a discharge.

22 Q. Everyone that becomes infected with gonorrhea, do
23 they necessarily become symptomatic?

24 A. Not everyone is symptomatic. The female many times
25 may not be symptomatic, especially in someone sexually

1 experienced. It may not be a symptom that they would
2 recognize or think as to be an STI. Most men will be
3 symptomatic and display a discharge and come to treatment
4 fairly quickly.

5 Q. If you -- if someone is not symptomatic, can they
6 still infect someone else with gonorrhea?

7 A. Absolutely.

8 Q. You may have already covered this, but would you
9 expect a seven-year-old little girl who contracts
10 gonorrhea to become symptomatic?

11 A. I would. They're -- even a slighter infection in
12 them would be probably alarming, something that they
13 haven't experienced, and so they would probably react
14 even with the slightest -- a slight irritation or
15 inflammation.

16 Q. And for a seven-year-old child from the time that
17 they're infected, what is the period from the time
18 they're infected to the time that they become symptomatic
19 typically or also known as the incubation period?

20 A. The incubation period is usually two to five days
21 from the time of exposure.

22 **MR. POGUE:** I beg the Court's indulgence.

23 **MR. CHEHOSKI:** Your Honor, I do have an objection
24 to this demonstrative exhibit. It contains information
25 that's outside of the witness's knowledge.

1 **THE COURT:** Come up here.

2 (Proceedings held at the bench; not reported.)

3 **THE COURT:** Rephrase your question. Rephrase your
4 question, Mr. Pogue, and then we will hear --

5 **MR. POGUE:** Okay. In relation to the demonstrative?

6 **THE COURT:** Yeah. Sure.

7 **MR. POGUE:** Your Honor, permission to have the
8 witness step down?

9 **THE COURT:** Sure.

10 **MR. POGUE:** Dr. Potter, if you wouldn't mind just
11 stepping down here.

12 (Whereupon, the witness steps down from the witness
13 stand.)

14 BY MR. POGUE:

15 Q. Dr. Potter, using your two to five-day incubation
16 period for gonorrhoea, if you have a seven-old-year little
17 girl who becomes symptomatic for gonorrhoea and tests
18 positive for gonorrhoea on Tuesday, March 4th, what is
19 the timeframe that you would have expected her to become
20 infected with gonorrhoea?

21 A. Well, with an incubation of two to five days, the
22 earliest incubation would have been from the 2nd and if
23 we go back five days, it would be between the 27th, so she
24 would probably have had exposure somewhere between the
25 27th of February and the 2nd of March.

1 of these strains have become resistant to some of the
2 treatments for gonorrhoea; is that right?

3 A. That is correct.

4 Q. Initially it was treated with penicillin, right?

5 A. Years ago. We haven't been able to use it for some
6 time now.

7 Q. Right. Nowadays sometimes -- actually afterwards
8 doxycycline was also used?

9 A. It was used in the eighties and nineties, but the
10 organism is resistant to that now.

11 Q. And nowadays I believe you may have -- nowadays I
12 think they're using something called quinolones or
13 quinolones?

14 A. Quinolones have been used. The most common was
15 ciprofloxacin, but resistance has developed to it and so
16 it is not used generally for treatment for gonorrhoea.

17 Q. All right. And is the only way to determine the
18 different strains is finding out what they're resistant
19 to?

20 A. The different strains would need to -- you would
21 need to have cultured so that they could be studied by
22 antibiotic susceptibility or through genetic analysis.

23 Q. All right. And so that was the culture that you had
24 earlier said was the gold standard; is that right?

25 A. Well, it is what has been most often used and if

1 you're going to get down to look at strains or
2 susceptibilities you do have to have a culture.

3 Q. All right. And that's how you determine what
4 differentiates the different strains?

5 A. Yes.

6 Q. All right. Now is gonorrhoea a permanent condition?

7 A. No, it's treatable.

8 Q. It's treatable and curable?

9 A. And curable.

10 Q. All right. And so if -- and how long does the --
11 does it take for one to be from treated to cured?

12 A. If treated with the right antibiotic, they are
13 noninfectious within twenty-four hours.

14 Q. And so if after that 24-hour period they were tested,
15 they would come up negative if treated correctly?

16 A. If treated correctly, they're noninfectious after
17 twenty-four hours. The NAAT test, the nucleic acid
18 amplification test, can be positive for longer because
19 it's looking at DNA, so if there's dead organisms around
20 it could still pick those up. The culture could not
21 become positive though.

22 Q. The culture could not be positive, but the NAAT test
23 -- does the NAAT test differentiate between active and
24 dead DNA?

25 A. It -- you couldn't tell the difference. It's just

1 looking at the DNA, whether it's dead or an active
2 organism.

3 Q. Would that be a no then?

4 A. That would be a no.

5 Q. All right.

6 **MR. CHEHOSKI:** One moment, please.

7 Thank you, Doctor. That's all I have.

8 **THE COURT:** Anything else, Mr. Pogue?

9 **MR. POGUE:** Just one question, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. POGUE:

12 Q. Doctor, if gonorrhoea does not get treated, does it
13 go away?

14 A. An individual would -- at some point usually their
15 immune system would overcome it. It might leave permanent
16 scarring and things such as that.

17 Q. But not very easily?

18 A. It would last for quite some time, but the immune
19 system would eventually concur it.

20 **MR. POGUE:** No further questions, Your Honor.

21 **THE COURT:** Okay. You may step down.

22 **THE WITNESS:** Thank you.

23 (Witness excused.)

24 **MR. POGUE:** I beg the Court's indulgence.

25 **THE COURT:** Uh-huh.

1 **MS. PATTERSON:** Your Honor, at this time the State
2 rests.

3 **THE COURT:** All right. I've got a few things to put
4 on the record. Let me talk to y'all real quick and make
5 sure where we are at scheduling things.

6 (Proceedings held at the bench; not reported.)

7 **THE COURT:** All right, folks. I've got several
8 things to put on the record. I'm not sure how long it's
9 gonna take me. I want y'all to be back in the jury room
10 tomorrow morning at 9:30 and get this thing concluded so
11 y'all can start deliberating. Until then you haven't
12 received your instructions. The defense has until the
13 morning to decide whether they wish to put up any evidence
14 or not. They don't have to. It's their right to choose
15 what they want to do. I'm giving them until in the
16 morning. Y'all don't discuss the case. Enjoy your
17 evening.

18 (Whereupon, the jury is excused for the day at
19 2:57 PM.)

20 **THE COURT:** All right. Are you ready to make your
21 motion?

22 **MR. CHEHOSKI:** Yes, sir.

23 At this time the defense moves for a directed verdict
24 of not guilty now that we're at the close of the State's
25 evidence and all the evidence the State intends to offer

1 has been offered and viewed in the light most favorable
2 to the State, encompassing all prior objections and
3 motions, at this time we move that no reasonable juror
4 can find the Defendant guilty even viewing the evidence
5 in the light most favorable to the State.

6 **THE COURT:** All right. Understanding the evidence
7 has been presented in the light most favorable, there's
8 plenty of evidence offered thus far that is very much a
9 question of fact for the jury to resolve and certainly
10 will clear the hurdle to get by a directed verdict because
11 the State has presented sufficient evidence to get the
12 case presented to the jury for their deliberation.

13 All right. Do you want to stand at ease until the
14 morning?

15 **MR. CHEHOSKI:** Yes, sir.

16 **THE COURT:** All right. Before we get adjourned,
17 I'm assuming straight CSC, no lesser included?

18 **MR. CHEHOSKI:** I don't have any evidence to ask for
19 a lesser included, Your Honor.

20 **MS. PATTERSON:** That's correct.

21 **THE COURT:** All right. CSC first, age less than
22 eleven, the accused being over sixteen. The straight
23 statute? Defendant not testifying, not appeared.

24 **MR. CHEHOSKI:** Correct.

25 **THE COURT:** Child witness, credibility and

1 competency. They've got to evaluate that. Expert
2 witnesses. Reasonable doubt. I say it both ways.
3 Reasonable doubt causes a reasonable person to hesitate
4 to act and you must be firmly convinced. I say it both
5 ways.

6 Anything else? Circumstantial evidence. All
7 circumstances must point conclusively as the State relies
8 on it. I've got that in there.

9 What else am I missing?

10 **MS. PATTERSON:** I think that's it, Your Honor.

11 **THE COURT:** Okay. If y'all have got anything
12 special other than that you want, let me know.

13 **MR. CHEHOSKI:** Your Honor, I know it's your practice
14 to provide us with written instructions -- or it has been
15 for you in the past. Will that be happening again this
16 time?

17 **THE COURT:** Maybe. What I found in that practice is
18 that the lawyers read along with me and they go judge,
19 you didn't read that sentence correctly. I never read
20 it. I talk and kind of follow my notes so to speak and
21 so I'll do my best.

22 **MR. CHEHOSKI:** Thank you, Your Honor.

23 **MS. PATTERSON:** Thank you, Your Honor.

24 (Whereupon, the proceedings were concluded for
25 January 9, 2018, at 3:02 PM.)

1 (The following proceedings were held January 10,
2 2018, beginning at 9:35 AM.)

3 **THE COURT:** All right. Are y'all ready for them.

4 **MS. PATTERSON:** Yes, sir. The State's ready.

5 **THE COURT:** Bring them in for me.

6 (Whereupon, the jury enter the courtroom at 9:35 AM.)

7 **THE COURT:** All right. Are we ready?

8 All right, Mr. Chehoski.

9 **MR. CHEHOSKI:** Thank you, Your Honor.

10 At this time the defense rests. We renew all motions
11 and objections.

12 **THE COURT:** And consistent rulings on the motions,
13 so you're protected on the record for those things.

14 We discussed that before y'all came out. That's why
15 I already came down here. He said I'm gonna rest. He has
16 to do that on the record in y'all's presence, so he just
17 did.

18 That tells you that you've heard the evidence, the
19 testimony, it has all been received. It's now an
20 opportunity for the attorneys to summarize what they
21 believe they've proved or not proved. As soon as they're
22 done, then I'm gonna give you my instructions on the law
23 and then you will begin your deliberations. The State
24 opens first, they will give their summary, and then the
25 defense gives you their closing summary.

1 Ms. Patterson.

2 **MS. PATTERSON:** Thank you, Your Honor. May it
3 please the Court?

4 **THE COURT:** Yes, ma'am.

5 **MS. PATTERSON:** Good morning. A little girl's
6 childhood should be all fun, smiles and giggles. Like
7 Mr. Pogue said in his opening, little girls should only
8 have to worry about playing with their friends, having
9 tea parties or playing dress-up. They shouldn't have to
10 experience the pain of being sexually assaulted, the
11 torment of keeping painful secrets and the betrayal of
12 the men in their lives, especially their fathers.

13 **Minor** , eleven years old, has experienced
14 more torment, guilt and shame than most adults will in
15 their entire life. And this week her father, the
16 Defendant, Eric English, is on trial for his part of
17 this.

18 Now the judge will instruct you as to the law, but
19 right now it's my time to just kind of go over the law
20 with you related to the facts that you've heard from the
21 witness stand this week.

22 The Defendant, Eric English, is charged with criminal
23 sexual conduct with a minor in the first degree. Under
24 South Carolina law, criminal sexual conduct with a minor
25 in the first degree, the actor engages in a sexual battery

1 with a victim who is less than eleven years of age. You
2 heard testimony from **Minor** how old she was. She was
3 seven and then during the week when all this transpired
4 with her being tested she -- she did turn eight.

5 Sexual battery. It is defined as sexual intercourse,
6 cunnilingus, fellatio, anal intercourse, or, any intrusion,
7 however slight, of any part of a person's body, or, of
8 any object into the genital or anal opening of another
9 person's body.

10 You heard testimony from **Minor** . Her father put
11 his nasty parts inside her nasty parts. She said she
12 felt it. You heard Dr. Potter say that gonorrhoea can
13 only be caused by sexual intercourse. The State submits
14 to you we have proven this and proven this beyond a
15 reasonable doubt.

16 Now the judge will instruct you about what it means,
17 proof beyond a reasonable doubt. Reasonable doubt is not
18 by all doubt because there's very few things we know
19 beyond all doubt. It's just that the evidence must leave
20 you firmly convinced that the Defendant committed this
21 crime.

22 Now at the beginning of the trial the judge did go
23 over some stipulations that the State, we feel, are not
24 issues in this case, but I just want to go over it to
25 get it out of the way so you won't be distracted by them

1 later. Yes, later in June, on June 3rd of 2014, the
2 same year this happened to Minor by her father, the
3 Defendant Eric English she disclosed during a counselling
4 session at the Dickerson Center that her mom's boyfriend,
5 Jamie Stroman, digitally penetrated her.

6 Now do you remember from the forensic interview that
7 you saw Ms. Brooke told Minor if this ever happens to
8 you again you can tell somebody, including a counselor.
9 And thank goodness for that advice because Minor did
10 just that. She disclosed. But that was three months
11 after this. And you heard testimony from Ms. Pamela Levi
12 that Jamie Stroman tested negative for gonorrhoea, so he
13 did not do this. Jamie had his day in court. This is
14 Eric English's day and that is what we're gonna focus on.

15 Now one of the hardest things it is for me to do is
16 when I have to take my seat because I won't get the
17 opportunity to stand before you again. I won't get the
18 opportunity to respond to anything that Mr. Chehoski says
19 when he gets up here, and that's hard for a prosecutor.
20 So all I can do is just relate to you and remind you some
21 of the key issues that each witness said when they took
22 that stand and I can kind of guess from the questions
23 that they asked the witnesses on what they're gonna try
24 to distract you with, so just bear with me.

25 Now the judge will instruct you about the credibility

1 of each witness and this essentially means just the
2 believability. What do they have to gain, what do they
3 have to lose by getting on this stand testifying the way
4 they did? I submit to you the only witness that said that
5 she even knew **Minor** was Ms. Lee Lamb, the school nurse,
6 and she said she only knew her as well as she could know
7 any student. All the other witnesses, they don't know
8 **Minor**, they don't know Eric English, they don't know
9 anybody else. They have nothing to gain or lose by their
10 testimony this week and I submit to you they are credible,
11 they're extremely credible, and so is **Minor** and so is
12 Ms. Lamb. After all, what motive would **Minor** have to
13 lie about her father? This was someone she went over and
14 she spent the weekends with, her and her little brother.
15 Everybody seemed to be on good terms. After all, remember
16 Sarah, **Minor**'s mom, hung out with the Defendant's
17 girlfriend Amanda. They were going out this evening.
18 They were going out March 1st when **Minor** alleges that
19 her daddy did this to her. And kids are loyal, and
20 sometimes to a fault, but they are loyal. They don't want
21 to tell anything bad about people they love or to people
22 they love because they don't want to hurt anybody. And
23 you heard **Minor** say she didn't want to hurt her momma
24 and she probably wouldn't have never told if she wasn't
25 experiencing vaginal discomfort. This was not fun for

1 her. This was not fun for her to have to tell her story
2 to nurses and doctors, to strangers, to me, and yet the
3 defense asked her if she'd met with me. Yes, she met
4 with me. That would be foolish for me to put her on the
5 stand if she didn't meet with me. She's a child.

6 This hasn't been fun for her to have to go and get
7 a SANE exam done, have to get treatment, shots, for a
8 sexually transmitted disease. You saw the forensic
9 interview. She was detailed in her account. She
10 described things that no eight-year old should know about
11 unless it happened to them. There's no coincidence that
12 what she described her daddy doing would have caused her
13 to have gonorrhoea and vaginal discharge like she did.
14 She is not that sophisticated to come up with that. If
15 there's one thing children are not, they're not good
16 liars.

17 And the defense made -- you know, tried to distract
18 you because at some point during the video she said maybe,
19 well, EJ saw it. Well, in her little eight-year-old mind
20 maybe she thought he saw it because he was in the room.
21 She remembers him getting hit in the chest and having to
22 turn around, but she also said they never discussed it,
23 so she can't be sure whether he saw it or not.

24 Now you heard from witness after witness, some of
25 them experts, some of them not, whose testimony supported

1 exactly what Minor said happened. Ms. Brooke Wymer in
2 the forensic interview, she asked non-leading questions.

3 Minor admitted to her that her daddy put his nasty part
4 inside of her. She made it perfectly clear what happened.
5 Brooke used the dolls as exhibits to just make sure she
6 wasn't confusing anything Minor was saying, used her
7 words. You saw what Minor described happened to her
8 on the night that she was spending the night with her
9 father.

10 Minor went to school on Monday. Ms. Lamb said she
11 came to see her. She just needed her pants fixed as some
12 little kids do. That was on Monday. On Tuesday, Minor
13 began experiencing vaginal discomfort. She went to
14 Ms. Lee Lamb at 9:17 in the morning complaining her pants
15 were wet. She didn't know how they got wet. Of course,
16 she didn't. She was eight years old. She didn't know
17 what was going on. Later when she went back at 12:11,
18 her pants is wet and now it's hurting. She went back at
19 1:20, pants wet, itching and hurting. It was getting
20 progressively worse. She never told Ms. Lamb what
21 happened. Ms. Lamb never saw her panties. Ms. Lamb
22 did follow school protocol and call Sarah. Sarah told
23 Ms. Lamb she would take Minor to the doctor and she
24 did.

25 And she saw Ms. Gina Dyer-Goss, the SANE nurse,

1 who performs sexual assault examinations on hundreds of
2 kids. She told you what Minor was able to tell her
3 what happened and who did it. She noted the injuries
4 to Minor 's vaginal area, collected the samples to be
5 tested, and it was her expert opinion that these injuries
6 were consistent with a child who had been sexually
7 assaulted.

8 Now the defense asked about could these symptoms
9 have been consistent with something else like a yeast
10 infection. She said yes, but a yeast infection wouldn't
11 cause that much drainage. They asked about a cyst.
12 There was never any testimony about this child having a
13 cyst. I submit to you those are just distractions and
14 when the defense gets up here don't get distracted, stay
15 on course, stay focussed. Ms. Gina said this child had
16 a vast amount of discharge. Use your common sense. I
17 think they also asked her about seeing children who were
18 symptomatic who tested negative. She said she's never
19 seen it.

20 Dr. Paul Guerry, he's the medical director over the
21 laboratories of Palmetto Health. He's certain that these
22 test samples that were tested were that of Minor . He
23 told you how they have all these safety measures in place
24 to make sure and their primary focus is to get these
25 tests done so that people can be properly treated. They,

1 after all, are a medical facility. And he described a
2 little bit -- he's a very intelligent man. He described
3 a little bit about the testing techniques, but the main
4 point is they do confirmatory testing to make sure that
5 these tests are what they initially test for. She
6 initially tested positive for gonorrhea. That was sent
7 to an outside lab, which is what they do for that
8 confirmatory test, and those results were positive as
9 well. And first they did that broad spectrum for the
10 syphilis, but that confirmatory test when it was narrowed
11 down, it came back not -- negative, so that was a false
12 positive, so **Minor** only had gonorrhea.

13 Then you heard from Dr. Atkinson, her pediatrician.
14 It was consistent with her, too, because **Minor** still
15 had these symptoms when she saw her days later. She
16 verified the results and based on the results and
17 **Minor** 's symptoms diagnosed her with gonorrhea and
18 treated her. She had to get treated again.

19 You heard from Dr. Wesley Frierson. He tested Eric
20 English, performed a swab sample, verified the results,
21 and diagnosed him on March 7th. Now the defense may try
22 to distract you because in the opening I think they said
23 something about the actions of an innocent man and they
24 might try to say well, Eric, if he did this, why would
25 he voluntarily get tested? Well, I submit to you Jamie

1 voluntarily got tested, too, and we know what he did later
2 on. And how could he say no? He would have looked even
3 more guilty. I submit to you don't get distracted by the
4 fact that he went and got tested. Maybe he thought his
5 symptoms were clear because Dr. Frierson said he didn't
6 complain of any symptoms.

7 And Dr. Potter, qualified as an expert in the field
8 of public health and preventative medicine, and who can
9 argue with Dr. Potter's experience? He's the medical
10 director for the Midlands public health region. He's on
11 the team that comes up with the standing order for how
12 to treat gonorrhoea for the preventative health nurses so
13 it's in compliance with the Centers for Disease Control.
14 He consults on some of the more difficult to treat cases.
15 He testified that gonorrhoea is almost always transmitted
16 through sexual intercourse. In his expert opinion, a
17 seven-year-old girl who becomes symptomatic, and he said
18 that she probably would become symptomatic, after all
19 she's seven, she's not sexually active, a sexually active
20 adult, that she would probably become symptomatic within
21 two to five days from her exposure time and he got down
22 from the stand and he said she became symptomatic, this
23 was the latest she was probably exposed, the earliest to
24 the latest, on February 27th, right there in the middle
25 of when **Minor** said her daddy assaulted her. It's no

1 coincidence that her story is supported by medical expert
2 testimony.

3 Now the defense questioned Dr. Potter about
4 different strands of gonorrhoea and, yes, there are
5 different strands, but he said there's no way of knowing
6 this unless a culture is performed. Cultures are not
7 the standard way of testing procedures. Genetic probe
8 testing using urine and swab samples, that's what the
9 medical field does because they give accurate results
10 according to Dr. Potter and they get quick results so
11 that they can treat the patients as soon as they can.
12 And this was the testing that was done on all three
13 tests. And y'all can take these back and look at them.
14 All three tests that were done on the people mentioned in
15 this case. And there's no need to test a culture on a
16 child. She had no business with gonorrhoea anyway. Why
17 would you do a culture? Who cares what strand she had.
18 She had no business with it. It mattered that she be
19 tested and be tested quickly so she could be treated.

20 Don't get distracted. And, like I said, it's gonna
21 be hard for me to sit down because I can't get back up,
22 but don't be distracted. Mr. Chehoski said in his opening
23 that it is a nightmare to have your child accuse you of
24 the unthinkable. No, I submit to you the nightmare is a
25 child to have their father do the unthinkable to them

1 and to have to endure secrets, pain and the treatment of
2 having a sexually transmitted disease at the age of seven.
3 That's unthinkable.

4 When y'all go to the back to deliberate, just
5 remember **Minor** tested positive, Jamie tested negative.
6 Eric, who **Minor** identified as her perpetrator, tested
7 positive. Positive plus a positive equals a positive and
8 I'm positively sure that you will come back guilty.

9 Thank you.

10 **MR. CHEHOSKI:** Your Honor, may we approach for a
11 moment?

12 **THE COURT:** Sure.

13 (Proceedings held at the bench; not reported.)

14 (Proceedings held with reporter out of the hearing
15 of the jury.)

16 **THE COURT:** At the sidebar, the defense wants to
17 make a motion after he finishes his closing about comments
18 made during the prosecution's closing.

19 (Proceedings held in open court.)

20 **THE COURT:** All right.

21 **MR. CHEHOSKI:** Thank you, Your Honor.

22 Good morning. I want to just talk to you man to
23 jury for a little bit and this is the last time I get to
24 talk to you. I said at the beginning that this case,
25 this trial, perhaps more than any other case out there

1 puts our justice system to the test and we need you to
2 do the hard work to put the emotion, the anger, aside.
3 Before the first jury -- the first witness was ever sworn,
4 before any evidence was ever presented, you knew three
5 things that could easily tip the scales for the State and
6 against Mr. English. You knew what he was charged with,
7 you knew about the relationship between the parties, and
8 you don't see Mr. English, and each one of these things
9 on their own could just give you that emotional reaction.

10 But there's also something else they have in common.
11 That is not proof of the case and it is not, that alone,
12 that you can discuss when you begin to discuss this case.
13 And as you begin to do so, there are a few things that I
14 want you to think about when you go back into that room.
15 Because I want to talk about what the State's witnesses
16 said and what they didn't say and what the State didn't
17 even bother trying to prove.

18 Let's start with the sexually transmitted infection.
19 The State spent all day yesterday proving to you that
20 **Minor** had it, that Eric English had it and that
21 Jamie Stroman didn't, but what stuck out in my mind are
22 about four things. First, at this point in time Jamie
23 Stroman wasn't even identified as anything. Why is he
24 bothering getting tested? I think the stipulations that
25 Judge Griffith told you at the very beginning tell you

1 all you need to know about why he was doing that. Second,
2 we did learn that there are different strains of gonorrhea
3 out there. Third, we learned that the test that they use
4 does not distinguish between these different strains.
5 And, fourth, we know what **Minor** was tested with. We
6 know that the strains are resistant to different kinds
7 of treatment, to different kinds of antibiotics. There's
8 been no testimony as to what Eric English was treated
9 with, which brings me to my ultimate question, is it a
10 real possibility that **Minor** and Eric had different
11 strains?

12 I also spent a lot of time in my opening talking
13 about the actions of Eric English and, to be frank, we
14 really didn't get to hear a whole lot of it in part
15 because the State only called one law enforcement witness,
16 but even in that limited testimony a couple of things do
17 stand out. First, the whole time Eric was cooperative
18 and, second, where is the lead investigator? Where is
19 Trisha Stoner? We did not see her on that stand. This
20 is the person who talks to all the people, who gathers all
21 the facts, who puts everything in context. It's not like
22 the State had to look for her. She's right there. What
23 are they hiding?

24 And, finally, there are a few things that the State
25 didn't even bother bringing to your attention. You heard

1 that there was an eyewitness. This is something we
2 never have -- or rarely have in sexual assault cases, an
3 eyewitness. **Minor** said her little brother EJ was right
4 there next to them, was awake, turned around, saw what
5 happened. We didn't hear from him. We didn't hear from
6 **Minor** 's mother Sarah about what steps she took or about
7 why **Minor** felt it was necessary to ask for her mother
8 several times during Brooke Wymer's interview. Perhaps
9 the State with their burden, the burden they say they
10 welcome, and they leave all these questions unanswered,
11 perhaps they thought or they presumed that they had enough.

12 Well, Judge Griffith is about to tell you that there
13 is only one presumption that matters. The presumption
14 of innocence. Eric English has it. It's his right as a
15 citizen of this country and of this state. What that
16 leaves is for you. Fulfill your oath, hold the State to
17 their burden, find Eric English not guilty.

18 Thank you.

19 **THE COURT:** Ms. Lane and members of the jury, the
20 State of South Carolina has charged Mr. Eric Emanuel
21 English with one count of first degree criminal sexual
22 conduct with a minor. Bear in mind that he's pled not
23 guilty and that by that plea he denies all the charges
24 alleged in that indictment. And as I told you early on
25 in preliminary instructions, he comes into court clothed

1 with a presumption of innocence and this presumption of
2 innocence continues throughout the case and entitles him
3 to a verdict of not guilty until that presumption is
4 dispelled by the evidence satisfying you beyond a
5 reasonable doubt of his guilt and the State has proven
6 each and every element of that offense in the indictment
7 beyond a reasonable doubt.

8 Now as I told you, y'all are the finders of facts.
9 The same constitution that makes you finders of facts,
10 makes me the instructor of the law. I'm the only
11 instructor of the law and you must accept it as correct.
12 We discussed this originally. Under your oath you have
13 to accept the law as instructed by the Court, apply it to
14 the evidence which you've received and reach a unanimous
15 verdict. If I should make an error in instructing you on
16 the law, there's another time and another place where that
17 error can be considered and, if necessary, corrected. For
18 our purposes today on this case, you must accept the law
19 as I instruct it and so I tell you that if you have an
20 understanding of what the law is and it disagrees with my
21 instructions, you must disregard your understanding and
22 accept it as I am providing it to you right now.

23 In all criminal prosecutions, the State has the
24 burden of proving its case. The Defendant has no burden
25 whatsoever. They're presumed innocent and do not have to

1 testify. According to our constitution, the prosecution
2 must meet its burden of proof to a standard called beyond
3 a reasonable doubt. If the State fails to meet that
4 burden, then the Defendant is entitled to an acquittal or
5 a verdict of not guilty.

6 Now under the same constitution that makes me the
7 instructor of the law makes you, as the jury, the finders
8 of facts. I'm not allowed to have an opinion as to the
9 guilt or innocence or what facts you find. That is your
10 province and your responsibility. You are the sole
11 judges of the credibility and the believability of the
12 witnesses who have testified.

13 Now in meeting or evaluating a person's credibility,
14 you can consider anything in your collective experiences
15 that you utilize in your day to day lives in evaluating
16 whether someone is telling the truth or not.

17 Now additional things that I've observed that you can
18 consider when passing upon a person's credibility are what
19 was the manner and appearance of any of the witnesses who
20 testified? Was the witness straightforward or were they
21 hesitant? How did the witness come to know the facts to
22 which he or she testified to? And what was their ability
23 to recollect those facts? Is there some reason a witness
24 would want to give testimony which would help or hurt one
25 side or the other? In other words, was the witness biased

1 or prejudiced in any manner toward one side or the other?
2 Was the testimony of the witness strengthened or weakened
3 by other testimony and other evidence? You, as a group,
4 may believe as much or as little of each witness's
5 testimony as you deem proper. You can believe a single
6 witness against that of the rest, a group, against a few,
7 you can believe part of a witness's testimony and
8 disbelieve the rest. The fact that testimony is not
9 controverted does not mean you must accept it as true and
10 undisputed. You still gauge the credibility of the
11 witnesses in making your determinations of fact.

12 Now our rules of evidence normally do not allow
13 opinions to be presented by witnesses; however, there's
14 an exception, which I discussed with you during the trial,
15 and that exception regards expert witness testimony. An
16 expert witness is defined as a person who by education
17 and experience has become an expert in some field of art,
18 science or profession and they may state an opinion
19 relevant to a material matter to what trial's been called
20 in which in that field of study they claim to be an expert
21 and they may give reasons for their opinion. You can
22 consider an expert's opinion received as evidence in this
23 case just like the other evidence received. And if you
24 decide that the opinion of an expert is outweighed by
25 other evidence or that the opinion of the expert witness

1 is not based upon sufficient education or experience, you
2 can disregard that opinion. It is your decision to choose
3 which testimony to believe or not believe. An expert
4 witness's testimony should be given no greater weight
5 because they're an expert and you're not required to
6 accept it even if it's not controverted. I tell you
7 you're to weigh all of the testimony that was provided in
8 the case and find facts consistent with the facts you
9 believe to be true.

10 Now I observed y'all watching and listening to the
11 testimony and the evidence in this case, which was part
12 of your job, and I tell you you must weigh the evidence.
13 I tell you further that the weighing of evidence is
14 entirely a mental process. If you put them on a mental
15 scale and weigh the evidence, it's not exactly counting
16 witnesses and putting them on one side or the other. You
17 evaluate all of the testimony presented.

18 Now there are two types of evidence generally
19 presented during a trial. There's direct evidence and
20 there's circumstantial evidence. Direct evidence is
21 testimony of a person who asserts a claim or to have
22 actual knowledge of a fact, such as an eyewitness.
23 Circumstantial evidence is a little bit different. It
24 is proof of a chain of facts and circumstances indicating
25 the existence of another fact. Our law makes no

1 distinction between the weight or value to be given to
2 either direct or circumstantial evidence. There's no
3 greater degree of certainty required for circumstantial
4 evidence than that of direct evidence. You should weigh
5 all of the evidence, whether direct or circumstantial,
6 but I tell you to the extent the State relies upon
7 circumstantial evidence, all of the circumstances must
8 be consistent with one another and when taken together
9 conclusively point to the guilt of the accused beyond a
10 reasonable doubt. If they merely portray the behavior's
11 suspicious, then the proof's failed. So weighing all the
12 evidence, whether it be direct or circumstantial or any
13 combination thereof, if you're not convinced of the guilt
14 of the Defendant beyond a reasonable doubt, you're
15 required to find him not guilty.

16 Also during this trial you heard testimony from a
17 child. When a witness is a child, you must determine
18 whether the witness was believable or not and in
19 determining their believability, you can consider not
20 only the matters that I've already discussed, but you also
21 may consider the age of the child, the child's ability
22 to observe and remember facts, the child's ability to
23 understand and answer questions. Because young children
24 may not fully understand what is happening here, it is
25 up to you to decide whether the child understood the

1 seriousness of appearing as a witness at a criminal
2 trial, whether the child understood the questions,
3 whether the child had a good memory and whether the child
4 understands the difference between lying and telling the
5 truth. Young children may be influenced by the way that
6 questions are asked. It is up to you decide whether the
7 child understood the questions she was asked.

8 Now I've discussed the case must be proved beyond
9 a reasonable doubt. What is a reasonable doubt? A
10 reasonable doubt is a doubt which would cause a reasonable
11 person to hesitate to act. Reasonable doubt may arise
12 from evidence which is in the case or from a lack or
13 absence of evidence in the case. Proof beyond a
14 reasonable doubt is proof that leaves you firmly
15 convinced of the Defendant's guilt. It is the kind of
16 doubt to which one can assign a reason if the assignment
17 can be done reasonably and convincingly. Now a Defendant
18 is entitled to every reasonable doubt that may arise in
19 the case and what that means is if you have a doubt about
20 anything presented during the trial, you're required to
21 resolve that doubt in Mr. English's favor. Now the very
22 fact that you engage in a full and free discussion of
23 guilt or non-guilt in this case does not automatically
24 create a reasonable doubt. You must make a determination
25 of whether or not the reasonable doubt actually exists as

1 to his guilt and if you find the State's not met that
2 burden of proving its case beyond a reasonable doubt,
3 you're required to find Mr. English not guilty.

4 Now the particular statute in this case that the
5 Defendant is accused is called criminal sexual conduct
6 with a minor in the first degree. The State must prove
7 beyond a reasonable doubt that Mr. English engaged in
8 sexual battery with the victim. The State -- our statute
9 defines sexual battery as sexual intercourse, cunnilingus,
10 fellatio, anal intercourse or any intrusion, however
11 slight, with any part of the person's body or object into
12 the genital or anal openings of another person's body
13 except when intrusions are accomplished for a medically
14 recognized treatment or diagnosis purpose. The State
15 must also prove the additional element that the victim
16 was less than eleven years old at the time of the battery.
17 I tell you also that consent, willingness, indifference,
18 ignorance on the part of the minor, if any, as to what
19 was taking place does not in any way affect the charge of
20 criminal sexual conduct with a minor because an unmarried
21 woman under the age of fourteen cannot legally consent to
22 sexual intercourse.

23 Now criminal intent is also a necessary element to
24 each crime which must be proven by the State beyond a
25 reasonable doubt. Criminal intent is always a matter to

1 be determined by the jury from circumstances surrounding
2 the situation. There's no way to prove intent to a
3 mathematical certainty. There's no way medical science
4 can dissect a person's brain to determine what he or she
5 had in mind. Our law makes no -- our law states criminal
6 intent may be inferred from the circumstances shown to
7 have existed before and after the fact. You, the jury,
8 must make the determination of whether or not the element
9 requiring intent was present or not. I tell you that
10 criminal intent is a state of mind that operates jointly
11 with an act or an omission in the commission of a crime.
12 It is a mental state of conscious wrongdoing. It is up
13 to you to determine what the Defendant intended to do
14 based upon the circumstances shown to have existed and
15 the State must prove criminal intent beyond a reasonable
16 doubt just as they must prove the other elements of
17 criminal sexual conduct with a minor in the first degree.

18 Now, importantly, Mr. English is not present in
19 the courtroom. He did not present any testimony. Our
20 constitution allows a person accused to remain silent, so
21 I instruct and emphasize to you the fact that he was not
22 present and that he did not testify is not a factor that
23 you should consider in any way in your deliberations.
24 The determination you must make is based upon what the
25 State has presented. A Defendant has a constitutional

1 right to remain silent and his assertion of that right
2 must not be considered or discussed by you in your
3 deliberations. So you're to draw no conclusions under
4 your oath from the fact that he chose to not testify or
5 appear. So I tell you that the fact he did not testify
6 or appear should not even be discussed during your
7 deliberations. The burden is on the State. The Defendant
8 is not required to prove his innocence. The State must
9 prove a person guilty beyond a reasonable doubt.

10 Ms. Lane and members of the jury, as y'all retire to
11 begin your deliberations I remind you that I told you
12 that it was my responsibility to conduct a fair trial, to
13 appropriately rule on issues of law. It's your job to
14 reach a unanimous verdict, but it's your job also to
15 confine your deliberations to what's been presented here
16 in the courtroom to you as a group, to not let any outside
17 influences impact your decision. Discuss the case, make
18 your findings of fact confined to my instructions on the
19 law.

20 Now I'm gonna put you back in the jury room. I'm
21 gonna discuss with the lawyers my instructions, were they
22 complete and sufficient. I think they were, but I don't
23 know because the lawyers listen. I've got four of them
24 listening. They could say judge, you kind of glossed
25 over one aspect of your instruction because they were

1 reading along with me. I don't know if y'all noticed
2 that, but they were reading along with me what I intended
3 to instruct you on and if they say judge, you know, we'd
4 like you to instruct a little more on this aspect, I may
5 bring you back in here very quickly and do that. I
6 probably won't. But after I discuss that with them, I'm
7 gonna give you a verdict form and it says we, the jury,
8 find guilty or not guilty of the offense, and so I'll have
9 this with the evidence which has been presented to you.

10 Now if you want to see the video -- that computer is
11 available?

12 **MS. PATTERSON:** Yes, sir.

13 **THE COURT:** What we normally do -- she doesn't know
14 this yet, it's her first trial here in Lexington, but
15 sometimes that computer, and I've used it before in other
16 cases where there's surveillance videos, and I sometime
17 send my law clerk into the jury room to bring the
18 computer, and it comes to y'all with the video, and
19 she'll operate it for you if you need any help -- so
20 sorry, Lauren. Jacob went back there a lot. Jacob was
21 my clerk last year and was here when we did trials. He
22 went back in the jury room a good deal to help with
23 technical things, so if you want to see the video it's
24 y'all's to view. And Lauren will be glad to help you
25 bring the computer back and y'all can operate it if you

1 know how. It's okay, too. If you want to re-hear any
2 testimony, I need you to write me a note. We'd like to
3 hear the testimony of, the doctor from wherever, whatever
4 it is Stacy can queue it up a lot better if she knows who
5 you're looking for and if you don't remember the name kind
6 of what they said and we can figure that out.

7 Now if you've got a question about the instructions
8 I've given, I generally then give you -- like please
9 redefine reasonable doubt. Sometimes I just hand to you
10 my instruction on reasonable doubt. I rarely give the
11 whole thing because it leads to more discussion. Just
12 let me know more particularly what you'd like to hear and
13 I'll give that to you if you need it. If you have any
14 other questions about whatever, write it down, give it to
15 the bailiff and they'll bring it to me and I can talk
16 with the lawyers and we can figure a way to respond back
17 to you.

18 Now commonly asked questions. I tell jurors now
19 don't ask this question. The State calls the witnesses
20 they want, the defense calls the witnesses they choose to
21 or not. They don't have to do that, so I'm not saying
22 that they should have. Why somebody didn't call a witness
23 isn't a fair question. Why didn't they call thus and so
24 is not a good question. You've got to decide the case on
25 what you've got, okay? Not can we call a witness. You

1 can't do that. You've got what you've got and you've got
2 to make a decision on what you've got.

3 So those are my instructions. I'm gonna put all
4 fourteen of you in the jury room and once I talk to the
5 lawyers and everything's ready for y'all to begin
6 deliberations, then I'm gonna pull the two alternates out
7 and let them go sit in here and wait or they can be on
8 their way.

9 Now I tell you I've talked with Ms. Frick, and y'all
10 asked the question, once y'all are done today, y'all are
11 not coming back tomorrow, okay? So y'all have done
12 y'all's responsibilities. And Mr. Dibble also, my court
13 observer, he's been out there. He'll be done today also,
14 so y'all are off the hook for tomorrow and Friday in case
15 there's another trial called, but y'all have done your
16 part, so take your time making your decision.

17 Now if while you're deliberating somebody wants a
18 break, twelve of you are in there, stop. If somebody
19 wants to step outside and get some fresh air and see if
20 it's still warm outside and hasn't gone back to freezing
21 cold, don't deliberate anymore, you take a break. You
22 don't have to ask me can we have a break. You're on your
23 time, so take any breaks you'd like.

24 If you get hungry, I can maybe pray upon Ms. Frick
25 to see if the Clerk of Court would help us out on that,

1 but give me some lead time, okay? It's 10:20 now. Don't
2 call me at 12:30 saying we'd like lunch at 12:45, I can't
3 do that, but in forty-five minutes maybe we can do that.

4 All right. Y'all step in the jury room. I'll get
5 this stuff back to you as promptly as I can.

6 (Whereupon, the jury retires to the jury room at
7 10:21 AM.)

8 **THE COURT:** As the jury was walking out, Ms. Lane
9 asked me, to be certain, you don't want us to begin
10 discussing the case until we get the evidence and I said
11 yes, that's correct, don't begin until I tell you to. So
12 that's what she said walking out and I wanted a record of
13 that.

14 All right. We'll deal with the charge first. Any
15 exception to the charge?

16 **MS. PATTERSON:** None from the State.

17 **MR. CHEHOSKI:** None from the defense, Your Honor.

18 **THE COURT:** All right. Now after we had the
19 sidebar, I came over to Stacy and I told her what was
20 discussed at sidebar and that you had raised your hand
21 as to an objection you'd like to make a record of.

22 **MR. CHEHOSKI:** Yes, Your Honor.

23 **THE COURT:** So it was done before you did your
24 closing. I made a record of that, the timeliness of the
25 objection you made, and I understand you not wanting it

1 in front of the jury, so I'll not hold that against you.

2 Now the record is open for your argument on that.

3 **MR. CHEHOSKI:** Yes, Your Honor. There were two
4 items that were objectionable during the State's closing.
5 The State did use the word "forensic" in discussing
6 Brooke Wymer's interview, which was contrary to the
7 instructions during the -- that were held during
8 pre-trial.

9 Also, Your Honor, there was a -- in my opinion, a
10 violation under Bruton where the State commented on the
11 Defendant's failure to speak by saying how could he not
12 say something, he would have been found more guilty, and
13 I think, Your Honor, that does cross the line on Bruton
14 and, therefore, I'm moving for a mistrial.

15 **THE COURT:** All right.

16 **MS. PATTERSON:** That's not what I said. I said how
17 could he deny going to get a test done. Because he
18 voluntarily got a test done and I said how could he deny
19 having a test done.

20 **THE COURT:** And I thought you were commenting on
21 both the -- Stroman and English.

22 **MS. PATTERSON:** And I did. I talked about both of
23 them voluntarily going to get tests done.

24 **THE COURT:** I don't think that's a Bruton violation,
25 Mr. Chehoski. I listened to her closing argument because

1 I'm always interested in how you not talk about the
2 Defendant not being here and so I'm always on that and I
3 don't believe her comment addressed anything other than
4 the behavior of getting a test, which was in evidence
5 based upon the test results, but I didn't want her to
6 comment and I don't believe she did on his not testifying
7 or failing to testify or failing to appear, she didn't
8 mention that at all, and so I don't think that's a basis
9 for a mistrial. But the record will show what was
10 said and your objection is noted and respectfully denied.

11 The forensic comment, I didn't hear that. If she
12 said it, I don't believe that would be a --

13 **MS. PATTERSON:** And if I said it, I inadvertently
14 said it and I didn't repeat it because I don't even
15 remember saying it, so.

16 **MR. CHEHOSKI:** She said it like twice.

17 **THE COURT:** It certainly was not intentional or
18 vigorously said. I missed it if it was said at all, but
19 my instructions were to minimize the use of that word and
20 to say investigative interview or just the interview, but
21 I'm not declaring a mistrial on that basis either.

22 **MR. CHEHOSKI:** Thank you, Your Honor. Thank you for
23 allowing me to make the argument.

24 **THE COURT:** All right.

25 (Whereupon, the evidence and verdict form was sent

1 back to the jury at 10:25 AM.)

2 **THE COURT:** And bring the alternates out.

3 **THE CLERK:** Brett Parks and Diana Grossman.

4 (Whereupon, the alternates were dismissed.)

5 (Recess taken.)

6 **BAILIFF:** All rise.

7 **THE COURT:** Please be seated.

8 **THE COURT:** Be seated.

9 Are y'all ready?

10 **MS. PATTERSON:** The State's ready.

11 **MR. CHEHOSKI:** I just sent a text message to my
12 co-counsel. I think he's still in the building. Let me
13 just step outside.

14 **THE COURT:** All right. Go get them. He's on his way
15 up.

16 (Whereupon, the jury returns to the courtroom at
17 10:55 AM.)

18 **THE COURT:** All right, Ms. Lane. Have y'all reached
19 a verdict?

20 **FOREPERSON:** Yes.

21 **THE COURT:** Was it unanimous?

22 **FOREPERSON:** Yes.

23 **THE COURT:** Hand it to Ms. Frick.

24 **FOREPERSON:** (Handing.)

25 **THE COURT:** All right.

1 **THE CLERK:** Publish?

2 **THE COURT:** Yes, ma'am.

3 **THE CLERK:** Indictment 2014-GS-32-1630, the State
4 versus Eric Emanuel English. We find the Defendant, Eric
5 Emanuel English, as to the charge of criminal sexual
6 conduct with a minor in the first degree, guilty. So
7 signed by the forelady Neilly Lane, January 10, 2018.

8 Madam Forelady, ladies and gentlemen of the jury, if
9 this is your verdict, please indicate by each of you
10 raising your right hand.

11 All hands raised, Your Honor.

12 **THE COURT:** All right. Anything else from the jury,
13 Mr. Chehoski?

14 **MR. CHEHOSKI:** We request that the jury be polled,
15 Your Honor.

16 **THE COURT:** Okay.

17 **THE CLERK:** As I call your juror number, if you'll
18 hold your hand up where I can recognize you. I will ask
19 you as to the verdict, was this your verdict and is it
20 still your verdict. At that time give me your response,
21 please.

22 Number 290. As to the verdict, was this your verdict
23 and is it still your verdict?

24 **FOREPERSON:** Yes.

25 **THE CLERK:** Number 12. As to the verdict, was this

1 your verdict and is it still your verdict?

2 **JUROR:** Yes.

3 **THE CLERK:** Number 18. As to the verdict, was this
4 your verdict and is it still your verdict?

5 **JUROR:** Yes.

6 **THE COURT:** Number 129. As to the verdict, was this
7 your verdict and is it still your verdict?

8 **JUROR:** Yes, ma'am.

9 **THE CLERK:** 242. As to the verdict, was this your
10 verdict and is it still your verdict?

11 **JUROR:** Yes.

12 **THE COURT:** 146. As to the verdict, was this your
13 verdict and is it still your verdict?

14 **JUROR:** Yes.

15 **THE CLERK:** Number 207. As to the verdict, was this
16 your verdict and is it still your verdict?

17 **JUROR:** Yes.

18 **THE CLERK:** Number 156. As to the verdict, was this
19 your verdict and is it still your verdict?

20 **JUROR:** Yes.

21 **THE CLERK:** 163. As to the verdict, was this your
22 verdict and is it still your verdict?

23 **JUROR:** Yes.

24 **THE CLERK:** Number 10 -- excuse me, 157. As to the
25 verdict, was this your verdict and is it still your

1 verdict?

2 **JUROR:** Yes.

3 **THE CLERK:** Number 37. As to the verdict, was this
4 your verdict and is it still your verdict?

5 **JUROR:** Yes.

6 **THE CLERK:** Number 95. As to the verdict, was this
7 your verdict and is it still your verdict?

8 **JUROR:** Yes.

9 **THE CLERK:** All hands raised, Your Honor.

10 **THE COURT:** Okay. Anything further from the jury?

11 **MR. CHEHOSKI:** Nothing more from the defense, Your
12 Honor.

13 **THE COURT:** All right. Thank y'all for y'all's
14 service. I'm gonna step back in the jury room with you
15 real quick and speak to you and y'all can be on your way.

16 (Whereupon, the jury was excused at 10:58.)

17 (Pause in proceedings.)

18 (Proceedings resumed at 11:11 AM.)

19 **THE COURT:** All right. Mr. Chehoski, you understand
20 that whoever reads the sentence will be the one to
21 consider any reconsideration motion? The reading judge
22 is the reconsideration judge even if you know nothing
23 about the case. That's the rules. So if I'm here and
24 he's here and I read it, then I'll certainly consider
25 any mitigation you have then; otherwise, that judge can

1 consider it also, all right?

2 **MR. CHEHOSKI:** Yes, sir.

3 Your Honor, I do feel like I need to make a motion
4 for a new trial and renewing all previous motions and
5 objections. Specifically with regards to the test under
6 -- my argument under State versus James and also in
7 addition that that published hearsay -- all previous
8 objections to all the -- to the video, as it being
9 hearsay as there was no finding of a manifest necessity
10 to have to play the videotape given that there was no
11 confrontation between the victim and her attacker and
12 also, again, encompassing all other objections and
13 motions.

14 **THE COURT:** And your record's protected. Your
15 motions are respectively denied, but all issues are
16 protected for appellate purposes.

17 All right. I have since signed the sentencing sheet
18 and sealed it in an envelope, Ms. Frick now has it and
19 when we find -- we did issue a bench warrant yesterday?

20 **THE CLERK:** Yes, sir. The bench warrant was issued
21 and it is in the hands of the fugitive task force as of
22 2:00 yesterday.

23 **THE COURT:** Okay. They'll round him up.

24 **MR. CHEHOSKI:** Thank you, Your Honor.

25 **MS. PATTERSON:** Thank you.

1 **THE COURT:** I hope this brings closure to everyone.

2 (Whereupon, the proceedings were concluded at

3 11:13 AM.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned case in the Circuit Court of General Sessions on the 8th - 10th day of January, 2018.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

I do further certify that I am neither of kin, counsel, nor have an interest to any party hereto.

August 20, 2018

15/ Stacy S. Johnson
STACY S. JOHNSON
CIRCUIT COURT REPORTER

1 State of South Carolina

Court of General Sessions

2 County of Lexington

3

4

5 State of South Carolina)

Transcript of Record

6 vs.)

2014-GS-32-01630

7 Eric Emanuel English,)

8 Defendant.)

9

10

April 9, 2018

Lexington, South Carolina

11

12 B E F O R E:

13 The Honorable Eugene C. Griffith, Jr., Judge

14

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

16 J. Angela Garrick Martin, Senior Assistant Solicitor

17 Bradley P. Pogue, Assistant Solicitor

18 Attorneys for the State

19 Jason S. Chehoski, Esquire

20 Stephen R. Story, Jr., Esquire

21 Attorneys for the Defendant

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Stacy S. Johnson, RPR

Circuit Court Reporter

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E X H I B I T S

NO EXHIBITS WERE INTRODUCED

1 (The following proceedings were held April 9, 2018,
2 beginning at 1:45 PM.)

3 **BAILIFF:** All rise. Court come to order.

4 Court's now in session.

5 **THE COURT:** Thank you. Y'all be seated.

6 All right. Mr. Pogue, are you ready?

7 **MR. POGUE:** Your Honor, the State is ready.

8 All right. Mr. Chehoski, how are you doing?

9 **MR. CHEHOSKI:** Your Honor, I think I have to move
10 for a new trial at this time, you know, just trying to
11 protect the record. Renewing all -- and I think at the
12 appropriate time renewing a motion for reconsideration
13 of sentence to provide mitigation.

14 **THE COURT:** That may be premature. I don't know
15 what I gave him.

16 **MR. CHEHOSKI:** I think I said at the appropriate
17 time.

18 **THE COURT:** Okay. I think you protected the record
19 thoroughly during the trial and I denied your motion
20 for new trial then and so nothing's changed other than
21 Mr. English has been located, so I don't find that to be
22 a basis for granting a new trial.

23 Now regarding the sentence imposed, I am unsealing
24 the envelope.

25 And this was a CSC case as I now remember.

1 **MR. POGUE:** That's correct, Your Honor.

2 **THE COURT:** Mr. English, you were tried in your
3 absence back in October?

4 **MR. CHEHOSKI:** January.

5 **THE COURT:** January. Oh, I got you. January 8th,
6 9th and 10th -- I see how I read the date now; that dash
7 was causing me difficulties -- of 2018. You weren't here,
8 but the trial moved forward in your absence. They've
9 since located you. You were found guilty. Of course,
10 you know that. And this is the sentence sheet you'll see
11 in this envelope that I filled out on January 10th after
12 the jury verdict came back.

13 The sentence of the Court is that you be confined at
14 the Department of Corrections for a determinate term of
15 forty years.

16 **THE DEFENDANT:** Forty?

17 **THE COURT:** Forty.

18 All right. Now your lawyer asked could we present
19 some mitigating facts perhaps to consider. We can. I'm
20 not sure if today would be the right day to do that. If
21 y'all want to think about it and make any other post-trial
22 motions, I'll give you that chance.

23 **MR. CHEHOSKI:** Your Honor, I think it is -- my
24 understanding is this is now the appropriate time to
25 move to reconsider the sentence. At the end of the

1 trial and after the verdict, mitigation was not able to
2 be presented. We've had ample notice since Mr. English
3 has -- was brought back to Lexington County to know that
4 the sentencing hearing would be today and I know
5 Mr. English was scheduled to have family here, and I met
6 with some of them earlier today and told them at 2:00,
7 which is what I was told at the time. I think the
8 schedule has changed about three times since then, but I
9 know the family would want to actually be present on his
10 behalf and to -- probably to speak on his behalf as well,
11 in addition for -- for my presentation to the Court to
12 present mitigation.

13 **THE COURT:** All right. See if they're there.

14 **MS. MARTIN:** Your Honor, there are some people here.
15 I think it might be the victims, but I think some people
16 just got here.

17 **THE COURT:** Okay. Go see.

18 **MR. POGUE:** And, Your Honor, just for the record, a
19 letter was sent out to [REDACTED] Tindal Road in Pelion, South
20 Carolina, which is the address that the clerk's office has
21 on file for the Defendant, as well as two other addresses
22 that were known addresses of the Defendant: [REDACTED] Edmond
23 Highway, Lot [REDACTED], in Lexington, South Carolina, 29073, as
24 well as [REDACTED] Irvin Jumper Road, Gaston, South Carolina
25 29053.

1 And, Your Honor, the State is also -- is also aware
2 that the Defendant also signed, I believe, for a certified
3 notice of the trial date of January 8th that was sent by
4 defense counsel's office as well by certified mail.

5 **THE COURT:** All right. We can handle it one of two
6 ways, Mr. Chehoski. We can do it this way. I imposed
7 this sentence back on January 10th. The sentence was
8 imposed based upon what the Court knew. The sentence
9 has been read and published and is now imposed. If you'd
10 like to file a post-sentencing reconsideration and present
11 all the mitigation you'd like and we schedule a hearing
12 on that time, that will be fine. But this is not a
13 sentencing hearing. This is a publication hearing. I
14 don't mind doing that. That may be more efficient than
15 -- I know you got called in for a jury trial upstairs --

16 **MR. CHEHOSKI:** Yes, Your Honor.

17 **THE COURT:** -- and you weren't in the top five and
18 there have been several pleas; two in front of me and two
19 in front of Judge McMahon, and it's been kind of tough.

20 Anybody out there?

21 **BAILIFF:** Yes, sir. They're on their way in.

22 **THE COURT:** All right. I'm not sure you have time
23 this afternoon.

24 **MR. CHEHOSKI:** I did let Judge McMahon know that I
25 did have this scheduled.

1 **THE COURT:** All right.

2 **MR. CHEHOSKI:** I'll do whatever the Court feels
3 appropriate though.

4 (Discussion between counsel.)

5 **MR. CHEHOSKI:** Your Honor, I am willing to go forward
6 today and, like I said, I did tell Judge McMahon that I
7 did have this hearing and I think we're not scheduled to
8 be reconvened until 2:30.

9 **THE COURT:** Okay. Well, let's -- we'll go forward
10 right now then.

11 **MR. CHEHOSKI:** All right. Thank you, Your Honor.

12 Mr. English is thirty years old and he went -- he
13 did finish the tenth grade.

14 Your Honor, by my calculations I have him for 499
15 days credit for time served. This case predates --
16 predates my arrival to the office, Your Honor. It was
17 originally -- I think it was originally Rob -- Robert
18 Madsen's case and then he reassigned it to -- to Dayne
19 Phillips when Mr. Stroman, who is a -- more of a companion
20 case than a co-defendant case, when his case got involved,
21 and then when Mr. Phillips left in 2015 and when I -- I
22 started in October of 2015 is when I inherited the case.

23 It's important to say, too, Your Honor, and I think
24 Mr. English would want me to say, that he's always
25 maintained his innocence from -- from the very beginning.

1 In reviewing the discovery, with his conversations with
2 police, with his -- he was always cooperative with the
3 State, giving statements, going to the lengths to provide
4 the evidence that he thought would exonerate him, which,
5 unfortunately, I think was the crucial piece of evidence
6 in the -- the testing for the sexually transmitted
7 infection.

8 In addition to maintaining his innocence, Your Honor,
9 he's also always maintained that he's had a natural and
10 positive bond and relationship with -- with all of his
11 children, which include seven in total, which, of course,
12 do include the victim here.

13 While this case was -- while this case was pending,
14 Your Honor, Mr. English worked when he was able to.
15 Certainly with this kind of charge his options and -- for
16 work and for employment were extremely limited and was
17 pretty much limited to -- to fast food jobs. He worked
18 at -- had worked at Wendy's at one point during my
19 representation.

20 I don't know if Your Honor does know, but Mr. Stroman
21 was sentenced to thirty-five years. That case also went
22 to trial. I think that was in the -- either the spring
23 or the -- the late spring of 2017. That case did involve
24 -- did involve a confession; however, Mr. Stroman also at
25 the time he was tested as well and came back negative.

1 Your Honor, we're asking -- understanding that this
2 charge, just saying the charge out loud evokes a visceral
3 response and the legislature has fashioned a sentencing
4 range accordingly probably to that response. We're asking
5 -- we are asking -- now that the Court has published the
6 sentence, we're asking for -- asking to consider reducing
7 the sentence to a similar -- to a similar range to what
8 Mr. Stroman got, if not less, due to his -- to his
9 cooperation, Your Honor.

10 I don't know if there is anybody here for
11 Mr. English. It does not appear so. Again, Your Honor,
12 I had told -- I had seen his aunt earlier this morning
13 and I had told her 2:00 and have been -- my hands have
14 been tied a little bit since then, so.

15 Your Honor, that's all that I have at -- at this
16 time. I will probably have to file a motion to reconsider
17 to allow his family to speak on his behalf as well.

18 **THE COURT:** All right. Mr. Pogue, having heard the
19 case and the testimony and whatnot that was presented at
20 trial, does the victim want to be heard any further?

21 **MR. POGUE:** Your Honor, not at this time. The State
22 would only, Your Honor, put on the record that -- if
23 Your Honor is inclined to entertain any motion for
24 reconsideration or reduction in the sentence, that the
25 State be heard by the lead prosecutor in this case,

1 Rhonda Patterson, who's father passed away two days ago,
2 Your Honor, and was unable to be here today.

3 **THE COURT:** All right. I tell you what. That's not
4 an unreasonable request and both of you made similar
5 requests to be encompassed by the same thing. I'm gonna
6 take the motion to reconsider reducing the sentence under
7 advisement and we'll reconvene within the next term of
8 court, so the term following next.

9 Can we do it by then perhaps?

10 **MR. CHEHOSKI:** Yes, sir.

11 **THE COURT:** And if Ms. Patterson can then be present,
12 she can present something and if you can get family
13 members here --

14 **MR. CHEHOSKI:** Yes, sir.

15 **THE COURT:** -- I think doing that and maybe
16 scheduling it on a Friday might be the best.

17 **MR. POGUE:** Your Honor, are you talking about the
18 4-23 term?

19 **THE COURT:** What about that term?

20 **MS. MARTIN:** That's fine. That Friday?

21 **THE COURT:** Friday that week? So it would be --

22 **MS. MARTIN:** Yes, sir.

23 **MR. CHEHOSKI:** The 27th.

24 **THE COURT:** The 27th?

25 **MR. CHEHOSKI:** Yes, sir.

1 **THE COURT:** Ms. Patterson ought to have her
2 personal family matters dealt with and then you'll have
3 an opportunity that Friday -- let's do it Friday morning
4 at 9:30.

5 **MR. POGUE:** Okay.

6 **THE COURT:** And then I can deal with the probation
7 matters that afternoon -- I mean, later in the morning.

8 Now I don't want a full presentation of the whole
9 trial, but comments from the prosecutrix and family
10 members and then I'll decide right then.

11 **MR. CHEHOSKI:** Yes, sir.

12 **THE COURT:** Fair enough?

13 **MR. CHEHOSKI:** Yes, sir.

14 **THE COURT:** All right. We'll take it under
15 advisement and continue it until when Ms. Patterson is
16 present, as well as your family members, and we'll do
17 that Friday morning and that will alleviate the
18 rescheduling of everything we had this morning because of
19 the Monday issues. There were a lot of things going on
20 for a Monday that were not of your fault and were not of
21 mine either, but we'll make an adjustment.

22 So we'll see you Friday -- two weeks from Friday,
23 all right?

24 **MR. CHEHOSKI:** Yes, sir.

25 **MR. POGUE:** Thank you, Your Honor.

1 **THE COURT:** And I wrote on the sentencing sheet
2 499 days today and dated it 4-9-18, so that's the change
3 I did make. That's not my ruling, but I did note that on
4 the sentencing sheet.

5 **MR. CHEHOSKI:** Do you want a proper motion for
6 reconsideration, a written --

7 **THE COURT:** I think I've got to impose sentence and
8 then you ask me to reconsider it and I think I'm still in
9 the middle of that, all right?

10 **MR. CHEHOSKI:** Okay. Thank you, Your Honor.

11 **THE COURT:** So I don't need a formal motion.

12 **MR. POGUE:** Thank you, Judge.

13 (Whereupon, the proceedings were concluded at
14 1:58 PM.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned case in Circuit Court on the 9th day of April, 2018.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

I do further certify that I am neither of kin, counsel, nor have an interest to any party hereto.

August 20, 2018

ISI Stacy S. Johnson
STACY S. JOHNSON
CIRCUIT COURT REPORTER

1 State of South Carolina
2 County of Lexington

Court of General Sessions

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5 State of South Carolina)
6 vs.)
7 Eric Emanuel English,)
8 _____ Defendant.)

Transcript of Record
2014-GS-32-01630

9
10 April 27, 2018
11 Lexington, South Carolina

12 B E F O R E:

13 The Honorable Eugene C. Griffith, Jr., Judge

14
15 A P P E A R A N C E S:

16 Rhonda W. Patterson, Senior Assistant Solicitor
17 Bradley P. Pogue, Assistant Solicitor
Attorneys for the State

18 Jason S. Chehoski, Esquire
19 Stephen R. Story, Jr., Esquire
Attorneys for the Defendant

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22 Stacy S. Johnson, RPR
23 Circuit Court Reporter
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E X H I B I T S

NO EXHIBITS WERE INTRODUCED

1 (The following proceedings were held on April 27,
2 2018, beginning at 9:48 AM.)

3 **BAILIFF:** All rise. Court's now in session. The
4 Honorable Judge Eugene C. Griffith, Junior, presiding.
5 State versus Eric English.

6 **THE CLERK:** This is indictment 2014-GS-32-01630.
7 The State versus Eric English. He was sentenced --
8 sentenced was imposed on April 9th of 2018. This is a
9 motion to reconsider filed by the defense, Your Honor.

10 **THE COURT:** Okay. I'm sorry. Y'all can be seated.
11 I apologize.

12 All right. Mr. Chehoski, we went through a little
13 bit of this and you didn't have your people here.

14 **MR. CHEHOSKI:** Yes, sir.

15 **THE COURT:** I want to start there and then I'm gonna
16 come to Ms. Patterson to see who she has here that wants
17 to be heard again, if any.

18 **MS. PATTERSON:** Thank you, Your Honor.

19 **THE COURT:** So let me hear from whoever you've got
20 because I remember we kind of said look, let's just kind
21 of hold what we've got, get your people here, and I'll
22 hear you in full.

23 **MR. CHEHOSKI:** Yes, Your Honor.

24 At the publishing hearing on the 9th, I did give my
25 presentation to the Court regarding Mr. English and his

1 status. There are several members of his family that are
2 here today and three of whom that want to address the
3 Court. First would be Ms. Sharon Jones, who is Eric
4 English's mother.

5 Ms. Jones, stand and come to the --

6 **DEPUTY:** Judge, where do you want them to stand at?

7 **THE COURT:** Wherever you're comfortable with them.

8 **DEPUTY:** Okay.

9 **MS. JONES-WISE:** Good morning, Your Honor.

10 **THE COURT:** Good morning. Your name?

11 **MS. JONES-WISE:** Sharon Jones hyphen Wise. I'm Eric's
12 mother.

13 **THE COURT:** Okay, Ms. Jones.

14 **MS. JONES-WISE:** I don't hardly know where to start.
15 I'm here to speak to see if you can have a change of heart
16 to the sentencing with my son on this case. My thing is
17 this thing has took an emotional toll on my family since
18 it started. I miss my son. I love him. I just wish you
19 would reconsider and have a change of heart.

20 **THE COURT:** Thank you, Ms. Jones.

21 **MR. CHEHOSKI:** Your Honor, next will be Ms. Dale
22 Jones. She is Mr. English's aunt, I believe.

23 **MS. DALE JONES:** Good morning.

24 **THE COURT:** Good morning, Ms. Jones.

25 **MS. DALE JONES:** Are there any limits to the things

1 that I can say like as far as his case?

2 **THE COURT:** You can say whatever you'd like. What
3 I'm listening for is mitigating factors as to why the
4 sentence should either be left alone or reduced in any
5 manner. That's what I'm listening for.

6 **MS. DALE JONES:** Yes, sir. First of all, I don't
7 believe that Eric done this to his daughter. In the
8 beginning when all this started, I was the one that took
9 **Minor** to the emergency room and **Minor** stated that her
10 daddy a couple of days later touched her and the guy that
11 she had -- Sarah had living with her was Jamie Stroman.

12 **THE COURT:** All right. Now here's -- here's my --
13 I'm gonna just tell you --

14 **MS. DALE JONES:** Yes, sir.

15 **THE COURT:** -- how my hands are kind of tied to some
16 extent --

17 **MS. DALE JONES:** Yes, sir.

18 **THE COURT:** -- is I didn't determine whether he did
19 it or not, a jury did --

20 **MS. DALE JONES:** Yes, sir.

21 **THE COURT:** -- and I've got to deal with what twelve
22 people unanimously agreed to in imposing sentence. So I
23 understand there were some differences in the testimony.
24 The jury chose to believe the State's version and I'm --
25 I am forced to accept that version without question, okay?

1 **MS. DALE JONES:** Yes, sir.

2 **THE COURT:** And that's just -- that's part of the
3 difficulty in what I do is they've got their job and I've
4 got mine.

5 **MS. DALE JONES:** Yes, sir. I understand. But I
6 just -- being that you're saying that he's been found
7 guilty by the jury, I just still don't believe that he
8 did that and he's been around **Minor** from the time she
9 was born up until she was seven or eight years old and as
10 soon as the guy, Jamie, moved in with Sarah this started
11 happening, so I just don't believe he did it. And I love
12 him and I just wish that he didn't have to go to prison,
13 but being that he has been found guilty, I know he is,
14 but I just wish it was a lesser time.

15 **THE COURT:** Okay.

16 **MS. DALE JONES:** Thank you, sir.

17 **THE COURT:** Yes, ma'am.

18 Jason.

19 **MR. CHEHOSKI:** Thank you, Your Honor. The last will
20 be Ms. Elizabeth Westbrook. She's --

21 **THE COURT:** There's a lady getting your attention.

22 **MS. JONES-WISE:** Your Honor, I'd also like for you
23 to consider the fact that my son does not -- my son does
24 not have a criminal record versus this Jamie Stroman has
25 an extensive record. I would like you to consider that

1 the only thing he really has on his record is a petty
2 charge. He don't have a bad record.

3 **THE COURT:** Okay.

4 **DEPUTY:** Ms. Westbrook, come up to the gate. Tell
5 the judge your full name first.

6 **MS. WESTBROOK:** My name is Elizabeth Westbrook. I
7 am Christopher Westbrook's mother and I do not believe
8 that my son's dad did that.

9 **THE COURT:** All right.

10 **MR. CHEHOSKI:** Your Honor, I'll just, again, for the
11 record reiterate some of the points that I did bring up at
12 the April 9th hearing. Mr. English's behavior as these
13 charges were being brought were not -- were inconsistent
14 with that of a guilty man. He was cooperative with the
15 police and, in fact, was the -- he voluntarily took the
16 test that, in my opinion, was the -- probably the most
17 critical piece of evidence against him.

18 That said, again, he was -- he gave statements to
19 the police and has no prior record and has always
20 maintained not only his innocence, but that his love
21 for his children was strictly and solely fatherly and
22 natural.

23 **THE COURT:** All right.

24 **MR. CHEHOSKI:** And, Your Honor, we're asking the
25 Court to consider reducing the sentence from what was

1 originally imposed. Thank you for your time.

2 **THE COURT:** Okay.

3 All right, Ms. Patterson.

4 **MS. PATTERSON:** Thank you, Your Honor.

5 The victim is here today with her mom and she has
6 some other family supporting her. You heard the facts
7 from the trial. You heard **Minor** testify. They're
8 talking about his close relationship to **Minor** . That's
9 one of the things that strikes me as well. This child
10 had no reason to lie. She did have a close relationship
11 with her father. She went to visit him regularly on the
12 weekends. She had no reason to lie that he would do
13 these things to her had they -- he not been the one who
14 did this to her at the time that -- the time period in
15 which we tried.

16 Yes, Jamie Stroman was later charged and found guilty
17 of sexually assaulting her as well. This child has never
18 said that it was either or, she's always said it was both.
19 And you also heard how this child developed gonorrhoea.
20 We had medical testimony talking about the timeframes it
21 would have -- she would have become symptomatic and it's
22 no coincidence that that is the same timeframe in which
23 she stated that Mr. English was the one that assaulted
24 her.

25 What you didn't hear, Your Honor, from the stand,

1 from Minor , from her mom, is what this child has
2 endured since this happened. Because she had that close
3 relationship with her father and she's no longer able to
4 see him, this child has had so many behavioral problems,
5 she's had nightmares, she's been hospitalized at least
6 twice for suicide attempts. She blames herself for her
7 and her little brother, who also has behavioral problems,
8 of not being able to see their daddy and their other
9 brothers and sisters. She had no reason to lie. She's
10 currently seeing mental health. I think she was over
11 here at Lexington, now she's over there at Richland
12 Mental Health. She's still seeking counseling.

13 Jamie Stroman did receive thirty-five years. He did
14 have a prior record, but from my recollection it was only
15 property crimes. And I will admit while his actions were
16 sick and repulsive, just as Mr. English's, to be sexually
17 assaulted by your daddy is in my opinion just way worse.

18 Mr. English knew about his trial, he chose not to
19 show up for his trial, and not only that, he eluded
20 police officers when they attempted to serve him his
21 bench warrant, which was in Lakeland, Florida. He
22 established a resident in Naples, Florida, which is
23 ultimately where they found him weeks later. So he's
24 just -- he should not be given any consideration, Your
25 Honor. I think the sentence is appropriate given the

1 circumstances of the assault and the effect that it has
2 caused. I understand that they don't believe he did it,
3 but the jury says differently, Your Honor.

4 He -- his prior record is minimal, Your Honor. He
5 only has like traffic offenses. I think he has a 2008
6 petit larceny, but still that doesn't change the fact of
7 what he did to his biological daughter. Your Honor, not
8 just being assaulted, but having to endure having a
9 sexually transmitted disease at eight years old, that's
10 just -- that's just -- I just can't even fathom what this
11 child went through, and we would just ask that defense's
12 motion to reconsider be denied.

13 **THE COURT:** All right.

14 Anything else?

15 **MR. CHEHOSKI:** Nothing further from the defense,
16 Your Honor.

17 **THE DEFENDANT:** Can I talk?

18 **MR. CHEHOSKI:** Oh, I'm sorry, Your Honor.

19 Mr. English would like to speak.

20 **THE COURT:** All right. Sure.

21 Mr. English.

22 **THE DEFENDANT:** Your Honor, since this case has
23 started it's been a lot of changes. Like she said I had
24 did this to her. I would never hurt my daughter. I
25 would never hurt my -- I wouldn't hurt none of my kids.

1 And I told Mr. Chehoski to get the recordings from 2014
2 from when Sarah had talked about it over the phone. If
3 she felt like I did this, then why would she let me talk
4 to my daughter? Why would she allow my daughter around
5 me if she felt like that? Ever since she's been saying
6 it's on -- it's written on the paper that this man that
7 stay with her, he lived in her house, every time I picked
8 my kids up he was there. People that stayed there know
9 that he was living with her. And I just felt like at the
10 beginning she said that this was my co-defendant. I've
11 got two warrants on me. One say between the years of
12 2013 and 2014. That was the time he was staying with her
13 and she knew what was going on and she covered this up
14 and she acted like she didn't know. It's written on paper
15 and she can't sit here and lie when it's written on paper
16 saying this man had stayed with her. This was supposed to
17 be my co-defendant and he's not my co-defendant. I don't
18 know this man, we didn't hang together on the streets.
19 This is her boyfriend. And she's sitting back there -- I
20 mean, I know at the end of the day it ain't no way that I
21 can sit here and take a fall for something I didn't do.
22 She know I didn't do this. I spent time seeing my kids
23 every weekend to seeing them not at all and when they --
24 they didn't do a full investigation. If they had did an
25 investigation, I would have never been arrested. She had

1 anal gonorrhoea. I won't even let -- wipe my own -- my
2 own rear end and I -- I just don't understand. I really
3 don't. Ain't nobody ever got no statement from me since
4 this case -- since 2014 when this case has been going on.
5 I never spoke on this case. Not one time.

6 **THE COURT:** All right.

7 All right. Respectfully, when I sentenced -- imposed
8 the sentence at the end of the trial, all the facts were
9 much fresher and clearer, and I'm gonna respectfully deny
10 the motion to reconsider and leave it where it is.

11 **MR. CHEHOSKI:** Yes, sir.

12 **MS. PATTERSON:** Thank you.

13 (Whereupon, the proceedings were concluded at
14 10:02 AM.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned case in Circuit Court on the 27th day of April, 2018.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

I do further certify that I am neither of kin, counsel, nor have an interest to any party hereto.

August 20, 2018

Stacy S. Johnson
STACY S. JOHNSON
CIRCUIT COURT REPORTER

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON)

STATE OF SOUTH CAROLINA) 2014GS3201630
)
)

vs.)
)

ERIC E. ENGLISH,
DEFENDANT.

STIPULATIONS

The State will stipulate to the following:

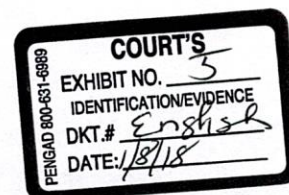
1. On June 3, 2014, during a counselling session at the Dickerson Center, **minor** disclosed that her mom's boyfriend, Jamie Stroman had sexually assaulted her.
2. On June 16, 2014, Jamie Stroman admitted to digitally penetrating **minor** to Detective Chris Ellisor of the Lexington Police Department.
3. Jamie Stroman was arrested for Criminal Sexual Conduct with a Minor First Degree.
4. On March 30, 2017, Jamie Stroman was convicted of Criminal Sexual Conduct with a Minor First Degree against **minor**

Respectfully Submitted,



Rhonda W. Patterson, Senior Assistant Solicitor
Eleventh Circuit Solicitor's Office

January 8, 2018



11/28/2017
13:04

PALMETTO HEALTH RICHLAND, COLUMBIA, SC
PAUL L. GUERRY, MD DIRECTOR OF PATHOLOGY

CUMULATIVE SUMMARY
PAGE2

NAME: Minor
ADMITTED: 03/04/2014 03/04/2014
H#: 014438406 LOC: ZPED AGE: 11Y SEX: F
ACCT: 1406302920 DR: WENNING, DERICK CODE: 44393

----- HIV TESTING -----
TEST: HIV Ag/Ab including P24
UNITS:
LO-HI: NONR

03/04 2200 NON REACTIVE
HIV-1 p24 Ag and/or HIV-1/HIV-2 Ab not detected.
A test result that is nonreactive does not exclude the possibility of exposure
to or infection with HIV-1 and/or HIV-2.
Nonreactive results in this assay for individuals with prior exposure to
HIV-1 and/or HIV-2 may be due to antigen and antibody levels that are below
the limit of detection of this assay.

----- STD TESTING -----
TEST: SOURCE FOR CHLAMYDIA
GC/CHLAMYDIA PCR by DNA PCR
UNITS:
LO-HI:

03/04 2200 URINE Negative for Chlamydia trachomatis DNA
Assay performed by Strand Displacement Amplification

----- STD TESTING -----
TEST: GC by DNA PCR
UNITS:
LO-HI:

03/04 2200 Positive for Neisseria gonorrhoeae DNA
Assay performed by Strand Displacement Amplification
REPORTABLE DISEASE

Minor
11/28/2017 13:04

CONTINUED

PAGE2
OUTPATIENT CUMULATIVE SUMMARY



11/28/2017
13:04PALMETTO HEALTH RICHLAND, COLUMBIA, SC
PAUL L. GUERRY, MD DIRECTOR OF PATHOLOGYCUMULATIVE SUMMARY
PAGE4

NAME: Minor
 ADMITTED: 03/04/2014 03/04/2014
 HH#: 014438406 LOC: ZPED AGE: 11Y SEX: F
 ACCT: 1406302920 DR: WENNING, DERICK CODE: 44393

```

-----
TEST:          HEPATITIS A TESTING
                HEPATITIS A
                IGM ANTIBODY

UNITS:
LO-HI:          NONR

03/04  2200    NON REACTIVE

-----
TEST:          HEPATITIS B TESTING
                HEPATITIS B
                SURFACE ANTIGEN

UNITS:
LO-HI:          NONR

03/04  2200    NON REACTIVE
                (b)
                (c)

-----
TEST:          HEPATITIS B TESTING
                HEPATITIS B
                CORE IGM

UNITS:
LO-HI:          NONR

03/04  2200    NON REACTIVE

-----
TEST:          HEPATITIS C TESTING
                HEPATITIS C
                ANTIBODY

UNITS:
LO-HI:          NONR

03/04  2200    NON REACTIVE
                (d)

```

--- FOOTNOTES ---

- (b) When Hepatitis B is suspected, a negative result for Hepatitis B Surface Antigen usually indicates the virus is not present.
- (c) Testing for the presence of Core IgM antibody would help define a recent infection in the absence of Hepatitis B Surface Antigen.
- (d) A nonreactive HCV result does not exclude the possibility of HCV infection since the time for seroconversion is variable.

Minor
11/28/2017 13:04

CONTINUED

PAGE4
OUTPATIENT CUMULATIVE SUMMARY

11/28/2017
13:04

FALMETTO HEALTH RICHLAND, COLUMBIA, SC
PAUL L. GUERRY, MD DIRECTOR OF PATHOLOGY

CUMULATIVE SUMMARY
PAGE5

NAME: Minor
ADMITTED: 03/04/2014 03/04/2014
HH: 014438406 LOC: ZPED AGE: 11Y SEX: F
ACCT: 1406302920 DR: WENNING, DERICK CODE: 44393

----- HEPATITIS ACUTE INTERPRETATION -----

03/04 2200 HEPATITIS ACUTE PANEL
HEPATITIS COMMENTS
No evidence of current infections of Hepatitis A, Hepatitis B, or
Hepatitis C.

----- MICRO RAPID PCR TESTS -----

TEST: TRICHOMONAS GARDNERELLA CANDIDA VAGINOSIS PANEL
METHOD

UNITS:
LO-HI: NEG NEG NEG

03/04 2200 NEGATIVE NEGATIVE NEGATIVE DNA PROBE

===== MICRO RAPID PCR TESTS =====

TEST: VAGINOSIS PANEL
LIMITATIONS

UNITS:
LO-HI:

03/04 2200 VAPAL

----- OTHER TESTS -----

03/04 2201 MISC LAB TEST
TEST NAME URINE STD 1 PANEL TO ARUP
REFERRAL LABORATORY ARUP LABORATORIES
DATE SENT 030514
RESULT See reference lab report located in Cerner under Clinical
Notes in the lab folder.

2200 MISC LAB TEST
TEST NAME APTIMA FOR GC
CHLAMYDIA
TRICHOMONAS
REFERRAL LABORATORY ARUP LABORATORIES
DATE SENT 030514
RESULT Wrong Order
TO BE REORDERED CORRECTLY BY SENDOUTS 95385

--- FOOTNOTES ---

VAPAL A NEGATIVE TEST FOR CANDIDA, GARDNERELLA AND/OR TRICHOMONAS INDICATES NUCLEIC ACID FROM
LESS THAN 1 x 10E4 CANDIDA CELLS, 2 x 10E5 CFU OF G. VAGINALIS, OR 5 x 10E3 TRICHOMONADS
MAY BE PRESENT IN THE PATIENT SAMPLE.

11/28/2017
13:04

PALMETTO HEALTH RICHLAND, COLUMBIA, SC
PAUL L. GUERRY, MD DIRECTOR OF PATHOLOGY

CUMULATIVE SUMMARY
PAGE6

NAME: Minor
ADMITTED: 03/04/2014 03/04/2014
HH: 014438406 LOC: ZPED AGE: 11Y SEX: F
ACCT: 1406302920 DR: WENNING, DERICK CODE: 44393

----- OTHER TESTS -----

2200 MISC LAB TEST

TEST NAME GCCH COMBO
REFERRAL LABORATORY ARUP LABORATORIES
DATE SENT 030514
RESULT C. trachomatis by TMA: Negative
Reference Interval: Negative
N. gonorrhoeae by TMA: POSITIVE
Reference Interval: Negative
Called to Merlena Clary, FNE 1010 030714 95385
Specimen Source: Rectal
APTIMA Media Type: Swab
(NOTE)

Test developed and characteristics determined by ARUP Laboratories.
See Compliance Statement B: aruplab.com/CS

INTERPRETIVE INFORMATION: C. trachomatis by TMA:
Positive results are confirmed using an alternative nucleic acid target in accordance with CDC guidelines. See: Screening Tests To Detect Chlamydia trachomatis and Neisseria gonorrhoeae Infections - 2002. (<http://www.cdc.gov/std/LabGuidelines/rr5115.pdf>).

This test is intended for medical purposes only and is not valid for the evaluation of suspected sexual abuse or for other forensic purposes. In certain contexts, culture may be required to meet applicable laws and regulations for diagnosis of C. trachomatis and N. gonorrhoeae infections.

INTERPRETIVE INFORMATION: N. gonorrhoeae by TMA
Positive results are confirmed using an alternative nucleic acid target in accordance with CDC guidelines. See: Screening Tests To Detect Chlamydia trachomatis and Neisseria gonorrhoeae Infections - 2002. (<http://www.cdc.gov/std/LabGuidelines/rr5115.pdf>).
This test is intended for medical purposes only and is not valid for the evaluation of suspected sexual abuse or for other forensic purposes. In certain contexts, culture may be required to meet applicable laws and regulations for diagnosis of C. trachomatis and N. gonorrhoeae infections.

Performed by ARUP Laboratories
500 Chipeta Way, Salt Lake City, UT 84108

03/04 2200 GC PCR APTIMA
GC PCR APTIMA RESULT

See reference lab report located in Cerner under Clinical

Minor

11/28/2017 13:04

CONTINUED

<<RESULTS CONTINUED ON NEXT PAGE>>

PAGE6

OUTPATIENT CUMULATIVE SUMMARY

11/28/2017
13:04

PALMETTO HEALTH RICHLAND, COLUMBIA, SC
PAUL L. GUERRY, MD DIRECTOR OF PATHOLOGY

CUMULATIVE SUMMARY
PAGE7

NAME: Minor				
ADMITTED: 03/04/2014	03/04/2014			
H#: 014438406	LOC: ZPED	AGE: 11Y	SEX: F	
ACCT: 1406302920	DR: WENNING, DERICK		CODE: 44393	

----- OTHER TESTS -----

GC PCR APTIMA

<<CONTINUED FROM PREVIOUS PAGE>>

Notes in the lab folder.

Minor
11/28/2017 13:04

END OF REPORT

PAGE7
OUTPATIENT CUMULATIVE SUMMARY

11/28/2017
13:04

PALMETTO HEALTH RICHLAND, COLUMBIA, SC
PAUL L. GUERRY, MD DIRECTOR OF PATHOLOGY

CUMULATIVE SUMMARY
PAGE 3

NAME: Minor
ADMITTED: 03/04/2014 03/04/2014
H#: 014438406 LOC: ZPED AGE: 11Y SEX: F
ACCT: 1406302920 DR: WENNING, DERICK CODE: 44393

===== STD TESTING =====
TEST: RPR
UNITS:
LO-HI: NONR
03/04 2200 REACTIVE *
SCREEN RESULTS, INTERPRET WITH CAUTION
(a)

===== STD TESTING =====
TEST: RPR TITER
UNITS: TITER
LO-HI:
03/04 2200 Reactive straight (1:1)
REPORTABLE DISEASE

===== STD TESTING =====
TEST: TREPONEMAL
ANTIBODY
IgG
UNITS: INDEX
LO-HI: <0.90
03/04 2200 <0.10 NEGATIVE

An antibody index <0.90 is a negative result.

REFERENCE INTERVAL

Negative Specimens <0.90
Equivocal Specimens 0.90-1.09
Positive Specimens >1.09
REPORTABLE DISEASE

---FOOTNOTES---

(a) To be followed by Treponemal Antibody testing. REPORTABLE DISEASE

Minor
11/28/2017 13:04

CONTINUED

PAGE 3
OUTPATIENT CUMULATIVE SUMMARY

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1406302920
3-4-14



ARUP is an enterprise of the University of Utah and its Department of Pathology.
FINAL

500 Chipeta Way, Salt Lake City, UT 84108
phone: (801) 583-2787 toll free: (800) 522-2787
web: www.aruplab.com
Jerry W. Hussong, MD
Chief Medical Officer, Director of Laboratories

Patient Name: Minor

Palmetto Health Richland 12413
14 Richland Medical Park Dr., 5th Floor
Columbia, SC 29203

Date of Birth/Sex: [REDACTED] Female

ARUP ID: 1ARUP00-00149765

Requisition #: 014438406

Visit # (PIN): W51246

Client Supplied ID: 014438406

Admitting Physician: UNKNOWN,

Collected: 04 Mar 2014 10:01 PM

Received: 06 Mar 2014 07:43 AM

Reprinted: 08 Mar 2014 02:03 AM

Clinical Laboratory

Procedure	Result	Units	Ref Interval	Accession	Collected	Received	Verify
APTIMA Media Type	Urine			11064400617	04 Mar 2014 10:01 PM	06 Mar 2014 07:43 AM	07 Mar 2014 02:05
Specimen Source	Urine			11064400617	04 Mar 2014 10:01 PM	06 Mar 2014 07:43 AM	07 Mar 2014 02:05
C. trachomatis by TMA	Negative		Negative	11064400617	04 Mar 2014 10:01 PM	06 Mar 2014 07:43 AM	07 Mar 2014 02:05
N. gonorrhoeae by TMA	Positive *		Negative	11064400617	04 Mar 2014 10:01 PM	06 Mar 2014 07:43 AM	07 Mar 2014 02:05
T. vaginalis by TMA	Negative		Negative	11064400617	04 Mar 2014 10:01 PM	06 Mar 2014 07:43 AM	07 Mar 2014 02:05

2014-03-04 22:01:00.0 C. trachomatis by TMA:
INTERPRETIVE INFORMATION: C. trachomatis by TMA

Positive results are confirmed using an alternative nucleic acid target in accordance with CDC guidelines. See: Screening Tests To Detect Chlamydia trachomatis and Neisseria gonorrhoeae Infections - 2002. (<http://www.cdc.gov/std/LabGuidelines/rr5115.pdf>)

This test is intended for medical purposes only and is not valid for the evaluation of suspected sexual abuse or for other forensic purposes. In certain contexts, culture may be required to meet applicable laws and regulations for diagnosis of C. trachomatis and N. gonorrhoeae infections.

2014-03-04 22:01:00.0 N. gonorrhoeae by TMA:
INTERPRETIVE INFORMATION: N. gonorrhoeae by TMA

Positive results are confirmed using an alternative nucleic acid target in accordance with CDC guidelines. See: Screening Tests To Detect Chlamydia trachomatis and Neisseria gonorrhoeae Infections - 2002. (<http://www.cdc.gov/std/LabGuidelines/rr5115.pdf>)

This test is intended for medical purposes only and is not valid for the evaluation of suspected sexual abuse or for other forensic purposes. In certain contexts, culture may be required to meet applicable laws and regulations for diagnosis of C. trachomatis and N. gonorrhoeae infections.

* = Abnormal, f = Interp/Footnote

Patient Name: Minor
Accession: 14-064-400617

Page 1
Continued on next page...

1406302920
3-4-14



ARUP is an enterprise of the University of Utah and its Department of Pathology.
FINAL

500 Chipeta Way, Salt Lake City, UT 84108
phone: (801) 583-2787 toll free: (800) 522-2787
web: www.aruplab.com
Jerry W. Hussong, MD
Chief Medical Officer, Director of Laboratories

Patient Name: Minor

Palmetto Health Richland 12413
14 Richland Medical Park Dr., 5th Floor
Columbia, SC 29203

Date of Birth/Sex: [REDACTED] Female
ARUP ID: 1ARUP00-00149765
Requisition #: 014438406
Visit # (FIN): W51246
Client Supplied ID: 014438406
Admitting Physician: UNKNOWN,
Collected: 04 Mar 2014 10:01 PM
Received: 06 Mar 2014 07:43 AM
Reprinted: 08 Mar 2014 02:03 AM

2014-03-04 22:01:00.0 T. vaginalis by TMA;
Interpretive Information: Trichomonas vaginalis by TMA

A negative result does not completely rule out infection with T. vaginalis.

Results should be interpreted in conjunction with other clinical data. This test has not been validated for use with self-collected vaginal swab specimens from patients. Performance of this test on vaginal swab specimens from pregnant women has not been evaluated.

This test is intended for medical purposes only and is not valid for the evaluation of suspected sexual abuse or for other forensic purposes.

Patient Name: Minor
Accession: 14-064-400617

Page 2
END OF CHART

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Lab

Minor

- R014438406

Result type: Lab
Result date: March 04, 2014 18:04 EST
Result status: Auth (Verified)
Result title: Lab
Performed by: CPDI, Provider on March 08, 2014 14:48 EST
Encounter info: R1406302920, Richland, ERR-Emergency Room, 03/04/14 - 03/04/14

This document has an image

Printed by: Bowen, Amanda G
Printed on: 11/28/2017 13:46 EST

Page 1 of 1
(End of Report)

Lexington Medical Center - Swansea

935 West Second Street
Swansea, SC 29160
(803) 568-2000

Printed by: New, Cedrina

12/18/2017 11:20:00AM

Patient: STROMAN, JAMES L

Age/DOB: 39 yrs [REDACTED]

EMRN: 1634341

OMRN: 1634341

Home: [REDACTED]

Work: [REDACTED]

Results: 05-Mar-2014

Lab Accession # W28537
Ordering Provider: Black, Janice D
Performing Location:

Collected: 3/5/2014 1:10:00PM
Resulted: 3/6/2014 12:18:00PM
Verified By: Levi, Pamela D
Auto Verify: N

Hepatitis Profile - HEPR

Stage: Final

<u>Test</u>	<u>Result</u>	<u>Units</u>	<u>Flag</u>	<u>Reference Range</u>
HEP B SURFACE AG	NEG			NEG
HEP B SURF AB (QUAL)			A	NEG
BORDERLINE Confirmed Borderline by repeat testing. Suggest repeat testing with a new sample if clinically indicated.				
HEP B CORE AB, TOTAL	NEG			NEG
HEPATITIS A IGM AB	NEG			NEG
HEPATITIS C ANTIBODY	NEG			NEG
No serological evidence of active or previous Hepatitis C Virus infection. The post infection window is relatively short, suggest repeat in 3 or 4 weeks if clinically suspicious.				

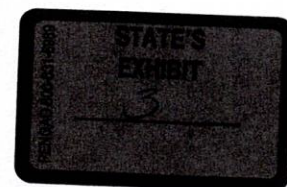
Lab Accession # W28537
Ordering Provider: Black, Janice D
Performing Location:

Collected: 3/5/2014 1:10:00PM
Resulted: 3/6/2014 9:50:00AM
Verified By: Levi, Pamela D
Auto Verify: N

HIV Antibody Screen - HIV

Stage: Final

<u>Test</u>	<u>Result</u>	<u>Units</u>	<u>Flag</u>	<u>Reference Range</u>
HIV ANTIBODY SCREEN	NONREACTIVE			NONREACTIVE



Patient MRN: 1634341
 Patient Name: STROMAN, JAMES L

Results: 05-Mar-2014

Lab Accession # W28537
 Ordering Provider: Black,Janice D
 Performing Location:

Collected: 3/5/2014 1:10:00PM
 Resulted: 3/6/2014 2:20:00PM
 Verified By: Levi, Pamela D
 Auto Verify: N

Rapid Plasma Reagin - RPR

Stage: Final

<u>Test</u>	<u>Result</u>	<u>Units</u>	<u>Flag</u>	<u>Reference Range</u>
RAPID PLASMA REAGIN	NONREACTIVE			NONREACTIVE

Lab Accession # W28537
 Ordering Provider: Black,Janice D
 Performing Location:

Collected: 3/5/2014 1:10:00PM
 Resulted: 3/6/2014 3:22:00PM
 Verified By: Levi, Pamela D
 Auto Verify: N

Chlamydia/GC DNA Probe - CHLGC

Stage: Final

<u>Test</u>	<u>Result</u>	<u>Units</u>	<u>Flag</u>	<u>Reference Range</u>
CHLAMYDIA DNA-PROBE	NEG			NEG
GC DNA-PROBE	NEG			NEG

Lab Accession # W28537
 Ordering Provider: Black,Janice D
 Performing Location:

Collected: 3/5/2014 1:10:00PM
 Resulted: 3/10/2014 9:54:00AM
 Verified By: Levi, Pamela D
 Auto Verify: N

Herpeselect 1&2 IgG AB - HERPE

Stage: Final

<u>Test</u>	<u>Result</u>	<u>Units</u>	<u>Flag</u>	<u>Reference Range</u>
HerpeSelect 1 IgG AB	>5.00			
HerpeSelect 2 IgG AB	<0.90			

(Performed at Quest Diagnostics Nichols Institute) 27027 Tourney Road, Valencia, CA 91355

(NOTE)

REFERENCE RANGE for Herpes simplex virus (HSV) IgG Abs:

Less than 0.90 Negative
 0.90 - 1.10 Equivocal
 Greater than 1.10 Positive

This assay utilizes recombinant type-specific antigens to differentiate HSV-1 from HSV-2 infections. A positive result cannot distinguish between recent and past infection. If recent HSV infection is suspected but the results are negative or equivocal, the assay should be repeated in 4-6 weeks. The performance characteristics of the assay have not been established for pediatric populations, immunocompromised patients, or neonatal screening.

Patient MRN: 1634341
Patient Name: STROMAN, JAMES L

Results: 05-Mar-2014

Lexington County Health Svcs

2720 Sunset Boulevard
West Columbia, SC 29169
(803) 791-2000

Printed by: Johnson, Bernita D.

11/21/2017 4:16:00PM

Patient: ENGLISH, ERIC E



Age/DOB: 30 yrs



EMRN: 1248465

OMRN: 1248465

Home:



Work:

Results: 06-Mar-2014

Lab Accession # H33008
Ordering Provider: Frierson, Wesley H
Performing Location:

Collected: 03/06/2014 10:05:00AM
Resulted: 03/07/2014 2:30:00PM
Verified By: Frierson, Wesley H
Auto Verify: N

Stage: Final

Chlamydia/GC DNA Probe - CHLGC

<u>Test</u>	<u>Result</u>	<u>Units</u>	<u>Flag</u>	<u>Reference Range</u>
CHLAMYDIA DNA-PROBE	NEG			NEG
GC DNA-PROBE	POS		A	NEG



WITNESSES

Lexington County Sheriffs Department

Tricia Chandler Stoner

Law Enforcement Case #: 14003713

RWP

ARREST WARRANT NUMBER

2014A3210200486

ACTION OF GRAND JURY

TRUE BILL

Sheryl R. Ferguson
Foreperson of Grand Jury

Date: 10-16-17

VERDICT

Guilty

Betty Lane

Foreperson of Petit Jury

Date: 1-10-18

DOCKET NO. 2014GS3201630

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

OCTOBER TERM 2017

THE STATE

vs.

Eric Emanuel English

CDR #: 0385

Indictment for

**Criminal Sexual Conduct with a Minor -
First Degree**

§ 16-03-0655(A)(1)

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Criminal Sexual Conduct with a Minor -First
Degree

§ 16-03-0655(A)(1)

At a Court of General Sessions, convened on October 2017, the Grand Jurors of Lexington County present upon their oath:

That Eric Emanuel English date of birth [REDACTED] 1987, did in Lexington County, South Carolina on or between February 28, 2014 and March 2, 2014, did commit a sexual battery upon a minor who was less than eleven years of age, to wit: engage in sexual intercourse with Minor, date of birth [REDACTED] 2006, in violation of Section 16-3-655(1), Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF Lexington)
 STATE VS.)
Eric Emanuel English)
 AKA: _____)
 Race: _____ Sex: M Age: 30)
 DOB: 1987 SS#: _____)
 Address: _____)
 City, State, Zip: _____)
 DL#: _____ SID#: _____)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS3201630
 A/W#: 2014A3210200486
 Date of Offense: 3/7/2013
 S.C. Code § : 16-03-0655(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: Sex / Criminal sexual conduct with minor or Attempt - victim under 11 yrs of age - First degree

in violation of § 16-03-0655(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 Lowd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury. _____ (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST:

R. Pott Solicitor 139169 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 40 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. 499 days JOK 4-9-18
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____
 Set by SCDPPPS _____
 Obtain GED
 Attend Voc. Rehab. or Job Corp. _____

Recipient: _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol testing

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 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/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. 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/ca	\$
3% to County (if paid in installments)		\$

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

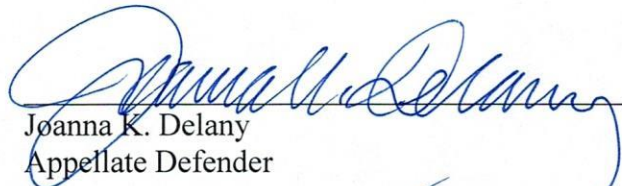
TOTAL \$ 125.00
 Clerk of Court/ Deputy Clerk Leon Comer 110
 Court Reporter: S. Johnson
 SCCA/217 (07/2016)

Appointed PD or appointed other counsel, §Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
 Presiding Judge _____
 Judge Code: _____
 Sentence Date: 1-10-18

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,



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 3rd day of September, 2019.